Dear Delegated Powers and Law Reform Committee:

I read through a good deal of the online material in relation to this subject and am disappointed in the lack of symmetry. Essentially the changes are aiming to preserve rights in one direction only. I.e. using a construction example, the client has rights to sue the subcontractors for malpractice even if there are layers of contractors between the client and the subcontractor, (direct contractors have gone bust or disappeared). It is adding to the lopsided assignation of rights such that subcontractors have all the responsibility with none of the rights. In this regard, it is only adding insult to injury.

It is common practice for clients and contractors to demand the trickle down of liability to subcontractors even though the subcontractors have little or no control of those aspects being trickled down. This initiative only exacerbates the likelihood of large, knowledgeable companies manipulating smaller contractors into accepting liabilities they neither understand nor control.

This lack of symmetry could be addressed by making it bidirectional. To use a construction example again, it could be used to ensure that client is liable to pay the subcontractor for works carried out but not paid by the main contractor. This would seem to be in full alignment with the intention of third party rights and I am surprised of the ‘blindness’ to the lack of directional consistency within the considerations. Rights and responsibilities should emanate in all directions with equal strength!

Thanks for the opportunity to clarify the above.