

Business News

Legal Issues update for Canberra Businesses



Will your business comply with the new employment laws?

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Readers are no doubt aware that a new workplace relations system is being proposed by the Federal Government. While this article cannot cover the entire proposal, we thought it appropriate to set out some important areas for your initial consideration when implementing changes in your business:

Termination of Employment The biggest change to employment comes with the Federal Government's proposal to remove employers with 100 or fewer employees from the unfair dismissal regime. If a person is terminated for discriminatory reasons, then the employee will still have rights to sue for unlawful termination. Discriminatory reasons include:

- ✗ Absence from work because of sickness or injury;
- ✗ Absence during maternity leave or parental leave;
- ✗ Trade union membership;
- ✗ Seeking or acting as an employee representative;
- ✗ Race, colour, sexual preference, age, physical or mental disability, marital status, family responsibility; pregnancy, religion, political opinion, national extraction or social origin; and
- ✗ Refusing to negotiate about an AWA.

If an employee is dismissed for one of these reasons, they are able to bring a claim against the employer.

Importantly, the standard three month qualifying period will be extended to six months and employees who are made redundant will be excluded from the unfair dismissal system.

The distinction is important. Unfair dismissals (dismissals which are harsh, unjust or unreasonable) will be minimised. Unlawful dismissals (dismissals done for discriminatory and improper reasons) will continue to be actionable.

Fair Pay Commission and Fair Pay Standards The legislation will create a new body (The Australian Fair Pay Commission) whose job it will be to set fair pay and condition standards. These standards will include:

- ✗ Job classification and pay rates;
- ✗ Mandatory 38 hour week;
- ✗ Annual leave (4 weeks per annum but the ability to cash out up to 2 weeks per annum);
- ✗ Personal/carers leave (10 days per annum cumulative);
- ✗ Parental leave.

For more information on the workplace reform or to interpret those changes in your workplace, please call Tal Williams (pictured) on (02) 6201 8900.



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What's Meritas? Meritas is an international alliance of business law firms working together across jurisdictions to provide clients the best of both worlds; a local legal partner with full services capabilities and the cost efficiency of personal attention unmatched by mega law firms.

Enquiries
(02) 6201 8900

“Without Prejudice” - Does it protect you?

In your daily business dealings you may have reason to attempt to settle a dispute with a customer or supplier.

It is usual for letters to be written with the heading ‘without prejudice’ or for a conversation or meeting to be prefaced by the words ‘without prejudice’ or ‘off the record’.

It is a common assumption that the words ‘without prejudice’ will protect all such communications from use as evidence and that if ‘without prejudice’ is not used, the communication will not be protected. Neither assumption is correct.

The *Commonwealth Evidence Act 1995* protects communication ‘in connection with an attempt to negotiate settlement’.

The important point to remember is that a communication which is not sufficiently connected with an attempt to negotiate a settlement will not be

protected even if the words ‘without prejudice’ are used. The court will look at the particular circumstances of the communication to determine whether it is sufficiently connected with an attempt to negotiate a settlement.

Statements of Fact

The protection given to ‘without prejudice’ communications is also about protecting admissions made by the parties during the negotiations but will not act to suppress evidence of objective facts. For example, if you write to a supplier confirming receipt of goods then offer to pay less than the invoiced amount, your offer may be protected but your admission that you received the goods could be admitted into evidence.

Be Aware: When using ‘without prejudice’ in communications – you may not be protected.

Canberra Meetings Are Good for Business

Did you know that Snedden Hall & Gallop is a member of Business Networking International (BNI), and we think it's good for business?

BNI currently operates in 27 countries, and has approximately 4,000 chapters across the world. Every week, each chapter meets for breakfast, providing its members with a unique opportunity to develop business links and improve their networks.

Only 1 member of each profession can join a BNI Chapter, and, by sharing breakfast once a week as well as other social and business meetings, the members develop close working relationships, with client referrals being a major element.

As a member of 3 of Canberra's 6 BNI chapters, Snedden Hall & Gallop has access to a variety of local businesses, ranging from accountants and financial planners through to car mechanics and carpet cleaners.

All of Snedden Hall & Gallop's clients can benefit from our membership of BNI, with access to quality assured, fast and friendly service in almost any field. Furthermore, anyone who currently operates a small, medium or large business in Canberra, and thinks that they could benefit from membership of such a committee, there are always openings available for you to join and reap the benefits of belonging to a BNI chapter.

For more information, please contact Nick Tebbey on 6201 8900.

Illegal Activity attracts a Tax Deduction?

Commonwealth Treasurer, Peter Costello has announced the Government's response in the Federal Court decision in the La Rosa Case.

In this case, the Federal Court found that the taxpayer, a convicted drug dealer, was entitled to a tax deduction for loss in earning his income as a drug dealer. The income earned by the taxpayer engaging in these activities has been subject to tax and he had sought a deduction for the monies paid by him in the course of conducting those activities.

The Commonwealth Treasurer has announced that the income tax law will be amended to deny deductions for losses and outgoings to the extent that they are incurred in such activities. There will also be consequential capital gains tax amendments.

Thank you to those that attended our recent health professionals dinner on Sports Law. Did you know we are now the legal advisors to The Canberra Raiders?

Go Raiders for 2006!

