

Business News

Legal Issues update for Canberra Businesses

50 PERSONAL
EXPERIENCED
DEPENDABLE
SINCE 1960

2010, a Year of Celebration

2010 we will mark the 50th anniversary of our firm. In 1960, Norm Snedden and Allan Hall set up practice in offices in Civic. John Gallop joined them in 1962, and Snedden Hall & Gallop has grown and developed ever since. Although there have naturally been major changes to the firm over that time, the basic principles which under-pinned the firm Snedden Hall & Gallop in the 60s are still central to what we do today, namely a commitment to strive for excellence in providing legal advice, a dedication to helping our clients and a desire to be part of, and assist with the ACT and surrounding communities. We look forward to celebrating the 50th throughout this year, and we take this opportunity to thank all of you for your support and assistance.

Richard Faulks, Managing Director, (02) 6285 8085

Business in 2010

January 1st saw the introduction of the National Employment Standards under FairWork Australia, which will redefine the minimum standards for employment arrangements for the foreseeable future. We will hold a series of Seminars for our clients explaining the new legislation and ways in which you can introduce efficiencies and safeguards into your employment contracts.

Our banking people advise us that 2010 is likely to continue to see a bumpy ride for the Australian economy. Careful planning in relation to business structures, employment contracts, protection of intellectual property, migration options and business contracts including employment contracts, are a first step to build up your business's defences against the bumpy ride ahead.

Snedden Hall & Gallop looks forward to working with you through 2010, as well as meeting you at one of our business seminars, the first of which will be on 11 March, 5.30pm – 6.30pm at our offices. Please watch out for our seminar e-flyers, or check our schedule at www.canberrabusinesscouncil.com.au

Bill Andrews, Director, (02) 6285 8087

In this Edition:

Prepare a Will or Else!

Redundancy Under the New Workplace Laws

Pirates Beware!

Affordable Schemes - ACT Housing Market

**Employers Beware of Racial Discrimination
in the Workplace**



Prepare a Will or Else!

The importance of making a Will was highlighted in a recent case we undertook for a trustee company.

The deceased was a 70 year old gentleman who had lived alone. Extensive enquiries indicated that he was born in New Zealand and whilst his mother's name was entered on the Birth Certificate, no other names appeared. Extensive enquiries through agents in New Zealand had failed to identify the father or any other relatives on the paternal side.

There was an extensive family tree on the maternal side with surviving children of cousins identified in various cities across New Zealand. When contacted, none of the surviving relatives had ever heard of the deceased, nor were they aware of his mother or father. Proceedings had to be instituted in the ACT Supreme Court to confirm a proposed distribution to these distant relatives.

One wonders what the deceased would have thought if he was told during his lifetime that his hard earned wealth was going to be distributed to people he didn't know, who didn't know him and may in fact, have had adverse feelings about his existence. It is a classic case of the law dictating how an estate will be distributed to distant relatives even though that may be contrary to the expected intentions and wishes of the testator.

This case highlights the importance of giving priority and careful consideration to the preparation of a Will to ensure your estate is equitably distributed after your death to those you love and respect. It is a matter that should be dealt with in the ordinary course of your life planning, rather than left until the last moment.

For further information and/or assistance please call: Bill Andrews, or Tanya Herbertson.

Bill Andrews, Director, (02) 6285 8087

Redundancy Under the New Workplace Laws

The new National Employment Standards ("NES") came into effect on 1 January 2010, allowing up to 16 weeks of redundancy pay in the event of redundancy. The NES apply to all national system employers.

Redundancy pay is calculated on the employee's period of continuous service as follows:

<u>Employee's period of service</u>	<u>Redundancy pay</u>
≥1 year <2 years	4 weeks
≥2 years <3 years	6 weeks
≥3 years < 4 years	7 weeks
≥4 years < 5 years	8 weeks
≥5 years <6 years	10 weeks
≥6 years <7 years	11 weeks
≥7 years <8 years	13 weeks
≥8 years <9 years	14 weeks
≥9 years <10 years	16 weeks
≥10 years	12 weeks

Subject to the next paragraph, employers should note that service prior to 1 January 2010 does not count towards the period of continuous service for the purpose of calculating NES redundancy entitlements.

However, where an employee's terms and conditions of employment (for example a contract of employment) before 1 January 2010 provided for redundancy pay, then the prior service does count towards the period of continuous service.

Small business employers, being employers with fewer than 15 employees, should note that the redundancy obligations under the NES do not apply to small businesses.

Employers should carefully check their obligations and if in doubt as to the effect of the new legislation, seek legal advice.

If you would like more information about the new workplace laws, please contact our Business Team on 6285 8000.

Graeme Gunn, Lawyer, (02) 6285 8000

Pirates Beware!

While, for some time only a USA phenomenon, legal action concerning music and video piracy is beginning to take its place within the Australian courts, on both a civil and a criminal level.

The Music Industry Piracy Investigations organisation (MIPI) is an organisation that provides investigative and intellectual property rights enforcement services to the Australian music industry. MIPI acts on behalf of 125 record companies in Australia, through their association, ARIA, and over 2,000 songwriters and music publishers, through their association, AMCOS. It conducts investigative, educational and enforcement measures and activities around Australia.

Snedden Hall & Gallop has recently assisted a client who had received a formal warning from MIPI in relation to music downloads. While a popular pastime, particularly among Australian teens and young adults, the downloading of music through illegal means is going to receive increased scrutiny over the coming year and it is important that this practice be avoided in order to prevent the possibility of criminal or civil penalties being awarded against you.

If you have any queries about the ins and outs of music downloading, and the legal methods for doing so, please do not hesitate to contact our Intellectual Property team on (02) 6285 8000.

Nick Tebbey, Senior Associate, (02) 6285 8056



Affordable Schemes – ACT Housing Market

It has never been more important for potential home buyers to seek value when entering into the property market. With increasing property values and interest rates set to rise again in 2010, home buyers are encouraged to look into the many affordable housing initiatives currently available in the ACT.

The Home Buyer Concession Scheme and Pensioner Duty Concession Scheme can provide home buyers with substantial savings on stamp duty. First home buyers are also reminded that the First Home Buyers Grant continues to operate, although, on 1 January 2010, the grant reverted to \$7,000.

Conditions apply to the schemes, and your individual circumstances will determine your eligibility.

If you would like any further information about these schemes, please contact Snedden Hall & Gallop's Business & Property Team on 6285 8000.

Melissa Mastronadi, Senior Law Clerk, (02) 6285 8000

Employers Beware of Racial Discrimination in the Workplace

Racial discrimination can be a very costly and serious problem for employers.

Snedden Hall & Gallop recently acted for an employer facing a compensation claim by a former employee who claimed she was the victim of racial discrimination throughout her employment.

The employee alleges that the employer failed to address her concerns and ultimately terminated her employment due to her constant complaints of racial discrimination.

Employers must ensure that they have strict procedures in place to prohibit, and promptly deal with any instances of racial discrimination in their workplace. Failure to do so may leave them exposed to a claim for compensation or an unlawful dismissal suit.

If you would like more information about the procedures you can implement to protect your business, please contact Snedden Hall & Gallop on 6285 8000.

Melissa Mastronadi, Senior Law Clerk, (02) 6285 8000

**For further information regarding this newsletter, or for any of your legal needs,
contact Snedden Hall & Gallop:**

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