

Business News

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Legal Issues update for Canberra Businesses

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Immigration Law Update

The Federal Government has been busy in the last few months with a raft of changes to the migration program. The highly publicised changes to processing of asylum seekers is just the tip of the iceberg.

In February 2010 the Government announced an overhaul of the skilled migration program. This included the revocation of the Migration Occupations in Demand List (MODL) and the implementation of a new Skilled Occupations List (SOL) by the middle of 2010.

Unfortunately as part of this announcement, the Government directed that some 20,000 offshore applicants who had applied for skilled visas up to three years ago, and whose occupations were on the SOL at that time, would no longer be processed and their applications would cease. The impact this has had for clients of Snedden Hall & Gallop has demonstrated that the ad hoc decision making that has taken place in this area over the past decade has had some very negative consequences.

On 7 May, the Minister announced that all offshore applications for skilled visas (subclasses 175, 176 and 475) would be suspended until the new Skilled Occupations List is announced. This means that for perhaps two months or longer, no overseas applications for skilled migration will be possible. If this affects you or you would like more information, contact us.

In other developments, visas for business owners have also become harder to obtain, with the government raising the minimum value of business assets in order for an applicant to have a “qualifying business”.

These changes, and others, are designed to tighten regulation of immigration to Australia. We are concerned that the Government may be at risk of making things too difficult, but time will tell.

To see how these changes affect you, contact a member of our experienced Migration Team on (02) 6285 8056 (MARNS 9256528, 0533386, 0641016).

Nick Tebbey, Senior Associate, (02) 6285 8056

Move from Time Costing to Value Price Costing

“Clients have also expressed a desire to be involved in the pricing process and to have a say in the value of services provided.”

In keeping with our firm’s commitment to give our clients the best value service for their money, our firm is moving away from time costing arrangements with clients in matters where fixed prices were not already negotiated.

This has been a result of a shift in the approach by clients over the past 12 months towards fixed pricing rather than accepting a quote for services based on time spent. Clients now realise that there are inherent inefficiencies in giving the provider of services a blank cheque to charge for whatever amount of time might be spent, efficiently or inefficiently, on a particular matter. It is now well known that productivity depends not on the amount of time spent, but on the skills, seniority, experience and professional “strength” of the service provider. For example, work undertaken first thing in the morning is far more productive than at 6.30 in the evening.

Clients have also expressed a desire to be involved in the pricing process and to have a say in the value of services provided. For example, many clients are prepared to accept that specialised services from a well known service provider who has an excellent track record, is worthy of a special fee as opposed to a factory style service provider, who might share the workload amongst a number of very average professionals.

Feedback is continually sought, particularly at the conclusion of the matter to ensure that outcomes meet the expectations so that there is appreciation that the fixed fee provided value for money. Expectations, outcomes, guarantees and reputations are becoming important issues in determining an appropriate fixed fee.

This has provided a difficult paradigm change in the approach to determining a proper price for a service. The risk sharing is a new issue that service providers have to write into their business plan. It will be some time before we are able to review completed files to assess whether the fixed price approach has been worth the heartache.

We believe the solicitor/client relationship can be much more successful if we can agree and fix a fee. Importantly, to avoid confusion over billing arrangements and costs you, the client, can participate in developing the scope of work that we are to carry out and negotiating a fee that reflects the value of that work.

It will be interesting to examine how the process develops in the next few months.

Bill Andrews and Gerald Santucci, Directors,
(02) 6285 8000



Photographing Your Way Through an Intellectual Property Minefield

We have recently assisted a client with intellectual property issues relating to photographs taken for a commercial purpose. We have put together some useful tips relevant to both professional and amateur photographers on your rights, and also some legal restrictions to keep in mind:

Are your photos protected by copyright?

A photograph is protected by copyright as soon as it is taken. Generally, the photographer is the owner of the copyright in the photos he or she takes. There are exceptions to this rule depending on the photographer's employment and the reason that the photo is taken.

Photographing People

In Australia, copyright and privacy laws do not protect a person's image, and 'a person, in our society, does not have a right not to be photographed.' However, as a general rule, you should get permission to take a person's photograph if you are going to use it for a commercial purpose.

Private property

If you are on privately owned land, you need the owner's permission to be on that property and the owner has the right to prevent or restrict the photos you take. It is important to remember that just because land is publicly accessible, this does not mean that it is public land. However, the property owner cannot stop you from taking photos of their private land, or things or people on that land, if it is taken from public place (for example, the street).

Entertainment and sporting events

Whether or not you can take photos of a concert or your child's sports carnival depends on a number of factors, such as whether the event is being held on private or public land, the organiser's consent and child protection issues. Some event organisers may restrict photography of performances due to copyright reasons, and the type of image you are taking, as well as the nature of the performance, will need to be taken into consideration.

Landmarks, sculptures and national parks

There are specific exceptions in the *Copyright Act* that allow people to take and publish photographs of buildings and sculptures in a public place without infringing copyright. However, keep in mind that local councils and authorities prohibit photography in some public places, such as Darling Harbour and Sydney Olympic Park in Sydney, and remember that suspicious photography may be reported to the authorities. A permit is needed to take photos for commercial use on a Commonwealth reserve, such as Kakadu National Park or National Botanic Gardens.

¹ R v Sotheren (2001) NSWSC 204

² Victoria Park Racing and Recreation Grounds Co Td v Taylor (1937)

³ Copyright Act 1968 (Cth) Division 7

Young Citizen of the Year

The firm is pleased to share the achievement of Anthony Antioch who was named Young Canberra Citizen of the Year 2010. In addition to being a 19 year old ANU law student, Anthony was successful in obtaining a Snedden Hall & Gallop Scholarship in Year 12 and is working with us as a paralegal while pursuing his legal studies.

For a young man of his age, Anthony's achievements are extraordinary and Snedden Hall & Gallop is proud to have a person of his calibre, committed as he is to community and society at large, among our team.

Well done Anthony!

Gerald Santucci, Director, (02) 6285 8056



Forthcoming Seminars

Snedden Hall & Gallop are presenting a range of different seminars in May and June, including Personal Injury Compensation, Franchising, Employment Law, and Wills and Estate Planning.

All seminars are held at our offices, 43 - 49 Geils Court, Deakin.

MAY

Stacks Compensation presents:

Personal Injury Compensation

Tuesday 18 May

5.30pm - 6.30pm

Franchise Alliance and Snedden Hall & Gallop present:

Growing your Business with Franchising

Wednesday 26 May

5.30pm - 7.00pm

JUNE

Snedden Hall & Gallop present:

Employment Contracts for your Business

Tuesday 1 June

8.00am - 9.15am

Perpetual Trustees and Snedden Hall & Gallop present:

Wills and Estate Planning

Tuesday 8 June

5.30pm - 7.00pm

Wednesday 9 June

For further information or to secure a place at our seminars please contact our Marketing Coordinator, Morgan Wood (P) 6285 8077 or (E) mwood@sneddenhall.com.au

For further information regarding this newsletter, or for any of your legal needs,

contact Snedden Hall & Gallop:

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