

### “VISION IN THE WORKPLACE”

Issue Thirty-one, March – April 2008

In this edition of “Vision in the Workplace” we look at the transition to the Rudd Government’s Forward with Fairness Amendment Act and how businesses should prepare now for the final transition, which will be canvassed in more detail at our breakfast seminar on Thursday 12 June 2008 at The Grace Hotel. We also remind employers of the upcoming changes to superannuation guarantee obligations, look at the Coalition’s commitment to the individual, the revival of paid parental leave with the Productivity Commission reporting in February 2009 and recent media articles which have highlighted the importance of gardening leave and protection of confidential and sensitive business information .

#### The Transition has commenced

The Transition to Forward with Fairness has commenced with Australian Workplace Agreements bidding a final farewell. But that is not the only change introduced through the *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008* (**‘the Amending Act’**). The Amending Act has also introduced Individual Transitional Employment Agreements (ITEA’s), introduced a No-Disadvantage Test to replace the Fairness Test, commenced the Award Modernisation process to be conducted by the Australian Industrial Relations Commission and extended the life of Notional Agreements Preserving State Awards (**‘NAPSA’s’**) from 27 March 2009 to 31 December 2009.

The Amending Act will require all employers to consider their current industrial instruments and how the Amending Act, and further amendments in the next one – two years, will impact upon those instruments. Additionally, employers should review the basic terms and conditions of their employees in light of the draft National Employment Standards which have been released. The draft National Employment Standards increase the basic terms and conditions of all employees from five (5) to ten (10) items and will impact upon all employers policies and business plans.

The Amending Act is essentially the **“first wave”** of the Rudd Government’s reforms and Transition to Forward with Fairness. The second wave is expected to commence on 1 January 2010. For more information or assistance in preparing your workplace for the transition come along to our breakfast seminar or contact Nick Stevens or Alicia Mataere.

## STEVENS & ASSOCIATES

LAWYERS

invites you to a special breakfast seminar at The Grace Hotel, Sydney on 12 June 2008.

### “The First Wave of changes in Federal IR & an OH&S update”

#### Free Breakfast Seminar

for our clients to discuss and review Industrial Relations Policy following the Federal Election.

**Where:** The Wilarra Room  
The Grace Hotel  
77 York Street, Sydney

**When:** Thursday, 12 June 2008

**Time:** 7:00am for 7:30am – 9:00am  
Breakfast included

Please contact David Wells on (02) 9222 1691  
or email [dww@salaw.com.au](mailto:dww@salaw.com.au)  
by Friday, 6 June 2008  
to book your seat.

**Bookings Essential as seats will fill fast!**

STEVENS & ASSOCIATES LAWYERS

LEVEL 14, 14 MARTIN PLACE SYDNEY NSW 2000

GPO BOX 1925, SYDNEY NSW 2001

TELEPHONE: 02 9222 1691 | FACSIMILE: 02 9232 5388



## **Superannuation Changes commence 1 July 2008**

1 July 2008 will not only see the commencement of the new financial year, but also heralds the commencement of amendments to the *Superannuation Guarantee (Administration) Act 1992* which alter the basis for the calculation of an employer's superannuation liabilities.

From 1 July 2008, all superannuation calculations will need to be based upon the "ordinary time earnings" of all employees. This means that employers who currently use another basis for superannuation calculations, such as "superannuation salary", will need to review and examine the earnings base of their employees. This examination and review may result in an increase in superannuation guarantee obligations as a consequence of the definition of "ordinary time earnings" which includes some employee allowances.

For more information or assistance in calculating your new superannuation guarantee obligations please contact Nick Stevens or Alicia Mataere.

### **WorkChoices may be dead to the Coalition, but statutory individual contracts remain**

Despite the Opposition's decision not to block the Rudd Government's *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008*, Ms. Julie Bishop MP, Deputy Leader of the Opposition and Shadow Minister for Employment, Business and Workplace Relations, has confirmed that at the next election "a form of individual statutory agreement[s] with an appropriate safety net will be part of our platform".

Despite the federal election being a long way off, Ms. Bishop has confirmed that the Coalition will "hold true to [its] principles and support the individual who does not want to be part of a collective".

## **Paid Parental Leave Examined**

The Rudd Government has asked the Productivity Commission to report on options for paid parental leave schemes.

The terms of reference for the Productivity Commission's Report include identifying model schemes and assessing their financial and regulatory costs, their impact on workforce participation and the Government's role in such schemes including the interaction with social security and family assistance programs. Ms. Julia Gillard MP, Deputy Prime Minister and Minister for Education, Employment and Workplace Relations and Social Inclusion stated that "any policy reforms in this area will be aimed at ensuring strong and sustainable economic growth, take into account our ageing population and the importance of early childhood development and support Australian families balance work and family responsibilities".

Elizabeth Broderick, Sex Discrimination Commissioner, welcomed the Productivity Commission's Inquiry and stated that the Human Rights and Equal Opportunity Commission recommended a minimum fourteen (14) weeks of government funded paid maternity leave.

The Report is due in February 2009.

### **Media highlights Gardening Leave**

Recent Media reports have highlighted the importance of provisions in employment contracts providing for express written terms to allow garden leave and how the same can be used by employers to protect confidential and sensitive business information as a quasi restraint.

For assistance in protecting your confidential and sensitive business information please contact Nick Stevens or Alicia Mataere.

If you would prefer not to receive further newsletters from us, please either email [dww@salaw.com.au](mailto:dww@salaw.com.au) with "unsubscribe" in the heading, or telephone the number below and speak to Dave Wells and we will remove you from our mailing list. This publication is intended only as a general overview of legal issues currently of interest to clients and practitioners. It is not intended as legal advice and should only be used for information purposes only. Please seek legal advice from Stevens & Associates Lawyers before taking any action based on material published in this Newsletter.

**STEVENS & ASSOCIATES LAWYERS**  
LEVEL 14, 14 MARTIN PLACE SYDNEY NSW 2000  
GPO BOX 1925, SYDNEY NSW 2001  
TELEPHONE: 02 9222 1691 | FACSIMILE: 02 9232 5388



Liability limited by a scheme approved under the Professional Standards Legislation