



Employment Law Matters

— Practical HR Risk Insights —

Happy new year, and we hope 2020 has started well for you!

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- The latest Employment Court of New Zealand decisions

EVENTS:

Up to the minute insights and education

- HR Law Masterclass Conference Australia + New Zealand
- Effectively Managing Performance Workshop Australia + New Zealand
- Workforce Analytics & HR Data Conference: Australia + New Zealand

2020 vision in employment and safety law

In this article, **Colin Biggers & Paisley** review the significant events from 2019 in the area of employment, safety and industrial law in Australia, and we look ahead to 2020. [Read here](#).

When disaster strikes: managing employees in the event of a natural disaster

The recent fires are a timely reminder for employers to review their business arrangements for responding to such crises, particularly in workforce management, and ensuring that they have a plan in place to deal with the aftermath. In this article, **Lander & Rogers** provide some guidance on the kinds of things that employers need to think about in the wake of a natural disaster. [Read here](#).

Bushfires in Australia – Employers’ rights and obligations and employee entitlements during catastrophic weather conditions

Many employers are now faced with the challenge of managing the impacts the bushfires have on their business and employees. It is imperative employers to understand their rights and obligations when managing employees during periods of natural disaster. **FCB Group** explains [in this article here](#).

LEGAL INSIGHT – key short videos on some of the most topical issues

Tim McDonald from **Moray & Agnew** provides some key lessons for HR to minimise **unfair dismissal risks**. [Watch here](#).

Jane Silcock from **Clayton Utz** looks at the **unique and changing challenges** of managing the modern workplace. [Watch here](#).

Amy Walsh from **Minter Ellison** discusses a couple of key take-aways for educating your operational and senior managers, which help **reduce adverse actions risks**. [Watch here](#).

Tim Frost from **HWL Ebsworth** discusses some current observations regarding **sexual harassment, harassment and bullying**. [Watch here](#).

Reach hire: the evidentiary burden for employers hosting labour hire workers

Where there is a labour hire arrangement, the Court is less willing to impose an automatic reduction to damages payable by the host employer. **Colin Biggers & Paisley** investigate the shifting liability from employer to host employer, and considerations when pleading section 151Z in labour hire injury claims. [Click here](#).

Parental Leave Entitlements: the cost of getting it wrong and how not to

Throughout the life of your business, you will have employees take parental leave. It is important to know what their parental leave entitlements are, so you can ensure appropriate arrangements are made to accommodate both the business and the employee in the lead up to, during, and after, parental leave. Article courtesy of **Coleman Greig**, please read [here](#).

Clarifying a company's rights as a defendant to a safety prosecution

A recent decision of the Full Federal Court in *Helicopter Resources Pty Ltd v Commonwealth of Australia* has clarified that a company which is a defendant to a safety prosecution has substantially the same rights as a natural person under the system of criminal justice. Courtesy of **Minter Ellison**, [read here](#).

NEW ZEALAND UPDATES

Planned legislation initiatives for 2020

The New Zealand Law Society notes that Parliament and government officials will expect a busy 2020, with a large number of legislative and regulatory initiatives planned to take place. Below are details of Employment Law planned initiatives that will result in legislation being introduced. Click [here](#) for insights, courtesy of **Chapman Employment Relations**.

Privacy law update: new collection, rejection, and correction requirements - are you ready?

A major overhaul of New Zealand's privacy laws is underway and you need to be ready when it comes into force (currently expected to be in mid-2020). Article courtesy of **Simpson Grierson**, read [here](#).

To understand more about data risks: Use Of AI By HR; Employee Data Privacy; And Monitoring Of Employees...

Be sure to attend the **HR Law Masterclass Conference** (3rd March **Wellington** & 5th March **Auckland**), where Andrew Shaw, Partner at Lane Neave will be discussing this in detail. For the program click [here](#).

Government releases draft Bill on the legalisation of recreational cannabis ahead of the 2020 referendum

In December the Government released its work-in-progress draft of the Cannabis Legalisation and Control Bill for public consideration. The Bill proposes to legalise the recreational use of cannabis, subject to extensive controls on its production, supply and use. For a full analysis, please [click here](#), courtesy of **Russell McVeagh**.

Managing drug and alcohol related issues at work, and potential issues should cannabis use be legalised

Be sure to attend the **HR Law Masterclass Conference** where this topic will be fully discussed, including the following if recreational cannabis use is legalised:

- Does a test show previous use or actual impairment?
- Determining levels of robustness for testing, and if thresholds be considered
- Will you need to update your policies?

Wellington 3rd March: **Rachel Burt**, Barrister, **Workplace Matters**
Auckland: 5th March: **Jim Roberts**, Partner, **Hesketh Henry**

A third category of worker in NZ?

A third category of worker (a hybrid between an employee and independent contractor) may be introduced in New Zealand if changes proposed in the Government's latest Discussion Paper are implemented. Bell Gully investigate MBIE's discussion paper "Better protections for contractors". You have until February 14th to submit a response to MBIE. For more information click [here](#).

An update on holiday pay and contractors rights

Lane Neave review a dispute has arisen about how to calculate holiday pay. They also unpack the recent Government discussion document 'Better Protections for Contractors'. For analysis, click [here](#).

Would a labour inspector find your business in breach of minimum employment law standards?

A Labour Inspector can conduct a proactive audit on any business at any time, and over the past year, the Labour Inspectorate has taken 19 cases to the Employment Relations Authority/Employment Court that resulted in penalties. For details on reviewing your employment agreements, record keeping and compliance requirements click [here](#). Courtesy of **Lane Neave**.

Hurt and humiliation payouts on the rise

Statistics and case law confirm a striking and continuous upward trend in awards for hurt and humiliation under section 123 of the Employment Relations Act. To understand these trends, and the impact on settlement agreements, click [here](#). Courtesy of **Kensington Swan**.

REGULATOR INSIGHTS

For the latest **Fair Work Commission** decisions click [here](#).

For the latest news from the **Fair Work Ombudsman**, click [here](#).

For the latest **Employment Court of New Zealand** decisions click [here](#)

EVENTS

FOR CURRENT, PRACTICAL AND EMERGING UP TO THE MINUTE INSIGHT - be sure to attend the following market leading events in Australia & New Zealand.

[HR Law Masterclass Conference Australia](#)

Up to 10 Lawyers presenting on all key HR risk topics in 1 day

Sydney: March 11; **Melbourne:** March 17; **Perth:** March 19; **Brisbane:** March 24; **Canberra:** March 26

[HR Law Masterclass Conference New Zealand](#)

New Zealand's leading and original employment law event series

Wellington: March 3; **Auckland:** March 5

[Effectively Managing Performance Workshop Australia](#)

Practical and legally effective approaches to performance processes

Sydney: March 10; **Melbourne:** March 16; **Perth:** March 18; **Brisbane:** March 23; **Canberra:** March 25

[Performance Management Processes & Risks Workshop New Zealand](#)

An interactive course which will help you unravel the complexities of managing performance

Wellington: March 2; **Auckland:** March 4

[Workforce Analytics & HR Data Conference Australia](#)

Revolutionising human resources through workforce analytics & HR data insights

Sydney: 19-21 February 2020

[Workforce Analytics & HR Data Conference New Zealand](#)

Revolutionising human resources through workforce analytics & HR data insights

Auckland: 26-28 February 2020

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For legal counsel please contact the author of articles, or the firm they represent.*