IRSQ
Industrial Relations Society of Queensland

The IR Advocate

November 2016

Your Professional Association

President's Welcome

Welcome to another edition of The IR Advocate.

I want to make some comments about the fabulous Women in IR Event held on 21 October.

We were honoured to have attending and participating in the event members from our national body, the Australian Labour and Employment Relations Association (**ALERA**). Sharlene Wellard, President of ALERA attended and participated in the debate, which was a wonderful opportunity for Queensland members to meet and hear from her.

What a great job everyone involved in the event did, and how well every guest speaker delivered his or her views on the debate topic (which was ably moderated by Commission Knight).

The winning team felt that unconscious bias, education and other real issues facing all working women are what we must be talking about and pushing rather than focusing on numbers at the top.

Whilst the topic of the debate is a serious issue and deeply felt, we were still able to have some laughs and talk to new people. I know I spoke to many people I had not met before and there were certainly some non-members who attended. I was incredibly pleased to see so many men attending, and again thank them for their support.

This was certainly a collegiate event and our primary event sponsor (AustralianSuper) has sent feedback to congratulate the committee on the running and success of the event.

Speaking of ALERA, I note that a number of ALERA committee members were at the event and thank them for their support. The IRSQ has representatives on the ALERA committee and participation in that committee is an excellent opportunity to gain insight into the industrial landscape in other jurisdictions, as well as to identify issues which are common to many – for example penalty rates, changes to federal legislation and of course, women in work.

Back to IRSQ business however, we are fast approaching our AGM and details were provided to you by way of email recently. As you will see from that communication, we are seeking nominations for our Committee for 2017, and invite any interested person to put their hand up for nomination.

Please also keep an eye out for details of our well-regarded Advocacy in the Commission Course scheduled for mid-February 2017, as well as our annual IR Breakfast which will be an early March event.

If I do not get a chance to speak to you at the upcoming AGM and Christmas party, I would like to take this opportunity to wish you a merry Christmas and a prosperous new year.

Jo McConnell

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Event Recap – Women in IR High Tea

On Friday 21 October the IRSQ held its annual Women in IR event at Brisbane City Hall.

This year the event committee decided to spice things up a bit and it was decided that the format of the event would be a debate presided over by a member of the Queensland Industrial Relations Commission (Commissioner Minna Knight).

After much consideration a list of potential speakers was developed, and after a bit of prodding and considerable amounts of flattery, those speakers graciously accepted our invitation to participate in the debate.

The topic for the debate was highly contentious – To Quota or Not to Quota – focusing on the desirability and appropriateness of introducing quotas for women on boards and in executive roles.

Speakers for the affirmative team were Theresa Moltoni OAM (President of CCIQ and Managing Director of IRIQ), Ros McLennan (General Secretary of the QLD Council of Unions) and Ben French (Lecturer, Griffith University).

Speakers for the negative team were Sharlene Wellard (Principal at Meridian Lawyers and current ALERA President), Professor Bradon Ellem (Professor of Employment Relations at the University of Sydney Business School and co-editor of the JIR) and Sarah Meier (Associate at Minter Ellison).

The affirmative team argued that women continued to be under represented on boards and in senior roles and that change would not happen fast enough without the introduction of mandatory quotas. They likened the situation to the introduction of anti-smoking laws and seat belt laws – pointing out that these laws were more effective in influencing changes in behaviours than a voluntary opt in scheme.

The negative team accepted that women should have greater numbers on boards and in senior roles but argued that the introduction of mandatory quotas would not fix the underlying problem and would simply be a "band aid" solution. Instead, the negative team argued that they key to increasing women's participation on boards and in senior roles was to understand and address the barriers that prevented this from happening naturally (such as availability of childcare, training, opportunities for development and assumptions about capacity).

Whilst the debate was moderated and presided over by Commission Knight, the winner of the debate was determined by the highly technical but somewhat traditional "clapometer" process.

Whilst the numbers were close, ultimately attendees on the day were more persuaded by the arguments put forward by the negative team.

Leaving aside personal views on the topic, the event was highly enjoyable and City Hall served up a scrumptious high tea.

The event was attended by over 100 members and guests and was a great networking opportunity for all.

The Society would like to thank Commissioner Knight, each of the speakers, all those who attended and everyone who helped in the organisation of the event.

Special thanks must also go to the primary event sponsor AustralianSuper and as well as the organisations that donated raffle prizes (including Queensland Hotels Association, AMA QLD, Together Union, Hall Payne Lawyers, Noosa Chocolate Factory, Lorna Jane and Liquid Nail Bar).

As a result of the event, the Society was pleased to be able to make a donation to the National Breast Cancer Foundation.

Kristin Ramsey – Director, Hynes Legal

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Upcoming events

Annual General Meeting

The Society's AGM will take place at 5.30pm on Wednesday 7 December at the Shore Restaurant & Bar (Southbank).

All members are encouraged to attend.

Full details including the official AGM notice, agenda and proxy form can be found here.

Xmas Celebration

The Society's Xmas celebration will follow on from the AGM on 7 December at the Shore Restaurant & Bar (Southbank).

Members and guests are invited to celebrate another successful and productive year over networking drinks and canapés.

Tickets are $25 for members and $50 for non-members (which includes membership for the balance of the financial year) and can be purchased here.

Payment of annual leave on termination of employment

By Kris Birch – Hall Payne Lawyers

Is an employer required to pay annual leave loading on untaken, but accrued, annual leave when employment ends?

Many would argue that the wording of section 90 of the *Fair Work Act 2009* (Cth) (**FW Act**) is unclear and ambiguous on this issue, especially when one seeks to identify the legal obligations related to the payment of accrued but untaken annual leave and annual leave loading.

Section 90(2) of the FW Act provides:

"If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave."

Buchanan J considered the meaning and application of this section in *Centennial Northern Mining Services Pty Ltd v Construction, Forestry, Mining and Energy Union (No 2)* [2015] FCA 136.

That case involved consideration of the payments Centennial was required to make to 58 employees who were made redundant following the closure of the Centennial's Newstan Coal Mine. In this case, His Honour was required to determine the appropriate rate at which the employees' accrued but untaken annual leave must be paid.

The core of the issue related to the interpretation of a clause within the *Centennial Northern Mining Services Enterprise Agreement 2011* (**Agreement**).

Centennial's argument was that the Agreement stated that employees who accessed annual leave were entitled to be paid a loading of 20% in addition to the employee's ordinary weekly rate of pay, or the employee's ordinary weekly pay rate "plus rostered overtime, shift allowance, weekly penalty rates and bonus". On this basis, Centennial argued that the retrenched employees were only entitled to receive a payment for their "average bonus" but not an annual leave loading.

The CFMEU's argument was that, if the relevant clause within the Agreement precluded employees on termination from receiving the same payments associated with their untaken accrued annual leave as they would have otherwise received if they had taken annual leave, the clause within the Agreement had no effect because it contravened s 90(2) of the FW Act.

Buchanan J dismissed the employer's argument, and the decision was upheld by the Full Court of the Federal Court of Australia on appeal in *Centennial Northern Mining Services Pty Ltd v Construction, Forestry, Mining and Energy Union* [2015] FCAFC 100.

These cases serve as a reminder than an employer must ensure that no employee is worse off by having accrued but untaken annual leave paid out on termination. Essentially, annual leave loading does need to be paid on leave paid out on termination of employment.

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Five Minutes with Sharlene Wellard

Sharlene Wellard is the current president of the Australian Labour and Employment Relations Association and principal at Meridian Lawyers.

How did you decide on your desired career path?

I wish I could say I had a plan and stuck to it. But the truth is my career path has evolved. As a kid I always said that when I grew up I wanted to read the news on the telly. After finishing school I started a communications degree but quickly realised that I wasn't ready for university. I loved my casual jobs working in hotels, so after a year off I went back to uni and completed a Bachelor of Hospitality. That led me to a job with the Restaurant & Catering Association (although the original plan was to run a country pub). I started in a membership and marketing role but quickly moved into a training officer and then industrial officer role. While working I studied part-time and completed a Master of Commerce (IR/HRM). By then I was hooked on IR and the next step for me was a law degree. I was very fortunate to complete my degree while working at Australian Business Lawyers. I worked there for 11 years as an advocate, senior associate, special counsel and partner. I then joined the partnership with Piper Alderman. I joined Meridian Lawyers in 2014, as Principal heading up the employment relations practice. I was attracted to Meridian because it isn't a traditional law firm (it's an incorporated firm with shareholders), it's dynamic and nimble and has a fabulous culture.

Who are the people who have influenced your career decisions?

I don't actually think the people who have influenced my career would even know they did. Jana Wendt, journalist (some of you will need to google her) I thought she was glamorous. Justice Leone Glynn, NSWIRC, my first commission appearance was before her and from that day I was hooked. Her warm invitation to union and employer advocates to tea and bickies in chambers was always welcomed. She was sincere and occasionally just a little fierce. Deputy President Lyndall Dean had a significant hand in getting me a start at Australian Business Lawyers and pursuing law. Dick Grozier, ACCI/ ABI has always been a supporter and mentor and encouraged me to take on challenges.

Who do you admire greatly and why?

Michelle Obama. Passionate, vocal and tireless in her pursuit to effect real change for women.

What do you consider to be the most important issues in industrial relations today?

As much as some things change, others remain the same. The most important issue in industrial relations remains setting fair and relevant minimum conditions of employment. Real productivity growth requires getting the base right.

What do you most enjoy about your current role?

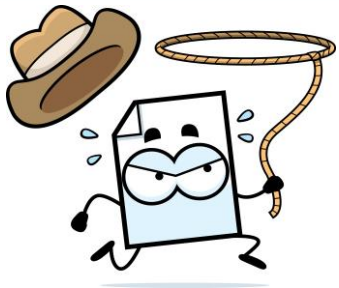
The work is so varied and it's always interesting. Today I reviewed a social media policy, provided advice on the enforcement of a restraint, dropped everything to deal with a nasty workplace injury at a manufacturing plant, explained to an employer why terminating an employee on sick leave might not be a good idea, reviewed a workplace bullying report, applauded a junior lawyer that works with me on her outstanding cross examination in her first unfair dismissal hearing, had a robust discussion with some of the other Principals in my firm about administrative staff ratios, started the slides for a presentation in two days' time (really need to get to that tomorrow!) and double checked I hadn't missed anything due in the 4 Yearly Modern Award Review.

When you started in your role, what did you set out to achieve and why?

It was, and remains, really important to me to build a strong employment relations team, across all of my firm's offices (Melbourne, Sydney, Brisbane and Newcastle), of people who are truly passionate about industrial relations. I love that my team down tools and a feisty banter starts up whenever something outrageous or noteworthy in the IR world happens or is reported. My goal is still to grow the practice and preserve the culture.

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

IR World Roundup



Employee dismissed for making bullying Facebook comments about a colleague's hat makes successful unfair dismissal application due to procedural unfairness

The Applicant was employed as a Maintenance Fitter by the employer Respondent, Broken Hill Operations (BHO) at a Broken Hill mine in July 2011. In June 2015, he was disciplined about conduct towards a colleague, among other others. This involved a final warning, mediation, and having his hours being moved to the day shift for a period of time.

On 1 April 2016, the Applicant whilst at home made two negative comments on a Facebook post which included a photo of a BHO employee wearing a cap with a very large peak (one comment was the Applicant saying he had "seen f**kwits with bigger peaks on their hats"). It was submitted by the Respondent that the Facebook post (and subsequent comments by BHO staff including the Applicant) were directed at a supervisor at BHO, who had been previously been subject to bullying by BHO staff.

It was not argued that the Applicant was responsible for the previous bullying conduct (or the initial Facebook post), but Commissioner Hampton noted that the supervisor had advised his colleagues, including the Applicant, that he had been subject to unacceptable bullying behaviour and he had asked this to stop.

BHO investigated the Facebook post (and the comments made by BHO staff on the post) following a complaint by the supervisor. As a result of the investigation, BHO came to the conclusion that the comments the Applicant made were 'intended to belittle and ridicule' the supervisor, in breach of BHO's employee policies and procedures.

The HR summary provided to senior management after the incident referred to a confidential report of a further complaint against the Applicant, which was 'very relevant' to the Facebook incident, and boom gate tag issues, however neither of these matters were raised with the Applicant prior to his dismissal.

The Applicant subsequently made an unfair dismissal claim, submitting that BHO did not have a valid reason for the dismissal (for reasons such as the Applicant was not aware of BHO's social media policy, and that he had not directed his Facebook comments to any particular person), and also arguing that BHO did not undertake a process that was procedurally fair.

Commissioner Hampton found that there was a valid reason for the Applicant's dismissal. He concluded that the Facebook comments made by the Applicant whilst he was at home had a sufficient connection to the workplace, given the Applicant had Facebook friends who were either BHO employees, or Broken Hill residents – and the post related to a photo of the relevant BHO supervisor whilst at work. Additionally, in the small Broken Hill community where the mine was located, the post had the potential to damage BHO's reputation as an employer of choice. The Applicant's argument that his comments were not directed at any particular person was deemed unconvincing. The Commissioner decided against any further consideration of the anti-bullying decision Bowker and Others v DP World Melbourne Limited (where Facebook comments made outside of work were deemed to fall within the Commission's anti-bullying jurisdiction), as it was deemed unnecessary. It was noted that employees at the site had not yet received training in BHO's social media policy, and that the application of BHO's Code of Conduct (which prohibits bullying) to a Facebook post made outside of work would be less clear to an employee if they did not have knowledge of the contents of the social media policy. Importantly though, Commissioner Hampton pointed out that the Applicant was "under notice that he should not be making comments that could cause distress to another employee and his actions directly contributed to such a course of action".

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

The Commissioner noted that despite there being a valid reason for dismissal, BHO failed to give the Applicant an opportunity to respond to all of the reasons for termination – as the confidential report and the boom gate tag issue were not raised with the Applicant during the process leading to his dismissal.

Additionally, when assessing any other matters considered to be relevant, the seriousness of the conduct (and the Applicant's prior final warning) was weighed against the impact of the dismissal on the Applicant's future employment prospects in the small community where the BHO mine was located, and the inconsistent outcomes for other staff involved in the Facebook matter – for some staff, no disciplinary action was taken at all. Commissioner Hampton noted that the Applicant had received a prior final warning, which did differentiate the Applicant from other staff involved in the matter. However, it was stated that "some of the other disciplinary decisions are more consistent with the view that BHO took into account other factors in reaching its decision" to dismiss the Applicant.

The dismissal was determined to be harsh and unreasonable, and the employee was awarded $28,471 in compensation. Reinstatement was decided to be inappropriate due to a "rational basis for the loss of trust and confidence" between the parties and the Applicant's apparent lack of contrition in relation to his conduct.

Clint Remmert v Broken Hill Operations Pty Ltd T/A Rasp Mine [2016] FWC 6036

Employer's unclear set-off clause sets up underpayment claim from employee covered by modern award

The Western Australian Industrial Magistrates Court determined that a set-off clause in an employee's contract did not prevent the former employee of a residential building company from making a claim for unpaid overtime and lunch breaks the employee worked, as it the contract failed to include the necessary detail required by the Clerks Award 2010 for an annualised salary.

The Applicant was employed as an administration co-ordinator by the Respondent, Next Residential, from January 2014 until January 2016. After the Applicant's employment ended with the Respondent, she lodged a claim for $28,984 against the Respondent, submitting that the Respondent owed her outstanding payments for overtime and lunch breaks that she argued she was directed to work through.

The Respondent rejected the claim on the several grounds, arguing that it did not direct the Applicant to work additional hours or through her lunch breaks, any additional hours were set off against "early finishes, late starts and half days worked". It also submitted that the Applicant had agreed to an annualised salary, with her contract stating that her salary 'is inclusive of any award provisions/entitlements that may be payable under an award' and that 'no further payment will be made for extra hours worked'.

The Western Australian Industrial Magistrates Court was called upon to determine the preliminary issue of whether the set-off provisions in the Applicant's employment contract excluded her from trying to recover the monies she alleged were owed.

Industrial Magistrate Cicchini noted that employers often wish to pay an annualised salary to award-covered employees for convenience, but stated that it was 'imperative' for employers to clearly document in the set-off clause which award entitlements are being compensated for in the above-award payment. This requirement to specify which award entitlements are included in an annualised salary is clearly set out in clause 17(1)(b) of the Clerks Award 2010. In this case, the Applicant's employment contract failed to specify the Clerks Award 2010 as the applicable industrial instrument and furthermore did not specify which award entitlements were included in the salary – Industrial Magistrate Cicchini noting that "It is obvious that the parties were not alert to the applicable award, let alone its provisions which were to be included in the annualised salary". As a result, the Applicant's claim was allowed to proceed.

http://forms.wairc.wa.gov.au/Files/RecentDecisions/M-12-2016-201600756.DOC

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Fallout from Coles Appeal Continues

Deputy President Peter Sams has recently considered a number of objections to approval of an enterprise agreement, including some of the effects of the Full Bench in the recent Coles appeal ([2016] FWCFB 2887).

Part of the objections to approval of the enterprise agreement were that the employer had not explained to the Commission the basis on which each Award covered employee would be better off overall and had not provided information as to the base salary and other components that were included in the agreement's annualised salary arrangements such that the BOOT could be conducted.

In response to these objections the Deputy President made a number of points:

There is no requirement for an employer to explain in their application for approval and accompanying declarations how employees would be better off overall.

Given that the application is required to be accompanied by a statutory declaration, it is not unreasonable to assume that the employer has considered the BOOT and considers that the enterprise agreement passes.

The BOOT is not a line by line comparison with the underlying award(s) and requires an overall consideration of whether employees are better off overall.

Despite "some prevailing contemporary opinion to the contrary", the Commission's task is "not to examine and analyse each employee's current or prospective roster or individual circumstances" to be satisfied that the agreement should be approved. The Deputy President stated that it was an "illogical and impossible nightmare" that would result in unacceptable delays in approving agreements.

The Deputy President considered that, subject to undertakings being provided, the Agreement passed the BOOT and was capable of approval.

The Deputy President considered a number of other submissions made against the application for approval which have not been summarised in this article.

https://www.fwc.gov.au/documents/decisionssigned/html/2016fwca7012.htm

Termination via email – when does dismissal take affect?

A NSW Trains employee who was fired in January 2016 has made a successful appeal against the initial decision by Senior Deputy President Drake to dismiss his unfair dismissal claim, as a Full Bench of the Commission found that there was an error with regards to deciding when the dismissal took effect.

Mohammed Ayub had received a letter from NSW Trains dated 11 September 2015, regarding certain alleged conduct and asking him to provide a response within 14 days. Following no response, his employer sent a follow up letter dated 13 October 2015 advising that a preliminary decision had been made to dismiss him – and noting that a further 14 days was provided for him to make a submission in relation to this preliminary decision. Mr Ayub's union, the RTBU, made this submission on his behalf.

Mr Ayub then was sent a letter by NSW Trains dated 23 November 2015, which stated that the employer's final view was that dismissal was appropriate, but that he as the employee could seek a review if he wished within 14 days. The letter further stated that if no review was requested within 14 days, Mr Ayub's dismissal would take effect on 7 December 2015, but if Mr Ayub did request a review and the outcome was not successful, the termination date "would be effective from 7 December 2015 or from the date of the outcome letter whichever one is of the latter date".

Mr Ayub requested a review (with the assistance of the RTBU) which was unsuccessful, and the review panel confirmed the dismissal on 13 January 2016.

NSW Trains took several actions with regards to notifying Mr Ayub of the dismissal, with varying outcomes.

An outcome letter from the panel review was dated 14 January, but did not specifically advise of the date of the dismissal. Additionally, the letter had a notation saying 'delivered by hand' but this never occurred.

A dismissal letter dated 15 January was drafted which enclosed a copy of the outcome letter and was emailed to Mr Ayub's contact email (which in fact was his wife's email) on 18 January. Mr

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Ayub stated that he did not open or read the email until 19 January.

The issue of when the dismissal took place was relevant to the determination of whether Mr Ayub's application for unfair dismissal was out of time.

SDP Drake in the first decision noted that there was disagreement between NSW Trains and Mr Ayub as to when his dismissal took place, but was satisfied that the termination occurred on 14 January 2016. It was noted that Mr Ayub had been advised in the 23 November letter that, if a review was not successful, his termination date would either be 7 December or the date of the outcome letter (whichever was the latter) – and the outcome letter was dated 14 January 2016. As a result, SDP Drake at first instance found that Mr Ayub's unfair dismissal application lodged on 8 February was out of time, and there were no exceptional circumstances justifying an extension.

On appeal, Vice President Hatcher, Deputy President Wells and Commissioner Johns quashed SDP Drake's decision, finding no argument to depart from previous common law decisions consistent with the principle "that a dismissal may not take effect prior to it being communicated to the employee". They found that the dismissal was not communicated to Mr Ayub until NSW Trains' email of 18 January and that whilst the date of termination in that email was 14 January, it was not possible for the termination to be retrospective. As such the earliest date for termination would be 18 January.

The Full Bench noted that with regards to delivering a document containing notice of dismissal to an employee's usual address, delivery "would not of itself constitute communication of that dismissal, and concomitantly the time at which the dismissal took effect, if the circumstances were that this did not constitute a reasonable opportunity for the employee to actually read the document." They noted that there could be many such circumstances, for example if an employee receives an email but cannot reasonably read it due to being on a holiday away from home while on annual leave.

In this case, although Mr Ayub submitted he did not read the email until 19 January, he did not specifically demonstrate that he had no reasonable opportunity to read the email when it was sent to his wife's email address on 18 January. The Full Bench declined to form a final conclusion on whether the termination took place on 18 January (when the email containing notice of termination was sent) or 19 January (when the email was actually read), as it did not have an impact on the ultimate outcome of the matter (as either date would mean that Mr Ayub had submitted his unfair dismissal application within the 21 day time limit).

https://www.fwc.gov.au/documents/decisionssigned/html/2016fwcfb5500.htm

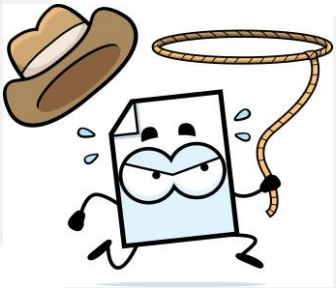
Uber Problem for Uber?

Anyone who has read the news over the last 12 months would be aware that Uber is marketed as an easier, cheaper and superior service than traditional taxi services. The employment tribunal in the United Kingdom's has recently held the Uber drivers, who were thought to work on a contractual model between driver and passenger, are, in fact and at law, "workers". In the context of the United Kingdom's industrial framework this means that Uber drivers have entitlements as employees.

Industrial experts in Australia predict it is only a matter of time before a test case involving Uber drivers is brought before the Australian Courts and Tribunals.

https://www.judiciary.gov.uk/wp-content/uploads/2016/10/aslam-and-farrar-v-uber-employment-judgment-20161028-2.pdf

Sarah Tilby - Workplace Relations Advisor, AMA Queensland & Nate Burke - Associate, Fair Work Commission



P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

Notable Quotes

Institutional reform in workplace relations – not the alteration of laws to favour one ideological perspective or another, but the alteration of the institution itself - is often for long periods a no go area. But when institutions are not adapted to the environment in which they have to work, the perversity of decision-making can have major consequences.

Productivity Commission Peter Harris at the Australian Labour Law Association Biennial National Conference.

It is not right. You know, what has happened here is absolutely not right. And we have a Government that is sitting there just letting this happen, giving the message to any other corporation right around, "You want to evade fair employment terms, this is all you have to do. You outsource to a labour hire firm and then, bang, you get three people on the other side of the country to sign an EBA that these guys don't have anything to do with, done." It is bad message and it shouldn't happen in this country.

ACTU President Ged Kearny speaking on ABC's Q&A programme.

CSIRO staff have been resolute in their defence of working conditions and rights in this campaign. The ballot result is a tribute to solidarity during these very difficult times.

CSIRO Staff Association Secretary Sam Popovski on CSIRO staff rejecting a proposed enterprise agreement for the first time.

Given that the SEQA incorporates approximately 70 per cent of the population, employment and industry in Queensland and that tourism is a significant component of that percentage, in our view extended trading hours are necessary to meet those needs.

Decision of the Queensland Industrial Relations Commission on the National Retail Association's application to amend retail training hours in South-East Queensland

---

In my view, it is not reasonably likely that a hypothetical person in the position of the applicant, or a hypothetical member of the groups identified by Ms Prior who is a reasonable and ordinary member of either of the groups who exhibits characteristics consistent with what might be expected of a member of a free and tolerant society and who is not at the margins of those groups would feel offended, insulted, humiliated or intimidated by Mr Woods words.

Decision of Justice Jarrett in *Prior v Queensland University of Technology & Ors* [2016] FCCA 2853

Vaishi Raja, Industrial Officer/Lawyer - Independent Education Union (Qld and NT Branch) and Rohan Hilton, Industrial Officer – National Tertiary Education Union (QLD Division)

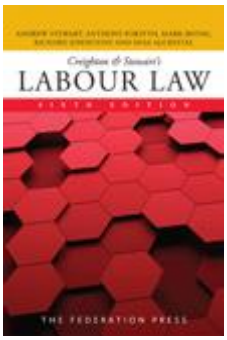
P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

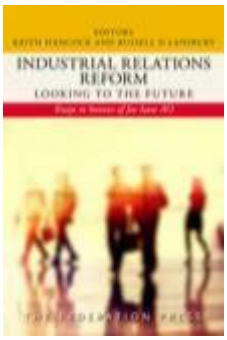
Official Notices

New Industrial Law Titles

The Society notes the recent publication of two industrial law titles that may be of interest to members:

- Creighton and Stewart's Labour Law by Andrew Stewart, Anthony Forsyth, Mark Irving, Richard Johnstone and Shae McCrystal
- Industrial Relations Reform: Looking to the Future edited by Keith Hancock and Russell Lansbury





Griffith eCareerCoach Program

Griffith University has a new eCareerCoach Program which is designed to provide a short number of interactions between the coach and the student, providing the latter with some basic employability related skills and advice. If you are interest in becoming part of this new program as a coach please contact Stacey Talbot via email: s.talbot@griffith.edu.au or by phone: (07) 373 54467

New Members

We welcome the following new members - Marcelle Webster from Tucker & Cowan Solicitors, Lauren Furlan from Watpac, Lara Radik and Seon Woolf from Carter Newell Lawyers, Brett McCreddie from SAS Group, Michael Thomas from Together, Kristy Watts from the Department of Transport & Main Roads, Stephanie Jeslon from IRIQ, Natasha Vigor from Queensland Health and Mubarak Aldosari – Student.

If you have moved, been promoted or taken on a new challenge, email the Secretariat at irsq@irsq.asn.au for inclusion in the next edition.

Would you like to advertise in this publication?

The Society is seeking expressions of interest for advertising in future editions of the IR Advocate. If you are a service provider to the IR sector and would like to advertise in this publication please contact the Editor – Kristin Ramsey at kristin.ramsey@hyneslegal.com.au

Social Media

The Society is on Social Media.! You can like, post and follow us on LinkedIn and Facebook.

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001

IRSQ Management Committee

Patron
The Honourable Justice Glenn Martin, President of the QIRC and Justice of the Supreme Court of Queensland

President
Jo McConnell, Director, Member Support
Together Queensland

Vice President (Employer)
Faiyaz Devjee, Principal Consultant
IRIQ

Vice President (Union)
Thalia Edmonds, Industrial Advocate
Queensland Teachers Union

Vice President (Other)
Lydia Daly, Senior Associate
McCullough Robertson

Secretary
John Payne, Managing Director
Hall Payne Lawyers

Treasurer
Terrianne Redman, Employment Relations Adviser
Queensland Hotels Association

Employee Representative
Vaishi Raja, Industrial Officer/Lawyer
Independent Education Union (Qld and NT Branch)

Employer Representative and Past President
Joanna Minchinton, Employment Relations Manager
Queensland Hotels Association

Employer Representative
Sarah Tilby, Workplace Relations Advisor
AMA Queensland

Legal Profession Representative
Kristin Ramsey, Director
Hynes Legal

Government Representative (Commonwealth)
Nate Burke, Associate
Fair Work Commission

Tertiary Academic Representative
Ben French, Lecturer
Griffith University

General Member
Rohan Hilton, Industrial Officer
National Tertiary Education Union, Queensland Division

General Member
Kerriann Dear, Director
Queensland Working Women's Service

Disclaimer and Feedback

The views expressed in this publication do not necessarily reflect the individual views of the IRSQ Management Committee and do not represent the collective stance of the IRSQ Society as a whole, which aims to be impartial. Feedback, suggestions and improvements, including material for upcoming editions can be emailed to the Editor, Kristin Ramsey at kristin.ramsey@hyneslegal.com.au.

P 07 3420 6323 F 07 3420 6231 E irsq@irsq.asn.au GPO Box 361, Brisbane, QLD 4001