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National Industrial Relations Law Conference

Achieving optimal outcomes in a
new era of workplace relations

16–17 June 2009
Crowne Plaza
Darling Harbour
Sydney

Don't miss this opportunity to:

- Understand the underlying strategies of the new regime
- Learn how to implement collective and good faith bargaining requirements
- Effectively apply National Employment Standards to agreements
- Clarify your knowledge of anti-discrimination and OHS obligations
- Minimise the risk of wrongful termination and unfair dismissal claims
- Prevent breaches of the transmission of business provisions
- Gain insight into business to union relations, with our panel of high profile industry participants

Register Today! Ph: 1800 772 772
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Expert speakers include:

Paul Brown, Partner, **Baker & McKenzie**
Joseph Catanzariti, Partner, **Clayton Utz**
David Cross, Partner, **Deacons**
Chris Gardner, Partner, **Freehills**
Natalie James, Chief Legal Counsel,
Department of Education, Employment & Workplace Relations
Leigh Johns, Chief Counsel, **Workplace Ombudsman**
Tim Lyons, Assistant Secretary, **Australian Council of Trade Unions**
Professor Ron McCallum AO, **University of Sydney**
Adrian Morris, Partner, **Blake Dawson**
The Honourable Paul Munro, formerly **Justice Munro**,
Senior Presidential Member of the
Australian Industrial Relations Commission
Christopher Platt, Director Workplace Policy,
Australian Mines & Metals Association
Dr Joellen Riley, Professor, Law Faculty, **University of Sydney**
Henry Skene, Partner, **Arnold Bloch Leibler**
Damian Sloan, Partner, **Middletons**

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Professional Development

National Industrial Relations Law

Achieving optimal outcomes in a new era of wo

Day one – Tuesday 16 June 2009

8.10 **Conference registration**

8.40 **Meet your Chair**
John Oakes, Partner, Clayton Utz

8:45 **Working with Forward with Fairness**

- Examining the role of labour law in market economies and impacts of globalisation
 - The role of regulation in maintaining Australian labour force international competitiveness
 - Australia's journey from Work Choices to Forward with Fairness
 - Resources available to assist the evolution of your clients' business
- Professor Ron McCallum AO, University of Sydney**



Keynote
Address

9:15 **Putting the IR puzzle together – impacts of FWA on business**

- The story so far: *Workplace Relations Amendment (Transitional to Forward with Fairness) Act 2008*, the Fair Work Bill 2008 and transitional legislation
- Examining the scope of the new regime under the *Fair Work Act*
- Understanding the interaction of pre-reform instruments, transitional instruments, modern awards, enterprise agreements and minimum standards
- Permissible scope of enterprise agreements, including relationships between employer/employee and employer/unions
- Ensuring inclusion of mandatory content in agreements:
 - Flexibility terms
 - Dispute resolution clause
 - Consultation term
 - Nominal expiry date for agreement

Jack de Flamingh, Partner, Corrs Chambers Westgarth

10:00 **Integrating the National Employment Standards with your client's business**

- Dissecting the elements contained in the 10 NES
- From state based awards to minimum employment standards – examining the divergence between currently acceptable conditions and the new NES
- Understanding the impact of transitional arrangements before 1 January 2010
- How the NES applies in the absence of awards
- What is the effect of NES on existing awards?

Andrew Gray, Partner, Mallesons

10:50 **Morning tea**

11:20 **Working with the regulator – Fair Work Australia and you**

- Examining the role and functional divisions of Fair Work Australia
 - Tribunal and administrative functions
 - Office of the Fair Work Ombudsman
 - Federal Court and Federal Magistrates Court jurisdictions
- Observations on the mandatory matters FWA must take into account in performing its functions.
- Powers of the FWO and inspectors in investigating and preventing breaches of the *Fair Work Act 2009* -
 - Inspecting a record or document and use of persons assisting inspectors
 - Enforceable undertakings
 - Compliance notices
 - FWO and injunctive relief in the FWA court divisions
 - FWO's role in protection against "adverse action"

Leigh Johns, Chief Counsel, Workplace Ombudsman

12:10 **Update on Australian Building and Construction Commission (ABCC) – what will the changes mean for you?**

- Examining the findings of The Hon Murray Wilcox QC and the future of the ABCC

- Will the new Specialist Division operate differently under the Ombudsman to other Divisions?
- Investigation and enforcement under the Specialist Division
- Reporting, accountability and complaints procedures
- What are the changes to the interaction with other enforcement agencies?
- Transitional arrangements

Richard Bunting, Partner, Blake Dawson

1:00 **Networking lunch for speakers and delegates**

2:00 **Formulating effective strategies for collective bargaining**

- Enterprise bargaining under the new Act
- Comparing prohibited content under the previous regime and permissible elements under FWF
- Approaches for single-enterprise agreements
- Negotiating multi-enterprise agreements – excluding industrial action protection and good faith bargaining requirements
- Applying for "single interest" status in limited circumstances
- Satisfying the "better off overall" test
- Preserving the right to take industrial action

Adrian Morris, Partner, Blake Dawson

2:50 **Negotiating commercial outcomes through good faith bargaining**

- Considering the "employee majority" requirement
- Components of and parties subject to the good faith bargaining obligations
- Ambit of directions able to be made by Fair Work Australia
- Restrictions on Fair Work Australia
- Arbitration where industrial action is causing a threat to safety or health, a threat to the economy, or significant harm to the parties

Chris Gardner, Partner, Freehills

3:40 **Afternoon tea**

4:10 **Protecting business from departing employees**

- Key areas of the law:
 - Duty of fidelity and related concepts
 - Notice of termination and gardening leave
 - Copyright
 - Confidential information
 - Post-employment restraints
- How the new employer can be liable
- Recourse available to original employer:
 - Investigations
 - Negotiations
 - Applications to court: injunctions, Anton Pillar orders and preliminary discovery
- Proactive and pre-emptive – implementing strategies to protect against risk from a changing workforce:
 - IT policies to enhance security
 - Contractual protections - restraints and gardening leave
 - Carrots – golden handcuffs
 - The Flipside - engaging employees of other businesses

Gareth Jolly, Partner, Minter Ellison

5:00 **Examining workplace relations and employment case law developments**

This session provides your instant digest of the most important cases in workplace relations over the past twelve months

Robert Reitano, Barrister, 15 Wardell Chambers Sydney

5:45 **Closing remarks from the Chair**

6:00 **Close of day one**

Day two – Wednesday 17 June 2009

- 8:30 **Conference registration**
- 8:50 **Meet your Chair**
The Honourable Paul Munro, formerly Justice Munro, Senior Presidential Member of the Australian Industrial Relations Commission
- 9:00 **Managing antidiscrimination cases in the workplace**
 - Constructing policies and procedures to avoid:
 - Sexual harassment
 - Discrimination
 - Harassment and bullying in the workplace
 - Protection against discrimination in the workplace
 - Freedom of association
 - Not to discriminate against union members
 - Distinguishing between federal and state regimes governing discrimination in the workplace
 - Rights, remedies and case management of complaints**David Cross, Partner, Deacons**
- 9:50 **Preventing occupational health and safety liability**
 - Understanding the obligations imposed by OH&S legislation
 - Examining the scope of the legislation - who owes duties and who is covered?
 - When can directors and managers be held personally liable?
 - Seeing OH&S in its industrial relations context
 - The status of harmonisation of OHS regulation**Damian Sloan, Partner, Middletons**
- 10:40 **Morning tea**
- 11:10 **Making sense of modernisation: implications of the new award safety net**
 - The mechanics of modernisation: an explanation of the legal framework underpinning the creation of the modern award and the competing principles of “no-disadvantage” and “no increased cost”
 - The results so far: an analysis of modern award content, including scope and coverage, flexibility requirements, model clauses, and interaction with the NES
 - Implications for business advisers: assessing impact, protecting interests and maximising outcomes in the process**Henry Skene, Partner, Arnold Bloch Leibler**
- 12:00 **Avoiding unfair dismissals and unlawful termination by understanding the new process and procedures**
 - This session will take a look at the key issues affecting dismissals and terminations under the new regime:
 - Class of employees to whom provisions apply
 - Qualifying periods
 - Fair Dismissal Code applicable to small business
 - Exemptions from the legislation
 - Comparing the former “operational” provisions with current “redundancy” provisions
 - Avoiding breaches by:
 - Reviewing existing contracts and ensuring new documentation is compliant
 - Putting in place policies and procedures consistent with the legislation, including disciplinary, dismissal and communication processes
 - Advising on available remedies
 - What time triggers do your clients need to be aware of?**Joseph Catanzariti, Partner, Clayton Utz**
- 12:50 **Networking lunch for speakers and delegates**
- 1:50 **Recognising when work has been transferred and complying with transmission of business provisions**
 - Where employees of the old employer join the new employer within three months
 - The work the employee performs for the new employer is the same, or substantially the same
 - There is a transfer of assets used in the business between the old and new employers
 - Application to insourcing and outsourcing arrangements**Dr Joellen Riley, Professor, Law Faculty, University of Sydney**
- 2:40 **Managing the employer/union relationship effectively**
 - New right of entry (ROE) regime:
 - Investigate suspected contraventions of Fair Work Instruments and new Act and suspected OHS breaches –
 - Holding discussions with “eligible employees”, not just union members
 - Terms in enterprise agreements relating to ROE
 - The impact of ROE by union not bound by award or agreement
 - Operation of protected action ballots
 - Demand for bargaining
 - Examining protected industrial action and unlawful industrial action:
 - Avoiding infringement of the significant economic harm provisions – how will this provision sit with the balance of power in bargaining?
 - Legal remedies for non-compliance**Paul Brown, Partner, Baker & McKenzie**
- 3:30 **Afternoon tea**
- 4:00 **Business and union relations after FWF**
 - A review of elements retained from the Work Choices regime
 - When will a union be entitled to represent the industrial interests of the employee?
 - What is the future of unions under FWF?
 - Implications for employers and unions
 - Examining the unions’ election to be governed by particular agreements
 - How is registration of unions and associations affected by FWF?
 - Scope of the immunity provisions**The Honourable Paul Munro, formerly Justice Munro, Senior Presidential Member of the Australian Industrial Relations Commission**
Christopher Platt, Director Workplace Policy, Australian Mines & Metals Association
Tim Lyons, Assistant Secretary, Australian Council of Trade Unions
Natalie James, Chief Legal Counsel, Department of Education, Employment & Workplace Relations
- 5:00 **Close of day two**



Panel Discussion

Priority registration form National Industrial Relations Law Conference

4 easy ways to register

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Position: _____

Organisation: _____

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Telephone: _____

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Delegate 2 details

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This will help us keep you informed about topics relevant to your business needs.

CONFERENCE RESOURCES

- I am unable to attend but would like to purchase a set of conference papers for National Industrial Relations Law Conference \$360 + GST = \$396.00

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C Event Pricing (please tick your selection)

Advance price* (register and pay before 27 March 2009)	
<input type="checkbox"/> Two day conference	\$1850 + GST = \$2035.00
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 Day two – Wednesday 17 June 2009

I am entitled to a 10% discount as a member of :

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- Register a team of 2 to the conference at the same time, from the same organisation and receive a free pass for the 3rd delegate.*

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