

Early Bird expires  
30 May 2008!

IR Masterclass  
& Workshop

# 2nd Annual Industrial Relations

Opportunities, threats and  
commercial intricacies  
of the new IR reforms

15–16 July 2008

**Sydney**

22–23 July 2008

**Melbourne**

29–30 July 2008

**Brisbane**

**Don't miss the chance to:**

**MANAGE** the transition from AWAs to ITEAs

**PROTECT** your interests with watertight contacts

**CREATE** opportunities in the new IR environment

**AVOID** industrial action with effective union negotiation

## Expert speakers include:

- Graeme Smith, National Head of Practice, Freehills
- Andrew Ball, Partner, Corrs Chambers Westgarth
- David Lloyd, Partner, Blake Dawson
- John Oakes, Partner, Clayton Utz
- Andrew Grey, Partner, Mallesons Stephens Jaques
- Darren Perry, Partner, Freehills
- Gareth Jolly, Partner, Minter Ellison
- David Grace, Partner, Cooper Grace Ward
- Steve Bennett, Partner, Blake Dawson
- Martin Osborne, Partner, Deacons
- Breen Creighton, Partner, Corrs Chambers Westgarth
- Chris Hartigan, Partner, Clayton Utz
- Richard Bunting, Partner, Blake Dawson
- Jennie Mansfield, Partner, Blake Dawson
- Chris Gardner, Partner, Freehills
- Michael Tehan, Partner, Minter Ellison

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# Industrial Relations Masterclass

8.00  
**Conference registration**

8.30  
**Introduction and welcome to Industrial Relations 2008**

MEET YOUR  
CHAIR

**Andrew Ball**, Partner, *Corrs Chambers Westgarth* (Sydney)  
**Graeme Smith**, Head of Practice, *Freehills* (Melbourne)  
**Dr Louise Floyd**, Special Counsel, *Biggs & Biggs Lawyers* (Brisbane)

9.00  
**From AWA's to Individual Transitional Employment Agreements (ITEAs)**

- **Applying the No-Disadvantage Test to ITEAs**
  - Accounting for what constitutes an overall disadvantage and how monetary / non-monetary factors are to be established
  - Failing the test and still having the agreement approved; exceptional circumstances, businesses in recovery mode and the role of public interest
  - How to approach the variation, extension and termination of agreements; considering the circumstances when an ITEA may outlast the Labor's period of election
- **Award Modernisation**
  - Including industry specific content when negotiating terms with employees; creative approaches that may be used in the new system
  - Drafting ITEA's during the 2-year transitional period [January 2008 – December 2009] with examples of well thought-out strategies and tailored approaches to meeting business objectives

**David Lloyd**, Partner, *Blake Dawson* (Sydney)  
**Breen Creighton**, Partner, *Corrs Chambers Westgarth* (Melbourne)  
**David Grace**, Partner, *Cooper Grace Ward* (Brisbane)

10.30  
**Morning tea**

10.50  
**Collective bargaining and union membership**

- **Collective bargaining under the new Labor Government and the seismic shift in good faith obligations**
  - When employers are to be forced into negotiations with unions and the employee's right to call for a union agreement
  - The experiences of Canada and New Zealand with similar regimes to the new system in Australia
  - Allocating powers to Fair Work Australia as the regulatory authority and the associated requirements

**John Oakes**, Partner, *Clayton Utz* (Sydney)  
**Chris Hartigan**, Partner, *Clayton Utz* (Melbourne)  
**Cameron Dean**, Senior Associate, *McCullough Robertson* (Brisbane)

12.00  
**Working within the new framework to manage risk of unfair dismissal**

- **Avoiding claims for unfair dismissal by understanding the Reasonable Commercial Interest Test**
  - Guaranteeing the right for parents to request flexible work arrangements being matched with the right of employers to refuse
  - Knowing what constitutes substantive evidence of operational reasons to avoid an unfair dismissal claim; knowing the messages sent by the courts in relation to discrimination
- **Retrenching, restructuring and re-employing as a cost-cutting strategy vs sham redundancy**
  - Determining who can make a claim for unfair dismissal and the real world impact of applicable thresholds; company structures and the implications of *Barnsley Joinery*, *Village Cinemas*, *Priceline*, *Rawolle v Don Mathieson* and *Phillips v Custom Security Services* [2008]
  - Exploring the implications of businesses with fewer than 15 employees being protected from unfair dismissal claims during the first 12 months of employment

**David Cross**, Partner, *Deacons* (Sydney)  
**Kate Jenkins**, Partner, *Freehills* (Melbourne)  
**Steve Bennett**, Partner, *Blake Dawson* (Brisbane)

1.00  
**Networking lunch for speakers and delegates**

1.50  
**Where contractors by title in an agreement are in fact employees**

- **Distinguishing entrepreneurialism from misrepresentations of being an independent contractor**
  - Knowing to whom the laws apply; considering the role of corporations
  - Applying the substantive test of fact; employee or contractor
  - Misrepresenting as an employee and the consequences that are likely to follow

**Trent Sebbens**, Senior Associate, *Blake Dawson* (Sydney)  
**Richard Bunting**, Partner, *Blake Dawson* (Melbourne)  
**Dr Louise Floyd**, Special Counsel, *Biggs & Biggs* (Brisbane)

2.40

INTERACTIVE FORUM

**Using the minimum standards to benefit your business**

The legislated Safety Net of Ten National Employment Standards may be adapted in a flexible way between an employer and employee to make individual agreements that are tailored to particular businesses.

This session focuses on the type of advice you need to receive as a means of using the standards to the benefit of different types of businesses and business strategies

- Hours of Work; reasonable additional hours, right to refuse, and whether the employee is receiving overtime payments
- Parental Leave and Flexible Work for Parents; determining the extent and bounds of reasonable business grounds for refusing requests
- Annual Leave; considering the rights of both an employee requesting paid leave and an employer's right to request that leave be taken
- Personal, Carers and Compassionate Leave
- Community Service Leave
- Public Holidays
- Information in the Workplace
- Notice of Termination and Redundancy
- Long Service Leave

**Facilitators:**

**Andrew Grey**, Partner, *Mallesons Stephen Jaques* (Sydney)  
**Jennie Mansfield**, Partner, *Blake Dawson* (Melbourne)  
**Martin Osborne**, Partner, *Deacons* (Brisbane)

3.40  
**Afternoon tea**

4.00  
**Negotiating and responding to union activity in unionised sectors**

- **From enterprise back to the collective; the resurgence of unions and the likely triggers for industrial action during difficult economic circumstances:**
  - Industry action, secondary boycotts regulated by the *Trade Practices Act*, and the role of Fair Work Australia.
- **Knowing the pre-election promises about the content of the IR legislation that may give rise to the need for effective methods of pre-emption and response:**
  - Identifying the limited circumstances for protected strike action during bargaining for a collective agreement
  - Bringing an application to the Court for orders against unprotected industrial action by those affected

**Darren Perry**, Partner, *Freehills* (Sydney)  
**Chris Gardner**, Partner, *Freehills* (Melbourne)  
**Joanna Glynn**, Partner, *Freehills* (Brisbane)

4.45  
**Closing comments**

5.00  
**Conference close**

# Essential Employment Contract Workshop

Protecting business interests & fostering relationships with employees when drafting employment contracts under the new IR regime.

8.00

## Workshop Registration

8:30am – 2.00pm

### WORKSHOP

This workshop is designed for the purpose of highlighting what needs to be drafted and implemented in an employment contract as a means of fostering the best relationship with your employees as well as protecting the interests of your business.

Drafting specific clauses and negotiating employment contracts, contractor agreements and enterprise bargaining agreements, will be addressed with particular and practical regard to:

#### The imperative of managing a workforce as an employer

- Best practice approaches to covering redundancies and avoiding unfair dismissals:
  - Creative service level agreements and Key Performance Indicators
  - Intellectual property rights granted clauses
  - Confidential information clauses
- Workforce restructuring and outsourcing; pre-empting, preventing, but nonetheless being prepared for claims arising from the reintroduction of 'Unfair Dismissal' laws
  - Termination clauses
  - Dispute resolution clauses
  - Retention of title clauses
  - Restraint of trade clauses
  - Enforcement of restraints of trade
  - Award issues covered under the recent I.R reforms.

Facilitators will examine the key changes impacting employers and employees through a detailed comparison of WorkChoices and "Forward with Fairness", and most importantly:

#### \*\*\* DISCUSSING THE IMPLICATIONS FOR YOUR PARTICULAR INDUSTRY\*\*\*

The purpose of which being to provide you with the knowledge necessary for understanding the practical implications of the employment laws and their implications for you and your business, especially if your business is considering an international reach.

## Workshop Facilitators

### ABOUT YOUR FACILITATORS

**Gareth Jolly, Partner, Minter Ellison** is a partner in the Human Resources and Industrial Relations Division. Gareth provides the full range of industrial relations, human resources and employment advisory services. He has extensive experience dealing with strategic and very sensitive issues at the Board or head office level and has represented numerous employers in a range of proceedings before the Australian Industrial Relations Commission, Industrial Relations Commission of New South Wales, the Federal Court and other courts and tribunals. Gareth develops long term relationships with clients and provides the full range in a range of industries, including banking and finance, building and construction, food, government, media, manufacturing and transport and logistics, to clients including ADI Limited, the Australian Building and Construction Commission, Couriers Please, News Limited, UBS and Westpac Banking Corporation. He also regularly develops and presents tailored training sessions for clients, their managerial staff and their general staff on general employment law issues for managers – including the new Work Choices legislation.

**Michael Tehan, Partner, Minter Ellison** has worked in industrial relations for 30 years, originally as a union official and public servant, but in the past 20 years as a lawyer for employer interests. He specialises in advising employers on strategic issues in, and handling of, industrial relations including industrial disputes when they occur. In employment law, he has conducted hundreds of cases in areas such as unfair dismissal, discrimination and disputes over employment contracts and has resolved countless others prior to litigation. In addition to his private sector experience with public and private companies operating both in Australia and internationally. Michael also has extensive knowledge of public sector industrial relations, having acted for numerous government employers – departments, other agencies and government businesses – at federal and state levels. His major clients in the public sector include the Federal Department of Employment and Workplace Relations, Australia Post and Victoria's largest employer, the Department of Education and Early Childhood Development. Apart from industrial and employment law, Michael has significant experience in administrative law and education law. He has particular expertise in issues concerning procedural fairness in administrative tribunals. Michael's expertise is recognised in *Chambers Global 2008* where he is again named as a leading Australian employment lawyer. He is a fellow of the Institute of Public Administration Australia (Victorian Division).

**Jonathon Hadley, Senior Associate, Ebsworth & Ebsworth** has more than six years experience in workplace relations, focussing on employee entitlements and conditions, workers compensation and occupational, health and safety. His expertise extends to dispute resolution including conciliation, arbitration and litigation in industrial and common law courts, tribunals and commissions. He works closely with some of Australia's largest companies within retail, automotive, construction, government (federal and state), transport and manufacturing. He also advises on a range of compliance issues, business agreements, and complex employment disputes. Jonathon has built a strong reputation as an employment law expert within a commercial context. He currently holds memberships with the Law Society of Queensland, the Industrial Relations Society of Queensland, the Financial Services Institute of Australasia, and CPA (Certified Practising Accountant) Australia.

## Future Events:

### Commercial Litigation & ADR Conference

7-9 May 2008 Sydney  
12-14 May 2008 Melbourne  
14-16 May 2008 Brisbane

### Property & Conveyancing Conference

27-29 May 2008 Victoria

### Estate Planning Seminar Series

#### Seminar Three: Drafting Testamentary Trusts

#### Seminar Four: Drafting to Rule From the Grave

4 June 2008 Melbourne  
12 August 2008 Brisbane  
5 August 2008 Perth

### 5th Annual Family Law Conference

16 June 2008 Sydney  
17 June 2008 Brisbane  
18 June 2008 Melbourne

### Indemnities, Good Faith and Termination for Convenience Workshop

16 June 2008 Melbourne  
19 June 2008 Sydney

To register now ph: 1800 772 772 or visit [www.lexisnexis.com.au/pd](http://www.lexisnexis.com.au/pd)



# 2nd Annual Industrial Relations Masterclass & Workshop

## CONFERENCE DATE AND VENUE

**Sydney 15–16 July 2008**  
 Crowne Plaza Darling Harbour  
 150 Day Street  
 Sydney NSW 2000  
 Ph: 02 9261-1188  
 Fax: 02 9261 8766

**Melbourne 22–23 July 2008**  
 Stamford Plaza  
 111 Little Collins Street  
 Melbourne VIC 3000  
 Ph: 03 9659 1000  
 Fax: 03 9659 0999

**Brisbane 29–30 July 2008**  
 Stamford Plaza Brisbane  
 Cnr Edward & Margaret Streets  
 Brisbane, QLD 4000  
 Ph: 07 3221 1999  
 Fax: 07 3221 6895

## PROGRAM CHANGES

Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details at any time if required.

## CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by:

**SYDNEY:** 17 June 2008. If we receive notification between 18 June and 1 July 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 1 July 2008.

**MELBOURNE:** 24 June 2008. If we receive notification between 25 June and 8 July 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 8 July 2008.

**BRISBANE:** 1 July 2008. If we receive notification between 2 July and 15 July 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 15 July 2008.

You may nominate a replacement, however no refund will be issued

## Special conference discount\*

Register and pay before Friday 30 May 2008 and receive an early-bird discount of up to \$150 off the standard masterclass and workshop prices

\* cannot be taken concurrently with other discounts offered.

## Who should attend?

Workplace Relations | Industrial Relations | Employment Law | Human Resources

- Human Resources Professionals
- Industrial Relations Specialists
- Partners
- Senior Associates
- Associates
- Solicitor
- Consultants
- Special Counsel
- In-house Counsel
- Recruitment

## IMPORTANT PRIVACY NOTICE:

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Tick here if you DO NOT wish to receive information about upcoming events

## Four easy ways to register

**Phone** 1800 772 772  
**Fax** (02) 9422 2338  
**Online** [www.lexisnexis.com.au/pd](http://www.lexisnexis.com.au/pd)

**Mail** Conference Co-ordinator, LexisNexis  
 Locked Bag 2222,  
 Chatswood Delivery Centre, Chatswood NSW 2067

Please complete sections A, B and C

Conference code: Sydney PD5608, Melbourne PD5708, Brisbane PD5808

ABN: 70 001 002 357

## I would like to register for the IR Masterclass and Workshop

Sydney  Melbourne  Brisbane

### A EARLY BIRD SPECIAL (expires on 30 May 2008)

|   |                       |
|---|-----------------------|
| <input type="checkbox"/> Masterclass and workshop | \$1100 + GST = \$1210 |
| <input type="checkbox"/> Masterclass              | \$850 + GST = \$935   |
| <input type="checkbox"/> Workshop                 | \$450 + GST = \$495   |

### MASTERCLASS RESOURCES

I am unable to attend but would like to purchase a set of conference papers for Industrial Relations Masterclass \$270 + GST = \$297.

### B Payment Details Payment is due upon registration

- Enclosed is my cheque for \$ \_\_\_\_\_ made payable to LexisNexis
- Pay by credit card  
 Please charge \$ \_\_\_\_\_ to  Mastercard  Visa  
 American Express
- Card No: \_\_\_\_\_
- Expiry: \_\_\_\_/\_\_\_\_
- Name of cardholder \_\_\_\_\_
- Signature of cardholder \_\_\_\_\_
- Charge to my LexisNexis account: \$ \_\_\_\_\_
- Account no. \_\_\_\_\_
- Signature \_\_\_\_\_

### STANDARD PRICE (after 30 May 2008)

|   |                       |
|---|-----------------------|
| <input type="checkbox"/> Masterclass and workshop | \$1200 + GST = \$1320 |
| <input type="checkbox"/> Masterclass              | \$950 + GST = \$1045  |
| <input type="checkbox"/> Workshop                 | \$500 + GST = \$550   |

### TEAM DISCOUNTS\*

Register a team of 3 to the conference at the same time, from the same organisation and receive a **free pass** for the 4th delegate.

\* Early Bird, Team Discounts and any other discount cannot be taken concurrently

### C Delegate details (for additional delegates please photocopy form)

Mr/Ms/Dr \_\_\_\_\_  
first name surname

Position \_\_\_\_\_

Organisation \_\_\_\_\_

Postal Address \_\_\_\_\_

Suburb \_\_\_\_\_ Postcode \_\_\_\_\_ State \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

YES! I would like to receive information on upcoming events via email.