

Avoiding Legal Minefields

Employment Law Perspective

**A Scout Talent Group webinar, in partnership with
NB Lawyers - lawyers for employers**



Housekeeping

- Your microphones are on mute so we can't hear you, however we'd love your participation
- We'll launch some Audience Polls throughout the session
- If you have any questions or comments, please type them into the GoToWebinar Action Pane on the right side of your screen
- The webinar recording will be emailed afterwards



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A close-up photograph of a person's hand holding a white rectangular card. The hand is positioned at the top and bottom edges of the card, with fingers visible. The background is dark and out of focus, showing a white shirt cuff and a dark tie. The card contains a title and a bulleted list of professional details.

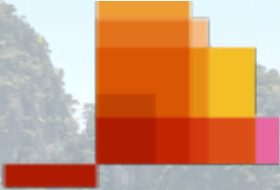
About Jonathan

- Director and Lawyer of NB Lawyers, the Lawyers for Employers
- Leads and manages the Employment Law and Commercial Law teams
- Unique experience includes work as an organiser, Industrial Officer and later, lawyer for the LHMU (now known as United Voice)

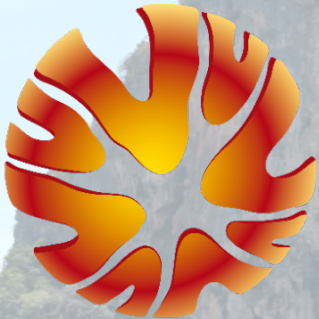


Firstly a question?

michael hill
JEWELLER



pwc



HYUNDAI
A-LEAGUE



An aerial photograph of a winding asphalt road that snakes through a rugged, mountainous landscape. The terrain is characterized by dark, rocky outcrops and patches of dry, yellowish-brown vegetation. The road has white dashed lines and curves sharply through the hills. A solid red horizontal banner is superimposed across the middle of the image, containing the text 'Post COVID-19' in white. The overall lighting suggests a bright, sunny day, casting shadows that emphasize the topography.

Post COVID-19



Jobkeeper enabling Direction

- ❖ Stand down – with or without pay
- ❖ Change or reduce the number of hours of work (and therefore reduce the wages payable)
- ❖ Change days of work
- ❖ Change locations
- ❖ Request to take paid annual leave (as long as it does not fall below 2 weeks) – no unreasonable refusal
- ❖ Consultation applies – notice in writing 3 days prior



Useful Information

- ❖ Super payable on the difference
- ❖ Leave accrues during stand down – as it is still “service”
- ❖ Stand down can be without pay
- ❖ Sick leave can be refused (if not required to perform work)*
- ❖ Clerks Award has made some changes
 -
 - ❖ ordinary hours of work may be reduced by up to 25% for both part-time and full-time employees.



Redundancy

- ❖ Position no longer required to be worked by anyone
- ❖ Consultation
- ❖ Exemption – less than 1 year service or less than 15 staff
- ❖ Possible to apply to FWC to reduce redundancy pay – some success*



Future Problems – “here now”



Scenario #1 – Iron Coffee Repairs

- ❖ Tony owns Iron Coffee Repairs – provide repair services for coffee equipment onsite at 12 large cafes in QLD. Iron Coffee employs 40 full time technicians, 25 part time technicians and a number of casuals plus 20 office staff
- ❖ The cafes call Tony - they have closed because of the Government's enforceable government directions and will not do so until further restrictions are lifted. The cafes do not require any servicing whilst they are closed and don't want equipment moved off site. The easing of restrictions has not helped.

POLL

#seepeoplefirst



Unfair Dismissal



Unfair



Unjust



Unreasonable

❖ Redundancy – is it genuine?

General Protections

Adverse Action

Workplace Right

“Because”

Reverse Onus of Proof

Company can be sued but also individuals involved in the breach incl directors, board members, HR, Managers, Accountants, consultants

Compensation and penalties – up to \$63,000 for the company per breach

Will need to deal with the rules of evidence in the Federal Court

Compensation and penalties – up to \$12,000 for the individual (accessorial liability) per breach



Others to Consider

- ❖ Breach of Contract
- ❖ Discrimination
- ❖ Dispute Application

POLL

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Q & A

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