



TWO HALF-DAY MASTERCLASSES

REGULATING THE EMPLOYEE RELATIONSHIP

Morning: Employee Rights & Entitlements

Afternoon: Terminating the Employee Relationship

Organised by Television Education Network Pty Ltd

Radisson Hotel & Suites, Sydney | Thursday 7 November 2019

BOOKABLE
SEPARATELY OR
ATTEND THE
FULL DAY



**Television
Education
Network**

The professional development specialists

Morning Masterclass: Employee Rights & Entitlements

**CHAIR: GLENN FREDERICKS,
BARRISTER, STATE CHAMBERS,
SYDNEY**

9.00 - 9.10 am

Introduction and welcome

9.10 - 10.00am

Session 1: Casual Employment Post Workpac

Considerable media attention was afforded to the Full Federal Court decision in *WorkPac Pty Ltd v Skene*, which confirmed the tests for the characterisation of casual employment. The resulting outrage led to the Federal Parliament regulating to address “double dipping”. But is the issue now finally settled? This topic examines:

- *WorkPac Pty Ltd v Skene*: understanding the Court's decision and its impact
- The new Fair Work regulation
- Compliance with casual conversion clauses in modern awards
- What is the ‘trigger point’ for casual conversion and when can an employer refuse?
- Continuing legal risks with casual employment and how to manage them
- Casual employment and the rise of class actions
- Future reforms - what employers should expect on the horizon for casuals

Speaker: Trent Sebbens, Partner, Ashurst, Sydney

10.00 - 10.10am Panel Comments and Questions

10.10 - 11.00am

Session 2: Working Beyond the Nine to Five: Hours of Work and Employer Obligations

An employee can work a maximum of 38 hours in a week unless an employer asks them to work reasonable extra hours. Sounds simple enough in theory, but what is meant by ‘reasonable’? And, what are the risks of employers when staff are putting in more than the maximum hours of work? This session unpacks the tricky issues surrounding hours of work, including:

- What does the award, enterprise agreement or other registered agreement say?
 - Addressing increased work flow versus employee fatigue
 - What do your workplace policies say?
 - Responding to an employee complaint regarding long hours - tips and tricks
- Understanding the spread of hours and averaging arrangements that may apply
- What factors determine whether additional hours are reasonable?
 - Two jobs with a single employer - do the hours count as one? Lessons from *Lacson v Australian Postal Corporation*
 - Case study: King & Wood Mallesons' Worksafe investigation

Speaker: Ben Dudley, Partner, Seyfarth Shaw Australia, Sydney

11.00 - 11.10am Panel Comments and Questions

11.10 - 11.30am Networking Break and Morning Tea

11.30am - 12.20pm

Session 3: Fit for Work and Employers' Obligations

For employers to meet their safety obligations, it is crucial that they ensure their employees are fit for work. While making these inquiries is often uncomfortable for employers, there are a number of things that can be done to ensure employees can properly perform their roles and employers reduce their risk of unlawful discrimination. This session covers:

- Pre-employment disclosure - what should you be getting? Ensuring pre-existing medical conditions have been disclosed
- Ensuring staff understand safety obligations to report on their ability
- Workplace policies and fitness for work procedures
- Independent medical examinations - when can they be requested?
- Making reasonable adjustments - what adjustments are considered reasonable?
- Facilitating return to work after a period of time away - practical steps to implement in managing employees who were not fit for work when they return

Speaker: Adrian Barwick, Special Counsel, WilliamsonBarwick, Sydney

12.20 - 12.30pm Panel Comments and Questions

Afternoon Masterclass: Terminating the Employee Relationship

**CHAIR: GLENN FREDERICKS,
BARRISTER, STATE CHAMBERS, SYDNEY**

1.30 - 2.20pm

Session 4: Exiting Senior Employees: All Good Things Must Come to an End

Executive employees are a crucial part of any big organisation. When they leave, it can be a major disruption for your business. Ensuring their contract covers all the essential termination clauses is key.

This session covers:

- Restraints of trade clauses in the executive employment contract:
 - When are they enforceable?
 - Is the restraint period relative with position?
 - Lessons from recent cases
- Termination clauses in the executive employment contracts:
 - Negotiating clear exit conditions
 - Notice periods
 - Changes to an executive's position and notice
- When is gardening leave appropriate?
- The role of Deeds of Release, agreed exits and good behaviour bonds
- The rise of general protections claims amongst senior executives
- Case law update, including *King v Pia Mortgage Services Pty Ltd*; *Robinson v Western Union Business Solutions Australia Pty Ltd*

Speaker: Victoria Hepburn, Partner, Minter Ellison, Brisbane

2.20 - 2.30pm Panel Comments and Questions

2.30 - 3.20pm

Session 5: When Your Data Flies out the Door with a Departing Employee

A significant and recurring problem for businesses is the loss or misuse of data including confidential information, especially when an employee is departing the organisation. Responding swiftly is critical, as is taking steps to mitigate against the risk in the first place. This session covers:

- Understanding an employee's obligations with respect to confidential information and trade secrets
- Best practice for return of property and data prior to employee exit, reinforcing obligations, at exit, forensic examination of devices
- Strategies for recovery of data from an employee, including seeking undertakings, search orders, injunctions
- Reviewing the contract of employment and policies and procedures, to ensure the business is adequately protected
- Training employees to understand and abide by their obligations with respect to confidential information, and reinforcing their understanding upon exit

Speaker: Tom Brett, Lawyer, Gilbert & Tobin Lawyers, Sydney

3.20 - 3.30pm Panel Comments and Questions

3.30 - 3.50pm Networking Break and Afternoon Tea

3.50 - 4.40pm

Session 6: You're Fired! Are Summary Dismissals Unfair?

There is a line between obtaining genuine consent and where it is crossed by duress and undue influence.

Understanding this distinction in relation to financial elder abuse is the subject of this session, including:

- Contractual principles governing breaches justifying summary termination
- Fair Work Act definition of 'serious misconduct' and the scope of its application
- Examples of matters that justify summary dismissal
- Understanding the Fair Work Commission's discretion and the factors that must consider in determining whether summary dismissal is justified
- Affording the employee procedural fairness
- Can a failure to follow lawful and reasonable direction justify summary dismissal?
- Recent cases and examples, including Sydney University lecturer Dr Tim Anderson

Speaker: Stephen Marriott, Senior Associate, Moray & Agnew Lawyers, Sydney

4.40 - 4.50pm Panel Comments and Questions

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance, online access to the conference papers and refreshment breaks and lunch. These masterclasses can be booked as 2 separate half day conferences or you can attend for the whole day.

Masterclass Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the masterclass (as the papers become available), during the masterclass and for 30 days after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device.

At the masterclass TEN will supply printed copies of the PowerPoint presentations used at the masterclass.

CPD - Lawyers

Either half-day masterclass - **3 CPD units** (substantive law)

One-day Masterclass – **6 CPD units** (substantive law)

The Masterclass Venue

Radisson Hotel & Suites

72 Liverpool St, Sydney

Web: <https://www.radisson.com/sydney-hotel-ns-2000/ausydney>

Masterclass Dress

Smart casual attire is suitable. (*note: the temperature in the conference room varies depending on where you are sitting. Light attire is generally OK, but it is advisable that you bring a jacket/long sleeved top in case you need it.*)

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the masterclass for a 85% refund. Substitute delegates accepted at any time.

Masterclass Terms

Program subject to change without notice. The information and views presented in the masterclass are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for masterclass cancellation or any other loss or liability is the refund of the registration fee paid.

TEN is not responsible for financial loss incurred by you as a result of the cancellation or postponement of the conference as a result of strikes, natural disasters, and other Acts of God such as volcanic ash clouds in Australian airspace. We therefore strongly advise you to take out travel insurance if your attendance plans involve air travel or other significant travel to the conference venue.

© 2019 Television Education Network Pty Ltd. All rights reserved. The program for this conference is copyright and may not be reproduced in any form without the prior written consent of the copyright owner.

REGISTRATION FORM – TAX INVOICE*

Registration is simple; complete the form below and fax or post your registration to us or register online.

Television Education Network Pty Ltd, (ABN 19 052 319 365)

GPO Box 61, Melbourne, Victoria 3001

Fax (03) 9670 0588 Phone (03) 9670 2055 Enquiries Jenna Pickrell

Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for **Employee Rights & Entitlements: Half Day Employment Law Masterclass** to be held in Sydney on Thursday 7 November 2019 [conf code: SXENOV19M]

Early Bird Registration – for registrations made on or before 18 October 2019 - **\$495** (\$450 + \$45 GST)

Full Price Registration – **\$605** (\$550 + \$55 GST)

Please register me for **Terminating the Employee Relationship: Half Day Employment Law Masterclass** to be held in Sydney on Thursday 7 November 2019 [conf code: SXENOV19A]

Early Bird Registration – for registrations made on or before 18 October 2019 - **\$495** (\$450 + \$45 GST)

Full Price Registration – **\$605** (\$550 + \$55 GST)

Please register me for **Regulating the Employee Relationship: One Day Masterclass** [both the morning and afternoon sessions with lunch included] to be held in Sydney on Thursday 7 November 2019 [conf code: SXENOV19]

Early Bird Registration – for registrations made on or before 18 October 2019 - **\$880** (\$800 + \$80 GST)

Full Price Registration – **\$1100** (\$1000 + \$100 GST)

The papers from this conference will be available in electronic form only approximately 1 week after the masterclass has been held. You can pre-order the papers now online via our website at www.tved.net.au. The papers are **\$165** (\$150 + \$15 GST) [Code: PSXENOV19].

Multiple registration discount? If you would like to send more than one person from your company to this masterclass, please ask Jenna about the discounts available for multiple registrations: The more you send, the greater the discount. jenna@tved.net.au or phone (03) 8601 7729.

Fill out personal details on next page ...

