Under Cover with CMP

Civic Mutual Plus (CMP), is a specialist insurance underwriter, established by Local Government, to respond to its needs in relation to public and product liability and professional indemnity insurance.

CMP strives for effective risk management and claims management in regards the provision of training and education activities essential to its core business activities. Because of the emphasis given to risk management, CMP provides a wide range of risk management services to members, both on a reactive and proactive basis, so as to minimise liability exposures.

In line with the above risk management focus, in early December 2007, for the second year running, CMP, in conjunction with Marsh, and other insurers/underwriters, conducted a risk management conference at St Helens. Predominantly, council risk managers attended this conference.

One of the major presentations at the conference was a mock trial. The mock trial was based on an actual CMP claim, being a Victorian Supreme Court personal injury action, which involved an accident that occurred at the end of a school swimming competition at a municipal pool. At the end of the competition, a student dived into the pool, approximately 1.4 metres deep, rendering them a paraplegic. The mock trial was a mirror of the Supreme Court case and involved a variety of issues including: pupil supervision by teachers versus supervision by council staff; contractual issues; the responsibility of the teachers and municipal pool staff; pool signage; depth marking; and the process by which students were to leave the pool and then repay to enter the pool following the school competition.

The mock trial gave attendees an opportunity to consider the factual scenario, together with being able to appreciate trial advocacy and cross examination as well as appreciate the importance of retaining and providing, during the litigation process, relevant documentation to opposing parties. Importantly, attendees were required to act as the jury in the case and to consider such things as liability, causation, contributory negligence, appointment of liability between the student’s school and the council, and any settlement award.

CMP is pleased to say that the above mock trial was very well received. It is hoped that all attendees, and all Tasmanian members now act proactively so as to preclude a similar diving accident occurring in Tasmania, and hence, not only protect councils and CMP generally from a large compensation payout, but also reduce the huge social costs associated with similar tragic spinal incidents. For further information about CMP services, visit www.cmp.asn.au.

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Millions Sit in Super Wasteland

According to recent figures released by the Australian Taxation Office, almost $12 billion is now listed on their Lost Member Register, made up of nearly 6.1 million inactive superannuation accounts. Lost superannuation in Tasmania alone, now totals a staggering $300 million.

Tasmanian superannuation fund, Quadrant, has therefore welcomed the announcement made earlier this year by the Minister for Superannuation, Senator Nick Sherry, to investigate solutions to reduce the level of lost super funds. Quadrant Chief Executive Officer, Wayne Davy, said the issue needed an industry-wide approach to make it easier for members to manage their super in a simple and straightforward way.

“One of the reasons that many people tend to leave their super in inactive accounts is that super can be seen as too difficult and complex for the average person to manage,” Mr Davy said. “We need to make the process much easier so that everyone has the opportunity to make the most of their retirement savings.”

Super members become listed on the Lost Member Register if their account has been inactive for five years or more and the fund has not had any contact with its member. These accounts are usually held with Eligible Rollover Funds, which are set up to deal with this type of account, rather than sitting with individual super funds.

“The main concern about this high amount of funds in lost super is that many people will miss out on realising the full benefit of their savings in retirement,” according to Mr Davy. “If these funds are never accounted for by the super member, they could be paying more fees than necessary and losing out on contributions designed to build their retirement nest egg.”

The Rudd Labor Government has announced it may consider implementation of a proposal to automatically roll over lost accounts into a member’s most recent active account using the Tax File Number system.

To find out if you have any lost super, please contact the Australian Taxation Office on 1800 222 209, or visit the website at www.ato.gov.au/super. Quadrant members can phone for financial advice on 6230 6959.
The Federal Government has announced that it intends to make changes to the Workplace Relations Act 1996 (WRA), introducing its Transition Bill and the National Employment Standards Exposure Draft (NES Exposure Draft) on 13 and 14 February respectively. These are set to commence the change process, with more substantive legislation to be introduced later in 2008.

The new laws will again amend the industrial relations landscape across Australia that has been through many significant changes over recent years, most notably the 27 March 2006 WorkChoices amendments and its transitional provisions. However, until State cooperation is in place, the current ‘constitutional corporation’ and other limitations will remain.

Transition Bill
On 13 February, the Federal Government tabled the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 (the Transition Bill).

In its current form, the Transition Bill would have the following main effects upon commencement:

- No new Australian Workplace Agreements (AWAs) could be made, but current AWAs could continue to run (for up to 5 years maximum nominal expiry);
- In limited circumstances, parties could make Individual Transitional Employment Agreements instead of AWAs until 31 December 2009;
- The ‘Fairness Test’ would be scrapped in relation to assessing ITEAs and Collective Agreements. It would be replaced with a ‘No Disadvantage Test’ (similar to the pre-WorkChoices test);
- Existing WorkChoices Collective Agreements would be allowed to continue under most current rules;
- Pre-reform Certified Agreements (i.e. those made prior to the 27 March 2006 WorkChoices changes) would continue past nominal expiry;
- Pre-reform Certified Agreements could be varied or extended in limited circumstances and variations would be subject to a specified ‘No Disadvantage Test’;
- Awards would be modernised; and
- The expiry of Notional Agreements Preserving State Awards (NAPSAs) would be extended.

The manner in which the Senate deals with the Transition Bill will affect the timing and ultimate shape of the new legislation.

The NES Exposure Draft
On 14 February, the Federal Government also released its NES Exposure Draft with a discussion paper. To allow stakeholders to preview the provisions before they are presented as a Bill, and make submissions as to possible alterations. Submissions close on 4 April.

The National Employment Standards would replace the Australian Fair Pay and Conditions Standard (the Standard) currently under WorkChoices. Notably, the NES Exposure Draft covers many matters already in the current standard, but does not contain minimum wages (which the Federal Government has announced would reside in modernised awards). In general terms, the other major differences between the NES, compared to the current standard include:

- Restrictions on hours “averaging” (to equate to a 38-hour week);
- Annual leave “cash out” changes;
- Extended parental leave entitlements;
- National statutory long service leave for some employees;
- Scope for flexible work hours for parents of pre-school children;
- Community service and jury leave provisions; and
- National statutory redundancy provisions for larger employers.

Beyond the Transition Bill and the Draft Exposure Bill
The Federal Government has indicated it will introduce further and more substantial legislation later in 2008. The changes are likely to relate to the Federal Government’s pre-election policies, namely the introduction of a new body from 1 January 2010 called ‘Fair Work Australia’, dealing with matters such as dispute resolution, unfair and unlawful dismissal claims, facilitating collective bargaining and approving agreements, minimum wage adjustment and award variations, and monitoring compliance with legislation.

Other changes to be introduced to Federal Parliament before the end of the year are likely to increase the scope for unfair dismissal claims, dilute prohibited content restrictions in Collective Agreements, and introduce enforceable “good faith bargaining” in relation to collective bargaining.

There are many challenges ahead for the Local Government sector regarding employment and industrial relations regulation. Reviewing the incoming legislation together with the foreshadowed changes and how they may apply to your particular circumstances is recommended.

For further information, contact Michael Foley at Dobson Mitchell and Allport on 6222 1111 or email: michael.foley@doma.com.au.

* This article is for information only and is not to be taken as legal or policy advice.
Tassie Figures at Your Fingertips

Tasmanian State and Regional Indicators (TSRI) is a new web based product, developed by the Australian Bureau of Statistics’ Tasmanian office, featuring a summary of Tasmanian statistical information using both ABS and non-ABS sources.

The first release covers the topics of labour, economic activity and industry. Each topic presents summary commentary and includes graphs, maps and tables of data. Excel workbooks with more detailed data at state, regional and Local Government levels are linked to each topic with some Population Census and regional tables included.

The TSRI content will be built up progressively and updated regularly as data becomes available, and the number of regional and non-ABS tables will also increase. Future releases will cover labour force, wages and prices, tourism, finance, state accounts, population, household and family characteristics, education, health and environment.

TSRI is free of charge and can be found on the ABS website at www.abs.gov.au/ausstats/abs@.nsf/mf/1307.6/

Building Better Workplaces

The Tasmanian Government’s free Better Workplaces Kit is assisting small to medium businesses attract and retain staff in an increasingly competitive labour market.

Tasmanian businesses, like businesses elsewhere in Australia and the world, are experiencing not only skills shortages but labour shortages. The reasons for these shortages are complex and they can vary across industries, occupations and over time.

Two of the most significant reasons for skills shortages are Tasmania’s strong economic growth and our shrinking working age population - a consequence of our ageing population. According to the Demographic Change Advisory Council (2007), Tasmania’s working age population is likely to peak at around 322,000 by 2011 and then start to decline. Over the next 40 years, the decrease could be around 20%.

Despite these circumstances, some Tasmanian businesses are able to attract and retain staff. Drawing on these businesses’ strategies and approaches, many of whom entered the 2007 Employer of Choice Awards, and research which indicates that certain employment and workplace practices can help businesses attract and retain staff, Economic Development has developed the Better Workplaces Employer Resource Kit.

The kit includes:

- Information on modern employment and workplace practices;
- Resources such as a flowchart, checklists, templates and fact sheets;
- Referral points for information and advice on employer responsibilities; and
- Case studies providing examples of initiatives adopted by Tasmanian ‘employers of choice’.

Information about modern employment and workplace practices will help Tasmanian businesses become workplaces of choice. It can also help increase innovation and improve quality of product and customer service, as well as lower rates of turnover, absenteeism and injuries. Importantly, it will ultimately help increase productivity and prosperity.

The Better Workplaces Program is part of a broad strategic focus to help Tasmanian workplaces attract and retain staff and increase productivity. Other components of the strategy include the Employer of Choice Awards launched in 2006, and the Get Moving at Work Kit launched in October 2007.

The Better Workplaces Kit is available online at www.development.tas.gov.au/betterworkplaces.
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New Marketing Manager Takes on Cradle Coast

Angela Taylor is the Cradle Coast Authority’s newly appointed Marketing Manager, responsible for future marketing and communications for Tasmania’s North-West.

Angela relocated from Melbourne where she has been employed for the past eight years by City of Melbourne in destination marketing. Prior to this, Angela worked as the Sponsorship Manager for the Melbourne International Arts Festival.

Angela has a particular interest in live performance, music, visual arts and craft, and is looking forward to becoming acquainted with Tasmania’s North-West and the many experiences on offer.

To contact the Cradle Coast Authority, phone 6431 6285.

Tasmanian State and Regional Indicators

Tasmanian State and Regional Indicators is a new web based product, containing a summary of Tasmanian statistical information, including data from ABS and non-ABS sources. Topics covered will include labour force, wages and prices, tourism, finance, state accounts, population, household and family characteristics, education, health and environment.

Statistics free online www.abs.gov.au

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