Health Legal Report – November 2020

Welcome to the November 2020 edition of the Health Legal Report.

In this issue of the Health Legal Report we discuss:

- the complexities of retail leases (especially for the unwary landlord)
- the handling of subpoenas in the Family Law Courts
- a recent case involving the suspension of a doctor's registration due to the nature of his social media posts (Ellis v Medical Board of Australia)

We also set out some of the Bills we are tracking throughout Australia, as well as some useful information links.

Health LEGAL

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Best Lawyers
Lawyer of the Year
2020
Health & Aged Care Law
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Retail Leases Act 2003 (Vic) – Guidance

By Sarah Caraher, Associate Legal Counsel and Chris Reily, Solicitor

Introduction

The *Retail Leases Act 2003* (Vic) (the **Act**) was introduced to enhance certainty in the law that governs relationships between landlords and tenants in a retail setting. However, there are many complexities in the Act that can be costly for the unwary landlord.

Recently, in an effort to combat some of the complexities and increase certainty in retail leasing arrangements in Victoria, Parliament passed the *Retail Leases Amendment Act 2019* (Vic), amending the Act by:

- reducing the period for notice by the landlord to the tenant of the last date to exercise an option to extend a lease from 6 months to 3 months;
- enhancing disclosure requirements when renewing a lease;
- clarifying who pays for costs relating to the installation, repair and maintenance of essential safety measures (ESM); and
- clarifying the timeframe for the return of security deposits to tenants.

While the amendments will increase certainty and fairness in Victorian retail leasing arrangements, there remains high risk provisions that landlords should pay close attention to.

This article will provide some useful guidance when handling a retail lease to avoid situations that could prove costly to you or your organisation. If you are still uncertain or unclear about any of the following provisions (or any other provision of the Act), it is recommended you seek legal advice.

Key Amendments to the Act

Obligations on renewal and termination

The Act contains strict notification requirements, on top of the standard disclosure requirements, that must be complied with when renewing or terminating a retail lease in order to avoid getting locked in beyond the original term.

Obligation to notify of option to renew

Under section 28 of the Act, if a retail premises lease contains an option exercisable by the tenant to renew the lease for a further term, landlords must give tenants a written notice at least 3 months before the deadline to exercise the option to renew. This time period has been reduced from 6 months in the recent amendments to the Act. The notice to tenants must now set out the following information:

- the option date;
- the rent payable for the first 12 months of any renewed term of the lease;
- the availability of early rent review and the cooling off period (see the further discussion below);
- any changes (excluding rent related changes) to the most recent disclosure statement provided to the tenant.

Relevantly, if a landlord fails to provide notice, the option date will be extended to the date that is 3 months after the landlord provides notice.

Notice of landlord's intentions concerning renewal

Although not the subject of any recent amendments to the Act, landlords should also be aware that under section 64 of the Act if the tenant under a retail premises lease does not have an option under the lease to renew the lease for a further term the landlord must, at least 6 months but no more than 12 months before the lease term ends, give written notice to the tenant:

- offering the tenant a renewal of the lease on the terms specified in the notice (including a term setting out the rent); or
- informing the tenant that the landlord does not propose to offer the tenant a renewal of the lease.

An offer to renew the lease cannot be revoked without the tenant's consent for 60 days after it is made.

If the landlord fails to notify, like section 28 above, the lease will continue to run until the notice is given, plus a further 6 months.

Cooling off period

The recent amendments to the Act have introduced a new cooling off period on extension. A tenant who has exercised an option to renew their lease, but has not requested an early rent review, can now give the landlord a written notice in the cooling-off period (14 days after the option is exercised) that they no longer wish to renew the lease.

If the notice is given, then:

- the term of the lease will be extended by 14 days;
- the lease is not, and is taken not to have been, renewed; and
- the tenant is not able to exercise an option to renew the lease.

Early market rent review

The recent amendments to the Act have also introduced an early market review mechanism. If a retail lease provides for a market rent review, tenants may request the landlord conduct an early market rent review by giving the landlord notice within 28 days after the landlord gives the tenant the notice referred to above.

Essential Safety Measures

The recent amendments to the Act have clarified the obligations of landlords and tenants under retail premises leases in respect of essential safety measures, permitting landlords to recover ESM costs from a tenant, if the tenant has agreed to bear those expenses (i.e. the agreement needs to be drafted into the lease and included in the disclosure statement).

ESMs include fixtures and chattels in a retail premises such as smoke detectors, water sprinklers and fire protection measures, exit signs and the cost of undertaking annual safety inspections.

Landlords can require a tenant to carry out, or cause to be carried out, repairs or maintenance in respect of ESMs. To facilitate this, the Act has been amended to permit landlords to recover the costs of ESMs from a tenant, provided that the tenant has agreed to carry out the works, or pay the costs for the work, under the lease.

However, it is important to note that such an agreement is not intended to displace the landlord's obligation as a building owner under the *Building Act 1993* (Vic) (or the corresponding regulations) in respect of essential safety measures. A landlord will still be liable for a failure to comply with the *Building Act 1993* (Vic) even though the tenant is responsible for carrying out the essential safety measure works under the lease.

The provisions relating to ESMs will apply even for existing leases. However, a landlord cannot recover outgoings in respect of ESM maintenance and repair works payable prior to the commencement of the amendments to the Act.

Disclosure Obligations

Timeframe for provision of disclosure statement

Amendments to the Act have extended the requirement for a disclosure statement for a proposed lease from 7 to 14 days in an effort to provide tenants with more time to consider the disclosure statement and proposed lease. Importantly, this provision also applies to tenants renewing a lease.

Changes to lease

It is important to note that landlords must notify a tenant of changes in a proposed lease from any previous copy given to them before entering into a retail premises lease.

There are significant financial penalties should a landlord fail to comply with this obligation. In the case of a natural person, 50 penalty units (currently **$8,261**) and in the case of a body corporate, 250 penalty units (currently **$41,305**).

Accordingly, landlords should give a tenant a marked-up copy of the lease to avoid breaching this new obligation.

Changes to disclosure statement on renewal of lease

Under the Act, if a tenant has exercised, or is entitled to exercise, an option to renew a retail premises lease, the landlord must at least 21 days before the end of the current term of the lease give the tenant a disclosure statement. Alternatively, if the parties to the lease enter into an agreement to renew the lease, the requirement is to provide the disclosure statement no later than 14 days after the agreement.

The Amendments to the Act now require the new disclosure statement to set out any changes to the previous disclosure statement given to the tenant in respect of the lease.

Security deposits

The recent amendments to the Act change the timeframe requirement for a landlord to return the tenant's security deposit at lease's end from "as soon as practicable" after the lease ends to "within 30 days".

This means that a landlord will be obliged to return the security deposit within the 30-day period once the tenant has satisfied their obligations under the lease, such as to make good and repair the premises.

Other important provisions of the Act to watch out for

Varying a lease

You must be careful when varying the terms of existing leases, including on renewal, to ensure that they do not trigger the unintended consequence of effecting a surrender and re-grant.

One of the potential unintended consequences of a surrender and re-grant is that the extended or 'new' lease falls foul of the requirement for the lease to be a minimum term of 5 years. Another unintended consequence is that the maintenance obligations apply as to the state of the premises at the date of the re-grant rather than the start of the term of the initial lease.

5-year minimum term

Under section 21 of the Act, a retail premises lease must be for a minimum term of 5 years, including any further term provided for by an option for the tenant to renew the lease. A lease that is entered into contrary to section 21 is not illegal, invalid or unenforceable because of that fact, but the term of the lease is extended by the period that is necessary to ensure the lease complies with section 21 of the Act. So, if there is a surrender and regrant then any shorter remaining term at the time of a variation or any renewal term less than 5 years could be extended to 5 years.

A tenant can however make an application for a waiver certificate to the Small Business Commissioner to waive the requirement for a 5-year lease (who must then provide the landlord with a copy of the certificate).

Maintenance obligations on re-grant

In *Versus (Aus) Pty Ltd v ANH Nominees Pty Ltd* [2015] VSC 515, the Court held that a landlord of a retail premises lease cannot avoid liability to repair and maintain the retail premises under sub section 52(2) of the Act because the tenant has exercised an option to renew.

This means that the landlord and tenant maintenance obligations upon renewal continue to be based on the condition of the premises at the beginning of the first lease, not at the start of the renewed term. If the lease is regranted rather than renewed (or varied), the maintenance obligations will be based on the state of the premises at the time of regrant rather than from the outset of the initial term.

This could have significant implications on the tenant's obligation to maintain the premises during the term of the lease and to 'make good' the premises at the end of the lease.

It is therefore important to be careful when varying a lease that it is not considered a 'surrender and re-grant' (i.e. a new lease) under the Act which would allow the tenant to argue that it runs for a further term of 5 years and that maintenance obligations only apply to the state of the premises as at date of the regrant.

Rising Occupancy Costs – Application of the Act

In *Richmond FC v Veratty*, a rising occupancy costs issue triggered a retail lease dispute that reached the Victorian Supreme Court of Appeal.

For context, under the Act, retail premises do not include premises in which the rent and outgoings (occupancy costs) exceed $1 million per year.

Richmond FC (the tenant) argued that the increase in occupancy costs above $1 million during the term of the lease did not result in the lease with Veratty (the landlord) being excluded from the operation of the Act.

The Court of Appeal confirmed that the application of the Act was to be determined at the time the lease was entered into and, if the Act applied, that position could not change for the term of the lease. In addition to increases in occupancy costs, this decision is equally applicable to other changes which would otherwise impact on the application of the Act including the tenant becoming a listed corporation or a subsidiary of a listed corporation and where the lease no longer falls within a Minister's Determination which exempts the Act.

Unfortunately, the Court of Appeal did not express a clear view on whether a lease can 'jump' upon renewal of a lease, only going as far as saying that it would depend on the terms of the lease involved.

Since *Richmond FC v Verraty*, it is now likely the Act will remain operative irrespective of such changes, reducing uncertainty in retail premises leasing agreements.

If you have any questions arising out of this article, please contact ***Sarah Caraher*** *on* ***(03) 9865 1334****, or email* ***sarah.caraher@healthlegal.com.au****.*

Staff News

Even though this year has been one of immense upheaval we have continued to successfully adapt (although from the comfort of our homes).

In August we welcomed **Alice Holmes** to our team. Alice is a law clerk, in the final stages of a double degree in Laws (Hons) and Biomedical Science at Monash University and is assisting our team with legal research. Alice is passionate about health and aged care law and has co-authored multiple academic papers whilst working at the Victorian Institute of Forensic Medicine. Alice has also previously volunteered for the Disability Discrimination Legal Service.

Earlier this year, both **Helen Papageorgiou** and **Chloe Widmaier**, who work in our compliance team, were admitted as solicitors, which is a tremendous achievement.

Most recently, **Courtney Remington** was announced as a finalist in the **Lawyers Weekly Women in Law Awards** in the category of Law Student of the Year. Our firm was also nominated for the **Women in Law Innovator Award** as a result of the successful launch of our Comply Online software. We look forward to the Awards night coming up in early December.

Health Legal and Law Compliance are now on LinkedIn.
Follow us for current news and legal updates.

Subpoenas in the Family Law Courts

By Alon Januszewicz, Executive Legal Counsel and Chris Reily, Solicitor

Introduction

Health services regularly receive subpoenas from the courts compelling production of patient records. These records might also include counselling records if the patient has received counselling services. Naturally, health services wish to protect the confidentiality of the records, especially when they disclose deeply personal and traumatic information such as sexual abuse experienced by the patient. Furthermore, health services are often deeply concerned that disclosure of such records will undermine the therapeutic relationship between a client and their counsellor which will limit the service's ability to support their client.

Each court has rules governing the issuing of subpoenas and the grounds on which a recipient of a subpoena may object to it. Some of those rules are from the common law and therefore apply in all courts; such as the prohibition on issuing a subpoena as a 'fishing expedition'. Accordingly, if a subpoena has been issued just in case the subpoenaed records might include some relevant information, it would be possible to ask the Court to set it aside by objecting to the subpoena on this basis.

In the Victorian courts, there is a special protection given to confidential counselling for victims of sexual abuse (irrespective of whether the abuse is proven or even reported at all). Under the provisions of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic), a subpoena for confidential counselling records can only be issued with the court's permission. However, in the Family Law Courts, there is no equivalent protection for these records. Therefore, subpoenas issued by the Family Court of Australia or the Federal Circuit Court of Australia (both of which hear family law disputes) can only be resisted on more limited grounds.

In Family Law litigation, the court's paramount consideration is the best interests of the child (section 60CA *Family Law Act 1975*). The medical and psychological history of the parents may be relevant to these considerations in terms of understanding their parenting capacity. Further, because the court must ensure that the litigation is conducted fairly, litigants must be able to adequately participate in proceedings, which requires access to information before the court.

Even so, where a health service is served with a subpoena issued in Family Law litigation, there are some measures which may be taken to limit the disclosure, including:

- The health service may object to the subpoena arguing that it is oppressive, vexatious, a fishing expedition, or does not demonstrate a legitimate forensic purpose.
- The health service may object to the subpoena and ask the court to exercise its discretion to allow some information to be redacted or to make an order limiting access to the records to the parties' lawyers only (so that the confidential records are not provided to the ex-partner).

The first option requires detailed consideration in each particular case to establish whether there are good prospects to have the subpoena set aside.

The second option is viable in cases where the records would disclose some information which might expose a party to a risk to their personal safety. For example, where there is a background of family violence perpetrated by the husband and the wife has relocated to escape that abuse, the records might include information about the wife's new

location which she, and the health service, would wish to keep confidential.

Family Violence Grounds

In situations where there is a risk of family violence, the records should be carefully reviewed to determine whether any of the information contained in the records might heighten the risk. As noted, this might be due to the records disclosing the client's current address or even providing clues about the location such as by referring to schools and other places attended by the children. In these situations, the health service may object to the subpoena by citing its concerns about the risk of family violence.

In one such case (*Douglas & Mauldon*[1]) his Honour, Judge Harman, heard an objection to the subpoena based on concerns about potential family violence. In that case, his Honour ordered that the current address, telephone number, the children's schools and other location information was to be redacted from the material prior to it being made more generally available for inspection by the parties. The respondent was given a right of first inspection for 14 days to redact any information that may have the potential to disclose the respondent's location.

In these situations, the court must undertake a balancing exercise, considering whether harm would be done by the inspection of the documents and whether the administration of justice would be frustrated or impaired if the documents were withheld. In resolving parenting disputes, including matters relating to subpoenas, the court is specifically required to give consideration to family violence risks (under 60CG of the *Family Law Act 1975*) and put in place any necessary safeguards to protect the person affected by the order.

Cases involving children

Where the case before the court involves children, the court may appoint an Independent Children's Lawyer (**ICL**) to represent the interests of the child(ren). The subpoena may be issued by the ICL, ostensibly acting in the children's best interests. Even so, it is important to review the records in question in case the production of the records might expose the client, or the children, to a risk of family violence.

What to do if you receive a subpoena in Family Law proceedings?

Many health services will have a policy setting out the actions which must be taken, such as confirming the validity of the subpoena.

The documents subject to the subpoena should of course be collated and reviewed. Generally, these records must be produced to the court even if you are intending to object to the subpoena. However, the court should not allow a party to inspect the documents until it has determined any objection. Therefore, it is appropriate to tell the court if the health service wishes to object to the subpoena.

The court will generally list the subpoena objection for hearing. At the hearing the health service will need to be able to explain, by making legal arguments, why it is concerned about the subpoena and the other parties will also have an opportunity to respond. The health service should also provide evidence of its concerns in the form of an affidavit which may detail the factual background to the concerns.

Ultimately, the Judge has discretion as to what documents and in what form should be available to the parties. In Family Law proceedings there is no general rule or practice which protects confidential counselling records from disclosure; however, depending on the specific circumstances of each case it is possible to protect the client's interests by limiting disclosure and in some cases, even having the subpoena set aside entirely. While that might be considered the optimal outcome, it is important to carefully consider the cases in which it is appropriate to object because there is a possibility that the court would make a costs order against the objecting party if the objection is made without a proper basis.

[1] *Douglas & Mauldon* [2015] FCCA 2217 at [57]-[64].

*If you have any questions arising out of this article, please contact **Alon Januszewicz** on **(03) 9865 1312**, or email **alon.januszewicz@healthlegal.com.au**.*

Ellis v Medical Board of Australia (Review and Regulation)

By Alice Holmes, Law Clerk

Introduction

This case concerns the decision to suspend a doctor's registration due to the information and opinions he posted on social media.

Dr Ellis appealed the decision of the Medical Board of Australia (the **Board**) to suspend his registration. The Board's decision was based upon Dr Ellis' social media posts about vaccination, COVID-19 and vitamin-C, abortions, the LGBTQI community and the religion of Islam. The appeal was heard by the Victorian Civil and Administrative Tribunal (the **Tribunal**).

The Tribunal confirmed the Board's decision to take immediate action and suspend Dr Ellis' registration. This decision was on the basis that Dr Ellis posed a serious risk to persons and that immediate action was in the public interest.

Facts

Dr Ellis is 76 years old and obtained a Bachelor of Medicine and Bachelor of Surgery from University of London in 1967. He became a member of the Royal College of Physicians and the Royal College of Surgeons. He practised medicine in Australia and the UK during the 1980s. From the 1990s he practised full time in Australia.

The Board received a notification regarding Dr Ellis in November 2019, made by the practice manager of the clinic in Melbourne where Dr Ellis was working at the time. The notification prompted an investigation into Dr Ellis' use of social media. On 20 May 2020, AHPRA issued a notice of proposed immediate action. The notice included extracts of 56 social media posts made by Dr Ellis (from August 2017-April 2020). The Tribunal categorised the social media posts into 'medical statements' and 'social statements'. Broadly, the details of these posts included:

- Commentary expressing and encouraging views about COVID-19, vaccinations and chemotherapy that had no proper clinical basis/contrary to accepted medical practice, untrue or misleading.
- Statements that were denigrating and demeaning to the LGBTQI community.
- Anti-abortion posts.
- Posts which were denigrating/demeaning/critical of the religion of Islam and that specifically call for an end to migration to Australia by Muslims.

Many of these posts were articles shared by Dr Ellis, but not written by him; they were posted across five Facebook accounts, one being his personal account with the remaining four, the accounts of entities he established or represented. One page was followed by 11,521 people.

Dr Ellis' admitted he made the posts but made the comment that they did not reflect his personal views, rather they reflected *what was topical at the time…* In Dr Ellis' response to the Board, he denied that the posts reflected his medical practice (for example, he stated that he never refused vaccinations, he did not go against patients' wishes to terminate pregnancy etc). Dr Ellis offered an undertaking that he would close his social media accounts, not reopen any account or post on any social media forum until the finalisation of AHPRA's investigation or determination by the Board; and that he would make all efforts to delete his social media commentary. Dr Ellis declared he had done those things. He also proposed to the Board that he undertake relevant education and proposed that he receive mentoring.

AHPRA is conducting an ongoing investigation into the allegations made against Dr Ellis.

The Law

Section 156(1)(a) of the *Health Practitioner Regulation National Law (Victoria) Act 2009* (the **National Law**) permits the National Board to take immediate action in relation to a registered doctor

where it reasonably believes that, due to his or her conduct, the doctor poses a serious risks to persons and it is necessary to take immediate action to protect public health or safety. Section 156(1)(e) provides that a National Board may take immediate action if it reasonably believes the action is otherwise in the public interest. Section 155 defines immediate action as including the suspension of a doctor's registration.

Good Medical Practice: A Code for Doctors in Australia (March 2014) includes statements regarding the professional values and qualities of doctors which highlight the need for doctors to display integrity, truthfulness, dependability and compassion, including cultural awareness.

Guidelines issued in November 2019 titled *Social media: How to meet your obligations under the National Law* (**social media guidelines**) require that doctors ensure comments made on social media (whether by commenting, sharing or liking) are consistent with the codes, standards and guidelines of the profession and do not contradict or counter public health campaigns or messages. The social media guidelines also caution that even where a person is posting in a 'private capacity', it is easy to check a doctor's registration status.

Key Issues

- Does Dr Ellis pose a serious risk to persons? Is it necessary to take immediate action to protect public health or safety?
- Is immediate action otherwise in the public interest? If so, what should the immediate action be?

Does Dr Ellis pose a serious risk to persons?

For the purposes of s 156(1)(a) of the National Law, the Tribunal focused on the posts containing 'medical statements' including material on vaccines, chemotherapy, and vitamin-C and COVID-19. These posts had no proper clinical basis, were contrary to accepted medical practice or were otherwise untrue or misleading. He publicly disparaged doctors, the hospital system and pharmaceuticals. This commentary had the potential to deter members of the public from obtaining medical treatment or to rely on unproven treatments for COVID-19. It also had the potential to undermine the public's confidence in doctors, hospitals and pharmaceuticals. Thousands of persons, a proportion of whom knew that Dr Ellis was a doctor, accessed this commentary. COVID-19 has increased the risk that vulnerable or unqualified persons may seek 'advice' from unreliable sources.

The Tribunal rejected Dr Ellis' submission that he no longer posed a risk to the public as he closed his social media accounts. The Tribunal also held a reasonable belief that due to manner and duration of Dr Ellis' expression of views on social media, he posed a serious risk to patients in his practice of medicine. This belief was based upon the proposition that people are likely to act according to their views and opinions and that Dr Ellis published *emphatic and often extreme, views.* Further, the Tribunal considered that the practice of medicine is not limited to physically treating patients and formed a reasonable belief that there was a risk he would either discourage patients from receiving vaccinations, or not encourage vaccination where it was indicated. Hence, there was a real possibility that Dr Ellis would engage in conduct which would be harmful to persons, by publishing statements or practising medicine in accordance with the views he had expressed on social media.

Is it necessary to take immediate action to protect public health or safety? What immediate action?

The Tribunal formed a reasonable belief that it was necessary to take immediate action to protect public health or safety. The Tribunal considered that suspension of Dr Ellis' registration was the only way to adequately address the risks he posed, in light of his serious and repeated conduct and the statements he made to the Board. The Tribunal considered that due to the pandemic there was a public interest in doctors practising; however, it nonetheless decided that suspension was necessary to protect the public.

Is immediate action otherwise in the public interest?

The Tribunal emphasised the importance of considering both ss 156(1)(a) and 156(1)(e) of the National Law. While the 'medical statements' were relevant to both provisions, the 'social statements' were only relevant to s 156(1)(e). Dr Ellis' conduct was described as denigrating or demeaning of the LGBTQI community and to Muslim people. Through posting 'medical statements', Dr Ellis failed to display integrity and truthfulness, along with failing to protect

and promote the health of individuals and the community. By posting the 'social statements', Dr Ellis failed to show compassion and was not respectful of others' beliefs and cultures. These statements had the capacity to impact upon cultural safety and could lead to feelings of embarrassment, judgement or intimidation in his patients.

The Tribunal rejected Dr Ellis' submissions that suspending his registration would have a negative effect on doctors with an interest in advancing medicine. They drew a distinction between publication of debate via social media and in medical journals and stated that taking action against Dr Ellis would not deter doctors from contributing to the advancement of medicine.

The Tribunal formed a reasonable belief that the public would not have confidence in Dr Ellis as a doctor and that for him to continue to practice would have a significant negative impact on public confidence in the profession. Further, the public would have legitimate concerns that Dr Ellis' published views on medical and social topics would influence his medical practise.

What immediate action is required?

The Tribunal considered the likely impact on Dr Ellis of suspension, pending the outcome of investigation and the potential impact on the health system of Dr Ellis being unable to practise. It held that immediate suspension was necessary, given the nature and seriousness of Dr Ellis' conduct.

Compliance Impact

This case is of relevance for all doctors and demonstrates the importance of taking care when making or sharing posts via social media, particularly where it is publicly accessible.

Doctors should ensure their posts on social media are respectful to all communities, and if medically related, are founded on a proper medical basis, and are not contrary to medical practice, or untrue or misleading.

This case also emphasises the need for doctors to understand and comply with social media guidelines.

Useful information links

At Health Legal we regularly access a broad range of information to ensure we keep up to date on what is happening in our areas of interest, both here in Australia and overseas.

In each publication we share some of our regularly accessed sources of information, which we believe our clients will find useful. The links we would like to share this time are:

- **https://www.acnc.gov.au/for-charities/**
  The ACNC website provides a wealth of information, guidance and tools for those operating in the charity field.
- **https://www.ibac.vic.gov.au/publications-and-resources/article/ibac-insights-issue-25-october-2020**
  The IBAC website and publications continue to provide useful information and resources regarding the corruption and integrity issues faced by the Victorian public sector.
- **https://billmaddens.wordpress.com/about/**
  Bill Madden writes an informative blog which provides frequent updates on medical law, NDIS, torts and related issues (mostly Australia focussed).

Precedents/Standard Form Agreements and Policies

Due to client demand, we have developed a wide range of standard form Agreements and Policies which are commonly used by health, aged care and community service providers. The documents have been prepared in a template form so they can be completed by your staff.

Our range includes a Whistleblower Policy, Service Agreements, Supply of Goods Agreements, Supply of equipment with associated services Agreements, Employment and Secondment Agreements and short form Terms of Trade.

Our template Agreements have been amended to include Covid-19 and pandemic specific clauses.

*For further information about these precedents please contact **Natalie Franks** on **(03) 9865 1324** or **natalie.franks@healthlegal.com.au**.*

Law Compliance Update

Law Compliance is a legislative compliance business of Health Legal.

Whilst initially focussed on health care organisations, Law Compliance now provides compliance services to hundreds of organisations across Australia and this number grows each month. Our aim is to make compliance easy.

Our clients range from small rural community service organisations to government related entities to some of Australia's largest health care organisations, local councils, universities, charities, community service organisations, aged care providers and child care organisations.

This year we have welcomed several more animal charities, community service organisations, local councils, aboriginal cooperatives, domestic and family violence organisations, interstate public health services, coastal committees, TAFEs, public shared services and universities to our compliance subscribers.

In July 2019 we launched **Comply Online**®, our online platform which allows our subscribers to:

- assign topics to individuals within their organisation
- monitor organisation wide compliance activity
- produce a variety of compliance reports, including audit and risk compliance reports

COMPLY ONLINE®

We are now running regular free Comply Online® webinars hosted by our experienced team of compliance solicitors.

*For more information about Comply Online or to register your interest for one of our webinars, please go to: **https://lawcompliance.com.au/comply-online/comply-online/** or contact **Natalie Franks** on **(03) 9865 1324** or **natalie.franks@lawcompliance.com.au**.*

Staff Profile – Ben Schwarer, Solicitor

Ben joined Health Legal in December 2017 and was admitted as a solicitor in April 2019.

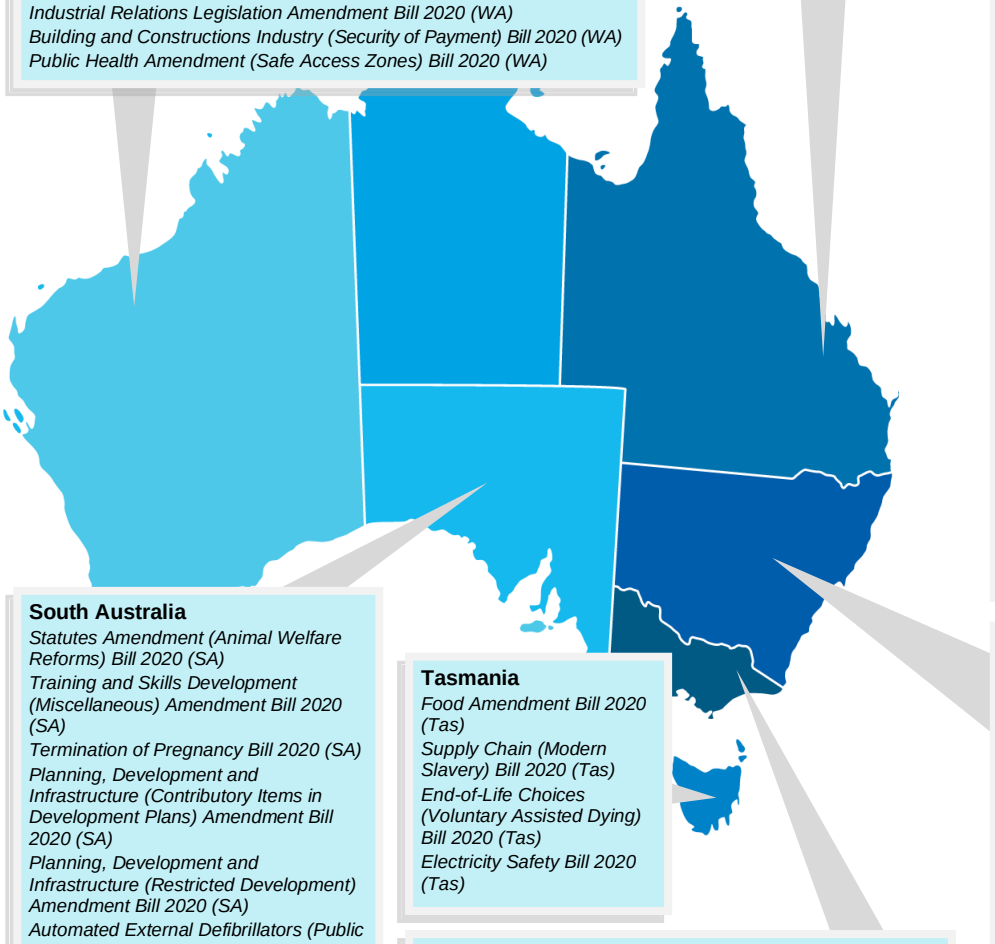
Ben has completed a Juris Doctor (Law), as well as a Bachelor of Biomedical Science. He has experience in both personal injury law and industrial relations, with his most recent experience, prior to joining Health Legal, being an industrial relations consultant. The industrial relations work which Ben has undertaken includes representing clients in conciliation and drafting Fair Work Commission submissions.

Ben works across both our legal and compliance teams. His work involves assisting with employment law advice and the drafting and reviewing contracts for the legal team, as well as reviewing and updating the legislative compliance products produced by the firm.

Some of the Legislative Changes being tracked

Western Australia
Climate Change and Greenhouse Gas Emissions Reduction Bill 2020 (WA)
Commercial Tenancies (COVID-19 Response (Early Termination)) Bill 2020 (WA)
Aquatic Resources Management Amendment Bill 2020 (WA)
Dog Amendment (Stop Puppy Farming) Bill 2020 (WA)
Litter Amendment (Balloons) Bill 2018 (WA)
Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018 (WA)
Industrial Relations (Equal Remuneration) Amendment Bill 2018 (WA)
Children and Community Services Amendment Bill 2019 (WA)
Industrial Relations Legislation Amendment Bill 2020 (WA)
Building and Constructions Industry (Security of Payment) Bill 2020 (WA)
Public Health Amendment (Safe Access Zones) Bill 2020 (WA)

Queensland
Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020 (Qld)
Liquor (Artisan Liquor) Amendment Bill 2020 (Qld)



Commonwealth
Recycling and Waste Reduction Bill 2020 (Cth)
Family Law Amendment (Risk Screening Protections) Bill 2020 (Cth)
Fair Work Amendment (Improving Unpaid Parental Leave for Parents of Stillborn Babies and Other Measures) Bill 2020 (Cth)
Australia's Foreign Relations (State and Territory Arrangements) Bill 2020 (Cth)
Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 (Cth)
Education Services for Overseas Students Amendment (Refunds of Charges and Other Measures) Bill 2020 (Cth)
Radiocommunications Legislation Amendment (Reform and Modernisation) Bill 2020 (Cth)
Education Legislation Amendment (Up-front Payments Tuition Protection) Bill 2020 (Cth)
Native Title Legislation Amendment Bill 2019 (Cth)
Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019 (Cth)
Higher Education Support Amendment (Freedom of Speech) Bill 2020 (Cth)
Health Insurance Amendment (Compliance Administration) Bill 2020 (Cth)
Higher Education (Up-front Payments Tuition Protection Levy) Bill 2020 (Cth)
Australian Education Amendment (Direct Measure of Income) Bill 2020 (Cth)
Export Control Legislation Amendment (Certification of Narcotic Exports) Bill 2020 (Cth)
Services Australia Governance Amendment Bill 2020 (Cth)
Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Bill 2020 (Cth)
Fair Work Amendment (COVID-19) Bill 2020 (Cth)

South Australia
Statutes Amendment (Animal Welfare Reforms) Bill 2020 (SA)
Training and Skills Development (Miscellaneous) Amendment Bill 2020 (SA)
Termination of Pregnancy Bill 2020 (SA)
Planning, Development and Infrastructure (Contributory Items in Development Plans) Amendment Bill 2020 (SA)
Planning, Development and Infrastructure (Restricted Development) Amendment Bill 2020 (SA)
Automated External Defibrillators (Public Access) Bill 2020 (SA)
Health Care (Privatisation of Health Services) Amendment Bill 2020 (SA)
Assisted Reproductive Treatment (Review Recommendations) Amendment Bill 2020 (SA)
South Australian Multicultural Bill 2020 (SA)
Coroners (Inquests and Privilege) Amendment Bill 2020
Statutes Amendment (Spit Hoods) Bill 2019 (SA)
Statutes Amendment (Spit Hood Prohibition) Bill 2020 (SA)
Health Care (Governance) Amendment Bill 2020 (SA)

Tasmania
Food Amendment Bill 2020 (Tas)
Supply Chain (Modern Slavery) Bill 2020 (Tas)
End-of-Life Choices (Voluntary Assisted Dying) Bill 2020 (Tas)
Electricity Safety Bill 2020 (Tas)

Victoria
Spent Convictions Bill 2019 (Vic)
Human Tissue Amendment Bill 2020 (Vic)
Consumer and Other Acts Miscellaneous Amendments Bill 2020 (Vic)
Spent Convictions Bill 2020 (Vic)
Food Amendment Bill 2020 (Vic)
Racial and Religious Tolerance Amendment Bill 2019 (Vic)
Parks and Crown Land Legislation Amendment Bill 2019 (Vic)
Environment Protection Amendment (Refund on Bottles and Cans) Bill 2019 (Vic)
Commercial Passenger Vehicle Industry Act 2017 No. 35 (Vic)
Wildlife Rescue Victoria Bill 2020 (Vic)
Crimes (Mental Impairment and Unfitness to be Tried) Amendment Bill 2020 (Vic)

New South Wales
Mandatory Disease Testing Bill 2020 (NSW)
Education Legislation Amendment (Parental Rights) Bill 2020 (NSW)
Anti-Discrimination Amendment (Sex Workers) Bill 2020 (NSW)
Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill NSW 2020 (NSW)
Independent Commission Against Corruption Amendment (Property Developer Commissions to MPs) Bill 2020 (NSW)
Prevention of Cruelty to Animals (Increased Penalties) Bill 2020 (NSW)
ICAC and Other Independent Commissions Legislation Amendment (Independent Funding) Bill 2020 (NSW)
Retirement Villages Amendment Bill 2020 (NSW)
Drug Supply Prohibition Order Pilot Scheme Bill 2020 (NSW)
Community Land Management Bill 2020 (NSW)
Community Land Development Bill 2020 (NSW)
Public Works and Procurement Amendment (Workers Compensation Nominal Insurer) Bill 2020 (NSW)
Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2020 (NSW)
Privacy and Personal Information Protection Amendment (Service Providers) Bill 2020 (NSW)
Planning Legislation Amendment Bill 2019 (NSW)

If you would like details of these new Bills please contact ***Teresa Racovalis*** *on* ***(03) 9865 1337*** *or* ***teresa.racovalis@lawcompliance.com.au****.*

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