

“When experience counts and you need an innovative approach, contact us”

Welcome to the early summer edition of Legal Insight.

Just as our weather runs hot and cold so too our law-makers. In this edition we will be examining instances of where government (State and local) run hot and cold. We'll simply provide some insight then let you be the judge.

But first...

An Invitation



We would like to thank you for your support during the year and invite you and your partner to our FUNction. The

night will 'kick off' with a movie at Hoyts, Eastland, followed by supper at Balsamic, which is just across from the cinema.



Movie: Fair Game (rated M)¹
Date: 29 November 2010
Time: 5.45pm for 6.00pm start
Venue: Hoyts Eastland

If you can't make the movie, you are welcome to join us at 8pm for supper at Balsamic, a restaurant located at Eastland:

To reserve your tickets for the movie, you need to RSVP as soon as you can, as seats are limited:

- visit hutchinsonlegal.com.au and click on the link to RSVP; or
- email tristan@hutchinsonlegal.com.au

¹ You can read the synopsis and preview the trailer for this film at hoyts.com.au/Movies/details/Fair_Game.aspx?cs=1

Words to the Wise

“...don't criticize what you can't understand”

Bob Dylan –
'Times they are Changing'

Hard Rubbish Collection

Can you just take it?

It's 6.15pm on a Monday evening and you are driving home. You notice the various houses with their hard rubbish out on the nature strip to be collected. Out of the corner of your eye you see a kitchen table seat that would go perfectly in your kitchen. Can you just take it?



Ownership of personal property may be transferred through abandonment. This transfer occurs when the legal owner gives up possession of the personal property while having an intention to also give up their legal right to the personal property. If the original owner has not given up their legal right to the property then they are still the legal owner and taking the property could be considered a crime.

Hutchinson Legal contacted the Maroondah Council to obtain their opinion on this matter and they stated that “Council's Local Law No. 8, states that a person, without proper authority, must not remove or interfere with any hard waste placed out for collection. Only the occupier of the premises is permitted to place items onto the pile, and is within their rights to remove items from the pile at any time prior to the collection”.

Given that abandonment will only take place when the legal owner has the intention to give up their legal right to the property as well as possession of the goods it is important that before you take that chair, you knock

In this issue...

An Invitation

Hard Rubbish Collection

Law on the Air

Legislative Update

Unfair Debt Collection

Mow the Mo 4 Maroondah

If you would like to receive an electronic version of Legal Insight, please:

- call Tristan Tottenham of our office on 9870 9870
- write to us at PO Box 450, Ringwood 3134
- send an email to office@hutchinsonlegal.com.au

on the door and ask permission. Asking the owner to remove the property from their pile before you take it will also ensure that you are not breaking any local government laws.

Law on the Air

9:30am on the First
Wednesday of each month
on Eastern FM 98.1

If you regularly tune into our local radio station you may have heard a familiar voice as our Grant Hutchinson has been joining John Hutchinson (no relation) in a new monthly morning segment called "Law on the Air". These segments are typically free flowing discussions on any topic – hopefully with some connection to the law.

Legislative Update

State

Judicial Commission of Victoria Bill (2010) – It will establish a judicial commission to investigate and resolve complaints against Victorian Judges, Magistrates, Registrars and Members of VCAT.

VCAT Twilight Hearings – During August and September, VCAT 'trialed' twilight hearings for civil and residential tenancy matters. This was done in an attempt to avoid the regular practice of one party failing to appear. The hearings have been held at the Neighbourhood Justice Centre in Collingwood on Thursday evenings. We will have to wait to see if the State Government implements the program permanently.

Planning Amendment VC 73 – This amendment extends the current bushfire protection measures until March 2012. It has also extended the rule which allows landowners to remove trees within ten metres of their houses and shrubs within 30 metres without a permit.

Federal

Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill (2010) – This Bill will amend the *Broadcasting Services Act (1992)* and place restrictions on advertising unhealthy food between 6:00am and 9:30pm on commercial broadcasting television.

Responsible Takeaway Alcohol Hours Bill 2010 – The Bill will create the *Responsible Takeaway Alcohol Hours Act (2010)*. Under

this Act it will make it an offence to sell takeaway alcoholic beverages between the hours of midnight and 7:00am.

Health Insurance Amendment (Pathology Requests) Bill 2010 – This Bill will amend the *Health Insurance Act 1973* (the Act) to improve patient choice in respect of pathology services. This will encourage greater competition between providers and hopefully lead to lower prices.

Unfair Debt Collection

From 1st September 2011 there will be new laws implemented into the *Fair Trading Act 1999* (Vic) prohibiting certain practices in relation to debt collection. The Minister for Consumer Affairs, Mr Robinson stated that "no Australian jurisdiction has directly prohibited a wide range of unfair debt collection practices in the manner proposed in this Bill. This is an important reform to ensure that businesses collecting debts, [whether or not those debts are being collected on behalf of someone else,] and consumers are aware of what is unacceptable".

The new laws form part of the *Consumer Affairs Legislation Amendment (Reform) Act 2010* (Vic). Under these new laws a person must not engage in a prohibited debt collection practice while collecting or attempting to collect a debt.

Examples of prohibited debt collection practice includes the following:

- Communicating with a person in a manner that is unreasonable in its frequency, nature or content;
- Using physical force or undue harassment or coercion; and
- Attempting to take possession of or threatening to take possession of any property to which the person, or the person's principal, is not entitled to possession.

To read the full article please visit our website. <http://hutchinsonlegal.com.au/category/debt-recovery/>

Under the Act if a person has experienced humiliation or distress due to prohibited debt collection practice/s being undertaken with respect to a consumer debt they may apply to a court or the Tribunal for an order that the person engaging in that conduct pay damages of up to \$10,000.

Mow the Mo 4 Maroondah 2 December 2010

Hutchinson Legal, is joining with others in a fund-raising campaign during November to raise money for the Maroondah Hospital.

Staff from Hutchinson Legal will be sponsored to (grow and then) shave their moustaches and beards.

'We are always keen to promote good local causes' said Martin Reilly of Hutchinson Legal. 'But in any event, many of our clients making applications to the Victims of Crime Tribunal use the valuable services of the Emergency Department so this is a way we can contribute to their on-going care'.

If you would like to participate in the campaign or be a sponsor please call Tristan at Hutchinson Legal on 9870 9870. All donations are tax deductible and will be acknowledged by the hospital.



HUTCHINSON LEGAL

per Grant Hutchinson & Con Nottas

Tel: **(61 3) 9870 9870**

Fax: (61 3) 9870 5704

Email: office@hutchinsonlegal.com.au

PO Box 450, Ringwood 3134.

Visit us at hutchinsonlegal.com.au (Last updated October 2010)

Clients should not act only on the basis of material contained in this newsletter because the contents are of a general nature only and may be liable to misinterpretation in particular circumstances. Changes to legislation can occur quickly. Do not act on any of the contents of this newsletter without first obtaining specific advice from a lawyer.