

**RL NEWSLETTER****FEARLESS LAW**

SEPTEMBER - OCTOBER 2004

**NEW OCCUPATIONS ON THE MIGRATION DEMAND LIST****THIS SPECIAL ISSUE:**

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**ROSENDORFF LAWYERS**

Level 3  
10 Queens Road  
MELBOURNE VIC 3004  
AUSTRALIA

Phone: (03) 9670 2515

Fax: (03) 9011 8349

Web: [www.rosendorff.com.au](http://www.rosendorff.com.au)**AGRICULTURAL OCCUPATIONS IN DEMAND**

In response to demand for skilled people to work in certain specialist agricultural occupations, the following were added to the Skilled Occupations List (SOL) on 8 September 2004.

- Agricultural Adviser
- Agricultural Scientist
- Environmental research scientist
- Forester
- Park ranger
- Soil Scientist

Skilled individuals who nominate one of these occupations and hold qualifications assessed as suitable by VETASSESS can now apply for a general skilled migration (GSM) visa.

To see whether you meet the eligibility criteria for an application for migration to Australia pursuant to the General Skilled Migration Program please contact our office.

From 8 September 2004, the following occupations were placed on the Migration Occupations in Demand List (MODL). Subject to these occupations being on the MODL at the time an applicant's application is assessed, applicants who have nominated one of these occupations will be awarded either 15 points or 20 points if they have an offer of full-time employment.

The offer of employment needs to be made by an organisation employing at least 10 people on a full-time basis for at least 24 months before the application was lodged.

**Occupation**

Accountant  
Automotive Electrician  
Fitter  
Furniture Upholsterer  
Metal Fabricator (Boilermaker)  
Metal Machinist (First Class)  
Motor Mechanic  
Panel Beater  
Pastry Cook  
Sheet Metal Worker (First Class)  
Toolmaker  
Vehicle Painter  
Welder (First Class)

For more information please do not hesitate to contact Joe Dorfman or Maria Spitaliorakis of our office on 9011 8357.

**Please do not act on this alert other than to communicate with us. This information should not be relied on as a substitute for legal advice. Your particular circumstances may require further investigation and amendment.**

# EMPLOYMENT LAW SHAKE UP

The answers to the following questions and the consequences that follow may be enough to raise the hair on the back of your neck.

- Can your administrative assistant walk away with your client database on her cd-rom?
- Can she set up a business with another firm "where she will be paid loads more"?
- Can your "independent contractor" come back and claim to be an "employee"?

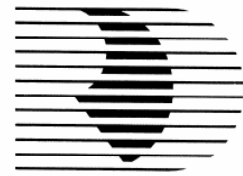
To answer these questions read the agreement between the employer and employee or the principal and independent contractor .

If you don't have a written agreement then you have to rely on the law, which unfortunately, is now rather unclear due to the recent Australian Industrial Relations Commission taking a hammer to the High Court's *Electrolux* case.

Consequently, the Federal Government has become aware of the need to introduce a new Bill into parliament to create some certainty. Unfortunately, any laws introduced will not operate retrospectively. This means that if you have no Employment Contract or Independent Contractor's Agreement then you have absolutely no protection as the employer, whilst your current employees will have their rights fully protected by law.

So why would an employee want to sign a new agreement? It's simple. Next time you change their conditions of employment or introduce a new condition, such as a pay increase or new bonus incentive , have your employees and contractors sign a new agreement confirming their position.

For further information please contact Alan Rosendorff of our office on 9011 8353 or by email [alanr@rosendorff.com.au](mailto:alanr@rosendorff.com.au)



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## KEEPING YOU INFORMED

In order for us to assist you with your legal requirements and keep you up to date with legal issues that may be of interest as well as keeping you abreast of all the new and exciting things we are up to at Rosendorff Lawyers please drop us a line and let us have any new contact details!

If you do not want to receive commercial electronic communications from us, please reply to this message with the word 'remove' in the subject. Your email address will then be removed from our database.

# TRUST SPLITTING AS AN ASSET PROTECTION STRATEGY

As you may be aware; one asset in a family trust that goes bad will take out all the other assets in the family trust.

1) For asset protection, Assets are divided in 3 classes:

- High Risk (trading business, e.g. accounting practice, financial planning practice, law firm, real estate agency and news-agency).
- Medium Risk (all types of real estate – if someone is injured on the property then the Trustee is often personally liable, even though the Trustee may have no beneficial interest in the real estate).
- Low Risk (Shares and Managed Funds).

2) Only an ill-advised person would keep high-risk assets (a business) with low risk assets (shares) in the same family trust.

3) You can have as many family trusts as you want. However, you do suffer greater accounting fees each year.

4) You don't want to have too much wealth in a family trust, as the more wealth in the family trust the better the target for would be creditors.

So what is the solution?

Trust splitting is a fantastic way to reap has countless advantages. It has no CGT and stamp duty implications. The benefits of trust splitting

include:

- Asset protection.
- Land tax minimisation, However, be aware that there is a land tax anti-avoidance rule, so don't do it just to avoid land tax .
- Estate planning, For example Where a client has several properties in the same trust, but in his Will wants to have different levels of control by different children for each property, the trust is split so that different properties are in different sub-trusts controlled by each child.

Based on his successful experience in trust splitting, Alan Rosendorff is prepared to offer fix fees in these matters. To get the ball rolling please call Alan on 9011 8353.

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