
Estate Agents and their Employment Relationship to Sales Representatives

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Abstract

This paper examines the laws relating to the relationship between real estate agents and their sales representatives in Western Australia. It examines the Real Estate and Business Agents Act 1978 (WA), the concepts of 'real estate agent' and 'sales representatives', and the employment status of sales representatives. It identifies some of the legislative provisions and issues that impact upon the employment conditions of salespersons and points out sources on the internet where further specific information on legal issues involving real estate agents and salespersons can be found.

Introduction

This paper explains some of the foundations of the employment law relationship that occurs between real estate agents and sales representatives in Western Australia. The objective of the paper is to assist real estate agents and sales representatives who are interested in the law to understand the foundation of their employment relationship. It introduces them to some of the legal issues such as termination of employment, claims for denied contractual benefit, minimum condition of employment requirements, workplace agreements, and award conditions.

This paper also names some of the legal proceedings that have arisen in Western Australia involving real estate agents and real estate salespersons and identifies some of the official internet sites where tertiary education institutions, governments or bodies established under legislation have provided overviews and details of the legislation and litigation arising out of the employment relationship. People working in the real estate industry can identify further details of their legal obligations in relation to their employment relationship, such as awards, workplace agreements, and minimum

conditions, by examining the information provided online by these official bodies

Real Estate and Business Agents Act 1978

The *Real Estate and Business Agents Act 1978* (WA)¹ (hereafter called 'the Act') provides in one part of the Act² for the 'Licensing of Agents' and in another part of the Act³ for the 'Registration of Sales Representatives'. These two parts are significant so far as the employment relationship is concerned. Other parts of the Act dealing with the establishment of a board, discipline and other regulatory matters will not concern us in this paper.⁴

¹ See the Australasian Legal Information Institute (Austlii) site on Western Australian Acts: http://www.austlii.edu.au/au/legis/wa/consol_act/. Austlii is the main legal site used in Australia and is a joint facility of the Faculties of Law at the University of Technology, Sydney and the University of NSW. Other statutes in Australia can also be found on the Austlii site. Another site giving access to WA statutes is the WA State Law Publisher at www.slp.wa.gov.au/statutes/swans.nsf.

² Part 3 of the *Real Estate and Business Agents Act 1978* (WA).

³ Part 4 of the *Real Estate and Business Agents Act 1978* (WA).

⁴ Malcolm C.J. sitting on the Full Court of the Supreme Court of Western Australia in *Re Real Estate and Business Supervisory Board: Ex parte Cohen* [1999] WASC 47 examined the Act and the role of the Real Estate and Business Agents Supervisory Board.



Real Estate Agent

In the part of the Act dealing with licensing of agents, it is an offence⁵ for a person⁶ to carry on business or to hold out that that person is a real estate agent unless that person is licensed under the Act and holds a current 'triennial certificate'.⁷ Other sections in that part of the Act provide for the application requirements for such a licence⁸ and the opportunity for objections to the granting of such a licence.⁹ The legislation allows for a natural person,¹⁰ a firm,¹¹ and a body corporate¹² to hold

⁵ Section 26 of the *Real Estate and Business Agents Act 1978* (WA).

⁶ Section 5 of the *Interpretation Act 1984* (WA) defines the term 'person' or any word or expression descriptive of a person to include a public body, company, or association or body of persons, corporate or unincorporate.

⁷ The Supreme Court of Western Australia in *Hellier v Hinton* [1998] WASCA 332 considered the meaning of carrying on business as a real estate agent under this Act and whether it included the activities of a property manager.

⁸ Section 24 of the *Real Estate and Business Agents Act 1978* (WA).

⁹ Section 25 of the *Real Estate and Business Agents Act 1978* (WA).

¹⁰ Section 27 of the *Real Estate and Business Agents Act 1978* (WA).

¹¹ Section 28 of the *Real Estate and Business Agents Act 1978* (WA). The term 'firm' is not defined in the Act. However in the *Business Names Act 1962* (WA) the term 'firm' is defined in s.4 of that Act to mean an

such a licence. Thus, although it is possible for an individual person to hold such a licence, in practice, for reasons normally associated with personal liability and taxation planning, a corporation or a partnership usually holds the licence. The remainder of that part of the Act provides for the regulation of persons holding such licences.

Real Estate Sales Representative

The part of the Act dealing with the registration of sales representatives makes it an offence for a person to hold out or carry out the function of a real estates sale representative without a current certificate of registration.¹³ It also requires that person to act or carry out the functions for and behalf of a licensee who is the holder a 'triennial certificate'¹⁴ or for or on behalf of a developer.¹⁵ The legislation prevents the grant of a certificate of registration to a real estate representative who is not a natural person.¹⁶ It requires that where a 'body corporate' or a 'firm' holds a licence under the Act,¹⁷ the directors of the body corporate and the individual members of the firm carry out the functions of a sales representative, those individuals must hold a current certificate of registration. Other sections provide for a person to apply for such a certificate of

unincorporated body of persons (whether consisting of individuals or of corporations or partly of individuals and partly of corporations) associated together for the purpose of carrying on business. A similar definition seems appropriate for the *Real Estate and Business Agents Act 1978* (WA) and would therefore include a partnership.

¹² Section 29 of the *Real Estate and Business Agents Act 1978* (WA). The term 'body corporate' would presumably include companies, corporations and incorporated associations.

¹³ Section 44 of the *Real Estate and Business Agents Act 1978* (WA).

¹⁴ Section 26 of the *Real Estate and Business Agents Act 1978* (WA).

¹⁵ The term 'developer' is defined in s4 of Act to mean a person whose business either alone or as part of or in connection with any other business, is to act on his own behalf in respect of the sale, exchange, or other disposal of real estate.

¹⁶ Section 42 of the *Real Estate and Business Agents Act 1978* (WA).

¹⁷ Section 26 of the *Real Estate and Business Agents Act 1978* (WA).

registration,¹⁸ the registration requirements of a business sales representative,¹⁹ and other provisions deal with the certificate of registration requirements.

Employee or Independent Contractor

The Act is careful in its drafting not to specify that a real estate sales representative is an employee. In a number of sections the Act refers to both concepts of being 'employed by' or being 'in the services of' particular people. The legislation avoids a determination of the issue whether a particular sales representative is an employee or not. It leaves the issue open for the courts and various tribunals to determine the true legal relationship between a real estate agent and a sales representative. When courts determine whether a person is an employee or not, their decision is known as a common law definition of an 'employee'.²⁰

The leading Australian case on the relationship between a land agent and a sales representative is found in the reasons for decision in the High Court case *Federal Commissioner of Taxation v Barrett*.²¹ In that case, members of a large firm of South Australian land agents contended that the commission that they paid to certain people described as 'land salesmen' in the case, was not paid to them as employees, but rather paid to them as independent contractors.

Stephen J. applied what is known as the 'control test'. This is a test identified by the courts over a number of years, to determine whether there is a relationship of employer and employee. He concluded that there was

control of the 'land salesmen' by the land agents. In coming to this conclusion, the judge considered an argument that the land agents voluntarily restrained from exercising any control over the 'land salesmen' and allowed them almost total freedom to take extended leave with out permission. It was also argued by the land agents that the payment by way of commission was significant in determining the relationship. Neither of these factors was considered by Stephens J. to be of much significance, relative to other evidence that indicated these 'land salesmen' were employees. He considered that other aspects in this particular case pointed to these people being employees.

Some of those factors about the 'land salesmen' in this case were:

- That they were beneficiaries in the firm's superannuation scheme;
- That they had relative permanency in their employment;
- That there was a restriction by statute that prevented them from acting for other agents;
- That there was a requirement that they report their whereabouts each working day;
- That there was a requirement that they pay over to the land agents all monies received from purchasers;
- That there was a requirement that they attend the land agent's office once a week in accordance with a roster to attend to telephone enquires;
- That there was a requirement that the 'land salesmen' arrange between themselves a roster to ensure that a representative was always present at the site of any new subdivision of land when there were likely to be enquires from prospective purchasers;
- That there was a requirement to comply with a code of ethics;
- That there was a requirement that the 'land salesmen' complete a detailed questionnaire for every sale to ensure that the sale is conducted according to the wishes of the land agent, before the sale is concluded;

¹⁸ Section 43 of the *Real Estate and Business Agents Act 1978* (WA).

¹⁹ Section 45 of the *Real Estate and Business Agents Act 1978* (WA).

²⁰ See the Federal government's Department of Workplace Relations and Small Business at http://www.dwrbs.gov.au/group_osb/bizlink/empdef/wa/index.htm for information produced by the Federal government that explains the meaning of the term 'employee'.

²¹ (1973) 129 CLR 395. See the Austlii website to identify High Court of Australia decisions: http://www.austlii.edu.au/au/cases/cth/high_ct/.

- That there was evidence of control of newspaper advertising by the land agents; and
- That there was evidence of the supervision of the form of the contracts that the 'land salesmen' used to induce buyers to execute agreements.

The decision was based on its own facts. It is always open to argument that in another situation involving a salesperson, there may not be enough evidence to indicate control. The facts in another relationship may indicate that the salesperson is an independent contractor. However it should be pointed out that the High Court of Australia has revisited the tests to determine whether an employment relationship exists and there is very little indication that it has resiled from this control test. The last High Court decision on this issue, *Stevens v Brodribb Sawmilling Co Pty Ltd*,²² reiterated that control was the foremost of the factors to be taken into account, but that other indicia should be used to determine whether there is an employment relationship. Brennan J indicated that a number of factors should be considered. He suggested that the factors to be considered included: mode of remuneration, who provides and maintains equipment, whether there is an obligation to work, what are the hours of work, whether holidays are provided, whether income tax is deducted and whether there is a capacity for the worker to delegate work.

The only significant doubt cast upon this High Court decision is a controversial²³ decision of the full court of the Supreme Court of New South Wales Court in *Vabu Pty Ltd v FCT* (1996) 33 ATR 537,²⁴ which concerned a

company that engaged a large number of couriers. The court held that each courier conducted his or her own operation for his or her own economic advantage, permitting him or herself to be supervised by the company. Special leave to appeal to the High Court was not granted. It remains to be seen whether this decision will in fact be supported in any future High Court decision.

Western Australia

In Western Australia the important issue of whether a salesperson is an employee or working independently as a contractor must be established before any of the legal rights or obligations that apply employees arise. In this regard a number of decisions and determinations made by the Western Australian Industrial Relations Commission and industrial magistrates courts have commonly progressed on the admission or at least assumption that real estate salespersons are employees.²⁵

These decisions and determinations illustrate a number of circumstances where these employees take action in this jurisdiction. Under section 29 of the *Industrial Relations Act 1979* (WA)²⁶ two important legal rights are established for employees. The first is a right to make a claim for reinstatement or compensation in the event that the WA Industrial Relations Commission determines that there has been a harsh, unjust or oppressive termination of employment.²⁷ The second is a right to claim for a denied contractual benefit when that benefit is not one created by an award or industrial agreement.²⁸ The case of *Balfour v Travelstrength Ltd*²⁹

this case is not available on the Austlii site but is referred to in some of the cases on that site.

²⁵ Recent decisions of the WA Industrial Relations Commission can be found at the Austlii website:

<http://www.austlii.edu.au/au/cases/wa/WAIRComm/>

²⁶ Another internet site that contains this statute is the WA Industrial Relations Commission's website:
<http://www.doplar.wa.gov.au/legislation/iract/index.html>

²⁷ Section 29(1)(b)(i) of the *Industrial Relations Act 1979* (WA).

²⁸ Section 29(1)(b)(ii) of the *Industrial Relations Act 1979* (WA).

²⁹ (1980) 60 WAIG 1015.

²² (1986) 160 CLR 16 See the Austlii website to identify High Court of Australia decisions:

http://www.austlii.edu.au/au/cases/cth/high_ct/.

²³ See: Chin D, 'Losing control: the difference between employees and independent contractors after *Vabu v Commissioner of Taxation*', (1996) 52 LSJ 52; and Wheelwright K, *Butterworths Casebook Companions: Labour Law*, Butterworths, 1999.

²⁴ The case is available at the Federal government's Australian Taxation Office's website at <http://law.ato.gov.au/atolaw/index.htm>. Unfortunately

indicates that the term 'benefit' refers to a wide range of entitlements and rights. A third legal entitlement for these real estate salespersons is to be provided with the terms and conditions contained in the *Minimum Conditions of Employment Act 1993* (WA).³⁰

Recent Cases

A number of recent cases are identified where salespersons have sought and, in many cases, obtained such entitlements. These cases are found on the Australasian Legal Information Institute (Austlii) internet site³¹ and the cases and citations that are mentioned in the notes to some of the paragraphs that follow. Space constraints prevent this paper from dealing with the merits of each of the claims in these cases. The internet itself provides the facility for the reader to access any particular case that may be of interest. This article will identify the broad areas where salespersons in real estate agencies are using these legal avenues and the remedies that are available to them.

Unfair Dismissal³²

The Austlii website contains 7³³ identified cases where claims have been made by salespersons and one case by

a property manager's assistant,³⁴ that a harsh, unjust or oppressive termination of employment has occurred. These are commonly known as claims for unfair dismissal. These are claims by real estate salespeople that under sections 23A and 29(1)(b)(i) of the *Industrial Relations Act 1979* (WA) that the Western Australian Industrial Relations Commission should use its power to reinstate or compensate employees after a termination of employment. In such cases the Commission uses its powers relating to equity, good conscience and the substantial merits of the case to determine whether the employee has been given a 'fair go all round', both as to substantial unfairness and procedural fairness.³⁵ These issues have been dealt with in great detail elsewhere.³⁶ These claims for unfair dismissal are statute barred by virtue of s 29(2) of the Act, if the application is not made within 28 days of the dismissal.³⁷ The significant feature of these cases for this article is that in most instances salespersons have had to prove that they are indeed employees.

Denied Contractual Benefits

There are a number of reported cases involving real estate salespersons where claims have been made for 'denied contractual benefits'. Such claims are based on section 29(1)(b)(ii) of the *Industrial Relations Act 1979* (WA). The Western Australian Industrial Relations Commission has powers in this section to make

³⁰ See the Western Australian government department the Department of Productivity and Labour Relation's website: <http://www.doplar.wa.gov.au/> for information dealing with minimum conditions. Another Federal government agency, the Department of Workplace Relations and Small Business, has produced a website on annual leave at

http://www.dwrsb.gov.au/group_osb/bizlink/empdef/wa/annhols/overview.htm Another official government site that contains a copy of the legislation dealing with minimum conditions of employment in Western Australia is the WA Industrial Relations Commission website:

www.doplar.wa.gov.au/legislation/mce/index.html

³¹ <http://www.austlii.edu.au/au/cases/wa/WAIRComm/>

³² For further discussion of unfair dismissal see: Senior Commissioner GL Fielding, 'Modern unfair dismissal law in Western Australia: Some Practical and Procedural Considerations. Paper presented at the W.A. Industrial Relations Society Convention October 1997 (see the Western Australian Industrial Relation Commissions website at:

www.wa.gov.au/wairc/html/discuss/sp6/htoc.htm).

³³ See: *Brailey v Mendex Pty Ltd (t/a Mair and Co Maylands)* [1992] WAIRComm 54; *Blurton v D.P.H. Nominees Pty Ltd* [1996] WAIRComm 139; *Keane v Lomba Pty Ltd (t/a Ian George & Co)* [1997] WAIRComm

194; *Kittel v Alan J Marshall Pty Ltd* [1998] WAIRComm 7; *Barnes v Elloise Pty Ltd (t/a Faul and Associates)* [1998] WAIRComm 124; *McRae v Brockway Estate Agency* [1998] WAIRComm 147; *Collier v PCU Trading Pty Ltd (t/a Police & Nurses Real Estate)* [1998] WAIRComm 103; *Grace v David Evans Real Estate* [1998] WAIRComm 33.

³⁴ *Simpson v David Crowley Real Estate (t/a Ray White - South Perth)* [1998] WAIRComm 44.

³⁵ Section 26 of the *Industrial Relations Act 1979* (WA).

³⁶ For a paper on this topic that is available on the internet see: Senior Commissioner G.L.Fielding. Modern Unfair Dismissal Law in Western Australia: Some Practical and Procedural Considerations, paper presented at Annual Law Society Convention, 24 October 1997 (see the Western Australian Industrial Relation Commissions website at:

www.wa.gov.au/wairc/html/discuss/sp6/htoc.htm).

³⁷ See *Bates v Mountway Nominees Pty Ltd* [1998] WAIRComm 195.

decisions that assist employees claim contractual benefits, arising under an employment contract, that have been denied by the employer. These claims must not be benefits that arise under an award or under a workplace agreement. Employees are motivated to use this procedure because it is relatively cheap and it is unlikely that they will incur having to pay the legal cost to the employer in the event that the employee does not succeed in his or her claim. The Austlii website identifies a number of these claims involving real estate agents or salespersons. The following diagram identifies the various categories for these claims:

Type of Claim	Number of Claims
Claims for unpaid commissions ³⁸	14
Claims about unauthorised deductions from commissions (often relating to advertising costs) ³⁹	5
Claims for pay in lieu of notice ⁴⁰	3
Claims for unpaid bonuses ⁴¹	2
Claims for unpaid salary ⁴²	2

³⁸ See: *Giles v Chittering Constructions and Chittering Real Estate* [1992] WAIRComm 36; *Brailey v Mendex Pty Ltd (t/a Mair and Co Maylands)* [1992] WAIRComm 54; *Esze (t/a Tom Esze Real Estate) v Layer* [1993] WAIRComm 2; *Glossop v Affirm Pty Ltd (t/a Port City First National Real Estate)* [1995] WAIRComm 143; *Chambers v Carroll Realty* [1996] WAIRComm 37; *Blurton v D.P.H. Nominees Pty Ltd* [1996] WAIRComm 139; *Gibson v David Evans Real Estate* [1996] WAIRComm 172; *Little v Illyarrie Nominees Pty Ltd (t/a Goddard Real Estate)* [1997] WAIRComm 121; *Valli v Royal International (WA)* [1997] WAIRComm 238 (an appeal was dismissed in *Royal International (WA) v Valli* [1998] WAIRComm 55); *Abbott v GRQ Pty Ltd (t/a Roy Western Carousel Southern Realty Branch)* [1998] WAIRComm 36; *Barnes v Elloise Pty Ltd (t/a Faul and Associates)* [1998] WAIRComm 124; See: *Oates v Sanders Executive Pty Ltd (t/a L J Hooker Morley)* [1998] WAIRComm 204; *McRae v Brockway Estate Agency* [1998] WAIRComm 147.

³⁹ See: *Little v Illyarrie Nominees Pty Ltd (t/a Goddard Real Estate)* [1997] WAIRComm 121; *Izard v Jay Brock Pty Ltd (t/a Drake-Brockman First National Real Estate)* [1997] WAIRComm 176; *Abbott v GRQ Pty Ltd (t/a Roy Western Carousel Southern Realty Branch)* [1998] WAIRComm 36; *Barnes v Elloise Pty Ltd (t/a Faul and Associates)* [1998] WAIRComm 124; *McRae v Brockway Estate Agency* [1998] WAIRComm 147.

⁴⁰ See: *Esze (t/a Tom Esze Real Estate) v Layer* [1993] WAIRComm 2; *Chambers v Carroll Realty* [1996] WAIRComm 37; *Kittel v Alan J Marshall Pty Ltd* [1998] WAIRComm 7.

⁴¹ See: *Muir v Lawrie (t/a Kelmscott Real Estate)* [1996] WAIRComm 119; *Bates v Mountway Nominees Pty Ltd* [1998] WAIRComm 195.

Claims against a Real Estate Company in Liquidation

A claim for denied contractual benefits under s 29(1)(b)(ii) of the Act is unlikely to proceed if the employer is a real estate company that has had a liquidator appointed by the Supreme Court of Western Australia.⁴³ A claim for unfair dismissal under s 29(1)(b)(i) is also unlikely to proceed if the employer is a company that is under the control of a company administrator.⁴⁴

Claims under the Minimum Conditions of Employment Act 1993

Under the *Minimum Conditions of Employment Act 1993*,⁴⁵ employers in Western Australia must provide or pay their employees in accordance with the specific minimum pay and leave requirements set out in this legislation. These provisions include a minimum wage, four weeks paid annual leave, ten days sick leave, ten days paid public holidays, two days bereavement leave, twelve months unpaid parental leave, eight hours of leave to search for a job in the event of a redundancy. These are also requirements to keep certain records concerning wages and leave. In order to claim such entitlement, there must be an employment relationship. Austlii identifies a case where a claim was made before an industrial magistrate for denied minimum conditions involving a real estate salesperson in relation to the requirement to provide paid annual leave.⁴⁶

⁴² See: *Abbott v GRQ Pty Ltd (t/a Roy Western Carousel Southern Realty Branch)* [1998] WAIRComm 36; *McRae v Brockway Estate Agency* [1998] WAIRComm 147

⁴³ See: *Rokita v Jay Brock Pty Ltd (t/a Drake Brockman First National Real Estate)* [1998] WAIRComm 149.

⁴⁴ See: *Helm v Hansley Holdings Pty Ltd (Under Administration)* [1998] WAIRComm 273 (an appeal from *Helm v Hansley Holdings Pty Ltd (t/a GIS Engineering)* [1998] WAIRComm 171) and *Walden v Hansley Holdings Pty Ltd (t/a GIS Engineering)* 78 WAIG 3370.

⁴⁵ See the Department of Productivity and Labour Relation's website at: <http://www.doplar.wa.gov.au/> and the Western Australian Industrial Relations Commission's website at <http://www.wa.gov.au/wairc/> for official websites that set out these minimum conditions.

⁴⁶ See: *Bombak v Didco Pty Ltd (t/a Nik Vargo Real Estate)* [1995] WAIRComm 96.

A common mistake made by employees is to bring a claim to court that is based upon breaches of this *Minimum Conditions of Employment Act 1993* at the same time as a claim for denied contractual benefits under s.29(1)(b)(ii) of the *Industrial Relations Act 1979* (WA). The Commission determined, in a case involving a claim by an employee for sick leave and annual leave entitlements against an employer in the real estate industry, that the correct place for these applications based upon the *Minimum Conditions of Employment Act 1993* is with the industrial magistrate's court.⁴⁷

Claims for Superannuation

Claims for superannuation that arise by virtue of minimum contributions required by employers toward an employee's superannuation fund, under the *Superannuation Guarantee (Administration) Act 1992* (Cth)⁴⁸ should be made with the Australian Taxation Office.⁴⁹ Any claims to the Western Australian Industrial Relations Commission for non-payment of the superannuation guarantee have been held to be outside the Commission's jurisdiction so far as any claim for 'denied contractual benefit' under s 29(1)(b)(ii) of the Act is concerned.⁵⁰ The legislation requires contributions to be made to employees and to an extended category of workers, that includes some contractors that provide labour.

Workplace Agreements

Under the *Workplace Agreements Act 1993* (WA)⁵¹ it is possible that a salesperson's employment is covered by a

registered individual or collective workplace agreement. In this situation the legal rights in relation to unfair dismissal and minimum conditions of employment, discussed above, are retained by sections 17 and 18 of that legislation. It is unlikely that claims for denied contractual benefit will be sustained, as in most circumstances the workplace agreement will contain all the terms and conditions of employment. These terms and conditions are enforced in the industrial magistrate's court, by virtue of s 50, rather than in the WA Industrial Relations Commission.



Future Awards or Enterprise Bargaining Agreements

An organisation known as the Real Estate Salespersons Association of Western Australia (Inc) has obtained registration as an organisation under the *Industrial Relations Act 1979* (WA).⁵² At the time of writing there was no evidence from the list of awards identified as current, on the WA Industrial Relations Commission's

and the Department of Productivity and Labour Relation's website at <http://www.doplar.wa.gov.au/>

⁴⁷ *Oates v Sanders Executive Pty Ltd (t/a L J Hooker Morley)* [1998] WAIRComm 204.

⁴⁸ See the Austlii website for commonwealth legislation: http://www.austlii.edu.au/au/legis/cth/consol_act/

⁴⁹ Details of the superannuation guarantee can be found at the Australian Taxation Office website at <http://www.ato.gov.au/>

⁵⁰ See the Full Bench of the Industrial Relations Commission in *Keane v Lomba Pty Ltd* (1998) 78 WAIG 810. See also *Oates v Sanders Executive Pty Ltd (t/a L J Hooker Morley)* [1998] WAIRComm 204.

⁵¹ For official information dealing with workplace agreements see the Commissioner of Workplace Agreement's website at <http://www.wa.gov.au/workplace/>



website,⁵³ that this organisation has obtained an award. Should this occur, and should an award apply as a common rule award across the industry, new legal entitlements concerning terms and conditions for registered sales representatives may arise.

Other Legal Obligations Relating to Employment of Salespersons

Finally, it should be pointed out that online information about other legal obligations and issues is available.⁵⁴ Government sites that deal with occupational safety and health,⁵⁵ fringe benefits tax,⁵⁶ equal opportunity,⁵⁷

workers compensation⁵⁸ and payroll tax⁵⁹ can all be searched to find further information on these topics.

Conclusion

This paper has identified that determining whether a salesperson is an employee is an important step to be taken before that salesperson is entitled to claim any conditions of employment. It illustrates some of the major legal rights and duties that are imposed by the law upon people in employment relationships in the real estate industry. It also indicates that the internet is a powerful source of information on certain legal issues relating to employment. It is now possible for any employer or employee with access to the internet to find legislation, reported cases, and general information about legal issues from the convenience and comfort of their own office or home.

⁵² This organisation is identified and recorded as having 102 members at 31 December 1998 on the WA Industrial Relations website at <http://www.wa.gov.au/wairc/>

⁵³ <http://www.wa.gov.au/wairc/>

⁵⁴ See the following internet site:
http://www.dwsb.gov.au/group_osb/bizlink/empdef/wa/index.htm#top

⁵⁵ See the following internet site:
<http://www.safetyline.wa.gov.au/>

⁵⁶ See the following internet site:
<http://www.ato.gov.au/general/business/bus.htm>

⁵⁷ See the following internet site:
<http://www.equalopportunity.wa.gov.au/>

⁵⁸ See the following internet site:
<http://www.workcover.wa.gov.au/default.asp>

⁵⁹ See the following internet site:
<http://www.wa.gov.au/srd/>