

HRLAW

HRLAW Issues To Consider During M & A in Australia

1. Offering employment

Buyers have no obligation to offer employment to a seller's employees. If they don't, sellers are liable for termination payments, including leave and possible redundancy entitlements on completion (unless redeployment is possible). If you're a seller, you want provisions in the sale agreement around the terms of employment offers, to reduce redundancy exposure.

2. Key employees

Have key employees sign employment contracts which protect the buyer's business interests. Reduce the chances of losing them by having retention bonuses, and integrating them to maintain workplace culture after completion.

3. Employee consent

Employee consent must be obtained before they are transferred between the entities. They cannot be automatically transferred without their consent.

4. Transfer of business

As a buyer, you will need to be aware of the liabilities of transferring employees to perform the same kind of work as before the merger. Under the Fair Work Act, you will have to honor the existing employment contracts as well as benefit entitlements like leave.

5. Long service leave

As a buyer, you may inherit the state-legislated long service leave provisions and should consider this expense in the purchase price.

Source: Marque Lawyers

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