

WORKPLACE REVIEW

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While compliance with employment law remains the primary responsibility of the employer, in Australia the Fair Work Act 2009 (Cth) has broadened responsibility through the concept of accessorial liability to any person involved in a contravention. The category of people who may be involved in a contravention is not closed. It includes directors and other officers of corporations, managers (such as Human Resources Managers) as well as external advisers like accountants and, possibly, lawyers. The concept has also been used to extend responsibility to other organisations seen as the ultimate beneficiaries of a worker’s labour, such as head or principal contractors and franchisors. It is vital that all who benefit from labour – and their advisers – are aware of the potential risks, and take steps to ensure compliance with employment laws.	99
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Traditionally, a term requiring reasonable notice on termination of a contract of employment has been implied where the contract has no agreed duration and makes no provision for termination without cause. This settled understanding has been disturbed by a recent decision of the South Australian District Court, <i>Kuczmariski v Ascot Administration Pty Ltd</i> [2016] SADC 65 (“ <i>Kuczmariski</i> ”), which held that the term was not implied into a contract governed by s 117 of the FairWork Act 2009 (Cth). If this view (which has been contested) is upheld, there will be little practical scope to imply the term, at least in relation to termination by employers.	105
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This review of Workplace Review in 2016 considers the comprehensive coverage of workplace relations issues provided by the journal this year. It acknowledges that while partisan engagement with issues is unavoidable, particularly with a federal election focused on industrial relations, the journal provided balance in its presentation of material. Further, the journal’s practical orientation – including in relation to the everyday, human aspects of industrial relations – was tempered by an examination of deeper, long-term questions. A measure of Workplace Review’s success in 2016 was the outstanding contributions it received, including from leaders in the fields of workplace relations and law.	109

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