

September 2005

## WORKPLACE SURVEILLANCE

### Time to update those policies!

On 23 June 2005 the new Workplace Video Surveillance Act (Act) was assented to and is due to come into operation shortly.

The Act will regulate the monitoring of employee's use of computers as well as camera surveillance. It covers both obvious and hidden surveillance.

#### Obvious Surveillance

A company is required to give employees at least 14 days written notice of its intention to carry out surveillance. For new employees, it is only necessary to give notice to new employees prior to them commencing employment.

The notice must set out details of the type of surveillance to be carried out, the method, when it will start and whether it will be ongoing.

If a company wishes to use camera surveillance, then it must:

1. Identify the location of any cameras to employees.
2. Erect signs advising employees that they may be under surveillance.

In relation to computer surveillance, specifically email and internet use, a company must distribute an appropriate policy to employees in advance.

If a company blocks delivery of an email or restricts access to an internet site, then the following matters need to be addressed:

- a) The company must provide an immediate notice to employees at the time that the company took that step (unless it is spam email or offensive in nature).
- b) The action taken by the company must be covered in a policy statement previously issued to the employee.
- c) The company should ensure that employees have acknowledged receipt of the policy and that they have read it. (Some companies have adopted a system where employees receive a notification everyday when they logon to their computer, reminding them of the policy).

A company may monitor a computer which is not located at the usual work premises, if the company owns the computer.

#### Hidden Surveillance

A company wanting to undertake hidden surveillance must seek prior approval from a magistrate.

If you require any further information in relation to this topic, please contact Ilona Teremi, Partner on 9375 2258 or email [ilona.teremi@kreissonlegal.com.au](mailto:ilona.teremi@kreissonlegal.com.au)