



news letter of the law

The articles in this newsletter do not constitute legal advice. The information in this newsletter is merely a guide and is not a full explanation of the law. The Centre cannot take responsibility for any action readers take based on this information. When making decisions that could affect your legal rights, seek professional advice.

Issue 17

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ADVICE SERVICES OFFERED

The Cairns Community Legal Centre's legal advice services have recommenced for 2007.

Legal advice sessions are held:

- a) At Cairns at the Centre's office:
 - Every Tuesday and Thursday, between 9.00am and 12 noon.
 - Every Thursday from 5:30 pm – 7:30 pm
- b) At Atherton at the Atherton Neighbourhood Centre:
 - On the fourth Wednesday of every month from 5:30 pm – 7:30 pm.
- c) At Mareeba at the Mareeba Information and Support Centre:
 - On the second Wednesday of every month from 5:30 pm – 7:30 pm.
- d) At Innisfail at the Innisfail Community Support Centre:
 - On the first and third Wednesday of every month from 2 pm – 5 pm.

During these times face to face legal advice is provided by appointment.

Where appropriate, mail or telephone advice may be provided out of the Cairns office during normal office hours, by arrangement.

NB: Times and days are subject to change.

Disability Discrimination Complaints

The Centre's Specialist Disability Discrimination Legal Service (DDLS), provides legal assistance to persons with relation to disability discrimination complaints.

Disability discrimination complaints can be made to the Anti-Discrimination Commission Queensland (ADCQ) or Human Rights & Equal Opportunity Commission (HREOC).

The complaint process in the ADCQ and HREOC is similar. In both commissions there is no cost to lodge a complaint. A complaint may be lodged by completing a complaint form and forwarding it to the appropriate commission.

The ADCQ or HREOC will accept or reject the complaint. If the complaint is accepted by either commission a copy of the complaint will be sent to the persons complained about (the respondents).

The ADCQ or HREOC will then usually direct all parties to attend a compulsory conciliation conference.

At the conciliation conference the parties have an opportunity to discuss the complaint and how the matter may be resolved. Often the complaint is resolved at the conciliation conference.

If the complaint is not resolved the complainant may elect to refer the matter to the Anti-Discrimination Tribunal (if the initial complaint was lodged with the ADCQ) or to the Federal Court or Federal Magistrates' Court (if the initial complaint was lodged with HREOC).

During the year, the DDLS has assisted numerous clients through the complaint process.

Anyone wishing to seek the assistance of the DDLS in relation to a disability discrimination complaint should contact the DDLS on 4031 7358 or 1800 650 197 for callers outside of Cairns.

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A recent case in New South Wales rings warning bells to those asked to witness property document signings

Beware house-cladding rip-offs

Consumers are being warned of itinerant traders offering to seal cladding on the side of homes

Weak brakes lead to bike recall

A dangerous bicycle has been recalled due to insufficient braking power

Lorikeet lifter fined

Family charged with stealing a rare black-capped lorikeet

Community Legal Education

One of the Cairns Community Legal Centre's activities is the provision of community legal education (CLE). CLE is the provision of seminars, talks and workshops to educate the community about legal matters.

CLE can be an avenue for people to find out:

- what their legal rights and responsibilities are in relation to a variety of issues
- what they can do to enforce their rights and carry out their responsibilities
- how to make a claim or complaint
- about new laws that come out and how those new laws might affect them
- what they should or shouldn't do in certain circumstances eg: if they get arrested; if they have a car accident

Some of the groups of people that the Centre provides CLEs for are:

- management and staff of not for profit community organisations
- students
- young people
- aboriginal people
- people with disabilities

The Centre can provide CLE on topics within its area of competency. Some examples are:

- Family Law eg: Do it Yourself Divorce Classes; General Family Law
- Consumer Rights Law eg: Buying a Car; How to make a Small Claim or Minor Debt Claim
- Disability Discrimination eg: What is Disability Discrimination and what to do if you have been discriminated against

If you would like the Centre to do a talk, workshop or seminar, all you have to do is contact us so that we can talk to you about doing a CLE program for your group.

Accessible Airlines

The NSW Disability Discrimination Legal Centre (DDLC) and the Public Interest Advocacy Centre (PIAC) are working with organisations and individuals from across Australia on an 'Accessible Airlines' Project. **The Disability Discrimination Legal Service (DDLS)** is the local participant on the National Project Steering Committee. The purpose of this Committee is to develop a strategic approach to address issues of air travel discrimination against people with disability and prepare a brief for the review of the Disability Standards for Accessible Public Transport for 2007.

To aid the work of this Steering Committee, participating organisations, like the DDLS, have been asked to gather case studies from their members and from other local groups and individuals about their experiences of perceived discrimination when involved in air travel. The Steering Committee is also interested in receiving case studies of where airlines or airports have done a good job or you have had a positive experience.

These case studies will be used to demonstrate, as part of the Project's work, the number and types of incidents of discrimination that are occurring against people with disability when undertaking air travel and also to demonstrate where airline travel has been a positive experience. The names and identifying details of individuals who provide case studies will not be included in the published case studies. We will protect your identity and privacy.

WHAT TO PUT IN YOUR CASE STUDY

Your case study should describe (in your own words) the event (or events) where you believe you experienced discrimination in relation to airline travel because of your disability. Below is an example that might help you to understand what we're looking for.

Case Study Example

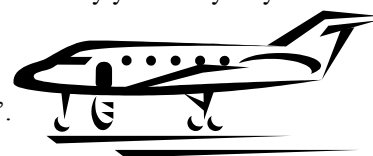
I am blind and I have a guide dog with me when I travel. I booked a flight with [NAME OF AIRLINE] to travel with a group of other blind people from Sydney to Adelaide on an early morning flight. The booking was made as a group booking through a travel agent. However, when we arrived at the airport and attempted to check-in we were told by the airline's staff that their airline was not able to carry more than two guide dogs on any one flight. As we had five guide dogs between us the airline refused to let us all travel together, and instead made two of our party wait for the next available flight and one person wait for the next available flight after that. We wrote a letter of complaint to the airline, but were not really satisfied with their response. Their response was to say that they have this policy because of concerns for the comfort of other passengers.

YOUR PRIVACY

Any case study forwarded to us for the purpose of being used by the Steering Committee will not identify you in any way.

AIRLINE CASE STUDY PROCEDURE

Please send your case study to: ddls@cclc.org.au with the subject title: 'My Airline case study'.



Beware bogus buyers doing dodgy deals

Fair Trading Minister Margaret Keech is warning consumers to be on guard for scammers targeting people selling items through classified ads or online auction sites.

Mrs Keech said the scammer generally contacts the seller expressing interest in the item for sale. "Once they have the seller's interest they: -tell the seller they have a cheque for more than the agreed amount; and -ask the seller if they would accept the cheque and ask them to send the balance back with the item via Western Union Money Transfer," she said.

"Unfortunately when the scammer has the item and cash the seller finds out the cheque was a fraud.

"International cheques may take longer to clear and it could be several weeks before the forgery is discovered.

"By then the scammer is long gone and the seller is left out of pocket.

"If you are selling items through classified ads or online be aware of buyers offering cheque payments for more than the agreed price.

"Make sure you trade safely and inform buyers you won't release the item until the cheque clears, or use safe transaction methods such as Pay Pal when online."

For more information or to report a scam visit www.fairtrading.qld.gov.au or call 13 13 04.

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Payday loans may only delay the pain

Fair Trading Minister Margaret Keech advises Queenslanders that payday loans may not be the answer to Christmas credit problems.

"High-cost credit options such as payday loans may seem like a shortcut but they can hurt you in the long run," she said.

"Overspending on Christmas presents and holidays can collide with January bills and back to school costs to cause real problems in the New Year."

"If you find yourself in this situation:

-make a list of all the people and organisations you owe money to and how much for each one; -carefully look at your budget and make an action plan to start paying off your debts; and -if you are having trouble making repayments, talk to your financial institution or organisation you have the debt with immediately to work out a realistic payment plan."

For more information grab a free copy of the How to be Moneywise guide from www.fairtrading.qld.gov.au or call 13 13 04.

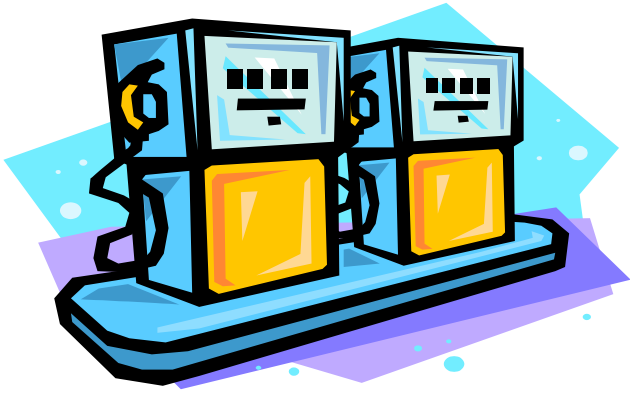
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QLD LAW HANDBOOK FOR SALE

Caxton Legal Centre Inc. has for sale the 8th edition of the Qld Law Handbook. For 20 years now Caxton has produced the handbook to help unlock the law. The 8th edition has been completely revised to reflect recent changes in the law. Each chapter gives details about legislation, major cases and where to go to get further help.

The handbook is now available for order at a price of \$77.00 per book (plus GST and delivery). Bulk purchases attract a discount. If you would like to place an order, call the Caxton Legal Centre on 3254 1811 for a copy of the order form or go to <http://www.caxton.org.au/publications.html> All funds from the sale of the Queensland Law Handbook go directly to the Caxton Legal Centre to assist them to provide free legal services to the community.



Your rights when buying fuel

With the ongoing concerns over fuel prices, Fair Trading Minister Margaret Keech offers simple tips to ensure motorists get what they pay for when filling up at the pump.

"If the fuel price is going up the trader must change the advertised price on the outside signs before changing the price on the pump," Mrs Keech said.

"If the price is going down, the price on the pump must be changed first.

"When buying fuel, motorists should check that the price indicated on the pump matches the price advertised on the outside signs.

"Before paying for your fuel take note of the total price on the pump to make sure you are not overcharged by the cashier.

"If the cashier is charging you a higher price you can dispute the figures based on the price shown on the petrol pump.

"Trade Measurement inspectors from the Office of Fair Trading regularly check Queensland petrol pumps for accuracy of measure to ensure motorists are getting what they have paid for.

"During the 2005/06 financial year 1,668 petrol pumps were tested across Queensland. 5.3% were found to be delivering short measure."

For more information, download a Buying Fuel at Service Stations - Tips for Consumers Fact Sheet from www.fairtrading.qld.gov.au or call 13 13 04.

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Tips for shopping online with confidence

The internet provides consumers with huge advantages in terms of convenience and savings. But how can consumers be sure it is safe.

Fair Trading Minister Margaret Keech says consumers need to have confidence to shop online.

"This comes with understanding your rights and taking smart steps to protect yourself," Mrs Keech said.

To take full advantage of the online shopping experience, Mrs Keech suggests people:

-Know the business: Check the company has a physical address and phone number. If something goes wrong with your transaction, you will have the information you need to make contact with the business.

-Know the product: Use the internet to research the product thoroughly.

Make sure it is legal and will work in Australia.

-Check the contract: Are the terms and conditions satisfactory? Can the goods be returned if they are faulty? Who pays for postage on returns?

-Check the cost: Compare prices and shop around. Look for hidden extras like currency conversion, taxes, customs duties, delivery fees, packaging and postage.

-Pay securely: Use secure sites. Look for a closed padlock or https:// address. Don't provide financial information not required for the sale.

-Keep records: Make note of any reference numbers. Ask for a tax invoice or receipt.

-Resolve problems quickly: If a problem occurs, contact the trader as soon as possible. If the problem can not be resolved contact the Office of Fair Trading for assistance.

-Look out for scams: If something seems 'too good to be true' it probably is.

"By following these simple online shopping tips, even the most wary online shopper can enjoy their internet shopping experiences," Mrs Keech said.

For more information on safe online shopping visit

www.fairtrading.qld.gov.au.

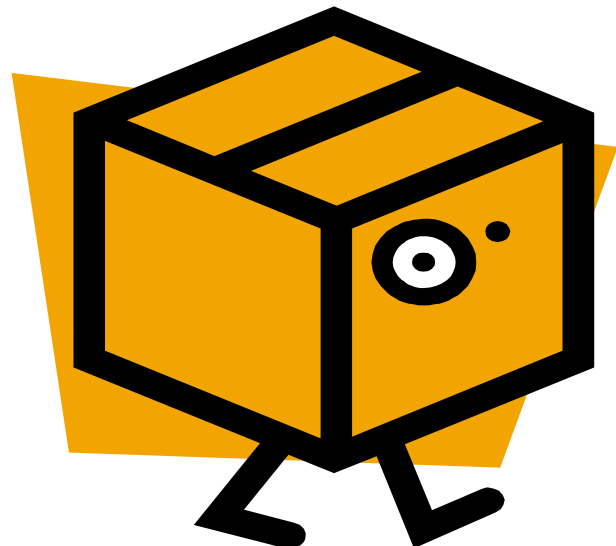
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Sneaky escape!

A convicted fraudster escaped a high security jail in Germany by climbing into a cardboard box and posting himself to freedom.

The man escaped from the mail van as it drove away from the prison.

The escape was only noticed when the mail truck arrived at the sorting depot and a hole in the box was discovered.



Curb on deceiving quilt content claims

Following an Australian Competition and Consumer Commission (ACCC) investigation, leading Australian suppliers of bed quilts and duvets will stop falsely representing to consumers that their products contain 100 percent down.

In response to the investigation quilt suppliers advised the ACCC that the 100 percent down claims relied upon the labelling percentage tolerances or allowances specified in the voluntary Australian Standard 2479-1987 ('Down

and/or feather filling materials and filled products').

'Consumers often pay a premium price for down-filled quilts and duvets and are entitled to expect that composition claims made by businesses can be relied upon,' ACCC chairman Mr Graeme Samuel said.

Following the investigation suppliers have undertaken to:

- not make any down content percentage representations that cannot be substantiated by regular independent testing of their finished

products using recognised testing procedures for down-filled products

- place corrective newspaper advertisements in each state and territory in which their quilts have been sold
- place a corrective notice on their respective internet websites
- maintain a trade practices law compliance program for a period of three years.

Dodgy readings land private seller in hot water

A Brisbane resident has been fined \$2,000 and ordered to pay \$300 in compensation for falsely advertising an odometer reading.

Fair Trading Minister Margaret Keech said in October 2005 a Nissan Pathfinder 4WD was advertised for private sale, stating an odometer reading of 66,000km.

'Two months later the buyer discovered service records that showed the vehicle's odometer reading was 75,792km six months before purchase,' said Mrs Keech.

'Following a complaint from the buyer, the Office of Fair Trading investigated and found that the original odometer was faulty and had been replaced.'

'The 4WD would have travelled around

75,000 km more than the advertised reading of 66,000 km.'

'The man was fined under the *Property Agents and Motor Dealers Act 2000* for failure to disclose vital information.'

Mrs Keech advised consumers to be on guard against odometer tampering and to check logbooks and other documentation carefully.

The Office of Fair Trading has a Glove Box Guide with information on buying a new or used vehicle.

Visit www.fairtrading.qld.gov.au to download a free copy or call 13 13 04

Unkind scissor-wielding thieves

In Rio de Janeiro a peculiar crime occurred when scissor-wielding thieves clipped off the waist-length locks of a young Brazilian woman as she rode in a city bus.

'We got on at the same stop and they sat behind me,' the young woman said. 'Then all of a sudden I felt someone pulling my hair. My friend tried to help me but they just cut it off, right at the base.'

Police believe the thieves hoped to sell the stolen hair to a hairdresser or beauty salon that could charge very high prices for top-quality hair extensions.

'Was' pricing deemed misrepresentation

A West Australian bicycle retailer has admitted to misrepresenting savings available when advertising sale prices of bicycles.

A catalogue advertising the bicycles advertised a 'was' price and a lower 'sale' price for Mongoose and Gemini bicycles.

The retailer admitted that the advertised bicycles were never actually

sold at the 'was' price.

The Australian Competition and Consumer Commission (ACCC) concluded that the representation contravened the consumer protection provisions of the *Trade Practices Act 1974*. The bicycle retailer complied fully with the ACCC and took action to ensure that incorrect comparative price advertising would not occur again.

'Businesses need to be careful when they are putting together advertising material to ensure all pricing claims can be substantiated,' ACCC chairman Mr Graeme Samuel said.

For more information on incorrect pricing claims contact the ACCC on 1300 302 502.

Steroid smuggling fine

A Southport man has been fined \$12,500 after he was linked to a Customs investigation that netted more than 3000 steroid tablets.

The man was charged with seven counts of importing a prohibited import and one count of possessing a prohibited import. The offender will serve six months in jail if the fine is not paid within 18 months.

The investigation began in April last year after Customs officers at the Sydney International Mail Centre intercepted six envelopes and one parcel sent from the United Arab Emirates. Each envelope contained undeclared tablets taped to a piece of cardboard.

As a result of the interception, Customs officers executed search warrants on a Southport residence and a

further 500 tablets were seized. Three envelopes containing tablets were also intercepted by Customs officers at the Melbourne International Mail Centre.



Bearing false witness

Courts are familiar with cases in which someone forges a property owner's signature on a mortgage and induces someone else to witness the forgery, then borrows money on that security. A recent case in a New South Wales court rings warning bells to those asked to witness property document signings.

In the case of *Graham v Hall*, an unsuspecting wife's signature was forged on mortgage documents by her husband to refinance the family home to pay his debts. Such dishonest misrepresentation, the court explained, strikes at the heart of the system that signature witnesses are charged to protect. From his observations throughout the case, Judge Ipp suggested that the standard of care required that a witness be honest and not only ensure a signature is made in his presence, but also identify the person in the document – by reference to a passport or driving licence.

For more comprehensive information about witnessing document signings contact your local solicitor.

Cops strapped for cash

In the Bulgarian capital, Sofia, police are claiming that they are so strapped for cash they cannot afford pens and paper to question suspects.

Kiril Kirov, a constable with the force said, 'We don't even have pens and paper and we have to go to the nearby shops and ask for some if we are about to do some questioning.'

In a recent incident, officers were forced to ask a local repair company to lend them some tape to seal a crime scene as they could not afford any themselves.

Don't get trapped by cash-back offers

Fair Trading Minister Margaret Keech is urging Queenslanders consumers to be aware of the potential pitfalls of cash-back offers.

'Cash-back offers usually require the purchaser to apply direct to the manufacturer for reimbursement,' Mrs Keech said.

'The Office of Fair Trading has received 37 complaints over the past three years relating to cash-back offers. Some complaints had to wait 35 to 54 months before the money was sent by the manufacturer.

'I am concerned that some consumers may end up out of pocket because of excessive delays and other potential problems.

'If the business closes, relocates or their contractual arrangements collapse, customers can be left without a leg to stand on and few effective compensation options.'

Before signing up to cash-back schemes consumers should:

- read the fine print carefully
- check the terms and conditions of the offer
- understand their rights
- ask questions if they have any concerns.

If you are unhappy with a trader's policy or have problems claiming a cash-back offer, lodge a complaint with the Office Fair Trading on 13 13 04.

Beware house-cladding rip-offs

Consumers have been warned by acting Fair Trading Minister Geoff Wilson of two itinerant traders in Brisbane offering to seal cladding on the side of homes. The scammers ripped off an elderly Hawthorne couple of \$5000 for just 30 minutes' work.

'They turned up at the couple's house unannounced, offering to apply some waterproof sealant to cladding, supposedly to stop rising damp in the walls,' Mr Wilson said.

'They even drove the man, who is in his 80s, to the bank and waited in the car while he withdrew his money.'

Mr Wilson said residents approached by door-to-door tradespeople should:

- ask to see a Queensland Building Services Authority licence
- not pay cash, not let the tradesperson take them to a bank and not pay for anything upfront

get a written contract

- demand a receipt with the trader's name and street address on it.

'Be suspicious of tradespeople who call uninvited, prefer cash payments, do not supply proper receipts or contracts and have easily removable signs, or no signs, on their trucks,' Mr Wilson said.

If you suspect a tradesperson might be dishonest, contact the Office of Fair Trading immediately on 13 13 04.

Weak brakes lead to bike recall

A dangerous bicycle has been recalled thanks to quick action by the Office of Fair Trading and Kmart.

Acting Fair Trading Minister Geoff Wilson said the Huffy Fashion Days bicycle, sold nationally through Kmart since July, had insufficient braking power – potentially too weak to stop the bike in an emergency situation.

When notified, Kmart quickly removed the bike from sale and alerted the manufacturer to begin an immediate national recall.

Mr Wilson offered parents and carers tips for checking bike safety:

- ensure there are no sharp edges sticking out on the bike
- handlebar ends must be securely capped, plugged or covered with handgrips
- control cables should have end protectors to prevent

fraying

- brake pads must make contact with the rim, not the tyre
- ensure pedals have yellow reflectors on the front and back
- wheels should each have a yellow reflector, the bike a white reflector at the front and a red reflector at the back
- check nuts and bolts are tight, the frame is straight and in-line, the hubs are greased, the chain is taut, the pedals turn smoothly and the brakes are fitted and operating correctly.

For more information or to report an unsafe product call the Office of Fair Trading's Product Safety Unit on 3305 9604.

Lorikeet lifter fined

A family from the Gold Coast hinterland has been charged with stealing a rare black-capped lorikeet worth \$1800 from the Nerang Pet Barn late last year. The husband, wife and 17-year-old daughter were arrested after police released video footage showing a woman removing the lorikeet from its cage and slipping it into her handbag. Magistrate Graeme Lee recorded a conviction against the wife and fined her \$500. The offender's lawyer, had the Gold Coast court in hysterics when the matter was heard, making light of the offence with some bad bird puns.

'The offence occurred when she was p*****d as a parrot,' he told the court.

'It was a fairly paltry offence and low in the pecking order,' the offender's lawyer told a 'flock of reporters' outside court. 'The prosecution tried to say it was foul but when we appeared at the beak not a squawk could be heard.'

The valuable lorikeet was subsequently returned when it was left in a cardboard box at the back of a local pizza restaurant.

'I described the offence as budgie-smuggling,' the lawyer said. 'It certainly has ruffled a few feathers but there's no evidence of physical or psychiatric harm to the bird.'

Sydney importer caught short

A Sydney company has been fined \$3,000 and ordered to pay court costs for selling garlic ten percent under the weight advertised on the packaging.

'A trade measurement officer visited the business to check weighing instruments and fruit and vegetable pre-packs for compliance with the requirements of the *Trade Measurement Act 1990*,' Fair Trading Minister Margaret Keech said.

'During the visit the officer inspected 12 pre-packed bags of 'fresh garlic', marked 250g. These were weighed and found to be on average 223.6g, which represents an average shortage of around ten percent.

'Traders are breaching the law if they pack or sell an article which is short of the quantity marked.

'Short measure is no small matter; consumers deserve to get what they pay for.'

For more information on getting what you paid for, download a free copy of the Trade Measurement Tips for Consumers from www.fairtrading.qld.gov.au.

THANKS

Our thanks goes out to our dedicated and committed volunteers who kindly give their time to the Centre to assist with the running of our activities. Without them the Centre wouldn't be able to provide many of the services that it does.