



newsletterofthelaw

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 24

January 2009

Welcome Back !

Welcome back everyone to the start of what will no doubt be another exciting year.

The Centre hopes that its readers will enjoy and benefit from the various articles included in its first newsletter edition for 2009.

The articles aim to let everyone know what services the Centre has available this year. A number of articles have also been included which relate to issues that clients of the Centre present with from time, in the hope that the information provided can benefit the wider community.

With the Centre having just recently recommenced its operations for 2009, we look forward to catching up with you during the year - in the meantime happy reading !

Premises Available for Rent at Orchid Plaza

The Cairns Community Legal Centre Inc is currently looking for a tenant to take over its lease of premises at Orchid Plaza. Details of premises available for assignment (rent):

Address: Office 3B, Level 2 Orchid Plaza, 79 - 87 Abbott Street Cairns Q 4870.

Area: Approximately 114 m².

Cost: Currently \$205.43 m² (plus GST).

For further information please call the Centre on 4031 7688.

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Thanks!

Thanks to volunteers

Welcome to the New Management Committee

On the 26 November 2008, the Centre held it's AGM. The support of those attending was great to see and we thank everyone who came.

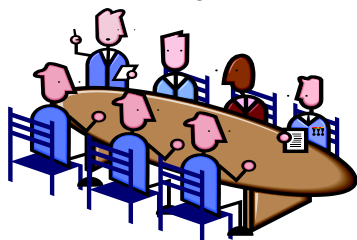
Amongst other business transacted at the meeting, the new management committee was also elected as follows:

- President: Craig Blackman, CEO, Direct Employment Services
- Vice President: Joanne Parisi, Solicitor, MacDonnells Law
- Treasurer: Olivia Van Weensveen, Accountant, KPMG Chartered Accounts
- Secretary: Melissa Beven, Solicitor, Miller Harris Lawyers
- Ordinary Member: Peter Coumbis, General Manager & Corporate Counsel Koppens Investments
- Ordinary Member: Chris Wilson, Associate Bradley DCJ
- Ordinary Member: Naomi de Costa, Solicitor, William Graham Carmen Lawyers
- Ordinary Member: Josh Trevino, Barrister, Trinity Chambers
- Ordinary Member: Julian Brown, Solicitor MacDonnells Law

The members of the management committee bring with them a variety of experiences which contribute in different ways to the Centre. Many thanks to everyone who came to the AGM. It was much appreciated.

Many thanks also goes to 2 of our long term outgoing committee members Sean Brennan and Katie Power. Both Sean and Katie provided an invaluable contribution to the Centre and the community. Many thanks once again to both Sean and Katie who have been on the Centre's Committee since 2002.

And thanks once again to everyone else who supported the Centre during 2008. We could not have done it without you and look forward to seeing and working with you again in 2009!



Cairns Community Legal Centre Core Service - Advice Sessions

The Core Service provides advice and assistance across a range of family, criminal and civil law matters.

The Centre's Core Service legal advice services have recommenced for 2009.

Legal advice sessions are held in:

- 1 Cairns - Level 1 Main St Arcade, 85 Lake St, Cairns
 - Tuesday and Thursday between 9:00am and 12 noon
 - Thursday from 5:30 - 7:30 pm
- 2 Atherton - Atherton Neighbourhood Centre
 - Fourth Wednesday of each month from 5:30am-7:30 pm
- 3 Mareeba - Mareeba Information and Support Centre
 - Second Wednesday of each month from 5:30am-7:30 pm
- 4 Innisfail - Innisfail Community Support Centre
 - First and third Wednesday of each month from 2-5 pm

Legal advice is provided by appointment only.

Where appropriate, mail or telephone advice may be provided.

Note: times and days are subject to change

Disability Discrimination Complaints

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

Disability discrimination complaints can be made to the Anti-Discrimination Commission Queensland (ADCQ) or the Australian Human Rights Commission (AHRC).

The ADCQ or AHRC 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 AHRC 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 the (AHRC).

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 locally on 4031 7358 or 1800 650 197 for callers outside of Cairns

Seniors Legal & Support Service

The Seniors Legal and Support Service (Seniors Service) is a 2 year pilot project funded by the Department of Communities that has been operating out of the Cairns Community Legal Centre since July 2007.



The Seniors Service provides free legal advice and social support to seniors who are at risk of or are experiencing elder abuse or financial exploitation. The Seniors Service focuses on empowering clients to make their own decisions by providing them with the necessary information and support. The type of assistance that can be received includes legal information and advice, limited court support, individual advocacy and short-term counseling.

Through community education, the Seniors Service also aims to increase the awareness of other service providers to prevent, identify and respond to elder abuse and financial exploitation.

To make an appointment, a referral or to organise for the Seniors Service staff to give a presentation on the Service, elder abuse and prevention, please phone 4031 7179.

Community Legal Education

One of the 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:

- Not for profit community organisations
- young people
- older people
- aboriginal people
- people with disabilities

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

- 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 think you have been discriminated against

If you would like the Centre to do a talk, please contact us on 4031 7688 so that we can talk to you about doing a CLE program for your group.



9th Edition of Queensland Law Handbook for Sale

Looking for up to date legal information in language you can understand ?

The Queensland Law Handbook 9th Edition is a plain English guide to the laws affecting all Queenslanders. The handbook explains key legal concepts and provides details of legislation, major cases and where to get further help. Thirty-six chapters on a huge range of topics including employment, neighbours and family law. \$77 or \$55 concession will all proceeds going directly to Caxton Legal Centre and help to provide free legal services to people in need. Order online at www.caxton.org.au or call 3254 1811.

Solicitor

(Cairns Community Legal Centre Inc)

Commencing Salary: Approx. \$40 000 - \$60 000 pa (plus super) depending on skills and experience.

Salary sacrificing available for eligible employees which increases value of remuneration.

Position may be offered on part or full time basis.

The Cairns Community Legal Centre Inc is a government funded not for profit community organisation for socially and financially disadvantaged members of the community.

The Centre seeks a solicitor to fill a recently created position until approximately 30 June 2009. The position may be reoffered after that time for a further temporary or ongoing period.

The Solicitor's role is to provide information, referrals, advice work, casework, community legal education and law reform work with a focus on family law matters. Applicants must be eligible to hold a practising certificate. Minimum 12 months post admission experience preferred.

Applications should be directed to: The Principal Solicitor PO Box 7129 Cairns Q 4870; or email principal@cclc.org.au. Applications should consist of covering letter and resume outlining skills, experience and qualifications. Applications close 4 pm Tuesday 27 January 2009.

Survival Guide Helps Young People Get Out There!

Young school leavers looking forward to the next stage of their lives are getting a helping hand from the Office of Fair Trading through a survival guide to help them become smart consumers, Attorney-General and Minister for Justice Kerry Shine said today.

"This is an exciting time for young people who are leaving school and the 2007 version of 'Get Out There! A survival guide for young adults' will help them cope with the higher level of independence that comes with it," Mr Shine said.

"Some young people who are exposed to new experiences can easily fall prey to shonky operators keen to exploit their naivety when it comes to consumer issues.

"The 'Get Out There!' guide provides young people with advice and practical tips on a large range of subjects including buying a car or mobile phone, moving out of home, getting a job or going onto further study." The comprehensive guide will help young people undertake these activities and reduce the chance of them getting ripped off or caught out.

"Young people can learn how to avoid the burden of consumer credit and the guide also spells out their rights in the marketplace so they can't be taken advantage of by shonky operators," Mr Shine said.

"The guide also provides school leavers with advice on how to avoid trouble during upcoming Schoolies celebrations.

"Information on hiring vehicles, under aged drinking laws, the dangers of drugs and how to avoid pregnancy and sexually transmitted diseases are all contained in this one survival guide," Mr Shine said.



Copies of 'Get Out There!' are being distributed to schools or you can download a copy from

www.fairtrading.qld.gov.au or order a free copy by phoning 13 13 04.

Acknowledgement/source: This article has been reproduced with the permission from the Office of Fair Trading. Many thanks to the Office of Fair Trading for the use of this article.

Flight crew sacked over Facebook slur



Virgin Atlantic has sacked 13 cabin crew staff after they criticised some of the British airline's passengers on the social networking website Facebook.

The airline opened an investigation on October 23 following complaints from passengers and other Virgin staff members over the crew's Facebook discussion.

"It was found that all 13 staff participated in a discussion on the networking site Facebook, which brought the company into disrepute and insulted some of our passengers," Virgin Atlantic spokesman Paul Charles said.

"There's a time and a place for Facebook. But there's no justification for it to be used as a sounding board for staff of any company to criticise the very passengers who ultimately pay their salaries."

Mr Charles said the web discussion had been removed from Facebook, though he was unable to say whether that had been done by Facebook or a cabin crew member.

Truckies Win Case

A recent Federal Magistrates Court decision that found in favour of three truckies sends a stern warning to businesses that treat independent contractors unfairly. The court found in favour of three owner-drivers in an action against a company.

In early 2007, the three owner-drivers were told that they would have to replace their single trailers with new b-doubles.



The company offered each of the three drivers compensation that was less per round trip than the additional costs associated with running the new trailers and less than the amount requested by the drivers to cover their costs.

Section 12(1) of the *Independent Contractors Act* allows an application to be made to the court to review a services contract on the grounds that it is unfair or harsh.

In his judgement, Federal Magistrate Cameron concluded that the contracts were unfair.

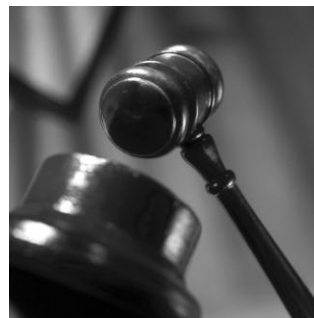
The reason was that the contracts entitled the company to impose unilaterally, and without making financial compensation to the applicants, a significant change to the equipment required to service the contracts.

This is a historic judgement - the first substantive action brought for an unfair contract under the *Independent Contractors Act*.

Federal Magistrate Cameron has amended the contract with the truckies to limit the company's power to require the owner-drivers to provide new vehicles. Damage costs are still under consideration.

Parliament committee calls to decriminalise altruistic surrogacy

The Investigation into Altruistic Surrogacy Committee of the Queensland Parliament has unanimously agreed to decriminalise altruistic surrogacy in Queensland.



In 2008 the Centre provided submissions to the Investigation stating that altruistic surrogacy should be decriminalised. The Centre is pleased that recommendations have now been made to this effect.

The committee's report, 'Investigation into the decriminalisation and regulation of altruistic surrogacy in Queensland, October 2008', contains 26 recommended changes to Queensland's surrogacy laws, including the removal of criminal sanctions from the *Surrogate Parenthood Act*.

Mrs Linda Lavarch MP, who chaired the cross-party committee said, "We believe that the current Act is counterproductive. It criminalises families. It does not encourage openness or informed consent ... In some cases, it prompts people to seek commercial surrogacy overseas."

If the committee's recommendations are supported, it will mean that:

- Careful planning will be required with medical and psychological assessment, counselling and legal advice;
- Birth mothers will never be forced to relinquish the baby;
- Advertising and brokerage will not be permitted and surrogacy contracts will remain unenforceable;
- Legal parentage can be transferred after birth under criteria to ensure that the child will not be disadvantaged because of the way he/she was conceived; and
- The child's right to information on their birth history will be protected.

De facto relationships re-defined

Under the *Family Law Act* reforms, de facto partners together for two years will get the same rights as married couples to seek "spousal maintenance" claims. Maintenance, as distinct from child support, may be ordered when the other party is "unable to support herself or himself adequately" following separation.

It prescribes a de facto relationship as an opposite-sex or same-sex couple "living together on a genuine domestic basis." It also stipulates that a de facto alliance can exist even if one of the partners is legally married to somebody else or in another de facto relationship.



Ms Harrington said the new

laws could also create a debt nightmare with the possibility of ongoing spousal support to a string of previous de facto partners.

With married couples, maintenance orders generally end when the ex-partner receiving the money remarries. De factos will come under the same rules if they marry a new partner. But no explicit provision exists in the legislation for maintenance payments to stop should a recipient enter a new de facto relationship.

"Young people might have a series of short de facto relationships and they're potentially up for paying spouse maintenance for several," Ms Harrington said.

However, a spokesman for federal Attorney-General Robert McClelland said that in this situation the payer would be entitled to head back to the family courts to show "just cause" for discharging or varying the order.

Donut Outlet Fined Over Breaches



A donut outlet which deliberately underpaid ten of its casual staff has been fined \$30,000.

Federal Magistrate Philip Burchardt said a proper penalty was important as a deterrent, noting that breaches of workplace laws were "regrettably rife in the retail industry".

The Workplace Ombudsman alleged the company and director had failed to pay weekend, public holiday and night-shift penalties, overtime rates, annual leave and did not provide meal breaks to some staff.

The Workplace Ombudsman claimed that, after the contraventions were identified, the company further breached the *Workplace Relations Act* by lodging Australian Workplace Agreements (AWAs) which employees had not seen, signed or agreed to.

If you're unsure of your rights and responsibilities in the workplace, contact your local solicitor.

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.