



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 27

March 2010

Welcome Back

Welcome back 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 for 2010.

The articles aim to let everyone know what services the Centre has available this year. A number of articles which relate to issues that clients of the Centre commonly have are also included.

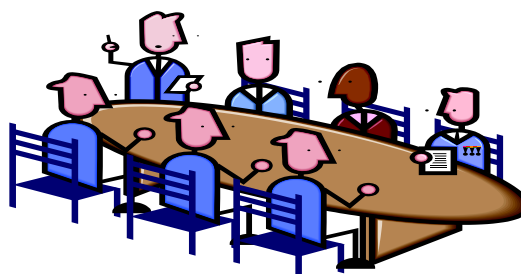
With the Centre having got off to a busy start in 2010, we look forward to catching up with you during the year. In the meantime we hope that you find our first newsletter for this year to be informative.

Welcome to the New Management Committee

On 1 December 2009, the Centre held it's Annual General Meeting. The support of those attending was great to see and we thank everyone who came.

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

- President: Julian Brown, Solicitor, MacDonnells Solicitors.
- Vice President: Christine Wilson



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Thanks to volunteers

- Treasurer: Olivia Van Weensveen, Accountant, KPMG Chartered Accounts
- Secretary: Amanda Lee-Ross, Manager, Cairns Regional Domestic Violence Service
- Ordinary Member: Peter Coumbis, General Manager & Corporate Counsel Koppens Investments
- Ordinary Member: Naomi de Costa, Solicitor, William Graham Carmen Solicitors
- Ordinary Member: Susan Del Favero, Human Resources Manager, MacDonnells Solicitors

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.

Premises Available for Rent at Orchid Plaza

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

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

Area: Approximately 114 m2.

Cost: Approximately \$206 m2 (plus GST).

For further information please call 4031 7688.

10th Edition of Queensland Law Handbook for Sale

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

The Queensland Law Handbook 10th 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.

Cairns Community Legal Centre Advice Sessions

Core Service

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

Legal advice sessions are held in:

1 Cairns - At Level 1 Main St Arcade, 85 Lake St, Cairns

- Every Monday, Tuesday, Wednesday and Thursday during normal office hours. This service is provided by Centre staff.
- Every Thursday evening from 5:30pm - 7:00pm. This service is provided by volunteer solicitors and students

2 Atherton - At the Community Services Tablelands Inc

- Fourth Wednesday of every month. This service is provided by a volunteer solicitor and welfare workers

3 Mareeba - At the Mareeba Information and Support Centre

- Second Wednesday of every month. This service is provided by a volunteer solicitor and welfare workers

4 Innisfail - At the Innisfail Community Support Centre

- First and third Wednesday of every month. This service is provided by volunteer solicitors

Disability Discrimination Legal Service

Legal advice available in Cairns Monday - Thursday.

Seniors Legal and Support Service

1 Cairns - At Level 1 Main St Arcade, 85 Lake St, Cairns

- Monday - Thursday during normal office hours

2 Mareeba - At the Mareeba Information and Support Centre

- First Friday of every month

3 Atherton - At the Community Services Tablelands Inc

- First Friday of every month

4 Innisfail - At the Innisfail Community Support Centre

- Second Wednesday of every month

5 Mossman - At the Mossman Community Centre

- Third Wednesday of every month

6 Yarrabah - Behind the Post Office

- Fourth Wednesday of every month

All legal advice sessions are provided by appointment only. For an appointment to obtain legal advice at any one of these locations, please contact the Centre on 4031 7688.

Telephone advice may be provided where appropriate.

Note: Times and days are subject to change

Community Legal Education Talks

The Centre is providing the following legal talks during 2010.

March 2010

Buying a Second Hand Car: Don't get caught - Know the legal issues.

April 2010

Motor Vehicle Accidents: I've had an accident -

What do I do ?

May 2010

Domestic Violence: What is domestic violence - Who's covered - Court orders.

June 2010

Introduction to Criminal Law: Know your rights.

When: 4th Wednesday
each month from 1 pm - 2 pm.

Where: Living Waters Conference Centre, Cnr Florence & Waters Sts Cairns.

Cost: Free.

Refreshments: Light refreshments provided (no cost).

Bookings: Essential - minimum 3 working days ahead of scheduled session.

For booking or further information: Telephone the Centre on 4031 7688.



What's New

Family Relationship Centre Project

The Centre has been successful in its joint proposal to trial a formal partnership with the Cairns Family Relationship Centre and other local stakeholders.

This partnership aims to assist separating couples to be better aware of their rights and responsibilities through the provision of legal information, advice and community education.

As part of this project the Centre will engage a solicitor approximately 1 day a week, to undertake legal advice, minor assistance and community education talks in the area of family law, particularly children's matter.

The project which commenced in early February 2010 is expected to run for 12 months.



We thank the Commonwealth Attorney-General's Department for provision of funds which make this trial possible and hope that the funding will ultimately become recurrent.

Consumer Law Service Pilot

The Centre has been successful in securing 12 months funding for a Consumer Law Service. This Service has been funded by the Legal Practitioner's Interest on Trust Accounts Grant Fund.

The Service which commenced operation in September 2009, will concentrate on debt, credit, consumer product and consumer services complaints, bankruptcy and other consumer matters.

For further information about the Consumer Law Service or to make an appointment, please phone 4031 7688.

Yarrabah Outreach

The Centre will be providing outreach at Yarrabah twice a month as follows:

Consumer Law Service	
First Wednesday of each month	
3 March 2010	Talk: Buying Cars
7 April 2010	Talk: Contracts, Debt and Credit
5 May 2010	Talk: Door to Door Sales
2 June 2010	Talk: Buying Cars
7 July 2010	Talk: Contracts, Debt and Credit

Seniors Legal and Support Service	
Fourth Wednesday of each month	
24 March 2010	Talk: Funeral Funds
28 April 2010	Talk: Wills and Power of Attorney
26 May 2010	Advice and Support
23 June 2010	Advice and Support
28 July 2010	Advice and Support

All talks will be held in Yarrabah behind the post office from 10:00am. No appointments required, just drop in.

Solicitors will also be available to provide legal advice after each talk. For more information please contact the Centre on 4031 7688 (Consumer Law Service) or 4031 7179 (Seniors Legal and Support Service).

Disability Care and Support

While Australia's social security and universal health care systems provide an entitlement to services based on need, there is currently no equivalent entitlement to disability care and support services.

An exploration of alternative approaches to funding and delivering disability services with a focus on early intervention and long-term care will be an important contribution to the National Disability Strategy.

The Productivity Commission has been requested to undertake an inquiry into a National Disability Long-term Care and Support Scheme. It invites the public to register their interest in the forthcoming inquiry which is to begin in April 2010. See www.pc.gov.au/projects/inquiry/disability-support for details of the inquiry and how to register your interest.

Contract Considerations - Buying a Used Car

The Office of Fair Trading has warned consumers to beware of discrepancies between what they are promised by salespeople and what is stipulated in the contract.

A story was reported by a man who decided to buy a second-hand car at a dealership and was told by the salesman that a new car stereo would be installed at no extra cost.

The buyer signed the contract, which did not list the stereo as an extra, but was assured by the salesman that the stereo would be added to the contract later.



When he went to collect the car a few days later, he found that the stereo had not been installed as promised. He was told that the salesman he had dealt with was unavailable and the dealership manager told him that there were no extras listed in the contract and so he was not entitled to the free installation of the car stereo.

Verbal agreements can form part of a contract but are often impossible to prove.

There are other considerations to take into account when signing a contract to buy a motor vehicle.

If you buy a car privately, you are not entitled to the normal protection of the cooling-off period, you will not get a statutory warranty, the seller is not obliged to give you a REVS certificate or Vcheck nor are they bound by the same laws and Code of Conduct as licensed dealers, and you cannot access the compensation claim fund if anything goes wrong.

Buying from a licensed motor dealer can be more expensive than a private sale, but it is often safer.

All motor dealers selling used cars in Queensland must be licensed. Licensed motor dealers who sell cars privately may actually be breaking the law, and they must disclose to all intending buyers that they are licensed and provide a cooling-off period and statutory warranty.

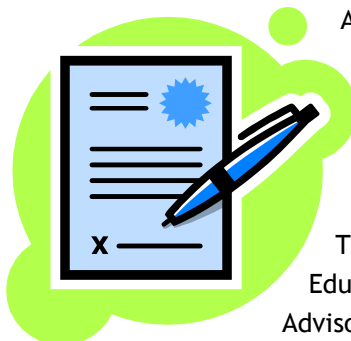
When you buy a used car from a licensed dealer, you are entitled to:

- a one business day cooling-off period,
- a statutory warranty,
- a guarantee of clear title on the vehicle,
- protection by the motor dealer's Code of Conduct,
- access a claim fund which may compensate you if you have suffered a financial loss because of the motor dealer's actions.

For more information about contracts to purchase motor vehicles and advice to ensure that you are safe

and not sorry, contact the Centre's specialist Consumer Law Service on 4031 7688.

Refund and Warranty Obligations



A recent study found less than 20 percent of Australians know their legal rights when they buy goods or services.

The study, by the National Education and Investigation Advisory Taskforce, also found that consumers are spending, on average, almost six hours trying to resolve problems with purchased goods and services.

Many businesses are also unsure as to when their customers are entitled to refunds and warranties.

Customers have a right to a repair, replacement or refund if the goods supplied to them have a fault that the customer could not have known about at the time of purchase, the goods do not do what the customer was told they would, do not match the sample they were shown or are different than described in the advertisement or by the business' staff.

Businesses do not have to display refund signs, but if they do, the signs must not be misleading. Signs that say "No refund" are illegal.

A business also cannot limit its liability by excluding, modifying or restricting the legal rights and remedies available to customers. If a business attempts to alter these legal rights, it can be prosecuted for making false or misleading statements.

For more information about your legal rights and responsibilities, please contact the Centre's specialist Consumer Law Service on 4031 7688.

Compensation for Delivery Driver

The operators of a Melbourne food company have been fined \$54,000 for underpaying a delivery truck driver more than \$32,000.

Magistrate Holzer imposed a fine of \$37,000 against one of the operating companies involved, \$2000 against another company and \$15,000 against the mutual director of both companies for his involvement.

The two companies were involved in the business which imported and distributed specialist foods.

The first company admitted underpaying the driver a total of \$30,462 when it employed him between 2003 and 2008. The driver was paid a flat rate of \$11.17 when he should have been paid between \$12.63 and \$15.03 an hour.

The second company said that they had underpaid the driver a total of \$1798 when it employed him between June and October 2008. It paid the driver a flat rate of \$11.25 when he should have received \$15.60.

The companies back-paid the driver after being contacted by inspectors who were investigating the matter.



Fair Work Ombudsman Victoria director Paul Werner has said the case shows that businesses and employers need to ensure they are meeting their legal obligations to staff.

“We take significant underpayments of low-paid workers particularly seriously and so too do the courts,” Mr Werner said.

For more information about your legal rights and obligations, contact your local solicitor or Fair Work Ombudsman.

Shared Parenting Laws

Reviews of the Federal Government’s family law reforms in 2006 have revealed a misinterpretation of the laws in practice.

Professor Alan Hayes, director of the Institute of Family Studies, said that the developmental implications of the new laws were problematic, particularly in relation to the equal shared parent responsibility.

“There’s misunderstanding of the difference between shared parental responsibility and shared care time - those two things are often rolled together,” Professor Hayes said.



Family lawyer Andrew McCormack has said that the recent criticisms of shared parenting laws in the media do not take into account the many factors that have to be considered when making parenting orders.

“Despite some assertions in the media that equal time arrangements should be mandatory, courts need to consider the facts and circumstances of each case, and not have their independence interfered with in an attempt to treat every case the same,” Mr McCormack said.

Federal Attorney-General Robert McClelland has said that the wording of the legislation could be improved and is looking at launching an education campaign about the legislation to clear up any misunderstandings.

To find out more about shared parenting arrangements, contact the Centre on 4031 7688.

New Victim Assistance Scheme

Queensland victims of violent crime now have access to a compensation and recovery scheme after the Victims of Crime Assistance Bill 2009 was introduced into Parliament on 18 August 2009.

The Victim Assist Queensland scheme commenced on 1 December 2009, ending the right of victims to claim under the current criminal compensation schemes of the *Criminal Offence Victims Act 1995* and the *Criminal Code 1899*.

The new scheme focuses on victim recovery by paying for, or reimbursing, the costs of goods and services that the victim requires to help them recover from the physical and psychological effects of the crime. It marks a significant change of focus from criminal

compensation to financial assistance and support for victims.

The Act provides for victims to receive a grant of up to \$500 for legal costs incurred in applying for assistance under the Act.

Some of the goods and services costs that may be covered by the scheme include reasonable travel expenses, counselling sessions, medical expenses that are not covered by medical insurance or Medicare, loss of earnings up to \$20,000, funeral expenses if the victim is deceased, and reasonable relocation or security expenses.

The Act also broadens the range of victims who are able to seek assistance. Parents who suffer an injury as result of an act of violence being committed against their child can seek assistance as they are viewed as a parent secondary victim. The Department of Justice and the Attorney-General website gives the case example of a mother suffering depression due to her child being seriously assaulted.

Witnesses of acts of violence and “related victims”, such as close family or dependants of a person who has died, will also be able to access the scheme.

For more information about Victim Assist Queensland and victim compensation, visit the Department of Justice and the Attorney-General website at www.justice.qld.gov.au

New Social Networking Laws Dangerous for Bosses

New workplace legislation has made online social networking communication between work colleagues more dangerous for employers.

An “adverse action” clause in the new *Fair Work Act* means that employer/employee social interaction on websites such as Facebook and Twitter could have wider implications.

A comment made by an employer to an employee via social networking websites could lead to the employer being sued for damages for harassment, bullying or discrimination.

It has been claimed that allowing employees to access an employer’s Facebook or MySpace account could open the employer to having defamatory material being placed on the sites or the risk that the perception of the employer’s engagement with some employees is more favourable than to others.

Under the *Fair Work Act*’s adverse action clause, workers can sue for unlimited damages over actions that adversely affect their job, injures or discriminates, or threatens such actions.





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.

MAILING LIST

If you wish to be removed from the Centre's mailing list, please let us know by contacting the Centre on 4031 7688.