



**Easy HR Pty Ltd**

ABN 67 100 061 747

PO Box 1190

Lane Cove, NSW, 1595

Phone -1300 667 331

Email - [news@easyhr.com.au](mailto:news@easyhr.com.au)

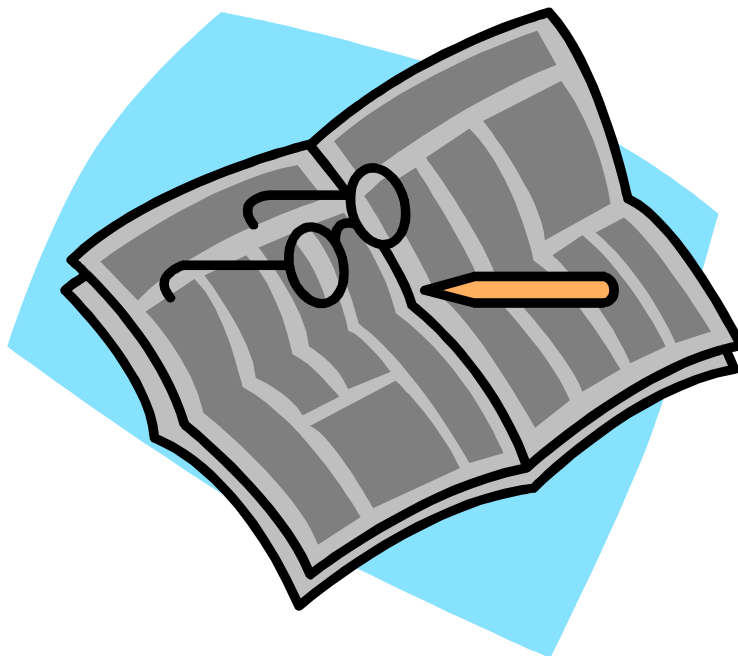
<http://www.easyhr.com.au>

Easy HR Newsletter  
June 2004

Welcome to your FREE edition of the Easy HR Newsletter.

Please forward this newsletter to anybody that you feel may benefit or enjoy the articles.

Please forward articles comments or suggestions to  
[articles@easyhr.com.au](mailto:articles@easyhr.com.au)



This is free opt-in newsletter. You have received this newsletter because you subscribed or indicated that you wished to subscribe at one of our training courses, via a promotional flyer, or when visiting our website. If you have received this newsletter from a friend you may subscribe by sending an email to: [newsletter@easyhr.com.au](mailto:newsletter@easyhr.com.au) - put **subscribe** in the subject line. To unsubscribe send an email to [newsletter@easyhr.com.au](mailto:newsletter@easyhr.com.au) and put **unsubscribe** in the subject line. Subscriptions can also be managed online on our website.

**Disclaimer:**

This email is intended for general information purposes only and should not be taken to constitute advice. *This newsletter provides a summary only of the subject matter covered, without the assumption of a duty of care by Easy HR Pty Ltd. The summary is not intended to be nor should it be relied upon as a substitute for legal or other professional advice.* Further, as the information is extracted from external sources, and while all care is taken, Easy HR Pty Ltd cannot guarantee the accuracy of the information contained within this email. Any images or graphics used in this newsletter do not necessarily indicate a safe method of work. Images and graphics are used for illustrative purposes only. An independent risk assessment and safe work method statement should be independently developed by all organisations. *Copyright in this newsletter is owned by Easy HR Pty Ltd.*

# Easy HR Training Update

Please visit our website for a complete list of courses  
<http://www.easyhr.com.au>

## OHS Consultation (For Committees and OHS Reps) Workcover NSW Accredited

This course is compulsory training for OHS committee members and OHS representatives.

We still have vacancies on our 4 day public courses.  
Our Parramatta venue has plenty of free onsite parking.

3 ,4 ,9 ,10 Aug / 6 ,7 ,13 ,14 Sep / 5 ,6 ,11 ,12 Oct  
1 ,2 ,8 ,9 Nov / 1 ,2 ,6 ,7 Dec  
**Course Cost: \$450.00+\$45.00 GST = \$495.00.**

## Risk Management For Line Managers & Supervisors Workcover NSW Accredited

We still have vacancies on our 2 day public courses.

24 ,25 Aug / 28 ,29 Oct  
**Course Cost: \$370.00+\$37.00 GST = \$407.00.**

## Accident Investigation

This course covers the processes involved in systematically investigating incidents, and identifying the underlying cause or real cause. Understanding and identifying the real or root cause of an accident is paramount in minimising and eliminating workplace incidents.

28 July / 30 Sept 2004  
**Course Cost: \$150.00+\$15.00GST = \$165.00**

## OHS Construction Induction Workcover NSW Accredited

This 5 hour course satisfies the legal requirements for General OHS Construction Induction in NSW. Permitting a person to commence work at a construction site without having completed the required induction training carries a maximum penalty of 100 penalty units (\$ 11 000).

Course Cost: \$105.00 (GST Exempt)  
**6 Aug / 10 Sep**

**Visit our website or call us to find out about our full range of courses.**

## Regional NSW Training

Ask us about our regional NSW training value package. If you are located outside of Sydney, please contact us, to find out more about this package.

## Apply for a course

To obtain a public course application form, visit our website or send a blank email to [apply@easyhr.com.au](mailto:apply@easyhr.com.au). Our automatic secretary will send you an application form. Applications can also be made online through our website: <http://www.easyhr.com.au>

**All our courses can be conducted in-house, anywhere within Australia.**

Please contact us for details – [inhouse@easyhr.com.au](mailto:inhouse@easyhr.com.au) or call us on **1300 667 331**.

# Let Us Know What You Think

This is **YOUR** newsletter. If there is any particular topic that you would like us to cover, please let us know. We will try and satisfy all reasonable requests.

**Please take a moment to complete our online survey.**

<http://survey.easyhr.com.au>

Alternatively, you can contact us at [feedback@easyhr.com.au](mailto:feedback@easyhr.com.au)

## To Keep Or Not To Keep

A recent survey has found that businesses are evenly split when it comes to focusing on employee retention.

The survey found that almost half of HR budgets do not provide for staff retention strategies. A further 35 per cent of organisations committed between only one and 10 per cent of their HR budget to such strategies, which include counter offers, exit interviews, reward processes, and succession plans.

Companies are however starting to recognise the benefits of formal succession planning processes. Employers are starting to realise they can't simply go back to the market and hire a new person who can exactly replace the employee who has left. Employers are starting to appreciate the true costs of staff turnover.

The survey showed that almost half of the companies participating had made a counter-offer to a resigning employee. A significant majority of employees had accepted this counter offer.

The survey found that of those that accepted a counter offer, only 11 per cent left within six months, while only seven per cent left within two years.

Just over half of the companies conducted exit interviews to determine why employees are leaving.

Although important, exit interviews can be difficult because if an employee's departure involved personal conflict, they may not provide an accurate picture of their reasons for leaving.

We suggest that employers interview a departing employee on their last day of work, and then follow it up with a phone call about a month later.

*The research was conducted by the Chandler Macleod Group*

# Free Risk Management Cards

We have had a number of wallet sized OHS Risk Management cards printed. These easy to use cards can assist you in the assessing and controlling OHS hazards that you identify. **We are giving these wallet sized cards away to our newsletter readers free of charge.**

To obtain your card simply send a stamped self addressed envelope to:  
Easy HR Wallet Cards, PO Box 1190, Lane Cove, NSW, 1595.

*We will return 5 cards in each self addressed envelope that we receive. Please include a 50c postage stamp for each additional set of 5 cards required. Cards are available only while stocks last.*

## Bullying Led To Constructive Dismissal

The Australian Industrial Relations Commission (AIRC) recently found that an employer's failure to adequately address an employee's grievances about harassment from a co-worker amounted to constructive dismissal, even though some of the harassment and the employer's unsatisfactory responses occurred after the employee had handed in her resignation.

The employee worked in an administrative position at mining company Newmont Tanami in Alice Springs. She was rostered for 14 days on and seven days off, with a co-worker performing some of her duties during the week off. The employee made several complaints about her co-worker, including that the co-worker blamed errors she had made on the employee and had repeatedly yelled at her when confronted about it.

The HR manager gave the co-worker a written warning and the co-worker apologised to the employee for the verbal outburst. However the employee said the company had not addressed the issue of her being blamed for her co-worker's mistakes. As a result she resigned, giving eight weeks' notice.

The HR manager told her he would not accept the resignation but would "put it aside for the present" and "hoped that there was a final resolution not far away".

Soon after her resignation, the co-worker failed to turn up to work without notifying anyone, further aggrieving the employee who continued to report her co-worker's behaviour as unsatisfactory.

Her supervisor also told her to "hang on for just another two weeks and all will be resolved".

As a result the employee was under the impression that the company was going to terminate the employment of the co-worker.

The co-worker returned to work, and "dramatically" changed some of the procedures relating to their shared duties. The employee claimed such actions amounted to harassment and confirmed her resignation, about a month after her initial notice.

The HR manager discussed alternative employment arrangements with the employee, but these proposals were rejected.

Newmont Tanami claimed the employee left of her own accord and noted she had never made a complaint about her co-worker's harassment in line with company policy. The company said that giving the co-worker a written warning and suggesting alternative working arrangements were adequate responses to the employee's concerns.

It further claimed the employee's resignation took effect from July, and that all working arrangement changes made after this were reasonable.

The AIRC said the employee's initial resignation was not effective because Newmont Tanami and the employee had an "expectation and desire the resignation would not come to fruition". As such, events occurring between the employee's initial resignation in July and her final decision to leave in August were relevant to her claim.

When "an employer does not take appropriate measures to deal with the incidence of identified bullying and harassment in the workplace... an employee is entitled to consider themselves as being discharged from further performance of the employment contract," the AIRC said.

It said the employee's "confirmation of her intention to resign was in effect a response to the respondent not appreciating or adequately dealing with the ongoing treatment" of her.

The AIRC awarded her \$15,445 in lieu of reinstatement.

*(McKinnin v. Newmont Tanami Ltd, AIRC, [PR947252], 2/6/2004)*

## Thought For The Day

- *It's amazing that the amount of news that happens in the world every day always just exactly fits the newspaper. - Jerry Seinfeld*
- *Age is a very high price to pay for maturity.*

# Income Tax Update

Below are the updated figures and links for the 2004-2005 financial year.

- Tax-free part of bona fide redundancy payments and approved early retirement scheme payments limits (LUMP SUM D) \$6,194 plus \$3,097 for each completed year of service
- Superannuation Guarantee Contribution (SGC) rates remain at 9%.
- Superannuation Guarantee-maximum superannuation contribution base \$32,180 per quarter.

The following Links from the Australian Tax Office may also be useful.

## Deducting PAYG from Backpays

<http://www.ato.gov.au/individuals/content.asp?doc=/content/41716.htm&pc=001/002/042/007&mnu=1144&mfp=001/002&st=&cy=1>

## PAYG Tax Rates

Tax rates have changed from the 1 July 2004. You can download the new rates here.

Weekly: <http://www.ato.gov.au/content/downloads/n1010-06-2004.pdf>

Fortnightly: <http://www.ato.gov.au/content/downloads/n1011-06-2004.pdf>

Monthly: <http://www.ato.gov.au/content/downloads/n1012-06-2004.pdf>

## Online PAYG Calculator

<http://www.ato.gov.au/businesses/content.asp?doc=/content/33277.htm&pc=001/003/019/002/003&mnu=601&mfp=001/003&st=&cy=1>

## NSW Public Holiday

Monday the 2<sup>nd</sup> August is a Bank holiday in NSW. This is not a state wide holiday. Please check your awards to determine if this holiday is relevant for your industry.

# OHS Strike Given Green Light

If a complaint about a workplace hazard has not produced satisfactory results or if the problem is too urgent to be dealt with only by way of a complaint, then a worker may have the legal right to refuse to work.

The NSW Report of Commission of Inquiry into Occupational Health and Safety 1981 (The Williams Report) states that "there always appears to have been assumed the existence of a fundamental right to refuse to work unsafely, based upon the Common Law principle that is not a lawful command to require an employee to work in a situation where his health or safety would be adversely affected".

Commissioner Williams considered that a worker should have the right to refuse work where he/she honestly believes it involves a risk to his/her safety or health (or that of others) even if this belief is in fact a mistake. On such a refusal, the safety representative or committee should make an assessment.

If the assessment is that the work is safe, but the worker persists in his/her refusal, Workcover should be involved. From the inspector's decision there should be appeal to a tribunal.

The work process should remain stopped until the worker resumes voluntarily or the inspector certifies its safety (pending the tribunal's decision).

A worker should not be victimised for a bona fide refusal to work, but if the refusal is found to have been frivolous -- or if the worker cannot produce any reasonable ground for continued refusal -- there should be a right in the employer to take disciplinary action.

A right of disciplinary action against a worker who frivolously refuses to work is reasonable, since such actions could jeopardise the position of other workers who refuse on sound grounds to continue with an unsafe task. But to penalise a worker who genuinely though unreasonably believes there is danger seems unacceptable.

It seems, moreover, to point to a poor dissemination of safety information within the workplace for which the employer (and perhaps the safety representatives and committee) rather than the worker is to blame.

The fundamental basis to the right to refuse work is that if the performance of a job would imperil health or safety, a worker cannot be disciplined for refusing to do the job. This right can be granted in an industrial award or agreement, may apply as a matter of common law or may be an applicable statutory right.

If it were not for one of these rights, then in some cases an employer could legally discipline or discharge an employee who declined to do a job even though there may have been good reason to think there was a real danger to health or safety.

Generally the right to refuse work is defined in such a way that the normal risk-taking of the essential services would not ordinarily provide an occasion for a refusal to work. Police, firefighters and workers in correctional facilities would be much less likely to be granted the right to refuse at all.

As a general statement, where the right to refuse applies, it permits a worker to refuse work which he or she reasonably believes to be unsafe. The crucial elements of this right are: whose health or safety is at stake; what type of danger must the worker believe to be present; and what kind of belief is required?

Every worker may have the right to refuse work if health or safety is at stake and some risks are glaringly obvious, life-threatening and immediate. Other types of risks -- such as the risks of exposure to a substance that may only show its ill effects several months or years later may be more difficult for the worker to justify.

Generally the right to refuse unsafe work exists where there is reasonable cause to believe that a genuine health hazard exists.

*Source: CCH*

## **Employee Went AWOL due to Misunderstanding**

An employer claiming that an employee has abandoned their employment will fail if there was a valid reason for the absence.

In a recent decision, the Australian Industrial Relations Commission (AIRC) was not convinced that an employee's absence for the latter part of a work day, as well as the whole of the next day, amounted to abandonment of employment, as there was a valid reason.

The employer claimed that the employee's absence from the office from late afternoon on Thursday, 20 February 2003, and all day Friday, 21 February 2003, amounted to abandonment of his employment. The employer also indicated that the employee's termination was justified by his serious misconduct and unsatisfactory performance.

Although there were some alleged issues with the employee's work, the AIRC did not regard the employee's performance as justifying dismissal. It found that warnings, directions, ultimatums, and similar measures were required, but not dismissal.

On 20 February the employee had received a letter containing a detailed list of accusations indicating that he was not performing satisfactorily in his job. The letter indicated that as a result his job security was at risk and that substantial change was required on his part.

The letter stated: "I will give you a couple of days to think about it, and I will have a discussion with you on Monday - and you make your decision".

The letter surprised the employee because only three days previously he had received a substantial increase in pay, accompanied by a letter supportive of his performance in the job.

The Commission determined that he probably saw the letter as implicit permission to absent himself to have a detailed think about the performance issues raised. The commissioner stated that the letter "certainly... did not seem to allow for work as usual".

The employee spent part of his absence preparing a detailed response to the allegations, which the Commission viewed as reasonable and certainly a work-related activity.

There was no evidence that the employee intended to end his employment relationship. He subsequently telephoned the employer to confirm his attendance at a meeting on Monday, 24 February.

He arrived at the office that day, dressed and ready for work, but was refused entry. This, the AIRC found, "was the real causal event which gave rise to the termination of the employment". The AIRC found that there was a termination of employment at the initiative of the employer.

The AIRC found the employee's termination was harsh, unjust or unreasonable and made an order for compensation of \$10,700, in lieu of reinstatement.

*Moore v Levelan Pty Ltd, 5 March 2004.*

## **Swiss Balls vs Standard Chairs**

The fitness ball (also known as a 'Swiss', 'exercise' or 'physio' ball) is an inflatable ball designed for use in training and exercise programs, with a variety of exercises targeting different parts of the body. It is also used in physical rehabilitation programs, usually under the direction of a qualified instructor or health professional. Fitness ball manufacturers suggest that individuals may also find them useful to reduce back pain in sitting and to increase postural control. Some organisations and individuals have adapted their original use to one of providing a dynamic sitting surface, in place of a conventional office or workplace chair, in the belief that it will be of benefit to workers with back pain.

There is little, if any, evidence of scientific trials or studies to demonstrate that the effect fitness balls have in exercise and training makes them suitable for use on a daily basis as a seat at work.

The use of a fitness ball to provide exercise opportunity should not be confused with the requirement to provide suitable and safe workplace equipment. From the literature to date, researchers do not recommend the fitness ball to be a generic alternative to conventional seating in the workplace. Because employees use fitness balls for exercise, which includes sitting posture, this does not make them suitable for seating at work.

On the other hand providing fitness balls in a workplace may place the employer at risk of introducing a hazard.

An employer needs to assess the risk to health and safety where the balls are used, or planned to be used, as seating at work. Known hazards include:

- High concentration levels and fatigue from sustained exercising.
- The initial upright posture is likely to be lost over a long period of sitting because there is not full seat and back support.
- Upright postures are not able to be maintained during tasks requiring any reaching or moving around.
- Employees cannot swivel or navigate around the workstation.
- Getting on and off or reaching from the ball may constitute a falling hazard.
- The sitting surface does not provide adequate support for the buttocks and thighs.

People sit at work to perform tasks that require concentration, posture, stability and visual access, often to be sustained up to 8 or 9 hours. Computer usage is an example of such work. For these situations, seating should be supportive and not require excessive work to maintain the seated posture.

Chairs have been developed with a variety of back rests and improved adjustability, including seat-to-backrest angles. These features assist the sitter to achieve optimum posture.

Seating type, adjustment and 'comfort' are only some of the factors which influence risk from sitting at work. The length of time that people sit, job design that does not provide opportunity for a variety of postures, the pressures of deadlines, the layout of materials on desks, the lighting and glare, and the visual demands of the task, are all factors that need to be considered. No matter what seating type is used, education is required to ensure users understand the reasons for optimum seated postures, how to adjust their seating, and the need to change postures and get up from seating at regular intervals.

Although it is recognised that short term or intermittent use of fitness balls may be appropriate as a physical rehabilitation aid as part of a proper rehabilitation plan, in general, WorkSafe Victoria recommends that fitness balls are not to be used as dedicated workplace seating.

*Source: WorkSafe Victoria – Guidance Note Extract*

# Aircraft Safety

*Heard on a recent flight during the pre-flight safety briefing: "There may be 50 ways to leave your lover, but there are only 4 ways out of this airplane. So please pay attention!"*

*In a similar vein, a Canadian airline pilot wrote in his journal a few years ago that on one particular flight due to strong crosswinds, he had unfortunately hammered his ship onto the runway with a very hard greeting. The airline had a policy, which required the first officer on the flight to stand at the exit door while the passengers disembarked, to smile and repeat "Thanks for flying our airline." His comments indicated that, in light of the poor landing, he avoided eye contact with the passengers in an attempt to avoid any smart comments that might result. Finally there was only one little old lady left to exit the plane. Walking slowly up the aisle with a cane, she approached the awaiting first officer and said, "Sir, do you mind if I ask you a question?" "Why, no, Ma'am," said the pilot. "What is it?" "Did we land, or were we shot down?"*

## Fire Fighting On Sick Leave Permitted

The NSW Industrial Relations Commission (IRC) has found that summary dismissal of a council driver after his employer discovered he had been attending fire call-outs when he was on sick leave or workers compensation was unfair.

The employee's letter of termination alleged that on one occasion he had indicated on a sick leave application form that he had "Gastric" but had still managed to attend four separate fire calls on that day.

The employer argued that the termination was justified on the ground that his paid secondary employment on days of sick leave and workers compensation was a direct conflict of interest.

The IRC found that the workers conduct was unacceptable, and although it warranted severe disciplinary action, it did not warrant the employee's summary dismissal.

The IRC concluded that the dismissal was harsh, but said the employee should consider himself fortunate that it did not find against him.

The Commission ordered compensation, equivalent to four weeks pay.

*Transport Workers' Union of New South Wales (on behalf of Paul Robert Jasper) v Sutherland Shire Council NSWIRC (14/3/04).*

# Council responsible For Fallen Tree

The NSW Court of Appeal recently found that the Shoalhaven City Council breached its duty of care to an appellant in providing information that a tree was safe. The tree later collapsed and killed the appellant's husband.

The appellant and her deceased husband were concerned about trees surrounding their residence and contacted the Shoalhaven council on two separate occasions. Due to a tree preservation order, the trees could only lawfully be cut down with consent from the council.

A council officer made a visual inspection of the trees concerned and concluded they were safe and refused to give the required consent for their removal. A storm subsequently brought down one of the trees, killing the appellant's husband.

At first instance, the council was found to be entitled to give an opinion on the health of the trees based on a visual inspection. Since the trees looked healthy, the court was satisfied that the advice given was not given negligently.

On appeal the court found the council was not bound to give an opinion on the safety of the trees but took it upon themselves to make a determination on the health of the trees. The question that needed to be answered was whether the council officer ought to have known that the trees were dangerous.

The council as a public authority had a special measure of control over the safety of homeowners and found that the visual inspection conducted was insufficient considering the risk that existed both to property and life.

It was also found that a reasonably informed diagnosis of the state of the trees would have led to consent being given.

*Timbs v Shoalhaven City Council [2004] NSWCA 81*

## Words Of Wisdom From Bill

To anyone with kids of any age, here's some advice. We have been informed that Bill Gates recently gave a speech at a High School about things they will not learn in school.

Rule 1: Life is not fair - - get used to it!

Rule 2: The world won't care about your self-esteem. The world will expect you to accomplish something BEFORE you feel good about yourself.

Rule 3: You will NOT make \$60,000 a year right out of high school. You won't be a vice-president with a car phone until you earn both.

Rule 4: If you think your teacher is tough, wait till you get a boss.

Rule 5: Flipping burgers is not beneath your dignity. Your Grandparents had a different word for burger flipping -- they called it opportunity.

Rule 6: If you mess up, it's not your parents' fault, so don't whine about your mistakes, learn from them.

Rule 7: Before you were born, your parents weren't as boring as they are now. They got that way from paying your bills, cleaning your clothes and listening to you talk about how cool you thought you are. So before you save the rain forest from the parasites of your parent's generation, try delousing the closet in your own room.

Rule 8: Your school may have done away with winners and losers, but life HAS NOT. In some schools they have abolished failing grades and they'll give you as MANY TIMES as you want to get the right answer. This doesn't bear the slightest resemblance to ANYTHING in real life.

Rule 9: Life is not divided into semesters. You don't get summers off and very few employers are interested in helping you FIND YOURSELF. Do that on your own time.

Rule 10: Television is NOT real life. In real life people actually have to leave the coffee shop and go to jobs.

Rule 11: Be nice to nerds. Chances are you'll end up working for one.!

## Dilbert Managers

Real life quotes from real life managers

- "We know that communication is a problem, but the company is not going to discuss it with the employees"
- "What I need is a list of specific unknown problems we will encounter."
- Quote from the Boss: "Teamwork is a lot of people doing what I say."
- This project is so important, we can't let things that are more important interfere with it."
- "As of tomorrow, employees will only be able to access the building using individual security cards. Pictures will be taken next Wednesday and employees will receive their cards in two weeks."

# Did you know ...

Aspirin was discovered during experimentation with a waste product.

Friedrich Bayer was born in 1825, the only son in a family of six children. His father was a weaver and dyer, and Bayer followed in his footsteps. In 1848, he opened his own dye business, which became very successful. In the past, all dyes had come from organic materials, but in 1856 coal tar dyes were discovered. Bayer and Friedrich Weskott, a master dyer, saw great potential in coal tar, and in 1863 they formed Friedrich Bayer et Compagnie to manufacture the dyes.

Bayer died on May 6, 1880, while the company was still in the fabric dye business. The company went on to employ chemists to come up with innovative dyes and products and in 1897 that's exactly what one of the chemists, **Felix Hoffmann**, did. While experimenting with a waste product of one of the dye components to find relief for his father's rheumatism, Hoffmann chemically synthesised a stable form of salicylic acid powder. The compound became the active ingredient in a pharmaceutical wonder product: **Aspirin**. The title was named "a" from acetyl, and "spir" from the spirea plant, meadowsweet (*Filipendula ulmaria*, also known as *Spiraea ulmaria*), the source of salicin.

However, Hoffmann did not discover "aspirin." He "rediscovered" it after studying experiments on acetylsalicylic acid made 40 years earlier by French chemist Charles Gergardt. In 1837, Gergardt produced good results, but the procedure was difficult and time consuming. He decided that it was not practical, and set it aside. But Gerhardt knew quite well about potential cures of acetylsalicylic acid because it had been proclaimed for more than 3 500 years!

Although it relieved pain, the willow bark extract, salicylic acid, caused severe stomach and mouth irritation. Hoffmann's breakthrough came on 10 August 1897 when he produced the first 100% chemically pure form of acetylsalicylic acid, thus without the free salicylic acid. On 6 March 1899, **Bayer registered Aspirin** as a trademark. Not without a challenge, though. In fact, initially it received trade certificates only in the US. In England and Germany, other companies challenged the patents, citing their own research. Hoffmann's written evidence prevailed, and when he retired in 1928, Aspirin was known throughout the world. He, however, lived unrecognised until his death on 8 February 1946 in Switzerland.

Aspirin was Hoffmann's most remarkable, but not his only success. A few days after he succeeded in synthesising acetylsalicylic acid, he manufactured another compound for which the Bayer company had high hopes, but today finds dubious popularity: diacetylmorphine, or heroin, a substance obtained a few decades earlier by English chemist C.R.A. Wright. Heroin was prescribed cautiously during WWI but by 1931 it disappeared from medicine lists in almost all countries.

# Effective Job Adverts

Successful advertising does not equate to receiving a large number of job applications. This wastes time as each resume must be reviewed, and each application acknowledged. It is much more effective to receive a small number of very suitable applicants.

To be successful, an advertisement should include the following:

- The applicant should recognise what the job is, its basic functions and how it fits into the organisation structure. This description should be honest. If appropriate, ask the current incumbent to review the advert for correctness.
- The advert must attract the applicant's interest and present a favourable image of the organisation. Be careful that the image is not overly embellished, as this will have a negative impact once the position is filled.
- It should be clear and distinct, so that unsuitable or unqualified people are deterred from applying. Clearly state prerequisites in terms of skills, knowledge and experience.
- The applicant must see the job as an improvement on his/her present position and be motivated to reply to the advertisement. This can be achieved by an honest description of the roles and responsibilities associated with the position. The advertisement is more likely to be successful if written from the viewpoint of applicant and what they are likely to gain from taking the job, rather than from the viewpoint of the company and what it wants. Salary in particular can be a key factor that motivates a person to respond to an advertisement. It establishes the level of the vacancy relative to the reader's existing job and can decide whether it is worthwhile making an application.
- The advert should be attract the right people. Where appropriate indicate key points of appeal, eg salary, status, location, working conditions or fringe benefits. Remember that if the applicants expectations do not match the actual working conditions, they may leave. The organisation will then be back to square one.

It has been found that giving employees realistic job information before engagement either in the advertisement or at the interview tends to produce greater job stability in those who are eventually selected since they are more aware of what goes on in the organisation and are less likely to be disillusioned.

Similarly there are cases where positive aspects of the new job have been exaggerated, resulting in costly court cases.

**We can help you to develop your advertising material.**

**Call us on 1300 667 331 or email us at [adverts@easyhr.com.au](mailto:adverts@easyhr.com.au)**

# OK to Moonlight Whilst on Workers Comp

A sheriff's officer, dismissed for failing to declare his secondary employment as a security guard while receiving workers compensation payments, has been awarded 18 weeks' pay by the NSW Industrial Relations Commission (IRC).

The IRC said his dismissal was unfair because the sheriff's officer thought his employer was aware of the situation. He had told management in his initial job interview that he intended to continue working as a security guard on weekends for financial reasons.

The employee was injured during a compulsory self-defence course, conducted as part of his induction training.

The treating neurosurgeon advised the employee that his work as a sheriff's office posed risks, for example physical confrontations with offenders in the court system.

The doctor also indicated that "providing the security guard/gatekeeper work did not require regular heavy upper body work, violent twisting, jumping etc and was predominantly clerical and involved some minor physical activity, it is reasonable for him to perform this work."

As a result of this recommendation, he continued in his second job as a security guard while on workers compensation. The employee claimed that although he hadn't provided written notice as required under the department's code of conduct, his weekend work as a security guard was common knowledge throughout the department.

The Commission accepted the man's submission that he genuinely believed he had given management sufficient notice of his secondary employment and that he "was hardly seeking to hide what he was doing".

The IRC said that "Naivety or ignorance was the man's sins, but not wilful misconduct, such as to breach the contract and warrant summary dismissal".

The IRC also accepted that in lieu of the financial difficulties his injuries had caused, "he was merely seeking to provide for his family".

*Lawrence v Attorney General's Department, 19 March 2004*

## Did You Know ?

- *The plastic things on the end of shoelaces are called aglets.*
- *Shoemakers are commonly called cobblers but correctly speaking a cobbler is a shoe repairman. A shoemaker is a cordwainer.*
- *Peanuts are one of the ingredients of dynamite.*

# \$208 000 Fine For Death Of Young Worker

A Sydney manufacturer has been fined \$208,000 by the NSW Industrial Relations Commission sitting in Court Session following the death of a young worker at its Revesby factory in 2001.

Foamex Polystyrene Pty Ltd pleaded guilty to failing to ensure the health and safety of its workers under Section 8(1) of the Occupational Health and Safety Act 2000.

The court heard that a 22-year-old factory hand, who had recently commenced work with Foamex, received fatal crushing injuries while cleaning the inside of a foam plastic moulding machine on 14 December 2001.

A warning by the company's Factory Supervisor in March 2000, that the die machine had to be fitted with appropriate guards, had been only partially addressed at the time of the fatal incident.

WorkCover Chief Executive Officer, Jon Blackwell, commented: "The risks to health and safety which led to the death of a young worker were clearly foreseeable.

"The employer had been warned 20 months before this incident by its own Factory Manager that guards had to be fitted to the moulding machine, but this work was only partially undertaken – with tragic results."

*WorkCover(Insp Glass) v Foamex Polystyrene Pty Ltd – IRC5346 of 2003*

*Source: Workcover NSW*

## Interesting

I Cduolt blveiee taht I cluod aulacly uesdnatnrd what I was rdgnieg

THE PAOMNNEHAL PWEOR OF THE HMUAN MNID

Aoccdrnig to a rscheearch at Cmabrigde Uinervtisy, it deosn't mtttaer in waht oredr the ltteers in a word are, the olny iprmoatnt tihng is taht the frist and lsat ltteer be in the rghit pclae.

The rset can be a taotl mses and you can sitll raed it wouthit porbelm.

Tihs is bcuseae the huamn mnid deos not raed ervey lteter by istlef, but the wrod as a wlohe.

Amzanig huh?

## **\$146 250 Fine for Smelting Firm**

The Tomago aluminium smelter, near Newcastle, has been fined \$146,250 by the NSW Industrial Relations Commission sitting in Court Session following a fatal crane incident in 2001.

Tomago Aluminium Company Ltd pleaded guilty to breaching Section 8(1) of the Occupational Health and Safety Act 2000 by failing to ensure the health and safety of its workers.

The court heard that an electrician conducting maintenance on an overhead crane on 14 November 2001 died when struck by moving parts of the crane.

The court also heard that the incident was foreseeable, there was no regular contact between workers conducting the maintenance operation, and no third party present to direct the electrician.

WorkCover Chief Executive Officer, Jon Blackwell, commented: "This tragic incident was clearly foreseeable. What should have been a routine maintenance task resulted in a fatality because the appropriate safeguards were not put in place to ensure that workers were not placed at risk."

*WorkCover (Insp Simpson) v Tomago Aluminium Company Ltd – IRC*

*Source: Workcover NSW*

## **Is Termination Of Employment Industrial Action ?**

Termination of employment does not constitute industrial action as defined in the Workplace Relations Act 1996, (the WR act), according to a ruling by the Full Bench of the Australian Industrial Relations Commission.

In February 2004, the Age Company Limited (the Age) announced that it intended to close its Spencer Street facilities and advised its employees that their employment would cease due to redundancy. The Age intended to move its Spencer Street printing operations to Tullamarine.

The Age was party to a certified agreement with the Australian Manufacturing Workers Union (AMWU) and the Communications, Electrical, Electronic, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). This agreement provided that there would be no involuntary redundancies during the term of the agreement.

The AMWU and the CEPU applied to the Commission for a sec 127 order that the Age cease proceeding with the redundancies. The Unions submitted that the Age, by its actions in closing down the Spencer St facility and terminating the employment of the remaining employees, was engaging in industrial action in relation to work regulated by a certified agreement.

At first instance, Wheelan C granted the application and ordered the Age to cease proceeding with the terminations.

The Age along with the Federal Minister for Employment and Workplace Relations sought leave to appeal from that order. The Age contended that termination of employment was not industrial action for the purpose of sec 127 of the WR Act and therefore the order issued by the Commissioner was invalid.

The Full Bench noted that this was the first time that this issue had been squarely raised on appeal.

After considering the definition of industrial action in sec 4 of the WR Act and a number of decisions which considered the concepts of industrial action and termination of employment, the Full Bench determined that the provision of a notice of termination of employment did not fall within the proper construction of para (b) and (c) of the statutory definition of industrial action in sec 4 of the WR Act.

The Full Bench determined that to determine otherwise would place an undue strain on the language of the WR Act. This was because the concept of termination was different to a ban, limitation or restriction on the performance of work as described in para (b) and (c) of the definition.

Further, the Full Bench also concluded that if the legislature had intended the definition of industrial action to include termination of employment, it could have done so by express wording in the WR Act. Additionally, the Full Bench noted that the operation of the definition of industrial action itself was predicated on the existence of an employment relationship being in existence.

Therefore, the Full Bench quashed the sec 127 order issued by the Commissioner at first instance.

*AFMEPKIU v The Age Company limited; CFMEU v The Age Company Limited AIRC (Giudice P, Harrison SDP, Simmonds C) (PR946920) 11/5/04.*

*Source: CCH*

# Interesting Thoughts

"Courage is what it takes to stand up and speak; courage is also what it takes to sit down and listen." - Sir Winston Churchill

"Even if you're on the right track, you'll get run over if you just sit there." - Will Rogers

# Don't Procrastinate

Do you put off today what you can do tomorrow? Hopefully these tips will assist you in become a more effective time manager.

**Take time to plan** - at the end of each day, plan for the next. Write a to-do list that not only includes the things that need to be done (deadline-oriented items) but also long-term projects that propel your strategic plan.

**Set priorities** - make sure you prioritise your list. Always do the most important things first.

**Do the most difficult task first** - if it is a priority, tackle the most difficult thing at the beginning of the day or when your energy is the highest. If you put off the difficult tasks until the end of the day or the end of the week, they will "grow" in size and seem even more challenging.

**Reward yourself** - pat yourself on the back when you finish a task, especially a task that you saw as difficult or challenging. If possible, make the reward a personal reward. Something that YOU enjoy or want.

**Use the one touch system** - whenever possible take care of the task immediately. Try and touch it only once. For example, pay your bills when they come in the mail. Don't file them for payment at a later date. Most major banks have online systems that permit you to schedule payments on the bills due date.

# Supersize Me

*We have heard that a popular fast food chain has decided not to extend their franchises to the moon for fear they will be devoid of any atmosphere.*

# Effort

How do you get enormous results from a relatively small effort? It happens when you make that effort an extra effort.

Once you've done the necessary work, do a little more. The extra payoff will be vastly larger than the additional effort expended. The more your efforts can build on each other, the more valuable they become.

If you stop at the very earliest opportunity, you give up precious momentum. Instead, keep going a little longer, and watch as your efforts become increasingly effective.

## Closing A Meeting

An effective meeting results in a positive outcome. Too frequently we find meetings that are ineffective and are considered by attendees to be a waste of time.

Effective meetings are appropriately planned, and all participants should be aware of the reason for having the meeting.

Below is a suggested format for your meetings:

1. Introductions and appropriate level of small talk etc
2. Purpose of the meeting based on the objective you have set out to achieve
3. Agenda — the topics you want to cover off
4. Discussion — questioning, listening, presenting, negotiating, agreeing
5. Summary of the key discussion points and agreements
6. Conclusion — achievement against your purpose
7. Next steps for both sides

This approach will help you create an impression of collaboration, confidence and professionalism. It ensures each party is aware of the actions required by them as a result of the discussions.

**We offer an Effective Chairperson Course for OHS Committee Chairpersons.** The NSW OHS Regulation says that the chairperson must be an employee representative. Frequently we find that these reps don't have much experience in running a meeting.

For more info please contact us on 1300 667 331 or visit our website.

--oOo--