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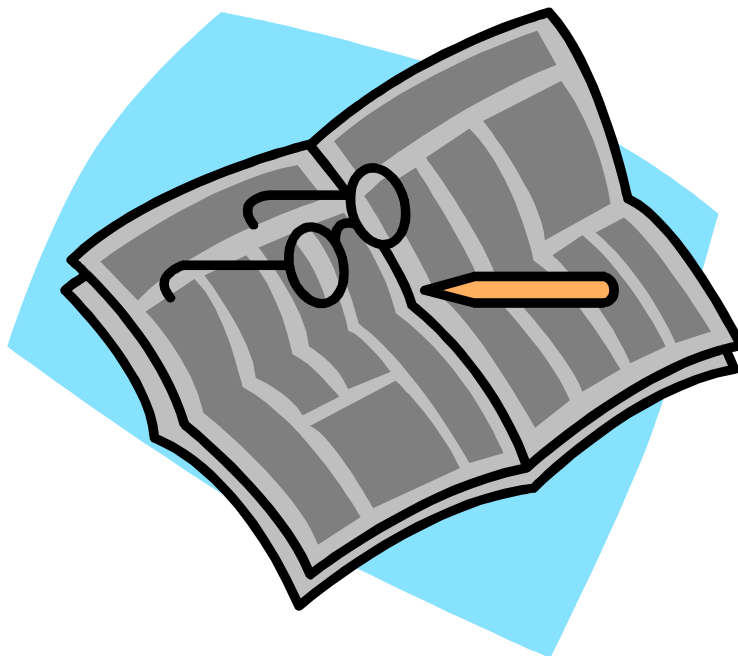
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Easy HR Newsletter  
January 2005

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# 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.

Thanks to those who completed our online survey. Apologies to those who found the page unavailable. It was removed for a short time while we updated our website.

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

## Is Dementia Linked To Work ?

A new medical study published in the journal Occupational and Environmental Medicine has linked psychosocial work factors with the risk of developing dementia.

The results of the research implied that workers had a lower risk of developing dementia in jobs characterised by:

- high challenge
- a large degree of control
- high social demands.

The authors of the study concluded that the results support a role for psychosocial work factors in the causes of dementia.

However, the authors do concede that as an alternative explanation, people might have chosen jobs with poor work factors due to pre-clinical dementia, which becomes clinically manifest decades later.

*"Psychosocial Work Factors and Dementia" by A Seidler and others in Occupational and Environmental Medicine (Vol 61, pp 962-971, 2004).*

<http://oem.bmjournals.com/cgi/content/full/61/12/962>

# Did You Know ?

- *An eighteenth century Parisian named Jean Jacques Perrett became tired of having his face cut while his barber shaved him. Wouldn't shaving be much safer and more comfortable, he wondered, if a wooden guard were attached to the straight razor blade so that only a snip of the blade protruded? And so was born the safety razor.*
- *It is impossible to lick your elbow.*
- *The "sixth sick sheik's sixth sheep's sick" is said to be the toughest tongue twister in the English language.*

## \$25 000 Fine For Coca Cola

Coca Cola has been fined \$25,000 over an incident in which a truck driver was struck by a reversing forklift at its Melbourne warehouse.

On 21 January 2003, Trevor Bryce was walking to his truck when a forklift loading pallets onto the vehicle reversed and struck him from behind. Mr Bryce suffered multiple fractures and lacerations to his left foot and spent two weeks in hospital after the accident.

Coca Cola pleaded guilty to one count of failure of an occupier of a workplace to ensure a safe workplace. The Company was issued a \$25 000 fine without conviction and ordered to pay \$2,190 costs, at the Melbourne Magistrates' Court.

In passing sentence, Magistrate Lesley Fleming said she took into account that the company had no prior convictions and had dealt with the matter very seriously. She acknowledged that Coca Cola had vacated the Clayton premises since the accident and had spent \$48 million on a purpose-built new building.

Integrated Group Limited, a labour hire company which hired Mr Bryce, and Linfox Australia, employed to transport Coca Cola products in Victoria have earlier been convicted and fined \$25,000 and \$15,000 respectively over the incident.

# Queen Involved In Discrimination Case

The Tasmanian Anti-Discrimination Tribunal recently found that the Returned and Services League of Australia (R&SLA) discriminated against a Tasmanian membership applicant on the grounds of his political belief and activity. They had previously rejected his membership application because he refused to sign a declaration swearing or affirming loyalty to the "Sovereign of the Commonwealth and the Australian Constitution."

The applicant held Republican political views and had amended his declaration to state that he was prepared to swear his loyalty to the Commonwealth, rather than the Sovereign of the Commonwealth.

The Tasmanian Anti-Discrimination Tribunal found that indirect discrimination against the applicant had occurred and ordered the R&SLA to amend its membership requirement so as not to discriminate.

The R&SLA appealed against this decision, on the basis that the Tasmanian Tribunal's order would have extraterritorial effect, that is, it would apply outside Tasmania. The R&SLA argued that the Tribunal did not have the power to make such an order.

The Tasmanian Supreme Court dismissed the appeal, finding that the Tribunal's order must be read as meaning that the previous discriminatory membership requirement should not be imposed in Tasmania.

## Thought For The Day

- "Four Rules For Life; Show up. Pay attention. Tell the truth. Don't be attached to the results." - Angeles Arrien
- "All things are difficult before they are easy." - Thomas Fuller
- "Holding on to anger is like grasping a hot coal with the intent of throwing it at someone else; you are the one who gets burned." - Buddha

# Working Late At Night

We are frequently asked the question about duty of care relating to employees working late at night.

The key issue relating to working long hours or shift work is whether or not employees or other people in the workplace are at risk of injuring themselves or others at the workplace.

An employer may be in breach of Section 8 of the NSW OHS Act if they fail to ensure the health, safety and welfare of their employees. Section 8 requires all employers to ensure that the systems of work and the working environment of the employees are safe and without risks to health.

Extended hours may lead to fatigue which could increase the probability of an accident occurring. As a result, employers should identify the risks which long hours or shift work may raise and implement control strategies to remove or minimise the risks.

This may involve such options as:

- restricting overtime;
- rotating staff; or
- introducing rest periods.

(We also suggest that the Department of Industrial Relations be consulted to ensure that the hours worked are within the provisions of the employee's Award).

It should also be noted that employees who sit for extended periods also increase their risk of a Deep Vein thrombosis (DVT) injury. DVT as a result of prolonged sitting was first recognised during the Blitz in World War II, when cases of fatal embolisms emerged among Londoners who sat for long periods in deckchairs in air-raid shelters. New Zealand researchers have found that sitting at a computer for hours on end can cause fatal blood clots leading to DVT.

If an employee is working late at night on their own we should review the risks and control measures in place to protect the employee. The employer has an obligation to identify foreseeable hazards and to control them.

All employers are required to undertake a risk assessment that ensures that hazards are identified, assessed and controlled. We need to address the question "what is the potential for harm?"

A person working late at the office may simply need a phone to be available to address the identified risks. A convenience store may require a comprehensive security system before the employer can meet their obligations. Similarly we may need to consider external car park lighting and security if employees arrive or depart outside of normal hours.

Employers who fail to comply with the NSW OHS act face the possibility of a \$550 000 fine, or \$825 000 for a second offence. It should also be noted that individual managers face a maximum penalty of \$55 000 or \$82 500 and/or 2 years imprisonment for previous offenders.

## **Victoria Common Rule Awards**

"A common rule order declares that specified terms, or a part of a term, of a federal award is a common rule for a specified industry. A common rule award binds all employers and employees in the industry concerned so that their employment relationship is governed by the provisions of the common rule award. A provision in a contract of employment is of no effect to the extent it provides a condition of employment less favourable to an employee than applicable under a common rule award." - Steven Troeth, Gadens Lawyers

The Australian Industrial Relations Commission has recently declared a number of Federal Awards to be "Common Rule" for Victorian employees.

Employers with employees in Victoria who were not previously covered by a Federal Award may find that there are now a number of Common Rule awards that apply to their workplace and from 1 January 2005 they will have to provide the award conditions as a minimum to those employees.

It is the employer's responsibility to ensure that they are correctly paying employees. Employers are encouraged to determine if a Common Rule award now applies at your workplace.

To do this you can check with WageNet ([www.wagenet.gov.au](http://www.wagenet.gov.au)), the AIRC, your employer association (e.g. VECCI) or the union that is eligible to have members at your workplace.

Penalties apply to employers who have staff covered by a common rule award that don't provide their employees with the conditions of employment under that award.

# Maxwell vs Maxwell

*The Plaintiff: Peter Maxwell*

*The Defendant: Peter Maxwell*

*The Lawsuit: Maxwell owned a urethane-manufacturing company in Chino, California. He was also on the payroll as a worker, taking a salary of \$10,000 a year. One day while he was operating a mixing machine, his sweater got caught on an exposed bolt. He was pulled into the device and severely injured. Maxwell, the employee, hired an attorney and sued Maxwell, the owner, for negligence. Maxwell, the owner, hired another lawyer to defend the company against the lawsuit.*

*The Verdict: Both Maxwells decided they could settle their dispute out of court and negotiated that Maxwell, the owner, should pay Maxwell, the employee, \$122,500 for his injuries.*

*Aftermath: When the United States Internal Revenue Service (IRS) caught wind of the deal, they demanded that Maxwell, the employee, pay \$64,185 of the settlement in income tax. They also wanted Maxwell, the owner, to cough up \$58,500 because he tried to write off the payment as a business expense. Maxwell was outraged-and so was Maxwell. Maxwell, the owner, side by side with Maxwell, the employee, appealed the IRS's judgment to the U.S. Tax Court.*

*In 1990, Judge Robert Ruwe ruled that Maxwell, the employee, could have the settlement income tax-free and that Maxwell, the owner, could deduct the entire amount as a business expense.*

*Sources Uncle John's Bathroom Reader and Reuters*

## Workers Compensation Fraud

A Sydney man has been ordered to pay \$18,780 and serve 250 hours of community service for falsely claiming workers compensation payments.

The defendant made the false claims while employed by a Sydney company as its workers compensation claims officer.

In the Chief Industrial Magistrates Court, Maricano Gaddi, was found guilty of breaching section 67(1) and section 235A(1) of the Workplace Injury Management and Workers Compensation Act 1998 after he had a car accident on his way to work and then made false statements in his claim for workers compensation.

The defendant was found guilty of seven breaches of the Act for making a false statement in his claim form by not revealing his secondary employment as a waiter and for producing 6 medical certificates certifying him unfit to work, when he was actually working as a waiter during this time.

Upon fining the defendant, the Chief Industrial Magistrate made comment on the serious nature of the offence.

WorkCover's Acting Chief Executive Officer, Rob Seljak, commented: "WorkCover actively seeks out fraudulent activities under the workers compensation legislation.

"Falsely claiming workers compensation benefits is a serious offence and anyone found doing so will be prosecuted," he said.

*Source: WorkCover NSW*

## Who Are You?

When delivering a presentation, whether at a conference or meeting, don't hesitate to briefly give your credentials. Research has shown that the impact on an audience of various aspects of a presentation can be broken down into the How 53%, the Who 40% and the What 7%.

Who is presenting the speech or delivering the pitch, and does she or he have expertise, stature, and title relevant to the topic? It is always a good idea to give the MC a brief overview of how you would like to be presented. Prepare these notes before hand, and always give the MC the information in writing.

So give your credentials--explain why you're qualified to speak on the topic. It's important to have analysed your audience beforehand so you know what they value and build your credentials around that.

Remember, it's only boastful if you deliver it in a boastful way.

# Did You Know ?

- *CQD – (Come Quick Danger) was the distress signal before SOS.*

## WA Payroll tax Update

The WA Government has introduced changes to its payroll tax legislation – the measures have passed through Parliament and are awaiting Royal Assent.

From 1 January 2005 the Payroll Tax rate will reduce from 6.00% to 5.50%

From 1 January 2005 Payroll Tax payers with an annual WA tax liability of below \$20,000 will be able to elect to pay their tax once a year rather than on a monthly basis.

From 1 July 2006 Payroll Tax payers whose annual WA tax liability falls between \$20,000 and \$100,000 will be able to elect to pay their payroll tax on a quarterly basis using Revenue Online.

The remaining taxpayers will be required to lodge and pay monthly using Revenue Online.

## No Instructions Costs Company \$45 000

A Melbourne metal fabrication company was recently convicted and fined \$45,000 after acknowledging that two non-English speaking workers who were injured in factory accidents were not given precise instructions on how to use the machines.

Melbourne Magistrates Court was told that Phuong Dinh lost parts of four fingers when a metal press at a Metcon factory at Tullamarine closed on his left hand on July 29 last year. The right index finger of another Vietnamese-speaker, Hung Nguyen, was cut off at the knuckle during an incident with a 70-tonne press two months later.

The court was told neither man was given precise instructions in Vietnamese on how to use the machinery.

Metcon pleaded guilty to four charges, including failing to provide health and safety information to employees in appropriate languages.

Magistrate Jennifer Grubissa ordered the company also pay \$2,313 costs.

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