



August 2008

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## Car confiscation laws statewide

Queensland Police Minister Judy Spence has warned repeat offenders that car confiscation laws went statewide from Tuesday, July 1, after a trial in which nearly 1,500 cars were confiscated.

Ms Spence said: "Repeat offenders beware - flout the law and you could lose your vehicle for 48 hours for the first repeat offence, up to three months for a second repeat offence, or permanently for a third repeat offence.

"These laws have been trialled in the Southern Region and the North Coast Region (from July 1, 2007) and the South Eastern Region (from December 1, 2007).

"By the end of May, four people had their vehicles permanently forfeited, 39 people had lost their vehicles for up to three months, and 1,462 people had their vehicles impounded for 48 hours.

"Not only do offenders face the inconvenience of losing their vehicle, they have to pay the towing and holding fees.

"With the laws statewide, we anticipate confiscating thousands of vehicles each year, mainly from unlicensed or disqualified drivers.

That is unless they learn their lesson.

"It can cost up to \$255 to tow a vehicle to a holding yard and thousands in fees if vehicles are in storage for months. My message to repeat offenders is you will be caught, you will be fined, you will lose your vehicle and you will incur serious costs."

The Type 2 hoon laws target repeat offenders who are charged with multiple offences in one of five categories:

- Driving an unregistered and uninsured motor vehicle
- Driving while unlicensed or disqualified
- Drink driving over 0.15
- Failing to supply a specimen of breath or blood, or driving under 24-hour suspension
- Driving an illegally modified vehicle.

Of the vehicles impounded to date, 1,297 or nearly 90 percent, have been for repeat unlicensed or disqualified offences.

## Hazard perception test for new drivers

Novice drivers will soon undertake an online computer test to measure their ability to recognise and respond to potential driving hazards before they face them on the road.

The hazard perception test announced by Transport Minister John Mickel will become part of the new graduated licencing system introduced from last year.

Under the new young driver laws, provisional 1 drivers would be required to pass the online test from July 1 on their way to an open licence.

"Provisional 1 drivers will be presented with a number of behind-the-wheel video scenarios and will be asked to indicate when they think a hazard is developing, Mr Mickel said. "Their responses are then scored to assess their level of hazard perception skills."

For details, visit the Queensland Transport website: [www.transport.qld.gov.au/hpt](http://www.transport.qld.gov.au/hpt).

## Trademark policing not eBay's problem, says court

According to a federal judge, companies such as jeweller Tiffany are responsible for policing their trademarks online, not auction platforms like eBay.

The Australian newspaper reported that Tiffany had sued eBay in 2004, arguing that most items listed for sale as genuine Tiffany products on eBay's sites were fakes.

But US District Judge Richard J. Sullivan in New York ruled that eBay could not be held liable for trademark infringement "based solely on their generalised knowledge that trademark infringement might be occurring on their websites".

According to The Australian, the Tiffany ruling was a welcome twist for eBay, which recently lost a different case stemming from counterfeit luxury goods.

eBay is appealing that ruling. For more information about trademarks, contact your local solicitor.

## Hotel fined for underpaying staff

The Workplace Ombudsman has announced that a NSW hotel owner who told a court he would not try to "rip off" his staff has been fined a total of \$22,000 for underpaying employees over a two-year period.

Murray Clarke, the sole owner and director of the Bucketts Way Hotel in Church St, Gloucester, in the Hunter region, has been given six months to pay the penalty.

The Federal Magistrates Court in Sydney imposed the fine after an investigation by the Workplace Ombudsman found Clarke had underpaid 14 workers almost \$12,000 between July 2004 and August 2006.

Workplace Ombudsman executive director Michael Campbell said the staff - five of them under 20 - were relatively unskilled and low paid.

The court heard they were paid an hourly rate of \$14.97 when they should have got \$16.75. The rate was subsequently lifted to \$15.94 when it should have been \$17.31.

Federal magistrate Shenagh Barnes said the hotel's breaches of the Motels Accommodation and Resorts Award and the Australian Fair Pay and Conditions Standard represented "systemic underpayments over a long period of time".

Magistrate Barnes described the breaches as "a product of negligent disregard" for Clarke's obligations to his staff, which she noted "took some time to correct".

If you believe you are being paid less than you should be under the relevant award, consult your local solicitor.

This newsletter is a free service from your solicitor. If there is any issue you would like us to cover in a future newsletter please call us. Also, if there is anyone you know who would like to receive this newsletter please let us know and we'll add their name to our distribution list.

However, if you do not wish to continue receiving it please let this firm know and we will not send it to you

# New electrical regulations take effect

New on-the-spot fines for breaches of electrical safety legislation have taken effect as part of a raft of changes affecting electrical workers throughout Queensland, according to the Minister for Employment and Industrial Relations, John Mickel.

The new on-the-spot fines will provide additional enforcement options to electrical safety inspectors to target:

- failure by an electrical work licence holder (\$300) or an electrical contractor licence holder (\$300 for an individual and \$600 for a company) to comply with all conditions and restrictions of the licence
- failure to test to ensure an electrical installation is safe before connecting to a

source of electricity

- failure to perform a visual inspection of part of an electrical installation to ensure there are no serious defects (\$300 for an individual and \$600 for a company).

Mr Mickel said the amendments to the Electrical Safety Regulation 2002 aimed to improve the administration of electrical safety in several areas, including licencing, performance of live work, approval of electrical equipment and testing of electrical installations.

Other changes relate to:

- clarifying the meaning of a "qualified business person" and a "qualified technical person"

- requirements for performance of live work
- eligibility requirements for electrical licences
- approvals for electrical equipment manufactured overseas
- disconnection and reconnection of low voltage electrical installation
- updating fees to reflect CPI increases.

"Ultimately it's all about keeping people safe, whether they work with electricity or are a consumer," Mr Mickel said.

For full details of the changes visit [www.deir.qld.gov.au](http://www.deir.qld.gov.au) or call the Electrical Safety Office on 1300 650 662

## Law changes affect security provider licencing & training

Brisbane security providers are reminded that new licensing and training requirements for the industry have taken effect. The Attorney-General and Minister for Justice, Kerry Shine, said security industry now must comply with the third phase of changes to the *Security Providers Act 1993*.

"Security providers will now be issued Class 1 licences to be employed in the manpower sector as crowd controllers, security officers, bodyguards, and private investigators," Mr Shine said.

"Those providing security advice and installing security equipment will be issued a Class 2 technical licence. All Class 1 manpower licences will have new training requirements, with crowd controllers and bodyguards now required to do ongoing training as a condition of their licence.

"The changes are designed to promote community and public safety and the protection of property by ensuring only appropriate and competent people are licensed to operate within the industry.

"People who hold current security provider licences can continue to operate on their existing licence until it expires, but existing licence holders must lodge their renewal before their licence expires or face hefty fines for operating unlicensed."

Mr Shine said anyone operating without a current licence faced fines of up to \$75,000 for individuals or \$937,500 for businesses.

"Compliance officers from the Department of Justice and Attorney-General will continue to work closely with the industry during this introductory phase," he said.

"Officers from my department will ensure key industry stakeholders are aware of their licencing obligations, and continue educating the sector.

"It is vital members of the industry are fully aware of the impact the changes will have on them, particularly in relation to licencing and the need to keep their skills up-to-date."

Mr Shine said more than 650 people had attended regional forums held throughout Queensland.

"A new online resource has also been developed to assist members to understand the changes and how they impact on their business.

"The website explains in detail what the new requirements are for the industry, including licence categories, fees, training requirements and the licence process."

The online resource, along with other relevant information and resources about the legislative changes, can be accessed on the Office of Fair Trading website: [www.justice.qld.gov.au/securityproviders](http://www.justice.qld.gov.au/securityproviders).

## New code of practice for pet shops to reduce unwanted pets

Queensland pet shops will be encouraged to source dogs and cats from breeders who care properly for their animals, and to discuss the home and care needs of pets with buyers, under a proposed new code of practice for pet shops.

The Minister for Primary Industries and Fisheries, Tim Mulherin, said the proposed code of practice, the first of its type in Queensland, was one of a number of initiatives aimed at reducing the number of unwanted pets.

The proposed code of practice for pet shops will complement proposed statewide legislation to require all cats and dogs to be registered and all cats and dogs to be microchipped for identification when sold or given away.

The Queensland Government will also run pilot studies to test innovative animal management initiatives by local governments.

"Between 2002 and 2006, the Queensland Animal Welfare League euthanased 9463 cats," Mr Mulherin said. "Over the same period, the Queensland branch of the RSPCA euthanased 44,173 of the 65,583 cats received, or 67.35 percent.

"Euthanasing that many kittens each year is distressing and doesn't meet the standards of a caring community."

"This proposed code of practice for pet shops sets out important guidelines - minimum standards which will go a long way in reducing the number of pets that end up unwanted, abandoned and euthanased in Queensland."

# Introducing KP Migration Services - the most recent addition to the portfolio of KP Law

Gladstone is currently experiencing a large influx of professionals and tradespeople with a diverse range of qualifications coming from either interstate or overseas backgrounds in order to assist the growing number of local industries and businesses with their skill shortages.

According to the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) 2007), the percentage of Gladstone's foreign-born population has increased from 10.6% in 2001 to 17.8% in June 2006. It is estimated that this population will represent up to 30% of the Gladstone region population by 2011.

John Golinelli, the principal of KP Migration Services comments that "A major change in immigration trends is behind this increasing proportion. While in 2001 Family Reunion was the most popular type of immigration category for the Gladstone Region, the 2006 Census reveals that this category has been relegated to second position by the Skilled Mainstream categories ([www.immi.gov.au](http://www.immi.gov.au) 2007) and in particular, skilled workers on Temporary Visas".

Mr. John Golinelli, the principal of Kenny and Partners, identified this opportunity within the marketplace to assist these professionals and tradespeople and as a result, KPMS has become the most recently incorporated business in the KP Law portfolio.

KPMS specialises in:-

- Migration Advice (Employers/Employees)
- Business Mentoring and Coaching
- Business Management and Advice

KPMS uses forward thinking, well established National and International networks, and a diversified portfolio of services as its main competitive advantage in assisting both employers and employees in an effective manner. Our mission statement is 'to establish win-win partnerships with our group of key stakeholders and clients based on mutual trust, respect and hard work in order to provide superior performance and outstanding results'.

Despite being just 9 months in the marketplace, the future of KPMS is sound and prominent. A number of solid alliances have been already established with a number of community-based groups. For instance, KPMS has, in conjunction with the Gladstone Multicultural Association Incorporated (GMAI), institutionalised the Cultural Diversity Award (CDA), which aims to recognise and highlight an individual's contribution towards local Multicultural Affairs. Graham O'Dwyer has become the first recipient of the CDA. The presentation of this Award took place during the Gladstone Multicultural Festival, which was held at the Gladstone Marina on 3 August 2008.

If you require assistance with an immigration matter, please do not hesitate to call our KPMS consultant on 0406 996 139 or to book a 15 minute complimentary session on (07) 4973 4449.

