

Macrossan & Amiet Solicitors

news update

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S O L I C I T O R S

The Work/Life Balance

The flexibility of 'being your own boss', staying home with the children and having flexible hours is appealing to many people.

By Heather Smith

In the current economic client, many workers are starting their own business from the comfort of their own home to ward off the 'financial crisis'.

There are several things to consider when deciding to start your own business from home including council approval and licensing, taxation, insurance, and Occupational Health and Safety legal requirements.

First, you will need to develop a business plan. A business plan should consider whether the location of your home will benefit the type of business you propose to enter into, what your legal and town planning obligations are, and the specific requirements that council has in relation to operating your type of business.

Zoning, noise, pollution, parking, health and other issues will be taken into account when council reviews your licencing application. Your solicitor can assist you in determining what council regulations will apply to your business and draft the necessary documents on your behalf.



The next step will be to get an Australian business name and number. You can visit the Australian Securities and Investments Commission online to determine whether the proposed name is available and apply for business name registration. As a home based business owner you may be required to register for a Tax File Number, Goods and Services Tax or Fringe Benefits Tax. It is also recommended that you consider your insurance options. Some businesses are required to have a comprehensive cover whereas others may only require specific coverage which may include, public liability, fire, storm and theft, professional indemnity, workers compensation, or personal accidents/illness insurance.

As a business owner you should also be aware of your obligations in respect of Occupational Health and Safety laws and what they mean to you and your business. For more information, you can visit www.oft.qld.gov.au or www.asic.gov.au

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news



There you are driving along the highway returning home from a long weekend away, it's late at night and all you want to do is get home, have a shower, and jump into bed.

By Georgina Paterson

Claim for Personal Injuries: Straying animals on the highway

All of a sudden - out of nowhere - an animal, either a cow or a horse, appears in front of you causing an unexpected accident where you suffer personal injuries to your body.

You ask:

Do I have a cause of action in negligence against the owner of a straying animal?

We answer:

The applicable principle of law of negligence is governed by the rule in *Searle v Wallbank* [1974] AC 341 which applies to the owner of a straying animal which has caused injury.

Generally, owners and occupiers of land (in Queensland) **owe no duty of care** to highway users to prevent their animals straying on the highway, whether by the maintenance of fences or otherwise.

Although there are some possible exceptions, generally speaking this rule providing immunity from liability is absolute.

In certain circumstances 1 of 4 exceptions may overcome this immunity from liability, namely:

1. If the animal is known to have such characteristics as to impose on the owner a duty to prevent it getting on the highway and exhibiting those characteristics to the danger of highway users;
2. The rule does not apply when animals escape in such numbers as to cause an obstruction;
3. The rule does not apply where a person brings animals onto, or drives them along, a highway; and

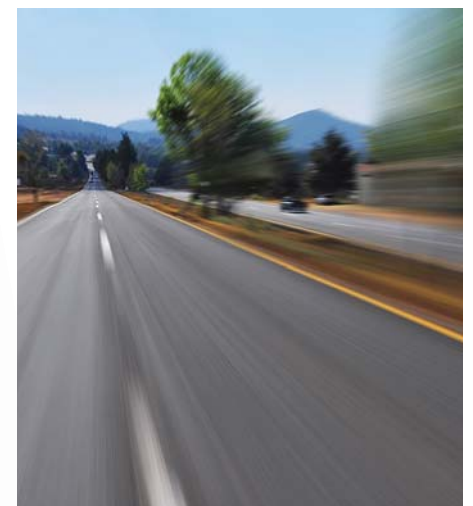
4. The rule does not apply to dogs.

Exceptions 2, 3, and 4 are reasonably self-explanatory; however exception 1 makes reference to "special characteristics".

The "special characteristics" to be considered here include the:

- Animal - such as its breed;
- Location- such as the location of the owner's property in relation to the highway; and/or
- Circumstances under which the animal escaped - such as whether the animal was fenced in a restricted area, the type of fencing used, if the animal is known to escape, how the escape occurred (was the fence too low or damaged).

So please take care on our highways - more specifically Queensland's highways - as this immunity has been abolished in all other jurisdictions except Queensland and the Northern Territory.



news



On 21st November 2008, the *Family Law Amendment (De facto Financial Matters and Other Measures) Act 2008* was given Royal Assent. The purpose of the *Act* is to amend the *Family Law Act 1975* in relation to de facto relationships.

By Alison Woodward

Family Law Amendments - A Change for De facto Couples

One important amendment to the legislation is the new definition of a de facto relationship. The new definition recognises both opposite-sex and same-sex couples as being in a de facto relationship. Prior to the commencement of the *Act*, the definition was confined to opposite-sex couples. Same-sex couples now have the same rights to access the courts as any married or de facto couple.

Another important amendment is the jurisdiction in terms of property matters in de facto relationships. Prior to the commencement of the *Act* on 1st March 2009, the States had jurisdiction in relation to property or maintenance matters arising out of the breakdown of a de facto relationship. That is, de facto couples would need to commence proceedings in the State court system to resolve issues regarding property and maintenance matters. Married couples on the other hand, fell under the *Family Law Act 1975* and had access to the Federal court system. De facto couples could not access the Federal Courts to resolve property or maintenance matters. There was no uniformed procedure with respect to property settlements for both married and de facto couples.

Children matters on the other hand, fall within Commonwealth jurisdiction. Thus, some couples would need to access two different court systems to resolve issues



arising out of the breakdown of their relationship. This would place additional costs on couples with children.

The *Family Law Amendment (De facto Financial Matters and Other Measures) Act 2008* has brought about some important changes for de facto couples. Since the commencement of the *Act* de facto couples have been able to access the federal court system to resolve their financial matters. This means de facto couples will no longer need to access both State and Federal Courts to resolve issues following the breakdown of their relationship. Both issues will be dealt with at the same time in the same jurisdiction. This will reduce costs for the parties and take some of the strain off of the Courts.

feature



The characteristics of the stereotypical international banker include, comfortable childhood, private education, flash suits and living somewhere like London, New York or Hong Kong. I have a friend who is an international banker and he wears thongs, shorts and a t-shirt and talks like a character from a Guy Ritchie movie. His name is “Lawrence Topp”.

By Andrew Telford

Lawrence Topp - From the mail room to the boardroom

Lawrence, his wife Shirley and children, Samantha and James, have lived in Airlie Beach since the beginning of 2003. The family own and operate the Village Café situated next to the post office in Airlie Beach. Lawrence impresses me as being down to earth, having a good sense of humour and having two of the cutest, most charming, well behaved children I have ever met.

Lawrence's wife Shirley, is from Hong Kong, they have been married for 12 years. Lawrence has mentioned to me on a few times that his background is in banking and that his job required him to travel extensively through Asia. Over the years and a number of bottles of red wine I have learnt more about Lawrence. His story is quite remarkable.

Lawrence Topp was born in what he describes as a “very rough” part of southeast London in 1963, he grew up with his sister Linda and his Mum Irene. When Lawrence was aged 6 his father, Leo, died. Leo had ulcerative colitis and developed pneumonia which was ultimately fatal. Leo had been a successful paint sales rep. Irene was left trying to find work and ended up gaining employment as a copy typist while being a single mum with two young kids.

Driven by the strong desire to ease his Mum's problems and workload, Lawrence started earning money at

age 7 by washing cars and mowing lawns. The main focus in his life became his mother and helping her pay the bills. This led to a job at the local hardware shop which involved daily morning (after his 5:30am paper round) and afternoon shifts. The money that Lawrence made helped pay the bills.

Leaving school aged 16 meant a full time job at the hardware shop. But 25 pounds a week wasn't enough to help pay the bills. Lawrence decided to see what else was out there and went to the local job agency. A suggestion of a job in a bank was made, he was told to go see the HR Lady (Mrs Raper)! There were two jobs available, one in the mail room and one in accounts. Lawrence took the job in the mail room which paid 50 pounds a week.

When Lawrence got home he realised that he had no suitable clothes to wear to the Bank, ever helpful, his Mum fixed up his old school shirt and trousers and lent him one of his Dad's favourite ties from 10 years ago. Next was a borrowed jacket from his uncle and his old school shoes were polished (as best they could).

Efficiency and enthusiasm were frowned upon in the mail room. Lawrence was berated by his older co-workers who seemed more intent on drinking copious amounts of coffee and smoking profusely with an aim to be in the pub as soon as possible! Within a few months



Lawrence Topp with his children Samantha and James

Lawrence's first promotion was to become the supervisor of the two old blokes who disliked him for working too hard.

Several years and several promotions later, the expansion of Citibank within the UK led to many opportunities for Lawrence as he moved from London to open a branch in Bristol where he spent a year, then a move to Birmingham for another year, then Manchester for 18 months and finally Edinburgh in Scotland.

Several years later Citibank senior management elected to close all UK branches other than London and in true American way fired all the staff (except for Lawrence) who was transferred back to head office in London. Here he became a relationship manager in the corporate banking section looking after large regional multinational companies that the closed branches left behind.

Now 1989 aged 26 Lawrence was approached by a large British bank with significant Asian representation "Standard Chartered Bank". Initially he was responsible for reviewing and downsizing their UK branch network. Lawrence developed an interest in computers and moved into the technology department - it was then that Lawrence saw the opportunity to build a credit based documentation data base system. Effectively, the system recorded all credit facilities and mapped them to security documentation.

Having implemented this application in all the UK branches and some African countries such as The Gambia, Kenya and Senegal Lawrence, keen to work in Asia, booked himself a holiday to Thailand in 1991 and while there went into the Bangkok branch to demonstrate his computer program to the Head of the Bank.

Thailand asked the Bank in London for Lawrence to be seconded to Bangkok for 6 months to implement

the system and train the staff. Two weeks later he was there! Towards the end of the tour there was coincidentally a meeting of all of the heads of the bank and Board Directors in Bangkok. The Head of Thailand was so impressed with Lawrence's system he was asked to do a presentation to the Directors, this quickly led to a deal which involved the installation of the software in 16 countries in Asia. This software is still used in the bank today and its success led to Lawrence becoming the Manager in charge of Credit Operations in Hong Kong where he lived for 7 years and met his wife Shirley, their daughter Samantha was born in 1997. Lawrence had successfully turned around the performance of his department, and was then promoted to become regional manager throughout the Asia Pacific region consisting of 16 countries in 1995. Lawrence later became Global Head in 1996 with a staff of some 400 people.

In 1997 just after the handover of Hong Kong to China, Lawrence was asked to become the head of the bank's global Y2K Contingency Planning Programme to be based in Singapore, the scope of the role included not only Asia but also Africa the Middle East and the United States. To give you an illustration of the enormity of this task, it involved hundreds of staff and a budget of £182 million or \$450 million Australian. The Y2K program was based in Singapore and after three years work the only glitch that occurred was a single ATM machine in Harare in Zimbabwe.

After Y2K Lawrence was asked to head the bank's Quantum Leap Programme which was, in very simple terms to manage a multi facet programme, the objective of

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feature



Lawrence Topp with wife Shirley

which was to build a entire suite of Cash Management software applications to support our regional Corporate customers allowing us to compete with the big banks such as Citibank. The Board of Directors aim was to increase cash management revenue for the bank from \$400 million US dollars a year to \$800 million US dollars a year.

The Programme entailed a US\$118 million budget, 300 staff and a timetable of 3 years to complete. Based in Singapore, Lawrence was required to travel to India on a weekly basis to oversee the software development which was undertaken by the world's largest consultancy company, Tata Consulting in India. After a few hiccups and some very long hours, the Quantum Leap Programme was completed at the end of 2002 and shortly thereafter, as they had planned 5 years prior, the Topp family moved to Airlie Beach!

Why, you may ask

How then did a high flying international banker end up in a little

Lawrence Topp - From the mail room to the boardroom

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backwater called Airlie Beach? Well the answer lies in one little but very significant incident, in 1997 in Hong Kong, Lawrence was bitten by a mosquito! 10 hours later Lawrence had severe convulsions and passed out on the floor of his apartment. Luckily Shirley was there, Lawrence had contracted Japanese encephalitis which is a mosquito born disease which attacks the lining of your brain, death is most likely, severe permanent brain damage comes next. Lawrence credits Shirley with saving his life as she pushed and pushed in the hospital where he lay unconscious until a specialist diagnosed encephalitis which was then intensively treated and miraculously saw Lawrence wake up in an intensive care unit 2 weeks later.

Bewildered to say the least, Lawrence wondered why he had 4 tubes in his body and what his wife was doing asleep on the floor next to him. After another 4 weeks in hospital the Topp's decided that there was more to life than work and making more money than you need, and created their 5 year exit plan. At age 39 in 2003, Lawrence retired from the bank to begin his and his family's new life together in Australia.

Since moving to Airlie Beach in 2003 Lawrence, Shirley and family have integrated well into the Whitsunday region. Lawrence is

the current chairman of the local Catholic School Board and together with the Principal is pushing hard for a new high school to be built. Apart from that, I notice Lawrence tries very hard to give Shirley the impression that he is actually doing something in between such arduous tasks as overseeing the construction of a new swimming pool and deck, buying some properties and working on a development application for units, cleaning his boat and generally overseeing all activity in the main street of Airlie Beach!

At the end of the day, you simply have to admire what Lawrence has achieved given what has happened in his life. I am sure that his Mum and Dad would be proud and he has clearly shown what can be achieved without a silver spoon in your mouth.



Lawrence Topp with his children Samantha and James

news

Terri-Ann Steel

In 1989 at the ripe old age of 17, Terri-Ann joined Peter Maywald, John Ryan and Bill Cusack as a Receptionist at the law firm of Cusack and Ryan.

By Kylie Davies



This Partnership dissolved in 1991 and Terri-Ann followed John Ryan to Groves and Clark, where her talents were recognised and she started in the world of conveyancing. In 1995 John Ryan and Co was established and Terri-Ann relieved at John Ryan and Co as a Legal Secretary, Office Administration Manager and Payroll Clerk.

Needing a change of scenery, Terri-Ann joined the real estate industry, in office administration and Sales Secretary for L J Hooker in Proserpine. Terri-Ann was offered work by Macrossan & Amiet in Mackay during this time, but was reluctant to make the move south.

After working at L J Hooker for two years, out of the blue Terri-Ann received a call from Andrew Telford. Andrew poached her back to legal

work for Bell Telford Lawyers, who at that stage were based in Proserpine. Terri-Ann relocated with Bell Telford to the Airlie Beach office and Terri-Ann was also part of the package when Telford Lawyers then merged with Macrossan & Amiet in 2004.

Now expecting her first child, she will leave big shoes to fill, and Andrew Telford will struggle to regain the use of his right hand!

While reflecting, having worked in the legal industry in a small town over a period of twenty years, Terri-Ann finds it amusing how secretary staff who used to work for other firms end up working together, and she has formed some close friendships with people in the industry in that time.

Terri-Ann says that perhaps the thing that has changed the most is technology. Gone are the days of electric typewriters and carbon copy forms, with improved technology law firms could now produce documents faster, and can deliver faster on client expectations. Terri-Ann looks forward to enjoying maternity leave and the challenges that parenthood has to offer.

last word



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Government Bonuses & Rebates

With the government out to stimulate the economy, it is a good time to consider which of the government bonuses and rebates you may be eligible for.

By Kylie Davies

There is of course the one off tax refund stimulus payment up to a maximum of \$900.00. Most people who were eligible for their payments would have already received it by now. There is also the Education Tax Refund, which means that eligible parents, carers, legal guardians and independent students could get 50% back on some education expenses. This includes items like computers, educational software, textbooks and stationery.

There's also the small business bonus for businesses that have a turnover of less than \$2 million per year or less. Small businesses will be able to claim a bonus deduction of 30 per cent for eligible capital assets costing \$1000 or more that are acquired under a contract entered into, or started to be constructed, between 13 December 2008 and 30 June 2009 and first used, or installed ready for use, on or before 30 June 2010. All assets must be used principally in Australia for the principal purpose of carrying on a business and meet certain eligibility criteria.

Other businesses can receive the same deductions for eligible assets greater than \$10,000.

For example, A small business that buys and installs a \$2,000 computer before the end of June 2009 can claim an additional \$600 deduction in its 2008-09 tax return and a business that buys and takes possession of a \$60,000 backhoe by the end of June 2009 can claim an additional \$18,000 deduction in its 2008-09 tax return.

Of course, you should discuss your eligibility for these concessions with your accountant, or if you have any general inquiries you should visit www.ato.gov.au or call 132866.

Until next month,
Kylie.

If you have any queries about any of the articles in this newsletter, please feel free to [email mac@macamiet.com.au](mailto:mac@macamiet.com.au) or [phone 4944 0333 \(Mackay\)](tel:0749440333) or [4948 4500 \(Whitsundays\)](tel:0749484500) to speak directly with the author of the article.