

brokerwise

Brought to you by: **Council of Queensland Insurance Brokers Inc**

Welcome to brokerwise

Within the pages of this quarterly newsletter we plan to bring you a variety of interesting stories, opinions and news items.

in this issue

- **Liability Claims**
...new Injury Scale Value system.
- **Small Business**
...not all beer and skittles.
- **1904 Olympic Games**
...will try harder in 2004.
- **Lloyds of London**
...short black anyone?
- **CTP**
...what? again?
- **FSR compliance**
...will benefit clients.

Member:



How much for pain and suffering?

A more standardised way to calculate the dollar value of a person's pain, suffering and loss of amenities of life has been introduced in Queensland with the passing of the new Civil Liability Act 2003 and its accompanying Regulation.

The new methodology promises to bring greater objectivity in what is otherwise a highly subjective area of personal injury litigation.

New Legislation

The new law, which will apply to all injuries sustained after 1 December 2002, seeks to promote consistency between assessments of general damages awarded by courts for similar injuries.

Common law approach

Traditionally, the calculation of general damages has been one of the more contentious issues in personal injury cases. The dilemma arises largely due to the absence of a standardised approach on how general damages are meant to be assessed.

The only consensus among legal practitioners has been that like cases should be decided alike, and in practice, this involved poring through numerous quantum notes to see what judges have awarded for similar injuries.

But what happens when the injuries are not quite comparable? Or what if there are no past cases to compare with at all?

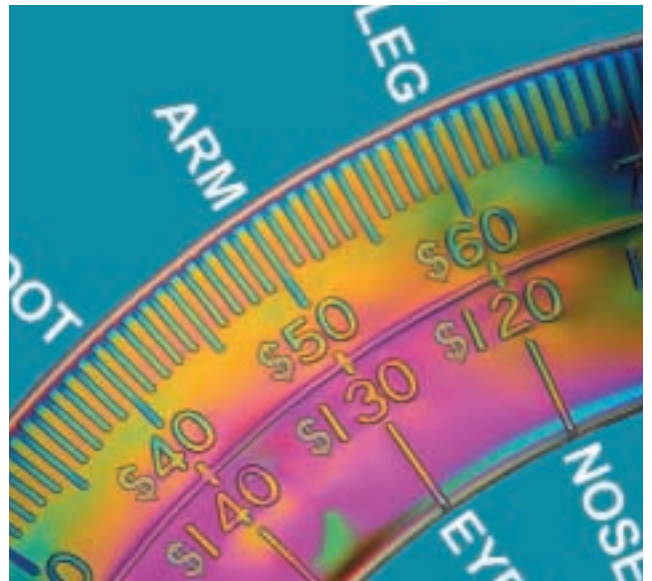
Remember also that people tend to perceive one's level of pain and suffering differently: plaintiffs, in particular, often think that defendants simply do not fully appreciate the extent of their hardship whereas defendants are usually quite adamant that plaintiffs are being overly generous in their assessment.

Injury scale value system


These problems, to a great extent, have been alleviated with the introduction of the Injury Scale Value (ISV) system.

Under this system, a plaintiff's injuries are assigned a numerical value ranging from 0 to 100 according to the severity of the injuries sustained. This range is intended to reflect 100 equal graduations from the most minor to the most severe disabilities.

Each number, or ISV, in turn is allocated a predetermined amount which represents the general damages to which the plaintiff



would be entitled, with the maximum capped at \$250,000. The primary issue, therefore, lies in arriving at the most appropriate ISV for a particular case.

The calculation of general damages under the new regime can be a complicated undertaking, particularly where there are multiple injuries involved or where the injury is psychological or psychiatric in nature. For more information or details of the legislation and its ramifications contact your legal advisor or the Brisbane office of Carter Newell Lawyers who kindly provided us with this article. 

Despatches from the front

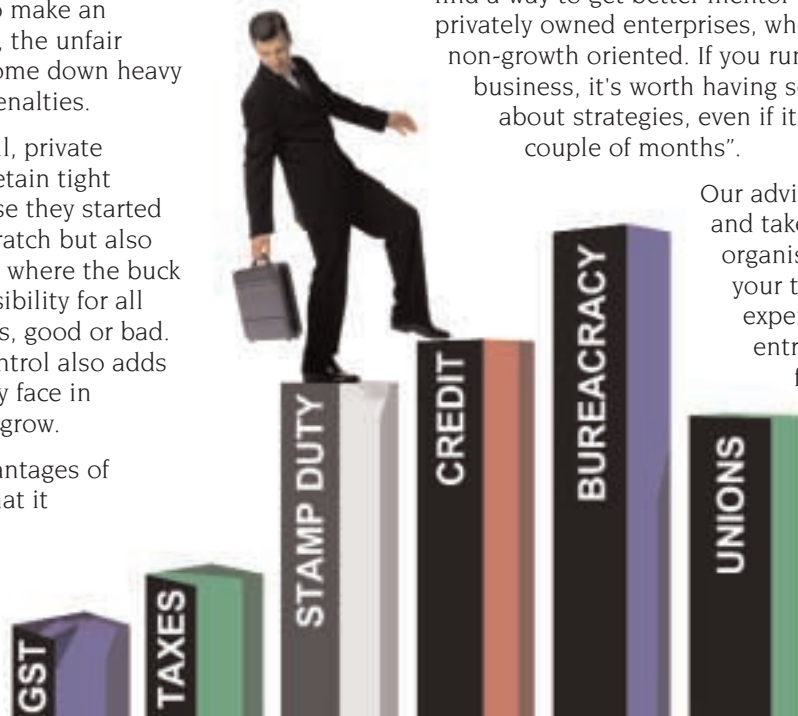
Research by the Business Owner Research Group gives us some insight into what makes small business tick, perhaps our 'small business' clients out there will recognise a trait or two.

Australia has about 1.1 million businesses employing less than 20 people, but half of those businesses don't employ anyone and 80% employ fewer than 5 people. Many of these businesses don't employ people because they are small operations running from home.

The fact that half of our small businesses don't employ is perhaps a reflection that the task of providing employment is made too hard. Smaller enterprises don't have the infrastructure to manage complex employment issues, and, particularly when they get a little larger, if they do make an employment mistake, the unfair dismissal laws can come down heavy and impose severe penalties.

Most owners of small, private businesses want to retain tight control, partly because they started the business from scratch but also because with them is where the buck stops – 100% responsibility for all actions and outcomes, good or bad. The need for tight control also adds to the difficulties they face in making the business grow.

One of the great advantages of a large company is that it can afford to employ people to review strategies for the five year plan, while many smaller operators usually find it hard to even



devote time to plot business direction for the quarter.

So we have an enormous number of enterprises, 1.1 million small businesses, facing constant challenge. How do they adapt? How do they survive? Who do they turn to for advice?

The answer to the first two questions is anybody's guess; the answer to the third is that the advice received is mostly ad hoc. Consulting is often via conversations with their peers who run similar businesses.

A well-known finance and business commentator recently made this observation: "We would have a far stronger business community in Australia if we could find a way to get better mentor advice to smaller privately owned enterprises, whether they are growth or non-growth oriented. If you run a privately owned business, it's worth having some one to talk to about strategies, even if it's only once every couple of months".

Our advice? Be a joiner. Seek out and take membership in organisations that represent your trade or industry. Share experiences with fellow entrepreneurs, enjoy the fellowship and camaraderie. You'll probably find your social life and your golf will also improve and the new balance in your life will put the hard slog of running a small business into perspective. 🐻

CTP ...same tune, new words

In previous issues we brought news of changes to conditional registration legislation as it relates to Compulsory Third Party on a range of vehicles. To recap, it's now a legal requirement that vehicles requiring access to roads and public places such as car parks to fulfil operational and/or recreational tasks must have conditional registration even though they may have previously been exempt or unable to be registered. Affected vehicles would include excavators, forklifts, bobcats, ride-on mowers, golf buggies, off road quads, motorcycles, etc.

But before handing over your cash to Old Transport, think again... by complying with this legislation you may affect the conditions of your insurance cover. And that's because conditional registration provides Compulsory Third Party (CTP) insurance for personal injury but it does not include property damage.

Your public liability policy may exclude "property damage caused by any vehicle which is registered or which is required under any legislation to be registered". This means you could find yourself exposed for the cost of any property damage caused by any of these vehicles whilst on a road.

Once a vehicle is conditionally registered it should be treated the same as any other registered vehicle and insured by a motor vehicle insurance policy.

In summary, if you have vehicles that fit the description, carefully consider the ramifications of conditional registration and call us for advice or to arrange any necessary motor vehicle insurance cover.

Further information regarding conditional registration is available from the Queensland Government website www.transport.qld.gov.au or by phone on 13 2380. 🐻

Steeped in history

Lloyds of London, today's mighty insurance giant began around 1688 in Lloyd's coffee shop in Tower Street in the City of London where wealthy merchants and ship-owners would meet. Shop owner, Edward Lloyd, was not involved in insurance but provided premises, reliable shipping news and other services for his clientele to do business. The merchants would engage brokers who would take a contract to cover a ship and cargo from one wealthy merchant or businessman to another seeking pledges for part of the risk until the contract was fully subscribed. The names of those taking the pledge, and the risk, were written under the details of the voyage. Hence the term "Underwriter" was born.

It was important for the brokers to only select people wealthy enough to be able to meet their full share in the event of the loss of ship and cargo.

Around 1769 when Lloyds became formally organised, the permanent underwriters, who had become known as "names" were required to pledge their entire personal wealth. These days the "names" are linked with other "names" to form syndicates.

Originally run by a committee, Lloyds became so important and was such a unique business structure that in 1871 the Lloyds Act was passed which confirmed the legality of its structure and ability to make by-laws, own property and the like.

Lloyds has the ability to make "calls" on the "names" for further contribution of funds when there is a shortfall by the particular syndicate and this has indeed occurred in recent times. The calls reportedly had considerable financial ramifications for some "names" (including some in Australia) and led to an investigation into the competence of the managers of some of the syndicates and changes to the financial and operational structure of Lloyds.



An interior view of the imposing Lloyds headquarters, completed in 1984 at a cost of 163 million pounds sterling.

There are now Corporate Members including insurance and reinsurance companies among others who provide additional capital and the syndicates can now include Corporate Members as well the "names".

The syndicates are individual business units run by managing agents who control an underwriting team who accept risk on their behalf.

The only access to the Lloyds Market is through an accredited Lloyds Broker. Many insurance brokers from around the world gain access to this important source of insurance by dealing through these accredited brokers.

Today Lloyds is still a vital and flourishing insurance market, writing many hazardous and unusual risks including Space Launches, Offshore Oil Rigs and Nuclear Power Stations. 🇬🇧

Five ring circus

In a few months time all eyes will be upon Athens, Greece as the city presents to the world the 2004 Olympic Games. No doubt everyone hopes it will be a great success but officials and organisers would be wise to learn from the lessons of history.

One hundred years ago the 1904 Olympic Games were held in St. Louis, Missouri and history records that these games were probably the least efficiently organised ever. Apparently, the games coincided with the World Fair and in many peoples' minds the two events became confused resulting in very poor attendance at the Games.

The spirit of the Olympic competition was marred by tacking on a curious anthropological sideshow in which "Patagonians, Filipinos, Ainus (indigenous Japanese) Mexican Coropos (dwarfs) and pygmies performed a parody athletic meeting". A pygmy summoning all of his strength managed to heave the shot exactly three metres!

Felix Carvagal, a Cuban postman, turned up to run in the marathon in his night shirt. Despite stopping en route to chat and joke with the spectators and stealing some fruit from a nearby orchard, he still placed fourth. Two South African entrants (part of the anthropological sideshow and not registered entrants in the marathon) ended up two miles off course having been chased by wild dogs... but

still ran ninth and twelfth.

American Henry Hillman ran the 400 metres hurdles in record time of 53 seconds but was told he could not claim the record as he had knocked over the last hurdle. Hillman was quick to point out that it could never be a record anyway as the hurdles were 30 inches (760 mm) high - the regulation height being 36 inches (914mm)

Perhaps the worst of the official blunders occurred at the start of the 200 metres men's race. The starter fired his gun three times and three times someone prematurely broke ranks. The judge very angrily told the competitors that if they couldn't all make a decent clean start he would punish them by giving them an extra metre to run. The competitors found themselves lined up for a new start one metre behind the start line. The American winner, Archie Hahn, can claim to be the holder of a unique Olympic record: the 201 metres. He ran it in 21.6 seconds!

In the end, the St. Louis Olympics proved to be such a disaster that in 1906 the Olympic Committee was forced to hold interim Games in Athens in an attempt to revive the flagging movement. These games were not numbered but were attended by twenty countries and the Olympics were back on course to success. 🇬🇧

Financial Services Reform



In previous Brokerwise issues, we brought you news that all Insurance Brokers will need to be licensed under the Financial Services Reform Act by 11 March 2004.

Under the strict new regulations brokers are required to meet stringent business management protocols and provide comprehensive disclosure documents to "Retail Clients" in respect of "Retail Products" namely Home Building, Home Contents, Motor Vehicles, Personal & Domestic Property including Pleasurecraft and Caravans, Personal Accident & Sickness, Travel and Consumer Credit Insurance policies.

If you are a Retail Client, i.e. Personal Lines client, or a business with less than 20 employees (or less than 100 employees if engaged in manufacturing), you will receive from us a Financial Services Guide which is a guide to our relationship with you and others.

Each time we provide a Retail Client with a quotation or take out, renew or amend one of the prescribed products we will provide you with our Statement of Advice and a Product Disclosure Statement from the relevant Insurance Company.

The new regulations require brokers to provide this information so that clients can be fully informed before proceeding with the broker or going ahead with the particular policy the broker recommends.

Brokers will have their procedures audited by the Australian Securities and Investments Commission on a regular basis to ensure compliance and they will need to be able to prove they have adequate capital and resources to ensure continuity of their business so that clients will be protected at all times.

All our staff must meet certain training and continuing professional development standards which will undoubtedly enhance our professionalism and the quality of the advice and assistance we provide while managing your insurance. 🐻

Be sure ...before you insure!...ask your Council of Queensland Insurance Broker about...

COMMERCIAL AND RETAIL INSURANCE

- Business Property
- Business Interruption and Loss of Rent
- Liability, Money, Glass Breakage
- Burglary
- Machinery Breakdown
- Computer
- Goods in Transit
- Contractors Risk
- Motor
- Tax Probe

LIABILITY

- Public Liability
- Products Liability
- Professional Indemnity
- Directors and Officers
- Employment Practices Liability

PRIVATE AND DOMESTIC INSURANCE

- Home and Contents
- Car, Caravan, Boat and Trailer
- Travel

INCOME PROTECTION INSURANCE

- Long Term Disability
- Sickness and Accident

LIFE, SUPERANNUATION, PARTNERSHIP

- Mortgage Protection
- Key Man
- Term Life
- Superannuation



The CQIB represents over 50 Queensland firms employing nearly 400 staff and placing \$400,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.

For more information visit www.cqib.org.au

Acknowledgements

Our thanks for contributions and support to:

Carter Newell Lawyers

wisewords ... on Money

Finance is the art of passing money from hand to hand until it finally disappears.

Robert W. Sarnoff

Save a little money each month and at the end of the year you'll be surprised at how little you have.

Ernest Haskins

No matter how rich you become, how famous or powerful, when you die the size of your funeral will still pretty much depend on the weather.

Michael Pritchard

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