

# The Universal Declaration of Human Rights Sign up for the rights of us all

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*Universal human rights as a concept, as a principle of jurisprudence, as a code of conduct governing nations and all organs of society will be 50 years old on December 10.*

The atrocities of the Second World War committed against combatant and civilian alike were the principal motivation behind the proclamation of the Universal Declaration of Human Rights (UDHR) on December 10 1948. This famous declaration laid down the rights and fundamental freedoms for all without distinction as to race, gender, language or religion.

In essence the struggle for human rights is nothing more or less than the struggle for human dignity. Given the overwhelming public commitments to human rights made by both governments and business, it might be difficult to see the need for a campaign to sign up to the UDHR 50 years on. However, the original horrors and violations out of which the UDHR was forged have given way to oth-

ers which cry out for a world wide reaffirmation of our commitment to these basic human values. While the ovens of Auschwitz and Buchenwald gave us the Universal Declaration of Human Rights, the need for such a Declaration has been emphasised again and again in the killing fields of Cambodia & Bosnia; in the jungles of Rwanda and the hills of Afghanistan; on the campuses of Jakarta and Beijing and in the gaols of the USA, Russia and Japan.

Equally, the values of equality, security, safety, respect and tolerance need clear reaffirmation in contemporary Australia.

Therefore to both celebrate the 50th anniversary of the UDHR and to provide an opportunity for all Australians to show their commitment to basic human rights, Amnesty International is organising a world wide campaign to collect 10 million signatures in support of the UDHR. These will be presented to UN Secretary General Kofi Annan in Paris on Human Rights Day,

10 December 1998. On that day one million people will march in support of the UDHR. Hopefully this will send a clear message that there is a global constituency for basic human rights

So far many thousands of Australians from the fields of government, arts entertainment, sport and business have signed up for the UDHR. Here is your opportunity to show that lawyers and indeed the whole legal community is prepared to raise their voice for these basic rights.

Please sign the enclosed UDHR pledge sheet and return it as soon as possible. If you require further information about this or any other Amnesty campaigns please contact myself or the Amnesty Office in your state. ■

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## Occupational safety and health laws and passive smoking

The Hon Graham Kierath, MLA, Perth

*The issue of passive smoking at work became the focus of much media attention and public debate in Western Australia in July 1997, when the State Government moved to restrict smoking in enclosed workplaces.*

New regulations, the *Occupational Safety and Health Regulations Amendment Regulations (No 2) 1997*, were published with a date of effect of 1 August 1998 - to allow industry time to prepare for their implementation.

These regulations, generally referred

to as the Protection from Tobacco Smoke Regulations, address smoking in enclosed workplaces (ie those having walls and a ceiling or roof) by:

- prohibiting smoking by employers, employees and self-employed persons in enclosed workplaces
- providing for designated smoking areas - an area with an effective exhaust system and from which smoke cannot enter any other part of the workplace

- prohibiting an employer from requiring an employee to work in a designated smoking area when a person is smoking; and
- setting a time for action.

The regulations set the standard of behaviour of particular parties at workplaces. Visitors to workplaces will be prevented from smoking in either than designated areas through the duty of care obligations placed on employers and people who control workplaces, under the

*Occupational Safety and Health Act 1984.*

The employer's duty, for example, requires an employer to "so far as is practicable, provide and maintain a working environment in which his employees are not exposed to hazards". A hazard is defined as "anything that may result in - (a) injury to the person; or (b) harm to the health of the person".

#### The Hazard

There is an increasing body of compelling medical and scientific evidence regarding the adverse health effects of exposure to environmental tobacco smoke (ETS). They include increased risk of lung cancer, cardiovascular disease and other respiratory illness. It is clear from this evidence that work-related exposures to ETS would constitute a hazard to employee health. This is particularly the case in the hospitality industry where evidence suggests employees in some areas are likely to experience up to 4.4 times the exposure to ETS than that of individuals with only domestic exposure to ETS.

Employees, unlike persons in a recreational context, have little choice on

whether they enter an environment where ETS is present. The only protection for these employees, short of quitting their job, is through the law.

Many workplaces have done the right thing and become smoke-free. Even in the hospitality industry, where much is said about the potential for economic loss, an increasing number of smoke-free venues is being established, including restaurants, clubs and bars. One nightclub in Perth has been smoke-free for over three years, and provides a separately ventilated smoking room which employees do not enter while patrons are smoking.

These employers who are doing the right thing are clearly demonstrating that it is practicable to ensure employees are not exposed to the hazards of ETS.

#### Latest Developments

The public debate in Western Australia is far from over. Cabinet has announced its intention to defer implementation of the Protection from Tobacco Smoke Regulations to 1 January 1999, to enable regulations to be introduced under the *Health Act 1911* to prohibit

smoking in most enclosed public places. Such legislation will provide protection beyond that under occupational safety and health laws, as it will also apply to non-workplaces. While the proposed legislation will in many respects be complementary to occupational safety and health laws, public debate continues over the potential interaction of the new regulations with the Protection from Tobacco Smoke Regulations, given an intention to exempt some sectors of the hospitality industry from the public health laws. Nevertheless, the general duty of care provisions of the *Occupational Safety and Health Act 1984* still apply.

The duties under the Occupational Safety and Health Act 1984, together with established common law rights of employees, create a legal environment in which employers need to be concerned about their legal liabilities should they expose employees to the known hazard of ETS. ■

**The Hon Graham Kierath**, MLA, is the Minister for Labour Relations in the Government of Western Australia.

## ORTHOPAEDIC MEDICO-LEGAL ASSESSMENTS

### DR R. L. THOMSON & ASSOCIATES

Most personal injuries are orthopaedic in nature and our Practice has three Consultant Orthopaedic Surgeons and one Consultant General Surgeon.

The Practice also handles medical negligence/malpractice cases and Dr Thomson is a professional member of APLA, and also a member of the Medical Negligence/Malpractice Special Interest Group of APLA.

The rooms are located at 3 Bruce Street, Crows Nest, Sydney, close to major railway stations, with ample car parking also nearby, and there are also regular attendances at Parramatta, Newcastle and Wollongong.

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**PHONE (02) 9959 5004** ENQUIRIES DR RON THOMSON - MEDICAL DIRECTOR **FAX (02) 9929 4592**

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