



P.M. Lee & Co Newsletter

Property & Business Lawyers
Celebrating 30 years of practice in 2015



Welcome

to the December 2014 edition of our Newsletter for business owners and investors. It has been an exciting year at PM Lee & Co. We moved to larger, modern offices at Stones Corner. [Click here](#) for our new contact details.

In this edition we look at the changes to property contracts, consider what businesses think about the Personal Property and Securities Act and Employment Law changes that may affect you. We also look at the importance of Wills and Estate Planning.

I wish all clients and colleagues a safe and enjoyable festive season and we look forward to working with you all in 2015.

Regards, Peter

**SPECIAL
OFFER**

Are you owed money?

Make 2015 the year to collect unpaid debts

Recovering debts can be arduous and frustrating. We can make the process simpler and offer our debt recovery service on a fixed fee basis*:

- \$195.00 to review documents and issue a letter of demand to the debtor
- \$295.00 (plus a court filing fee) for preparation of a claim and statement of claim.

Our team have many years of experience and obtained excellent results on behalf of clients in the recovery of outstanding debts. For further details about this offer call us or [click here](#). Terms and Condition apply.

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Changes to:

- Property Agents and Motor Dealers Act 2000(PAMDA)
- Off the plan contracts

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Employment law changes

What do you know about the Personal Property Security Act?

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Wills and Estate

Feedback





Property Occupations Act 2014 replaces PAMDA

New legislation came into effect on **1 December 2014** to deal with property transactions in Queensland will have major implications on the sale process of residential property and the licensing of agents. Some of the changes include:

Appointment of agent:

- The appointment process will be simplified by the use of one approved form;
- Removal of the need to state the end date in a continuing appointment;
- Removal of the requirement for agents to bring client's attention to particular information in the approved form;
- The limit on the length of an appointment for a sole or exclusive agency will be extended from 60 days to 90 days.

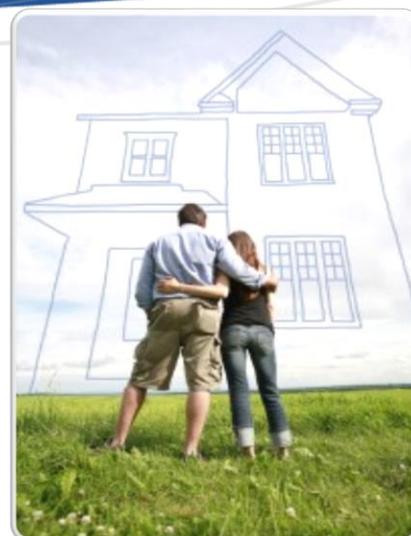
Commission and sale price:

- The maximum commission payable will be deregulated;
- Agents will not need to disclose the commission that they are receiving from the seller to the buyer;
- Agents will be allowed to disclose that a reserve price has been set for residential property proposed for auction but not the reserve price.
- Real estate agents and auctioneers cannot disclose the price guide in relation to a residential property to be sold by auction.

Contract:

- Removal of PAMDA form 30c Warning Statement and form 14 Body Corporate information sheet with a simpler requirement for a prescribed statement to be included where the buyer signs.
- No longer be a right to terminate for failure to include the new warning statement, however, the seller or agent will have committed an offence (punishable by a maximum of 200 penalty points).
- Seller no longer needs to provide notice to a buyer that the use of land for residential purposes is unlawful.
- The PAMDA Form 32a Lawyer's Certifications will no longer be required to waive a cooling-off period. Instead, a buyer will be able to waive or shorten the cooling-off period by written notice to the seller.

PM Lee & Co are able to assist you with any questions you have about these changes.



New laws for off the plan contracts

In an effort to reduce red tape for the sale of off-the-plan lots, on **1 December 2014** the *Land Sales Act 1984* (Qld) (LSA) was amended. The key changes mean:

- 20% deposits allowed
- The LSA will no longer apply to strata lots, instead developers will mainly refer to the *Body Corporate and Community Act 1997*
- Developers can nominate a 5.5 year sunset date for settlement.
- No longer necessary to give the balance disclosure required under the LSA (such as addresses for the Buyer and Seller)
- The buyer will have 21 days after receipt of a further statement to terminate the contract if they are materially prejudiced.

Please contact us if you are buying or selling property or would like to find out more about these changes

Employment Law Changes in 2014

Our employment lawyer, Graham Knight, reviews employment law changes in 2014 and the effect on business owners

1. Bullying

In January 2014 the Fair Work Commission (FWC) commenced exercising its jurisdiction to make orders to stop bullying in the workplace. The Commission can make orders if the employee has been subject to repeated unreasonable behavior which creates a risk to health and safety. The protections will cover workers including:

- Employees;
- Contractors and sub-contractors;
- Outworkers;
- Apprentices and trainees;
- Work experience students; and
- volunteers

What does this mean for employers?

- an employee who believes he or she is being bullied will be able to bypass their employer and lodge a claim with the FWC;
- ensure their business has an up to date and relevant workplace policy;
- Encourage employees who believe they have been bullied to approach a manager within the business first;
- Train managers to understand their responsibilities when they receive a bullying complaint.

Contact us for more information on how to respond and prevent workplace bullying.

2. Implied trust and confidence

In September 2014 the High Court of Australia rejected the principal that a mutual duty of trust and confidence is implied into all employment contracts. The High Court commented that the inclusion of such a term into employment contracts involved a range of complex policy considerations and, for that reason, the question was a matter more appropriate for the legislature than the courts.

What does this mean for employers?

- Provides certainty for employers and they do not owe employees a duty of trust and confidence unless this is expressly provided for in the employment contract
- Employers should continue to act consistently with their contracts, policies and procedures.

Confused by the *Personal Property Security Act 2009 (Cth) (PPSA)*?

The PPSA deals with the important area of creating, recording and the prioritisation of charges on personal property, such as business equipment and even leases. So why are small businesses so confused by it? The government has recently reviewed this legislation and identified that small businesses:

- have a low level of awareness and understanding of the PPSA and were confused about the operation of the PPS register; and
- consider the legislation as complex and problematic and do not understand the extent that PPS can impact upon them.

We are concerned that small businesses do not realise how they are impacted in the event a registration is made against their business assets, or if the registered party decide to take that asset over. If you're a small business and are confused, give us a call so we can determine how the PPSA affects you and ensure your assets are protected.

One big happy family – how to avoid estate disputes

The thought of your family members embroiled in a dispute about your estate might make you turn in your grave.... but there are ways to avoid a dispute after you pass away:

- Make sure you have a Will and it properly witnessed
- Ensure your Will states your intentions and review your Will regularly
- Consider all your assets, including those you hold personally, jointly, in a trust or superannuation fund, in Australia and abroad.
- Deal with gifts given to people in your lifetime and loans. Do they need to be repaid?
- Detail how you would like personal items, particularly ones of sentimental value, to be divided.

We can help you arrange your estate to minimise estate dispute and protect your family assets. Please contact us to see how we can help.

What our client's say about us

We have the pleasure of working with business owners and people in our community who are energetic, optimistic, who appreciate our efforts and can see the value in our approach. In 2014 we helped our clients with the sale of their businesses and property, advised on franchise agreements, overcame disputes, recovered debts and provided estate planning. An indication of how satisfied our clients are with our service is that a large proportion of our growth comes from referrals by our existing clients. Thank you.

What our client said in 2014

"I valued the high level of service and professionalism afforded by all with whom I had dealings throughout the process of purchasing a commercial property. Peter Lee took great trouble explaining legal matters and their attention to detail was impressive." **A White**

"PM Lee & Co acted for us on a number of commercial leasing matters. Their expertise and professionalism has helped us as property owners to ensure that we are fully protected." **F. Otto**

ABOUT P.M. LEE & Co.



Peter Lee

PM. Lee & Co. are specialists in property law, business and franchise law, estate planning and litigation. Since 1985 we have provided legal services to some of Brisbane's largest corporations, small and medium business and valued individuals. Our firm has built a solid reputation as experts in property law, body corporate and leasing, franchise law, business transfer, taxation as well as acquisition and conveyancing.



Graham Knight

Our firm is also well known in commercial litigation, debt recovery and family law.

Estate planning is essential for everyone with a family, or assets. Clients have trusted P.M. Lee & Co. for their sound advice in wills, power of attorney and family trusts.



Melanie Cule

We believe in providing professional, quality legal advice at reasonable rates. Please contact us to see how we can help you.