

SOLARI & STOCK

LAWYERS



2022 YEAR IN REVIEW

Welcome to our end of year client newsletter. Another year has passed so quickly again, and we find ourselves heading into Christmas wondering where 2022 went! We trust that you and your family have a happy and safe Christmas, with time to relax and catch up with your family and friends.

We have selected a number of articles written by our Solari and Stock lawyers, which may be of interest during this Christmas and new year season. If you would like to discuss any of these articles further, or require an appointment with one of our Team, please contact us on 8525 2700 or send an email to law@solariandstock.com.au

This year, our office will be closing for the Christmas break at 1pm on Thursday 22nd December 2022, and will reopen on Monday 9th January 2023 at 9am. Please note, our phones will not be manned during this time; however, you can send us an email at any time and we will respond to you on our return.

This year we have welcomed **4** new staff members to our Team, our new receptionist - Tia Lee, our new Legal Secretary - Tracey Sloane, our new Commercial Solicitor - Judy Wong and our new Family Law Solicitor - Shweta Kumar. We will be introducing each of our new team members over the next few newsletters and online.

MEET THE TEAM - JUDY WONG

For this newsletter we would like to introduce Judy Wong, Judy joins us as a Commercial Solicitor with a variety of experience in the legal industry, commencing her legal career in 2015. After gaining thorough experience in the ACT, she took on a role as a Paralegal/Solicitor in training with a Sydney law firm, before completing her Juris Doctor in 2017.

Judy completed her Graduate Diploma of Legal Practice in 2019, and began practicing as a Solicitor in 2021, focusing her experience on residential and business contracts, leasing and conveyancing. She has also acted for finance companies in both commercial and civil litigation matters; as well as working within the boundaries of contract law, employment law and insurance law.

Judy joined Solari and Stock in July 2022 as a member of the Commercial Law Team, and will focus on commercial and residential conveyancing, commercial/industrial/retail leasing and other commercial matters. We trust you will continue to welcome Judy into the Solari and Stock Team.



Our team of experienced lawyers can provide you with expert legal advice for all your legal needs including

- Business & Commercial Law
- Leases – Commercial, Industrial
- Sale & Purchase of Businesses
- Litigation
- Franchising
- Environmental & Local Government Law
- Family Law
- Property & Parenting Settlements
- Divorce
- De Facto Relationships
- Spouse Maintenance
- Child Support
- Estate Planning
- Wills, Powers of Attorney & Enduring Guardianships
- Deceased Estates
- Property Law & Conveyancing

HO HO HO – WISHING YOU A SHARING CHRISTMAS – TIPS FOR SEPARATED PARENTS

Christmas is a time to be jolly and merry. It is a time when families come together and share the magic and create memories. It can be a difficult time for children whose parents are separated. So many thoughts could be running through their mind, and they are likely to be feeling emotional and conflicted. It is given that both parents would want to spend time with their child/ren during Christmas. Things can be made easier if the parents are willing to think about what is best for their child/ren.

Here are some tips to ensure your Christmas is happy and merry:

1. Communicate with the other parent and find out each other's plans for Christmas. Does either parent follow special traditions that you would like your child/ren to be involved in? Try to start these discussions as early as possible. It is a special time and parties can become sensitive and emotional wanting their child/ren to spend it with them. If you start the communication early, it will allow time for you to think clearly and for any disagreements to calm down.
2. Talk to your child/ren. It is equally important that you talk to your child/ren and find out what they want to do for Christmas. Do they have any specific wishes? Do they want to spend Christmas with one parent and Boxing Day with the other? Listen to what they have to say and try to find out why. Respect their wishes and let them know that whatever they decide, Santa will know where to drop the presents!
3. Be prepared to compromise. If you both want to spend Christmas Day with your child/ren or if your child/ren wants to spend Christmas Day with both of you, then it might help to share Christmas Day so that one parent spends time with the child/ren from Christmas Eve to around midday or 1pm on Christmas Day and then the other parent spends time from midday or 1pm on Christmas Day until end of Boxing Day. If this is the case, consider the amount of travel that will be required - is it practical or will your child/ren be spending too much time travelling? If the answer is yes, then a compromise may need to be made that involves one parent not spending time on Christmas Day. Work out an arrangement that suits everyone and that allows you all to enjoy the special day, but most importantly your child/ren.
4. Stand united. Once an agreement has been reached, explain it to your child/ren together

in a positive way and let them know that you are both happy with the arrangement and make sure they are too. Try to make the transition between the households as smooth and happy as possible.

5. It is ok to feel emotional. As parents you want to ensure you put your child/ren's best interests first and foremost and you want the environment to be positive and cheerful. It is understandable that you might be lonely and sad after changeover. Make sure you have organised plans with family and friends and have plenty of things to do during the festive season. Try to keep yourself busy.



Article written by Shweta Kumar | Photo by Emma Leigh on Unsplash

WHY AND WHEN SHOULD YOU UPDATE YOUR WILL AND ESTATE PLAN?

Signing your Will is not a "one and done" event. It requires regular review and updating as your circumstances change.

Key events that should trigger a review may include:

- If you get married, enter into a de facto relationship or divorce
- If your assets change, for example, by an inheritance received or property or assets purchased or disposed of
- When there is the birth of a child or when children named in your Will attaining the age of majority
- If there are changes to your wider family that may impact on the gifts in your Will
- If key people named in your Will die or are unable to act for you.

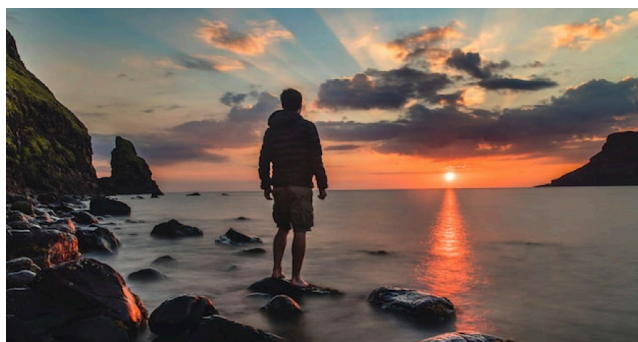
There may be many other situations that would warrant a review of your Will. My general advice to my clients is to have a look at your Will at least once each year, say at Christmas time, to check that you are still happy with all the terms.

When you review your Will, you should also take a look at your wider estate plan. An effective estate

plan means that all of your assets pass to your intended beneficiaries, including those which cannot or will not be transferred under your Will.

You need to consider for example, assets held in a superannuation fund, a family trust or a company. It may be necessary to complete other documents such as trust deeds and binding death nomination to ensure that your assets are appropriately dealt with and that every part of your estate plan works together. In some circumstances, what may seem like a minor change to a Will can actually revoke or invalidate other documents that are in place. Therefore, it is important that you seek appropriate advice.

In addition to reviewing your Will, consideration should also be given to Powers of Attorney and Appointment of Enduring Guardians. Both documents are an important part of an effective estate plan and are not reserved for the old or infirm.



Article written by Rebecca Exley | Photo by Joshua Earle on Unsplash

ARE YOU LOOKING TO START A BUSINESS?

Starting your own business is an exciting time, but it is important to understand the different business structures before you decide which one is right for your business. The business structure can have implications on your tax obligations, potential personal liability, and ongoing costs.

The different types of business structures include:

Sole Trader: A sole trader business structure is simple and relatively inexpensive to set up that gives you full control of your own business. This is attractive for many individuals starting a business. As a sole trader, you declare your business and tax affairs as part of your individual tax return lodgement. However, you will be solely responsible for any business debts, which makes you personally liable and puts your personal assets at risk.

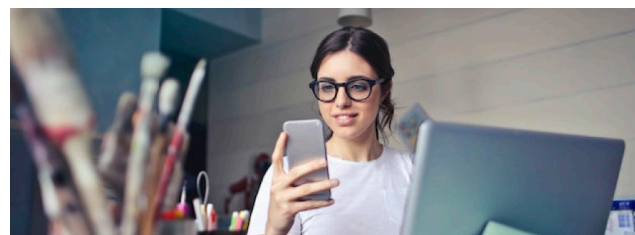
Company: A company business structure is more complex with additional reporting requirements and involves higher setup and running costs. The company business operations are run by the directors and owned by the shareholders. A

company is a separate legal entity from you, which means you are not liable for the company's debt in your capacity as a member. However, if you are a company director, you should be aware of your duties and reporting obligations as you can be held personally liable for breach of your legal obligations. A company pays tax at the company rate and is required to lodge an annual company tax return.

Partnership: A partnership is made up of 2 or more people or entities and is relatively easy with low costs to set up. You may choose a general partnership where all partners are equal owners, and each has unlimited liability for the debts and obligations of the business. This means that if the partnership cannot meet its debts, the other partners will be responsible for that partner's share of the partnership debts. If you want to split ownership in another way, a limited partnership is where the partner's liability is limited to the amount of contribution made and do not play any role in the management of the business. Another type of partnership is an incorporated limited partnership. Here, the partners can have limited liability, but is made up with at least one general partner with unlimited liability and can become personally liable for the debts of the business. In a partnership, each partner pays tax on their portion of the net income each receives.

Trust: A trust structure is more expensive and complicated to set up. A trust is where a trustee carries on the business for the benefit of the trust's members, who are the beneficiaries. A trustee is responsible for the business operations, income and losses, and can be a person or a company. A formal trust deed is required outlining how the trust will operate and the trustee decides how the profits of the business are distributed to the beneficiaries. A trust is used to protect the business assets for the beneficiaries, but it can be difficult to change or dissolve once established. The trust must have its own tax file number to lodge its annual tax return, but whether the trust is liable to pay tax depends on the wording of the trust deed and is determined by any income the trust earns that is distributed to its beneficiaries.

As you can see, there are different options to set up your business. At Solari & Stock we can help you understand the key differences and find the right business structure for you.



Article written by Judy Wong | Photo by Bruce Mars on Unsplash

UPDATE TO COERCIVE CONTROL LAWS

The tragic deaths of Hannah Clarke and her children and the death of Dr Preethi Reddy put the spotlight on domestic violence and we as a country grieved with their loved ones. These are not isolated cases and there are many tragic incidents happening every day.

On 12 October 2022, the NSW Government introduced a bill into Parliament to create a standalone criminal offence of coercive control towards current and former intimate partners. This bill is backed by \$5.6 million in initial funding for education, training and awareness. Attorney-General Mark Speakman said "the Crimes Legislation Amendment (Coercive Control) Bill 2022 delivers on the NSW Government's commitment to support NSW women, victim-survivors of domestic violence and frontline services by outlawing coercive control."

The offence of coercive control will carry a maximum sentence of seven years in jail and consists of five elements to be proved beyond reasonable doubt:

1. "An adult engages in a course of conduct repeatedly and continuously.
2. The course of conduct is 'abusive behaviour' that involves violence, threats or intimidation; and/or coercion or control of the person against whom the behaviour is directed.
3. The accused intends the course of conduct to coerce or control the other person.
4. A reasonable person would consider that the course of conduct would be likely to cause:
 - a. the other person fear that violence will be used against them: or
 - b. a serious adverse impact on their capacity to engage in some or all of the other person's ordinary day to day activities.
5. The course of conduct is directed at a current or former intimate partner."

An important part of the offence is point 3 above. To avoid the offence being used as a weapon against and being misapplied to victim-survivors themselves, the bar has been set high and the offender must have had intention.

NSW has recognised this abusive pattern of behaviour and by introducing this bill they have heard the victim-survivors and support them.

A further \$4.9 million has also been announced to support coercive control training for police, funding for multiple awareness campaigns and educational resources.

NSW will be the first Australian state or territory to have a dedicated offence for coercive control once the bill is passed. The Government has advised that once the bill is passed, there will be between 14 and 19 months of training, resourcing, education and community awareness raising before the law commences.



Article written by Shweta Kumar | Photo by Christin Noelle on Unsplash



The following members of the Solari and Stock Team who are celebrating their work anniversaries. Thank you for your continued enthusiasm and for being such valued members of our team!

Helen Newton - 8 years in September
Vicki DeBonis - 9 years in October
Kerrie Reynolds - 6 years in October
Nicole Quirk - 5 years in November
Kirstin Attard - 1 year in November

These articles are for the benefit of our clients and business associates. The document is not intended to be a definitive analysis of legislation or professional advice. You should take advice before any course of action is pursued. Did you find this newsletter useful? If yes, please feel free to forward it onto a business colleague or friend.

SOLARI & STOCK

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