



# Godfreys Law

Welcome to our newsletter specifically **for business**.

When you are busy it is easy to concentrate on what you are good at, and doing the work – but never lose focus on those other vital parts of being in business. Protecting your personal assets from business risk is always important; and checking terms of trade of those you deal with and your own, is important – don't overlook these basic things.

There are articles on these topics in this newsletter as well as an update on health and safety reform. As always, if you have specific queries and concerns it is best to take specific advice on your situation rather than rely on these general comments – we are here to help!

**Phil Sewell and Brad McDonald – business partners at Godfreys Law**

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## **Immigration Services**

We introduced Janelle Liu to you all in our Autumn Newsletter. Janelle is our staff solicitor who has a particular interest and expertise in Immigration Law. Janelle has undertaken further training in this area and has been helping a number of clients work through obtaining or renewing the many varied visas that are available.

- work visas      - residency status      - student visas      -      new      entrepreneur      work      visa

Janelle can assist with the intricacies of formulating an appropriate strategy to meet Immigration New Zealand's criteria.

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## **So you have a trust – but when did you last review everything?**

We encourage people in businesses or professions to use a trust. This is to protect personal assets from business risk and is an additional tool to the usual mitigating measures such as trading prudently, keeping proper financial accounts and trading (where possible) as a limited liability company.

Many of our clients do have personal assets in trusts, but many of them ignore their trust unless they are obliged to, for example, when dealing with the bank, accountant or lawyer. As a result, many of the procedures, reviews and paperwork are not as good as they should be and often are quite out of date.

We have considerable experience in all dealings with trusts including setting up systems for the routine administration and paperwork and carrying out regular reviews.

We wish to offer peace of mind to our clients. If you would like us to carry out a one off review and/or help you set up better procedures so that you keep your trust affairs in order, please contact your usual advisor.

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## **Have you checked the fine print on your own invoices?**

We all issue invoices and we all hope that they cover what we did and we will get paid!

When was the last time you looked at the fine print of your invoice or your terms or are you afraid to check what they actually say and to check that everything is actually covered?

While recently assisting a well-established builder client we discovered to our dismay that his invoices were not complying with the requirements of the Construction Contracts Act; and in particular for the construction of a private residence.

This piece of law applies not just to builders but to everyone in the construction industry. In brief, provided your invoicing follows the prescribed format, you can tap into a good procedure if a dispute occurs. For example, if the other party fails to challenge the invoice (or work) in the appropriate manner, they may be prevented from challenging it later. There are special terms and procedures to follow. Hopefully, if you are in this industry you will already know about these requirements and your invoices will comply.

If you are worried that your invoicing or terms of trade are not adequate, then we recommend you get these checked to try and place you in a position of strength if there is ever a dispute.

**Brad McDonald, Philip Sewell and Janelle Liu** have knowledge and experience in this area and can assist you.

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## The High Vis Phenomenon

Do you get heart palpitations when you hear of an accident like the one at Auckland Airport when a man was crushed between two trucks recently? Apart from the physical and emotional toll on the staff member does the thought of investigations and a Worksafe NZ prosecution bring that sense of 'lucky that was not me'.

Whether you tackle work safe practices head on or its one of those things to get done, the proposed legislative changes in health and safety are looming with the Health and Safety Reform Bill expected to be in effect by 1 April 2015.

Once in force, the Act will require a person conducting a business or undertaking to ensure, so far as is reasonably practicable, the health and safety of all workers and others affected at work. This means that the duties and responsibilities lie with the people in the best position to control risks to health and safety at work, not just the employer.

The proposed changes to duties of workers and businesses are as follows:

- **Workers:** Workers are covered no matter the working relationship;
- **Suppliers of goods and services:** There will be higher levels of explicit obligations relating to people that suppliers conduct business with, including designers, manufacturers and importers.
- **Large business:** The obligations on principals and companies that sub-contract are clearer with strict levels of duties and obligations that now cannot be contracted away;
- **Small to Medium-sized business:** There is very little change because of the more direct influence they have on the health and safety of their workers.

Once implemented the Act will require:

- Higher levels of duties on individual workers to ensure worker participation;
- A regime for the effective sharing of information in the health and safety system;
- Duties to ensure higher levels of participation by workers;
- An effective enforcement regime with a wide range of enforcement tools, including category offences and significant penalties for breaches of duties;

Worksafe is increasing its presence and you may have noticed from the prosecutions that a health and safety failure is going to be expensive. Recently Worksafe prosecuted Eden Homes Development after employees were seen installing a roof using scaffolding without adequate edge protection. No accident had actually happened. The company was fined \$15,000. If that has you scared you enough a useful Guide on Health and Safety practice can be found at [www.MBIE.govt.nz](http://www.MBIE.govt.nz). Otherwise contact **Brad McDonald** or **Rachel Walsh** for assistance.

**Important:** This newsletter is not legal advice. Clients should not act solely on the basis of material contained in this newsletter. Items herein are general comments only and do not constitute or convey advice per se. As well, changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas referred to. This newsletter is issued as a helpful guide to clients for their private information.