



L A W Y E R S

# Legal Life Skills



## What are my rights as a tenant?

Whether it is for work or study, or simply to gain independence, moving out of home for the first time is an exciting milestone. But that first move can also be stressful with the need to budget for paying bills and other expenses- not to mention learning to appreciate your own cooking! Something which is easy to forget about is the need to ensure that your legal rights are protected. As a tenant you have rights under the *Residential Tenancies Act* but in order to rely on this protection, you need to make sure that you have a formal agreement in place.

### Signing a lease

Whether you're renting through an agent, privately or another arrangement it is important that you have a lease and tenancy agreement in place. This is an absolute must and will provide protection to you and your landlord. It goes without saying that you should actually read it- this is definitely not a document that you should simply 'skim' over.

There are consequences if you breach your obligations under the agreement and there are rights you can enforce. Most agreements are in a standard form and you should be concerned if the landlord wants you to sign another form of agreement.

Common things to look for when signing a lease include:

- What is the term or length of the tenancy? i.e 6 months, 12 months?
- Have you been provided with a condition report detailing the condition of the property? After you are given access to the property it is essential that you review this document in detail and conduct your own thorough inspection of the property and note anything which is not already listed.
- Is the rental bond being lodged with the Rental Bond Board of NSW?

### Share housing

If you are planning to study at university and you choose not to live in on or off campus student accommodation, chances are that you may get together with some friends or even complete strangers in a share house arrangement.

It is common that in such situations that one person will be on the lease and is looking for others to live in the property to help with the rent. If you are considering moving in to a share house, it is also ideal to make sure that your name is added to the lease as a co-tenant to afford you protection under the lease. It is also a good idea to consider an agreement between the co-tenants in relation to upkeep of the property, payment of rent and other matters.



## What legal documents do I require to start a business?

Finding employment after you have finished your studies can be difficult and daunting in a competitive job market, and as a result many young people are now considering starting their own businesses. Whilst the key to success for any business is having a great product or idea to sell, you also need to make sure that you have the most appropriate structure for your business.

Starting up and operating a business is an exciting and exhilarating journey, but it can also be difficult and time-consuming. Accordingly, it is important to obtain professional (legal and financial) advice before you are faced with the many pitfalls which can impact your dreams of running a successful business. Important matters to consider are:

- ASIC compliance requirements
- Business succession planning
- Directors' duties
- Incorporating a company
- Joint Ventures
- Loans, borrowing and financing
- Mergers and acquisitions
- Superannuation
- Sole traders – methods of limiting liability
- Terms & Conditions
- Trusts – including unit, discretionary and hybrid trusts

In addition to considering the above, it is also crucial that you have the appropriate agreements and other documents in place to make sure that your business is given the best chance at success and its legal rights are protected. These include:

- Buy/sell agreements
- Confidentiality agreements
- Supply agreements
- Shareholder and unitholder agreements
- Employment contracts and advice
- Partnership agreements



## What if I am arrested?

It goes without saying that none of us ever want to be in the position of having been arrested. However, sometimes mistakes are made or certain situations get out of hand and you may find yourself in police custody and ultimately charged with an offence. This will no doubt be an extremely stressful and frightening experience.

If you ever find yourself in this position, you may find the following tips prepared by the Law Society helpful:

### If you are approached by police:

Sometimes, you can be forced to provide your ID to police officers. Usually, you should identify yourself even if you don't have to- don't lie. You can ask police whether you have to give them your ID. If you are arrested, police can take photos and fingerprints to find out who you are.

### If you are searched by the police:

Police can search you without your consent if they have a good reason to believe you have:

- prohibited drugs
- something stolen or unlawfully obtained (e.g. money from the sale of drugs)
- something that was, or might be, used in a serious crime (e.g. a crowbar to break into a house)
- knives, weapons or other 'dangerous implements'.

Police can also apply for warrants to search houses, and can sometimes search vehicles. If in doubt, politely say: 'If I have a choice, I don't want to be searched, but I will cooperate if I have to.' or 'If I have a choice, I don't want you to come into my home, but I will cooperate if I have to.' If you are searched, cooperate.

If police are going to search you, they should:

- tell you why they are searching you, and the name and station of the person searching you;
- usually get a person of the same sex as you to do the search, and
- they should not make you remove any clothing (except outer clothing, like a jacket) unless they have good reason to suspect that it is necessary and urgent, so that they have to strip search you.

They can ask you to shake your hair and open your mouth. If they do a strip search, you are entitled to as much privacy as police can give you in the circumstances. Police can search you again at the police station if you are arrested.

### If you are arrested by police:

If you are being arrested you have a right to silence. This means you don't normally have to answer questions about what you did or where you were at any time, sign anything, or give an interview. Police should tell you why they are arresting you and if they don't, ask them. If you are arrested, don't argue or resist. Do not go with police to a police station unless you are under arrest.

You should not answer any questions without first speaking to a solicitor. If you're over 18 and the police want to charge you with a serious offence, refusing to answer questions may lead to a court forming an 'unfavourable inference' against you (Unless you can prove you weren't 'of sound mind'). However, before they can do this the police must always first give you a special caution in front of your solicitor and your solicitor must explain what this means to you. That means if you've been charged with a serious offence it's even more important for you to speak to a solicitor first.

If you are asked to answer something without your solicitor present, politely ask: 'Will I commit an offence if I don't answer?' Unless they say yes, don't answer.



## What are my rights when I have sustained an injury?

If you have sustained an injury the most important thing is to make sure that you receive medical treatment. Once you have been treated, you may also want to consider whether you have a claim for compensation.

The claims which you may be eligible for include:

- A transport accident (motor vehicle, motorcycle, train, ferry, etc.)
- Whilst at work or in the course of your employment - WorkCover or Workers' Compensation and Occupational Health & Safety
- As a result of medical treatment - Medical Negligence
- If you sustain injury in a private or public place - Occupiers or Public Liability
- Through using a defective product - Product Liability
- As a result of a criminal act - Victims of Crime Compensation
- Workplace discrimination - Anti-discrimination, unfair dismissal, etc.
- Sexual abuse or harassment
- As a result of professional services - Professional Negligence

This is a very complicated area of law and it is important that you seek expert legal advice in relation to:

- Your prospects for success
- Type of claim and who the action should be brought against
- Insurance claims
- Time limits on certain claims
- Preparing your claim including arranging for expert reports

When engaging a Solicitor you should be prepared to provide them with the following:

- Details and a chronology of events which lead to the injury
- Photographs of the accident scene if these are available;
- All relevant medical reports
- Receipts for any out of pocket expenses
- Details of all of the doctors you are currently consulting;
- Your record of how your life has been affected by the accident
- Witness details (i.e. witnesses who saw the accident occur);