

First Home? – there has never been a better time to buy

The First Home Owners Grant is a state scheme to help buyers with the cost of buying or building their first home in Australia. The Scheme was established to assist first home buyers to purchase their first home by offering a \$7,000 grant.

The Australian Government has announced a First Home Owner Boost, which supplements the NSW Government funded First Home Owner Grant Scheme. According to the announcement from the Commonwealth:

- first home buyers who purchase established homes will receive a boost of \$7,000 that will double the grant to \$14,000
- first home buyers who build a new home or purchase a newly constructed home will receive an extra \$14,000 to take their grant to \$21,000.

Effective from 11 November 2008 a NSW New Home Buyers Supplement of \$3,000 will be added to the existing grant for eligible First Home Owner Grant applicants building a new home or buying a newly constructed home. The \$3,000 Supplement will be available for 12 months (11 November 2008 to 10 November 2009 inclusive), at which time it will be reviewed in the context of the property market. This Supplement is in addition to the \$14,000 provided under the Commonwealth's First Home Owner Boost scheme. This will give eligible First Home Owner Grant applicants building a new home or buying a newly constructed home a total of \$24,000.

Eligible first home owners can receive the grant regardless of their income, the area in which they are planning to buy or build, or the value of their first home. The grant is not means tested and no tax is payable on it but there are some other eligibility criteria.

Effective from 1 July 2009 (subject to Federal Government approval) the First Home Owner Grant and NSW New Home Buyers Supplement will be capped and only be available for properties valued up to \$750,000.

Please contact us to find out more.

Chris Paul

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De-facto Relationships – the law is changing. How will it impact on you?

There are changes underway to the law in relation to De Facto property settlements that may be very important to you. Presently the Property (Relationships) Act, 1984 sets out the criteria used by the Courts to determine property settlement if a de-facto couple separates. This law has been reviewed.

The changes to the law are numerous but it is expected that some of the consequences will include:

- the Family Court or the Federal Magistrates Court will be the venue for litigation of these matters (rather than the District or Supreme Courts)
- there will be a broader definition as to what constitutes a de-facto relationship. It will include same sex couples and there is much speculation that parties involved in long term affairs could find themselves treated as if it were a de-facto relationship (even if they are also still married to another person)
- there will be powers given to the court to order the splitting of superannuation in de-facto matters – a power which does not presently exist, and
- that property division and maintenance arrangements in these matters will be more in line with what is presently occurring when married couples separate.

The new laws will be incorporated via amendments to the current Family Law Act and are expected to be in place by the end of 2009. Clearly they have not yet been interpreted by the courts, but it is likely that the planned laws will affect what you receive – either in a good or a bad way.

It may be that you need to plan ahead of these changes. Perhaps you need a Domestic Relationship Agreement prepared before the changes come into effect so that you can secure a better result for yourself in case of a future separation? Perhaps you would be best advised not to separate at the moment if it would mean missing out on some of the changes that might benefit you later? In any event, knowledge is power, so please don't be frightened to see one of our Family Lawyers now and find out what you need to know.

Bill McGookin

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Accredited Family Law Specialist/Partner
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and Caroline Holt
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Look after your pets over the holiday period

Did you know that if you don't provide your animals with food, drink and shelter, you can be charged with an offence under the Prevention of Cruelty to Animals Act which carries with it a penalty of \$5,500 and/or 6 months in gaol?



Caldwell
Martin
Cox

Solicitors



**The Partners and staff of CMC wish all of our clients
a safe and happy Christmas and New Year**

Child Support – keeping pace with the changes

The Australian Child Support system was first introduced in 1988 and has, since 2006, been undergoing a complete overhaul with the aim of more accurately recognising the financial and non-financial contributions that both parents make to their children. The changes to the system were introduced in three stages, the last of which took place on 1 July 2008. The changes impact on the 1.4 million separated Australian parents who pay or receive child support.

Over the last 18 months the Child Support Agency has undertaken a comprehensive review of all child support cases and you may have received your new assessment in the mail. The new assessments are much more detailed and complicated than previous assessments, so contact one of our experienced Family Lawyers if you would like us to help you to understand the new system.

If you are unhappy with an assessment you have received from the Child Support Agency, we would also be happy to give you some advice about the appeals process, including taking the matter to the Social Security Appeals Tribunal.

If you have separated from your former spouse and wish to negotiate your child support payments, we would be happy to help you reach agreement and then formalise that arrangement by way of a private Binding Child Support Agreement.

For information and assistance on child support issues, please call a member of our Family Law Team at any of our four offices.

Jillaine Duve

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Do you have a commercial tenant that you would rather be without?

Landlords often enter leases of commercial properties that give tenants say a 3 year lease with a 3 year option. This is not a problem for the landlord if the tenant has paid the rent on time and complied with all of its obligations under the lease during the initial 3 year term. The landlord would no doubt be quite happy to allow a good tenant another 3 year lease.

What if the tenant has consistently breached a clause in the lease despite the landlord's requests to the tenant to remedy the breach? What if the tenant is always being chased for late rent? The landlord might not be so keen to have this particular tenant continue to lease the property but they have to give them the new 3 year lease – or do they?

A solution for the landlord might be found in S.133E of the Conveyancing Act. If a tenant gives the landlord proper written notice that they wish to exercise the option and enter into a further 3 year lease the landlord must take immediate action by serving

a "prescribed notice" on the tenant within fourteen (14) days. The prescribed notice must be in writing, must set out details of the provisions of the lease that the tenant has breached and must strictly comply with the provisions of S.133E of the Conveyancing Act. If the tenant does not seek a Court Order to grant a new lease within one month then the tenant's right to a new lease may be extinguished.

If you think this situation could apply to you or if you are served with such a notice you should not delay in seeking legal advice. Don't run the risk of failing to meet the strict requirements.

Chris Paul

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Do you have to report that crime?

It is an offence under New South Wales Law for a person who knows or believes that another person has committed "a serious indictable offence", without reasonable excuse, to fail to provide to the Police any information the person has which might be of "material assistance in securing the apprehension, prosecution or conviction of the offender".

We recently acted for a client who had information which indicated that a family member may have committed a very serious criminal offence. The client had been persuaded by the family member not to disclose this information to the Police but approached us, after some years. Arrangements were made with the Police for the person to give a statement with the appropriate protections so that our client could not be charged with concealing this matter. The charge against our client's family member is currently before the Court.

Another common case is where an employer discovers that an employee has committed what is known as a "white collar crime". Normally the employer's priority is to recover any monies taken from it and often the matter is not reported to the Police because the employer feels that it will suffer a loss of business reputation if information about the crime is disclosed. Most white collar crimes, including theft by employees, constitute "serious indictable offences" and as a result the failure by an employer to report this conduct to the Police could possibly expose the employer or its Directors or Managers to criminal penalties of up to two years imprisonment. In fact, a more serious charge can be laid if it is proven that the employer did not report the serious offence and received some direct benefit, for failing to do so. In such a case the penalty can be increased to five years imprisonment.

We have extensive experience in advising in these matters. Normally information given to a Solicitor is protected by what is known as professional privilege and does not of itself lead to any risk of criminal prosecution. Please contact one of our offices if you have any need to discuss such matters.

Geoff Lloyd

Associate Solicitor
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Check your address is current

Summer 2008

We have been involved in a series of cases in recent times which have arisen because of a problem with the address of a client. If you are in business, either through a Company or on your own account, it is vitally important to make sure that the address of your business or the address of your company registered with the Australian Security Investments Commission is the current address and that all mail at that address is regularly cleared.

In one case, a Company had as its address that of its professional adviser. The adviser was experiencing difficulties in gaining access to the street mail box. A dispute had arisen between the Company and another party and a number of documents, including a court Statement of Claim, had been sent to that address without the Company's knowledge.

As a result, the party in dispute was able to prove that the court documents had been served (as postal service is now allowed in most matters) and was able to obtain judgment against the Company. The other party then proceeded to issue what is known as a Winding up Notice against the Company. We were able to intervene and have both the judgment and the Winding up Notice set aside so that the real dispute between the Company and the other party could be addressed, however, this did involve expenditure on behalf of the Company that could have been avoided.

In another case, the owners of a business were away on holidays and while away Court documents were sent to their home address without their knowledge. Once again, the risk was that judgment could be entered 28 days after these documents were mailed.

If you are going to be away from your business for any period of time it is important to firstly consider what arrangements are to be made for your mail to be regularly examined and secondly whether you need to appoint someone else to manage your affairs by way of Power of Attorney.

All our Solicitors have experience in advising on Powers of Attorney. Our office also has Solicitors who can advise in relation to Court proceedings and the steps required if any Court proceedings or Winding up application under the Corporations Law has been received by you.

Geoff Lloyd
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It's nice to say "thank you"

At CMC we pride ourselves on the high level of care and service we offer our clients. We always invite feedback from our clients – good or bad – as we see that as a key measure of our performance. Many of our clients have responded to our client surveys and we would like to share some of those responses in acknowledging your appreciation of our staff.

"Lyn was unbelievably supportive, understanding and informative. Bill you have a great team over there. Thank you for helping us achieve all of our dreams. We could not have achieved any of this without CMC. I will always be a customer of CMC. You have a great customer relationship. Keep on doing what you are doing."

"I liked the way Jillaine reacted with me on a one to one basis. I felt as though she spoke to me as a friend would and showed

great concern in my case. You do everything right. Exceptionally pleased."

"Sincere and confidential approach, especially during a difficult time. So very attentive. Quick to respond to phone calls and messages, thank you. Angus & Sonia were terrific."

"I really appreciated the fact that Jillaine was non judgmental, totally professional and very understanding."

"Leanne was upfront and kept me informed. I had no doubt that my matter was being taken care of."

"It was great having such a high quality service in the local community. Many thanks."

"Always prompt in returning my phone calls, answering my questions, and researching all matters to do with dad's estate. Lyn exceptionally good with all this. Most of it was done by phone, letter etc, as I don't live at Camden, but in Sydney."

"The personal interest taken by both the receptionist and Caroline to make us feel comfortable...you know how to be sympathetic and helpful with the elderly when explaining how to let another member of the family handle their affairs."

"Concise and precise. Clear ongoing communication, clear instructions, always acting in my interests. I was very happy with the service I received from Chris Paul and his staff".

"When someone said they would chase something up for me, it was done and I was rung back when I was told I would be - very important!"

"The friendly and competent manner in which everything was handled (by Belinda). Excellent service and communication."

Cheryl kept us well informed via email which was much appreciated."

"Communication is always very good. Promotes confidence that all is handled, made it easy!!!"

"Everyone very helpful. Nothing was too much trouble when we had a query".

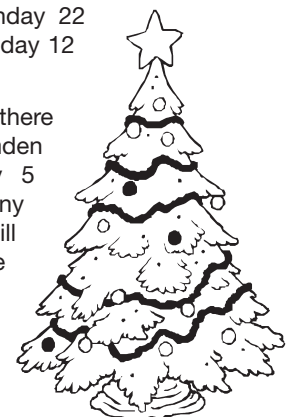
I felt very comfortable with the way the property business was handled by Chris & Cheryl.

As first home buyers we appreciated the advice we were given, the professionalism by all staff in the office".

Office closure over Christmas

Our offices will close at 5 pm Monday 22 December 2008 and re-open on Monday 12 January 2009.

For the convenience of our clients there will be some staff available at our Camden office for the week from Monday 5 January 2009 to assist you with any urgent matters. Arrangements will be made for all incoming calls to be directed to that office.



Summer 2008

Who's where and what do they do?

Area of Law	Camden	Narellan	Picton	Tahmoor
Conveyancing	Chris Paul Lyn Harrison	Bill McGookin	Angus Cox Leanne Anderson	Belinda Dunkley
Estate Planning	Chris Paul	Bill McGookin	Angus Cox Jillaine Duve	Kristy Faida
Family Law	Caroline Holt	Bill McGookin	Jillaine Duve	Kristy Faida
Commercial Leases	Chris Paul		Angus Cox Belinda Dunkley	
Leases, Sale and Purchase of Businesses	Chris Paul Caroline Holt		Angus Cox Belinda Dunkley	
Court Matters /Damages	Caroline Holt Geoff Lloyd		Jillaine Duve	Kristy Faida
Criminal Law	Caroline Holt Geoff Lloyd		Jillaine Duve	Kristy Faida
Debt Recovery	Geoff Lloyd		Jillaine Duve	Kristy Faida
Bankruptcy/Insolvency	Geoff Lloyd			
Unfair Dismissal/ Employment Law	All enquiries to Chris Paul or Geoff Lloyd			
Family Provisions (challenging wills)	All enquiries to Angus Cox or Geoff Lloyd			
Personal Injury	All enquiries to Geoff Lloyd			
Workers Compensation	All enquiries to Geoff Lloyd			
Medical Negligence	All enquiries to Geoff Lloyd			

Our services include:

- wills and estate planning
- family law
- property law and conveyancing
- retail/commercial leases
- business law
- criminal law
- civil litigation
- employment law
- mediation and dispute resolution

Electronic Newsletters

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Send an e-mail message to help@cmcox.com.au with the words "Newsletter" in the subject line, and provide your name and details in the message or subscribe from the Reading Room on our website www.cmcox.com.au

On receipt of your reply, we will delete your name from the "hard copy" mail list, and send you future newsletters by e-mail.



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