

Legal Requirements for Starting a Small Business

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MARKETING
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She has extensive business and management experience as at the age of 15, she commenced work as part time researcher/paralegal for Barristers. From this she established a legal research and paralegal company, Legal Rescue Services. The object of the company was to provide legal research on a contract basis. The business still operates 23 years later.

Katherine has extensive experience in designing and implementing adult education programs within the legal environment, specialising in providing legal knowledge and skills to non-lawyers.

In addition to having a Masters in Maritime Law, Katherine lectures on Corporations and Business Law to both undergraduates and postgraduate students at various tertiary institutions including the University of Technology. She also lectures on International Fishery Law at the University of Wollongong.

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PREFACE

Starting a business, anywhere in the world is a daunting task. You will need to arrange finances, know your strengths and weaknesses chose a business type and a location. But the most difficult of all these matters is, perhaps, getting familiar with the law of the country within which you have to start, promote and then develop your business. Most businesses are regulated by the governments to make sure that they are operating within the confines of the law and consumer rights are being taken care of. A novice in business dealings often gets bogged down by extraneous form filling, legal proceedings and record keeping required in the legal process of start-up and maintenance.

There are various legal obligations and responsibilities every starter should be aware of, to protect their business, reputation and to avoid any penalties. I wrote this book to familiarize every Australian who wants to start a new business with these obligations and responsibilities as expounded by the Australian Business Laws and to guide you through the entire process. This book will help you in better understanding of step by step legal process, record keeping, handling of legal documents and form filling. Consulting an attorney should be your secondary option, as you can reduce the cost involved in legal consulting by reading websites and books like this one. This book is intended to help you take care of most of the legal aspects of the business yourself.

The book starts with an introduction to legal essentials for business in Australia, and goes on to describe Business registration, licenses, and the privacy act and anti bullying Laws in detail. In the end readers are introduced with independent contractors and unfair dismissal. Second chapter deals with establishing the structure of your businesses. Pros and cons of each business entity are highlighted to make the decision of choosing a business structure for the readers a lot easier. Third chapter is on different taxes you as a businessman need to register e.g. Tax File Number, Australian Business Number, Australian Company Number, Goods and Services Tax, Pay as you Go, Payroll Tax, Fringe benefits Tax and Fuel Tax Credits. Understanding contracts and matters to consider before signing any business contract are discussed in the next chapter. In addition, the reader is given a thorough understanding of different types of contracts like verbal, written part verbal part written and standard form contracts. Fifth chapter explains why debt recovery is important for small business, what are some legal documents involved in debt recovery process and why you need to do it within the confines

of the law. Next, the readers are introduced to intellectual property, trademarks and Patents, when to register your intellectual properties and how to take legal action if your business's intellectual property rights are being infringed upon by your competitors. Last two chapters deal with consumer law and legal issues related to online businesses.

In the end, I realize that further work is necessary with each individual component of the book, yet I remain optimistic that improvement will inevitably result and am pleased with my personal growth as a writer while doing research on Australian Business Laws.

LEGAL ESSENTIALS FOR BUSINESS

Most of the people do not believe in laws and start their business without knowing the basics of what is legal and what is not. Trust me, the most basic thing or the initial thing you must do is to find out what are the laws that apply to business you are going to start. This means that you must know about each and every rule and regulation present there. This does not mean that you should do it all casually. Just go out and find yourself a professional who could guide you well. He would help you in sorting out all the requirements that your business should comply with. He would tell you all about leases, contracts, registrations and licenses.

Apart from this, there are many other ways to find out all these regulations. You might find out these legal regulations on the external site. The site offers all the problems related to tax, finance, debt recovery, credit recovery, leases, fair trading, employment and contracts.

Now, if you are still confused about all those rules and regulations, then here are six basic issues that might help you in setting your business up according to all the prevalent laws of a country.

Business registrations

This is not only valid in Australia but a must everywhere that you should register all your business activities before starting it up. Registering the name of your business is another thing. Many types of taxes could affect this action of yours. Some of the taxes that you need to register include:

- Australian Business Number (ABN)
- Tax File Number (TFN)
- Goods and Services Tax (GST)
- Pay as you go (PAYG)

The list, however, does not end here. You need to find out more about licenses and registrations. This includes how and what can you do to make your business meet business and tax obligations. Also, the whole process requires you to register a perfect domain name or in other words a trade mark that applies to your new business. Another thing which must be considered that if you are going to register

as a company then the process will be a lot different. If you are doing sole trading or some partnership, then the process would be different.

Licenses

Of course you can't do a business without getting a license. Yes, this is the most critical part and requires a lot of know-how if you are living in Australia. Licenses are necessary if you want your business to comply with legal obligations.

You need to visit the official website of ABLIS in order to find out more about all the registrations, permits and licenses that are required to start your business. They offer you guidelines, standards, codes of practices, registrations and approvals to get your business ready.

Now getting the license is not as easy as it might seem. It all depends on the kind of service or product you would sell. Just ask the professional advisor if there are requirements for your business or otherwise you may face a lot of difficulties.

To explain the point above, if you are going to start a business that deals with food consumption then you would need a food business license. It is not that simple. There might be other permits required as well. So, in order to sort it out completely, you need to do some thorough research. Now comes the most important point. Permits and licenses vary from state to state and territory to territory. So, it is better to find out all this information from the federal government or your local territory or state.

Privacy Act

Recently this year, a set of principles regarding privacy was introduced. The principles were all about how a person should handle personal information of his business. These principles included:

- Processing and handling of all the personal information
- The proper use of information for marketing purposes.
- Disclosing personal information to people of other countries.

Anti-bullying laws

Yes! There is a solution for such kind of bullying too. Many businesses go through this hurdle that some other people try to block what they are going to start. Majority of the business don't even begin because of bullying. To be clear about it, there is a Australian Consumer and Competition Commission working

on this issue. If you are facing business bullying, then talk to them through their website and they will try to resolve your issue.

Now, bullying can have another context. For example when a group or a single person behave unreasonably and try to suppress a worker. This type of behaviour is related to the health of a worker. Also, it might cause danger to the worker's safety. This is now managed by the Fair Work Commission.

Independent contractors

First, you must know who independent contractors actually are. They are people who are self-employed. They provide a particular service to your business. It is possible for a person to handle some work as one employee and work as an independent contractor for other work. If a person does not agree on becoming a contractor then it is illegal to threaten or fire him. Firing may become a hurdle in starting your business.

For this, you definitely need to know if you are hiring an employee or an independent contractor. This will help you in letting you know if you are going according to all those legal obligations. There are many contractor decision tools out there that help you in finding out this critical information.

Unfair dismissal

Keep one thing in mind that large businesses have some other laws as compare to small businesses in regards of unfair dismissal. There is a way of finding out if you your business is large or small. The one with less than 15 employees comes in category of small business and as the number increases, the category changes.

If you are planning to terminate or fire an employee, then you must do it in the light of rules mentioned by the correct law.

So, starting a business is not as easy as it seems. There are some particular rules and regulations that need to be followed and acted accordingly. Small businesses do go through some hurdles and difficulties in the start-up but if you are following the right way, then no one can stop you from following your dream. This problem is not only with small businesses. Large ones also go through some hurdles which are worth considering. You just need a way to find them out and deal with them.

There are many other principles relating to employment. Just go through the official sites online or ask some professional legal advisor if he could help you in this regard. Keep one thing in mind that if you do everything legally, then the journey ahead would be so much easier for you. If you follow wrong and illegal methods, then there are chances that your business might shut down after some time.



ESTABLISHING THE STRUCTURE OF YOUR BUSINESS

Virtually every company will be going out and empowering their workers with a certain set of tools, and the big difference in how much value is received from that will be how much the company steps back and really thinks through their business processes thinking through how their business can change, how their project management, their customer feedback, their planning cycles can be quite different than they ever were before.

– Bill Gates

Business takes a lot of effort and hard work to establish and it needs a lot of dedication in order to earn a reputation in the market. When starting a new business, one major factor that you should deal with is to select the structure of your business. This important decision will not only have a direct impact upon the taxes that you have to pay but it also affects the paperwork that is necessary, the ability to earn profit and the personal liability that you have to face.

Selecting the structure of a business is in fact a serious decision which should be made with the help and consultancy of known business professionals and experts. It is a good thing to ask for expert's advice when discussing the pros and cons of different business entities.

Types Of Business Entities:

The type of business entity you select for your business is mainly based upon three factors. These factors are the taxation, liability and record-keeping. Following are the different business entities and their advantages and disadvantages that will help you select the one which is best for you.

Sole Proprietorship:

It is the most common and popular form of a business organization. It is the simplest structure which involves only a single owner to manage the business. If you like working alone and do not want any other to interfere, then this can be the perfect choice for you.

There are some benefits of sole proprietorship as well as the disadvantages. The tax aspects of this form of business are appealing. This is because the expenses and income from your business are contained on your income tax return. This is beneficial because the losses you suffer in a business may offset the income you earn from different sources.

With a sole proprietorship, the earnings of your business are only taxed for once whereas other structures are not like that. Another benefit of adopting sole proprietorship is that you will get a complete control over your decisions and you can run the business in any way that you want.

Sole proprietorship has certain disadvantages to consider as well. Selecting Sole proprietorship structure simply means that you are responsible for all the liabilities of your business. As a result of this, you are putting all your personal assets at risk.

Another disadvantage of this business structure is that it is difficult to raise money to set up the business. Insurance companies, banks and other financing sources also hesitate in lending the loans to sole proprietorships. In many cases, you have to set up this structure with your own sources like family loans, savings, etc.

Partnership:

A partnership business involves more than one owners and operators who manage business as partners. Every partner must agree to share losses or profits of the business. There are two types of partnerships; limited and general. In general partnerships, all of the partners have the right to manage the company and they are responsible for the debts and obligations of the partnership. In limited partnership, the partners serve only as the investors and can't control the company. They don't have the liabilities as the general partners have.

If you have some partners that really want to get involved in the business matters, then general partnership is best choice for you. The limited partnerships are not considered suitable for the new business owners because of the administrative complexities.

One great advantage of partnership is that it enjoys favourable tax treatment. A partnership structure doesn't pay the taxes on the income it gets but it passes the losses or profits to the partners to file their individual tax returns.

Disadvantages include the liability. Each partner is individually liable for all the financial and other obligations of business. Taking decisions also gets difficult as each partner has to agree to the agenda.

Corporation:

The Corporation business structure is more expensive and complex than any other business structure. A Corporation is an independent entity which is completely separate from the owners. It requires more tax requirements and regulations.

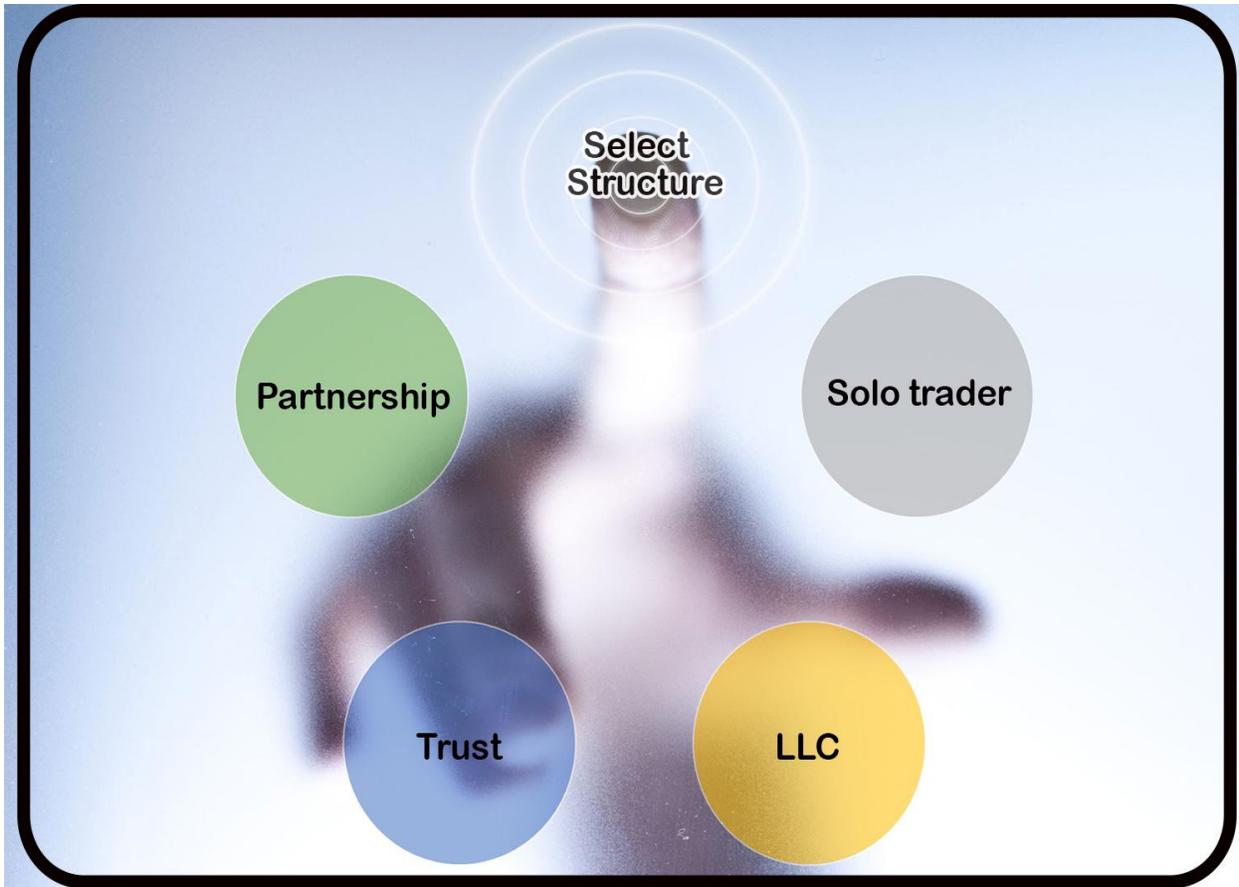
The biggest benefit of adopting this business structure is the protection of liability. A corporation in debt has no link with the owners. So if you are adopting this structure, you are keeping all your personal assets safe. Another benefit of corporation is that it helps raising money. They can sell the stocks in order to raise funds. They are independent of the owners, that is, they keep running if the owner sells its shares or dies.

However, the corporation has some serious downsides; these include the higher costs, less control and complex decision making process. Corporations have some strict set of rules and rules. Due to these complex rules, a corporate structure requires more tax preparation services and accounting.

Another drawback of corporation is that owners have to pay double tax on the earnings of business. To avoid this, you could give the money as the salaries to yourself and other shareholders of corporation as the corporation is not liable to pay taxes in the earnings that are paid.

An Expert's advice is always helpful. After all, this decision can make a huge difference in your business life in future

At the end, do not take this important decision of choosing a business structure very lightly. And don't ever try to make a decision by listening or copying others. It can take years to make a business successful and one wrong decision can lead you to the depths of failure and crises. Take some time and think calmly and consider your needs about owners and business. It's always good to seek some expert's advice before selecting a particular structure for your business.



Select
Structure

Partnership

Solo trader

Trust

LLC

TAXES YOU NEED TO REGISTER FOR YOUR SMALL BUSINESS

"I like to pay taxes. With them, I buy civilization."

– Oliver Wendell Holmes Jr.

Starting a small business in Australia requires a lot more than you think. It is not as basic and might require you to spend a lot of your time and your money as well. When starting a business, you need to make sure that you have registered for all the required taxes.

The taxes vary with the type of business you are going to start. However, there are some standard taxes that must be cleared no matter what kind of business you are starting, while there are some that are applicable only on a few types of businesses. Taxes also vary with the size of your business. There are some taxes that might do well if you clear them but won't cause any harm if you don't.

So, here are some of the taxes that you need to pay in order to get your business started.

1. Tax File Number (TFN)

Tax File Number is a specific number issued by Australian Taxation Office mostly to those organizations and individuals who want to manage government and tax services. There are many types of TFN out there and they vary with your business type and structure.

Now if you are operating a trust, company or partnership, then the business will require a TFN. Getting a TFN is not that hard and can be received using same application as ABN (ABN will be explained later on in the write-up).

Tax File Number lets you:

- Contact all the investment bodies that are actually responsible for paying trust distributions, dividends and interests.
- Contact all the government bodies.
- Contact all the employers; however, this is only valid in individual case.

2. Australian Business Number

Now, this is the one which is not compulsory at all. You can pay it if you want to get certain additional benefits like:

- Get a single BAS
- When invoicing and ordering, confirm the identity of your business to others
- Avoid PAYG tax on all the payments you are going to receive
- Claim GST credits
- Get energy credits
- Obtain domain name which is Australian

3. Australian Company Number

It depends what kind of form you want to give to your business. If you think that company structure would suit best, then you must register it as a full-fledged company. The best benefit of registering as your own company is that you will get a company name. When you do that, you will hold exclusive rights for that name in the whole country. This means that you won't have to register your business in every state.

It is pretty clear that a name that has already been registered could not be registered again. If you want to use some certain words, then a strict special approval must be availed. The registered name of company and the business name of the company should be the same one.

Also, there is a big difference between trademark and the business name.

4. Goods & Services Tax (GST)

Good and services tax is a very important part of economy of a company. It is a tax that is paid on all the services and goods sold in Australia.

One eleventh of the total sale price is collected from the customers by the business and is paid to ATO on its due date. GST is one of the most important taxes that are present in Australia and should be paid strictly.

5. Pay As You Go (PAYG)

It is a requirement actually which says that, for some tax purposes, you should withhold amounts. If you are some employer, then it is your responsibility to withhold the tax from all the payments to be going to make.

If you are going to start a business, then you must have to register with ATO as an employer. ATO is also applicable to the payments you are going to make to businesses other than yours.

6. Payroll Tax

This is a tax that applies on the wages you are paying to your employees. It is generally calculated on the total amount of payments you are paying your employees per month.

This tax obligation applies to only some certain kinds of businesses. Exemption threshold is the thing on which this payroll tax depends. If the wages exceed this threshold, then you would have to pay payroll tax. This threshold varies from state to state.

7. Fringe Benefits Tax (FBT)

Every business owner provides certain kinds of benefits to its best employees. These are considered as bonuses. This non-income related bonuses might include low interest loan, paying private expenses, car parking or simply a car.

It is a very common reimbursement usually followed by companies to win their employees. So, Fringe Benefits Tax is paid on such kinds of benefits given to employees or their associates. This does not have any relation with income tax. The tax is calculated according to the fringe benefits that are provided.

So, if you provide such fringe benefits to the employees then you must register for this FBT. Fringe benefits are really important if you want your employees glued to your company. This is a great way to make the employees happy. But of course, before setting anything, you need to find about all the taxation obligations. The fringe benefits could be given in the form of:

- A car
- Car Parking
- Loans that particularly have low interest on them
- Paying some of the private expenses

There are a certain things you need to do when you are giving fringe benefits

- Calculate the amount of FBT you need to pay
- Keep all the important FBT records
- Register for Fringe Benefits Tax
- Report the benefits to payment summaries of your employees

8. Fuel Tax Credits

This is a tax which is applicable on all the fuel that is used for business purposes. It is applicable on a few types of businesses which use:

- Heavy vehicles
- Plant
- Machinery
- Equipment

Keep it in mind that some fuels are eligible for FTC while others are not. Those which have taxes on include:

- Aviation kerosene and aviation gasoline
- Fuel used in light vehicles that are used to travel on public roads
- Fuels that are disposed of, stolen or lost
- Some other fuels like biodiesel or ethanol

Apart from the above eight taxes, there are some others as well. The main ones include the luxury car tax (LCT) and Wine equalization tax which is commonly known as WET among masses.

Most of the people think that starting a small business does not require as much formalities as doing big businesses. This is true to some extent but you definitely need to pay certain kinds of taxes in order to make your business legal and working.

Remember, tax is the right of your government, so you should not hesitate paying them. Pay them and you won't have any fear, however, if you try to evade and get away then you may find yourself in trouble in the near future.



UNDERSTANDING THE CONTRACTS

For any kind of business, trust is the main key. That's where the term contract is used. Whether you are an independent contractor or you work in group, you will need to enter into the written and verbal contracts to give your services to the government bodies, individuals or businesses. An independent contractor is also called as a consultant or a subcontractor. When you are agreeing to provide your services to someone in exchange of some benefit such as the money, you are signing a commercial contract. This contract is rightly enforceable and it doesn't depend upon whether it is a written agreement or just a handshake.

By understanding the business contracts, you will get some guidance to select the contracts that work perfectly for your favour. It is however very important to get someone's assistance from a professional to understand the obligations.

Matters You Should Consider Before Signing a Contract:

Following are some of the matters that you should consider before signing a business contract.

Know your status:

It's really necessary to understand whether the firm is considering you as an independent contractor or an employee for a job that you are hired for. For the tax and insurance purposes, knowing your current status is very important.

Is the Contract Written?

Make sure that contract you are going to sign is written. This is because the verbal contracts are sometimes considered as risky. Besides, if a written contract is not possible, then it's good to have some documentation as a proof of the contract. This can include emails, specifications, quotes and notes about the discussions.

Understanding The Terms:

Another important thing to consider is to understand completely the terms and conditions that are mentioned in the contract. Make sure that the terms are in pure English so that it is easy for you to get everything what's mentioned. Be careful when you receive the standard forms of contract where they expect you to fill the blanks. Read full contract before signing it.

Look for Important Basic Information:

A good contract is something that identifies each individual party in it. It should contain every important information which is necessary.

It should Contain Payment Details:

The contract must contain all the necessary information regarding the payments and whether the payments are fixed or can be changed. Be very careful about the contracts whose terms include the delivery of payment only when the whole contract is completed. Consider that the payments should be fixed for each individual stage that is called the progress payments.

Types of Contracts:

Let's discuss some of the types of contracts and their benefits.

Written Contracts:

As mentioned in the name, a written contract has everything in the written form. They provide more trust and certainty for the parties. These contracts contain everything that is to be agreed. It helps a lot in minimizing the risks because the written thing is much more reliable than the words. Let's check out some of the benefits of written contracts.

Benefits:

- A written contract is a solid proof of what's agreed between the hirer and you.
- It gives you peace of mind and security by telling you when you are going to get your money for your services.
- Helps preventing the misunderstandings by making the things clear.
- Set out the disputes over the performance or payments.

- Serves as a solid record of what is being decided in the agreement.
- Specifies the condition of breaking the contract.

Risks:

When the contract between you and the hirer is not in the written form, then you can face a number of risks which include:

- The risk that your hirer and you misunderstood a very important part of agreement. For example the amount of fees that is to be paid.
- The dispute between the partners of a contract because of some things that one of you forgot.

Verbal Contracts:

Second form is known as the verbal form. There are a lot of independent agreements based upon the verbal contracts. These contracts only work for those conditions where there are no misunderstandings and disputes. A handshake is the most common type of verbal contract which can be enforced by the court. But there are several drawbacks of having verbal contracts. Since you have no written proof of what you decided in the agreement, you might lead to have misunderstanding with your hirer.

Part Written, Part Verbal Contracts:

This is the mixture of written and verbal contract. These contracts have some kind of paperwork that supports the verbal contract such as writing the list of specifications decided in the verbal communication. If you are not into too much writing, you should at least sit down with your hirer and write down all the main points of the contract to avoid the conflicts in future. Make sure to keep all the paper work associated with the contract. You can later use this as an evidence to resolve a problem.

Examples of Supporting Material:

The supporting materials that should be used along with the verbal contract include

- Quotes along with the details.
- E-mails
- Important notes regarding the discussion between you and the hirer

- Complete list of materials and specifications

Standard Form Contracts:

It is a pre-prepared form of contract where almost every important thing is mentioned in advance and very little or no changes can be made to it by the contracting parties. These contracts are printed with some blank spaces in them where you just have to write important information, dates, and your signature.

Standard form contracts contain a less specified language that is difficult to understand. They are often beneficial for the one who prepared the contract. For instance if a hirer designed a standard form contract for you, then chances are he/she might transfer all the risk factors over you in the contract. Get some assistance if you are feeling a little confused about standard form contract.

Tips for the Standard Form Contracts:

Following are some of the tips and precautions that you must take before signing the standard form contracts.

Read Every Word:

It's very necessary to read each and every word of the fine print of contract. Get some help if you are finding something difficult to understand. Once you put your signature on the contract, then you are bound to follow everything written inside it, so it's good to take some time in reading and analysing the risks mentioned in the contract.

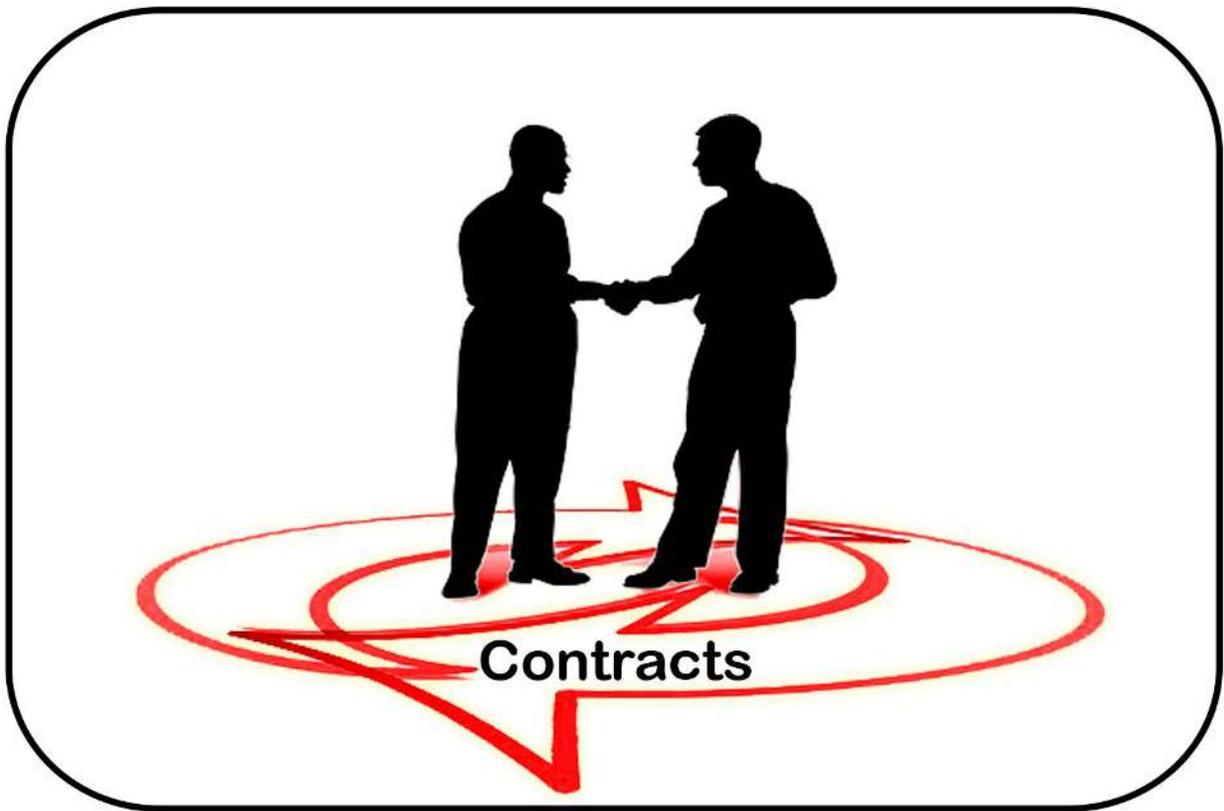
Do Not Leave Blank Spaces:

Another important matter that you should consider when signing the standard form contract is to not leave any space blank. This increases the risks of disloyalty and your hirer could write anything of his/will inside it. If you do not want to write anything on a blank, make sure you cross it.

Keep A Copy:

It is very necessary to keep a copy of any kind of contract that you are a part of. A good practice is to sign two same contracts so that both parties have an original copy of the contract. Remember to keep the copy to stay away from any misunderstandings.

These were some of the types of contracts. There are some others as well. You have to choose very carefully which contract is suitable for you and your business.



DEBT RECOVERY FOR SMALL BUSINESSES

It does not matter if you have strict credit management procedures or policies, you might still fall prey to bad debt which is nearly impossible to recover. Most of the small businesses become victim of such acts and thus lose hope in the end which is pretty disappointing. Trust me there are some methods and ways through which you can recover bad debts with not much effort. What businesses do is that they use forceful ways to recover the money which is quite wrong, it backfires and hence no result is obtained in the end. For your own good, try out some lawful, civilized and polite ways to recover this debt. You definitely don't want to ruin your relationship with your client. There is a proper procedure for this purpose that would definitely help you in getting your invoiced cleared.

It is pretty clear that an invoice which is unpaid is a breach of your contract with the client. Such kind of situations results in disputes which never fare well for your business. Clients seldom do not pay for your services or products and do not do what they agreed to do. So, this happens and you have to find a way yourself instead of turning to third parties to resolve the matter. The whole process of clearing the debt that is defined below is completely legal and does not involve any illegal or inappropriate activities that might cause harm to your business as well as your client. The procedure mainly consists of the following steps:

- Consulting with the client personally and trying to solve the matter through communication only
- Sending a letter of demand to the client which is actually a request in written form
- Consulting through an agency that deals in debt collection
- Getting debt back through legal action

Communication

This is the most basic but the hardest step if you do not know how to communicate with your client. Keep one thing in mind that when the date of invoice clearing is near, stay in touch with the client. When the invoice becomes due one day, just send a quick email to the client or simply call them to let them know that you should have received the money yesterday but you didn't. This will let the client

know that you don't leave them loose when it comes to accounting. However, just make sure that your client might have overlooked or lost the invoice. If this is the case, then be very calm and speak politely to the client about the matter.

You just need to find out if there is a solid reason why your client is not paying off the debt. This might be a short-term as well as a long-term problem. This is where you have to evaluate the importance of your client. If this is the first time and the history of your client is all clear, then you must give him a chance or a little more time. However, if the client has a history full of late payments, then cancel the credit agreement of the client.

According to Australian law, when you are trying to collect your debt, you must not:

- Use coercion or physical force. This might also include involving family in this matter
- Harass the debtor or hassle them to unreasonable extent
- Mislead the debtor or deceive them.
- Taking unfair advantage of disability or vulnerability of the debtor.

Letter of demand

Now you have become too polite and played your kind part. Even if the client does not pay the money of your products or services, then the time has come to send them a letter of demand. This will make the client clear your debt without spending much money and time that is usually involved in legal proceedings. You must have copy of this letter that you have sent to your client so that you may show it as evidence later when asked in legal action.

You can either send this letter of demand through your lawyer or you can just check Arts Law Centre of Australia for a sample letter and modify it accordingly. But you have no right to harass the person who is not paying the debt. It is also illegal to design the letter in a way it looks like some court document. Such things are not legal and might get you in trouble.

Such a letter should always:

- Contain all the debt-related details like days overdue, amounts due, agreements and dates
- Include all the copies of invoices or quotes
- State a certain date for payment

- State that other strict recovery options would be followed if you do not pay the debt by a nominated date.

Hire a debt collector

Now, if the second step does not do any good for you, then there is no other option than hiring a debt collector or agent. A collector does that work that you failed to do. Using certain practices, they collect your debt on behalf of you that businesses or individual are not paying. Debt collectors either contact the persons through writing, verbally or simply in person.

There is a requirement that the debt collector you are going to hire should be registered under Debt Collectors Licensing Act 1964. Of course, such debt collectors do charge some fee. It might be a standard amount or a certain percentage of total amounts they are going to collect. You might find a debt collector through yellow pages or through some other way in your area. These people make your work so much easier and you get your payments without spending much time and effort.

Legal proceedings

If Debt Collectors fail too, the time has come for legal proceedings that you had mentioned in the letter of demand. This process may turn out to be a little expensive and complex. This is a rather critical process, so make sure you get all the debts cleared in the above steps.

This is how you can recover your debt and clear your money without doing any illegal practices and getting into trouble. In starting, most of the people get misguided and look for short-term ways to sort things out which is a little harmful and may cause trouble later on in your personal life as well as in your business. So, do not find shortcuts in order to recover your money. This may be hard for you in start but think of positive sides. Your client might be facing trouble that's why they are unable to pay your money. Before taking any big action, just clear your differences and you would be all good.

First, you just need to remain calm and do things very normally and politely. However, if things are getting out of hand and your ways are not really working, then you would need to involve a third person in this dispute.

Recovering debts in small businesses is rather troublesome and intimidating. You just have to find the right ways by reading the psychology of your client. You must use your brain rather than using your ego and soon everything will be all set.

Debt Recovery For Small Business



INTELLECTUAL PROPERTY FOR BUSINESS

The intellectual property helps in representing the different and unique creations of the mind or intelligence that can be owned legally. The laws of Intellectual Protection (IP) allow the protection of rights in business through the trademarks, patents, designs, copyright, etc. In this world, almost every known business has its IP that it should protect.

In almost every type of business, unique ideas and creations exist. These ideas are very important to take the business to success and make it more popular among its competitors. But a big question that arises is that how can you stop your rivals from copying your ideas that are your valuable assets?

Most of the time, you need to register your IP, but you are given automatic protection to your confidential information, circuit layouts, copyrights and the secrets of the trade. A formal agency of the government named as the IP Australia is responsible to grant the rights in designs, trademarks and patents. Let's talk about some of the important factors of an intellectual property and their importance in the business

Business name:

In order to make people remember you and your company, you need an attractive name for your business. A name is a very important part of IP and of marketing too. It distinguishes your business from your competitors. The business name is actually connected to your ABN. If you want to spread and run your business in the multiple countries, then you don't need to register your company's name in each state. Once your name is registered nationally, there is no need to do anything else. Remember that a business name is something that does not give you all the legal rights to the use of the name. If someone wants to use your business name for their firm, then just because you have registered the name does not mean you have a legal claim to the name under intellectual property.

There are some things that you should keep in mind before selecting a business name for your company.

Easy To Remember:

The most significant aspect of a good name is that people should remember it. It should be very short and not complicated. Everyone wants to have a unique name for their business but most of the people in a bid to find a unique name, come up with a difficult name which is hard to remember for the ordinary people. Ultimately it hurts their business.

Make It Unique:

A business name must be unique. It is not prohibited to use someone else's name but it is not considered a good thing. Your business name should not be too familiar with another name. If the names are too similar, the customers may get confused between yours and your competitors and you might lose a major part of business to them.

Trademark:

A trade mark is considered as the most obvious part of any intellectual property. A company gains prosperity because of the distinctive and recognizable services and products it provide to the people. Keeping it in mind, the best strategy is to register a service mark or a trademark before taking your products to the market. However sending your goods to the market for commerce without getting your mark registered with the state or federal government has some inherent risks. What if someone else has already registered your business mark and the new use of it might violate the registered use?

In order to avoid that risk, it is good to search and check whether the trademark you are using is already being used by another business or not. These searches are often conducted by counsels because there are some legal limitations when you use a similar trademark for your business.

What Is The Need Of Registering A Trademark?

Registering a trademark gives you complete and exclusive rights of its usage. Having a registered trademark for your business can be the most valuable and precious marketing tool. It gives you a complete right to stop the copy cats and imitators and to establish the identity of your brand. In short, it helps in preserving your brand.

How to Register a Trade Mark?

To protect your business name to be used by the other firms, it's necessary to get your trademark registered. The owner of the company's trademark is allowed to apply for its registration. The period of registration is of 10 years but you can extend it if you keep paying the renewal fees.

It is really important to keep using your trademark for different purposes. If you stop using it, the other companies can claim to deregister it and make it their trademark. Once you are registered in a specific country, your trademark is safe and protected in all the territories of that state for an initial time of 10 years. If you want to expand your business and you need to register your trademark internationally, you have to register it in each country where you want to take your business.

Patent:

Another important type of an Intellectual property protection is known as the patent. The patent is something that grants the applicant to exclude all other competitors from using, making or selling the invention that is claimed for some limited time. All the physical designs, protecting and pre-designs are protectable as the patents. But the registration of a patent is not as easy and simple as of the trademark. It is in fact expensive and a long process. But once you register your patent, you don't have to do anything else; the patent will protect every design itself. It doesn't depend upon the marks or packing associated with it. Patent registering process is a long one in which you have to describe the patent in such way that it is easily acceptable by the Office of Patent and Trademark. In order to complete the patent registration process, you must take help from an experienced attorney associated with the patent laws of Australia.

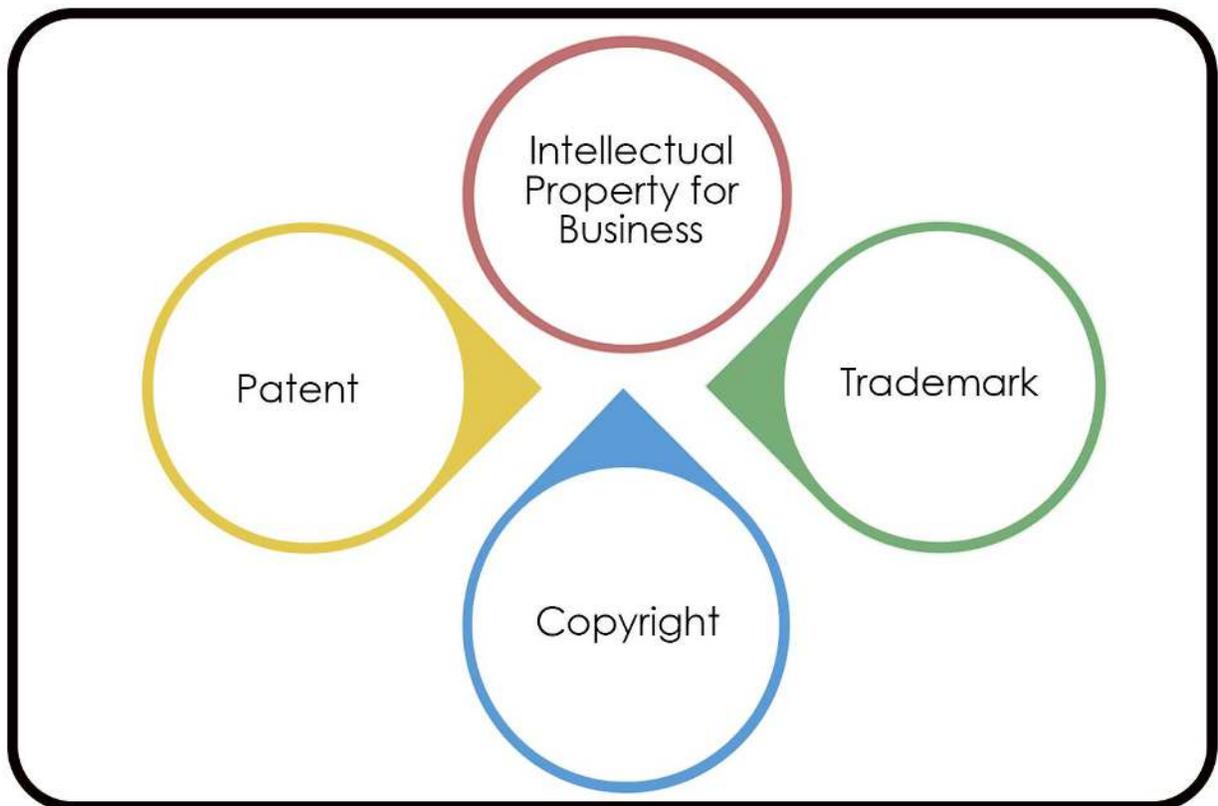
Benefits of Patent:

There are several benefits of patents some of which are mentioned below:

- It protects your company's new invention. This means that your invention can not be copied, used or sold without having the approval from the patent owner. If you are a patent owner, then you have full complete rights to decide who may sell or use your invention.
- The protection of new inventions stimulates the research. This results in the development of technology.
- They do not provide the protection to a new invention only, but also to the important information that should be kept hidden for the investors of future.

- By protecting a new invention, patents help businesses and individuals to protect their business. Without this, it would be of no use if business invests lots of money to invest and research about a product and others would just copy their research and render all of their efforts useless.

At the end, Intellectual property rights are really important for progress of any business because it helps creating your separate identity in the business world and it distinguishes your business from other competitors. Secondly, with the IP, you are satisfied that your work, research and inventions are secure and they cannot be copied or used by others without your permission.



CONSUMER LAW FOR SMALL BUSINESSES

Consumer laws are a set of rules, statutes and regulations that creates a balance for the buyers in some marketplaces and make it difficult for the sellers to use dishonest tactics. It keeps a check on the businesses and stops them from taking improper profits, thus protecting consumer rights. Consumer is the person who buys services or goods that are sold by retailers, wholesalers or manufacturers.

It is clear that both federal and state laws play a pivotal role in the regulation of consumer law. These laws actually include forbidding the sellers from using false advertising, imposing false safety measures for a particular product, and also help the consumers in securing information related to their identity.

The world is full of bluff and fraud. If there is a protection for sellers then there must be some kind of protection for the buyers. This kind of protection has been established through some laws and regulations. These laws are known as consumer laws. Sometimes consumers do fall prey to online scams, marketing scams etc. They sometimes find defects in the goods they have purchased. They also end up losing money to some financial schemes such as credit card money or identity theft. So, consumer laws protect a consumer against all such situations.

Now, we will talk about consumer laws in Australia. Consumer law does exist in Australia which is particularly known as Australian Consumer Law or ACL.

What is Australian Consumer Law?

Australian Consumer Law was introduced in the country almost three years back on 1st January 2011. The law was introduced nationally and was made to apply in all territories and states. The law replaced the protection provisions for consumers in 20 different territory laws, state and Commonwealth. The Australian Consumer Law or ACL is actually a single law which is now practiced all over the country which makes it a national law.

What does Australian Consumer Law includes?

The Australian Consumer Law was made to protect consumer rights in Australia. It includes:

- A law that covers all the consumer contracts.
- A law that grants all the buyers of services and goods their consumer rights.
- An enforcement system that also covers law of product safety.
- A law that covers all the telephone and door-to-door sales agreements for the unsolicited consumers.
- A law that includes all the consumer redress, enforcement powers and new penalties.

What does this Australian Consumer Law apply to?

Australian consumer law is applicable to all the businesses in Australia no matter if they are big or small. The law applies in each and every territory and state of the country. Now, we will talk a little about the Australian Consumer Law and your small business.

Australian Consumer Law and your small business:

As mentioned above, the Australian Consumer Law covers the whole country and all businesses whether small or large. So, if you have started a small business in Australia, then you definitely need to know how it applies to you and your business.

There is no way you can get away with ignorance of Australian Consumer Law if you are a seller especially if you work with services, goods, businesses and customers, then you must know each and every obligation and right, and the way this law has an impression on your business. You just can't ignore it.

Before Australian Consumer Law, almost 17 territory, state and federal consumer laws were in practice.

These laws included:

- the regulation of consumer product safety
- harmful business practices
- basic consumer rights for goods and services
- standards of business conduct
- unfair contract laws
- the regulation of specific types of business-to-consumer transactions

The laws were enforced and administered by State and Territory consumer protection agencies and the Australian Competition and Consumer Commission commonly known as ACCC jointly. This is not it; now this commission helps you a lot in understanding and getting all the information related to the Australian Consumer Law. The commission has made some great videos on YouTube to help you understand the law better. You can find a lot in these videos like:

- The introduction about Australian Consumer Law and what basics you should know about it
- Consumer guarantees that are mentioned in the Australian Consumer Law
- The services provided under Australian Consumer Law
- How to sell goods under Australian Consumer Law

You are already a business owner so it might be a lot difficult for you to find time and understand all about the Australian Consumer Law. Well! Whatever the reason is, there is no excuse, you must know about the law. For your ease, you can check the official Australian Consumer Law site to understand it better and with minute details as well. For instance there are some matters that should be prioritized. Like if your consumer is asking for a bill, then you have to provide it for free without any charges. The bill must be given to the customer if your services or goods cost over \$75, excluding Goods Services Tax.

When you are giving the receipt to the buyer, you must give your identity as a supplier by giving your ACN or ABN. Also mention what you have supplied, the date on which you have supplied it and all the price of the services or goods.

If a customer finds a fault in your good then they have the right to ask for the money back and you have to do this no matter what. The compensation includes the full refund no matter if you keep the sign of “no refunds” on your services or goods. These are somewhat strict laws but trust me they have a huge impact on your business as well as the consumer. Following ACL will help you in winning true customers for your business.

For small businesses, building a name is the first priority but sometimes using false tactics and fraud might ruin all the hopes of building your business. Australian Consumer Law helps you a lot in looking after your customers and your business. The law forbids you from making deceptive, misleading and false claims about some service or product.

Apart from business owners, it is recommended to the consumers to know about their rights so they can bring their point forward legally and be saved from fraud or scam. The law affects your business both as

a buyer and a seller as well. Like if you have purchased goods worth \$40,000 for your own use, then the law will guarantee that the good will be safe from defects, will be durable, safe and perfect for the purpose you have purchased it for. It would also be perfect in appearance and will match with each and every description the seller has given about it.



LEGAL ISSUES TO ONLINE BUSINESS

Just as you face some troubles while you operate your business in the real world, you might face the same issues when you are operating your business online. The advancement of technology has led to many businesses being done online. This is in fact a positive aspect of business because now you do not have to interact physically for most of the issues and you can run your business by simply sitting in front of the computer. This post is going to help you out with some legal issues that are related to the online business and how you can operate your business in a more effective way.

Developing the Online Presence:

When you step into the online world, you have to make your mark and you have to develop your presence in the online world. For this, if you are taking some help from developer to develop your presence online or to implement the business plan that you suggested, you should consider making a contract between the developer and you. This contract should outline all the basic responsibilities and rights of the developer and you.

Following are some of the matters that should be in the contract.

- It should contain the ownership of content and software that is available and created for your website
- It should contain all the practical matters. This includes the timeframe for the completion of work, schedule, and the costs and fees.
- It should specify the responsibility for the usage and licensing content, third-party software, warranties, etc.

Web Address:

A web address is your identity in an online business. This is something that people will access in order to get your services or products. So this should be selected very carefully. You should also take care of some of the legal laws related to the business names and trademark. If you chose a name of your business and you want to check whether it is available or already taken in Australia, you can visit their website of Intellectual Property.

Websites policies and terms:

If you have decided that you are going to start an online business and to establish some type of online identity, you should consider making some of the policies that should clearly explain and elaborate the policies of your business. These policies should explain the terms and conditions to the potential customers, donors and supporters. These terms should contain some issues for example, the liability of material and content that you have presented online and all the rights of customers and donors when they are interacting with you using the internet. Your terms and conditions should always be consistent and it should contain applicable laws.

The online world contains tons of data that is presented there. When you place your content online, it is better to clearly display and explain your privacy policy. Another matter that you must mention is your security practices. This helps in gaining the trust of customers when you are inviting the supporters, customers and donors to enter their personal information and contact details. It also means that you are complying with privacy laws about the collection and storage of personal information.

The policies of every business are not the same. This depends upon the type of business. For example if your business is about selling the products, you should mention the returns and sales policy. If you are running an information website or a blog, then you should provide the readers with the privacy policy of your content.

Intellectual Property:

When you are inventing your own content for your online business, it is always better to pay a good attention to who owns your content, where is it coming from, and how can the owners make use of it without breaking the laws. If you are making your own material, you are free to use it anywhere you want. If some other person is helping you out in providing you the material, then you should clearly mention the agreement which states that content is being owned by someone else. If the content is not yours, then all the intellectual property rights belong to the one who owns the material.

The law of intellectual property requires you to get permission from the owner of copyright before putting some stuff on your business website. The first thing you should do is to check whether the content you want to use have some general license terms and to see if you have to permission to use it. In the other cases, you may have to go and find the owner and ask for their permission to use their

content for your business. Some intellectual property holders require a license fees to allow you to use their content.

Spam and marketing campaigns:

When you become a part of online business, it is very important for you to understand the principles of spam and all the laws that directly apply to it. If you need any kind of information related to the Spam Act, you can get it directly from the ACMA website or the website of Department of Communications.

Using third party Tools Or Social Media:

If you are planning to promote your business using the third party tools or social media, it is very important to know the conditions, terms and privacy policies that those websites contain. These policies are mostly available at the end of the website's homepage. By having knowledge of these policies, you should have an idea about the obligations and rights that you have in using the website. These policies also tell about the terms that you need of your users and customers if they are engaging with you through those websites.

Interacting with Customers via Social Media:

As an owner of an online business, you may need to take help from the social media websites in order to interact with the customers. Besides its benefits of connecting you with the customers, using social media can also give rise to the legal issues because this source of interaction is very immediate. Mostly, people do not think before writing, posting or publishing something. People sometimes want to vent or shock. Keeping these circumstances in mind, different laws related to hate speech, defamation or offensive conduct can be applied to the world of internet just as they do in the real world.

This can be possible that the organization is held accountable for all the inappropriate stuff that the users post in its forums or on its pages on social media websites. So it's good to establish a clean moderation policy in order to deal with these types of issues

Legal Resources:

You might be thinking of taking someone's help regarding the legal issues related to your online interaction and also before accepting or drafting any kind of legal terms related to the activities you do online. You can find help from different experts and lawyers by visiting these websites

- Arts Law
- Centre Australia Law
- Council Australia
- Briefit
- Findlaw Australia

These are some of the basic issues that are related to online business. Making your business online opens a new vista of issues and responsibilities. You should take good care of these matters in order to make your business successful.

