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Protecting Small Business

By Jon Broadley, Director

Greater protection will be provided to small business against unfair contract terms as a result of new legislation, the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015, which comes into force on 12 November 2016.

Under current legislation, there are various protections for consumer contracts. This new Act extends protections to small business contracts.

The changes mean that any contracts made on or after 12 November 2016 and existing contracts that are renewed after this date will be affected. A small business contract is one where the contract is for the supply of goods or services, or a sale or grant of an interest in land where:

a. at the time the contract is entered into, at least one party to the contract is a business that employs less than twenty (20) people; and
b. either of the following applies:
    i. the upfront price payable under the contract does not exceed $300,000.00;
    ii. the contract is for a period of more than twelve (12) months and the upfront price payable under the contract does not exceed $1,000,000.00.

The types of standard form contracts which are potentially covered include supply contracts for goods and contracts for supply of services such as IT, financial, accounting and cleaning services. They could also include franchise agreements, financial product contracts and telephone / internet contracts.

If your business regularly provides standard contracts to your customers, you should review them as soon as possible before 12 November 2016. If not, it could result in a claim by one of your customers alleging that a contract term is unfair and causing costly court proceedings.

We can assist you to ensure your current contracts are compliant with the new legislation and avoid possible ongoing expensive mistakes.

Should you wish to discuss any matters arising out of this article, please contact the author:

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