

The information in this newsletter is merely a guide and is not a full explanation of the law. This firm cannot take responsibility for any action readers take based on this information. When making decisions that could affect your legal rights, please contact us for professional advice.

DECEMBER 2013

The Three Amigos Italians ...

We wish to promote the above services which Porta Lawyers offers. We now offer the most comprehensive Italian-Australian legal services in Queensland and possibly Australia.

Our expertise is as follows:

1. Giovanni Porta BEd, LLB (Hons) - Solicitor & Notary Public - Principal, Porta Lawyers

Giovanni Porta was born and educated in Queensland. He offers Italian language fluency and legal expertise with older Italian migrants who are well settled in Australia and all of their legal, business and personal needs in Australia.

2. Fabio Orlando B.Int.Bus, LLB, Dip.Leg.Prac - Solicitor & Registered Migration Agent - Partner, Porta Lawyers

Fabio Orlando was born in Milan, Italy and is an Australian Citizen since 2005. He obtained his legal

qualifications in Australia and is a native Italian speaker. He offers expertise with migration services for the new generation of Italian migrants settling in Australia and also their personal and business needs upon their arrival and establishment in Australia.

3. Fabrizio Fiorino - Italian Foreign Lawyer - Legal Consultant - Porta Lawyers

Fabrizio Fiorino was born and educated in Italy and relocated to Australia in 2012. He retains the ability to practice law in Italy, together with close connections with his family's law firm in Italy. He offers expertise in providing legal services required in Italy such as property transactions, estate administration and all aspects of general Italian Law.

Should you require any further information please do not hesitate to contact Giovanni Porta at giovanni@portalawyers.com.au

Our Fearless Leader recently at the Childcare Queensland Conference proudly supported by Porta Lawyers



Do you have an EPOA?

An Enduring Power of Attorney is not only a useful document to have in place, but also provides security in the knowledge that, should you become incapable of making decisions for yourself, someone you trust would be able to make those decisions for you.

Do not presume that your next of kin will be able to take over your affairs for you!

An Enduring Power of Attorney must be completed while you are of sound mind. Don't put off making such an important document. Please feel free to contact Giovanni Porta or Leanne Bourrel of our office should you require any assistance in this regard.

Family Law Update

International travel for employment or wishing to relocate overseas for remarriage or other various reasons are common factors after divorce or a separation. Having children may make things difficult in Family Law if the other parent objects to the relocation. It is wise to enter into a formal agreement by both parents to ensure that the children's best interests are being considered. If there are Australian Family Law Court Orders in place, it is illegal to remove a child from Australia without the consent of the other parent. If an unreasonable refusal occurs for a child to be relocated with the other parent, it may be necessary to apply to the Family Court of Australia for a determination of the issue. Court proceedings should be seen as a last resort.

The Child Support Agency has been incorporated into the Department of Human Services (Child Support). There has been no change in the legislation relating to the Child Support Registrar, and so that title and its functions remain unchanged.

The Family Law Act requires that in determining the most appropriate child contact arrangements that there initially be a consideration of "equal time". If that is not appropriate, then there should be a consideration of "substantial and significant time". In Family Law, "substantial and significant time" is defined as "time in addition to weekends and holidays and which allows involvement in the child's routine and in occasions and events that are significant to the child and the parents".

If you have any queries regarding family law matters, please feel free to email Kathryn O'Brien at kathryn@portalawyers.com.au

Unfair Business Contracts

In 2011 new law was made protecting consumers from unfair contracts. The law consisted of changes to what was historically considered 'unfair' for consumers. It is important that both consumers and business owners alike are aware of what an unfair business contract or term is.

Where there is an oral/written agreement for goods or services and the purchase is not made for the purpose of carrying on business it is generally considered a 'consumer contract'. A 'consumer contract' imports all the benefits of the new law.

The characterisation of an unfair contract or term depends on the following criteria:

1. It would cause a significant imbalance in the parties' rights and obligations arising under the contract; and
2. It is not reasonably necessary to protect the legitimate interests of the party who would be advantaged by the term; and
3. It would cause detriment (whether financial or otherwise) to a party if it were to be applied or relied on.

Typically, where there is an imbalance in rights, (e.g. the Seller has a right to terminate but the Buyer does not; or penalties for breach by the Buyer but not for breach by the Seller) the contract or term will be unfair at law. Other examples of unfair contracts might be where consumer rights are thrown away, like the consumer's statutory cooling-off period.

Important note: There are some exclusions, which include but are not limited to, shipping contracts and insurance contracts.

If you are faced with a potential unfair business contract/clause contact your lawyer to assist in the characterisation. It is best to avoid unfair contracts, whether you are a consumer or a business owner.

If you have any queries, please do not hesitate to contact Nathan Rose at nathan@portalawyers.com.au

**Congratulations to Dianne Berridge, our Conveyancing Paralegal
on the arrival of her first grand-child, Aiden Jay born on 20 August 2013
weighing in at a healthy 9lb 3 ½ ozs!!!**

