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Newsletter | June 2015



Landlords: Can You Switch Off Your Defaulting Tenant's Lights?

Your tenant isn't paying rent and refuses to move out – can you turn the electricity off?

The judgment discussed in this article relates to a commercial occupier and as is noted in this article, residential occupiers enjoy additional protections to commercial occupants. There will no doubt be much debate in legal circles as to what extent this new decision might or might not assist landlords of residential premises. As always, take advice upfront!

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Selling A Business With Goodwill: Beware This Implied Prohibition

When you sell a business including its “goodwill”, you will likely be prevented from opening up in competition with your old business by a “restraint of trade clause” in the sale agreement.

Restraint clauses have to be reasonable in duration, so somewhere along the line your restraint period will lapse. And when that happens, you may think that you are now completely free to set up shop again.

But as an important High Court decision has highlighted, this is not entirely correct...

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Renting in a complex? Read the rules!

“..... parties are free to contract as they please. The law permits perfect freedom of contract. Parties are left to make their own agreements, and whatever the agreements are, the law will enforce them provided they contain nothing illegal or immoral or against public policy” (extract from judgment below)

Be warned – whether you buy into a residential complex or rent a house in one – the High Court has again upheld the right of Home Owners Associations (HOAs) to enforce their rules and regulations.

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Family Responsibility Leave – Your FAQs

When can an employee take fully-paid leave to deal with family matters and not have it deducted from his/her annual leave entitlement? This is often a source of confusion for both employers and employees, but it needn't be. The BCEA (Basic Conditions of Employment Act) sets everything out clearly, although note that some employers grant more favourable terms than the statutory minimums, either in their discretion or in terms of a "collective agreement" with a trade union.

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Your June Websites: Keeping Warm And Well This Winter

"If Winter comes, can Spring be far behind?" (Shelley)

Whether you are employed, self-employed or happily non-employed, you can't afford to let Winter 2015 give you the blues or put you in your sick bed – Eskom's ongoing contribution to our woes notwithstanding.

Be particularly careful of the flu this season. It hit the Northern Hemisphere hard and is trending higher in South Africa than in previous years (see the "Explore flu trends - South Africa (Experimental)" graph at <https://www.google.org/flutrends/za/>).

Enjoy Winter and stay on top form all the way through to Spring with these random websites to help you keep warm, healthy and happy –

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