



Hutchinson
Legal

Crypto
currency

UCT
Reform Bill

Grey
Nomads

SUMMER 2022

Insight

Christmas – a time to be grateful

May the Christmas message infuse your life with joy and peace. Joy despite the clouds of uncertainty. Peace despite a background of global conflict. We hope you enjoy this edition of our newsletter. Happy Christmas from us all at Hutchinson Legal.

What is cryptocurrency?

Cryptocurrency is a privately issued digital asset which has its own 'currency' and utilises cryptography to store digital tokens rather than relying on a central entity to operate it, such as a bank. It is important to note that cryptocurrency has no intrinsic value, so its value fluctuates depending on a range of factors such as its popularity.

In Australia, the effect of the *Currency Act 1965* is that cryptocurrencies are not recognised as legal tender, however, the use of cryptocurrency is becoming more accessible via cryptocurrency ATMs and some businesses accepting it as a form of payment.

Cryptocurrency and other digital assets should be included in your Estate plan.

your residuary estate. Your residuary estate includes all the assets not otherwise dealt with in your Will, in other words, the 'leftovers'.

The difficulty with Cryptocurrency not being specifically mentioned in your Will is that your Executor may not even know you have cryptocurrency, or they may not know how to access and liquidate it if necessary. Cryptocurrency does not leave a paper trail like traditional assets such as shares or bank accounts, and for this reason you should ensure that your cryptocurrency is clearly identified.

To read the full article, please go to: <https://www.hutchinsonlegal.com.au/resources/what-is-cryptocurrency>

The Wills and Estates Team provides special Information Booklets to clients to record this information, with each set of Wills and Enduring Powers of Attorney prepared. If you would like to see our Team for any estate planning advice please telephone us on 9870 9870.

"What is Christmas?
It is tenderness for the past,
courage for the present, hope for
the future."

AGNES M. PAHRO

FAST FACTS

1.6B

The number of Christmas cards sent annually. The first was sent in 1611 by a German physician to King James I of England.

15%

The increase since 2013 of investors in cryptocurrency who are over 65, and making the largest deposits.

89%

The number of Aussie baby boomers who take out travel insurance, compared with only 45 per cent of travellers under 35.



New Unfair Contract Term Laws

In September this year, the Federal Government introduced legislation to reform unfair Contracts for small business' otherwise known as the 'UCT Reform Bill' ("the Bill"). The explanatory memorandum of the Bill states that it will "act to strengthen and clarify the existing unfair contract terms provisions"¹ to reduce the frequency of including, applying or relying on unfair terms in standard form and small business contracts. (A standard form contract is one where only one party has input into the terms of the agreement.)

Existing protections under the Australian Consumer Law and the Australian Securities and Investments Commission Act (2001) (Cth) ('ASIC Act') provide that where a Court determines a contract clause to be unfair, the term is void. The explanatory memorandum of the Bill notes that "this approach has not provided sufficient deterrence

against the use of unfair terms, which remain prevalent in standard form contracts"².

What changes will be made?

Some key changes proposed in the Bill are:

1. PENALTIES

In addition to the current penalty of rendering the unfair term void, Courts will have the ability to order pecuniary (monetary) penalties for the party in breach of the law, and they will have more flexibility to impose civil penalties on parties in breach.

2. SCOPE

The definition of 'small business' would be expanded under the law, meaning that these protections would apply to any standard form contract where the business has fewer than 100 employees

¹ Explanatory Memorandum, Treasury Laws Amendment (More Competition, Better Prices) Bill 2022 (Cth) p.2.

² Ibid chapter 2 2.4.



or annual turnover of less than \$10 million.

3. ABILITY FOR MULTIPLE BREACHES

Each individual unfair term in a contract is considered a separate contravention under the law, and accordingly, a person can be found to have made multiple breaches in one contract, which could result in penalties imposed for each individual breach within the one contract.

To read the full article, please go to: <https://www.hutchinsonlegal.com.au/resources/new-unfair-contract-term-laws>

Do you want to be a Grey Nomad?

Do you dream of travelling during retirement? If so, you may be considering renting out your home whilst you are away, however, there are some things to consider for those looking to apply for a pension or who are already on a pension.

If you plan to vacate your property and not live in it for 12 months, and you want to rent it out whilst you are gone, you may be affected by both the asset and income tests. This may reduce or eliminate your pension.

Pension general requirements

To obtain a pension you generally must be:

- of pension age,
- under the income and assets test limits, and
- an Australian resident for at least 10 years.

Asset test

While real estate is included in the asset test, a person's principal home (the home a person usually lives in) is not included.

After 12-months of being away, a home is not considered as the principal home and will become an asset for pension purposes even if the person intended to return sometime after 12 months. If this happens, then the value of the home may affect the amount of pension a person can claim.

Income test

The income test looks at all income being made by a person and their partner. This includes wages, deemed income from superannuation, investments, and income from renting out real estate, including a principal home.



Therefore, receiving rent from your home to travel as a grey nomad may affect your pension.

If you need any further advice about these matters please give our estate planning team a call on 9870 9870.

We are looking forward to resuming our usual movie night FUNction in March or April next year, so keep an eye out for further announcements. We would love to see you there.



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