

## Legal Offices

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## Property Shops

42-44 St John Street,  
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# Hotspots

November 2013



### Health and Safety Law - Amendment

A recent amendment to the Health and Safety at Work Act means that employees (other than those who are pregnant, have recently given birth or are breastfeeding) will not be able to bring a civil claim for damages based purely on a breach of statutory duty – they will now have to show there has been negligence on the part of the employer.

### Employee Shareholders Beware

On 1st September, the concept of “employee shareholders” came into force, thereby creating a new type of employment status where employees give up a bundle of employment rights, including most unfair dismissal claims and statutory redundancy payments, in exchange for an award of shares worth at least £2,000.

Guidance has now been issued on the scheme by both HM Revenue & Customs and the Department for Business, Innovation & Skills. It should be noted that an employee shareholder’s employment status does not change if he or she sells their shares. A change of employment status would require a contractual amendment.

### Equality Act – Changes to Employers’ Liability

The removal of the provisions of the Equality Act 2010 relating to employers’ liability for third party harassment took effect last month.

An employer can now therefore only be held liable for the harassment of one of its employees by a third party (such as a customer, service user or client) if the reason for the failure to prevent harassment was itself discriminatory.

### Maternity Leave and Surrogacy Arrangements

A recent case has shown that an intended mother in a surrogacy arrangement is entitled to maternity leave, in compliance with the Pregnant Workers Directive. Compulsory leave of at least 2 weeks must be granted to both mothers, but the concept of surrogacy cannot result in a doubling of the leave entitlement under the Directive. Four weeks of mandatory leave must be deducted from the 14 week minimum, with the remaining 10 weeks being divided between the women, taking into account the legally protected interests of the Directive.

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### Implementation of the Long Leases (Scotland) Act 2012

The Long Leases (Scotland) Act 2012 (the "Act") is part of the Scottish Government's programme to simplify the land tenure system in Scotland.

The driver for change is that the tenant of a lease which is granted for more than 175 years is, in effect, the owner in all but name. Around 9,000 leases will be eligible to convert into ownership under the Act.

The consultation period on the forms and procedures to be followed under the Act has now passed, and 28 November 2015 has been fixed as the "appointed day" upon which tenants' rights in certain long leases will be converted to full ownership.

Affected leases are:-

- Non-residential leases with more than 175 years left to run; and
- Residential leases, originally of at least 175 years in length, and with more than 100 years left to run.

Certain leases are excepted, such as:-

- where the annual rent is over £100; and
- leases of mineral rights and rights to install and maintain pipes and cables.

Tenants may also exempt a qualifying lease by registering a notice not later than two months before the appointed day. Landlords can also do so by registering an agreement with the tenant or an order by the Lands Tribunal. There are also provisions giving the Landlord a right to claim compensation and time limits within which this must be done.

If you are a landlord or a tenant under a long lease we would recommend that you contact us as soon as possible to make sure that your interests are protected.

For further information on these or other legal issues please contact either Alistair Duncan in our Dundee Office on (01382) 200000 or James Andrew in our Perth Office on (01738) 637311

These comments are provided for guidance only. Each situation must be looked at in its own right so you cannot rely on these points in relation to any particular matter without first taking specific advice

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