



JJ RIBA & COMPANY
COMMERCIAL LAWYERS

Buying or Selling a Business

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STRENGTH THROUGH KNOWLEDGE

So, you're buying a business

Here are some things you should do to prepare for the purchase.

Before you buy a business

Speak with your accountant about:

- 01 The correct entity to buy the business.
(Would it be best to set up a company or a trust?)
- 02 Completing due diligence investigations and reporting on the books of the business.
- 03 The purchase price and any need for apportionment of the purchase price.
- 04 GST related issues.
- 05 Cashflow, business plan and a budget for the purchase and operation of the business.

Speak with your financier about:

- 06 The availability of finance.
- 07 The financiers requirements for the provision of your finance.
- 08 Any necessity to provide security/mortgage.
- 09 The estimated date that funds will be available.

Speak with your Lawyer about:

- 10 The terms of the contract and any special conditions you may require.
- 11 The process of how a business purchase transaction is affected so that you have a general understanding.

Speak with the Broker and the Business Owner about:

- 12 The types of businesses available that would suit you, find out as much information about the business as you can to ensure the business is right for you.
- 13 The availability of the information required by your accountant.
- 14 The net return that you can expect after payment of expenses.

Prepare the following information for the Landlord and Suppliers:

- 15 [a] Personal References
- [b] Trade references
- [b] Bank references
- [c] Resume & work history
- [d] List of assets and liabilities
(certified by your accountant)



Before settlement

Ask your accountant to:

- 01 Register you for GST and obtain an ABN.

With your financier:

- 02 Finalise your finance arrangements and organise the provision of funds for settlement including a bank guarantee for the Landlord if required.

With the Business Owner:

- 03 Verify the existence and working order of the plant and equipment.
- 04 Check that the inventory list attached to the contract includes all plant and equipment.
- 05 Arrange any pre-settlement training

Let your Lawyer know:

- 06 If you have any remaining concerns.
- 07 Whether you are satisfied with the terms of the Lease.

- 08 If they need to arrange any transfers of licences.

- 09 The result of Due Diligence and other investigations.

- 10 Which employees you intend to re-employ.

What you need to do:

- 11 Take out insurance over the leased premises.

- 12 Obtain any licences required to operate the business which cannot be transferred from the Seller.

- 13 Speak with the business suppliers to ensure you will be able to obtain necessary supplies, ensure that the Seller owns all stock and that invoices have been paid by the Seller.

- 14 Speak to the council in relation to: Town Planning, including licences or permits required to carry on the business, Building laws including the appropriate classification to carry on the business.

- 15 Decide which employees you intend to re-employ.

After settlement

- 01 Make up a file containing the contract of purchase, the result of searches and any important correspondence.

- 02 Put the file in a safe place for future reference. You may need it when you sell.

- 03 Register any necessary transfer forms.



So, you're selling your business

Here are some things you should know.

Before you sell your business

Speak with your accountant about:

- 01 The correct entity selling the business. Is it you as an individual, a company, a trust?
- 02 GST - is this the sale of a going concern?
- 03 The purchase price and any need for apportionment of that price.
- 04 Ask your accountant to prepare financials for intending Buyers to view and make sure your books are up to date.
- 05 Minimising any tax consequences of the sale.

Documents to prepare and give to the Broker:

- 06 Inventory List of all plant & equipment owned by the business.
- 07 Inventory List of all plant & equipment leased/rented by the business.
- 08 An Employee List which sets out the names of each of your employees, details of wages, the date each employee commenced work and details of any entitlements such as holiday leave, sick leave and long service leave to which they are entitled.
- 09 Copies of all agreements for the lease of equipment.
- 10 Copies of any Licences required to operate the business including your business name certificate.

11 Copies of all lease documents for the business premises including any variation or assignments.

12 Details of certain discussions with your lawyers.

Speak with your lawyer about:

- 13 The terms of the contract and any special conditions you may require.
- 14 The period of the restraint of trade that you are prepared to accept.
- 15 The amount of any deposit you are prepared to accept.
- 16 The process of how a business sale transaction is affected so that you have a general understanding.



Before settlement of your contract

- 01 Obtain payout figures for loans associated with the business and organise releases of any encumbrances on any business assets. This may include a charge over your company, mortgage over your lease, a hire purchase agreement or bill of sale.
- 02 Pay all outstanding debts of the business.
- 03 Check calculations of staff entitlements.
- 09 An Employee List which sets out the names of each of your employees, details of wages, the date each employee commenced work and details of any entitlements such as holiday leave, sick leave and long service leave to which they are entitled.
- 10 Copies of all agreements for the lease of equipment.
- 11 Copies of any Licences required to operate the business including your business name certificate.
- 12 Copies of all lease documents for the business premises including any variation or assignments.

Documents to provide to your Lawyer:

- 04 Copies of any invoices/receipts for outgoings which extend for a period beyond the settlement date which you think should be adjusted. These might include items such as licence fees, yellow pages or other advertising, maintenance or security costs.
- 05 Copies of any service agreements for the business. This may include security agreements, cleaning contracts or maintenance agreements.
- 06 Roadworthy Certificates and original Certificates of Registration for all vehicles sold with the business.
- 07 If there are any requisitions over the business you must respond to these and provide evidence that you have met the requisitions.
- 08 Information in relation to any work in progress or stock amount to be included in settlement figures.

People you need to talk to:

- 13 Providers of your phone, electricity, fax, email and website to arrange for transfers.
- 14 Your landlord - advise them of the sale and discuss their requirements for consent to the assignment of the lease and release of any bond.
- 15 Your accountant - confirm the sale date. What does your accountant suggest you do with the proceeds. Between the contract date and settlement, you must continue to operate the business as a going concern!

After settlement

- 01 Contact your financial planner and accountant to ensure that you properly reserve the right to any rollover, minimise tax consequences, and invest the proceeds of the sale in the most effective way.





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