

# Some Timely Advice on Legal Matters

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At the moment in our family we are waking up every day to hear our first born tell us precisely how many sleeps until her birthday. We have a calendar up so that she can work out the days until the big day. Today there are 4 sleeps left!

Counting days in business, is similarly important (but perhaps not quite as exciting as a 7 year old's birthday). Counting days within which court documents are due to be filed, or offers are due to expire is extremely important and there is certainly room for error.

Section 36 of the *Acts Interpretation Act 1901* (Cth) and the equivalent state statutes provide guidance in relation to how time is to be counted.

The general rule is that when calculating days, you must not include the day in which the actual act occurs.

For example, in the case of making an application to the Fair Work Commission in relation to unfair dismissal the application must be made within 21 days after the dismissal took effect. To calculate these days, you must count from the day after the dismissal takes effect with the final day being the 21<sup>st</sup> day from there.

If the relevant wording of a contract relies on the concept of clear days, for example, a party must give a notice five clear days before settlement, then the date of the notice and the date of settlement are not included in that count, there must be 5 days counted between those events.

There is also the distinction between calendar days and business days. If the number of days contemplated is not intended to mean business days, then weekends and public holidays are still counted.

Another thing to watch is the time of day when you must complete the obligation, in that the response may be required prior to close of business, and one minute past 5pm may push you out of time. Then there is the matter of whether it is close of business in one state or the other.

To avoid getting tripped up, take special notice of the way the time limits are described, and don't be afraid to seek clarification in writing from the source if you have any doubts whatsoever.

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Elspeth's articles can be accessed on the Daily Mercury website at <http://www.dailymercury.com.au/topic/elspeth-ledwy/> or you can find Elspeth's column "Mind Your Own Business" in the Daily Mercury newspaper each Wednesday.



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