

# Land Sales and Other Legislation Amendment Bill 2014

Amendments during consideration in detail to be moved by  
The Honourable the Attorney-General and Minister for Justice

## 1 **Clause 2 (Commencement)**

Page 10, lines 7 and 8—

*omit, insert—*

This Act, other than parts 4 and 10 and sections 60A and 63A, commences on the commencement of the *Property Occupation Act 2014*, part 7.

## 2 **Clause 6 (Amendment of s 82 (Claims))**

Page 14, lines 4 to 32 and page 15, lines 1 to 13—

*omit, insert—*

(1) Section 82(1)(g), last dot point—

*omit, insert—*

- section 212.

(2) Section 82(1)(h)—

*omit.*

## 3 **Clause 11 (Insertion of new ch 5, pt 2, div 1)**

Page 18, lines 24 to 29—

*omit.*

## 4 **Clause 12 (Insertion of new s 212B)**

Page 19, lines 2 to 30—

*omit, insert—*

(1) Section 213, as modified by this section, applies if a person grants an option (the *option*) to another person—

- (a) to purchase a proposed lot; or
  - (b) to sell a proposed lot.
- (2) For subsection (1)—
- (a) section 213(1) requires the giving of a disclosure statement in relation to the option as if a reference to a contract for the sale of a proposed lot being entered into were a reference to an option to purchase or sell the proposed lot being granted; and
  - (b) any right of termination under section 213 relating to the disclosure statement applies in relation to—
    - (i) the option; and
    - (ii) a contract entered into by the seller and buyer for the sale to the buyer of the proposed lot arising from the option.
- (3) If the seller and buyer enter into a contract for the sale to the buyer of the proposed lot arising from the option, section 213(1) does not require the giving of a disclosure statement in relation to the contract for the sale.
- (4) If the buyer is not a party to the contract for the sale of the proposed lot arising from the option, the seller must comply with section 213 before entering into the contract for the sale.
- (5) In this section—
- buyer** means the person who is granted an option to purchase, or grants an option to sell, the proposed lot.
- seller** means the person who grants an option to purchase, or is granted an option to sell, the proposed lot.

**5 Clause 13 (Amendment of s 213 (Information to be given by seller to buyer))**

Page 20, lines 9 to 13—

*omit, insert—*

- (iii) state the date by which the seller must settle the contract for the sale of the proposed lot as provided under section 217B; and

**6 Clause 14 (Insertion of new s 213AA)**

Page 20, lines 24 to 28—

*omit, insert—*

- (a) for a proposed lot intended to be a building format lot—the building format lot particulars; or
- (b) for a proposed lot intended to be a volumetric format lot—the volumetric format lot particulars; or
- (c) for a proposed lot intended to be a standard

**7 Clause 14 (Insertion of new s 213AA)**

Page 21, lines 13 to 33—

*omit, insert—*

***building format lot particulars***, for a proposed lot intended to be a building format lot, means the following—

- (a) the proposed number of the lot;
- (b) the total area of the lot;
- (c) identification of any parts of the lot proposed to be outside the building in which the lot is proposed to be located, including any proposed balcony, courtyard or carport;

- (d) the floor level in the building in which the lot is proposed to be located;
- (e) identification of other lots and common property proposed to be on the same floor level in the building in which the lot is proposed to be located;
- (f) identification of the proposed orientation of the lot by reference to north.

**8 Clause 14 (Insertion of new s 213AA)**

Page 22, lines 11 and 12—

*omit, insert—*

- (c) if the seller of the lot intends that before the contract is settled, a building be constructed on the lot by the seller, or by another person who is not the buyer under an arrangement procured by the seller—

**9 Clause 14 (Insertion of new s 213AA)**

Page 22, lines 28 to 34—

*omit, insert—*

- (ii) the location of any retaining walls that are part of the work; and
- (iii) the height of any retaining walls that are part of the work or, if the height varies across the length of the wall, the height of the lowest and highest points of the wall and the average height of the wall; and
- (iv) the areas of the lot to be cut or filled as part of the work; and
- (v) the following information about any fill that is part of the work—
  - (A) the depth of the fill;

- (B) whether the compaction of the fill will be done in accordance with Australian Standard AS 3798-2007, and the level of inspection and testing services carried out;
- (C) if the compaction of the fill will not be done in accordance with that Australian Standard, the nature of the departure from the standard.

**10 Clause 14 (Insertion of new s 213AA)**

Page 23, after line 4—

*insert—*

*volumetric format lot particulars*, for a proposed lot intended to be a volumetric format lot, means the following—

- (a) the proposed number of the lot;
- (b) an isometric representation of the lot;
- (c) the area of the projected footprint of the lot;
- (d) the level of the ground surface in approximate values for illustrating the location of the lot in relation to that level;
- (e) identification of the proposed orientation of the lot by reference to north;
- (f) if the lot is proposed to contain a building or be located in a building—
  - (i) the floor level on which the lot is proposed to be located; and
  - (ii) identification of other lots and common property proposed to be on the same floor level in the building.

**11 Clause 15 (Amendment of s 214 (Variation of disclosure statement by further statement))**

Page 23, line 15, ‘the building or’—

*omit, insert—*

the building format lot particulars,

**12 Clause 17 (Insertion of new s 217B and ch 5, pt 2, div 5, hdg and div 5, sdiv 1, hdg)**

Page 24, lines 19 to 29 and page 25, lines 1 to 6—

*omit, insert—*

**217B Terminating contract if not settled within particular period**

- (1) This section applies if, other than because of the buyer’s default, the seller has not settled the contract for the sale of the proposed lot before—
  - (a) if the contract provides for a date by which it must be settled (the *sunset date*), the earlier of the following—
    - (i) the sunset date or, if the buyer requests a later date for settlement and the seller agrees to the date, the later date;
    - (ii) the end of 5<sup>1</sup>/<sub>2</sub> years after the day the contract was entered into by the buyer or, if the buyer requests a later date for settlement and the seller agrees to the date, the later date; or
  - (b) otherwise—the end of 3<sup>1</sup>/<sub>2</sub> years after the day the contract was entered into by the buyer or, if the buyer requests a later date for settlement and the seller agrees to the date, the later date.

**13 Clause 17 (Insertion of new s 217B and ch 5, pt 2, div 5, hdg and div 5, sdiv 1, hdg)**

Page 25, lines 12 to 14—

*omit, insert—*

termination given to the seller before the contract is settled.

**14 Clause 19 (Insertion of new ch 5, pt 2, div 5, sdiv 2 and ch 5, pt 2, div 5, sdiv 3, hdg and ss 218E and 218F)**

Page 26, lines 18 to 20—

*omit, insert—*

the lot (other than an amount paid at settlement);

**15 Clause 19 (Insertion of new ch 5, pt 2, div 5, sdiv 2 and ch 5, pt 2, div 5, sdiv 3, hdg and ss 218E and 218F)**

Page 29, lines 12 to 20—

*omit, insert—*

- (1) This section applies if an instrument is received from the buyer of a proposed lot as security for the payment of an amount under the contract for the sale of the lot—
  - (a) by a recognised entity on behalf of the seller; or
  - (b) by any other person on behalf of the seller; or
  - (c) by the seller.

*Example of an instrument for subsection (1)—*

bank guarantee

- (2) For subsection (1)(a), the recognised entity must keep the instrument at the prescribed place until—

**16 Clause 19 (Insertion of new ch 5, pt 2, div 5, sdiv 2 and ch 5, pt 2, div 5, sdiv 3, hdg and ss 218E and 218F)**

Page 30, line 10—

*omit, insert—*

- (5) For subsection (1)(b), the person must give the instrument directly to a recognised entity.  
Maximum penalty—200 penalty units or 1 year’s imprisonment.
- (6) For subsection (1)(c), the seller must give the instrument directly to a recognised entity.  
Maximum penalty—200 penalty units or 1 year’s imprisonment.
- (7) If the instrument is given to a recognised entity under subsection (5) or (6), subsections (2), (3) and (4) apply as if the instrument were received from the buyer by the recognised entity on behalf of the seller as provided in subsection (1)(a).
- (8) In this section—

**17 Clause 21 (Insertion of new ch 8, pt 13)**

Page 33, lines 29 to 31 and page 34, lines 1 to 25—

*omit, insert—*

- (b) the contract does not provide the date by which it must be settled.
- (3) Section 217B is modified by omitting subsection (1)(b) and inserting the following—
  - ‘(b) if the contract does not provide the date by which it must be settled—the end of the period prescribed in the repealed *Land Sales Regulation 2000*, schedule 2, worked out from the day the contract was entered into.’
- (4) In this section—



---

**18 Clause 21 (Insertion of new ch 8, pt 13)**

Page 35, lines 14 to 17—

*omit, insert—*

(2) However, if, at any time before the settlement of a contract to which the part applies, the parties to the contract agree to settle the sale using e-conveyancing, the part is to be read with the following changes—

(a) old LSA, section 22(4)(a)—

*omit, insert—*

‘(a) the vendor or the vendor’s agent can not require the purchaser to settle; and’;

(b) old LSA, section 23(1), ‘, without becoming entitled in terms of the instrument to receive a registrable instrument of transfer in exchange therefor’—

*omit, insert—*

‘(but excluding an amount payable at settlement)’;

(c) old LSA, section 23(4)—

*omit;*

(d) old LSA, section 25(2)(a)—

*omit, insert—*

‘(a) before settlement of the sale of the proposed lot; or’;

(e) old LSA, section 25(2)(b)(ii)—

*omit, insert—*

‘(ii) before settlement of the sale of the proposed lot;’;

(f) old LSA, section 27, heading—

*omit, insert—*

**‘27 Purchaser’s rights if purchase not settled within a certain period’;**

- (g) old LSA, section 27(1)(b), ‘the vendor has not given the purchaser a registrable instrument of transfer for the lot’—

*omit, insert—*

‘the sale of the proposed lot has not been settled’;

- (h) old LSA, section 27(2), ‘before the vendor gives the purchaser the registrable instrument of transfer for the proposed lot’—

*omit, insert—*

‘before the sale of the proposed lot has been settled’;

- (i) old LSA, section 28, heading, ‘for giving of registrable instrument’—

*omit.*

- (3) In this section—

*e-conveyancing* see the *Property Law Act 1974*, section 58A.

*old LSA*, followed by a provision number, means the provision with that number in the *Land Sales Act 1984* as in force at any relevant time before the commencement.

## **19 Clause 22 (Amendment of sch 6 (Dictionary))**

Page 36, lines 9 and 10—

*omit.*

**20 Clause 27 (Amendment of s 7 (Interpretation))**

Page 43, lines 19 and 20—

*omit.*

**21 Clause 28 (Replacement of pt 4, div 3, hdg (Original proprietors))**

Page 44, lines 9 to 18—

*omit, insert—*

**48D Definition for div 3**

In this division—

*cadastral surveyor* see the Surveyors Act 2003, schedule 3.

**22 Clause 28 (Replacement of pt 4, div 3, hdg (Original proprietors))**

Page 45, lines 15 to 33 and page 46, lines 1 to 12—

*omit, insert—*

- (1) Section 49, as modified by this section, applies if a person grants an option (the *option*) to another person—
  - (a) to purchase a proposed lot; or
  - (b) to sell a proposed lot.
- (2) For subsection (1)—
  - (a) section 49(1) requires the giving of a disclosure statement in relation to the option as if a reference to a contract for the sale of a proposed lot being entered into were a reference to an option to purchase or sell the proposed lot being granted; and
  - (b) any right of avoidance under section 49 relating to the disclosure statement applies in relation to—

- (i) the option; and
  - (ii) a contract entered into by the original proprietor and purchaser for the sale to the purchaser of the proposed lot arising from the option.
- (3) If the original proprietor and purchaser enter into a contract for the sale to the purchaser of the proposed lot arising from the option, section 49(1) does not require the giving of a disclosure statement in relation to the contract for the sale.
- (4) If the purchaser is not a party to the contract for the sale of the proposed lot arising from the option, the original proprietor must comply with section 49 before entering into the contract for the sale.
- (5) In this section—  
*original proprietor* means the person who grants an option to purchase, or is granted an option to sell, the proposed lot.  
*purchaser* means the person who is granted an option to purchase, or grants an option to sell, the proposed lot.

**23 Clause 29 (Amendment of s 49 (Duties of original proprietor))**

Page 46, lines 31 and 32 and page 47, lines 1 to 3—

*omit, insert—*

- (ii) state the date by which the original proprietor must settle the contract for the sale of the lot as provided under section 49B; and

**24 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 50, lines 21 to 33—

*omit, insert—*

- (c) identification of any parts of the lot proposed to be outside the building in which the lot is proposed to be located, including any proposed balcony, courtyard or carport;
- (d) the floor level in the building in which the lot is proposed to be located;
- (e) identification of other lots and common property proposed to be on the same floor level in the building in which the lot is proposed to be located;

**25 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 51, lines 13 and 14—

*omit, insert—*

- (c) if the original proprietor of the lot intends that before the contract is settled, a building be constructed on the lot by the original proprietor, or by another person who is not the purchaser under an arrangement procured by the original proprietor—

**26 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 51, lines 30 to 33 and page 52, lines 1 to 3—

*omit, insert—*

- (ii) the location of any retaining walls that are part of the work; and
- (iii) the height of any retaining walls that are part of the work or, if the height varies across the length of the wall, the height of the lowest and highest points of the wall and the average height of the wall; and

- (iv) the areas of the lot to be cut or filled as part of the work; and
- (v) the following information about any fill that is part of the work—
  - (A) the depth of the fill;
  - (B) whether the compaction of the fill will be done in accordance with Australian Standard AS 3798-2007, and the level of inspection and testing services carried out;
  - (C) if the compaction of the fill will not be done in accordance with that Australian Standard, the nature of the departure from the standard.

**27 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 52, lines 8 to 25—

*omit, insert—*

**49B Avoiding contract if not settled within particular period**

- (1) This section applies if, other than because of the purchaser's default, the original proprietor has not settled the contract for the sale of the proposed lot before—
  - (a) if the contract provides for a date by which it must be settled (the *sunset date*), the earlier of the following—
    - (i) the sunset date or, if the purchaser requests a later date for settlement and the original proprietor agrees to the date, the later date;

(ii) the end of 5 $\frac{1}{2}$  years after the day the contract was entered into by the purchaser or, if the purchaser requests a later date for settlement and the original proprietor agrees to the date, the later date; or

(b) otherwise—the end of 3 $\frac{1}{2}$  years after the day the contract was entered into by the purchaser or, if the purchaser requests a later date for settlement and the original proprietor agrees to the date, the later date.

**28 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 52, line 33 and page 53, lines 1 and 2—

*omit, insert—*

the contract is settled.

**29 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 54, lines 9 to 11—

*omit, insert—*

the lot (other than an amount paid at settlement);

**30 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 56, lines 31 and 32 and page 57, lines 1 to 7—

*omit, insert—*

(1) This section applies if an instrument is received from the purchaser of a proposed lot as security for the payment of an amount under the contract for the sale of the lot—

- (a) by a recognised entity on behalf of the original proprietor; or
- (b) by any other person on behalf of the original proprietor; or
- (c) by the original proprietor.

*Example of an instrument for subsection (1)—*

bank guarantee

- (2) For subsection (1)(a), the recognised entity must keep the instrument at the prescribed place until—

**31 Clause 30 (Replacement of s 49A (Interpretation of awareness in s 49(5)))**

Page 57, line 27—

*omit, insert—*

- (5) For subsection (1)(b), the person must give the instrument directly to a recognised entity.  
Maximum penalty—200 penalty units or 1 year's imprisonment.
- (6) For subsection (1)(c), the original proprietor must give the instrument directly to a recognised entity.  
Maximum penalty—200 penalty units or 1 year's imprisonment.
- (7) If the instrument is given to a recognised entity under subsection (5) or (6), subsections (2), (3) and (4) apply as if the instrument were received from the purchaser by the recognised entity on behalf of the original proprietor as provided in subsection (1)(a).
- (8) In this section—



**32 Clause 34 (Insertion of new pt 7, div 2)**

Page 61, lines 26 to 34 and page 62, lines 1 to 22—

*omit, insert—*

- (b) the contract does not provide the date by which it must be settled.
- (3) Section 49B is modified by omitting subsection (1)(b) and inserting the following—
  - ‘(b) if the contract does not provide the date by which it must be settled—the end of the period prescribed in the repealed *Land Sales Regulation 2000*, schedule 2 worked out from the day the contract was entered into.’
- (4) In this section—

**33 Clause 34 (Insertion of new pt 7, div 2)**

Page 63, lines 3 to 6—

*omit, insert—*

- (2) However, if, at any time before the settlement of a contract to which the part applies, the parties to the contract agree to settle the sale using e-conveyancing, the part is to be read with the following changes—
  - (a) old LSA, section 22(4)(a)—

*omit, insert—*

    - ‘(a) the vendor or the vendor’s agent can not require the purchaser to settle; and’;
  - (b) old LSA, section 23(1), ‘, without becoming entitled in terms of the instrument to receive a registrable instrument of transfer in exchange therefor’—

*omit, insert—*

‘(but excluding an amount payable at settlement)’;

- (c) old LSA, section 23(4)—

*omit*;

- (d) old LSA, section 25(2)(a)—

*omit, insert*—

‘(a) before settlement of the sale of the proposed lot; or’;

- (e) old LSA, section 25(2)(b)(ii)—

*omit, insert*—

‘(ii) before settlement of the sale of the proposed lot;’;

- (f) old LSA, section 27, heading—

*omit, insert*—

**‘27 Purchaser’s rights if purchase not settled within a certain period’;**

- (g) old LSA, section 27(1)(b), ‘the vendor has not given the purchaser a registrable instrument of transfer for the lot’—

*omit, insert*—

‘the sale of the proposed lot has not been settled’;

- (h) old LSA, section 27(2), ‘before the vendor gives the purchaser the registrable instrument of transfer for the proposed lot’—

*omit, insert*—

‘before the sale of the proposed lot has been settled’;

- (i) old LSA, section 28, heading, ‘for giving of registrable instrument’—

*omit.*

- (3) In this section—

***e-conveyancing*** see the *Property Law Act 1974*, section 58A.

***old LSA***, followed by a provision number, means the provision with that number in the *Land Sales Act 1984* as in force at any relevant time before the commencement.

**34 Clause 41 (Amendment of s 6 (Definitions))**

Page 67, lines 22 to 27—

*omit.*

**35 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 70, lines 7 to 32 and page 71, lines 1 to 3—

*omit, insert—*

- (1) Section 10, as modified by this section, applies if a person grants an option (the ***option***) to another person—
- (a) to purchase a proposed lot; or
  - (b) to sell a proposed lot.
- (2) For subsection (1)—
- (a) section 10(1) requires the seller to give the documents mentioned in section 10(1)(a) or (b) to the buyer in relation to the option as if a reference to a contract for the sale of a proposed lot being entered into were a reference to an option to purchase or sell the proposed lot being granted; and

- (b) any right of termination under section 10 relating to the giving of the documents applies in relation to—
  - (i) the option; and
  - (ii) a contract entered into by the seller and buyer for the sale to the buyer of the proposed lot arising from the option.
- (3) If the seller and buyer enter into a contract for the sale to the buyer of the proposed lot arising from the option, section 10(1) does not require the seller to give the documents to the buyer.
- (4) If the buyer is not a party to the contract for the sale of the proposed lot arising from the option, the seller must comply with section 10 before entering into the contract for the sale.
- (5) In this section—

*buyer* means the person who is granted an option to purchase, or grants an option to sell, the proposed lot.

*seller* means the person who grants an option to purchase, or is granted an option to sell, the proposed lot.

**36 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 72, lines 2 to 4—

*omit, insert—*

- (1) A disclosure plan may comprise 1 or more documents and must include—
  - (a) for a proposed lot intended to be a volumetric format lot—the volumetric format lot particulars for the lot; or
  - (b) for a proposed lot intended to be a standard format lot—the relevant lot particulars for the lot.

**37 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 72, line 23, after 'proposed lot'—

*insert—*

intended to be a standard format lot

**38 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 73, lines 5 to 11—

*omit, insert—*

- (ii) the location of any retaining walls forming part of the work; and
- (iii) the height of any retaining walls forming part of the work or, if the height varies across the length of the wall, the height of the lowest and highest points of the wall and the average height of the wall; and
- (iv) the following information about any fill that is part of the work—
  - (A) the depth of the fill;
  - (B) whether the compaction of the fill will be done in accordance with Australian Standard AS 3798-2007, and the level of inspection and testing services carried out;
  - (C) if the compaction of the fill will not be done in accordance with that Australian Standard, the nature of the departure from the standard.

**39 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 73, after line 15—

*insert—*

*standard format lot* see the *Land Title Act 1994*, schedule 2.

*volumetric format lot* see the *Land Title Act 1994*, schedule 2.

*volumetric format lot particulars*, for a proposed lot intended to be a volumetric format lot, means the following—

- (a) the proposed number of the lot;
- (b) an isometric representation of the lot;
- (c) the area of the projected footprint of the lot;
- (d) the level of the ground surface in approximate values for illustrating the location of the lot in relation to that level;
- (e) identification of the proposed orientation of the lot by reference to north;
- (f) if the lot is proposed to contain a building or be located in a building—the floor level on which the lot is proposed to be located.

**40 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 73, lines 28 to 32 and page 74, line 1—

*omit, insert—*

- (c) that the seller must—
  - (i) settle the contract for the sale of the proposed lot not later than 18 months after the buyer enters into the contract for the sale of the lot; and

- (ii) give any other documents required to be

**41 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 76, lines 1 to 5—

*omit, insert—*

**Division 3 Settlements**

**14 Settlement and documents to be given before settlement**

- (1) The seller of a proposed lot must settle the contract for the sale of the lot not later

**42 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 76, lines 21 to 34—

*omit, insert—*

- (b) a statement prepared by a cadastral surveyor to the effect that there are no differences between the information contained in the registered plan and the information contained in the disclosure plan for the lot given to the buyer under section 10.
- (4) For subsection (3)(b), if the information contained in the disclosure plan is rectified by a further statement given to the buyer under section 13, the reference to the information contained in the disclosure plan means the information as rectified.
- (5) If the seller fails to comply with subsection (1) or

**43 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 77, line 28 and page 78, lines 1 and 2—

*omit, insert—*

the lot (other than an amount paid at settlement);

**44 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 81, lines 7 to 15—

*omit, insert—*

- (1) This section applies if an instrument is received from the buyer of a proposed lot as security for the payment of an amount under the contract for the sale of the lot—
  - (a) by a recognised entity on behalf of the seller; or
  - (b) by any other person on behalf of the seller; or
  - (c) by the seller.

*Example of an instrument for subsection (1)—*

bank guarantee

- (2) For subsection (1)(a), the recognised entity must keep the instrument at the prescribed place until—

**45 Clause 43 (Replacement of pt 2 (Sale of proposed allotments))**

Page 82, line 3—

*omit, insert—*

- (5) For subsection (1)(b), the person must give the instrument directly to a recognised entity.

Maximum penalty—200 penalty units or 1 year's imprisonment.



- (6) For subsection (1)(c), the seller must give the instrument directly to a recognised entity.  
Maximum penalty—200 penalty units or 1 year's imprisonment.
- (7) If the instrument is given to a recognised entity under subsection (5) or (6), subsections (2), (3) and (4) apply as if the instrument were received from the buyer by the recognised entity on behalf of the seller as provided in subsection (1)(a).
- (8) In this section—

**46 Clause 54 (Insertion of new pt 4, div 2)**

Page 85, after line 7—

*insert—*

*contract* includes agreement as defined under old section 6.

*e-conveyancing* see the *Property Law Act 1974*, section 58A.

*lot* includes allotment as defined under old section 6.

**47 Clause 54 (Insertion of new pt 4, div 2)**

Page 86, line 11—

*omit, insert—*

- (3) However, if, at any time before the settlement of the contract for the sale of the proposed lot, the parties to the contract agree to settle the sale using e-conveyancing, old sections 9 and 10 are to be read with the following changes—
  - (a) old section 9(5) is omitted and the following provision inserted—

- ‘(5) If the vendor or the vendor’s agent contravenes this section, other than subsection (3)(a), (b) or (h), the purchaser may avoid the instrument relating to the sale by written notice given to the vendor or vendor’s agent before the settlement of the sale of the allotment.’;
- (b) old section 10(1)(a) is omitted and the following provision is inserted—
  - ‘(a) the sale of the proposed allotment has not been settled;’;
- (c) old section 10(3)(b)(ii) is omitted and the following provision inserted—
  - ‘(ii) settle the sale of the allotment.’;
- (d) old section 10(4)(a) is omitted and the following provision inserted—
  - ‘(a) for a contravention of subsection (2)—before the settlement of the sale of the allotment; or’

### **32 Application of new s 14 and old s 10A to contracts**

#### **48 Clause 54 (Insertion of new pt 4, div 2)**

Page 86, lines 15 to 23—

*omit, insert—*

- (2) Old section 10A continues to apply after the commencement in relation to a contract for the sale of a proposed lot entered into before the commencement as if the amendment Act had not been enacted.
- (3) However, if, at any time before the settlement of the contract, the parties to the

contract agree to settle the sale using e-conveyancing, old section 10A is to be read with the following changes—

(a) old section 10A(1) is omitted and the following provision inserted—

‘(1) The vendor of a proposed allotment must settle the sale of the allotment not later than 18 months after the purchaser enters upon the purchase of the allotment.’;

(b) old section 10A(4) is omitted and the following provision inserted—

‘(4) If the vendor contravenes this section, the purchaser may avoid the instrument relating to the sale by written notice given to the vendor before the sale is settled.’

(4) The purchaser may avoid the contract under old section 10A(4) for a contravention of the section by the vendor (including as it is applied under subsection (3)) only if the contravention arose other than because of the purchaser’s default.

**49 Clause 54 (Insertion of new pt 4, div 2)**

Page 86, lines 30 and 31 and page 87, lines 1 and 2—

*omit, insert—*

(1) Old sections 11 and 12 continue to apply in relation to amounts paid under a contract for the sale of a proposed lot entered into before the commencement as if the amendment Act had not been enacted.

(2) However, if, at any time before the settlement of the contract, the parties to the

contract agree to settle the sale using e-conveyancing—

- (a) old section 11(1) is to be read by omitting ‘, without becoming entitled in terms of the instrument to receive a registrable instrument of transfer in exchange therefor’ and inserting ‘(but excluding an amount payable at settlement)’; and
- (b) old section 11 is to be read by omitting section 11(3).

**50 Clause 54 (Insertion of new pt 4, div 2)**

Page 87, lines 4 to 7—

*omit, insert—*

- (1) Old section 11A continues to apply in relation to a contract for the sale of a proposed lot entered into before the commencement as if the amendment Act had not been enacted.
- (2) However, if, at any time before the settlement of the contract, the parties to the contract agree to settle the sale using e-conveyancing, old section 11A(2) is to be read by omitting ‘before the registrable instrument of transfer for the allotment is given to the purchaser’ and inserting ‘before the sale of the allotment is settled’.

**51 Clause 54 (Insertion of new pt 4, div 2)**

Page 87, lines 14 to 16—

*omit, insert—*

- (1) Except to the extent provided under subsection (3), an application under old section 19 that has

not been decided at the commencement lapses at the commencement.

- (2) Subsection (3) applies if, at the commencement—
  - (a) a contract is conditional on an application being granted under old section 19(2); and
  - (b) the application has not been decided.
- (3) The application is taken to be granted without any condition being imposed under old section 19(2A).

**52 Clause 59 (Insertion of new pt 3.3, div 2A)**

Page 89, after line 16—

*insert—*

*Example of when a law practice may consider a dispute may arise—*

A party to the contract does not take the required action to complete the contract and does not make contact with the other party or law practice to explicitly state a dispute has arisen.

**53 After clause 60**

Page 92, after line 4—

*insert—*

**60A Insertion of new ss 58A and 58B**

Part 6, division 3—

*insert—*

**58A Definitions for div 3**

In this division—

***conveyancing transaction*** see the National Law, section 3.

***e-conveyance*** means a conveyancing transaction to be completed using e-conveyancing.

***e-conveyancing*** means a system of land conveyancing that uses an ELN to lodge documents electronically for the purposes of the land titles legislation.

***electronic workspace***, for an e-conveyance, means a shared electronic workspace within an ELN that allows the participating subscribers to the e-conveyance—

- (a) to lodge a document electronically under the National Law; and
- (b) if relevant, to authorise or complete financial settlement of the e-conveyance.

***ELN*** means an Electronic Lodgment Network under the National Law.

***financial settlement***, of an e-conveyance, means the exchange of value, in an ELN, between financial institutions in accordance with the instructions of participating subscribers to the e-conveyance.

***land titles legislation*** see the *Electronic Conveyancing National Law (Queensland) Act 2013*, section 6.

***National Law*** means the Electronic Conveyancing National Law (Queensland).

***participating subscriber***, to an e-conveyance, means a subscriber who is involved in the e-conveyance as a party to the e-conveyance or as a representative of a party.

***subscriber*** see the National Law, section 3.

### **58B Meaning of *settlement* of a sale of land in an e-conveyance**

- (1) In an Act, a reference to the *settlement* (however described) of a sale of land or a contract for the sale of land has the meaning given by this section if the sale is to be completed using e-conveyancing, unless the Act expressly provides otherwise.

*Example of another way to describe a settlement of the sale of land—*

completion of the sale of the land

- (2) Settlement, of the sale of land, occurs when the electronic workspace for the e-conveyance records that—
- (a) financial settlement occurs; or
  - (b) if there is no financial settlement, the documents necessary to transfer title have been accepted for electronic lodgment by the registrar.
- (3) In this section—
- sale*, of land, includes an exchange for value.

### **60B Insertion of new s 67A**

After section 67—

*insert—*

#### **67A When statutory rights of termination end for land sales if e-conveyancing is used**

- (1) This section applies if—
- (a) an Act provides for a right of termination (however described) in relation to the sale of land or a contract for the sale of land; and

- (b) the right is expressed to end on settlement; and
  - (c) the sale is settled using e-conveyancing.
- (2) The right of termination ends on settlement.
  - (3) However, the right of termination may not be exercised during any period the electronic workspace for the e-conveyance is locked for the purpose of settlement.
  - (4) In this section—  
*locked*, in relation to an electronic workspace for an e-conveyance, means the ELN for the workspace does not allow a participating subscriber to the e-conveyance to change a document or instruction in the workspace.

**54 After clause 63**

Page 95, after line 7—

*insert—*

**63A Amendment of sch 6 (Dictionary)**

Schedule 6—

*insert—*

*conveyancing transaction*, for part 6, division 3, see section 58A.

*e-conveyance*, for part 6, division 3, see section 58A.

*e-conveyancing*, for part 6, division 3, see section 58A.

*electronic workspace*, for part 6, division 3, see section 58A.

*ELN*, for part 6, division 3, see section 58A.



*financial settlement*, for part 6, division 3, see section 58A.

*land titles legislation*, for part 6, division 3, see section 58A.

*National Law*, for part 6, division 3, see section 58A.

*participating subscriber*, for part 6, division 3, see section 58A.

*settlement*, of a sale of land or a contract for the sale of land, see section 58B.

*subscriber*, for part 6, division 3, see section 58A.

**55 Clause 67 (Amendment of s 3 (Definitions))**

Page 96, line 25—

*omit.*

**56 Clause 69 (Insertion of new pt 9A)**

Page 100, lines 1 to 6—

*omit.*

**57 Clause 69 (Insertion of new pt 9A)**

Page 101, lines 9 to 31 and page 102, lines 1 to 8—

*omit, insert—*

- (1) Section 97F, as modified by this section, applies if a person grants an option (the *option*) to another person—
  - (a) to purchase a proposed lot; or
  - (b) to sell a proposed lot.
- (2) For subsection (1)—

- (a) section 97F(1) requires the giving of the disclosure statement in relation to the option as if a reference to a contract for the sale of a proposed lot being entered into were a reference to an option to purchase or sell the proposed lot being granted; and
- (b) any right of termination under section 97F relating to the disclosure statement applies in relation to—
  - (i) the option; and
  - (ii) a contract entered into by the seller and buyer for the sale to the buyer of the proposed lot arising from the option.
- (3) If the seller and buyer enter into a contract for the sale to the buyer of the proposed lot arising from the option, section 97F(1) does not require the giving of a disclosure statement in relation to the contract for the sale.
- (4) If the buyer is not a party to the contract for the sale of the proposed lot arising from the option, the seller must comply with section 97F before entering into the contract for the sale.
- (5) In this section—

*buyer* means the person who is granted an option to purchase, or who grants an option to sell, the proposed lot.

*seller* means the person who grants an option to purchase, or who is granted an option to sell, the proposed lot.

**58 Clause 69 (Insertion of new pt 9A)**

Page 102, lines 27 to 31—

*omit, insert—*

- (d) if the contract is for the sale of any proposed lot by a seller—state the date by which the

seller must settle the contract for the sale of the lot as provided under section 97J.

**59 Clause 69 (Insertion of new pt 9A)**

Page 103, lines 25 to 31 and page 104, lines 1 to 6—

*omit, insert—*

- (c) identification of any parts of the lot proposed to be outside the building in which the lot is proposed to be located, including any proposed balcony, courtyard or carport;
- (d) the floor level in the building in which the lot is proposed to be located;
- (e) identification of other lots and common property proposed to be on the same floor level in the building in which the lot is proposed to be located;

**60 Clause 69 (Insertion of new pt 9A)**

Page 107, lines 1 to 19—

*omit, insert—*

**Division 3                      Additional ground for  
terminating contract**

**97J Terminating contract if not settled within  
particular period**

- (1) This section applies if, other than because of the buyer's default, the seller has not settled the contract for the sale of the proposed lot before—
  - (a) if the contract provides for a date by which it must be settled (the *sunset date*), the earlier of the following—
    - (i) the sunset date or, if the buyer requests a later date for settlement

and the seller agrees to the date, the later date;

(ii) the end of 5 $\frac{1}{2}$  years after the day the contract was entered into by the buyer or, if the buyer requests a later date for settlement and the seller agrees to the date, the later date; or

(b) otherwise—the end of 3 $\frac{1}{2}$  years after the day the contract was entered into by the buyer or, if the buyer requests a later date for settlement and the seller agrees to the date, the later date.

**61 Clause 69 (Insertion of new pt 9A)**

Page 107, lines 26 to 28—

*omit, insert—*

termination given to the seller before the contract is settled.

**62 Clause 69 (Insertion of new pt 9A)**

Page 108, lines 26 to 28—

*omit, insert—*

the lot (other than an amount paid at settlement);

**63 Clause 69 (Insertion of new pt 9A)**

Page 111, lines 19 to 27—

*omit, insert—*

(1) This section applies if an instrument is received from the buyer of a proposed lot as security for the payment of an amount under the contract for the sale of the lot—

- (a) by a recognised entity on behalf of the seller; or
- (b) by another person on behalf of the seller; or
- (c) by the seller.

*Example of an instrument for subsection (1)—*

bank guarantee

- (2) For subsection (1)(a), the recognised entity must keep the instrument at the prescribed place until—

**64 Clause 69 (Insertion of new pt 9A)**

Page 112, line 15—

*omit, insert—*

- (5) For subsection (1)(b), the person must give the instrument directly to a recognised entity.

Maximum penalty—200 penalty units or 1 year's imprisonment.

- (6) For subsection (1)(c), the seller must give the instrument directly to a recognised entity.

Maximum penalty—200 penalty units or 1 year's imprisonment.

- (7) If the instrument is given to a recognised entity under subsection (5) or (6), subsections (2), (3) and (4) apply as if the instrument were received from the buyer by the recognised entity on behalf of the seller as provided in subsection (1)(a).

- (8) In this section—

**65 Clause 72 (Insertion of new pt 11, div 8)**

Page 115, lines 27 to 31 and page 116, lines 1 to 23—

*omit, insert—*

- (b) the contract does not provide the date by which it must be settled.
- (3) Section 97J is modified by omitting subsection (1)(b) and inserting the following—
  - ‘(b) if the contract does not provide the date by which it must be settled—the end of the period prescribed in the repealed *Land Sales Regulation 2000*, schedule 2 worked out from the day the contract was entered into.’
- (4) In this section—

**66 Clause 72 (Insertion of new pt 11, div 8)**

Page 116, lines 31 to 33 and page 117, lines 1 to 4—

*omit, insert—*

- (2) The following provisions continue to apply in relation to the contract as if the *Land Sales and Other Legislation Amendment Act 2014* had not been enacted—
  - (a) schedule 4, section 49 and 49A of this Act as in force at any relevant time before the commencement;
  - (b) old LSA, part 3.
- (3) However, if, at any time before the settlement of a contract to which the part applies, the parties to the contract agree to settle the sale using e-conveyancing, old LSA, part 3 is to be read with the following changes—
  - (a) old LSA, section 22(4)(a)—
    - omit, insert—*
    - ‘(a) the vendor or the vendor’s agent can not require the purchaser to settle; and’;

- (b) old LSA, section 23(1), ‘, without becoming entitled in terms of the instrument to receive a registrable instrument of transfer in exchange therefor’—

*omit, insert—*

‘(but excluding an amount payable at settlement)’;

- (c) old LSA, section 23(4)—

*omit;*

- (d) old LSA, section 25(2)(a)—

*omit, insert—*

‘(a) before settlement of the sale of the proposed lot; or’;

- (e) old LSA, section 25(2)(b)(ii)—

*omit, insert—*

‘(ii) before settlement of the sale of the proposed lot;’;

- (f) old LSA, section 27, heading—

*omit, insert—*

**‘27 Purchaser’s rights if purchase not settled within a certain period’;**

- (g) old LSA, section 27(1)(b), ‘the vendor has not given the purchaser a registrable instrument of transfer for the lot’—

*omit, insert—*

‘the sale of the proposed lot has not been settled’;

- (h) old LSA, section 27(2), ‘before the vendor gives the purchaser the

registrable instrument of transfer for the proposed lot’—

*omit, insert*—

‘before the sale of the proposed lot has been settled’;

- (i) old LSA, section 28, heading, ‘for giving of registrable instrument’—

*omit.*

- (4) In this section—

***e-conveyancing*** see the *Property Law Act 1974*, section 58A.

***old LSA***, followed by a provision number, means the provision with that number in the *Land Sales Act 1984* as in force at any relevant time before the commencement.

© State of Queensland 2014

Authorised by the Parliamentary Counsel