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# Update Summary

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**UPDATE 78**

**FEBRUARY 2015**

## **CONVEYANCING MANUAL QUEENSLAND**

**Sharon Christensen**

### New Commentary

Sharon Christensen has reviewed and updated Chs 1, 2, 4, 6, 10 and 16 in their entirety to reflect the recent legislative amendments as a consequence of the repeal of the *Property Agents and Motor Dealers Act 2000*.

#### **REIQ Contracts for the Sale of Houses and Land**

The Houses and Land Contract in **Standard Contract** has been updated to reflect the current 10<sup>th</sup> edition, which was released for use from 1 December 2014. The main reason for review of the contract is to incorporate the warning required by s 165 of the *Property Occupations Act 2014* in contracts for the sale of residential property. In addition to incorporating that statement in the Reference Schedule the other changes to the contract are:

- (a) Updating of definitions of Bank, Building Inspector and Pest Inspector;
- (b) New definition of business days;
- (c) Updating of references to new legislation;

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- (d) Provision in clause 2.1 for reduction in payment amounts for input tax credits;
- (e) Change to obligation for seller to hand over keys at settlement;
- (f) Positive obligation on seller to provide date of birth for PPSR search; and
- (g) Addition of provision for contract notices to be given by email.

The REIQ Contract for the Sale of Residential Lots in a Community Titles Scheme in **Standard contract** has also been updated to reflect the current 6<sup>th</sup> edition.

## **Chapter 2 – Standard contract**

Significant new commentary has been added discussing the following:

### **Standard Residential Conditions 1994**

- Clause 3, with reference to obligations of the stakeholder and instalment contracts at **[2.120]**;
- Clause 30, with reference to the appointment of an agent at **[2.930]**;
- Clause 31, with reference to a statement as to finance at **[2.960]**;

### **Standard Commercial Conditions 1994**

- Clause 6, with reference to investment of the deposit at **[2.1170]**;

### **Building Units and Group Titles Clauses**

- Clause 34, with reference to Building Units and Group Titles clauses at **[2.1310]**;

### **Completing the Items Schedule: Residential and commercial conditions**

- Seller's agent – Item B at **[2.1610]**;
- Stakeholder – Item G at **[2.1660]**;
- Subject matter of sale – Items H, I, J, K at **[2.1670]**;

### **REIQ Contracts for the Sale of Houses and Land**

- Historical overview at **[2.1990]**;
- Property Occupations Act 2014 at **[2.1995]**;
- Commentary on clause 1: Definitions at **[2.2010]**;
- Commentary on clause 2: Purchase price at **[2.2040]**;
- Commentary on clause 3: Finance at **[2.2070]**;
- Commentary on clause 4: Building and pest inspection reports and pool safety at **[2.2100]**;
- Commentary on clause 5: Settlement at **[2.2130]**;
- Commentary on clause 7: Matters affecting the property at **[2.2190]**;
- Commentary on clause 8: Rights until settlement at **[2.2220]**;
- Commentary on clause 10: General at **[2.2280]**;
- Completing the Reference Schedule – Residential Conditions
  - Contract date at **[2.2350]**;
  - Seller's solicitor at **[2.2460]**;
  - Property – Title particulars at **[2.2540]**;
  - Deposit holder at **[2.2640]**; and
  - Settlement date at **[2.2770]**.

## **Chapter 4 – Preparation of contract**

Significant new commentary has been added discussing the following:

- Queensland conveyancing protocol at **[4.60]**;
- Pre-contract inquiries at **[4.70]**;
- Practitioners at **[4.110]**;
- Acting for the seller at **[4.170]**;
- Acting for the buyer at **[4.180]**;
- Rules concerning the acceptance of a retainer at **[4.200]**;
- Expected standard of care and skill at **[4.240]**;
- Preparation of the Contract
  - Checklist – preparation of contract and advice to seller at **[4.410]**;
  - Identity and capacity of the seller at **[4.470]**;
  - Inquiries of seller and authorities at **[4.510]**, **[4.590]**, **[4.610]**, **[4.650]**, **[4.770]** and **[4.800]**;
  - Commercial property
    - Town planning issues at **[4.855]**;
    - Services agreements and licences at **[4.857]**;
    - Initial searches – seller at **[4.870]**;
  - Matters to consider when drafting or reviewing contract at **[4.890]**, **[4.950]**, **[4.990]**, **[4.1010]**, **[4.1020]**, **[4.1060]**, **[4.1070]**, **[4.1090]** and **[4.1115]**;
- Acting for the buyer
  - Advice to the seller after drafting contract at **[4.1120]** and **[4.1130]**;
  - Finalising Draft Contract and Disclosure Statement at **[4.1140]**, **[4.1160]** and **[4.1190]**;
  - Initial contact with your client at **[4.1250]** and **[4.1255]**;
  - Inquiries prior to review of contract at **[4.1270]** and **[4.1280]**;
  - Review of contract at **[4.1300]**, **[4.1320]**, **[4.1330]** and **[4.1340]**;
  - Initial advice to buyer at **[4.1350]**, **[4.1380]**, **[4.1390]**, **[4.1400]**, **[4.1460]**, **[4.1480]** and **[4.1500]**;
  - Execution of contract by buyer at **[4.1530]** and **[4.1540]**;
  - Executed contract returned to buyer by seller at **[4.1560]** and **[4.1570]**; and
- Instalment contracts at **[4.1610]** and **[4.1620]**.

## **Chapter 6 – Contract to completion**

Significant new commentary has been added discussing the following:

- General procedure
  - Acting for the seller at **[6.80]**, **[6.90]**, **[6.100]**, **[6.101]** and **[6.115]**;
  - Contract to settlement at **[6.145]**, **[6.156]** and **[6.158]**;
  - Acting for the buyer at **[6.170]**, **[6.185]**, **[6.190]**, **[6.195]**, **[6.200]** and **[6.203]**;
  - Contract to settlement at **[6.220]** and **[6.240]**;

- Review of contract and first letters at [6.320], [6.330], [6.335], [6.420] and [6.440];
- Searches and inquiries – Residential at [6.520];
- Additional inquiries – Commercial at [6.540];
- Termination during cooling-off period at [6.970];
- Caveats – Caveatable interests at [6.1090];
- E-conveyancing transfer
  - Legal framework at [6.1410];
  - Client authorisations at [6.1420];
  - Digital signatures at [6.1430];
- Obligations of seller post-contract at [6.1570]; and
- Early possession at [6.1670].

### **Chapter 10 – After completion**

Significant new commentary has been added discussing the following:

- General procedure
  - Action immediately following settlement at [10.100];
  - Release of deposit and agent's commission at [10.190], [10.200] and [10.210]; and
  - Registration fees at [10.250].

### **Chapter 16 – Remedies**

Significant new commentary has been added discussing the following:

- Introduction
  - Choice of Remedies at [16.120];
- Termination
  - Limitations on the right of termination at [16.340]; and
- Types of remedies
  - Rescission at [16.470].