

Real Estate Agents Selling Property in Queensland

Changes from 1 Dec 2014 to the Property Occupations Act, Body Corporate and Community Management Act & Land Sales Act

General

The PAMDA Forms will no longer be used from 1 December 2014.

Appointments

There will be one simplified form for clients to appoint a property agent (replacing the seven forms that currently exist) – the “Property Occupations Form 6” and can be found at the Office of Fair Trading website.

Agents will no longer need to:

- state how they will perform their services
- indicate the section of the appointment form that explains the different types of appointment.

The maximum term of appointment for sole or exclusive agency will change from 60 days to 90 days. Either party may end an open listing at any time by giving written notice. Agents will not need to state an end date in a continuing appointment.

Commissions

Agents will be able to negotiate any commission with their clients. There is no maximum amount of commission.

Agents will no longer need to disclose to the buyer how much commission they receive from the seller.

Warning statement

Sellers or agents will not need to attach a separate warning statement to a residential property contract.

Instead, the following prescribed statement must be inserted in the contract directly above the buyer’s signature:

“The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the buyer terminates the contract during the statutory cooling-off period. It is recommended the buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.”

The Agent will not need to direct the buyer’s attention to the warning statement.

Cooling-off period

The 5 business day cooling off period remains however buyers will no longer need a lawyer’s certificate to waive or reduce their cooling-off period.

Referral fees

Agents need to disclose any benefits (e.g. referral fees) they receive from referring buyers to professional service business (e.g. lawyers, brokers, accountants) – the prescribed form is a Property Occupations Form 8.

Beneficial interest sales

Agents will also be able to charge a commission if they have a beneficial interest in the sale. However, they must:

- act fairly and honestly in relation to the sale
- make sure the seller knows about their beneficial interest
- get the seller to sign a Form 7 to confirm that they understand and agree to the sale.

Other changes affecting sale of property

General

- Deposits may be up to 20% of the purchase price
- Deposits and EOIs for off the plan sales can only be held by RE Agent or solicitor (not the developer)

Lots in a community titles scheme (CTS)

- No BCCM Form 14 needs to be attached to the contract
- Disclosure plans – need to be prepared by a surveyor with more details than the current requirements.
- Sunset date for off the plan sales may be up to 5 ½ years without need to apply for ministerial consent
- Sunset date to be inserted in off the plan disclosure statement

Land lot sales (non CTS)

- Land Sales Act doesn't apply to sales of land being subdivided into 5 lots or less
- Lots can be sold without a development permit
- Disclosure plans for lots – must be prepared by a cadastral surveyor
- Sunset date 18 months (unchanged)
- Disclosure statement doesn't require names and addresses of buyers and sellers (removed duplication)

Lawlab has more than 100 years of experience, we can offer you practical, efficient and expert legal advice on your purchase. Please call 1800 529 522 or email: conveyancing@lawlab.com.au.

Disclaimer: this information is general in nature only and does not constitute legal advice. Lawlab accepts no liability for the content of this information sheet. You should obtain legal advice specific to your individual circumstances.

Phone 1800 529 522 / Email conveyancing@lawlab.com.au / www.lawlab.com.au

Level 6, 3 Spring Street, Sydney, NSW, 2000
28b St Edmonds Road, Prahran, VIC, 3181

Level 10, 15 Green Square Close, Fortitude Valley, Brisbane, QLD, 4006
Suite 3, Level 1, 40 Parap Rd, Parap NT 0820

