

FACT SHEET

PROPERTY AGENTS AND LAND TRANSACTIONS AMENDMENT BILL 2009

The *Property Agents and Land Transactions Act 2005*, and the *Property Agents and Land Transactions Regulations 2006* came into force on 1 December 2006. The Act regulates the real estate industry in Tasmania.

Part 10 of the Act, not yet proclaimed, requires vendors to disclose certain information before selling land and for cooling-off periods for residential sale contracts.

Since the passage of the Act in 2005, a number of issues were identified in relation to Part 10 (specifically concerning the vendor disclosure provisions), sufficient to prevent successful operation of the Part.

- Currently, Part 10 provides that a vendor must provide a disclosure statement for the sale of both residential and commercial property. The benefits of the disclosure regime arise primarily for the sale of residential property. There is limited benefit for commercial sales where purchasers make different inquiries and engage professionals to evaluate a range of matters.
- Part 10 currently applies to residential leases and agreements (every time a property owner rented a property they would be required to provide a vendor disclosure statement for sale of land).
- Part 10 currently provides that the same vendor disclosure statement must be provided for sales of land by vendors including trustees, mortgagees and legal guardians. Trustees, mortgagees and legal guardians frequently do not have personal knowledge of aspects of the property and are unable to comply with the existing vendor disclosure requirements. A modified disclosure regime is necessary for the specific circumstances of these vendors.
- Currently, Part 10 requires that a certificate of title be provided as one of the prescribed disclosure documents. In many cases involving sales 'off-the-plan', a certificate of title cannot be provided at the time of advertising or promoting the sale. It was necessary to amend the Act to provide for a modified disclosure regime for the sale of property 'off-the-plan'.

The Bill amends the Property Agents and Land Transactions Act to ensure that Part 10 operates as expected, by:

- limiting the application of Part 10 to residential sales;
- removing the application of the Part to residential leases;
- making provision for sales of land 'off-the-plan'; and
- making a number of miscellaneous amendments.

A number of other miscellaneous amendments are also required to ensure the effective operation of the Act. The consultation process highlighted a number of definitional problems within the Act. Some amendment of the Act is also necessary to ensure that property agents and auctioneers can operate more effectively.

There has been extensive consultation with key stakeholders about amendments to Part 10. The Real Estate Institute of Tasmania and the Property Agents' Board have provided constructive input to the Bill's development.

It is anticipated that Part 10 will be proclaimed in the first half of 2010, in consultation with industry stakeholders.