

CLAUSE NOTES

Conveyancing Amendment Bill (No. 2) 2012

Clause 1: Short Title

The Act is referred to as the *Conveyancing Amendment Act (No. 2) 2012*.

Clause 2: Commencement

Provides that the Act commences on a day to be proclaimed.

Clause 3: Principal Act

Provides that the *Conveyancing Act 2004* is the Principal Act.

Clause 4: Sections 15A and 15B inserted

Inserts a new section 15A and 15B as follows:

Section 15A – Prohibition on advertising while licence suspended

Provides that a person whose licence is suspended under the Principal Act must not, during the period of the suspension advertise or in any way represent, either expressly or by implication that he or she is a licensed conveyancer or cause or allow another person to advertise or make such a representation about that person.

This provision also prohibits a person who employs a person whose licence is suspended under the Principal Act from, during the period of the suspension, advertising or representing to the public, or causing or allowing another person to advertise or represent to the public,

either expressly or by implication that the employee is a licensed conveyancer.

Under this provision, it is a defence for the defendant to establish that, at the time the advertisement was published or the representation was made, the defendant did not know that the employee's licence was suspended.

Section 15B – Certain undertakings to be enforceable

Provides that where an undertaking that an act will or will not be done is given by a conveyancer in the course of carrying on business as a conveyancer and that undertaking is not carried out, the person to whom the undertaking is made may apply to the Supreme Court or the Magistrates Court (Civil Division) for an order in relation to the undertaking.

A court to which such an application is made may make an order that the conveyancer do or not do the act to which the undertaking relates; make such order as the court thinks fit requiring the conveyancer to do an act or refrain from doing an act so as to place the person to whom the undertaking was given as near as practicable in the position that the person would have been in if the undertaking had been carried out; or such order as the court thinks fit requiring the conveyancer to pay to the person to whom the undertaking was given, or to a client of the conveyancer who has suffered or is likely to suffer loss

because the undertaking has not been carried out, compensation for the loss.

Clause 5:

Section 46A inserted

Inserts a new section 46A which provides as follows:

Section 46A – Offences by bodies corporate

Provides that where a body corporate commits an offence under the Principal Act, each person concerned in the management of the body corporate is taken to have committed the offence and may be convicted of the offence unless the person establishes that the act or omission constituting the offence took place without the person's knowledge or consent or the person used all due diligence to attempt to prevent that act or omission by the body corporate.

Clause 6: Repeal

Provides for the repeal of the Act on the ninetieth day from commencement.