

FACT SHEET

Conveyancing Amendment Bill 2012 and Property Agents and Land Transactions Bill 2012 Cognate Bills

The *Conveyancing Act 2004* provides that a licensed conveyancer must maintain a trust account with an approved institution. However, there is an error in the definition of approved institution in the Act which means that the obligations of conveyancers is unclear,

The legislative intent of the Conveyancing Act is that a licensed conveyancer must deposit any funds held on behalf of clients in a trust fund that is an approved institution within the meaning of the Property Agents and Land Transactions Act. Any interest earned on these trust funds is to be paid into the Property Agents' Guarantee Fund.

A consumer may make a claim against the Guarantee Fund in the event of a default by a conveyancer. At this stage no claim has been made as a result of any default by a conveyancer. In addition to the protections provided to consumers by the Guarantee Fund, conveyancers are also required to carry profession indemnity insurance.

The amendments made by these two Bills correct a technical error which has created some legal uncertainty about the obligations of conveyancers. As conveyancers have diligently complied with their obligations under the existing provisions to deposit trust funds into the relevant accounts, the Bill validates these arrangements.

The Bills clarify and maintain existing policy.