

Amendments to Section 32 of the *Sale of Land Act*

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Background

On 31 October 2012 a discussion paper was released by the Victorian government inviting submissions from the public on “the continuing relevance and utility of disclosure required by section 32 of the *Sale of Land Act 1962*” (Vic) (**Act**).

Public consultation closed on 20 December 2012, and the document discussing this section 32 review is available on the Consumer Affairs Victoria (**CAV**) website: www.consumer.vic.gov.au

Chapter 1 summarises the stakeholder submissions.

Chapter 2 proposes certain options, essentially considering and seeking input on the issues of costs, benefits, and the reduction of red tape.

Chapter 3 addresses other issues raised by stakeholders. The issues raised were wide and varied. The proposals 1-17 ranged from minor amendments to significant changes.

Section 32 of the Act provides that a vendor must give a purchaser a statement containing particular matters concerning a property to be sold.

The Victorian Parliament has now amended section 32 of the Act placing additional obligations on vendors and estate agents. These amendments address a very limited number of the issues discussed in the submissions.

On 13 May 2014 the *Sale of Land Amendment Bill 2014* received Royal Assent.

The section is due to commence on 1 October 2014, but this date is subject to confirmation to proclamation. In any event the date must be no later than 1 July 2015.

Some of the changes you need to know as a vendor or estate agent

- All section 32 statements (Vendor’s Statements) need to be updated and the correct format (with all required information) to be used from the commencement date;
- Section 32 statements will no longer be required to be attached to the contract of sale;
- Details of planning overlays affecting the land will need to be included;
- Non-connected services must be disclosed;
- Notices or orders affecting the land must be disclosed;
- A register search statement must be attached (rather than a copy of the certificate of title);
- Owners Corporation Certificates may not be required when certain prescribed information is provided instead;
- A new Due Diligence Checklist needs to be provided to purchasers from the time the real estate is offered for sale. This obligation will fall on an estate agent if one is appointed. Failure to provide the checklist may result in a fine of up to 60 penalty units. However purchasers will have no right to rescind a contract of sale if a checklist was not provided. CAV has yet to release the final version of the checklist;
- If a Vendor’s Statement is provided and signed before the commencement date, a new Vendor’s Statement may not need to be provided unless the property is taken off the market and then put back on the market.

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Estate agents should ensure that the new Due Diligence Checklist is available at opens for inspection and available via the agent’s website.

Section 32

32A – financial matters – mortgages, rates, taxes, charges and outgoings

32B – insurance – where not at vendor's risk and where owner-builder (s 137B of Building Act)

32C – land use – easements, covenants, bushfire prone areas, planning scheme, authority and overlays

32D – notices – notices, orders, declarations, reports or recommendations directly and currently affecting the land, land acquisition

32E – building permits

32F – owners corporation – disclosing prescribed information with or without certificate, inactive OCs

32G – GAIC

32H – connection of services

32I – title details, evidence of right to sell, subdivision plans

32J – affixing of certificates, including insurance

32K – rescission rights re s 32

32L – offence provision re s 32

32M – compulsory acquisition

32N – cannot contract out of s 32

32O – no second s 32 required

32P – carbon right

Section 33

33A – due diligence checklist

33B – made available to purchasers from time offered for sale

33C – Director of CAV to publish a copy

Amendment of OCA 2006 – differential fees – value, time complexity or urgency