

Agents Financial Administration Bill 2013

In the Spring edition of Clear Title we outlined the proposed splitting of the Property Agents and Motor Dealers Act 2000 (“PAMDA”) into four separate bills. Our primary focus at that time was on the Property Occupations Bill 2013 but also of particular relevance to real estate agents is the Agents Financial Administration Bill 2013 (“AFA Bill”).

The AFA Bill contains the provisions of PAMDA in relation to trust accounts and will regulate the operation of agent’s trust accounts while also aiming to reduce regulatory burden by amending the operational requirements. For example, agents will no longer need to notify the Chief Executive of the name of the auditor of their trust account when applying for a licence as notification will not be required until the trust account has been opened.

There will also be a reduction of penalties for trust account breaches of a minor nature. For example, the AFA bill allows infringement notices to be issued for trust account breaches such as drawing commission from a trust account early. Currently, such offence is an indictable offence attracting a maximum penalty of three years imprisonment and therefore, an infringement notice cannot be issued. The AFA Bill reduces the penalty from three years to two years, enabling an infringement notice to be issued and providing an efficient and appropriate means of enforcement for more minor breaches.

The PAMDA provisions in relation to the claim fund set up to compensate consumers who suffer a financial loss arising from acts or omissions of an agent are also contained in the AFA Bill. The bill provides for receiving, determining and paying successful applications against the claim fund.

Under the AFA Bill the administrative claim process will be streamlined to achieve cost and time savings by providing for immediate payment of claims made under urgent circumstances.

The AFA Bill also allows more flexibility in the jurisdiction in which a claim may be heard based on its complexity and enables the claims process to be shortened where justified from a cost perspective such as where a claim is valid but the cost of complying with the full process exceeds the value of the claim.

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The four bills splitting and repealing PAMDA were introduced to Queensland Parliament on 20 November 2013. The bills have not yet been passed and it is possible that some provisions may be amended before commencement of the new laws as a consequence of parliamentary debate.

Just quickly...

Joining the Victorian and New South Wales registries, it is now possible to electronically lodge single party transactions such as mortgages and discharges with the Queensland Titles Office.

Queensland's first electronic transaction was completed on 11 December 2013 by ANZ.

While it was initially anticipated that the electronic conveyancing system would be available to solicitors and conveyancers in Queensland by mid 2014, it is now scheduled for February 2015.

Feedback

Kelly Conveyancing is the residential conveyancing division of Kelly Legal.

This newsletter is intended to provide an information and referral network for residential real estate agents, mortgage brokers, accountants, financial institutions and buyers and sellers of residential property.

If you have any feedback on this edition of Kelly Conveyancing's newsletter 'Clear Title' or suggestions for topics in upcoming editions you are invited to contact the Manager of Kelly Conveyancing, Shaun Spada on (07) 4911 0504.



The Directors and Staff of Kelly Legal & Kelly Conveyancing wish to extend the compliments of the festive season to our clients and associates.

Our office will be closed from 3pm on Tuesday 24 December 2013 and will reopen at 8.30am on Monday 6 January 2014.