

## DRAFT VENDOR DISCLOSURE AND COOLING OFF LEGISLATION

1. Sale of Land (Rights and Duties of Parties) Bill 2009
2. Sale of Land (Rights and Duties of Parties) Regulations 2009

### What is the purpose of the legislation

- To ensure that persons seeking to buy land are provided with a draft contract and other critical information at the time when they are first considering such a purchase
- To ensure that all persons buying residential land have a 4 day cooling off period.

### What are the main provisions of the legislation?

#### Vendor disclosure

At the time when land is offered for sale the seller must:

- Provide copies of the following:
  - ✓ The proposed contract (except for the sale price, the deposit amount and special conditions)
  - ✓ The certificate as to title for the land
  - ✓ Registered and unregistered encumbrances
  - ✓ Relevant documents under the *Unit Titles Act*, *Unit Title Schemes Act* and the *Cullen Bay Marina Act*,
  - ✓ A certificate under section 38 of the *Land Title Act* (this is a summary of government information relating to the land)
  - ✓ Any relevant occupancy permit or approval
  - ✓ Any compliance certificate for the *Swimming Pool Safety Act*
  - ✓ Certificates about various kinds of changes proposed under the Unit Title Act or the *Unit Title Schemes Act*
  - ✓ A copy of the latest rates notice; and
  - ✓ A copy of any applicable tenancy agreement.
- A building report. This report is only required if there is a building on the land. The report must be provided by one or other of the following:
  - ✓ By a qualified person (see below) as to extent to which any buildings on the land comply with the *Building Act*
  - ✓ By the seller or the seller's agent setting out that either the building does not comply or it is not known if the building complies

LEGAL POLICY, POLICY-COORDINATION

7th Floor, Old Admiralty Towers  
66 the Esplanade Darwin NT  
GPO Box 1722m Darwin  
Ph: 08 8935 7652  
Fax: 08 8935 7662

Email: [robert.bradshaw@nt.gov.au](mailto:robert.bradshaw@nt.gov.au)  
[www.nt.gov.au/justice](http://www.nt.gov.au/justice)

- Declaration from the seller or the seller's agent concerning:
  - ✓ Planning information (eg zoning, development applications and approvals)
  - ✓ Compulsory acquisition proposals
  - ✓ Drug premises issues
  - ✓ Pollution issues
  - ✓ Soil problems
  - ✓ Flooding, seepage or storm tide hazards.

### **Cooling off periods**

Persons signing contracts for the purchase of residential land will have a statutory cooling off period of 4 days. This is an extension of the current law (under the *Agents Licensing Act*) which limits cooling off rights to persons dealing through licensed real estate agents.

**Does the legislation apply to the whole of the Northern Territory.**

### **Vendor disclosure**

No – the vendor disclosure provisions:

- **Only** apply to land that is the local government areas of Darwin, Palmerston, Litchfield, Coomalie, Katherine and Alice Springs
- **Do not** apply if the parties are related (see clause 8)
- **Do not** apply to crown land development leases
- **Do not** apply to a landlord's interest in the land

### **Cooling off**

- **Only** applies to residential land
- **Does not** apply if the land is sold by auction or tender
- **Does not** apply if the purchaser obtains legal advice and waives the right to cooling off

**Who is a person qualified to issue a building report?**

- Building certifiers, legal practitioners and real estate and conveyancing agents
- In practice, a person in these occupations will only issue a building report if they have the relevant skills and they are covered by insurance
- A seller, for building reports, will always have the option of issuing a report that says that they do not know if the building complies – and thus shift the onus to the buyer.

### **Comments**

Comments are requested by 30 July 2009. They should be directed to:

Robert Bradshaw  
Director, Legal Policy  
Department of Justice  
GPO Box 1722  
DARWIN NT 0801

[robert.bradshaw@nt.gov.au](mailto:robert.bradshaw@nt.gov.au)