



## Important changes to Vendor's Statement

Anyone who sells land in Victoria is required to disclose certain information to the purchaser by providing a disclosure statement. This statement is commonly known as a "vendor's statement" and must be provided to the purchaser before the purchaser signs a contract for sale.

From the 1<sup>st</sup> October 2014 important changes have been made to the information that must be disclosed in the vendor's statement.

Vendors, purchasers and real estate agents should be aware of the changes and ensure that the required documentation provided to purchasers complies with the new provisions.

### **Why is a vendor's statement required?**

A vendor's statement discloses information not readily found by inspecting the property.

There is certain information that is known to the vendor that is difficult for a purchaser to discover, even after undertaking due diligence. This information gap puts the buyer at a disadvantage in deciding whether to buy a property and what price to pay.

The vendor's statement increases the amount of information available to purchasers and will assist them in negotiating to purchase the property.

### **What changes have been made to vendor's statements?**

The changes include the following:

- a new due diligence checklist has been prepared by Consumer Affairs Victoria which must be provided to purchasers.
- Some provisions have been removed and terminology has been updated.
- New disclosure requirements have been imposed.
- Only services (gas, water, sewerage, telephone and electricity) that are **not** connected must be disclosed.

### **Preparation of the Vendor's Statement?**

A vendor's statement is a legal document – it must be factually accurate and complete. If it contains false, incorrect or insufficient information a purchaser may be able to withdraw from the sale or take legal action.

The Vendor Statement should always be prepared by a qualified lawyer to ensure that everything that needs to be disclosed is disclosed.

If you're considering buying a property, it's critical to get the vendor's statement checked by your own lawyer.

### **Offences**

It is an offence for a vendor to knowingly or recklessly supply false information or fail to supply all of the information required to be given in a vendor's statement. The new provisions have increased the penalty that will apply if a vendor fails to disclose the required information.

It is now a specific offence to fail to give a purchaser a vendor's statement signed by the vendor before the purchaser signs the contract of sale.

If the vendor commits any of the prescribed offences, a purchaser may be able to cancel the contract of sale which has been entered into on the basis of the information contained in the vendor's statement.

To avoid the risk of a purchaser cancelling the contract, it is essential that vendor's statements contain the required information.

### **Due Diligence Checklist**

Consumer Affairs Victoria has developed a checklist to help identify a range of issues that may affect a property or impose restrictions or obligations on the property.

This checklist aims to help you identify whether any of these issues will affect you if you buy the property.

The checklist includes items that should be considered by a purchaser such as:

- Living in an urban environment
- Buying into an owners corporation
- Buying in Growth areas
- Flood and fire risk
- Issues affecting rural properties
- Earth resource activity, such as mining
- Soil and groundwater contamination
- Land boundaries
- Planning controls affecting how the property is used, or the buildings on it
- Proposed or granted planning permits
- Safety
- Building permits
- Aboriginal cultural heritage and building plans
- Insurance cover for recent building or renovation works

- Connections for water, sewerage, electricity, gas, telephone and internet

The due diligence checklist must be made available to any prospective purchaser from the time the land is offered for sale.

It is the estate agent's responsibility to provide the checklist if a licensed estate agent is acting for the vendor, otherwise the vendor is required to provide the checklist.

### **Does the checklist cover everything?**

The checklist issues are only a starting point for the searches and enquiries that should be made when purchasing a property and you should always seek help from a lawyer if you are unsure how to proceed.

Examples of things not covered in the vendor's statement include:

- information on the condition of buildings
- whether the buildings comply with building regulations
- the accuracy of measurements on the title.

If you are buying or selling property or would just like more information on the changes to the law governing vendor's statements please call us on 03 9387 2424 or email [info@rrrlawyers.com.au](mailto:info@rrrlawyers.com.au) today and see how we can help.