

South Australia

Land and Business (Sale and Conveyancing) Variation Regulations 2014

under the *Land and Business (Sale and Conveyancing) Act 1994*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Land and Business (Sale and Conveyancing) Variation Regulations 2014*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Land and Business (Sale and Conveyancing) Regulations 2010*

4—Substitution of regulation 8

Regulation 8—delete the regulation and substitute:

8—Sale of land—form of vendor's statement

For the purposes of section 7(1) of the Act, a statement is in the required form if it comprises—

- (a) Parts A, B, and C of Form 1; and
- (b) the following headings and items of the table of particulars set out in Division 1 of the Schedule of Form 1:
 - (i) heading "1. General" and items 1.1, 1.2, 1.3, and 1.4;
 - (ii) heading "4. *Development Act 1993*" and items 4.1 and 4.2;
 - (iii) heading "5. Repealed Act conditions" and item 5.1; and
- (c) such other items in that table as contain prescribed encumbrances or charges that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale (and the headings to those items); and
- (d) if the vendor acquired a relevant interest in the land within 12 months before the date of the contract of sale—that part of Division 2 of the Schedule of Form 1 headed "Particulars of transactions in last 12 months"; and
- (e) such other parts of Division 2 of the Schedule of Form 1 as contain the matters that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale; and
- (f) if the land subject to the sale is a community lot under the *Community Titles Act 1996* or a unit under the *Strata Titles Act 1988*—the notice in Division 3 of the Schedule of Form 1.

5—Variation of regulation 31A—Service by fax or email of vendor's statement, certificate of agent acting on behalf of purchaser or notice of amendment to vendor's statement

Regulation 31A—after "provided by the person for the purpose" insert:

(in which case the notice or document is taken to be given or served at the time of transmission of the fax or email)

6—Variation of regulation 31B—Method of service of other notices or documents

- (1) Regulation 31B(1)—delete "in the prescribed manner" and substitute:

in accordance with subregulation (2)
- (2) Regulation 31B(2)—delete subregulation (2) and substitute:
 - (2) A notice or document referred to in subregulation (1) may be given to or served on a person —
 - (a) by giving it to the person personally; or
 - (b) by posting it to the person at the person's address for service (in which case it is taken to be given or served at the time of posting); or
 - (c) —
 - (i) if the person is an agent—by leaving it for the agent with a person apparently responsible to the agent at the agent's address for service (being the address last notified to the Commissioner as the agent's address for service under the *Land Agents Act 1994* or an address nominated by the agent to the person giving or serving the notice or document for the purpose of the giving or service of the notice or document); or
 - (ii) in any other case—by leaving it for the person at the person's address for service of the notice or document with someone apparently over the age of 16 years,

(in which case, whether left in accordance with subparagraph (i) or (ii), it is taken to be given or served at the time when it is left at the address); or
 - (d) by transmitting it to the person by fax or email to a fax number or email address provided by the person for the purpose of the giving or service of the notice or document (in which case it is taken to be given or served at the time of transmission of the fax or email).
- (3) In this regulation—

address for service of a person (other than an agent) in relation to a notice or document means—

 - (a) an address nominated by the person for the purpose of the giving or service of the notice or document; or
 - (b) if there is no such nominated address, the last known address of the person.

7—Revocation of regulation 31D

Regulation 31D—delete the regulation

8—Variation of Schedule 1—Contracts for sale of land or businesses—forms

- (1) Schedule 1, Form 1—delete the instructions to the vendor for completing the statement (all of the words and symbols from the beginning of "**Instructions to the vendor for completing this statement:**" to the end of "*If there is insufficient space to provide any particulars required, continue on attachments.*") and substitute:

Instructions to the vendor for completing this statement:

means the Part, Division, particulars or item may not be applicable.

If it is applicable, ensure the box is ticked and complete the Part, Division, particulars or item.

If it is not applicable, ensure the box is empty or strike out the Part, Division, particulars or item. Alternatively, the Part, Division, particulars or item may be omitted, but not in the case of an item or heading in the table of particulars in Division 1 of the Schedule that is required by the instructions at the head of that table to be retained as part of this statement.

** means strike out or omit the option that is not applicable.*

All questions must be answered with a YES or NO (inserted in the place indicated by a rectangle or square brackets below or to the side of the question).

If there is insufficient space to provide any particulars required, continue on attachments.

- (2) Schedule 1, Form 1, Schedule, Division 1, Table of particulars, instructions at the head of the table—delete "[*If an item is not applicable, ensure the box is empty (or else strike out the item or write "NOT APPLICABLE" or "N/A" in column 1).*]" and substitute:

[If an item is not applicable, ensure that the box for the item is empty or else strike out the item or write "NOT APPLICABLE" or "N/A" in column 1. Alternatively, the item and any inapplicable heading may be omitted, but not in the case of—

- (a) the heading "1. General" and items 1.1, 1.2, 1.3 and 1.4; and*
- (b) the heading "4. Development Act 1993" and items 4.1 and 4.2; and*
- (c) the heading "5. Repealed Act conditions" and item 5.1,*

which must be retained as part of this statement whether applicable or not.]

- (3) Schedule 1, Form 1, Schedule, Division 1, Table of particulars, items 1.1, 1.2, 1.3, 1.4, 4.1, 4.2 and 5.1—insert in column 1 of each item after its present contents:

[Note—

Do not omit this item. The item and its heading must be included in the statement even if not applicable.]

Schedule 1—Transitional provisions

1—Interpretation

- (1) In this Schedule—

1 January variation regulations means the *Land and Business (Sale and Conveyancing) Variation Regulations 2013* (No 312 of 2013, see *Gazette 19.12.2013 p5148*), which came into operation on 1 January 2014;

Act means the *Land and Business (Sale and Conveyancing) Act 1994*

pre-1 January requirements means the requirements of the principal regulations as in force immediately before the commencement of the 1 January variation regulations;

principal regulations means the *Land and Business (Sale and Conveyancing) Regulations 2010*

post-1 January requirements means the requirements of the principal regulations as in force immediately before the commencement of these regulations.

- (2) A reference in this Schedule to the date of service of a vendor's statement is, where a notice of amendment to the statement is served for the purposes of section 10 of the Act, a reference to the presumed date of service of the statement under that section.

2—Vendor's statement prepared before or after commencement of these regulations that complies with pre-1 January requirements

A vendor's statement for the purposes of section 7 of the Act prepared before or after the commencement of these regulations will be taken to comply with the principal regulations as varied by these regulations if it is a statement for which an exemption applies to the vendor under regulation 13 of the 1 January variation regulations and that is taken under that regulation to comply with the principal regulations as varied by the 1 January variation regulations.

Note—

Regulation 13 of the 1 January variation regulations (a transitional provision) applies only in relation to vendor's statements prepared not more than 2 months before and not more than 2 months after 1 January 2014 that comply with the pre-1 January requirements relating to the form and content of the statement and that satisfy the other requirements of that regulation.

3—Vendor's statement prepared before commencement of these regulations that complies with post-1 January requirements

A vendor's statement for the purposes of section 7 of the Act prepared before the commencement of these regulations will be taken to comply with the principal regulations as varied by these regulations if it—

- (a) was prepared on or after 1 January 2014 and before the commencement of these regulations; and
- (b) complies with the post-1 January requirements; and
- (c) is accurate as at the date of service of the statement on the purchaser.

4—Vendor's statement prepared on or after the commencement of these regulations that complies with post-1 January requirements

A vendor's statement for the purposes of section 7 of the Act prepared on or after the commencement of these regulations will be taken to comply with the principal regulations as varied by these regulations if—

- (a) it is prepared not more than 2 months after the commencement of these regulations; and
- (b) it complies with the post-1 January requirements; and
- (c) it is accurate as at the date of service of the statement on the purchaser.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 13 February 2014

No 56 of 2014

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