

## Update on PAMDA Amendments

On 1 October 2010, the proposed amendments to the Property Agents and Motor Dealers Act 2000 (Qld) ("PAMDA") will come into effect. These changes will remove some of the more onerous obligations and complications imposed by the proscriptive provisions of the current Act.

1. It is important that you are aware of the proposed commencement date of the amendments as any contract terminated after the commencement date will be subject to the amended Act. This means that a contract entered into prior to 1 October 2010, can be subject to the amended Act if it is not terminated prior to the commencement date: See Part 8 of the amended Act. (S.645-S.649).
2. A further change is that a buyer cannot terminate the contract based on signing the warning statement prior to signing the relevant contract: See S.368A(1)(b) amended Act
3. An important change for practitioners is a limitation to 90 days for termination under the amended Act. The amended Act provides for a termination timeline of only 90 days from when the buyer receives a copy of the relevant contract from the seller: See S.370(4) of the amended Act.
4. The requirements of the seller to comply with PAMDA has changed so that the seller is able to have the warning statement, proposed relevant contract, information sheet, and clear statement directing attention to the buyer in any order: See S.368A(2) of the amended Act.
5. The case of Rice v Ray is no longer of effect under the amended Act so that S.368A(4) provides that a proposed relevant contract does not become another proposed relevant contract merely because of a change of terms or negotiations if the parties and property remain the same.
6. Termination is no longer available to the buyer for failure of a second direction (when the contract is executed) pursuant to S.365 of PAMDA as discussed in Hedley Commercial Property Services Pty Ltd v BRCP Oasis Land Pty Ltd. However, a warning statement **must** still be attached to the relevant contract, although this does not give rise to a termination for failure to comply: See S.368C of the amended Act
7. There are amendments to the cooling off period provisions. S.369(2) provides for the cooling off period to start when the buyer signs a relevant contract and after the seller has signed the relevant contract.

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