

Summary of main changes made in the Contract for the Sale and Purchase of Land 2022 Edition (from the 2019 Edition)

The Contract for the Sale and Purchase of Land 2022 Edition is a revision of the 2019 Edition and contains the revised text of the prescribed notices and the statutory cooling off notice as implemented by the [Conveyancing \(Sale of Land\) Regulation 2022](#) (“Regulation”) which commenced on 1 September 2022.

Practitioners are alerted to the transitional provisions of the Regulation which have the following important effect:

- the revised form of prescribed notices and cooling off notice **may** be used in a contract for the sale and purchase of residential land which is exchanged/made from and including 1 September 2022 to 28 February 2023; and
- the revised form of prescribed notices and cooling off notice **must** be used in a contract for the sale and purchase of residential land which is exchanged/made from and including **1 March 2023**.

The Law Society’s Digital Contracts Service (dcs.lawsociety.com.au/) platform, via its FAQ page at www.lawsociety.com.au/dcs-faq, also contains a two page document which has the revised text of the prescribed notices and the statutory cooling off notice under the Regulation, to enable practitioners to update contracts which have been drafted using the 2019 Edition, which may exchange close to or after the expiry of the transitional period on 28 February 2023.

The other main change in the 2022 Edition is that the contract has been recast such that the standard transaction contemplated by the contract is now an *electronic transaction* under new clause 4, and the exception to that circumstance is reflected in new clause 30, a *manual transaction*.

The 2022 Edition also includes other legislative and practice updates, including changes in relation to EFT payments, electronic execution, use of e-lodgment Subscribers, and a new execution page. The table below sets out further details of the changes made in the 2022 Edition.

ITEM	CHANGE	RATIONALE
Page 1	“air conditioning”, “ceiling fans” and “EV charger” (electric vehicle charger) have been added as specified inclusions.	These items are increasingly listed as inclusions.
Page 1	Insertion of “specify:” near the tick-a-boxes for tenants in common in unequal shares.	The new prompt “specify:” has been inserted as a reminder to insert details of the shares when the purchasers are buying as tenants in common in unequal shares.

ITEM	CHANGE	RATIONALE
Page 1	GST AMOUNT (optional) The price includes GST of: \$	Formatting/ stylistic change only. This same text was included in earlier editions, but now appears in a line rather than a box
Page 1	Note regarding the effect of clause 20.15.	This new note highlights the effect of clause 20.15 that where no box is ticked, the default choice in block capitals applies.
Page 1	Deletion of execution panels for vendor and purchaser from the front page.	A new, more detailed execution page now appears as page 2 of the 2022 Edition.
Page 2	Major change - new execution page	<p>A more detailed execution page has been included.</p> <p>Note that where the purchaser or vendor is a natural person, a prompt for a witness is no longer provided. While it has never been a requirement that execution of the contract by the vendor or purchaser be witnessed, this was included to assist by way of evidence, should the execution of the contract be disputed. However, with the increasing use of electronic signature platforms, and decreased witnessing occurring in practice, a prompt for witness execution has not been provided. If the parties wish, the blank space under the prompts for execution by natural persons could be used to add the signature of a witness.</p> <p>Additionally, specific execution panels for a corporate purchaser or vendor have now been added, framed in terms of “authorised person(s)” for the company.</p>
Page 3, Choices	Deletion of “(clause 3)” after the choice “Vendor agrees to accept a deposit bond”.	This change reflects the minor change to clause 3, which now acknowledges that the clause can apply whether or not the tick-a-box choice is marked “yes”.
Page 3, Choices	For “ <i>Nominated Electronic Lodgment Network (ELN)</i> ”, the cross reference has been revised to clause 4.	This reflects the recasting of the contract such that the standard transaction is now an <i>electronic transaction</i> and is dealt with in clause 4.



ITEM	CHANGE	RATIONALE
Page 3, Choices	<p>Major change - the choice as to nature of the transaction has been reframed as to whether the transaction will be a <i>Manual transaction</i> (clause 30)</p>	<p>This important change requires the vendor to tick the “yes” box and to insert the details of the transaction if the transaction is to proceed as a <i>manual transaction</i>, for example as a “Dealing with Exception”. For more information, see the website of the Office of the Registrar General at:</p> <p>www.registrargeneral.nsw.gov.au/publications/lodgment-rules</p> <p>See also the Land Registry Services website at:</p> <p>rg-guidelines.nswlrs.com.au/e-dealings/elodgment/Residual-Documents/Dealing-with-Exception.</p> <p>In the majority of cases, the transaction will not proceed as a <i>manual transaction</i>, hence the default choice being “NO”. (Previously this choice was whether the transaction would be an electronic transaction and the default choice was “YES”.)</p>
Page 3, Tax Information	<p><i>GSTRW payment</i> – change to timeframe for provision of information</p>	<p>If the details of the <i>GSTRW payment</i> are not fully completed at the contract date, those details must be provided “at least 7 days before the date for completion”. Previously, the time frame stipulated was “<i>within 14 days of the contract date</i>”, but it is more appropriate to link provision of this information to the date for completion.</p>
Page 3, GSTRW payment (GST residential withholding payment) – further details	<p>Insertion of new prompts for “Supplier’s representative” and “Supplier’s contact phone number”</p>	<p>The changes have been made to reflect changes made to ATO form one.</p>
Page 4, List of Documents	<p>New item 15 “occupation certificate” has been added to the List of Documents.</p>	<p>This amendment reflects the change in practice to attach an occupation certificate where available.</p>



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Page 5, prescribed warnings	Major change - the prescribed warnings for smoke alarms and loose-fill asbestos insulation have been amended	<p>The amendments reflect the revisions made to these warnings in the Conveyancing (Sale of Land) Regulation 2022. The changes are generally regarded as stylistic only.</p> <p>From 1 March 2023, all residential contracts must contain the new prescribed warnings.</p>
Page 6, Statutory cooling off Notice	Major change - the content of the statutory cooling off notice has been amended.	<p>This amendment reflects the revisions made to the statutory cooling off notice in the Conveyancing (Sale of Land) Regulation 2022. The changes are generally regarded as stylistic only.</p> <p>From 1 March 2023, all residential contracts must contain the new statutory cooling off notice.</p> <p>The “new” prescribed warnings and cooling off notice are separately available from the Law Society’s Digital Contracts Service platform: (dcs.lawsociety.com.au/) via its FAQ page at www.lawsociety.com.au/dcs-faq.</p>
Page 6, Auctions	Updated reference to the “ <i>Property and Stock Agents Act 2002</i> ”	The amendment reflects the name change of the principal legislation
Page 7, Warnings	Updated reference to the Department of Planning and Environment.	The reference to this Government Department has been updated.



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Page 7, Warning 6	<p>Major change - the alert regarding surcharge purchaser duty has been expanded and the announcement of the FHBC annual property tax has been referenced.</p>	<p>The announcement on 21 June 2022 of the limited introduction of the annual property tax, First Home Buyer Choice, has been referenced.</p> <p>The alert has also been specifically expanded to refer to surcharge purchaser duty being payable if the purchaser is not an Australian citizen. Also included in the alert is a reference to potential payment of interest.</p> <p>Surcharge purchaser duty can be a problematic area for taxpayers and practitioners. Revenue NSW has published practitioner resources at:</p> <p>www.revenue.nsw.gov.au/electronic-duties-for-professionals/professionals-resources</p>



ITEM	CHANGE	RATIONALE
<p>Clause 1 Definitions</p>	<p>Major changes - the Definitions clause has been expanded.</p>	<p>With the recasting of the contract such that the standard transaction is an <i>electronic transaction</i>, the majority of definitions that appeared in former clause 30 have now been moved to clause 1.1. This includes definitions such as “<i>conveyancing rules</i>” “<i>electronic transaction</i>”, “<i>participation rules</i>” and “<i>populate</i>”.</p> <p>New definitions:</p> <ul style="list-style-type: none"> <p><i>authorised Subscriber</i> – this term has been introduced in connection with new clause 20.6.8 which permits the service of documents in an <i>Electronic Workspace</i> by, or on, a <i>Subscriber</i> who is not the <i>party’s solicitor</i> such as an e-lodgment Subscriber (see ARNECC Guidance Note at: www.arnecc.gov.au/wp-content/uploads/2021/08/mpr-guidance-note-9-instructing-practitioner-engaging-subscriber.pdf) Note that the client provides the Client Authorisation directly to the e-lodgment Subscriber, but to allow that e-lodgment Subscriber to <i>serve</i> or receive documents via the <i>Electronic Workspace</i>, that <i>party’s solicitor</i> must notify the other <i>party’s solicitor</i> that the e-lodgment Subscriber is authorised to <i>serve</i> or receive documents via the <i>Electronic Workspace</i>. Without the relevant notice authorising the e-lodgment Subscriber, service by or on them will not be valid under clause 20.6.8</p> <p><i>manual transaction</i> – this term has been introduced to capture a transaction that is not an <i>electronic transaction</i>. The technical definition of a manual transaction is “a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i>” (that is, a dealing which is not a fully electronic structured document) The most common example of a manual transaction is a transaction involving a “<i>Dealing with Exception</i>”.</p> <p>Clause 1.2 has been added to incorporate former clause 30.4.2 and the relevant definitions from the <i>participation rules</i> have been listed.</p>



ITEM	CHANGE	RATIONALE
Clause 2 Deposit and other payments before completion	Major change – clause 2 has been expanded to include further detail and requirements where payment of the deposit occurs by electronic funds transfer.	<p>New clause 2.4.3 has been added which allows the vendor or <i>depositholder</i> to request evidence of the electronic funds transfer.</p> <p>New clause 2.5.3 has been added to allow the vendor to <i>terminate</i> if the electronic funds transfer has not been received by the third <i>business day</i> after the time for payment. This period, which recognises that the receipt of an electronic funds transfer is frequently not instantaneous once the payer has authorised the transfer with the financial institution, is analogous to the time it would have taken for the dishonour of a cheque to be notified. The rights to terminate under clause 2.5 are lost as soon as the deposit is paid in full.</p> <p>In clauses 2.6 and 2.7, the words “bond or guarantee” are replaced with the word “<i>deposit-bond</i>”.</p>
Clause 3 Deposit bond	Minor amendments have been made to clause 3.	<p>Clause 3.1 has been amended to reflect that a <i>deposit bond</i> may be accepted by a vendor without the contract specifying on page 3 choices that the vendor agrees to accept a <i>deposit bond</i>.</p> <p>In clause 3.2 the word “original <i>deposit bond</i>” has been replaced with the words “<i>deposit bond</i>” to reflect that the concept of an <u>original</u> paper <i>deposit bond</i> does not apply where an electronic <i>deposit bond</i> is used.</p> <p>References to “any original <i>deposit bond</i>” in clauses 3.9, 3.10.2, 3.11.1, and 3.11.2 similarly reflect that if the <i>deposit bond</i> is electronic, the concept of an “original <i>deposit bond</i>” does not apply.</p>
Clause 4 Electronic transaction	Major change - clause 4 has been replaced with a new clause which will apply to most transactions.	<p>This clause has replaced former clause 4 which dealt with the paper form of transfer in a settlement in the paper environment.</p> <p>With the recasting of the contract to recognise that the majority of transactions will be <i>electronic transactions</i>, new clause 4 sets out the requirements for the conduct of an <i>electronic transaction</i>.</p> <p>New clause 4 is an abridged version of the former clause 30 Electronic transaction in the 2019 Edition, with some amendments. The changes in detail are as follows:</p>



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		<ul style="list-style-type: none"> • clause 4.1 is a variation on former clause 30.1 of the 2019 Edition, but is framed in terms of the transaction being an <i>electronic transaction</i> <u>unless</u> the contract or notice served by a party indicates, with reasons why, the transaction is a manual transaction; • clause 4.2 replicates former clause 30.3 of the 2019 Edition, but is reframed in terms of switching to a <i>manual transaction</i>; • clause 4.3 replicates former clause 30.4.3 of the 2019 Edition, but with an additional proviso at the end of clause 4.3.2 contemplating use of an ELN that can interoperate with the nominated ELN, in anticipation of interoperability; • clause 4.4 is an abridged version of former clause 30.4.4 of the 2019 Edition; • clauses 4.5, 4.6 and 4.7 are abridged versions of former clauses 30.5, 30.6, 30.7 and 30.8 of the 2019 Edition; • clause 4.8 replicates former clause 4.3 of the 2019 Edition, but is framed in terms of an <i>electronic transfer</i>; • clause 4.9 replicates former clause 4.4 of the 2019 Edition, but is framed in terms of an <i>electronic transfer</i>; and for completeness the words “burdened and” have been added; • clause 4.10 replicates former clause 30.9.3 of the 2019 Edition; • clause 4.11 replicates former clause 30.10 of the 2019 Edition; • clause 4.12 replicates former clause 30.12 of the 2019 Edition, but with an additional reference to the computer systems of Revenue NSW; and • clause 4.13 replicates former clause 30.13 of the 2019 Edition, but with the deletion of the reference to delivery of the certificate of title, due to abolition, and additional reference to the computer systems of Revenue NSW; and • clause 4.14 replicates former clause 30.15 of the 2019 Edition.



ITEM	CHANGE	RATIONALE
Clause 13 Goods and services tax (GST)	Major change - clauses 13.13 and 13.14 have been amended.	<ul style="list-style-type: none"> • New clause 13.13 parallels the requirements that apply in clause 31.2 in relation to the Foreign Resident Capital Gains Withholding scheme. • Clause 13.14 is an amended form of clause 13.13.1 of the 2019 Edition but the time frame for <i>servicing</i> evidence of the submission of a <i>GSTRW payment</i> notification form has been reduced from 5 days to 2 business days. Former clauses 13.13.2 to 13.13.4 have largely been replicated in clause 30.12 for a manual transaction.
Clause 14 Adjustments	Major change - clause 14.2 has been expanded and clauses 14.5 and 14.6 have been amended.	<ul style="list-style-type: none"> • Clause 14.2 has been expanded to incorporate former clauses 30.9.1 and 30.9.2 of the 2019 Edition. • New clause 14.5 has been inserted to clarify that any first home buyer choice property tax is not to be adjusted. • Former clause 14.6 of the 2019 Edition has been replicated in new clause 30.10.
Clause 16 Completion	Major change - several clauses have been amended.	<ul style="list-style-type: none"> • Former clauses 16.1 and 16.2 of the 2019 Edition have become clauses 25.8 and 25.9. Clause 4.14 now deals with the parties' handling of items which cannot be delivered electronically through a workspace. • Clause 16.1 is the former clause 16.3 of the 2019 Edition, with an amendment for clarity in the parentheses, and a reference to "charge" for completeness and to reflect that in the event unpaid first home buyer choice property tax will form a charge on the land, this charge must be cleared prior to, or on settlement. • Clause 16.5 has been amended to remove the references to cash and <i>settlement cheque</i> so that it applies to both an <i>electronic transaction</i> and a <i>manual transaction</i>. • Clause 16.8 of the 2019 Edition has been replicated in clause 30.11. • Clause 16.6 has been amended to facilitate arrangements in relation to provision of an order on the agent, particularly in an <i>electronic transaction</i>. • Former Clauses 16.11 to 16.13 of the 2019 Edition have been replicated in clauses 30.6 to 30.8.



ITEM	CHANGE	RATIONALE
Clause 20 Miscellaneous	<p>Major change - new clause 20.6.8 regarding service in the <i>Electronic Workspace</i>.</p> <p>Major change - new clauses 20.16 and 20.17 to assist in enabling electronic execution.</p>	<ul style="list-style-type: none"> New clause 20.6.8 permits the service of documents in an <i>Electronic Workspace</i> by, or on, the Subscriber who is a <i>party's solicitor</i>, or on a <i>Subscriber</i> who is not the <i>party's solicitor</i> such as an e-lodgment Subscriber. See the ARNECC Guidance Note at: www.arnecc.gov.au/wp-content/uploads/2021/08/mpr-guidance-note-9-instructing-practitioner-engaging-subscriber.pdf <p>Note that the client provides the Client Authorisation directly to the e-lodgment Subscriber, but to allow that e-lodgment Subscriber to <i>serve</i> or receive documents via the <i>Electronic Workspace</i>, that party's solicitor must notify the other <i>party's solicitor</i> that the e-lodgment Subscriber is authorised to <i>serve</i> or receive documents via the <i>Electronic Workspace</i>. Without the relevant notice authorising the e-lodgment Subscriber, service by or on or on them will not be valid under clause 20.6.8.</p> <p>Note that the second part of the clause excludes certain critical documents from being served via the <i>Electronic Workspace</i>, such as a notice to complete.</p> <ul style="list-style-type: none"> With the increasing electronic execution of contracts, new clauses 20.16 and 20.17 have been added to assist in meeting the requirements of section 9 of the <i>Electronic Transactions Act 2000</i>.
Clause 23 Strata or community title	Minor amendments.	<ul style="list-style-type: none"> Clauses 23.2.4 and 23.2.5 have been amended to reflect the terms used, and relevant sections of the <i>Strata Schemes Management Act 2015</i> and the <i>Community Land Management Act 2021</i>. Clauses 23.12 and 23.13 have been amended to clarify timing, and better reflect the requirements of the <i>Strata Schemes Management Act 2015</i> and the <i>Community Land Management Act 2021</i>. Clause 23.13 has been amended to clarify timing and to ensure that the information certificate provided by the vendor actually relates to the date for completion.
Clause 24 Tenancies	Minor amendment to clause 24.4.3.	Given most transactions are <i>electronic transactions</i> , clause 24.4.3 has been amended to stipulate provision of notices of attornment 2 business days prior to the <i>date for completion</i> which are then to be held in escrow.



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Clause 25 Qualified title, limited title and old system title	Minor amendments	Clauses 25.8 and 25.9 replicate former clauses 16.1 and 16.2 of the 2019 Edition.
Clause 30 Manual transaction	Major change - new clause that will apply to a small number of transactions.	<p>Although this is a new clause, it incorporates concepts and drafting from the 2019 Edition:</p> <ul style="list-style-type: none"> • Clause 30.2 is an amended form of clause 4.1 of the 2019 Edition, however the timeframe for service of the transfer has been reduced to at least 7 days before the date for completion for consistency with other time requirements. • Clauses 30.3 and 30.4 replicate former clauses 4.2 and 4.3 of the 2019 Edition. • Clause 30.5 replicates former clause 4.4 of the 2019 Edition with an additional reference to “land burdened” for completeness. • Clauses 30.6 to 30.8 replicate former clauses 16.11 to 16.13 of the 2019 Edition. • Clause 30.9 addresses the manner of payment in a <i>manual transaction</i>. • Clause 30.10 replicates former clause 14.6 of the 2019 Edition. • Clause 30.11 replicates former clauses 16.8 of the 2019 Edition. • Clause 30.12 is based on former clauses 13.13.2 to 13.13.4 of the 2019 Edition. Note the reduction in time to <i>serve</i> evidence of the submission of a <i>GSTRW payment</i> notification from 5 days to 2 business days in related clause 13.14. • Clause 30.13 is based on former clause 31.2 of the 2019 Edition.
Clause 31 Foreign Resident Capital Gains Withholding	Minor amendments	<ul style="list-style-type: none"> • Clause 31.4 was promoted to clause 31.2 and the relevant time frame is now 5 business days. • Clause 31.3 is a streamlined version of former clause 31.2, with part of the text now incorporated into clauses 4 and 30.



ITEM	CHANGE	RATIONALE
Clause 32 Residential off the plan contract	Minor amendment	<ul style="list-style-type: none"><li data-bbox="730 331 1477 427">• The reference in clause 32.3 has been updated to the relevant part of the <i>Conveyancing (Sale of Land) Regulation 2022</i>.<li data-bbox="730 450 1477 577">• Clause 32.4 regarding contracts made before the commencement of the amendments to the Division under the <i>Conveyancing Legislation Amendment Act 2018</i> has been deleted due to the effluxion of time.

