



## compliance

The Office of Consumer and Business Affairs  
investigates breaches of the  
*Conveyancers Act 1995*,  
including unlicensed operators.

**SUBSTANTIAL PENALTIES MAY BE IMPOSED**

## Conveyancers

Registering  
Management  
Qualifications  
Your Obligations

Business and  
Occupational Services

We strongly recommend  
that you obtain a copy of  
the *Conveyancers Act  
1994 and Land and  
Business (Sale and  
Conveyancing) Act 1994*  
and Regulations from:

Service SA Government  
Legislation Outlet  
Lands Titles Office,  
101 Grenfell Street,  
Adelaide SA 5000  
Telephone **13 23 24**  
or visit  
[www.parliament.sa.gov.au](http://www.parliament.sa.gov.au)

### Office of Consumer and Business Affairs

### Business and Occupational Services

Chesser House  
91 - 97 Grenfell Street  
Adelaide SA 5000  
Telephone (08) 8204 9644

### Regional Centres

Berri, Mount Gambier,  
Naracoorte, Port Augusta,  
Port Lincoln, Port Pirie  
Telephone **131 882**

### Translating and Interpreting Services (TIS)

Telephone **131 450**

[www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)

October 2010



[www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)

The main reason for registering conveyancers is to provide consumer protection. The Commissioner for Consumer Affairs administers the *Conveyancers Act 1994*. The legislation sets out minimum entry standards and promotes professional and ethical work practices in the real estate industry.

## Conveyancers Must be Registered

Any natural person or body corporate, other than a legal practitioner, who carries on business or holds himself or herself out as a conveyancer, must be registered under the *Conveyancers Act 1994*. If a business operates as a partnership then each partner must hold a registration.

## Are You Considered a Conveyancer?

You are considered to be carrying on business as a conveyancer if your business involves the preparation of conveyancing instruments for fee or reward. Conveyancing instruments are documents capable of registration under the provisions of the *Real Property Act 1886*.

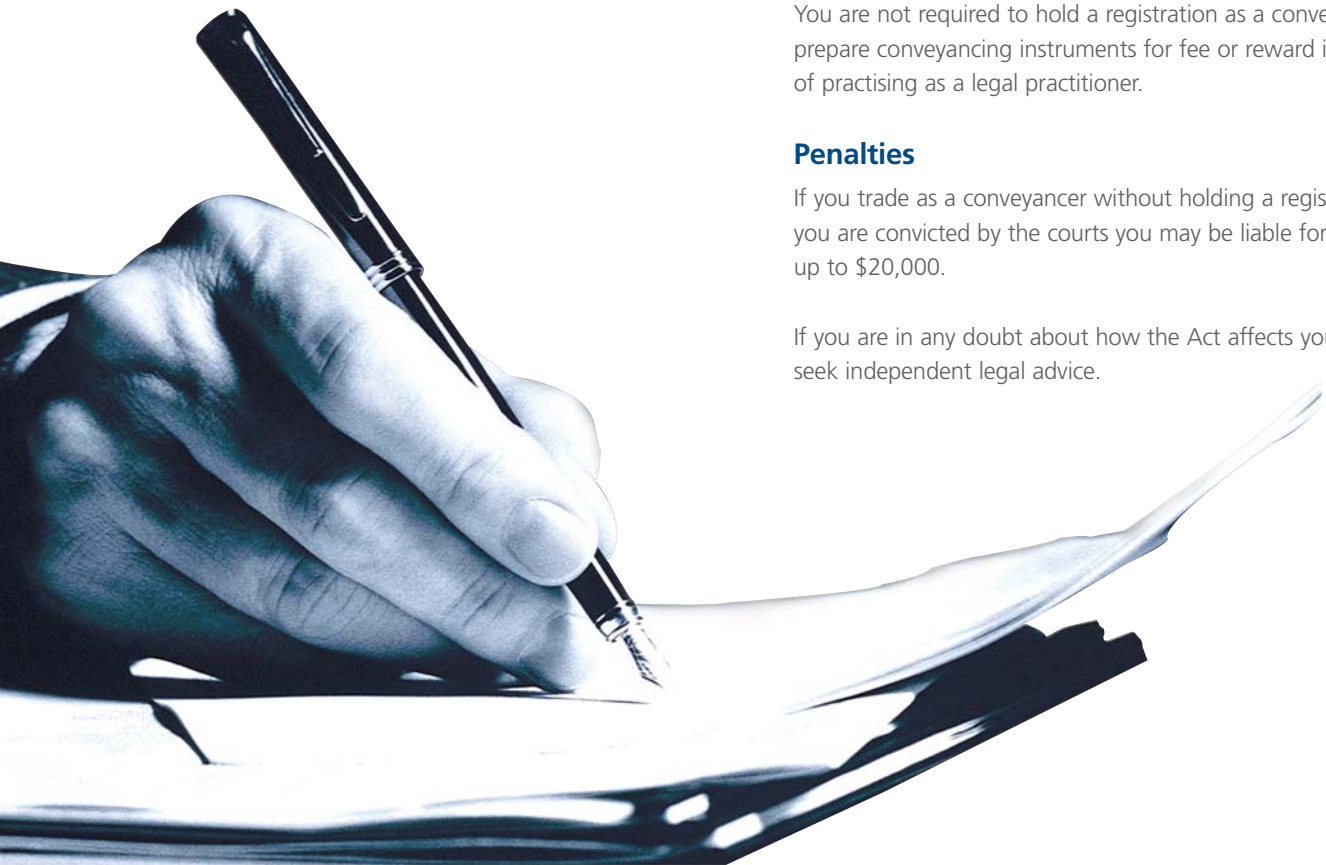
## Registration Not Required

You are not required to hold a registration as a conveyancer if you prepare conveyancing instruments for fee or reward in the course of practising as a legal practitioner.

## Penalties

If you trade as a conveyancer without holding a registration and you are convicted by the courts you may be liable for a penalty of up to \$20,000.

If you are in any doubt about how the Act affects you, you should seek independent legal advice.



## Entitlement to be Registered

### You are entitled to hold a registration if you:

- hold the approved qualifications
- are a fit and proper person to be registered as a conveyancer
- are not suspended or disqualified from carrying on an occupation, trade or business
- are not an undischarged bankrupt or subject to a composition, deed or scheme of arrangement with or for the benefit of creditors
- have not been, in the last five years, a director of a company wound up for the benefit of creditors, and
- have not been convicted of an indictable offence of dishonesty, or, in the last ten years preceding your application, not been convicted of a summary offence of dishonesty.

### Your company is entitled to hold registration if:

- it is not suspended or disqualified from carrying on an occupation, trade or business
- it is not being wound up and is not under official management or receivership
- each director is a fit and proper person to be the director of a company that is registered as a conveyancer
- each director has not been, in the last five years, a director of a company wound up for the benefit of creditors,
- each director has not been suspended or disqualified from carrying on an occupation, trade or business, and
- each director has not been convicted of an indictable offence of dishonesty, or, in the last ten years preceding the application, has not been convicted of a summary offence of dishonesty.

In addition to the information overleaf, a conveyancing company is also not entitled to be registered unless its constitution and articles of association conform with the requirements in Section 7 of the Act.

If the Commissioner refuses your registration you can appeal to the District Court within one month from the date of refusal.

## Management of a Company

In the case of the registered conveyancer being a company, the Act requires the business to be properly managed and supervised by a natural person who is registered as a conveyancer.

## Qualifications

To be registered as a conveyancer, you must also hold the qualifications specified in the Conveyancers Regulations 2010 or as approved by the Commissioner.

If you do not hold the required qualifications but believe your qualifications and/or experience would be equivalent or comparable to having such credentials, you should contact our office for further advice. Information about qualifications can also be found on our website.

## Obtaining a Registration

You can apply for a new registration by answering a series of questions orally, either over the telephone or in person at our Grenfell Street office. We will complete the application form for you using our computer-based system and an application form with your answers will be produced for you to check and sign. You will need to lodge with your application the specified fees and supporting documents. Our office will then assess your application to determine if you have met all the necessary criteria.

## Registration Fees

A schedule of fees is included with the application form.

To maintain the currency of your registration, you must pay a registration fee each year and provide the Commissioner with certain information. If you fail to do so, a penalty may be imposed and the registration cancelled. In the case of partnerships, all partners are required to pay the relevant fees.

## Registration Certificate

As a registered conveyancer, you will receive a registration certificate, which you can display at your business premises.

## Trust Accounts & Agents Indemnity Fund

As a registered conveyancer you are required to deposit monies received from your clients into a trust account in accordance with the rules set down under the Conveyancers Regulations 2010. Interest from trust accounts is deposited into the Agents Indemnity Fund, which provides compensation should a conveyancer default. The Commissioner administers this Fund.

## Indemnity Insurance

The legislation requires registered conveyancers (except those employed by registered conveyancers) to hold professional indemnity insurance at all times. These requirements are specified in the Regulations. If you do not hold insurance your registration is suspended until appropriate insurance is obtained.

The current insurance provider approved by the Commissioner is Marsh Pty Ltd. You must provide evidence of holding professional indemnity insurance when you pay your registration each year.

## Disciplinary Action

Conveyancers can be disciplined under the Act. The forum for disciplinary action is the Administrative and Disciplinary Division of the District Court and any person, including the Commissioner, may lodge a complaint to the court alleging grounds for disciplinary action to be commenced. The types of causes that may constitute this type of action are set out in the Act.

Disciplinary action court outcomes are recorded on the licensing public register available on OCBA's Internet site.

## Some of Your Obligations

You must comply with all the requirements of the Conveyancers Act and Regulations and must ensure that all the provisions of the *Land and Business (Sale and Conveyancing) Act 1994* and Regulations (and related real property legislation) are complied with for each transaction that you carry out. Registered conveyancers who operate trust accounts must comply with all requirements specified in the Conveyancers Regulations 2010, including the lodgement of an audit statement with the Commissioner each year.

You must notify the Commissioner in writing (within 14 days) of changes to your personal or business details (e.g. address, directorship, business name, partnerships, etc).

## Mutual Recognition

If you want to carry on business in South Australia as a conveyancer and hold a current interstate/New Zealand registration in an equivalent occupation, you may be able to apply for mutual recognition in this State.

Mutual recognition only applies to individuals and not companies. For more details please contact this office.

## Business Name

Under the *Conveyancers Act 1994*, you must not carry on business as a conveyancer under a licence except in the name that appears in your licence or in a business name that has been registered under the *Business Names Act 1996*. The Commissioner must also be advised in writing of your business name before you commence business.