

# Changes to the Standard REIQ Residential Contracts

by Mitchell Beck, Senior Associate

On 1 July 2010, updated versions of the standard Real Estate Institute of Queensland (REIQ) Contract for Houses and Residential Land (7th ed) and Contract for Residential Lots in a Community Titles Scheme (3rd ed) were released by the Queensland Law Society (QLS) and the REIQ.

The release of the new contracts coincides with the commencement of the *Trade Practices Amendment (Australian Consumer Law) Act (No. 1) 2010*, commonly known as the Unfair Contracts Legislation. The amendments address the unequal bargaining positions in previous versions of the standard REIQ contracts.

The Unfair Contracts Legislation applies to standard form consumer contracts – which would include the standard REIQ contracts – and will render void any term of a consumer contract that is unfair.

A term of a consumer contract will be “unfair” if it:

- causes a significant imbalance in the parties’ rights and obligations;
- is not reasonably necessary to protect the legitimate interests of the party advantaged by the term;
- would cause a detriment to a party if the term were relied upon.

Some of the main amendments to the REIQ Contracts are:

- removing the “deemed” satisfaction of the building and pest inspection condition and making the operation of the clause similar to the finance clause;
- inclusion of an “essential” terms definition, identifying those clauses which allow termination by either buyer or seller for breach;

- removing the right of the seller to claim the legal expenses of the contract if the contract is terminated, which is consistent with the decision in *Riggall v Thompson* [2010] QCA 144 where those expenses were considered by the Court to be a penalty;
- inclusion of a seller default clause setting out the rights of the buyer to claim damages in the event of a breach by the seller; and
- inclusion of a “severance” clause to ensure any unfair terms can be removed from the contract if necessary, leaving the remainder of the contract on foot.

Flower and Hart Lawyers have two Queensland Law Society Accredited Property Law Specialists on hand to supervise the residential conveyancing process and advise clients in relation to all aspects of the standard REIQ Contracts.

If you need assistance, please telephone Mitchell Beck, Accredited Property Law Specialist and Senior Associate, on 3233 1285 or email: [mitchell.beck@flowerandhart.com.au](mailto:mitchell.beck@flowerandhart.com.au)



**Mitchell Beck**  
Senior Associate

07 3233 1285 or  
[mitchell.beck@flowerandhart.com.au](mailto:mitchell.beck@flowerandhart.com.au)



**Warren Denny**  
Partner

07 3233 1244 or  
[warren.denny@flowerandhart.com.au](mailto:warren.denny@flowerandhart.com.au)



Quality

Service

Honesty and Integrity

Balance

Level 16 Central Plaza Two, 66 Eagle St Brisbane Q Australia  
GPO Box 219 Brisbane Q 4001 DX144  
T 07 3233 1233 I F 07 3233 0900 I [www.flowerandhart.com.au](http://www.flowerandhart.com.au)

# FlowerandHart

LAWYERS