

# RAMDASS & ASSOCIATES

## ATTORNEYS AND CONVEYANCERS



PURCHASING PROPERTY  
IN SOUTH AFRICA

Dear Friends  
in property

We proudly present to you our "GUIDE TO PURCHASING PROPERTY IN SOUTH AFRICA" to assist you through the often daunting experience of selling and purchasing property. We are certain that you will find our guide to be informative, comprehensive and user friendly. Our Guide aims to equip Sellers and Purchasers with the expertise necessary to be conversant with the purchase of property and the accompanying transfer process. We have established branches conveniently located on the Berea, Ballito, Umhlanga Rocks and Gauteng to ensure our accessibility to all our clients.

## Ramdass & Associates



**Standing: Bryan Hutchinson, Dudley Stilwell**  
**Seated : Joy Clover, Shahir Ramdass and Shivani Ramdass**

In an environment that is highly competitive we have defined ourselves as a unique firm specializing exclusively in Property and Banking Law. Our highly qualified team of professionals attend to clients personally, advising them of every aspect of the Conveyancing procedure.

We are a pro-active team committed to building relationships, and are available to consult with our clients at their convenience and at venues suitable to them.

# A GUIDE TO PURCHASING PROPERTY IN SOUTH AFRICA

Property has remained the blue chip commodity in the South African marketplace. Not only does it represent the most significant contract individuals can become a party to, but the rewards of ownership have proved to be second to none given the consistent annual increase in property values.

In South Africa, a compulsory land registration is followed where every piece of property is reflected on a diagram and ownership is recorded in one of the regionally located Deeds Registries where documents are available for public viewing. The regional Deeds Registries in KwaZulu-Natal are located in Pietermaritzburg, whilst there are registry offices provincially in Johannesburg, Pretoria and Cape Town to name a few.

South Africa is reputed to have one of the best deed's registration systems worldwide with an exceptionally high degree of accuracy and tenure being guaranteed.

Property can be owned in various capacities, namely, individually, jointly in undivided shares or be entities such as companies, close corporations, trusts or a similar entity registered outside South Africa.

There are no restrictions on property ownership by non-residents, save for a prohibition on illegal aliens owning immovable property in South Africa.

Our firm has offices located in Kwa-Zulu-Natal, Johannesburg and Centurion and can facilitate Property Transfer throughout South Africa.

## THE PROCESS OF PURCHASING PROPERTY

It is mandatory that all contracts to acquire land must be in writing, contain certain prescribed information and be signed by both buyer and seller to constitute a valid and legally binding agreement. Contracts most commonly take the form of an Agreement of Sale or Offer to Purchase.

Once an Agreement of Sale has been signed by both parties it represents a valid and binding document from which neither party can withdraw without incurring legal consequences, save for certain instances where:

- The agreement is subject to certain conditions which are not fulfilled;
- The purchase price is less than R250 000 and certain additional criteria in terms of the Alienation of Land Amendment Act are present entitling the purchase to "cool off" and resile from the agreement.
- The provisions of the Consumer Protection Act applies.

Ownership of property can also be obtained by means of acquiring the shares/members interest and loan claims in a company/close corporation respectively which company/close corporation is the registered owner of a property.

The decision to enter into and sign an Offer to Purchase/Agreement of sale is not a decision to be taken lightly and it is recommended that an inexperienced purchaser or seller obtain independent legal advice if they are uncertain at any stage.

## **AN OFFER TO PURCHASE/AGREEMENT OF SALE**

The offer to Purchase/Deed of Sale will contain the following standard provisions:

### **PURCHASE PRICE**

A deposit is not mandatory but serves as a gesture of good faith on the part of the purchaser and an indication of the purchaser's financial ability to conclude the sale. This amount will, upon request by the purchaser, be invested by the estate agent/conveyancer in an interest bearing trust account for the benefit of the purchaser. Provision will be made in the Agreement for a guarantee to be called for in respect of the balance of the purchase price, prior to registration of transfer.

### **OCCUPATION AND POSSESSION**

Occupation refers to the physical occupation of the property whereas possession is generally deemed to be the date upon which the purchaser assumes responsibility for the property and it is customary for the risk of ownership to pass on the date of possession.

### **VOETSTOETS**

This is a standard inclusion in all agreements of sale and implies that the property is bought as is. This means 'In the exact condition in which the property is found'. However, all patent and latent defects (visible and hidden defects) present in the property, within the sellers' knowledge must be brought to the attention of the purchaser. It is not standard in South Africa to conduct property surveys but these can be arranged with the assistance of the estate agent or an attorney and should be included as a condition of purchase, especially in light of the provisions of the Consumer Protection Act.

## **ELECTRICAL CERTIFICATE**

The property owner is required by law to be in possession of a valid electrical compliance certificate certifying that the electrical installation at the property meets certain statutory safety requirements.

## **ENTOMOLOGY CERTIFICATE**

The entomology or borer-free certificate certifies that all accessible parts of the property are free of infestation by certain defined beetles/borers in this certificate. Whilst it is a standard inclusion in the Agreement of Sale, is not a legal requirement. The cost of attending to the necessary repairs in order for the aforesaid certificates to be provided, is generally accepted as being for the account of the seller, although, the parties can contractually agree otherwise.

## **FIXTURES AND FITTINGS**

A property is sold together with all fixtures and fittings of a permanent nature situated thereat. Generally fixtures and fittings include anything which is attached to the property or which by virtue of its considerable mass accedes to the property. It is recommended that specific items that are to form part of the property sold should be recorded in the Agreement of Sale to prevent any future dispute arising.

## **MORA INTEREST**

Most Agreements of Sale include a Mora Interest clause which entitles the seller to levy penalty interest on the purchase price, in the event of any undue delay occasioned by the purchaser in complying with his obligations. This penalty interest will run from the date of the purchasers non-performance up to the date of his compliance with his obligations. The penalty interest rate is subject to agreement between the seller and purchaser during the conclusion of the Agreement of Sale and is levied on the purchase price, usually per annum.

## **AT FEES STAGE**

A transfer is regarded as being “at fees”, the working day before it is to be registered at the Deeds Registries Office. At this stage the conveyancers are to conduct a final cross check to ensure that all the necessary legal requirements have indeed been complied with and interested parties notified, in anticipation of registration.

## TRANSFER

Transfer refers to the actual date of registration of ownership in the Deeds Registry in favour of the purchaser that is effected. On the following working day, final accounts are issued to the seller and purchaser who are paid in accordance thereof.

## TRUST, COMPANIES AND CLOSE CORPORATIONS

The format of agreements concluded for the acquisition of shares/members interest and loan accounts in property-owning companies/close corporations contains many of the aspects discussed above, although it is substantially different in its nature and includes numerous warranties and indemnities granted by the seller to the purchaser who acquires the property-owning entity together with its financial history.

## FINANCIAL ASSISTANCE

Financial assistance is granted in the form of a loan secured by a mortgage bond to be registered in favour of the Bank granting the loan against the purchaser/s.

A bond repayment calculator is reflected below for your convenience.

TERM YEARS	7%	7.50%	8%	8.5%	9%	9.5%	10%	10.50%	11%	11.50%	12%	12.50%	13%
20	7.753	8.0559	8.36	8.68	9.00	9.32	9.65	10.00	10.32	10.66	11.01	11.36	11.72
TERM YEARS	13.5%	14%	14.5%	15%	15.50%	16%	16.25%	16.50%	16.75%	17%	17.25%	17.50%	17.75%
20	12.07	12.43	12.80	13.16	13.53	13.91	14.10	14.29	14.48	14.67	14.86	15.05	15.24

There are restrictions on loans to non-resident purchasers of property. Essentially the non-resident may only borrow up to the maximum of 50% of the property to value ratio. Such loans are, however, subject to foreign exchange approval by the SA Reserve Bank which approvals are efficiently Handled by all South African Commercial Banks.

# TRANSFER AND BOND COST GUIDELINES

## FROM 1ST MAY 2021

### TRANSFER COSTS

Purchase Price	Transfer Fees	Post & Petties	VAT @15%	Deeds Office	Transfer Duty	Total
150,000	6,260	1,100	939	90	0	8,389
200,000	7,120	1,100	1,068	90	0	9,378
250,000	7,980	1,100	1,197	567	0	10,844
300,000	8,840	1,100	1,326	567	0	11,833
350,000	9,700	1,100	1,455	707	0	12,962
400,000	10,560	1,100	1,584	707	0	13,951
450,000	11,420	1,100	1,713	707	0	14,940
500,000	12,280	1,100	1,842	707	0	15,929
550,000	13,140	1,100	2,091	707	0	17,838
600,000	13,940	1,100	2,091	707	0	17,838
650,000	15,600	1,100	2,340	995	0	20,035
700,000	15,600	1,100	2,340	995	0	20,035
750,000	17,260	1,100	2,589	995	0	21,944
800,000	17,260	1,100	2,589	995	0	21,944
850,000	18,920	1,100	2,838	1,142	0	24,000
900,000	18,920	1,100	2,838	1,142	0	24,000
950,000	20,580	1,100	3,087	1,142	0	25,909
1,000,000	20,580	1,100	3,087	1,142	0	25,909
1,100,000	22,240	1,100	3,336	1,283	3,000	30,959
1,200,000	22,240	1,100	3,336	1,283	6,000	33,959
1,300,000	23,900	1,100	3,585	1,283	9,000	38,868
1,400,000	23,900	1,100	3,585	1,283	12,750	42,618
1,500,000	25,560	1,100	3,834	1,283	18,750	50,527
1,600,000	25,560	1,100	3,834	1,283	24,750	56,527
1,700,000	27,220	1,100	4,083	1,283	30,750	64,436
1,800,000	27,220	1,100	4,083	1,283	36,750	70,436
1,900,000	28,880	1,100	4,332	1,283	42,750	78,345
2,000,000	28,880	1,100	4,332	1,283	50,250	85,845
2,200,000	30,540	1,100	4,581	1,778	66,250	104,249

### BOND COSTS

Price/ Value	Transfer Fees	Posts & Petties	VAT @15%	Deeds Office	Total
150,000	6,260	1,100	939	438	8,737
200,000	7,120	1,100	1,068	567	9,855
250,000	7,980	1,100	1,197	567	10,844
300,000	8,840	1,100	1,326	567	11,833
350,000	9,700	1,100	1,455	707	12,962
400,000	10,560	1,100	1,584	707	13,951
450,000	11,420	1,100	1,713	707	14,940
500,000	12,280	1,100	1,842	707	15,929
550,000	13,140	1,100	2,091	707	17,838
600,000	13,940	1,100	2,091	707	17,838
650,000	15,600	1,100	2,340	995	20,035
700,000	15,600	1,100	2,340	995	20,035
750,000	17,260	1,100	2,589	995	21,944
800,000	17,260	1,100	2,589	995	21,944
850,000	18,920	1,100	2,838	1,142	24,000
900,000	18,920	1,100	2,838	1,142	24,000
950,000	20,580	1,100	3,087	1,142	25,909
1,000,000	20,580	1,100	3,087	1,142	25,909
1,100,000	22,240	1,100	3,336	1,283	27,959
1,200,000	22,240	1,100	3,336	1,283	27,959
1,300,000	23,900	1,100	3,585	1,283	29,868
1,400,000	23,900	1,100	3,585	1,283	29,868
1,500,000	25,560	1,100	3,834	1,283	31,777
1,600,000	25,560	1,100	3,834	1,283	31,777
1,700,000	27,220	1,100	4,083	1,283	33,686
1,800,000	27,220	1,100	4,083	1,283	33,686
1,900,000	28,880	1,100	4,332	1,283	35,595
2,000,000	28,880	1,100	4,332	1,283	35,595
2,200,000	30,540	1,100	4,581	1,778	37,999

# TRANSFER AND BOND COST GUIDELINES

## FROM 1ST MAY 2021

### TRANSFER COSTS

Purchase Price	Transfer Fees	Post & Petties	VAT @13%	Deeds Office	Transfer Duty	Total
240,000	32,200	1,100	4,800	1,778	82,250	122,158
260,000	33,860	1,100	5,079	1,778	102,000	143,817
280,000	35,520	1,100	5,328	1,778	124,000	167,726
3,000,000	37,180	1,100	5,577	1,778	146,000	191,635
3,200,000	38,840	1,100	5,826	1,778	168,000	215,544
3,400,000	40,500	1,100	6,075	1,778	190,000	239,453
3,600,000	42,160	1,100	6,324	1,778	212,000	263,362
3,800,000	43,820	1,100	6,573	1,778	234,000	287,271
4,000,000	45,480	1,100	6,822	1,778	256,000	311,180
4,200,000	47,140	1,100	7,071	2,157	278,000	335,468
4,400,000	48,800	1,100	7,320	2,157	300,000	359,377
4,600,000	50,460	1,100	7,569	2,157	322,000	383,286
4,800,000	52,120	1,100	7,818	2,157	344,000	407,195
5,000,000	53,780	1,100	8,067	2,157	366,000	431,104
5,500,000	57,960	1,100	8,697	2,157	421,000	489,934
6,000,000	57,960	1,100	8,697	2,157	476,000	545,934
6,500,000	62,160	1,100	9,327	2,558	531,000	606,175
7,000,000	62,160	1,100	9,327	2,558	586,000	661,175
7,500,000	66,360	1,100	9,957	2,558	641,000	721,005
8,000,000	66,360	1,100	9,957	2,558	696,000	776,005
8,500,000	70,560	1,100	10,587	3,002	751,000	836,269
9,000,000	70,560	1,100	10,587	3,002	806,000	891,269
9,500,000	74,760	1,100	11,217	3,002	861,000	951,099
10,000,000	74,760	1,100	11,217	3,002	916,000	1,006,099
20,000,000	116,780	1,100	17,517	4,292	2,196,000	2,335,699

### BOND COSTS

Price/ Value	Transfer Fees	Posts & Petties	VAT @13%	Deeds Office	Total
240,000	32,200	1,100	4,800	1,778	39,908
260,000	33,860	1,100	5,079	1,778	41,817
280,000	35,520	1,100	5,328	1,778	43,726
3,000,000	37,180	1,100	5,577	1,778	45,635
3,200,000	38,840	1,100	5,826	1,778	47,544
3,400,000	40,500	1,100	6,075	1,778	49,453
3,600,000	42,160	1,100	6,324	1,778	51,362
3,800,000	43,820	1,100	6,573	1,778	53,271
4,000,000	45,480	1,100	6,822	1,778	55,180
4,200,000	47,140	1,100	7,071	2,157	57,468
4,400,000	48,800	1,100	7,320	2,157	59,377
4,600,000	50,460	1,100	7,569	2,157	61,286
4,800,000	52,120	1,100	7,818	2,157	63,195
5,000,000	53,780	1,100	8,067	2,157	65,104
5,500,000	57,960	1,100	8,697	2,157	69,934
6,000,000	57,960	1,100	8,697	2,157	69,934
6,500,000	62,160	1,100	9,327	2,558	75,175
7,000,000	62,160	1,100	9,327	2,558	75,175
7,500,000	66,360	1,100	9,957	2,558	80,005
8,000,000	66,360	1,100	9,957	2,558	80,005
8,500,000	70,560	1,100	10,587	3,002	85,269
9,000,000	70,560	1,100	10,587	3,002	85,269
9,500,000	74,760	1,100	11,217	3,002	90,099
10,000,000	74,760	1,100	11,217	3,002	90,099
20,000,000	116,780	1,100	17,517	4,292	139,699



# ADDITIONAL COSTS APPLICABLE TO THE PARTIES

## **COSTS APPLICABLE TO THE PURCHASER**

### **CONVENTIONAL PROPERTY TRANSFERS**

1. Application for Rates Clearance Certificate	R700.00 + VAT
2. Purchaser's pro-rata share of rates	+/-R2500.00
3. Deeds Search Fee	R450.00 + VAT
4. Bank Charges	R100.00 + VAT

### **SECTIONAL TITLE TRANSFERS**

1. Levy Clearance Certificate	R1 500.00
2. Exclusive Use Area	R2 500.00 + VAT
3. Deeds Search Fee	R450.00 + VAT
4. Balance and Budget Sheets	R1 500 + VAT
5. Insurance Certificate	R1 000.00
6. Levy	R1 500.00

### **BOND REGISTRATIONS**

1. Valuation and Initiation fees - subject to levy imposed by the relevant Financial Institution

### **FICA (FINANCIAL INTELLIGENCE CENTRE ACT)**

1. Natural Persons	R550.00 + VAT
2. Companies, Trusts and C.C.'s	R550.00 + VAT

### **COSTS APPLICABLE TO THE SELLER**

1. Estate Agents Commission	As discussed
2. Bond Cancellation Costs	R4 406.75 (incl. VAT) for a first bond, plus R837.37 for each additional bond,  thereafter
3. Entomologist Certificate	R750
4. Electrical Certificate	R750
5. Pro-rata rates	+/- R2 500

The Table of Costs and Additional costs are designed to assist you in budgeting for the purchase of your new property and are estimations. For a comprehensive quote please do not hesitate to contact us.

These costs apply whether the purchaser is a natural person or legal entity.

Apart from these fees, the financial institutions also charge an initiation/valuation fee, which varies, depending on the institution which can range between R2 000 and R6 000 depending on the value of the Bond, and entity Purchasing R6 500 and R12 000..

# COSTS

This conventionally impacts on both the seller and purchaser. Commission is payable where an estate agent is responsible for concluding a sale of property. Commission is customarily payable by the seller who mandates the estate agent to procure a purchase for the property. The seller is also responsible for the cost of procuring a 'borer free' and electrical compliance certificate. The purchaser is responsible for the payment of transfer costs and the costs of registering any new mortgage bonds over the property purchased. Transfer costs, which are regulated by statutory tariff, include transfer duty, which is calculated utilizing the following formula, payable to the Receiver of Revenue, having regard to the purchase price of the property

**2022 ( 1 March 2021 - 28 February 2022) No changes as from last year**

Property Value (R)	Rates of Tax
R0 - R1 000 000	0% of property value
R1 000 001 - R1 375 000	3% of property value above R1 000 000
R 1 375 001 - R1 925 000	R11 250 + 6% of property value above R1 375 000
R1 925 001 - R2 475 000	R44 250 + 8% of property value above R1 925 000
R2 475 001 - R11 000 000	R88 250 + 11% of property value above R2 475 000
R11 000 001	R1 026 000 + 13% of property value above R11 000 000

Bond registration costs and further sundry charges are imposed by the Deeds Registry, the Bank granting financial assistance and municipal authorities.

## THE TRANSFER PROCEDURE

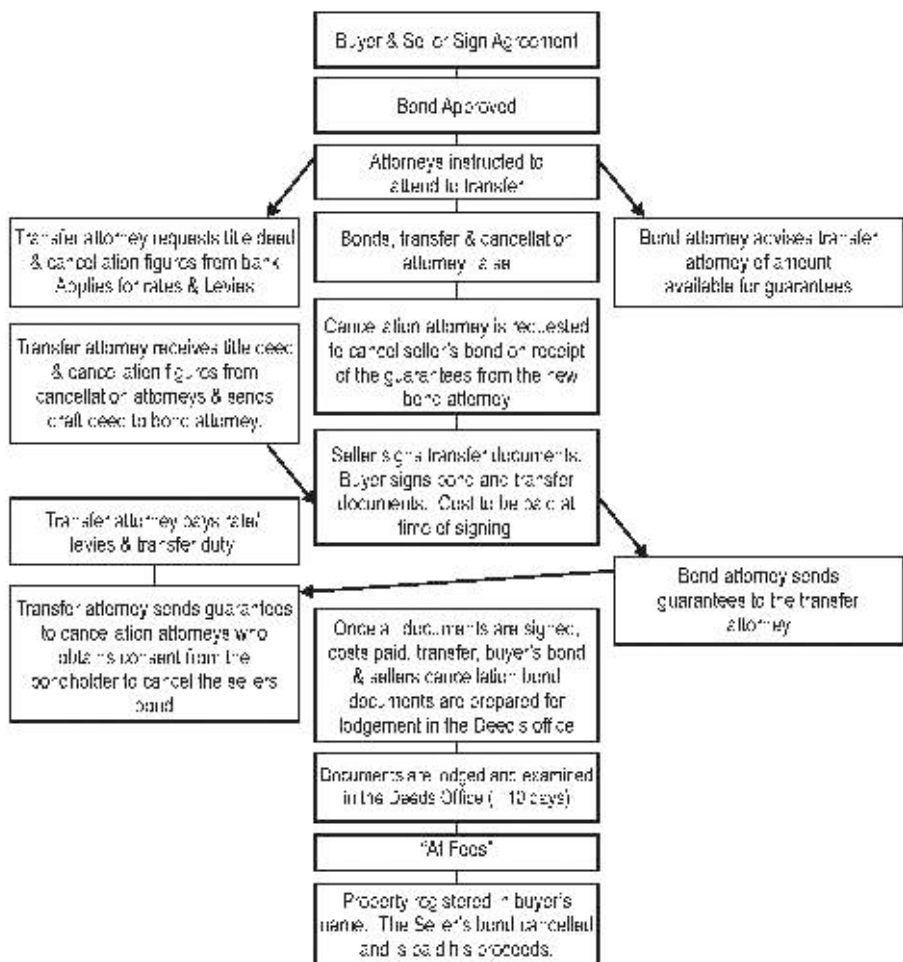
The registration of a property transaction is the responsibility of a specifically qualified legal practitioner known as a conveyancer. Unless contractually agreed, it is customary for the seller to appoint the conveyancer to attend to the registration of transfer of a property sold, whilst the costs expended on the transfer process are for the account of the purchaser.

- To summarize, the conveyancer is responsible for:-
- The preparation of the requisite transfer and bond documentation
- Procuring its signature by the purchaser and the seller; and
- Attending to its lodgment together with the cancellation of any existing bonds in a regionally located Deeds Registry.

## REGISTRATION

On the day of registration of transfer, all existing mortgage bonds registered over the property are cancelled. This occurs simultaneously with the registration of any new mortgage bonds by the purchaser in as the new owner of the property and the purchase price is paid to the seller thereafter.

The above procedure does not apply in an instance where the shares/members interest and loans are acquired in the property-owning company/close corporation where no change in ownership is recorded in the Deeds Registry, but with similar institutions, such as the Registrar of Companies and Close Corporations, who are located in Pretoria.



## CAPITAL GAINS TAX

South African residents are liable for the payment of Capital Gains Tax (“CGT”) on the disposal of any asset, subject to certain limited exceptions. CGT is payable in the year in which the asset is disposed of and is calculated by adding 25% of the capital gain, or profit, to the individuals income for that year and taxing that income at the individuals marginal rate of income tax. The capital gain is calculated and disclosed in the Individuals' income tax return for the year in which it is sold.

CGT became effective on 1 October 2001 and is thus payable only from that date. The amount of a capital gain is calculated either by deducting the value of the property as at 1 October 2001 (together with the costs of acquiring and improving the property) for the proceeds on the disposal of the property or by apportioning the amount of time the property was owned between the period before 1 October 2001 and the period after that date.

South African residents do not pay CGT on the first R2Million of profit made on the disposal of their primary residence, however, non-residents will not qualify for this exemption if their primary residence is not in South Africa.

### **The Maximum effective rate of capital gains tax is as follows**

<b>Legal entity</b>	<b>2016</b>	<b>2017</b>
Individuals and special trusts	16.4%	18%
Companies	22.4%	22.4%
Other Trusts	32.8%	36%

## THE FINANCIAL INTELLIGENCE CENTRE ACT

The Financial Intelligence Centre Act (FICA) was introduced to provide an administrative framework to facilitate the prevention of money laundering and extends further to include detection, investigation and prosecution of those involved in money laundering.

FICA therefore imposes obligations on institutions, such as banks, estate agencies, attorneys, accountants and the like, to establish and verify the identity of their clients and report suspicious transactions.

In order to comply with the provisions of the Act, attorneys and conveyancers, may require certain prescribed documents to be completed by the purchaser and seller to a property transaction.

## ELECTRIC FENCE SYSTEM CERTIFICATE OF COMPLIANCE

In terms of Regulation 12(4) and 12(5) of the Electrical Machinery Regulations of 2011 every user of an electric fence system is to have an electric fence system certificate in respect of such electric fence system if has been installed after 1 October 2012 or, if any addition or alteration was effected to an existing fence system after 1 October 2012. Furthermore, if there is a change of ownership of immovable property on which such electric fence system exists, after 1 October 2012, an electric fence system certificate will be required. This is a completely separate certificate issued and does not form part of the Electrical Compliance certificate.

Unlike an Electrical Certificate of Compliance required in terms of the Electrical Installation Regulations, 2009, where the user or lessor may not allow a change of ownership if the certificate is older than two years, there is no such provision in the Electrical Machinery Regulations which means that the electric fence system certificate is transferrable and does not expire.

## GAS CERTIFICATE

Properties consisting of Gas installation, such as a stove or heater will oblige a Seller to deliver to the Purchaser, on or before the transfer occupation date, a Certificate of Conformity to the effect that the gas installation on the property conforms to the required health and safety standard prescribed by law. In so far as the authorized person appointed by the Seller to provide such Certificate requires corrective work to be carried out as a precondition to the issue of such Certificate, the Seller will be liable to ensure that such work is carried out at their expense.

# MOVING HOUSE PACKING TIPS

- Decide on packing needs. Choose which belongings you will pack and what gets left for the moving company
- Source packing supplies and use good quality packing materials (such as boxes, bubble wrap, tape, marker pens, small and large zip-lock bags) purpose designed for moving house
- Pack clean. Use white paper sheets (like 'butcher's paper') for packing as newspaper will leave stains
- Secure little things. Keep zip lock bags handy for small objects like screws and nuts
- Reinforce boxes. Security tape the top, bottom and sides of every box
- Create a system. Clearly number and label every moving box you pack. Use a colour code to designate the room destination for each carton (use a different marker colour or label for each room)
- Label everything. Always label moving boxes with its contents, rather than just the room in which it belongs. This will help in the long-run if you're looking for a specific item
- List contents. Prepare a separate inventory list detailing box numbers and contents
- Where to begin. Start by packing the belongings you use least (such as books, CDs, DVDs and items stored in the roof space or garage)
- Work room by room. Pack one room at a time, keeping all the packed boxes for each room together
- Distribute weight. Pack heavy items on the bottom of the carton and lighter items on top
- Avoid overloading. Pack boxes to 20kg maximum for easy lifting and low risk of 'giving out'
- Fill empty space. To help limit movement, use fabric, tea towels, clothing, paper, or bubble wrap to completely fill moving cartons. This also helps prevent boxes from collapsing
- Close boxes properly. Never pack a box that doesn't close or has items sticking out the top. All your moving boxes should be properly closed and securely taped
- Use the right carton. Pack lighter items in bigger moving boxes and heavier items in smaller cartons
- Never be tempted. Resist packing other goods inside cupboards and drawers. Furniture isn't designed to be moved. Adding weight greatly increases the risk of movement damage in transit
- Consider your first night. Moving house can be a tiring exercise, particularly if you're moving without the help of professionals. So, make sure anything you need to settle into your new home on your first night is easy to access. Consider packing a separate 'First Night Box' containing bed linen, towels, a change of clothes, and toiletries for all family members.



# COMPANY DIRECTORY

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