Buying or selling your property?

New Zealand Residential Property Sale and Purchase Agreement Guide

REAL ESTATE AUTHORITY
TE MANA PAPAWHENUA

This guide tells you...

- what a sale and purchase agreement is
- what's in a sale and purchase agreement
- what happens after you sign the sale and purchase agreement
- what happens if you have a problem
- where to go for more information

Where to go for more information

This guide is available in other languages. You can find translated copies of this guide on rea.govt.nz and settled.govt.nz.

The New Zealand Residential Property Agency Agreement Guide is also available on settled.govt.nz. The guide tells you more about the agreement you sign with the agency helping to sell your property.

We welcome any feedback you have on this publication.

The information in this guide was accurate when published. However, the requirements this information is based on can change at any time. Up-to-date information is available at rea.govt.nz.

Key things to know about sale and purchase agreements

- A sale and purchase agreement is a legally binding contract between you and the other party involved in buying or selling a property.
- You must sign a written sale and purchase agreement to buy or sell a property.
- You need to read and understand the sale and purchase agreement before you sign it.
- Even if a standard sale and purchase agreement is being used, you should always get legal advice before you sign the agreement and throughout the buying and selling process.
- You can negotiate some of the terms and conditions in a sale and purchase agreement.
- You can include additional clauses, such as what to do if there are special circumstances. Your lawyer plays an important role in providing advice on what the sale and purchase agreement should say.
- A sale and purchase agreement becomes unconditional once all the conditions are met.
- In most cases, the real estate professional is working for the seller of the property, but they must treat the buyer fairly.
- If your real estate professional or anyone related to them wants to buy your property, they must get your written consent to do this. They must also give you a valuation of your property by an independent registered valuer.
- The sale and purchase agreement is only available in English. You may need assistance interpreting it if English is not your primary language.

What a sale and purchase agreement is

A sale and purchase agreement is a legally binding contract between you and the other party involved in buying or selling a property. It sets out all the details, terms and conditions of the sale. This includes things such as the price, any chattels being sold with the property, whether the buyer needs to sell another property first or needs a property inspection and the settlement date.

A sale and purchase agreement provides certainty to both the buyer and the seller about what will happen when.

What's in a sale and purchase agreement

Your sale and purchase agreement should include the following things.

Basic details of the sale

Different sale methods like tender or auction might mean the sale and purchase agreement can look different, but all sale and purchase agreements should contain:

- the names of the people buying and selling the property
- the address of the property
- the type of title, for example, freehold or leasehold
- the price
- any deposit the buyer must pay
- any chattels being sold with the property, for example, whiteware or curtains
- any specific conditions you or the other party want fulfilled
- how many working days you have to fulfil your conditions (if there are any conditions)
- the settlement date (the date the buyer pays the rest of the amount for the property, which is usually also the day they can move in)
- the rate of interest the buyer must pay on any overdue payments (such as being late on paying the deposit or the remaining amount at the settlement date).

General obligations and conditions you have to comply with

The sale and purchase agreement includes general obligations and conditions that you will need to comply with. For example, these may include:

- access rights – what access the buyer can have to inspect the property before settlement day
- insurance – to make sure the property remains insured until the settlement date and outline what will happen if any damage occurs before settlement day
- default by the buyer – the buyer may have to compensate the seller if they don't settle on time, for example, with interest payments
- default by the seller – the seller may have to compensate the buyer if they don't settle on time, for example, by paying accommodation costs
- eligibility to buy property in New Zealand – people who have migrated to New Zealand may not be permitted to immediately buy property or may need to get consent from the Overseas Investment Office.

Your lawyer will explain these clauses to you.

Check...

Always check your sale and purchase agreement with a lawyer before signing.

Buying or selling a property where the owner isn't able to participate, like a mortgagee sale or deceased estate, can mean the real estate professional has limited information about the property. It pays to allow for this when deciding what conditions the buyer and seller might need.

Remember...

Before you sign a sale and purchase agreement, whether you're the buyer or the seller, the real estate professional must give you a copy of this guide. They must also ask you to confirm in writing that you've received it.

Specific conditions a buyer may include

Some buyers will present an unconditional offer, which means there are no specific conditions to be fulfilled. Some buyers will include one or more conditions (that must be fulfilled by a specified date) in their offer such as:

- title search – this is done by the buyer's lawyer to check who the legal owner of the property is and to see if there are any other interests over the property such as caveats or easements
- finance – this refers to the buyer arranging payment, often requiring bank approval for a mortgage or loan
- valuation report – a bank may require the buyer to obtain a valuation of the property (an estimate of the property's worth on the current market) before they agree to a loan
- Land Information Memorandum (LIM) – provided by the local council, this report provides information about the property such as rates, building permits and consents, drainage, planning and other important information
- property inspection – a buyer paying for an inspection provides an independent overview of the condition of the property rather than relying on an inspection that has been arranged by the seller
- engineer's or surveyor's report – similar to the above but more focused on the entire section and the structure of the property
- sale of another home – the buyer may need to sell their own home in order to buy another.

The real estate professional helps the buyer and the seller to include the conditions they each want. Even though the real estate professional works for the seller, they also have to deal fairly and honestly with the buyer. While they're not expected to discover hidden defects, they can't withhold information and must tell the buyer about any known defects with the property. If a buyer needs time to check a property for defects, including a property inspection condition may be important.

What happens after you sign the sale and purchase agreement

Signing the sale and purchase agreement is not the end of the sale or purchase process.

Both parties work through the conditions until the agreement is unconditional

A conditional agreement means the sale and purchase agreement has one or more conditions that must be met by a specified date and before the sale goes through.

The buyer pays the deposit. Depending on what the sale and purchase agreement says, the buyer may pay the deposit when they sign the agreement or when the agreement becomes unconditional. If the deposit is made to the real estate agency, it must be held in their agency's trust account for 10 working days before it can be released to the seller.

An agreement for sale and purchase commits you to buy or sell

Once you've signed the sale and purchase agreement and any conditions set out in it have been met, you must complete the sale or purchase of the property.

The length of time between the conditions being met and the settlement date varies. Settlement periods can be lengthy if the property hasn't been built yet or the sale and purchase agreement includes conditions for one party to buy or sell another property. The real estate professional has obligations to keep you informed of important updates that come up during this time.

Pre-settlement inspection

This is the chance for the buyer to check the property and chattels are in the same condition they were when the sale and purchase agreement was signed and to check that the seller has met any conditions, for example, there is no damage to walls or chattels haven't been removed from the property.

It's important to raise any concerns you find at the pre-settlement inspection with your lawyer and the real estate professional as soon as possible to allow enough time for an issue to be resolved. If it's less than 24 hours before settlement, the vendor may not be obligated to set things right.

Payment of a commission

Once the sale is complete, the seller pays the real estate professional for their services. The real estate agency usually takes the commission from the deposit they're holding in their trust account. The seller should make sure the deposit is enough to cover the commission. The real estate professional cannot ask the buyer to pay for their services if they have been engaged by the seller.

The buyer pays the rest

The buyer pays the remainder of the amount for the property on the day of settlement, usually through their lawyer.

Buying a tenanted property

If the property is tenanted, the agreement for sale and purchase should specify this. It may also contain a specific date for possession that may differ from the settlement date.

If the buyer requires the property to be sold with 'vacant possession', it is the seller's responsibility to give the tenant notice to vacate in accordance with the tenant's legal rights.

It is recommended that you seek legal advice if you are buying a property that is currently tenanted.

What happens if you have a problem

If something has gone wrong, first discuss your concern with the real estate professional or their manager. All agencies must have in-house procedures for resolving complaints.

If you can't resolve the issue with the real estate agency or you don't feel comfortable discussing it with them, you can contact the Real Estate Authority (REA). We can help in a number of ways if your complaint is about the real estate professional. For example, we can help you and the real estate professional or agency to resolve the issue and remind them of their obligations under the Real Estate Agents Act 2008. When you contact us, we'll work with you to help you decide the best thing to do.

Call us on 0800 367 7322, email us at info@rea.govt.nz or visit us online at rea.govt.nz

About settled.govt.nz

Settled.govt.nz guides you through home buying and selling.

Buying or selling your home is one of the biggest financial decisions you will make. It's a complex and sometimes stressful process with potentially significant emotional and financial impacts if things go wrong.

Settled.govt.nz provides comprehensive independent information and guidance for home buyers and sellers. You can find information about the risks and how they can impact you and get useful tips on how to avoid some of the major potential problems.

Settled.govt.nz will help to inform and guide you through the process from when you're thinking of buying or selling right through to when you're moving in or out. You'll find valuable information, checklists, quizzes, videos and tools. From understanding LIMs, to sale and purchase agreements, to when to contact a lawyer, settled.govt.nz explains what you need to know.

Settled.govt.nz is brought to you by the Real Estate Authority – Te Mana Papawhenua (REA).

For more information

For more information on home buying and selling, visit settled.govt.nz or email info@settled.govt.nz

About the Real Estate Authority – Te Mana Papawhenua (REA)

REA is the independent government agency that regulates the New Zealand real estate profession.

Our purpose is to promote and protect the interests of consumers buying and selling real estate and to promote public confidence in the performance of real estate agency work.

What we do

Our job is to promote a high standard of conduct in the real estate profession and protect buyers and sellers of property from harm.

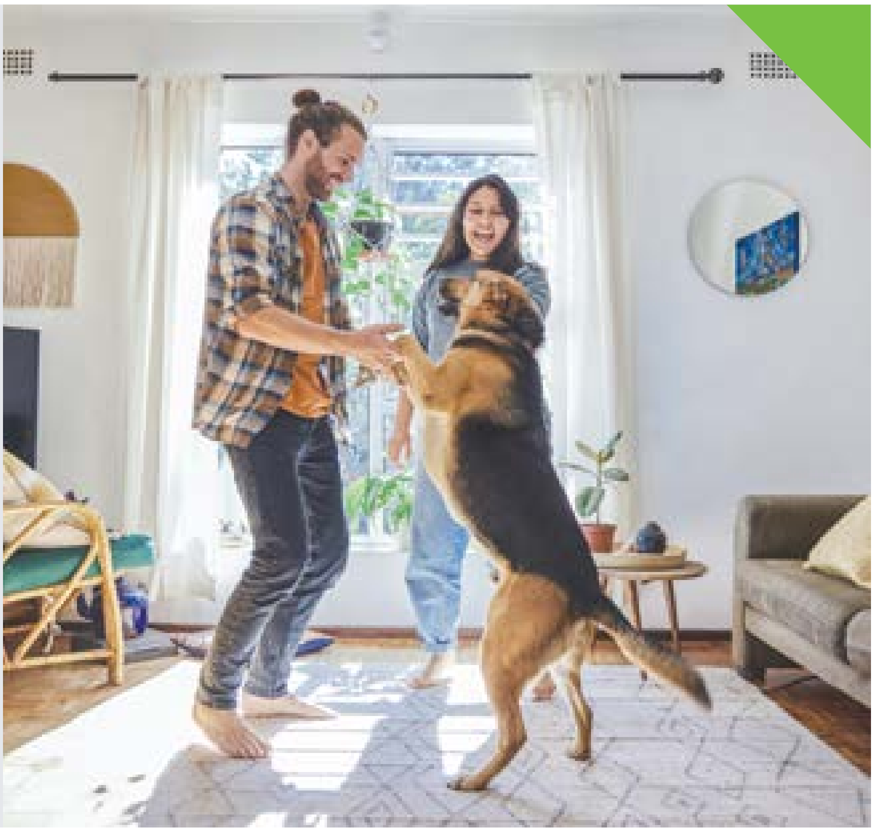
- We provide independent information for people who are buying and selling property through our settled.govt.nz website.
- We provide guidance for real estate professionals and oversee a complaints process.
- We license people and companies working in the real estate industry.
- We maintain a Code of Conduct setting out the professional standards real estate professionals must follow.
- We maintain a public register of real estate professionals that includes information about disciplinary action taken in the last 3 years.

The Real Estate Agents Authority is a Crown agent, established under the Real Estate Agents Act 2008. The Real Estate Authority is the operating name of the Real Estate Agents Authority.

For more information

To find out more about REA, visit rea.govt.nz, call us on 0800 367 7322 or email us at info@rea.govt.nz

settled.govt.nz



Approved under section 133 of the Real Estate Agents Act 2008. Effective from 14 October 2022.

Complaints and Disputes
RESOLUTION PROCEDURE

Grenadier is committed to handling any complaints or disputes that do arise professionally, fairly and expeditiously.

Our standard in-house procedure is outlined below:

1. Any client or customer who wishes to make a complaint will be referred to the manager of the relevant Grenadier office.

2. If the complainant is not satisfied with the response received from the manager they can make a written complaint to Grenadier Real Estate Ltd.

3. Grenadier Real Estate Limited will acknowledge receipt of the complaint and commence a review, which if deemed necessary may involve discussion with all relevant parties.

4. Grenadier will respond to the complainant upon completion of its review of the complaint.

5. If the complainant is dissatisfied with the outcome Grenadier will suggest a further course of action.

Please note: Customers or clients may access the Real Estate Agents Authority's complaints process without first using our in-house procedure; and any use of the Grenadier in-house procedure does not preclude a customer or client from making a complaint to the Authority.

Contact Details:
Bryan Bloomfield
Chief Operation Officer

Grenadier Real Estate Ltd
Physical Address: 98 Moorhouse Avenue, Christchurch
Postal Address: PO Box 1625, Christchurch
Email: bryan.bloomfield@harcourts.co.nz

ATTENTION

PROVING YOUR IDENTITY

From 1 July 2018, lawyers and conveyancers are required to verify the identity[1] of their clients in accordance with anti-money laundering legislation. If your lawyer cannot verify your identity in line with the legislation, they will not be able to act for you. If your lawyer cannot act for you, you may not be able to satisfy the conditions of your property purchase and will not be able to settle your property purchase or sale.

As identity verification can take days and sometimes weeks if a trust or company is involved, we **strongly recommend** that you contact your lawyer as soon as possible to have your identity verification completed.

The below gives an **indication** of some the documents your lawyer may ask you to present in person or as a certified document as part of this process:

Individuals:

Passport, NZ Firearms Licence or NZ Driver Licence with another document such as a bank statement or statement issued by a Government agency. You will also need to provide a document with your residential address (for example, a utility bill).

Trusts:

The Trust Deed and, for all trustees and settlors, the information required for individuals as noted above, together with information regarding the Trust's source of funds or wealth. Additional information may also be required for beneficiaries and appointers.

Companies:

Details of the company, together with the information for individuals noted above for every individual with more than a 25% shareholding, all individuals with effective control of the company and all individuals acting on behalf of the company. Information regarding source of funds or wealth may also be required.

Note: The above list is not exhaustive and is indicative only. Your lawyer will assist you with the specific requirements in relation to your situation.

[1] Lawyers are required to complete a "Customer Due Diligence" process in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

REINZ REAL ESTATE INSTITUTE OF NEW ZEALAND

Important Information
FOR BUYERS & SELLERS OF PROPERTY

Harcourts | GRENADIER

Failure to provide the information below may result in the delay of your settlement.

Dear Clients and Customers

Under New Zealand tax legislation if you are selling or buying a property it may be a requirement for you to have the following information available before settlement date:

New Zealand Citizens or Visa Holders	Trusts, Companies, Nominators, Grantor's under powers of Attorney, Partnerships, Unincorporated Bodies or offshore persons.
New Zealand Passport; or New Zealand Resident Visa; or New Zealand Work Visa; or New Zealand Student Visa; **and** New Zealand IRD Number	NZ IRD Number; **and** NZ Bank Account; **and** Equivalent of NZ IRD number (for non-tax resident)

Residential Land Withholding Tax (RLWT)

Sellers of New Zealand residential property may be required to complete a RLWT declaration and pay RLWT in relation to the sale of their property. The RLWT Declaration is required when:

- you are selling/disposing of New Zealand residential property and
- you purchased/acquired the property on or after 1 October 2015 through to 28 March 2018 inclusive, and you are selling/disposing of the property within two years or
- you purchased/acquired the property on or after 29 March 2018 and you are selling/disposing of the property within five years.

Some sellers will qualify for an exemption from paying RLWT.
An exemption may apply if the property was:

- your main home
- transferred as part of an inheritance
- transferred to you as an executor/administrator of a deceased estate

Anti-Money Laundering and Counter Financing of Terrorism Act 2009

New Zealand has passed a law called the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act). The purpose of the law reflects New Zealand's commitment to the international initiative to counter the impact that criminal activity has on people and economies within the global community.

Recent changes to the AML/CFT Act mean that from 1 July 2018 lawyers must comply with its requirements. Lawyers must do a number of things to help combat money laundering and terrorist financing and to help police bring the criminals who do it to justice.

Failure to provide the information below may result in the delay of your settlement.

The law says that law firms and other professionals must assess the risk they may face from the actions of money launderers and people who finance terrorism and must identify potentially suspicious activity.
To make that assessment, lawyers must obtain and verify information from prospective and existing clients about a range of things. This is part of what the AML/CFT Act calls "customer due diligence".

Customer Due Diligence Requirements
Customer due diligence requires a law firm to undertake certain background checks before providing services to clients or customers.
Lawyers must take reasonable steps to make sure the information they receive from clients is correct, and so they need to ask for documents that show this.

They will need to obtain and verify certain information from you to meet these legal requirements.

This information includes:

- your full name; and
- your date of birth; and
- your address

To confirm these details, documents such as your driver's licence or your birth certificate, and documents that show your address - such as a current bank statement - will be required.

If you are seeing your lawyer about company or trust business, they will need information about the company or trust including the people associated with it (such as directors and shareholders, trustees and beneficiaries).

They may also need to ask you for further information. They will need to ask you about the nature and purpose of the proposed work you are asking them to do for you. Information confirming the source of funds for a transaction may also be necessary to meet the legal
requirements.

If you cannot provide the required information
If your lawyer is not able to obtain the required information from you, it is likely they will not be able to act for you. The law applies to everyone therefore they need to ask for the information even if you have been a client of theirs for a long time.

It is recommended that you urgently seek legal and/or accounting advice on all of these matters to avoid any delays with settlement.

Grenadier Real Estate Ltd. MREINZ Licensed Agent REAA 2008.
Updated July 2019

grenadier.co.nz

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Information Sheet

Extension of Bright-line Test from five years to 10 years

Version 1: April 2021

On 30 March 2021, the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill received Royal Assent. A change brought under this piece of legislation, was the extension of the Bright-line Test from 5 years to 10 years. Remember that, as a Licensee, you should be aware of the potential effects of the Bright-line Test but ensure that you do not put yourself in the position of giving legal, tax or accounting advice to clients and/ or prospective purchasers.

The below flow chart has been derived from the IRD and may be of assistance when determining what length of Bright-line Test is applicable to a property.

Did the vendor inherit the property?	Yes →	The property is not subject to a 5–year or 10–year Bright-line Test
↓ No		
Was it the main home for the entire time they owned it?	Yes →	The property is not subject to a 5–year or 10–year Bright-line Test
↓ No		
Did the vendor acquire it before 29 March 2018?	Yes →	The property is not subject to a 5–year or 10–year Bright-line Test
↓ No		
Did the vendor acquire it before 27 March 2021?	Yes →	The property is subject to a 5–year Bright-line Test
↓ No		
Was it a new-build when the vendor acquired it?	Yes →	The property is subject to a 5–year Bright-line Test
↓ No		
The property is subject to a 10–year Bright-line Test		

We recommend our members to:

- Provide information on the above changes; and
- Encourage vendors and purchasers to obtain legal advice before signing an Agreement for Sale and Purchase, as required by Rule 9.7 of the Client Care Rules; and
- Record any information you have passed on to the parties in writing so that there is a paper trail confirming your discussions with them.

Remember, it is not the role of the Licensee to advise clients and prospective purchasers on whether the Bright-line Test or any other tax will apply to a transaction.

Click here to review IRD's Bright-line Test Information Sheet.

Click here to review more information from the IRD's website

Purchaser Acknowledgement Form

Please complete your details below and sign this form before you submit an offer to purchase the property at

____ (**property**).

Purchaser Name: ____

Address: ____

Phone: ____

Email: ____

Solicitor: ____
(Name) *(Firm)*

Overseas Investment Act:

☐ I/We understand that residential property purchases are now subject to the provisions of the Overseas Investment Act 2005 (**OIA**). Before any residential property is transferred to me/us, my lawyer will require me/us to complete a Residential Land Statement certifying that I/we meet the eligibility criteria. If I/we require OIA consent, do not have OIA consent and do not make our offer conditional upon obtaining it, we will be in breach of the OIA and may be liable for fines of up to $300,000, I/ we may not be able to settle the transaction and may incur liability to the vendor (including losing my/our deposit).

IF YOU ARE UNCERTAIN ABOUT YOUR ELIGIBILITY OR WHETHER THE PROPERTY IS SUBJECT TO THE OIA, YOU MUST MAKE YOUR OFFER SUBJECT TO OBTAINING OVERSEAS INVESTMENT OFFICE CONSENT.

AUCTIONS

YOU MUST NOT BID AT AN AUCTION UNLESS YOU ARE ABLE TO BUY THE PROPERTY ON AN UNCONDITIONAL BASIS. YOU MAY INCUR FINES OF UP TO $300,000 AND LIABIITY TO THE VENDOR IF YOU PURCHASE THE PROPERTY AT AUCTION IN CIRCUMSTANCES WHERE YOU DO NOT MEET THE ELIGIBILITY CRITERIA IN THE OIA. OBTAIN LEGAL ADVICE BEFORE BIDDING IF YOU ARE UNSURE WHETHER YOU MEET THE ELIGIBILITY CRITERIA.

Signed:	____________________	*Signed:*	____________________
Name:	____________________	*Name:*	____________________
Date:	____________________	*Date:*	____________________

If you are intending to purchase the property as trustees of a trust, all trustees must sign this form.

If a company is purchasing the property, by signing this form you acknowledge that you are duly authorised to sign this form on the company's behalf.

Investing in New Zealand

Here is a general guide to investing in New Zealand

If you are a New Zealand citizen, ordinarily resident in New Zealand, or an entity registered in New Zealand and owned by New Zealanders, you can do any of the below and do not need to contact us.

To find out more please visit our website, as there are some exceptions.

	Overseas people, including international entities	Resident visa holders who live overseas, and entities that are more than 25% overseas-owned or controlled	Australian and Singaporean Citizens, Australian and Singapore permanent residents who live in New Zealand
Investing in significant business assets over $100m	Consent required	Consent required	Consent required
Investing in other significant land	Consent required	Consent required	Consent required
Buying forestry	Consent required	Consent required	May require consent
Developing residential land	Consent required	Consent required	Ok to buy
Buying one home to live in	Won't get consent	Consent required	May require consent
Investing in strategically important business involved with military or dual-use technology	Must notify[1]	Must notify[1]	Must notify[1]
Investing in another type of strategically important business	May notify	May notify	May notify

* Consent is required for residential and other sensitive land ** Some types of sensitive adjoining land no longer require a consent application

[1] There are some specific exceptions to this requirement - please see section 82 of the Overseas Investment Act 2005 for more details.

How to contact us:

New Zealand: 0800 665 463
Overseas: +64 7 974 5595

Email: oio@linz.govt.nz
Website: www.linz.govt.nz/overseas-investment

mortgage express

Are you ready to buy?

Buying a property is a big purchase decision. Make it easier by having your finances organised well in advance.

Arranging your finance first helps you to set your maximum purchase limit and puts you in a stronger position at negotiation time.

At mortgage express we can help you:

- Find out how much you can borrow
- Arrange finance pre-approval before you make an offer
- Compare your existing lender against the many other options available in the market
- Options available for low or no deposit
- Arrange finance before selling your existing home

For professional advice about your next home loan contact me today. A disclosure statement is available on request and free of charge.

> *"I specialise in tailoring home loans to meet the personal needs of people like you. I will come to you, where ever and whenever you choose, and provide you with informed advice about the home loan product that's most relevant to you".*

Professional People. Professional Advice.

Sue Clydesdale
P: 0272 117 209
E: sue@mx.co.nz
No 1 Mortgage Express Adviser Southern Region 2008 - 2019
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