

## PA gives buyers rights, but beware voetstoots clause

Consumer Protection Act  
buyer (as "consumer")  
protection and  
the house seller

suppliers of goods  
specific respon-  
sibilities under the  
Graham CEO of

the act, the house  
to expect that the  
purchased is of good  
with all relevant  
and is without  
warranty. The act defines

"defects" as any imperfection that renders the property less acceptable than "persons would reasonably be entitled to expect in the circumstances", he says.

Graham says that the traditional "voetstoots" ("as is") no longer provides blanket protection for sellers and their agents. He points out that Section 55 (5) of the act says: "It is irrelevant whether a product failure

or defect was latent or patent, or whether it could have been detected by a consumer before taking delivery of the goods."

However, Graham adds that the buyer's right to receive a good quality property free of defects does not apply if the buyer has been specifically informed that the property was offered to the buyer in a specific condition and the buyer has "expressly

agreed to accept the property in that condition" - Section 55 (6).

Graham says the only real protection from liability under the act is for sellers and agents to commission a home inspection report upfront and to make this inspection report available to potential buyers. Graham also recommends that the deed of sale should include a declaration by the buyer that he is aware

of the defects disclosed in the inspection report.

Even if a home inspection is made available to the buyer, Graham says that during a six-month period after the buyer has delivery of the property, they can demand redress if previously undisclosed defects are discovered. In terms of the act, this places an obligation on the seller

"repair, replace or refund" - Section 56 (2). The act provides for a further three-month implied warrant after these defects have been repaired - Section 56 (3).

Graham points out that if the seller and estate agent have taken the precaution of commissioning a home inspection report, disclosed up front to the buyer, the only potential liability remaining after the

buyer has taken delivery property is for latent defects could not be seen by the inspector (faulty plumbing, roof leaks or equipment such as a burst geyser); and able defects which were missed by the home inspector. HouseCheck is developing a multiple insurance product to protect sellers and estate agents from liability under the act. Graham says insurance periods will provide for 12 and 24 months and involve a once-off single premium