

# Transfer by Mortgagee Exercising Power of Sale

*These Guidance Notes are of a general nature and are not intended to, and cannot, replace the advice of a Legal Practitioner or Registered Conveyancer.*

Form T4 is to be used where a mortgagee is exercising power of sale of:

- Freehold or Crown Leasehold estates.
- Subsidiary interests (e.g. a registered Lease).

Where a mortgagee is exercising power of sale for:

- a. Freehold or Crown Leasehold estates, use a prefix of PS.
- b. A Subsidiary interest use a prefix of PS2.

All panels must be completed. If insufficient space, use approved annexure sheets. If more than one page is used, each must be numbered consecutively, e.g. 1-10, 2-10; 1/10, 2/10 or 1 of 10, 2 of 10.

**All handwriting must be clear and legible in permanent, dense, rapid drying black or blue ink.**

The Registrar-General *may refuse* to accept for registration any instrument, annexure sheet or additional or inserted sheet that does not comply with the provisions of LTO panel form standards.

## POWER OF SALE UNDER MORTGAGE NUMBER

Insert the registered number of the mortgage under which the power of sale is being exercised.

## LAND DESCRIPTION

Indicate whether transfer affects the whole or portion of the land comprised in a CERTIFICATE OF TITLE (CT) and/or CROWN LEASE (CL). If portion only then identify the relevant portion by reference to the appropriate plan.

**WHOLE** - e.g. "Whole of the land in CT Volume \_\_\_\_\_ Folio \_\_\_\_\_ "  
or "Whole of the land in CL Volume \_\_\_\_\_ Folio \_\_\_\_\_ ".

**PORTION** - e.g. "Allotment 4 in DP 42361 being portion of the land in CT Volume \_\_\_\_\_ Folio \_\_\_\_\_ ".

## TRANSFEROR

Full name and current address to be stated. If the name of the transferor has been altered, state the new name followed by the name as it appears on the Certificate of Title or Crown Lease, e.g. " [New or correct name] of [insert address] registered as [old or incorrect name] as a consequence of [insert reason]".

## TRANSFEEE

Full name, address and mode of holding must be stated (i.e. "as joint tenants" or "as tenants in common"). If the transferees are to hold as tenants in common in unequal shares, specify the share after each transferee's name, e.g. "as to 1 / 3 share" and "as to 2 / 3 shares". If a transferee is a minor, state that fact and include the date of birth, e.g. "a minor born on 1.1.1996".

## OPERATIVE CLAUSE

Insert the full name(s) of the mortgagor(s) in the space provided.

## CERTIFICATION

Any inapplicable certification statement(s) must be deleted.

Certification statements must be made by a prescribed person, being one of the following:

- a. A legal practitioner
- b. A registered conveyancer
- c. If the applicant is not represented by a legal practitioner or registered conveyancer – the applicant (i.e. self-represented party)
- d. If a party to an instrument is not represented by a legal practitioner or registered conveyancer – that party (i.e. self-represented party)
- e. If a provision of the *Real Property Act 1886* requires or permits some other person to provide certification under section 273 – that person (e.g. an employee of a body corporate that is a mortgagee)

All certifications apply where the Prescribed Person is a registered conveyancer or legal practitioner.

The first two listed certifications do not apply where the Prescribed Person is the mortgagee (or an employee of a body corporate that is a mortgagee).

The first two listed certifications do not apply where the Prescribed Person is a self-represented party. Self-represented parties are only required to make certifications relating to retaining evidence to support the registry instrument or document and ensuring the registry instrument or document is correct and compliant with relevant legislation and any prescribed requirement.

Note: - An attorney or a body corporate cannot make certification statements.

The Registrar-General's [Verification of Identity](#) and [Verification of Authority](#) requirements must always be complied with.

Please complete transfer tie up details at the bottom of Transferor(s) certifications, i.e. *in relation to*:

LAND  
CONSIDERATION  
TRANSFEROR  
TRANSFEEE

Penalties of up to \$10,000 or 2 years imprisonment apply, where a prescribed person provides a false certification under section 273(1) of the *Real Property Act 1886*.

## SECTION 55A LAW OF PROPERTY ACT 1936

A certification statement must be completed and signed. If Section 55A does not apply, you may certify to that effect.

## ANNEXURE

It will be necessary to use an annexure sheet (Form B1) if there is insufficient space in a panel for the text or to complete remaining certifications.

An annexure sheet to an instrument must:

- a. be in the format of Form B1 and identified therein as an annexure to the parent instrument;
- b. be referred to in the appropriate panel in the body of the instrument;
- c. be affixed securely and permanently to the top left-hand corner of the instrument. The annexure and instrument must not be bound;
- d. comply with the requirements in Form B1 Guidance Notes.

**Note:** The transfer is subject to any prior registered interests e.g. a permissive caveat, mortgage, lease or encumbrance etc.

FORM T4 (Version 1)



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