

Notice

To Lodging Parties

24 October 2016 No 194

End of the Transition Period

The four month Transition Period, which was established under the *Real Property Regulations 2009*, will cease on **Friday 4 November 2016**.

1. **LTO Forms**

After 4 November 2016, dealings lodged into the Lands Titles Office (LTO) must be in the new format and comply with the new conveyancing requirements.

Dealings executed on or before 4 November 2016, will continue to be accepted for registration after 4 November 2016.

The LTO Forms Online application, which houses the old format LTO Forms, will be decommissioned after 4 November 2016.

2. **Mortgages and Discharges**

As outlined in [NTLP #188](#), Mortgage and Discharge of Mortgage dealings will continue to be accepted in the old format up to and including **Monday 3 July 2017** (extended transition period).

Where old format Mortgage and Discharge of Mortgage dealings are used during this extended transition period, signing "*Certified correct for the purposes of the Real Property Act 1886*" will be taken by the Registrar-General to represent that the certifier has complied with the new legislative requirements relating to:

- Verification of Identity;
- Verification of Authority;
- Client Authorisation;
- Evidence retention; and
- Holding a Mortgage granted by the Mortgagor on the same terms (if applicable).

Mortgagees are reminded that after 4 November 2016, Mortgagors will not be able to certify Discharge of Mortgage dealings – these will need to be certified by either the Mortgagee or their representative.

Stand-alone Discharge of Mortgage dealings will need to be lodged by the Mortgagee or their representative.

2.1 **Clarification of "On the Same Terms"**

Further to Regulation 22 contained in the *Real Property Regulations 2009*, it will be accepted, for Certification purposes and for Sections 128(6) and 147(2) of the *Real Property Act 1886*, that a Mortgage granted by a Mortgagor to be "on the same terms" as a Mortgage

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signed by or on behalf of a Mortgagee, if the Mortgage granted by the Mortgagor is to the same effect as the Mortgage signed by or on behalf of the Mortgagee.

2.2 Participation Rules Waiver

Participation Rule 6.13.1 mirrors Section 128(5)(a) of the *Real Property Act 1886* and, as such, [Participation Rules Waiver No: PR3/2016](#) has been published to reflect these transitional arrangements for Mortgages and align the requirements for both electronic and paper requirements.

3. Retention of Evidence

The *Real Property Act 1886* requires evidence showing an instrument has been lawfully executed to be retained for a minimum period of 7 years.

With the exception of those evidentiary documents outlined in [NTLP #189](#), evidence should be retained by the Practitioner certifying the instrument and no longer lodged with instruments in the LTO.

3.1 Statutory Declarations

Where a Transferor is divesting the entirety of their interest and they have changed their name, or their name has been registered incorrectly, a Statutory Declaration is no longer required to be lodged in the LTO but rather retained by the certifying party for the prescribed period.

An appropriate tie-up (example provided below) should be included in the Transferor Panel: **“[new or correct name] of [insert address] registered as [old or incorrect name] as a consequence of [insert reason].”** Reasons may include marriage, reverting to maiden name, incorporate name change, error in register etc.

4. New Titles Fee

Clients are reminded that when lodging instruments which necessitate the issue of a Certificate of Title(s), the regulated “New Title Fee” is still applicable. New Titles are still issued, notwithstanding the removal of the Duplicate Certificate of Title.

The Fee calculator is available to assist clients in determining the applicable fees.

5. Verification of Identity Requirements

After 4 November 2016, Version 3 of the Verification of Identity Requirements will be in force - a copy of these requirements can be found at www.sa.gov.au/landservices.

6. Community, Strata and Land Division Guides

To assist practitioners in the preparation of division and easement forms, the following preparation notes have been updated to reflect the new conveyancing requirements and LTO Forms:

- Division and easements applications under Part 19AB of the *Real Property Act 1886*
- Applications and amendment applications under the *Community Titles Act 1996*, and
- Preparation of Form TG

These preparation notes can be found at www.sa.gov.au/landservices



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