

Notice

To Lodging Parties

4 June 2009

No 159

Advertising of lost Certificates of Title and Crown Leases

In consultation with the Lands Titles SA Advisory Committee it has been agreed to make the following two changes to the requirements for advertising the loss of a duplicate certificate of title or crown lease. The introduction of these changes will take effect from Monday 8 June 2009.

Please note that the recent amendments to the *Real Property Act 1886* removes the need to advertise the loss of duplicate instruments, as they are no longer required to be produced to the Lands Titles Office with a dealing.

Loss by Authorised Deposit-Taking Institution

Advertising for a lost duplicate certificate of title or crown lease will not generally be insisted on where the first mortgagee is an Authorised Deposit-Taking Institution (ADI) and has lost the title or crown lease internally within their own organisation.

An ADI is a bank, building society, credit union or other corporation regulated by the Australian Prudential Regulation Authority (APRA) under the *Banking Act 1959 (Cwlth)*. A list of these institutions is available on the APRA Internet site: www.apra.gov.au.

Where advertising is not insisted on in accordance with this change the standard declaration made by a duly authorised officer or attorney of the mortgagee will need to be suitably amended. The paragraph referring to the advertising will no longer be applicable and should be replaced.

The suggested wording for the new paragraph is:

“That(*name of registered first mortgagee*).....is an Authorised Deposit-Taking Institution under the *Banking Act 1959* and the said duplicate *Certificate of Title has been lost while in its possession.”

(* or Crown Lease)

This change does not pertain to situations where the title or crown lease has been passed to a third party. For example where the registered first mortgagee, being an ADI, securitises its loan by on selling and forwards the title or crown lease as security.

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The Registrar-General reserves the right to insist on advertising in any situation it is considered warranted.

Loss Interstate

In all circumstances where advertising the loss of a title or crown lease continues to be required it need only be published in a major daily newspaper (currently *The Advertiser* in South Australia) in the particular State or Territory in which it was lost.

If however, it cannot be ascertained where the loss occurred, advertisements must be published in *The Advertiser* and the relevant State or Territory in which the registered proprietor has resided since the duplicate was last delivered by the Registrar-General.

Other Existing Advertising Requirements

Lodging Parties are reminded that:

- If the registered proprietor resides overseas it is only necessary to advertise the loss in *The Advertiser*.
- *The Australian* newspaper is not considered a 'major daily newspaper' for the purposes of advertising a lost title or crown lease.
- A recommended form for the advertisement is:

LOST *CERTIFICATE OF TITLE (OR CROWN LEASE)

Register Book Volume _____ Folio _____ in the name of _____
**Reward offered. An application for a substituted *Certificate of Title will be lodged with the Registrar-General on _____ or thereafter.
Solicitor/Registered Conveyancer etc.

(* or Crown Lease)
(** Optional)

- An advertisement placed in an interstate newspaper should make reference to the fact that the lost duplicate is for land situated in South Australia.
- A period of one week should be allowed for response prior to making the statutory declaration regarding the loss.
- The advertisement should not pre-date the application for substituted certificate of title or crown lease by more than six months.
- A copy of the advertisement must be supplied with the application. The name of the newspaper in which it appeared and the date of circulation must be included.
- Jessup's Lands Titles Office Forms and Practice provides examples of various forms of application and a comprehensive commentary on all facets of their preparation.



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