

# NOTICE TO LODGING PARTIES

## LAND SERVICES GROUP

Colonel Light Centre  
25 Pirie Street ADELAIDE 5000

### REAL PROPERTY (WITNESSING AND LAND GRANTS) AMENDMENT ACT 1995

No.104

It is anticipated that the Real Property (Witnessing and Land Grants) Amendment Act 1995 will commence operation on the 1st July, 1995.

As a result of this legislation, sections 267, 268 and 269 of the Real Property Act 1886 and the 18th and 19th schedules of the Act are repealed. These sections and schedules of the Act contained the witnessing of instruments provisions, the long and short forms of proof and the authority for the Registrar-General to dispense with a proof. The repealed sections are substituted by new sections 267 and 268.

Instruments executed on or after the 1st July 1995, no matter where they are executed, must comply with the new provisions.

Section 267 provides that the execution of an instrument must be witnessed by a person who either knows the party executing the instrument personally or is satisfied as to their identity. The witness must be aged 18 years or over, must not be a party to the instrument and must supply their full name and address and a telephone number at which they can be contacted during business hours, printed legibly under the witness' signature. If the witness does not have a contact telephone number or for some reason does not wish to divulge their number, then that person can not be a witness to the instrument. Instruments lodged for registration that do not disclose a telephone number of the witness will be the subject of a requisition.

Section 268 provides for a substantial penalty if the instrument is improperly witnessed. The penalty applies if a witness attests an instrument without knowing the executing party personally and has no reasonable grounds on which to be satisfied as to identity. The penalty also applies where the witness knows or has reasonable grounds for suspecting that the person signing is not a party to the instrument or does not have authority to sign on behalf of a party.

Clients will be given ample time to use existing supplies of forms whilst new forms are re-designed and printed. However, in using the existing forms clients will need to ensure that the execution of instruments on and after 1st July complies in full with the new requirements, ie. the execution will need to be modified to meet these requirements.

The Amendment Act also contains some technical provisions relating to the manner in which land grants are registered. It allows for the electronic registration of land grants in the same way as ordinary certificates of title are now registered electronically.



ALAN J. SHARMAN  
REGISTRAR-GENERAL  
3 May, 1995