

# Notice

## To Lodging Parties

24 April 2015

No 177

## Introduction of Priority Notices

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The *Real Property Act 1886* (SA) has been amended to include Priority Notices in a new Part 13A. Priority Notices will be introduced with the implementation of the South Australian Integrated Land Information System (SAILIS) on 27 April 2015.

A Priority Notice is an instrument lodged in the Lands Titles Office (LTO) that allows a party to protect the priority of dealings they intend to lodge in the LTO.

Priority Notices will:

- Reserve priority for the dealings set out in the Priority Notice;
- Notify parties searching the Title of the pending lodgement of dealings;
- Assist in fraud prevention, as the early notification of pending transactions will increase the likelihood of a fraudulent conveyancing transaction being detected; and
- Improve the accuracy of title searches, as currently there is no record of the lodgement of a dealing on the Title until the LTO has processed the dealing and updated the Register Book.

### Who can lodge a Priority Notice?

A Priority Notice can be lodged by anyone that intends to lodge dealings in the LTO.

The lodgement of a Priority Notice is optional and can be lodged for any dealings.

Priority Notices are lodged and managed through SAILIS, and it is important to note that they can only be lodged, extended or withdrawn during normal business hours (Monday to Friday, 9am till 5pm).

[Video Tutorials](#) are available to provide instruction on how to lodge, extend or withdraw a Priority Notice in SAILIS.

### Identifying dealings in a Priority Notice

A Priority Notice must identify the dealings to which priority is to be given. When priority is given to a dealing that is part of a series, all the dealings in that series must be identified in the Priority Notice.

The Priority Notice must specify the order in which priority is to be given to these dealings. Once a Priority Notice is lodged it cannot be amended or corrected.

### How long will a Priority Notice have effect?

A Priority Notice will be effective for 60 calendar days from the date of lodgement and can be extended once for an additional 30 calendar days.

If the dealings identified in a Priority Notice are all lodged while the Priority Notice is in effect, the Priority Notice will continue to protect their priority until they have each been registered, withdrawn or rejected by the Registrar-General. Priority Notices will cease to have effect:

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#### Land Services

GPO Box 1354 Adelaide South Australia 5001

ABN 71 967 041 422

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F: (08) 8226 3998

E: [LSGFeedback@sa.gov.au](mailto:LSGFeedback@sa.gov.au)



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## 1. On registration of the listed dealings

A Priority Notice will cease to have effect when the dealings listed in the Priority Notice have all been registered, withdrawn or rejected by the Registrar-General.

When lodgement of the dealings has been data entered, the dealings will be linked to the Priority Notice and the Priority Notice will be given a status of “Active-Dealings Lodged” in SAILIS. Once the dealings are registered, the Priority Notice will be given a status of “Completed” in SAILIS.

## 2. On Expiry of the Priority Notice

If the dealings identified in the Priority Notice are not lodged within 60 calendar days of the Priority Notice being lodged (or 90 calendar days when there has been an extension), the Priority Notice will be given a status of “Expired” in SAILIS.

## 3. If the Priority Notice is Withdrawn

A Priority Notice may be withdrawn by the person who lodged it. If a Priority Notice is withdrawn it will be given a status of “Withdrawn” in SAILIS.

A party that no longer intends to lodge the dealings listed in a Priority Notice is strongly encouraged to withdraw it. The *Real Property Act 1886* states that a person who fails to withdraw a Priority Notice is liable to compensate a person who suffers loss because of that failure.

## 4. Cancellation

A Priority Notice may be cancelled by the Registrar-General or by the South Australian Civil and Administrative Tribunal (SACAT) on application by a person with an interest in the land. If the Registrar-General or SACAT exercises this power a Priority Notice will be given a status of “Cancelled” in SAILIS.

### How does a Priority Notice work?

While a Priority Notice is in force, dealings that are lodged in the LTO that affect the same land but are not identified in the Priority Notice, will not be registered. These dealings will be noted on the Register and dealt with when the Priority Notice ceases to have effect.

### Dealings that will be registered despite a Priority Notice

A Priority Notice does not prevent the Registrar-General from registering, or giving effect to dealings noted under Section 154b of the *Real Property Act 1886*, for example an order of court, warrant of sale, caveat etc.

### Multiple Priority Notices

Multiple Priority Notices may be lodged against the same land and may be lodged by the same or different parties.

A party may lodge multiple Priority Notices for the same dealing or series of dealings. An earlier Priority Notice need not have expired prior to lodgement of a new Priority Notice. When more than

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one Priority Notice is lodged in relation to the same land, the Priority Notices will be given priority in order of lodgement.

## **Rules for lodging dealings identified in Priority Notices**

### **1. Dealings must be labelled with the Priority Notice ID**

When a Priority Notice is lodged through SAILIS it will be given a Priority Notice ID. When dealings identified in the Priority Notice are lodged, the Priority Notice ID is to be written on the certification page of the LTO form.

### **2. Dealings identified in the Priority Notice must be lodged together**

ALL dealings identified in the Priority Notice must be lodged together in order to benefit from the Priority Notice.

For example:

A Priority Notice identifies a Discharge of Mortgage, a Transfer and a Mortgage.

The Discharge of Mortgage and the Transfer are lodged together as a series but the Mortgage is lodged a day later. As the dealings were not all lodged together they will not benefit from the Priority Notice. The Priority Notice will prevent their registration. The Priority Notice will need to be withdrawn to allow registration of the dealings. Alternatively, the dealings will be registered when the Priority Notice expires.

### **3. They should not be lodged with other dealings**

When the dealings identified in the Priority Notice are lodged in the LTO they should not be lodged with other dealings. The dealings lodged must match the list of dealings identified in the Priority Notice, or they cannot be registered.

The exception to this rule is when an additional dealing outlined in Section 154b of the *Real Property Act 1886* is lodged. The Priority Notice will not prevent registration of this dealing.

Example 1:

A Priority Notice identifies a Discharge of Mortgage and a Transfer.

A Discharge of Mortgage, a Transfer and a Mortgage are lodged as a series.

As the Mortgage was not identified in the Priority Notice, these dealings cannot be registered. The Priority Notice can be withdrawn to allow registration of the dealings, alternatively, the dealings will be registered when the Priority Notice expires.

Example 2:

A Priority Notice identifies a Discharge of Mortgage, a Transfer and a Mortgage.

A caveat is lodged and registered (this is an exception under S154b of the *Real Property Act 1886*). A Withdrawal of Caveat, a Discharge of Mortgage, a Transfer and a Mortgage are lodged as a series. These dealings will be registered with the benefit of the Priority Notice. The Withdrawal of Caveat is not affected by the Priority Notice.

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### Example 3:

A Priority Notice is lodged that identifies a Transfer and a Mortgage.

A Discharge of Mortgage, a Transfer and a Mortgage are lodged together as a series. The person who lodged the Priority Notice has given their written consent to the Discharge of Mortgage being registered. These dealings will all be registered with the benefit of the Priority Notice.

#### **4. Dealings lodged with the consent of the Priority Notice lodger**

A Priority Notice does not prevent the Registrar-General from registering or giving effect to a dealing where the person who lodged the Priority Notice has given their written consent.

When the person who lodged the Priority Notice is represented by a legal practitioner or a conveyancer, the Registrar-General has requested that the written consent of that person be provided on the letterhead of their legal practitioner or conveyancer.

#### **Lands Titles Office searches and Priority Notices**

Priority Notices in force will appear on Register and Check Searches and for 90 calendar days from the date it ceases to have effect due to its Completed, Expired, Withdrawn or Cancelled status.

All Priority Notices, whether currently in force or no longer in effect, can be searched via a Priority Notice Details Search in SAILIS.

#### **Information Sessions**

The Registrar-General will hold further public information sessions to provide additional assistance in the use of Priority Notices. These information sessions will be publicised through LTO Customer Information Bulletins.

#### **Ongoing review of Priority Notices**

The Registrar-General will monitor the operation of Priority Notices in order to determine whether changes should be made when further legislative amendment is undertaken to facilitate electronic conveyancing.



Brenton Pike  
**REGISTRAR-GENERAL**

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