

Notice

To Lodging Parties

17 June 2016 No 188

Transitional Arrangements

The introduction of the *Real Property (Electronic Conveyancing) Amendment Bill 2016* (the Bill) will fundamentally change conveyancing practices in South Australia.

The Registrar-General will deal with work in progress by establishing a transition or probationary period of four (4) months for full compliance with the new conveyancing requirements.

During the transition period dealings must fully comply with either:

- the legislative requirements in place prior to the commencement of the Bill (existing);
- the new legislative requirements introduced with the commencement of the Bill (new); or
- a combination of the above (hybrid).

The lodgement of Mortgage and Discharge of Mortgage dealings in the existing form is extended to 12 months in recognition of the lead time required by Mortgagees to make the necessary changes to their form templates, as well as the imminent introduction of the National Mortgage Form.

The below information has been developed to assist industry during the transition period:

1. New LTO Forms

The Lands Titles Office (LTO) Forms have been updated to reflect the legislative changes (new format). These forms, which are now in editable PDF format, are being published incrementally and can be found at www.sa.gov.au/landservices. The existing [LTO Forms Online](#) application and [Division Forms](#) listing will be decommissioned in the near future.

During the transition period, dealings can be lodged with the LTO in either the existing or new format, however practitioners will need to ensure these dealings fully comply with the corresponding legislative requirements.

Hybrid forms will be accepted in instances where one party to the transaction wishes to sign the dealing under Client Authorisation, and the other to execute and witness under the existing requirements.

In such circumstances, either the new certifications or existing executions/witnessing will need to be securely attached to the dealing in the form of an annexure. Four new blank transitional annexures have been created to assist clients when producing hybrid forms:

Land Services

GPO Box 1354 Adelaide South Australia 5001

ABN 71 967 041 422

www.sa.gov.au/landservices



[@DPTI_LSG](#)

T: (08) 8226 3983

F: (08) 8226 3998

E: LSGFeedback@sa.gov.au

[Subscribe online](#) to receive news from LS via email



Government of South Australia

Department of Planning,
Transport and Infrastructure

Form Prefix	Form Description
BT1	Blank annexure with new certifications for the Applicant
BT2	Blank annexure with new certifications for the Transferor/Transferee
BT3	Blank annexure with old execution for the Applicant; and Verification of Identity and 'correct for the purposes of the <i>Real Property Act 1886</i> ' certification statements for the practitioner
BT4	Blank annexure with old execution for the Transferor/Transferee; and Verification of Identity and 'correct for the purposes of the <i>Real Property Act 1886</i> ' certification statements for the practitioner

2. Client Authorisation

In order for practitioners to deal with work in progress, dealings executed by the party - rather than signed by the practitioner under Client Authorisation - will be accepted during the transition period.

When executing a dealing pursuant to a Client Authorisation, practitioners will need to fully comply with the new legislative requirements and give certifications regarding:

- Verification of Identity;
- Client Authorisation;
- Evidence retention; and
- Correctness and compliance of the dealing with relevant legislation and any Prescribed Requirements.

3. Verification of Identity Requirements (VOI)

The scope of dealings for which Verification of Identity Requirements will apply will depend on whether clients deal with the conveyancing transaction under the existing or new legislative requirements.

Version 3 of the [Verification of Identity Requirements](#) has been published, which includes the use of Client Authorisations and a broader scope of transactions.

Version 2 of the VOI requirements only applied to Transfers, Mortgages, Transmission Applications, Applications to Register Death and Applications for Substituted Certificates of Titles or Crown Leases.

4. Verification of Authority Guidelines (VOA)

The [Verification of Authority Guidelines](#) have been published and, although practitioners can lodge dealings under the existing requirements, where compliance with VOA is not compulsory it is considered prudent practice for practitioners to verify their client's authority to enter into the transaction in any case.



5. Duplicate Certificates of Title and Lessee's Copies of Crown Leases

All duplicate Titles and Crown Leases will be invalid from the date the Bill commences. From this date:

- the LTO will no longer issue duplicate Titles and Crown Leases;
- duplicate Titles and Crown Leases are not required to be produced to the LTO; and
- duplicate Titles and Crown Leases which are lodged into the LTO will be securely destroyed.

5.1 Applications under section 79 of the Real Property Act 1886 still in progress in the LTO

Where an application under section 79 of the *Real Property Act 1886* (i.e. Application for Substitute Certificate of Title) is lodged into the LTO, but not registered, the Registrar-General will requisition the lodging party to request that they fully withdraw the dealing. Dealings which are fully withdrawn will be awarded a full fee refund.

5.2 Applications under section 79 of the Real Property Act 1886 out for correction

The Registrar-General will write to clients who have had an 'Application for Substitute Certificate of Title' dealing referred out for correction, requesting this be returned to the LTO accompanied by a full withdrawal application.

5.3 Outstanding corrections for the non-presentation of duplicate Title or Crown Lease

The Registrar-General will provide a courtesy notification to the lodging and correcting parties to a transaction where there is an outstanding correction for the non-presentation of a duplicate Title or Crown Lease, to advise that the dealing(s) will be registered without the production of the duplicate Title or Crown Lease.

5.4 Registrar-General's Summons for the production of a duplicate Title or Crown Lease

The Registrar-General will write to the lodging and correcting parties to the transaction related to a Summons Application, and to the person apparently in possession of the duplicate Title or Crown Lease. They will be advised that the Summons is void/of no effect and the dealing(s) will be registered without the production of the duplicate Title or Crown Lease, unless there is a compelling argument for the Registrar-General not to do so (e.g. the matter is currently before the Court).

5.5 Work in progress in the LTO where the duplicate Title or Crown Lease has been produced

Work in Progress where the duplicate Title or Crown Lease has been produced to the LTO, will be processed in accordance with the transitional provisions and all duplicate Titles or Crown Leases will be securely destroyed.

Land Services

GPO Box 1354 Adelaide South Australia 5001

ABN 71 967 041 422

www.sa.gov.au/landservices



[@DPTI_LSG](https://twitter.com/DPTI_LSG)

T: (08) 8226 3983

F: (08) 8226 3998

E: LSGFeedback@sa.gov.au

[Subscribe online](#) to receive news from LS via email



Government of South Australia

Department of Planning,
Transport and Infrastructure

6. Mortgages and Discharges

6.1 LTO Forms, Executions and Certifications

During the 4 month transition period, Mortgage and Discharge of Mortgage dealings may be lodged into the LTO in either the existing or new format.

During the 8 months immediately following the initial transition period, Mortgage and Discharge of Mortgage dealings will continue to be accepted in the existing format, however 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).

Post the 4 month transition period, Mortgagors will no longer be able to certify Discharge of Mortgage dealings. Parties that can certify these dealing will be the Mortgagee, Registered Conveyancer or Legal Practitioner.

6.2 "On the Same Terms"

During this extended 12 month transition period for Mortgages, the Registrar-General will accept for lodgement a Mortgage or Instrument in the existing format, executed and compliant with the requirements in force before the commencement of the Bill, to be "on the same terms" for the purposes of 128(5)(a) and 153A(3) of the *Real Property Act 1886*.

A further notice advising the commencement date of the Bill will be issued in the coming weeks.



Brenton Pike
REGISTRAR-GENERAL
Lands Titles Office

Land Services

GPO Box 1354 Adelaide South Australia 5001

ABN 71 967 041 422

www.sa.gov.au/landservices



[@DPTI_LSG](https://twitter.com/DPTI_LSG)

T: (08) 8226 3983

F: (08) 8226 3998

E: LSGFeedback@sa.gov.au

[Subscribe online](#) to receive
news from LS via email



Government of South Australia

Department of Planning,
Transport and Infrastructure