

Land Titles Act

Loi sur l'enregistrement des droits immobiliers

## **ONTARIO REGULATION 26/99**

### GENERAL

Consolidation Period: From February 20, 2007 to the e-Laws currency date.

Last amendment: O.Reg. 53/07.

This Regulation is made in English only.

### DEFINITIONS

1. In this Regulation,  
“electronic format” means an electronic format within the meaning of section 17 of the Land Registration Reform Act;  
“non-electronic format” means a format that is not an electronic format within the meaning of section 17 of the Land Registration Reform Act and includes a written form. O. Reg. 26/99, s. 1.

### REGISTRATION OF DOCUMENTS

2. (1) An application for the registration of a caution against first registration under subsection 43 (1) of the Act that is submitted for registration in a non-electronic format shall be supported by an affidavit in Form 34 of Regulation 690 of the Revised Regulations of Ontario, 1990. O. Reg. 26/99, s. 2 (1).

(2) A withdrawal of a caution against first registration that is submitted for registration in a non-electronic format shall be supported by an affidavit in Form 19 of Regulation 690 of the Revised Regulations of Ontario, 1990 except if the withdrawal is signed on behalf of the cautioner by the cautioner's solicitor. O. Reg. 26/99, s. 2 (2).

3. (1) The following land titles divisions are designated for the purposes of section 85 of the Act:

Algoma (No. 1)  
Cochrane (No.6)  
Dundas (No. 8)  
Essex (No. 12)  
Glengarry (No. 14)  
Kenora (No. 23)  
Kent (No. 24)  
Middlesex (No. 33)  
Niagara North (No. 30)  
Niagara South (No. 59)  
Nipissing (No. 36)  
Ottawa-Carleton (No. 4)  
Peel (No. 43)  
Prescott (No. 46)  
Renfrew (No. 49)  
Russell (No. 50)  
Simcoe (No. 51)  
Stormont (No. 52)  
Sudbury (No. 53)  
Thunder Bay (No. 55)  
Timiskaming (No. 54)  
Toronto (No. 66)  
Wentworth (No. 62)

O. Reg. 26/99, s. 3 (1); O. Reg. 121/05, s. 1 (1); O. Reg. 217/05, s. 1.

(2) The following Acts are designated for the purpose of the definition of “prescribed form” in subsection 85 (3) of the Act:

Certification of Titles Act  
Condominium Act, 1998  
Construction Lien Act  
Estates Administration Act  
Family Law Act  
Land Registration Reform Act  
Land Transfer Tax Act  
Municipal Tax Sales Act  
Personal Property Security Act  
Powers of Attorney Act  
Substitute Decisions Act, 1992

O. Reg. 26/99, s. 3 (2); O. Reg. 121/05, s. 1 (2).

4. (1) If an application to amend the register under subsection 69 (1) or section 75 of the Act or under any other section of the Act under which no form is prescribed is submitted for registration in a non-electronic format, it shall,

- (a) refer to the section of the Act under which the application is made; and
- (b) be supported by the documentary evidence, if any, upon which the applicant relies. O.

Reg. 26/99, s. 4 (1).

(2) If the application is based on a judgment or order of a court or judge, the documentary evidence mentioned in clause (1) (b) shall be in the form of,

- (a) the original judgment or order;
- (b) a copy certified by the court;
- (c) a certificate certified by the court setting out the substance and effect of the judgment

or order; or

- (d) a notarial copy of the original, certified copy or certificate. O. Reg. 26/99, s. 4 (2).

(3) If the application is based on a judgment or order of a court or judge, it shall be supported by an affidavit of a solicitor deposing that,

- (a) the judgment or order is still in full force and effect and has not been stayed; and
- (b) the judgment or order affects or relates to the land referred to in the application, unless

the land is unambiguously identified in the judgment or order as being the land described in the register. O. Reg. 26/99, s. 4 (3).

(4) If the application is based on a judgment or final order of foreclosure on a charge or mortgage, it shall include a registerable description of the land and the registration number of the charge or mortgage. O. Reg. 26/99, s. 4 (4).

(5) If the application is based on an order discharging or vacating a construction lien or vacating a certificate of action under the Construction Lien Act, it shall include a registerable description of the land and the registration number of every registered claim for lien and certificate of action affected by the order. O. Reg. 26/99, s. 4 (5).

5. (1) Except as provided in section 4, an application to register a judgment or order affecting or relating to registered land that is submitted for registration in a non-electronic format shall not be registered unless accompanied by an application in Form 18 of Regulation 690 of the Revised Regulations of Ontario, 1990. O. Reg. 26/99, s. 5 (1).

(2) An application to which subsection (1) applies shall be supported by an affidavit of a solicitor deposing that the judgment or order,

- (a) is still in full force and effect and has not been stayed; and
- (b) affects or relates to the land referred to in the application. O. Reg. 26/99, s. 5 (2).

(3) A judgment or order shall not be registered unless it is in the form of,

- (a) the original judgment or order;
- (b) a copy certified by the court;
- (c) a certificate certified by the court setting out the substance and effect of the judgment

or order; or

- (d) a notarial copy of the original, certified copy or certificate. O. Reg. 26/99, s. 5 (3).

6. An instrument that is executed under a power of attorney and that is submitted for registration in a non-electronic format shall not be registered unless the attorney states in the instrument that, to the best of the attorney's knowledge and belief,

(a) the principal was at least 18 years old and had the legal capacity to give the power of attorney when giving it; and

(b) the power is in full force and effect. O. Reg. 26/99, s. 6.

7. A transfer of freehold land under subsection 86 (1) of the Act or a transfer of leasehold land under subsection 105 (1) of the Act shall comply with the requirements for the registration of a transfer under the Land Registration Reform Act. O. Reg. 26/99, s. 7.

8. A charge under section 93 of the Act shall comply with the requirements for the registration of a charge under the Land Registration Reform Act. O. Reg. 26/99, s. 8.

9. (1) A cessation of charge under section 102 of the Act, a discharge of mortgage under section 103 of the Act or a discharge of any other encumbrance or interest shall not discharge more than one charge, mortgage or other interest. O. Reg. 26/99, s. 9 (1).

(2) A cessation of charge under section 102 of the Act, a discharge of mortgage under section 103 of the Act or a discharge of any other encumbrance or interest shall comply with the requirements for the registration of a discharge under the Land Registration Reform Act. O. Reg. 26/99, s. 9 (2).

(3) If the registered owner of the land submits an application to register in a non-electronic format a cessation of a registered charge under subsection 102 (1) of the Act, the application shall be supported by,

(a) a receipt or such other evidence of payment as is acceptable to the land registrar; and

(b) the affidavit of the applicant attesting to full payment. O. Reg. 26/99, s. 9 (3).

10. A transfer of an interest in land by a chargee under section 99 of the Act or under Part II of the Mortgages Act that is submitted for registration in a non-electronic format shall state that,

(a) the transfer is given under a power of sale contained in the charge or under Part II of the Mortgages Act, as the case may be; and

(b) the sale complies with the charge and the Mortgages Act. O. Reg. 26/99, s. 10.

11. An application to renew a caution registered under section 128 of the Act that is submitted for registration in a non-electronic format shall be supported by an affidavit in Form 36 of Regulation 690 of the Revised Regulations of Ontario, 1990. O. Reg. 26/99, s. 11.

12. A withdrawal of a caution that is submitted for registration under subsection 129 (7) of the Act in a non-electronic format shall be supported by an affidavit in Form 19 of Regulation 690 of the Revised Regulations of Ontario, 1990 except if the cautioner's solicitor has signed the withdrawal on behalf of the cautioner. O. Reg. 26/99, s. 12.

13. A survivorship application under section 123 of the Act that is submitted for registration in a non-electronic format shall be supported by an affidavit in Form 43 of Regulation 690 of the Revised Regulations of Ontario, 1990. O. Reg. 26/99, s. 13.

14. (1) If a notice is required by the Act or by Regulation 690 of the Revised Regulations of Ontario, 1990 to be served by the Director of Titles or by a land registrar, the notice may, with the consent of the Director of Titles or of the land registrar, be served by the solicitor for the party interested in service if,

(a) the Director of Titles or the land registrar, as the case may be, has signed the original form of the notice; and

(b) an affidavit attesting to the service is filed with the Director of Titles or the land registrar, as the case may be. O. Reg. 26/99, s. 14 (1).

(2) A notice served by or on behalf of the Director of Titles or the land registrar may be served by electronic transmission, and if so sent, shall be deemed to be received on the day following the date of electronic transmission that the land registry office is open under section 18 of the Act. O. Reg. 26/99, s. 14 (2).

#### CLAIMS AGAINST THE LAND TITLES ASSURANCE FUND

15. An instrument perpetrates a fraud for the purposes of clause (d) of the definition of "fraudulent instrument" in section 1 of the Act if,

(a) it is a cessation of a charge or an encumbrance; and

(b) the person who purports to register it is a fraudulent person. O. Reg. 53/07, s. 3.

16. (1) Subject to subsection (2), the following classes of persons are prescribed for the purposes of subsections 57 (4.1) and (4.2) of the Act:

1. An individual who was the registered owner of the land that is the subject of the application for compensation from the Assurance Fund mentioned in the applicable subsection, where the land was used for residential purposes.

2. An individual who is a purchaser in good faith for valuable consideration of the land that is the subject of the application for compensation from the Assurance Fund mentioned in the applicable subsection, where the land is used for residential purposes. O. Reg. 53/07, s. 3.

(2) No individual or person who is entitled to receive compensation from an insurer for any part of the loss for which the individual or person applies for compensation from the Assurance Fund shall be part of a class prescribed under subsection (1). O. Reg. 53/07, s. 3.