

Land Titles Regulations 2012

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Land Titles Act 1980*.

19 November 2012

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

BRYAN GREEN

Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These regulations may be cited as the *Land Titles Regulations 2012*.

2. Commencement

These regulations take effect on 18 December 2012.

3. Interpretation

In these regulations –

Act means the *Land Titles Act 1980*;

photocopying process means the process defined in section 37(3) of the Act;

Registry of Deeds means the "Registry" within the meaning of the *Registration of Deeds Act 1935*.

PART 2 - Bringing Land under the Act

4. Applications under section 11

An application under section 11 of the Act has the effect of a statutory declaration made by the person signing the application.

5. Notices to be given in Registry of Deeds

For section 29 of the Act, the Recorder is to enter in the relevant index kept under the *Registration of Deeds Act 1935* the following:

(a) the names of all legal and equitable owners of estates in land brought under the Act;

(b) the registered numbers of all registered documents under the *Registration of Deeds Act 1935* from which title is derived;

- (c) the locality of the land;
- (d) the folio of the Register created by the Recorder for the land;
- (e) any further particulars the Recorder may determine.

6. Verbal descriptions

For section 32(6)(b) of the Act, a –

verbal description means a description by reference to –

- (a) the locality in which the land is situated, and such further description of the land (by reference to an assurance of that land registered in the Registry of Deeds or otherwise) as the Recorder requires to identify the land; or
- (b) a plan of the land –
 - (i) lodged as a plan in the Registry of Deeds; or
 - (ii) shown or drawn on a memorial, or photocopy of the assurance, registered in that Registry.

PART 3 - The Register and Certificates of Title

7. Folios of Register to be numbered

The Recorder is to number each folio of the Register with a distinctive number.

8. Certificates of title

A certificate of title –

- (a) is to bear the same number or identifying mark as the folio of the Register in respect of the land; and
- (b) is to contain the same particulars in respect of that land as are contained in that folio, unless otherwise provided by any Act.

9. Searches

(1) For section 36(2) of the Act, information in a public record is to be available in the office of the Recorder –

- (a) on a day other than a Saturday, Sunday or statutory holiday, between the hours of 9 a.m. and 5 p.m. on that day; and
- (b) on a day that is a Saturday or statutory holiday, between such hours on that day as the Recorder may determine –

and is also to be available for public access from the internet site run by the State Government.

(2) Information in a public record is to be provided –

(a) by giving the applicant an opportunity to inspect the record, whether the record is a paper record, an image appearing on a microfilm, an image on a computer terminal or any other visual representation of a record; or

(b) by providing the applicant with a copy of the information on the record; or

(c) partly in accordance with paragraph (a) and partly in accordance with paragraph (b).

(3) In this regulation –

statutory holiday means a statutory holiday as defined in the *Statutory Holidays Act 2000*.

PART 4 - Registration

Division 1 - General provisions as to dealings and applications

10. Interpretation

In this Part –

application means an application or request made to the Recorder under the Act and includes the documents to which the application or request relates.

11. Dealings and applications to be attested

(1) A dealing lodged for registration under the Act must be attested as required by section 48(1) of the Act, except where –

(a) the approved form of the dealing does not provide for attestation by a witness; or

(b) the Recorder dispenses with attestation.

(2) An application lodged for registration under the Act must be attested, except where –

(a) the approved form of the application does not provide for attestation by a witness; or

(b) the Recorder dispenses with attestation.

12. Duplicate dealings

(1) A dealing lodged for registration under the Act is to be lodged singly, unless otherwise prescribed by an Act.

(2) An easement in gross or *profit a prendre* in gross or appurtenant to land that is not registered land is to be lodged in duplicate.

(3) If a record is not kept on paper, the Recorder may permit a dealing that is required to be lodged in duplicate to be lodged singly.

13. General requirements

(1) An application or dealing that is lodged for registration –

- (a)** is to be printed and in permanent black or blue ink; and
 - (b)** unless the Recorder otherwise agrees, is to be on white or cream paper that is –
 - (i)** 297 millimetres long and 210 millimetres wide; and
 - (ii)** at least 80 grams of substance per square metre; and
 - (c)** is to be free from discolouration and blemishes; and
 - (d)** is to have margins of at least 13 millimetres on each page; and
 - (e)** is to be clear and legible, especially with respect to signatures, names and imprints of seals; and
 - (f)** is to be capable of being clearly reproduced by a photocopying process; and
 - (g)** is to have any plan in black ink without colour or edging; and
 - (h)** where the dealing is required to be lodged singly and any portion of the dealing is printed, is to be an original dealing; and
 - (i)** is to contain the full name and residential address of –
 - (i)** any witness to the application or dealing; and
 - (ii)** all parties to the application or dealing.
- (2)** Information which forms part of the dealing, and is intended to be in addition to or inserted in the dealing, must be annexed to the dealing and –
- (a)** be the same size and form as the dealing; and
 - (b)** be referred to, and identifiable as the annexure referred to, in the dealing; and
 - (c)** have each page numbered so as to indicate the number of that page and the total number of pages; and
 - (d)** be signed or sealed by the parties; and
 - (e)** be pinned or stapled to the dealing.
- (3)** An alteration to an application, dealing or annexure –
- (a)** is to be made by striking through the word or words intended to be altered in such a manner as not to render illegible the original word or words; and
 - (b)** is not to be made by rubbing, scraping or cutting the surface of the instrument or obscuring any word on it by any paint or other material.
- (4)** Where an application or dealing is prepared on a form supplied by the Recorder, the form is taken to comply with the requirements of subregulation (1)(b) and (d).

14. Execution and lodgment of instruments under section 49(2)

- (1) For section 49(2) of the Act, a person not yet registered as proprietor of the land may, subject to subregulation (2), execute and lodge for registration instruments dealing with the land in the same manner as the registered proprietor could execute and lodge instruments for registration.
- (2) Except with the approval of the Recorder, not more than one transfer, nor more than one transfer by way of assent followed by a transfer, affecting the same folio of the Register or registered dealing may be lodged for registration under section 49(2) of the Act.
- (3) A person who lodges an instrument for registration under section 49(2) of the Act must ensure that the certificate of title or duplicate registered dealing affected by the instrument is available to the Recorder for the registration of the instrument.
- (4) The Recorder must not register a dealing lodged under section 49(2) of the Act until –
- (a) the person executing the instrument or, in the case of a transmission, the person whose estate or interest is sought to be transmitted has been registered as proprietor of the land to which the instrument relates; or
- (b) the right of the person referred to in paragraph (a) to be registered as proprietor of the land to which the instrument relates has been proved to the satisfaction of the Recorder.

15. Incorporation of provisions into dealings by reference to filed memorandums

- (1) A person who wishes to incorporate the same provisions into more than one dealing may –
- (a) lodge with the Recorder a memorandum containing those provisions; and
- (b) incorporate those provisions into the dealings by appropriate words in the dealings, referring to the distinguishing number allocated to the memorandum in accordance with subregulation (3).
- (2) Where provisions are incorporated into a dealing under subregulation (1), the person so incorporating the provisions must give to the other party to the dealing a copy of those provisions on or before the execution of the dealing.
- (3) Where a memorandum is lodged with the Recorder under subregulation (1), the Recorder is to number the memorandum with a distinctive number, or letter and number, and the memorandum is taken to be a public record for the purposes of the Act.

Division 2 - Lodgment of dealings

16. Procedures

- (1) An application or dealing presented for lodgment must be accompanied by –
- (a) a request to register or otherwise deal with the dealing or application; and
- (b) the fee prescribed under the Act.
- (2) A request for the purposes of subregulation (1) must be –
- (a) on a form approved by the Recorder; and

(b) clear and legible.

(3) The Recorder may accept for lodgment a dealing sent by post or otherwise under cover.

17. Recorder may refuse to accept dealings for lodgment in certain cases

(1) The Recorder may refuse to accept an application or dealing for lodgment that –

(a) does not comply in all respects with the requirements of the Act; or

(b) does not comply with any other Act that applies to it; or

(c) appears to the Recorder to form part of a transaction that is the result of, or would result in, fraud or improper dealing; or

(d) requires a recording to be made on a certificate of title or duplicate registered dealing that is not immediately available to the Recorder for that purpose; or

(e) is not accompanied by writing that is required by law, or is reasonably required by the Recorder, to be lodged with that dealing; or

(f) defines land by reference to a sealed plan that has not taken effect in accordance with Division 4 of Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* or section 112 of that Act; or

(g) refers to a lot on an unregistered strata plan.

(2) Subregulation (1)(d) and (e) do not apply where the dealing is accompanied by –

(a) an application to the Recorder under section 35 of the Act in respect of a certificate of title or duplicate registered dealing that is not available; or

(b) a request for the Recorder to use his or her discretion under section 160(5) of the Act to dispense with the production of that certificate or duplicate registered dealing; or

(c) a request for the Recorder to call in the certificate of title or duplicate registered dealing that the Recorder is satisfied falls under section 163 of the Act.

Division 3 - Provisions as to registration

18. Notification of priority notices

When a priority notice is lodged with the Recorder, the Recorder must give notice of the priority notice to a person searching the folio of the Register or registered dealing mentioned in the priority notice.

19. Prescribed circumstances under sections 52(7)(b) and 137(2)(b)(iii)

For sections 52(7)(b) and 137(2)(b)(iii) of the Act, a prescribed circumstance is the entry by the Director of Housing into a hiring agreement under section 37D of the *Homes Act 1935*.

20. Recording of re-entry by lessors

For section 68(1) of the Act, the Recorder is to record a re-entry by the lessor on the folio of the Register evidencing the title to the reversion expectant on the lease.

PART 5 - Miscellaneous

21. Forms approved by Recorder

The following must be made in a form approved by the Recorder:

- (a) an application under section 100 of the Act;
- (b) an application under section 103(2) of the Act;
- (c) an application under section 109(2) of the Act;
- (d) a consent to the recording of a highway under section 112(2) of the Act.

22. Privately printed forms

- (1) A person is not to print a form of dealing for use under the Act without the approval of the Recorder.
- (2) The Recorder's approval under subregulation (1) may be subject to the condition that the approval may be withdrawn by notice in writing after such period, not less than 12 months after the date of approval, as may be fixed when the approval is given.

23. Notice in Registry of Deeds under section 126 of Act

For section 126(5) of the Act, the Recorder is to give notice in the Registry of Deeds, that land has been brought under the Act, in the manner prescribed by regulation 5.

24. Lodgment of plans

A map or plan required to be lodged or deposited with the Recorder under any Act is to be lodged in the manner prescribed by regulation 16 as if it were a dealing.

25. Instruments made in exercise of power of attorney

- (1) If an application, dealing or instrument is made or appears to be made in the exercise of a power of attorney, the Recorder may register the application, dealing or instrument if the attestation clause in it contains a declaration –
 - (a) if the donee of the power is an individual, that the Recorder has not received notice of revocation of the power; or
 - (b) if the donee of the power is a corporation, that the witnesses to the seal have not received notice of revocation of the power.
- (2) If the attestation clause referred to in subregulation (1) does not contain a declaration in accordance with that subregulation, a declaration to that effect is to be lodged with the Recorder in the approved form.
- (3) A declaration under subregulation (2) is to be made –

- (a) if the donee of the power is an individual, by the donee; or
- (b) if the donee of the power is a corporation, by at least one of the witnesses to the seal.
- (4) A person must not make a declaration under this regulation that is false or misleading.

Penalty:

Fine not exceeding 10 penalty units.

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 28 November 2012.

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.

Table Of Amendments

Citation	Serial Number	Date of commencement
Land Titles Regulations 2012	S.R. 2012, No. 111	18.12.2012