

Proposed Land Titles Regulations 2022

Fact Sheet

LandTasmania

It is anticipated that new *Land Titles Regulations 2022 (2022 Regulations)* will soon replace the *Land Titles Regulations 2012 (2012 Regulations)* prescribing the procedures to be followed in dealings with the Land Titles Office.

The purpose of this Fact Sheet is to provide information on some of the changes it is anticipated will be included in the 2022 Regulations. An Exposure Draft of proposed 2022 Regulations is being circulated alongside this Fact Sheet.

The Exposure Draft – and the proposed changes set out in this Fact Sheet – may change prior to the 2022 Regulations being introduced.

There is a lot of continuity between the 2012 Regulations and the proposed 2022 Regulations, and many requirements are remaining the same. However it is anticipated the 2022 Regulations may also contain changes which will affect lodgment and registration of applications and dealings with the Land Titles Office. Most of these proposed changes to the 2022 Regulations simply lock-in current practices and requirements that lodging parties are already used to.

The proposed changes were developed after consultation with a wide range of interested bodies such as law firms, conveyancing practices, lodging agents, and Government agencies.

Proposed changes at a glance

In summary, the changes in the 2022 Regulations may include:

- **Changes to the ‘General Requirements’ in regulation 13 including**
 - **Confirming current practice that documents must be dated**
 - **Providing a maximum and minimum for margins**
 - **Clarifying that ‘complete’ addresses – that is, including state and postcode – are required, as is already standard Land Titles Office practice**
 - **Providing the Recorder with a general discretion relating to the General Requirements**
 - **Clarifying the distinction between dealings/applications, and documents lodged in support thereof**
- **New provisions confirming that current versions of forms must be used**
- **Updates to times for inspections of documents to reflect existing practice**
- **Changes to make requirements technology-neutral**
- **General updates to reflect changes to other legislation**

Some specific proposed changes

Discretion of the Recorder

It is proposed that the 2022 Regulations will provide the Recorder with a general discretion to accept a dealing or application even if it does not comply with the general requirements in regulation 13. This proposed discretion can be found in regulation 13(4) of the Exposure Draft.

Distinction between ‘Annexures’ and ‘Information lodged in support

The proposed 2022 Regulations contain some changes to draw out and clarify the distinction between subsequent pages of applications or dealings (often referred to as “annexures”) and information which is lodged in addition to, or in support of, an application or dealing.

It has been proposed that the wording of the definition of ‘application’ and the general requirements in regulation 13 be changed to make this clear.

Subsequent pages of a dealing or application are referred to within the Land Titles Office as ‘annexures’ and should be contained on an Annexure Form. As explained in Office Circular 1/2021: *“If an annexure page is required for the purposes of an execution clause only, it is only those parties to the execution clause that are required to sign. Otherwise all parties to the dealing are required to sign every annexure page. Note that initials are not sufficient and a signature in full is required.”*

Since they form part of the application or dealing itself, annexures need to comply with the formal requirements for dealings and applications.

By contrast, information such as a marriage certificate, death certificate etc. must comply with the formal requirements for ‘information lodged in support of, or in addition to’ a dealing or application contained in regulation 13(3) of the Exposure Draft.

Acceptance for lodgment not acceptance for registration

Under the 2012 Regulations the Recorder may refuse to accept a dealing or application for lodgment if it does not comply with the requirements listed in 17(1)(a) – (g).

It is proposed that the 2022 Regulations will clarify that even if a dealing has been accepted for lodgment, that does not mean it will be accepted for registration. This is already the case, however the change is designed to make this clear in the text of the 2022 Regulations.

This would mean that if, during the examination process, it was discovered that the application or dealing did not comply with the requirements in regulation, the Recorder may use their power under section 50 of the Act to refuse the application or dealing for registration.

This proposed clarification appears in regulation 20(3) of the Exposure Draft.

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Payment of lodgment fees

The 2012 Regulations state that lodgments have to be accompanied by the relevant lodgment fee.

It is proposed that the 2022 Regulations would align this requirement with section 169E(3) of the Act, by which the Recorder can allow a person to pay a lodgment fee after the transaction.

This would help clients know that invoicing and payment of lodgment fees by credit card over the phone or internet are possible options.

Forms

It is proposed that the 2022 Regulations will confirm that forms must not be materially altered or amended before lodgment. This is to prevent the incorrect practice of downloading forms from TOLD and then editing the form so that it has completely different fields and dimensions. This has never been accepted by the Land Titles Office, but the proposed change will expressly forbid the practice. The proposed change appears in regulation 25(2)(a) of the Exposure Draft.

The proposed 2022 Regulations would also confirm the longstanding requirement that forms do not have 'enduring approval,' meaning that the current version of forms must be used. Regulation 25(2)(b) of the Exposure draft contains this proposal.

It is also anticipated that the 2022 Regulations will clarify and confirm that a person *does not* require special permission from the Recorder to print forms that are published on TOLD or on the Department's website. Special authority to print is only required for forms approved under section 169A(8)(a) of the Act (which only apply to a very small number of lodging parties). This proposed clarification appears in regulation 26(2) of the Exposure Draft.

Numbering of Regulations

Due to the drafting process, it is anticipated that the numbering of some regulations in the 2022 Regulations will be different to the 2012 Regulations. The Exposure Draft reflects this likelihood.

After the 2022 Regulations are made, an explanatory table showing the new numbering of equivalent provisions will be published to assist clients in making the transition to compliance with the 2022 Regulations.