

LA301*

Transfer of Land Act 1893

Transfer of Land Amendment Regulations 2014

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Transfer of Land Amendment Regulations 2014*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 3 June 2014.

3. Regulations amended

These regulations amend the *Transfer of Land Regulations 2004*.

4. Regulation 3A inserted

At the beginning of Part 2 insert:

3A. Immaterial differences between counterparts (Act, s. 4(1CA)(b)(v))

For the purposes of section 4(1CA)(b)(v) of the Act, the following are prescribed —

- (a) any certification given in accordance with the participation rules;
- (b) any certification or statement required under —
 - (i) these regulations; or
 - (ii) any requirement determined under section 182A of the Act;
- (c) any certification or statement required by the Commissioner or the Registrar or an approved form;
- (d) any data or information of an administrative nature and that —
 - (i) is required by an approved form; or
 - (ii) is required for the purposes of lodging a document electronically; or
 - (iii) is included in or on a document as part of the lodgment process, or in connection with processing, registering, noting, filing or recording the document or any other document;
- (e) headings to a document or part of a document;
- (f) any identifier allocated to a document, for example a form number or approval number;
- (g) abbreviations of terms;
- (h) the formatting of a document, including (without limitation) —
 - (i) the capitalisation of words;
 - (ii) the numbering of provisions;
 - (iii) page numbering;
 - (iv) the presence or absence of lines, boxes and other similar typographical devices;
- (i) a logo or other similar material that identifies a document with a particular person or organisation;
- (j) information or data that consists of instructions or notes to assist in the completion of a document.

5. Regulation 3 amended

Delete regulation 3(2).

6. Part 3A inserted

After regulation 8 insert:

Part 3A — Provisions relating to *Electronic Conveyancing Act 2014*

9AA. Requirements relating to electronic lodgment of mortgages

An instrument for the registration of a mortgage over land can be lodged electronically under the *Electronic Conveyancing Act 2014* section 7(1) only if —

- (a) the instrument —
 - (i) is a counterpart, in electronic form, of the instrument purporting to mortgage the land; and
 - (ii) purports to be digitally signed by or on behalf of the person who, on registration of the mortgage, will become the proprietor of the mortgage; and
 - (iii) does not purport to be signed by or on behalf of the proprietor of the land;and
- (b) the subscriber who digitally signs the instrument provides the specific certification required by the participation rules in relation to the lodging of an instrument for the registration of a mortgage over land; and
- (c) the instrument to be lodged otherwise complies with —
 - (i) the requirements of the Act and these regulations; and
 - (ii) any requirements determined under section 182A of the Act; and
 - (iii) the requirements of the *Electronic Conveyancing Act 2014* and the participation rules;and
- (d) any requirement mentioned in paragraph (c)(i) to (iii) that relates to the lodging of the instrument is complied with.

9AB. Duplicate certificates of title where documents lodged electronically

- (1) This regulation applies if —
 - (a) a document can be lodged electronically under the *Electronic Conveyancing Act 2014* section 7(1); and
 - (b) in connection with the lodging of that document, the Act would otherwise require a duplicate certificate of title to be produced, presented or delivered up to the Registrar or to be brought in or lodged.
- (2) If this regulation applies —
 - (a) the requirement to produce, present or deliver up to the Registrar, or to bring in or lodge, the duplicate certificate of title in connection with the lodging of the document is dispensed with; and
 - (b) instead, the subscriber who digitally signs the document to be lodged electronically —
 - (i) must have obtained possession of the duplicate certificate of title; and
 - (ii) must have destroyed or invalidated the duplicate certificate of title; and
 - (iii) must provide a certification, in accordance with the participation rules, that the duplicate certificate of title has been destroyed or invalidated.

G. MOORE, Clerk of the Executive Council.