
FAIR TRADING

FT301

SETTLEMENT AGENTS ACT 1981

SETTLEMENT AGENTS AMENDMENT REGULATIONS 1997

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Settlement Agents Amendment Regulations 1997*.

Commencement

2. These regulations shall come into operation on the day on which the *Settlement Agents Amendment Act 1996* comes into operation.

Principal regulations

3. In these regulations the *Settlement Agents Regulations 1982** are referred to as the principal regulations.

[* Reprinted as at 9 April 1996.
For amendments to 28 April 1997 see Gazette 25 June 1996,
5 July 1996, 2 and 30 August 1996.]

Regulation 4 amended

4. Regulation 4 of the principal regulations is amended by deleting the words "the First Schedule to these regulations" and substituting the following —

" Schedule 1 ".

Regulation 4A amended

5. Regulation 4A of the principal regulations is amended by deleting the words "the First Schedule" and substituting the following —

" Schedule 1 ".

Regulation 11 inserted

6. After regulation 10 of the principal regulations the following regulation is inserted —

"

Documents that a real estate settlement agent may draw etc.

11. (1) For the purposes of clause 1 (2) (a) of Schedule 2 to the Act the forms of offer and acceptance set out in Part A of Schedule 3 are prescribed and, if any of those forms is revised, the current revision of it is prescribed.

(2) For the purposes of clause 1 (2) (b) of Schedule 2 to the Act a licensee may draw or prepare a document containing any or all of the requisitions on title set out in Part B of Schedule 3 subject to the condition that the requisitions are only issued in respect of land that is registered under the *Transfer of Land Act 1893*.

(3) For the purposes of clause 1 (2) (c) of Schedule 2 to the Act the documents set out in Part C of Schedule 3 are prescribed subject to any conditions set out in that Part.

".

Regulation 12 repealed and a regulation substituted

7. Regulation 12 of the principal regulations is repealed and the following regulation is substituted —

"

Documents that a business settlement agent may draw etc.

12. For the purposes of clause 2 (fa) of Schedule 2 to the Act any document set out in Schedule 4 is prescribed.

".

Regulation 13 amended

8. Regulation 13 of the principal regulations is amended by deleting "the Second Schedule to these regulations." and substituting the following —

" Schedule 2. ".

First Schedule amended

9. The First Schedule to the principal regulations is amended by deleting the heading "FIRST SCHEDULE" and substituting the following heading —

" **SCHEDULE 1 — PRESCRIBED FEES** ".

Second Schedule amended

10. The Second Schedule to the principal regulations is amended by deleting the heading "Second Schedule" and substituting the following heading —

" **SCHEDULE 2 — NOTICE UNDER SECTION 26A OR 26B
OF THE ACT** ".

Schedules 3 and 4 added

11. After the Second Schedule to the principal regulations the following Schedules are added —

" **SCHEDULE 3 — DOCUMENTS THAT A REAL ESTATE
SETTLEMENT AGENT MAY DRAW OR PREPARE**
[Reg. 11]

PART A — OFFER AND ACCEPTANCE

1. "Contract for Sale of Land by Offer and Acceptance" (1994 revision) incorporating the "1994 Joint Form of General Conditions for the Sale of Land", as adopted jointly by the Law Society of Western Australia (Inc) and the Real Estate Institute of Western Australia (Inc) and approved by the Settlement Agents Association (Inc) and the Associated Settlement Agents of Western Australia (Inc).
2. "Contract for Sale of Strata Title Property by Offer and Acceptance" incorporating the "1994 Joint Form of General Conditions for the Sale of Land", as adopted jointly by the Law Society of Western Australia (Inc) and the Real Estate Institute of Western Australia (Inc) and approved by the Settlement Agents Association (Inc) and the Associated Settlement Agents of Western Australia (Inc).

PART B — REQUISITIONS ON TITLE

1. Is the certificate or certificates of title to the land the subject of any dealing or dealings at the Land Titles Office? If so, please provide true copies of all documents lodged at the Land Titles Office relating to such dealing or dealings.
2. Is the vendor aware of any circumstances which could give rise to a claim to an interest in the land, or any parts of it, by virtue of adverse possession? If so, please provide details.
3. Is the vendor, after due enquiry, aware of any pending or threatened suit relating to the title of the land or any claim to its use generally or for any particular purpose adverse to the title of the vendor? If so, please provide details.
4. Is the vendor aware of any circumstances, including enjoyment or use, which would give rise to claims to rights of way, liens, restrictive covenants, grants of licence or of other rights or easements, public or private, or trusts, affecting the land, not referred to in the certificate or certificates of title to the land? If so, please provide details.
5. Does the vendor have any knowledge of any circumstances which could give rise to a charge against or interest in the land

pursuant to any statute including, but not limited to, any of the following Acts:

- (a) *Lands Acquisition Act 1989* (Cwlth);
 - (b) *Energy Corporations (Powers) Act 1979*;
 - (c) *Environmental Protection Act 1986*;
 - (d) *Heritage of Western Australia Act 1990*;
 - (e) *Land Acquisition and Public Works Act 1902*;
 - (f) *Local Government Act 1995*;
 - (g) *Metropolitan Water Supply, Sewerage and Drainage Act 1909*;
 - (h) *Retirement Villages Act 1992*;
 - (i) *Soil and Land Conservation Act 1945*;
 - (j) *Strata Titles Act 1985*?
6. Is anybody in occupation of the land under any or any alleged lease or licence? If so, please provide precise details of the terms of any such lease or licence or alleged lease or licence and provide copies of any agreements in respect thereof.
7. Are there any claims by any third parties to a mining lease or licence under the *Mining Act 1978*? If so, please provide precise details of the terms of any claim.
8. The vendor is to list all Land Titles Office applications, transfers, instruments, statutory declarations, discharges of mortgages, withdrawals of caveats or other documents to be tendered at settlement in order for the purchaser to become registered as the proprietor of the freehold of the land without any encumbrances on the title to it.

PART C — DOCUMENTS FOR REGISTRATION OR LODGEMENT

1. Under or for the purposes of the *Strata Titles Act 1985* the following documents, subject to the condition that a licensee shall not draft a resolution of a strata company under or for the purposes of that Act:
- (a) these documents for the purposes of these provisions of that Act:

Provision	Description of document
ss. 4-5B	Application for registration of a strata plan or a survey-strata plan
s. 69C	Vendor's notice to purchaser of notifiable variation;
 - (b) these forms in Schedule 3 to the *Strata Titles General Regulations 1996*:

Form	Description of form
10	Certificate of Strata Company Consenting to Conversion of Common Property
11	Certificate of Consent by Strata Company to Amended Schedule of Unit Entitlement
12	Certificate of Strata Company Authorizing Application to Land Valuation Tribunal
13	Certificate of Strata Company Authorizing Acceptance of Transfer or Lease
14	Certificate of Resolution and Consents to Transfer or Lease, Easement or Restrictive Covenant

Form	Description of form
15	Notification of Resolution of Termination of Scheme
16	Notice of Change of Address for Service of Notices
17	Notice of Change of Name of Scheme and Change of Address for Service of Notices
19	Notice of Resolution to Vary, Remove or Add a Restriction;
20	Application for Re-subdivision by Strata Company
21	Notice of Amendment, Repeal or Addition of By-law
22	Disposition on Subdivision
23	Disposition on Re-subdivision
24	Application to Western Australian Planning Commission for Approval to Strata Plan
28	Disclosure Statement
30	Notice of Resolution of Merger of Buildings
39	Disposition on Merger of Land or Conversion to a Survey-Strata Scheme
40	Notice of Objection to Change of Fencing Provisions
41	Notice of Termination of Insurance Order.

2. Under or for the purposes of the *Transfer of Land Act 1893* —

- (a) these documents under these provisions of that Act for the purposes described:

Provision	Description of document and purpose
s. 48B	Request in relation to the issue of duplicate certificate of title
s. 59	Application to remove notation as to legal disability
s. 71	Application for a consolidated certificate of title
s. 71A	Application for a certificate of title for the balance of land in a certificate of title
s. 74B	Application for a new duplicate certificate of title
s. 75	Application for a replacement duplicate certificate of title
s. 82	Transfer
s. 84	Transfer
s. 129BB	Application for discharge or modification of restrictive covenant
s. 136J	Application for discharge or modification of restrictive covenant
s. 137	Caveat to protect the interest of a purchaser or mortgagee for whom the licensee is acting
s. 138B	Application to have notice sent to caveator
s. 146	Application for search certificate
s. 148	Application for stay of registration
s. 166	Application for new certificates of title on a subdivision of land that is held in fee simple
s. 219	Application on a transmission
s. 221	Application by remainderman on a transmission
s. 227	Application by the survivor of joint proprietors
s. 240A	Application to change an address;

- (b) a withdrawal of a caveat lodged by a purchaser or mortgagee, or prepared by the licensee to protect the interest of a purchaser or mortgagee for whom the licensee is acting, if —

- (i) there is to be lodged with the withdrawal a transfer of the whole of the land the subject of the withdrawal to the caveator or to a person nominated in writing by the caveator, or if there is more than one caveator, by each of them;

- (ii) no other person has acquired or claims any interest in the land that has priority over, or that is adverse to, the caveator's claim; and
- (iii) no dealing that is adverse to, or that derogates from, the caveator's claim is lodged or is to be lodged after the withdrawal and before the transfer to the caveator or the caveator's nominee;
- (c) an application to amend the Register as to the name of a registered proprietor;
- (d) a notice under section 67B of the *Water Agencies (Powers) Act 1984*, to be provided by the Water Corporation, directing that section 67B of that Act cease to apply to specified land;
- (e) a notice under section 62D of the *Water Boards Act 1904*, to be provided by a Water Board, directing that section 62B of that Act cease to apply to specified land.

**SCHEDULE 4 — DOCUMENTS THAT A BUSINESS
SETTLEMENT AGENT MAY DRAW OR PREPARE**

[Reg. 12]

1. A memorandum of satisfaction of a bill of sale for the purposes of section 21 of the *Bills of Sale Act 1899*.

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By Command of the Governor,

J. PRITCHARD, Clerk of the Executive Council.