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TRANSFER OF LAND ACT 1893

**TRANSFER OF LAND
REGULATIONS 2004**

Western Australia

Transfer of Land Regulations 2004

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Transfer of Land Regulations 2004

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Transfer of Land Act 1893

Transfer of Land Regulations 2004

Made by the Commissioner of Titles with the approval of the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Transfer of Land Regulations 2004*.

2. Commencement

These regulations come into operation on 6 September 2004.

3. Requirements as to documents in paper medium

- (1) Each document presented in paper medium for lodgment with the Department or registration or entry in the Register —
 - (a) is to be prepared on paper of a type and quality approved by the Registrar;
 - (b) is to be clearly and legibly handwritten in ink, printed, or typewritten;
 - (c) is to have the signature of any party to the document, and that of any witness to such signature, written in ink;
 - (d) consisting of more than one page is to be bound in a manner approved by the Registrar; and
 - (e) on an approved form is to show the Registrar's approval number for the form at the top of the first page.

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- (2) The Registrar may reject for lodgment, registration or entry a document in paper medium that does not comply with the Act or subregulation (1).

4. Certificates of title for lots included in existing certificates

Where an application is made for a certificate of title for the whole or part of the land the subject of any existing certificate or certificates of title the Registrar may, if the Registrar thinks fit, instead of creating the certificate of title so applied for, create and register a certificate of title for each lot or location or for any number of lots or locations included in that land.

5. New certificate of title if old one too full for further endorsement

If the Registrar is satisfied that a certificate of title in paper medium is too full for further endorsement then the Registrar may create and register a new certificate of title.

6. Fees

- (1) The fees prescribed in Schedule 1 are the fees payable to the Registrar in respect of the services and matters specified in Schedule 1.
- (2) Despite the *Interpretation Act 1984* section 32(2), the headings of the Divisions into which Schedule 1 is divided form part of these regulations.
- (3) Despite subregulation (1), fees are not payable to the Registrar in respect of the services and matters specified in Schedule 2.
- (4) If the Registrar is satisfied in a particular case that it is appropriate to do so, the Registrar may waive or refund a fee payable under —
- (a) Schedule 1 Division 2 item 2; or
 - (b) Schedule 1 Division 7 item 6.

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r. 7**7. Times for inspection of the Register and related documents**

The inspection times prescribed for the purposes of section 239(1) of the Act are Mondays to Fridays (other than bank holidays or public service holidays) 8.00 a.m. to 5.00 p.m.

8. Modification, discharge or extinguishment of single dwelling covenants — determination of prescribed area

(1) In this regulation —

“benefited lot” means a lot that is benefited by —

- (a) the single dwelling covenant the subject of the application; or
- (b) any other single dwelling covenant;

“circle” means a notional circle that has its centre at the centre of the lot the subject of the application;

“lot” and **“single dwelling covenant”** have the same meanings as in section 129C of the Act.

(2) If there are 200 or more benefited lots inside a circle with a radius of 250 m, the prescribed area for the purposes of section 129C(1a)(a)(i) of the Act is the area within that circle.

(3) If there are —

- (a) less than 200 benefited lots within a circle with a radius of 250 m; and
- (b) no benefited lots in the area between that circle and a circle with a radius of 230 m,

the prescribed area for the purposes of section 129C(1a)(a)(i) of the Act is the area within the circle with a radius of 250 m.

(4) If subregulation (3) does not apply and there are 200 or more benefited lots inside a circle with a radius of 260 m, the prescribed area for the purposes of section 129C(1a)(a)(i) of the Act is the area within that circle.

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- (5) If there are —
- (a) less than 200 benefited lots within a circle with a radius of 260 m; and
 - (b) no benefited lots in the area between that circle and a circle with a radius of 240 m,
- the prescribed area for the purposes of section 129C(1a)(a)(i) of the Act is the area within a circle with a radius of 260 m.
- (6) If none of subregulations (2), (3), (4) and (5) apply, the prescribed area for the purposes of section 129C(1a)(a)(i) of the Act is the area within a circle with a radius of 270 m.
- (7) For the purposes of this regulation —
- (a) the position of the centre and boundary of a circle is to be determined by a licensed surveyor (as defined in the *Licensed Surveyors Act 1909* (section 3(1)) who holds a current practising certificate under that Act; and
 - (b) a lot is inside a circle if any part of the lot is inside the circle.

9. *Transfer of Land Regulations 1997* repealed

The *Transfer of Land Regulations 1997* are repealed.

Transfer of Land Regulations 2004**Fees payable to the Registrar Schedule 1****Schedule 1 — Fees payable to the Registrar**

[r. 6(1)]

Division 1 — Registrations and recordings

- | | | |
|-------|--|-------|
| 1. | Of a transfer of a mortgage or charge —
first mortgage or charge | \$79 |
| | subsequent mortgage or charge | \$13 |
| 2. | Of a transfer if stamp duty is assessed under the <i>Stamp Act 1921</i> Second Schedule item 6 or is exempted under section 75AB or 119 of that Act before lodgment for registration, or is exempt under the Third Schedule to that Act | \$79 |
| 3. | Of a transfer of a lease, surrender, easement or restrictive covenant | \$79 |
| 4. | Of any other transfer where the value of the consideration in respect of the land or the value of the land as assessed under the <i>Stamp Act 1921</i> , whichever is the greater —
does not exceed \$85 000 | \$79 |
| | exceeds \$85 000 but does not exceed \$120 000 | \$89 |
| | exceeds \$120 000 but does not exceed \$200 000 | \$109 |
| | plus, for each whole or part \$100 000 above \$200 000 | \$20 |
| Note: | Where —
(a) stamp duty is assessed on a parcel of land;
(b) transfers are lodged for parts of that parcel; and
(c) a separate value for each part is not allocated in the contract,
the fee for registering and recording the first of the transfers lodged for registration is to be assessed under item 4 on the value as assessed under the <i>Stamp Act 1921</i> of the parcel and, subject to proof of the payment of that fee, the fee for registering and recording each of the second and subsequent of the transfers is ... | \$79 |
| Note: | The fees specified in items 1 to 4 include the creation and registration of a new certificate of title where such certificate is required by the Registrar. | |
| 5. | Of a mortgage or charge or of a whole or partial discharge of a mortgage or charge — for each interest | \$79 |
| 6. | Of an extension of a mortgage or charge — for each interest | \$79 |

Transfer of Land Regulations 2004**Schedule 1** Fees payable to the Registrar

7.	Of a Crown lease or of a freehold lease or sub-lease or extension of a freehold lease	\$79
8.	Of a memorial or notification under any State or Commonwealth Act (unless exempted from payment under that Act)	\$79
9.	Of an order of the Supreme Court, a warrant of a Local Court or a writ of fieri facias	\$79
10.	Of revocation of a power of attorney	\$79
11.	Of an instrument not specifically provided for in this Division	\$79

Division 2 — Lodgments

1.	Of a caveat, a power of attorney or a declaration of trust	\$79
2.	Of a deposited plan —	
	(a) general fee —	
	(includes coordination and preparation of prints)	
	(i) if deposition of the deposited plan with the Western Australian Planning Commission is required (fee includes delivery of deposited plan to, and collection of deposited plan from, WAPC)	\$183
	(ii) if deposition with the Western Australian Planning Commission is not required	\$130
	(b) for each lot other than a lot vesting in the Crown under the <i>Town Planning and Development Act 1928</i> section 20A.....	\$51
3.	Of a replacement deposited plan for a certified correct deposited plan —	
	(includes coordination and preparation of prints)	
	(a) if deposition of the deposited plan with the Western Australian Planning Commission is required (fee includes delivery of deposited plan to, and collection of deposited plan from, WAPC)	\$183
	(b) if deposition with the Western Australian Planning Commission is not required	\$130
4.	Of a replacement deposited plan for a deposited plan in respect of which a requisition has been raised	\$130

Transfer of Land Regulations 2004**Fees payable to the Registrar Schedule 1**

5.	Of a duplicate certificate of title or lease for the registration or recording of a dealing lodged by a third party —	
	(a) for the first certificate of title or lease	\$39.50
	(b) for each subsequent certificate of title or lease ...	\$6
6.	Of a memorandum within the meaning of section 54(1) of the Act — section 54(2) of the Act	\$79
7.	Of a form for the notification of a factor affecting the use or enjoyment of land — section 70A(1) of the Act	\$79
8.	Of an instrument for a restrictive covenant created under section 129BA of the Act — section 129BA(2)(b) of the Act	\$79
9.	Of an instrument for an easement created under Part IVA of the Act — section 136C(4) of the Act	\$79
10.	Of an instrument for a restrictive covenant created under Part IVA of the Act — section 136D(3) of the Act	\$79

Division 3 — Withdrawals

1.	Of a caveat, warrant of a Local Court, writ of fieri facias, a memorial under the <i>Taxation Administration Act 2003</i> Part 6 Division 2 or a memorial under the <i>Land Tax Assessment Act 1976</i> section 46 that was registered before that Act was repealed, or any other Act or Commonwealth Act (unless exempted from payment under that Act)	\$79
2.	Of a document from registration or recording	\$39.50

Division 4 — Applications

1.	For a new certificate of title in respect of undivided shares in land —	
	(a) for one certificate	\$79
	(b) for each additional certificate	\$6
2.	For a new certificate of title the subject of a deposited plan	\$79
	plus, for each lot shown on the deposited plan, other than a lot that is proposed to be vested in the Crown under the <i>Town Planning and Development Act 1928</i> section 20A(1).....	\$6

Transfer of Land Regulations 2004**Schedule 1 Fees payable to the Registrar**

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|----|--|-------|
| 3. | For a new certificate of title in any other case | \$79 |
| 4. | To amend certificates of title of other owners affected by section 170 of the Act — for each certificate of title affected | \$79 |
| 5. | To serve a section 138A caveator with notice under section 138B of the Act | \$158 |
| 6. | An application in respect of any matter not specifically provided for in this Division | \$79 |

Division 5 — Certificates

- | | | |
|----|---|---|
| 1. | For the issue of a certificate of title, either on request or where necessary in connection with an application or process (except where this service is included in another fee) | \$79 |
| 2. | For a certificate of ownership issued under the <i>Local Government Act 1995</i> section 9.41 | \$60 |
| 3. | For certification by the Registrar of a certificate of title, Crown lease, deposited plan, plan, diagram or other document | \$60 |
| 4. | For the issue of a certified and sealed document for the purposes of section 239B(1)(b) of the Act | fee as assessed by the Registrar, not exceeding actual cost |

Division 6 — Inspection and/or copies of documents

- | | | |
|----|--|------|
| 1. | Search of names index — each name | \$6 |
| 2. | Inspection of a Crown lease, Crown title, permit or licence, where number is known | \$12 |
| 3. | Copy of a Crown lease, Crown title, permit or licence, where number is known | \$12 |
| 4. | Inspection of a Crown land lease where number is known | \$12 |
| 5. | Copy of a Crown land lease where number is known | \$12 |

Transfer of Land Regulations 2004**Fees payable to the Registrar Schedule 1**

6.	Inspection of a certificate of title where number is known —	
	(a) where required as a result of a check search ..	\$6
	(b) in other cases	\$12
7.	Copy of a certificate of title where number is known —	
	(a) where required as a result of a check search ..	\$6
	(b) in other cases	\$12
8.	Inspection of a plan, diagram or deposited plan	\$12
9.	Copy of a plan, diagram or deposited plan	\$12
10.	Inspection of a licensed surveyor's field book	\$12
11.	Copy of a licensed surveyor's field book	\$12
12.	Copy of a plan, diagram, deposited plan, survey index plan or licensed surveyor's field book obtained by use of departmental self-service equipment	\$1.40 per page
13.	Inspection of the record of dealings and matters referred to in section 48A(2) or 81P of the Act, as is relevant to the case, that were endorsed on previous digital versions of a digital title, but are not endorsed on the current version of that digital title	\$6
14.	Inspection of other documents and related information not specifically provided for in this Division, including documents listed as subject to dealing and status reports	\$12 per document
15.	Copy of other documents and related information not specifically provided for in this Division, including documents listed as subject to dealing and status reports	\$12 per document
16.	Search for the number of a certificate of title, Crown lease, Crown title, permit or licence	\$6
17.	Inspection of a survey index plan	\$12
18.	Copy of a survey index plan	\$12
19.	Check search	\$6
20.	Search of Crown reserves database — for each reserve (including printout of hard copy)	\$12

Transfer of Land Regulations 2004**Schedule 1 Fees payable to the Registrar**

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| 21. | In response to a request via a privately owned data terminal for the results of any of the following searches to be sent to that data terminal — | |
| | (a) search of the survey lot file, strata lot file or Crown allotment file for the number of a certificate of title, Crown lease or permit | \$1 |
| | (b) search of the names index file by — | |
| | (i) name — | |
| | (I) for up to 3 screens of information .. | \$1 |
| | (II) for each additional screen of information | \$0.70 |
| | (ii) title number | \$1.30 |
| | (iii) check search | \$6 |
| Note: | The fees specified in item 21 include the taking a hard copy of screen print. | |
| 22. | In response to a request via a privately owned facsimile machine for the results of any search referred to in items 1 to 20 — for each request (in addition to the fees payable under items 1 to 20) | \$1.40 |
| 23. | For arranging the postal delivery of any material for which a fee is payable under this Schedule — | |
| | (a) if the material is sent within Australia and is not greater than 50 grams | \$9 |
| | (b) if the material is sent outside Australia or is greater than 50 grams | \$9 plus any additional costs incurred, as assessed by the Registrar |

Division 7 — Miscellaneous

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|----|--|----------------------------------|
| 1. | For advertising (minimum fee payable on lodgment of application, additional actual cost payable when actual cost is known) | \$79 plus actual cost above \$79 |
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Transfer of Land Regulations 2004**Fees payable to the Registrar Schedule 1**

2.	For —	
	(a) a map or a colouring of a map on a copy of a certificate of title, Crown lease, deposited plan or other document; or	
	(b) drafting of a plan, diagram or other document	fee as assessed by the Registrar, not exceeding actual cost
3.	For dispensing with the production of a duplicate of a certificate of title or other instrument	\$79
4.	Supply of statement of grounds	\$79
5.	Order for stay of registration under section 148 of the Act	\$79
6.	For requisitions raised on —	
	(a) a deposited plan or other survey document ...	\$83
	(b) any other document	\$50
7.	For amendments made to a deposited plan or other survey document in respect of which requisitions have been raised	actual cost
8.	For serving a caveator with notice under section 138 or 141A of the Act — each caveat	\$79
9.	Cancellation of a plan or diagram	\$63
10.	Search of an historic tenure	actual cost
11.	Providing a replica of a certificate of title, plan or document registered in the State	actual cost
12.	Excision, addition or amendment of lots or part lots, locations or part locations, easements etc. from/to a deposited plan or plan or diagram	\$42
	if a deposited plan, plan or diagram has been certified correct, an additional fee of	\$53
13.	For rejection of a document under section 192(1) of the Act	75% of the registration, recording, lodgment or application fee paid or

Transfer of Land Regulations 2004**Schedule 1 Fees payable to the Registrar**

		payable on the document (rounded down to the nearest multiple of \$1)
14.	For registrations and recordings under Division 1, lodgments under Division 2 and applications under Division 4 — involving more than 10 certificates or leases — each certificate or lease in excess of 10	\$6.00

**Division 8 — Information derived from records and dealings in
relation to land under the operation of the Act****Microfiche**

Index sets — rental fee per annum —

(a)	Names index in owner name order to obtain certificate of title and survey lot references	\$979
(b)	Names index in certificate of title order to obtain survey lot reference and owner name	\$979
(c)	Survey lot index in plan/diagram order to obtain lot and certificate of title reference	\$187
(d)	Strata index in strata plan order to obtain building name and in building name order to obtain strata plan reference	\$407
(e)	Ex-owners index for land disposals since September 1981	\$407
(f)	Street address index in street name order to obtain land parcel identifier and certificate of title reference	\$374
(g)	Land identifier to map sheet in land parcel identifier order to obtain valuation map, survey index plan and public plan references	\$407

Transfer of Land Regulations 2004**Services and matters for which fees are not payable Schedule 2****Schedule 2 — Services and matters for which fees are not payable**

[r. 6(3)]

1. Lodgment or withdrawal of a memorial under —
 - (a) the *Local Government (Miscellaneous Provisions) Act 1960* section 412A or the *Local Government Act 1995* Schedule 6.3 clause 2;
 - (b) the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* section 124A;
 - (c) the *Country Areas Water Supply Act 1947* section 12BA, 12BB or 12EA; or
 - (d) the *Environmental Protection Act 1986* section 66.
2. In respect of the transfer of loans for housing to financial institutions participating in the Home Buyers Guarantee Scheme of the State from other financial institutions, fees for the registration of a mortgage or the discharge of a mortgage, photocopy of a certificate of title, search of a deposited plan, plan, diagram or other document and photocopying or check search.
3. In respect of the lodging by a person of or the use by a third party of a duplicate certificate of title or lease for a purpose referred to in item 1 or 2.
4. To amend the address of the registered proprietor on the certificate of title.
5. An application for the issue of a Crown land title or qualified Crown land title for Crown land and an endorsement on that title of details of —
 - (a) the creation of a reserve under the *Conservation and Land Management Act 1984* section 8, 10 or 13;
 - (b) matters to which the *Marine and Harbours Act 1981* section 9 or 10 applies;
 - (c) proclamations or notices under the *Mining Act 1978*;
 - (d) a vesting in a port authority established under the *Port Authorities Act 1999*;

Transfer of Land Regulations 2004**Schedule 2** Services and matters for which fees are not payable

- (e) the declaration of a water reserve or catchment area under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* section 13;
 - (f) a soil conservation reserve under the *Soil and Land Conservation Act 1945* section 22 or 26.
6. Creation and registration of a certificate of title by the Registrar under regulation 4 (if different from the applicant's request) or regulation 5.
 7. Lodgments by or on behalf of the Registrar.
 8. Lodgment of a dealing, deposited plan or other document by or on behalf of the Minister for Lands (other than such a lodgment by the Minister on behalf of another person).

JOHN GLADSTONE, Commissioner of Titles.

Approved by the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

