

Western Australia

## **Transfer of Land Regulations 1997**

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## Transfer of Land Regulations 1997

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## **Transfer of Land Regulations 1997**

### **1. Citation**

These regulations may be cited as the *Transfer of Land Regulations 1997*<sup>1</sup>.

### **2. Commencement**

These regulations come into operation on 13 January 1997.

### **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.
- (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.

*[Regulation 4 amended in Gazette 27 Mar 1998 p. 1766.]*

**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 section 32(2) of the *Interpretation Act 1984*, 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) item 2 of Division 2; or
  - (b) item 6 of Division 7,

of Schedule 1.

*[Regulation 6 amended in Gazette 27 Mar 1998 p. 1766;  
30 Jun 2003 p. 2572.]*

**6A. Transitional period**

- (1) The fees prescribed in Divisions 1 and 2 of Schedule 1 are not payable during the transitional period in respect of the lodgment, registration or recording of —
- (a) a dealing relating to Crown land executed before the appointed day; or
  - (b) a caveat in respect of such a dealing (whether lodged before, on or after the appointed day).

- (2) In this regulation —

**“appointed day”** means the day fixed under section 2(1) of the *Land Administration Act 1997* as the day on which that Act comes into operation<sup>2</sup>;

**“transitional period”** means the period of 5 years beginning on the appointed day.

*[Regulation 6A inserted in Gazette 27 Mar 1998 p. 1766.]*

*[7. Repealed in Gazette 15 Dec 2000 p. 7211.]*

**8. Times for inspection of the Register and related documents**

The inspection times prescribed for the purposes of section 239(1) of the Act are 8.00 a.m. to 5.00 p.m.

**8A. 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;

**s. 8A**

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**“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.
- (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*) 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.

*[Regulation 8A inserted in Gazette 11 May 1999 p. 1906-7.]*

**[9.** *Omitted under the Reprints Act 1984 s. 7(4)(f).]*

**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 ..... \$77 subsequent mortgage or charge ..... \$13	
2.	Of a transfer if stamp duty is assessed under item 6 of the Second Schedule to the <i>Stamp Act 1921</i> or is exempted under section 75AA, 75AB or 119 of that Act before lodgment for registration, or is exempt under the Third Schedule to that Act .....	\$77
3.	Of a transfer of a lease, surrender, easement or restrictive covenant .....	\$77
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 ..... \$77 exceeds \$85 000 but does not exceed \$120 000 ..... \$87 exceeds \$120 000 but does not exceed \$200 000 ..... \$107 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 .....	\$77
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 .....	\$77
6.	Of an extension of a mortgage or charge — for each interest	\$77
7.	Of a Crown grant, a Crown lease or of a freehold lease or sub-lease or extension of a freehold lease .....	\$77
8.	Of a memorial or notification under any State or Commonwealth Act (unless exempted from payment under that Act) .....	\$77
9.	Of an order of the Supreme Court, a warrant of a Local Court or a writ of fieri facias .....	\$77
10.	Of revocation of a power of attorney .....	\$77

Fees payable to the Registrar Schedule 1

11. Of an instrument not specifically provided for in this Division ..... \$77

**Division 2 — Lodgments**

1. Of a caveat, a power of attorney or a declaration of trust .... \$77
2. Of a deposited plan —
- (a) general fee —  
         (includes coordination and preparation of prints)
- (i) including deposition with Western Australia Planning Commission ..... \$180  
             (includes delivery of deposited plan to, and collection of deposited plan from, WAPC)
- (ii) if deposition with Western Australia Planning Commission is not required ..... \$127
- (b) for each lot other than a lot vesting in the Crown under section 20A of the *Town Planning and Development Act 1928* ..... \$50
3. Of a replacement deposited plan for a certified correct deposited plan —  
     (includes coordination and preparation of prints)
- (a) including deposition with Western Australia Planning Commission ..... \$180  
         (includes delivery of deposited plan to, and collection of deposited plan from, WAPC)
- (b) if deposition with Western Australia Planning Commission is not required ..... \$127
4. Of a replacement deposited plan for a deposited plan in respect of which requisitions have been raised ..... \$127
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 ..... \$38.50
- (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 ..... \$77
7. Of a notification of a factor affecting the use or enjoyment of land — section 70A(1) of the Act ..... \$77
8. Of an instrument for a restrictive covenant created under section 129BA of the Act ..... \$77
9. Of an instrument in relation to a plan on which is noted an easement created under Part IVA of the Act — section 136C(4) of the Act ..... \$77
10. Of an instrument in relation to a plan on which is noted a restrictive covenant created under Part IVA of the Act — section 136D(3) of the Act ..... \$77

**Schedule 1 Fees payable to the Registrar**

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11. Of instrument or application involving more than 10 certificates or leases — for each certificate or lease in excess of 10 ..... \$6

**Division 3 — Withdrawals**

1. Of a caveat, warrant of a Local Court, writ of fieri facias or a memorial under section 46 of the *Land Tax Assessment Act 1976*, Part 6 Division 2 of the *Taxation Administration Act 2003* or any other Act or Commonwealth Act (unless exempted from payment under that Act) ..... \$77
2. Of a document from registration or recording ..... \$38.50

**Division 4 — Applications**

1. For a new certificate of title in respect of undivided shares in land —  
 (a) for one certificate ..... \$77  
 (b) for each additional certificate ..... \$6
2. For a new certificate of title the subject of a deposited plan plus, for each lot shown on the deposited plan ..... \$77  
 \$6
3. For a new certificate of title in any other case ..... \$77
4. To amend certificates of title of other owners affected by section 170 of the Act — for each certificate of title affected ..... \$77
5. To serve a section 138A caveator with notice under section 138B of the Act ..... \$154
6. An application in respect of any matter not specifically provided for in this Division ..... \$77

**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) ..... \$77
2. For a certificate of ownership issued under section 9.41 of the *Local Government Act 1995* ..... \$60
3. For certification by the Registrar of a certificate of title, Crown lease, plan, diagram or other document ..... \$60

**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

Fees payable to the Registrar Schedule 1

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
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 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
14.	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
15.	Search for the number of a certificate of title, Crown lease, Crown title, permit or licence .....	\$6
16.	Inspection of a survey index plan .....	\$12
17.	Copy of a survey index plan .....	\$12
18.	Check search .....	\$6
19.	Search of Crown reserves database — for each reserve .....	\$12
	(including printout of hard copy)	
20.	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

**Schedule 1 Fees payable to the Registrar**

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	(ii) title number .....	\$1.30
	(iii) check search .....	\$6
Note:	The fees specified in item 20 include the taking a hard copy of screen print.	
21.	In response to a request via a privately owned facsimile machine for the results of any search referred to in items 1 to 19 — for each request .....	\$1.40
	(in addition to the fees payable under items 1 to 19)	
22.	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**

1.	For advertising .....	\$77 plus actual cost above \$77
	(minimum fee payable on lodgment of application, additional actual cost payable when actual cost is known)	
2.	For —	
	(a) a map or a colouring of a map on a copy of a certificate of title, Crown lease, plan, diagram 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 .....	\$77
4.	Supply of statement of grounds .....	\$77
5.	Order for stay of registration under section 148 of the Act ...	\$77
6.	For requisitions raised on —	
	(a) a plan, diagram or other survey document .....	\$83
	(b) any other document .....	\$50
7.	For amendments made to a plan, diagram 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 .....	\$77
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

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

**Microfiche**

1.	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) Crown allotment index .....	\$407
	(f) Ex-owners index for land disposals since September 1981 .....	\$407
	(g) Street address index in street name order to obtain land parcel identifier and certificate of title reference .....	\$374
	(h) Crown reserves in numerical order .....	\$979
	(i) Land identifier to map sheet in land parcel identifier order to obtain valuation map, survey index plan and public plan references .....	\$407
2.	Sales evidence microfiche sets — purchase fee per annum —	
	(a) Full set —	
	(i) weekly .....	\$2 794
	(ii) monthly .....	\$2 235.20
	(iii) 6 monthly .....	\$1 117.60
	(b) Metro (non strata) set —	
	(i) weekly .....	\$2 095.50
	(ii) monthly .....	\$1 676.40
	(iii) 6 monthly .....	\$838.20
	(c) Country (non strata) set —	
	(i) weekly .....	\$558.80
	(ii) monthly .....	\$447.04
	(iii) 6 monthly .....	\$223.52
	(d) Strata (State-wide) set —	
	(i) weekly .....	\$419.10
	(ii) monthly .....	\$335.28
	(iii) 6 monthly .....	\$167.64

Note 1: A full set includes all the sets.

Note 2: The weekly service includes the monthly and 6 monthly updates.

Note 3: Additional sets of the same set are 20% of the cost of the first set.

**Transfer of Land Regulations 1997**

**Schedule 1 Fees payable to the Registrar**

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*[Schedule 1 inserted in Gazette 30 Jun 2003 p. 2572-6.]*



**Schedule 2 — Services and matters for which fees are not payable**

[Regulation 6(3)]

1. Lodgment or withdrawal of a memorial under —
  - (a) section 297A<sup>4</sup> or 412A of the *Local Government (Miscellaneous Provisions) Act 1960* or Schedule 6.3 clause 2 of the *Local Government Act 1995*;
  - (b) section 124A of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*;
  - (c) section 12BA, 12BB or 12EA of the *Country Areas Water Supply Act 1947*; or
  - (d) section 66 of the *Environmental Protection Act 1986*.
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 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 record for Crown land and an endorsement on the record of details of —
  - (a) the creation of a reserve under section 8, 10 or 13 of the *Conservation and Land Management Act 1984*;
  - (b) matters to which section 9 or 10 of the *Marine and Harbours Act 1981* applies;
  - (c) proclamations or notices under the *Mining Act 1978*;
  - (d) a vesting in a relevant Port Authority under the —
    - (i) *Albany Port Authority Act 1926*<sup>5</sup>;

**Schedule 2 Services and matters for which fees are not payable**

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- (ii) *Bunbury Port Authority Act 1909*<sup>5</sup>;
  - (iii) *Dampier Port Authority Act 1985*<sup>5</sup>;
  - (iv) *Esperance Port Authority Act 1968*<sup>5</sup>;
  - (v) *Fremantle Port Authority Act 1902*<sup>5</sup>;
  - (vi) *Geraldton Port Authority Act 1968*<sup>5</sup>; or
  - (vii) *Port Hedland Port Authority Act 1970*<sup>5</sup>;
  - (e) the declaration of a water reserve or catchment area under section 13 of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*;
  - (f) a soil conservation reserve under section 22 or 26 of the *Soil and Land Conservation Act 1945*.
- [6. *deleted*]
7. Creation and registration of a certificate of title by the Registrar under regulation 4 (if different from the applicant's request) or regulation 5.
8. Lodgments by or on behalf of the Registrar.
9. 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).

*[Schedule 2 amended in Gazette 27 Mar 1998 p. 1768; 30 Jun 2003 p. 2576-7.]*

*[Schedule 3 deleted in Gazette 15 Dec 2000 p. 7211.]*

**Notes**

<sup>1</sup> This is a compilation of the *Transfer of Land Regulations 1997* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprints.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Transfer of Land Regulations 1997</i>	9 Jan 1997 p. 67-97	13 Jan 1997 (see r. 2)
<i>Transfer of Land Amendment Regulations 1997</i>	4 Jul 1997 p. 3483-5	4 Aug 1997 (see r. 2)
<i>Transfer of Land Amendment Regulations 1998</i>	27 Mar 1998 p. 1766-8	30 Mar 1998 (see r. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Transfer of Land Amendment Regulations (No. 2) 1998</i>	26 Jun 1998 p. 3382-3	1 Jul 1998 (see r. 2)
<i>Transfer of Land Amendment Regulations 1999</i>	11 May 1999 p. 1906-7	1 Jun 1999 (see r. 2 and <i>Gazette</i> 11 May 1999 p. 1905)
<i>Transfer of Land Amendment Regulations (No. 2) 1999</i>	18 Jun 1999 p. 2633-5	1 Jul 1999 (see r. 2)
<b>Reprint of the <i>Transfer of Land Regulations 1997</i> as at 5 May 2000</b> (includes amendments listed above)		
<i>Transfer of Land Amendment Regulations 2000</i>	16 Jun 2000 p. 2947-9	1 Jul 2000 (see r. 2)
<i>Transfer of Land Amendment Regulations (No. 2) 2000</i>	15 Dec 2000 p. 7210-11	1 Jan 2001 (see r. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)
<i>Transfer of Land Amendment Regulations 2001</i>	13 Jul 2001 p. 3501-7	13 Jul 2001 (see r. 2)
<b>Reprint of the <i>Transfer of Land Regulations 1997</i> as at 7 Sep 2001</b> (includes amendments listed above)		
<i>Transfer of Land Amendment Regulations 2003</i>	30 Jun 2003 p. 2572-7	7 Jul 2003 (see r. 2)

<sup>2</sup> The appointed day is 30 March 1998.

<sup>3</sup> *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961* r. 44 repealed in *Gazette* 5 Sep 2001 p. 5062.

<sup>4</sup> *Local Government (Miscellaneous Provisions) Act 1960* s. 297A repealed by the *Acts Amendment (Land Administration) Act 1997* s. 67(1).

<sup>5</sup> Repealed by the *Port Authorities (Consequential Provisions) Act 1999*.