



Western Australia

Transfer of Land Act 1893

Transfer of Land (Surveys) Regulations 1995

As at 16 Feb 2004

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Western Australia

Transfer of Land (Surveys) Regulations 1995

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at 16 February 2004

Western Australia

Transfer of Land Act 1893

Transfer of Land (Surveys) Regulations 1995

1. Citation

These regulations may be cited as the *Transfer of Land (Surveys) Regulations 1995* ¹.

2. Definitions

In these regulations unless the contrary intention appears —

“authorised survey” has the meaning that it has in the *Licensed Surveyors Act 1909*;

“covenant” means —

- (a) a restrictive covenant registered under the Act that is capable of being shown spatially on a plan; or
- (b) a covenant referred to in section 15 of the *Land Administration Act 1997* that is capable of being shown spatially on a plan;

“Inspector of Plans and Surveys” means a surveyor on the staff of the Department appointed by the Governor to approve plans of authorised surveys;

“interest” means —

- (a) an easement, memorial or notification that is capable of being shown spatially on a plan; or

(b) a covenant;

“monument” means a building, permanent structure or permanent survey mark;

“plan” means a plan to be presented for lodgment with the Department;

“surveyor” means a surveyor who is licensed under the *Licensed Surveyors Act 1909* and who holds a practising certificate under that Act;

“terminals” means the ends or extents of an easement.

[Regulation 2 inserted in Gazette 16 Feb 2001 p. 909.]

3. Electronic records of plans

(1) Every plan shall be accompanied by a digital electronic record of that plan in a format specified by the Inspector of Plans and Surveys.

(2) For the purposes of —

(a) certification by a licensed surveyor under regulation 4(2)(d) or under regulation 54 or 55E of the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961*; and

(b) approval by the Inspector of Plans and Surveys,

a digital electronic record lodged with a plan is to be regarded as forming part of that plan.

[Regulation 3 amended in Gazette 16 Feb 2001 p. 909.]

4. Compiled plans

(1) Where the surround of a parcel of land is already defined by existing surveys a plan may be compiled from those existing surveys and lodged instead of the plan of survey required by the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961* or the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961*.

- (2) Where a compiled plan is prepared —
- (a) the word “compiled” is to be shown on the plan instead of the field book number;
 - (b) the plan is to record all the source documents from which the plan was prepared;
 - (c) angles, total distances and abutments are to be shown but intermediate distances or marks are not to be shown and angles and distances are not to be annotated “orig” or “cal”; and
 - (d) a certificate in the form of the table to this subregulation is to be written on the plan and signed by a licensed surveyor.

Table

Certificate

I hereby certify that this compiled plan —

- (a) is a correct and accurate representation of the survey(s) of the subject land; and
- (b) is in accordance with the relevant law in relation to which it is lodged.

.....
Date

.....
Licensed surveyor

5. Residue land

- (1) If a proposed acquisition of land for a public purpose does not comprise the whole of the land described in a certificate of title, the plan for the acquisition is to show the residue land to scale.
- (2) If a proposed subdivision of land does not comprise the whole of the land described in a certificate of title, the plan for the subdivision is to show the residue land to scale.
- (3) If a proposed amalgamation of land does not comprise the whole of the land described in a certificate of title, the plan for the amalgamation is to show the residue land to scale.

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- (4) Any residue land is to be shown as a whole lot or lots and numbered as a new lot or lots.
- (5) If the boundaries of the residue land are extensive, the Registrar, the Inspector of Plans and Surveys or an authorised land officer may allow the part of the plan showing the residue to be compiled without the distances or angles of, or bearings for, the boundaries, easements or covenants.
- (6) The Registrar or an authorised land officer may direct that any one or more of subregulations (1) to (5) do not apply to a particular plan of Crown land and such direction has effect according to its tenor.

[Regulation 5 inserted in Gazette 16 Feb 2001 p. 909-10.]

6. Identification of parcels of land in plans

- (1) Each parcel of land, including a parcel intended for a public reserve, pedestrian accessway, right of way or drainage reserve, is to be identified in a plan with a number of no more than 5 numerals.
- (2) This regulation does not apply to roads that do not require the creation of a certificate of Crown land title.

[Regulation 6 inserted in Gazette 16 Feb 2001 p. 910.]

7. Plans for easement purposes only

- (1) This regulation applies in relation to a plan that is prepared by a surveyor for the sole purpose of defining an easement.
- (2) The surveyor is to connect the position of the easement by measurement to relevant monuments.
- (3) The surveyor is to —
 - (a) determine by survey or calculation the position of the existing parcel boundary in relation to —
 - (i) the terminals of the easement; and

- (ii) the intersection of the easement with the boundary;
 - and
 - (b) show on the plan the connections from the easement to the nearest corner of the parcel.
- (4) Subject to subregulation (5), the surveyor is to show on the plan the position and extent of the easement.
- (5) If an easement is to be created over existing pipes or conduits that are underground or within a building and the precise location of those pipes or conduits cannot reasonably be determined, the surveyor is to show on the plan the approximate positions of the pipes or conduits together with appropriate notations.

[Regulation 7 inserted in Gazette 16 Feb 2001 p. 910-11.]

8. Existing interests, proposed modifications to existing interests and proposed interests in land to be depicted in plans

The Registrar may determine which of the following matters are to be set out in a plan in relation to land and the manner in which the matters are to be set out in the plan —

- (a) the nature, position and extent of each existing interest affecting the land;
- (b) reference to the instrument, document or plan by which each existing interest affecting the land was created;
- (c) details and the extent of any proposed modification of an existing interest affecting the land;
- (d) the nature, position and extent of each proposed new interest to affect the land;
- (e) any burden by an existing easement or covenant affecting land that is a subject of the plan;

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- (f) any benefit by an existing easement or covenant affecting land that is a subject of the plan if the benefit is able to be depicted spatially on the plan;
- (g) any existing easement in gross or covenant in gross affecting the land that is a subject of the plan and the details of each person who has the benefit of that easement or covenant;
- (h) any burden or benefit that would result from a proposed modification to an existing easement or covenant affecting land that is a subject of the plan if the burden or benefit is able to be depicted spatially on the plan;
- (i) any burden or benefit by a proposed new easement or covenant to affect the land, whether or not the land proposed to be benefited is a subject of the plan;
- (j) any proposed new easement in gross or covenant in gross to affect the land that is a subject of the plan and the details of each person who is proposed to have the benefit of that easement or covenant.

[Regulation 8 inserted in Gazette 16 Feb 2001 p. 911.]

9. Registrar may require a new plan if certain existing interests to be modified

If the position or extent of any existing easement or covenant is to be modified the Registrar may direct that a new plan is to be lodged showing the details, position and extent of the easement or covenant as modified.

[Regulation 9 inserted in Gazette 16 Feb 2001 p. 912.]

10. Formatting and other contents of plans

- (1) The following matters are to be as specified or approved by the Registrar —
 - (a) the manner in which the dimensions (including area) of each parcel are shown in a plan;

- (b) the manner in which the arrangement and format of a plan are prepared and presented;
 - (c) the medium on or in which a plan is to be prepared.
- (2) A plan may only comprise more than 4 sheets if the Inspector of Plans and Surveys or an authorised land officer approves the number of sheets before the plan is lodged.
- (3) Each sheet of a plan is to —
 - (a) be consecutively numbered as part of a series;
 - (b) contain the plan number; and
 - (c) be signed and dated by the surveyor who prepared the plan in a manner approved by the Registrar.
- (4) A plan is to —
 - (a) refer to the purpose of the authorised survey, if relevant, and plan;
 - (b) show whether Crown land or freehold land or a combination of these types of tenure is a subject of the plan; and
 - (c) refer to each certificate of title and certificate of Crown Land Title for the land concerned.

[Regulation 10 inserted in Gazette 16 Feb 2001 p. 912.]

11. Requirements before plan can be approved

The Inspector of Plans and Surveys or an authorised land officer may only approve a plan when all the necessary instruments, applications or dealings transferring or disposing of the land are registered.

[Regulation 11 inserted in Gazette 16 Feb 2001 p. 912.]

Notes

- ¹ This reprint is a compilation as at 16 February 2004 of the *Transfer of Land (Surveys) Regulations 1995* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | Commencement |
|--|--------------------------|---------------------|
| <i>Transfer of Land (Surveys) Regulations 1995</i> | 14 Jul 1995 p. 2971-2 | 14 Jul 1995 |
| <i>Transfer of Land (Surveys) Amendment Regulations 2001</i> | 16 Feb 2001 p. 908-12 | 16 Feb 2001 |
| Reprint 1: The <i>Transfer of Land (Surveys) Regulations 1995</i> as at 16 Feb 2004 (includes amendments listed above) | | |