



Western Australia

Transfer of Land Act 1893

Transfer of Land Amendment Regulations 2023

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Transfer of Land Amendment Regulations 2023

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Transfer of Land Amendment Regulations 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website (*publication day*);
- (b) regulations 3 and 9 to 11 — on the day after publication day;
- (c) the rest of the regulations — on 7 August 2023.

3. Regulations amended

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

4. Regulation 3A amended

In regulation 3A delete “section 4(1CA)(b)(v)” and insert:

section 4(1CB)(e)

Note: The heading to amended regulation 3A is to read:

**Documents in substantially same terms are counterparts
(Act s. 4(1CB)(e))**

5. Regulation 9AB deleted

Delete regulation 9AB.

6. Part 3B replaced

Delete Part 3B and insert:

Part 3B — Provisions relating to service

9AC. Service of notices

- (1) For the purposes of section 240(1)(a) of the Act, if the manner of service of a notice on a person under the Act is not provided for in the Act, service of the notice must be effected —
 - (a) by delivering the notice to the person personally; or
 - (b) by leaving the notice at the person's address; or
 - (c) by sending the notice by letter (by pre-paid post) to the person's address; or
 - (d) if, whether by means of a document lodged with the Registrar or otherwise, an email address for the service of notices under the Act has been provided by the person or by a lodging party acting on behalf of the person — by sending the notice to that email address; or
 - (e) subject to subregulation (2), by sending an email to the email address referred to in paragraph (d) informing the person that the notice is published on a webpage that can be accessed from the hyperlink provided in the email; or
 - (f) if the person has specified in a caveat or an approved form lodged with the Registrar that

notices under the Act may be served on the person by facsimile transmission to the number of the person’s facsimile machine — subject to subregulation (3), by facsimile transmission to that number.

- (2) Subregulation (1)(e) applies only to the service of notices by the Commissioner or Registrar.
- (3) Subregulation (1)(f) applies only if the caveat or approved form referred to in that paragraph was lodged with the Registrar before the day on which the *Transfer of Land Amendment Act 2022* section 44 came into operation.
- (4) For the purposes of a provision of the Act in the Table, an email address provided by a person for the purposes of the Act is prescribed.

Table

s. 30(5)(c)	s. 81W(9)(c)
s. 106(2)(d)	s. 121(2)(d)
s. 137(1D)(c)	s. 240A(1)(b)

9AD. Application of r. 9AC(1) to service of notices on Commissioner or Registrar

For the purposes of the application of regulation 9AC(1) to the manner of service of a notice on the Commissioner or Registrar under the Act —

- (a) the address of the Commissioner or Registrar for regulation 9AC(1)(b) is 1 Midland Square, Midland WA 6056; and

- (b) the address of the Commissioner or Registrar for regulation 9AC(1)(c) is —
 - (i) 1 Midland Square, Midland WA 6056; or
 - (ii) PO Box 2222 Midland WA 6936; or
 - (iii) any other postal address published by the Authority on its website for the purposes of that paragraph;and
- (c) regulation 9AC(1)(d) has effect as if it provided that the address for the service of notices by email on the Commissioner or Registrar is the email address specified for the purposes of that paragraph —
 - (i) by the Authority on its website; or
 - (ii) in a notice served under the Act by the Commissioner or Registrar.

9AE. Term used: address

- (1) In this regulation —

address, except in relation to regulation 9AC(1)(b), includes an Australian post office box address.
- (2) For the purposes of regulation 9AC(1)(b) and (c), *address* in relation to a person (other than the Commissioner or Registrar) means —
 - (a) the address specified by the person in a caveat or an approved form lodged with the Registrar as the address to which notices to that person may be sent; or
 - (b) if an address has not been specified under paragraph (a) — the address entered in the Register as the person’s address; or

- (c) in the case of an individual for whom an address has not been specified under paragraph (a) or entered in the Register — the individual's last known address; or
- (d) in the case of a person other than an individual for which an address has not been specified under paragraph (a) or entered in the Register —
 - (i) the person's registered office (if any) as defined in the *Corporations Act 2001* (Commonwealth) section 9, or the person's principal place of business or principal office in the State; or
 - (ii) the address of the office of any administrator, manager, receiver or liquidator appointed under the *Corporations Act 2001* (Commonwealth) in relation to the person if that address is the most recent address lodged with the Australian Securities and Investments Commission for the administrator, manager, receiver or liquidator.

9AF. Service of notices by means of email

- (1) For the purposes of regulation 9AC(1)(d) and (4), a notice sent by a person (the *sender*) to another person's email address is taken not to have been served on that person unless —
 - (a) the email specifies the sender's name and a telephone number for contacting the sender; and

- (b) in the case of a notice that is sent as an attachment to the email —
 - (i) the email describes the purpose of the notice and specifies the person on whom it is being served; and
 - (ii) the attachment sets out clearly the terms of the notice;and
 - (c) in the case of a notice that is not sent as an attachment to the email — the email describes the purpose of the notice, sets out clearly the terms of the notice and specifies the person on whom it is being served.
- (2) For the purposes of regulation 9AC(1)(e), a notice that is published on a webpage that can be accessed from the hyperlink provided in an email sent by the Commissioner or Registrar (the *sender*) to a person's email address is taken not to have been served on the person unless —
- (a) the email specifies the sender's name and a telephone number for contacting the sender; and
 - (b) the email describes the purpose of the notice and specifies the person on whom it is being served; and
 - (c) the email provides a valid hyperlink to the webpage on which the notice is published; and
 - (d) the notice can be accessed by means of the hyperlink from the time the email is sent to the end of the period that is reasonable to allow the person to read or copy the notice; and
 - (e) the terms of the notice are set out clearly in the published notice.

- (3) Subregulation (2)(d) applies whether or not the notice is accessed by means of the hyperlink within the period referred to in that paragraph.

9AG. When service is taken to be effected

- (1) In this regulation —
electronic communication has the meaning given in the *Electronic Transactions Act 2011* section 5(1);
working day means a day other than a Saturday, a Sunday or a public holiday.
- (2) For the purposes of regulation 9AC(1) and (4), service of a notice on a person is taken to be effected —
- (a) in the case of service under regulation 9AC(1)(a) — at the time the notice is delivered to the person; or
 - (b) in the case of service under regulation 9AC(1)(b) — at the time the notice is left at the person’s address; or
 - (c) in the case of service under regulation 9AC(1)(c) to an address in Australia — at the time the notice would have been delivered in the ordinary course of post; or
 - (d) in the case of service under regulation 9AC(1)(c) to an address outside Australia — on the 20th working day after the day on which the notice was posted; or
 - (e) in the case of service by means of an electronic communication under regulation 9AC(1)(d), (e) or (f) or (4) — at the time of receipt of the electronic communication in accordance with the *Electronic Transactions Act 2011* section 14.

- (3) Subregulation (2)(c) and (d) apply unless the contrary is proved.

7. Regulation 9A amended

In regulation 9A(2):

- (a) delete “a duplicate certificate of title,” and insert:

an

- (b) delete “duplicate certificate of title,” (2nd occurrence).

8. Regulation 9B amended

Delete regulation 9B(4) and (5).

9. Regulation 11 amended

- (1) In regulation 11 insert in alphabetical order:

relevant entity means —

- (a) a body established by the *Electricity Corporations Act 2005* section 4(1); or
- (b) a port authority established by the *Port Authorities Act 1999* section 4(1); or
- (c) a body established by or under the *Water Corporations Act 1995* section 4; or
- (d) the Police Force of Western Australia provided for by the *Police Act 1892*; or
- (e) the Western Australian Land Authority established by the *Western Australian Land Authority Act 1992* section 5(1);

- (2) In regulation 11 in the definition of *names index* paragraph (b) delete “section 143(1)” and insert:

section 143(1A)

10. Regulation 13 amended

In regulation 13(4) delete “register” and insert:

index

11. Regulation 14 amended

- (1) Delete regulation 14(1) and insert:

- (1) The Registrar may provide suppressed information to a department, organisation, local government, regional local government, regional subsidiary or relevant entity by arrangement with —
- (a) its chief executive officer or chief employee; or
 - (b) in relation to a regional subsidiary to which paragraph (a) does not apply — the presiding member of the regional subsidiary’s governing body or as otherwise provided for in the regional subsidiary’s charter prepared under the *Local Government Act 1995* section 3.70; or
 - (c) in relation to the relevant entity that is the Police Force of Western Australia — the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*.

r. 12

- (2) In regulation 14(2) delete “department or organisation.” and insert:

department, organisation, local government, regional local government, regional subsidiary or relevant entity.

Note: The heading to amended regulation 14 is to read:

Provision of suppressed information to government organisations

12. Schedule 1 amended

- (1) In Schedule 1 Division 2 item 5:
- (a) delete “certificate of title or”;
 - (b) in paragraphs (a) and (b) delete “certificate of title or”.
- (2) Delete Schedule 1 Division 4 item 6.
- (3) In Schedule 1 Division 7 item 3 delete “a duplicate certificate of title or other” and insert:

an

13. Schedule 2 amended

- (1) In Schedule 2 item 3 delete “certificate of title or”.
- (2) Delete Schedule 2 item 9.

B. D’S A, Clerk of the Executive Council

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