

1992—No. 610

**CONVEYANCING ACT 1919—REGULATION**

(Conveyancing (General) Regulation 1992)

NEW SOUTH WALES



*[Published in Gazette No. 140 of 27 November 1992]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Conveyancing Act 1919, has been pleased to make the Regulation set forth hereunder.

GARRY WEST,  
Minister for Conservation and Land Management.

**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Conveyancing (General) Regulation 1992.

**Commencement**

2. This Regulation commences on 27th November, 1992.

**Definitions**

3. (1) In this Regulation:

“**approved**” means approved for the time being by the Registrar-General;

“**deposited plan**” means a plan lodged for registration in the office of the Registrar-General, other than:

(a) a plan affecting land under the Real Property Act 1900, including a plan required to be registered under some other Act such as the Strata Titles Act 1973, the Strata Titles (Leasehold) Act 1986 or the Community Land Development Act 1989; or

(b) a plan lodged for the purposes of a primary application under the Real Property Act 1900;

**“Register of Plans”** means the register of plans kept by the Registrar-General that includes plans registered under Division 3 of Part 23 of the Act;

**“section 88B instrument”** means an instrument of a kind that, under clause 26, is required to accompany a deposited plan that creates an easement, profit à prendre, restriction or positive covenant under section 88B of the Act;

**“the Act”** means the Conveyancing Act 1919.

**(2)** In this Regulation:

- (a) a reference to a Form is a reference to a Form set out in Schedule 1; and
- (b) a reference to a Plan Form is a reference to a Plan Form set out in Schedule 2.

## PART 2—THE GENERAL REGISTER OF DEEDS

### Registration of instruments generally

**4. (1)** An instrument that is lodged for registration in the General Register of Deeds must be accompanied by:

- (a) a registration copy of the instrument or a request that a registration copy of the instrument be prepared by the Registrar-General; and
- (b) the certificate referred to in section 184D (3) of the Act; and
- (c) the relevant fee set out in Schedule 7.

**(2)** In the case of a bill of sale:

- (a) the affidavit required by section 4 (1) of the Bills of Sale Act 1898 must appear on the same paper as that on which the bill of sale is written or, if the bill of sale is accompanied by a registration copy, on the same paper as that comprising the registration copy; and
- (b) the statutory declaration required by section 5A (1) of the Bills of Sale Act 1898 must, in accordance with the requirements of section 5A (2) of that Act, be annexed to or indorsed on the same paper as that on which the bill of sale is written.

**(3)** This clause does not apply to the registration of writs, court orders or legal proceedings under section 186 of the Act, the registration of notices of resumption under section 196A of the Act or the registration of notifications of compulsory acquisition under a Commonwealth Act.

**Registration of writs, court orders or legal proceedings**

**5. (1)** An application for registration of a writ, court order or legal proceeding in the General Register of Deeds under section 186 of the Act must be in Form 1 and must be accompanied by:

- (a) the original or a copy of the writ, court order or legal proceeding; and
- (b) the certificate referred to in section 184D (3) of the Act; and
- (c) the relevant fee set out in Schedule 7,

and may also be accompanied by a registration copy of the writ, court order or legal proceeding concerned.

**(2)** For the purposes of section 186 (2) of the Act, the prescribed manner in which registration of a writ, order or current legal proceeding in the General Register of Deeds is to be renewed is by means of an application in Form 2 accompanied by the relevant fee set out in Schedule 7.

**Registration of notices of resumption etc.**

**6.** A notice of resumption that is lodged for registration in the General Register of Deeds under section 196A (3) (a) of the Act:

- (a) must be in Form 3 (executed by the resuming authority or by an agent appointed by the resuming authority to execute the notice on its behalf); and
- (b) must be accompanied by the certificate referred to in section 184D (3) of the Act and by the relevant fee set out in Schedule 7.

**Production of instrument etc. and copy**

**7. (1)** An instrument that is lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application):

- (a) must have endorsed on it the name, address and delivery box number (if any) of the person by whom or on whose behalf it is lodged; and
- (b) must be produced by hand to the proper officer at the office of the Registrar-General.

**(2)** Documents that are lodged for registration must not be bound together except by means of a pin, staple or split pin or other similar means acceptable to the Registrar-General,

**Certificate to accompany instrument for registration**

**8.** For the purposes of section 184D (3) of the Act, the certificate to accompany an instrument for registration must be signed by:

- (a) the person lodging the instrument; or
- (b) a party to the instrument; or
- (c) a solicitor or agent acting for the person lodging, or a party to, the instrument.

**Instruments etc. to comply with Schedule 3 requirements**

**9.** An instrument lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application) must comply with the requirements set out in Schedule 3.

**Plans etc. to comply with Schedule 3 requirements**

**10.** The registration copy of a plan or diagram annexed to an instrument or, if no registration copy is lodged, the plan or diagram from which a registration copy is to be prepared by the Registrar-General:

- (a) must comply with the requirements set out in Schedule 3 (3), (4), (6), (7) and (9)–(13); and
- (b) must have all line work, dimensions, hatchings and notations in dense black ink; and
- (c) must not have on it any coloured ink; and
- (d) must have margins of not less than 10 mm on the top, bottom and sides.

**Allocation of distinctive references to instruments**

**11.** For the purposes of section 184E (1) of the Act, the Registrar-General is to allocate a distinctive reference to an instrument by placing the distinctive reference and the Registrar-General's seal on the original instrument and on the registration copy (if any) of the instrument.

**Vacation of registrations**

**12.** For the purposes of section 190A (3) of the Act, an application for vacation of a registration under Division 2 of Part 23 of the Act:

- (a) must be made in Form 4; and
- (b) must be accompanied by the relevant fee set out in Schedule 7.

**PART 3—THE REGISTER OF PLANS**  
**Division 1—General**

**Particulars of deposited plans to be recorded**

**13.** The Registrar-General is to record in the Register of Plans particulars of all deposited plans registered under Division 3 of Part 23 of the Act.

**Certain deposited plans to be plans of survey**

**14. (1)** A deposited plan containing 5 lots or more must be in the form of a plan of survey unless the Registrar-General otherwise permits.

**(2)** A deposited plan containing 4 lots or less must be in the form of a plan of survey if the Registrar-General so requires.

**Deposited plans to be on linen or film and in conformity with plan forms**

**15. (1)** A deposited plan:

- (a) must be drawn on tracing linen of good quality or on polyester film having a thickness of 0.05–0.15 mm and at least one matt surface; and
- (b) must be in the form of Plan Form 1 or Plan Form 2.

**(2)** Any land that cannot satisfactorily be shown within the plan-drawing area may be shown on one or more (but not more than 3) additional sheets in the form of:

- (a) Plan Form 1, if the first sheet of the plan is in Plan Form 1; or
- (b) Plan Form 3, if the first sheet of the plan is in Plan Form 2.

**(3)** A plan that has been signed or endorsed by a surveyor or by a council clerk must identify (by the use of words such as “Sheet 1 of 3”, “Sheet 2 of 3” and so on) any additional sheets forming part of the plan.

**(4)** Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.

**Dimensions of plan forms**

**16. (1)** A plan that is set out in accordance with Plan Form 1 must have:

- (a) dimensions of 420 mm x 297 mm (standard A3); and
- (b) a plan-drawing area of 273 mm x 226 mm; and
- (c) an all-round margin of 10 mm.

(2) A plan that is set out in accordance with Plan Form 2 must have:

- (a) dimensions of 594 mm x 420 mm (standard A2); and
- (b) a plan-drawing area of 400 mm x 396 mm; and
- (c) an all-round margin of 10 mm.

(3) A plan that is set out in accordance with Plan Form 3 must have:

- (a) dimensions of 594 mm x 420 mm (standard A2); and
- (b) a plan-drawing area of 490 mm x 400 mm; and
- (c) an all-round margin of 10 mm.

#### **Other plan forms may be permitted**

**17.** If it is not practicable for a plan to be set out in accordance with Plan Form 1, 2 or 3, the plan may, if the Registrar-General permits, be prepared on another plan form in accordance with such requirements as the Registrar-General may impose.

#### **Other information on plans**

**18. (1)** Within the plan-drawing area of a plan there is to appear no information other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan.

**(2)** The following matters must be shown in the relevant spaces of the information panels of a deposited plan in a plan form:

- (a) the purpose of the deposited plan and a short description of the land comprised in it, related to the subdivision of which the land forms part;
- (b) the local government area, town or other locality, parish and county;
- (c) certificates, signatures, seals and other information.

**(3)** Any signature or seal that cannot satisfactorily be shown on the plan form may be shown on an additional sheet that is in the form of:

- (a) Plan Form 1, if the first sheet of the plan is in Plan Form 1; or
- (b) Plan Form 3, if the first sheet of the plan is in Plan Form 2.

**(4)** No printing, writing or information (other than Departmental directions) is to appear in or extend into the margins of a plan.

#### **Deposited plans to comply with Schedule 4 requirements**

**19.** A deposited plan must comply with the requirements set out in Schedule 4.

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**Particulars on a deposited plan which is a plan of survey**

**20.** (1) A deposited plan which comprises a plan of survey must comply with the Survey Practice Regulation 1990 and must also contain the following particulars:

- (a) references to any marks of former surveys used, or in respect of which connections are shown, and the recorded numbers of the plans of those surveys;
- (b) the widths of all roads indicated in the plan and of their footways and carriageways if defined by alignment;
- (c) information sufficient to indicate that the external boundaries have been properly established and do not include any part of adjoining properties or roads;
- (d) the present name of every road shown in the plan.

(2) If the name of a road shown in the plan differs from that shown on the reference maps kept in the office of the Registrar-General, the plan must be accompanied by a letter from the appropriate authority confirming the change of name and the extent of the change.

(3) The Registrar-General is to maintain a series of reference maps in which the locations and, where appropriate, names of roads are identified for the purposes of this clause.

**Particulars on a deposited plan which is not a plan of survey**

**21.** A deposited plan which does not comprise a plan of survey must contain the following particulars:

- (a) sufficient connections to locate each parcel comprised in the plan;
- (b) a statement identifying the source of the information from which the plan has been compiled;
- (c) if the plan has been prepared by a surveyor, the signature of the surveyor;
- (d) the date of preparation of the plan.

**Lodgment of plans**

**22.** (1) A person lodging a plan for registration in the office of the Registrar-General must produce the plan by hand to the proper officer at that office.

(2) The plan must be accompanied by:

- (a) a completed plan lodgment form in the approved form; and
- (b) such particulars of title to the land as the Registrar-General may require; and

- (c) 2 prints of each sheet of the plan (each sheet being a positive reproduction on a light background); and
- (d) the relevant fee set out in Schedule 7.

(3) If a council approval is endorsed on the original plan, at least one print of each sheet of that plan must contain particulars of the approval under an original signature of the council clerk.

#### **Requirements for plan to record replacement of reference marks**

23. (1) A plan prepared for the purpose of recording the replacement of reference marks (placed originally in a survey illustrated in a registered deposited plan) and intended to be lodged at the office of the Registrar-General:

- (a) must be drawn:
  - on the dull side of tracing linen of good quality in a dense black waterproof ink; or
  - on a matt surface of polyester film (having at least one matt surface and a thickness of 0.05–0.15 mm) in a dense black plastic ink; and
- (b) must be set out in accordance with Plan Form 3; and
- (c) must, in the information panel of the plan, show the purpose of the plan and the number of the registered plan to which it relates; and
- (d) must be signed by the surveyor responsible for the survey in the original plan; and
- (e) must be free from blemishes and from creases caused by folding or otherwise.

(2) The plan must be produced by hand to the proper officer at the Registrar-General's office within 2 years of the registration of the original deposited plan.

(3) The plan must be accompanied by:

- (a) a completed plan lodgment form in the approved form; and
- (b) the relevant fee set out in Schedule 7.

(4) The Registrar-General may refuse to accept a plan which, in the Registrar-General's opinion, does not comply with this clause.

**Division 2—Deposited plans creating reserves, easements etc. or dedicating public roads****Indication of site of proposed easement etc.**

**24. (1)** A notation referring to an intention to create an easement, profit à prendre, restriction or positive covenant must not be entered on a deposited plan unless it is intended that it is to be created pursuant to section 88B of the Act.

**(2)** However, a deposited plan may designate the site of a proposed easement that is intended to be created by an instrument of grant or reservation so long as:

- (a) the designation of the site of the proposed easement includes the word “proposed” or an abbreviation of that word; and
- (b) no other statement of the intention to create the easement is entered elsewhere on the plan.

**(3)** The designation of the site of a proposed easement in accordance with subclause (2) is not, for the purposes of section 88B of the Act, taken to indicate in the prescribed manner an intention to create an easement.

**Indication of dedication of public roads or creation of reserves**

**25.** In a deposited plan which, on registration, is intended to dedicate a public road or to create a public reserve or drainage reserve (under section 336, 340D or 340E of the Local Government Act 1919) the statement of intention to dedicate the road or to create the reserve must be legibly printed in dense black waterproof ink or dense black plastic ink.

**Indication of creation of easements etc.**

**26. (1)** In a deposited plan which, on registration, is intended to create an easement, profit à prendre, restriction or positive covenant pursuant to section 88B of the Act:

- (a) a statement of intention to create the easement, profit à prendre, restriction or positive covenant must be legibly printed in dense black waterproof ink or dense black plastic ink in the panel provided on the plan form; and
- (b) the site of an easement must be indicated in the plan-drawing area of the plan form with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan; and
- (c) if an easement is limited in height or depth, the levels of the limits must be related to Australian Height Datum.

(2) A statement of intention referred to in subclause (1) (a) must neither incorporate the text of the easement, profit à prendre, restriction or positive covenant nor specify the lots intended to be benefited and burdened.

(3) The words “right of carriageway”, “right of footway”, “easement to drain water” or “easement to drain sewage” must not appear on the plan unless it is intended that the proposed easement is to be created in the same terms as those set out in the relevant part of Schedule 8 to the Act.

(4) The deposited plan must be accompanied by an instrument (“a section 88B instrument”) that complies with Division 3.

### Division 3—Section 88B instruments

#### Form and content of section 88B instruments

27. (1) A section 88B instrument is to be in Form 5.

(2) Part 1 of the instrument must repeat each statement of intention to create an easement, profit à prendre, restriction or positive covenant in the same form (and, where more than one, in the same order) as set out in the information panel in the plan.

(3) Part 1 of the instrument must contain, after each statement, a schedule setting out the lot numbers of the lots burdened by the easement, profit à prendre, restriction or positive covenant (numbered individually and in numerical sequence) and, opposite the lot number of each lot burdened:

- (a) the numbers of the lots intended to receive the benefit of the easement, profit à prendre, restriction or positive covenant; and
- (b) the name of any road to which any easement, profit à prendre, restriction or positive covenant is to be appurtenant; and
- (c) the name of any body in whose favour any easement in gross or positive covenant without a dominant tenement is to be created; and
- (d) the name of any prescribed authority in whose favour any restriction on the use of land or positive covenant that is of the type that may be imposed under section 88E of the Act is to be created.

(4) If each lot in a plan is intended to be burdened by an easement, profit à prendre, restriction or positive covenant the benefit of which is intended to be received by every other lot in the plan, it is sufficient if the words “each lot” and “every other lot”, or words to the same effect, are respectively noted in the schedule.

**(5)** Part 2 of the instrument is to set out (in the same order as the statements on the plan and in Part 1 of the instrument) the text of each easement, profit à prendre, restriction or positive covenant referred to in those statements.

**(6)** An entry is not to be made in Part 2 of the instrument in respect of a statement which is in the form of the words “right of carriageway”, “right of footway”, “easement to drain water” or “easement to drain sewage” unless it is intended that the meaning attributed to the expression concerned in the relevant part of Schedule 8 to the Act is to be modified by the instrument.

### **Section 88B instruments to comply with Schedule 5 requirements**

**28.** A section 88B instrument must comply with the requirements set out in Schedule 5.

### **Refusal to accept section 88B instruments**

**29.** The Registrar-General may refuse to accept a section 88B instrument which, in the Registrar-General’s opinion, does not comply with this Division.

### **Registration of section 88B instruments**

**30.** On registration of a deposited plan that is accompanied by a section 88B instrument, the section 88B instrument is, if accepted, to be registered in the Register of Plans.

## **PART 4—SEARCHES**

### **Official searches**

**31. (1)** A requisition for an official search of old system title land or a request for an office copy of a certificate of the result of such a search must be made on an approved form.

**(2)** A requisition is to be limited to a single chain of title.

**(3)** The relevant fee set out in Schedule 7 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.

**(4)** If a requisition is withdrawn after commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.

**(5)** The Registrar-General may require an interim payment of fees before completion of a search.

### **Public searches**

**32.** For the purposes of section 199 of the Act:

- (a) the prescribed times at which information in registers kept under the Act is to be made available are 8.30 a.m. to 4.00 p.m. each day (other than a Saturday, Sunday or public holiday) or such other times as the Registrar-General directs; and
- (b) the prescribed manner in which such information is to be made available in response to a requisition requiring dispatch of information by post, facsimile or other means approved by the Registrar-General is by the Registrar-General furnishing a copy of the information; and
- (c) the prescribed fee is the relevant fee set out in Schedule 7.

## **PART 5—FEES**

### **Fees payable to the Registrar-General**

**33. (1)** The fees specified opposite the matters listed in Schedule 7 are payable to the Registrar-General in respect of those matters.

**(2)** A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

### **Fee payable to a prescribed authority for a certificate under s. 88G of the Act**

**34.** For the purposes of section 88G (3) of the Act, the fee payable to a prescribed authority for a certificate under that section is:

- (a) \$10; or
- (b) if the authority has inspected the relevant land for the purpose of issuing the certificate—\$35.

## **PART 6—MISCELLANEOUS**

### **Vacation of registrations**

**35.** For the purposes of section 200 (2) of the Act, the prescribed form of application for vacation of a registration is Form 4.

**Appointment of receiver by a mortgagee**

**36.** An appointment of a receiver by a mortgagee under section 109 (1) (c) of the Act is not to be registered in the General Register of Deeds unless it is in Form 6.

**Compliance with covenants to produce documents**

**37. (1)** A document that is deposited with the Registrar-General under section 64 of the Act for the purpose of complying with a covenant or undertaking to produce documents must be accompanied by a notice to that effect.

**(2)** The notice must be in the approved form, must be lodged in duplicate and its particulars must be typewritten.

**Prescribed witnesses to deeds**

**38.** For the purposes of section 38 (1A) (c) of the Act, a prescribed witness is:

- (a) in the case of a deed that is signed within New South Wales, any person of a class referred to in Part 1 of Schedule 6; or
- (b) in the case of a deed that is signed within the Commonwealth of Australia or its Territories or within the British Commonwealth, any person of a class referred to in Part 1 or 2 of Schedule 6; or
- (c) in the case of a deed that is signed within a foreign country, any person of a class referred to in Part 3 of Schedule 6.

**Certification of copy of power of attorney**

**39.** For the purposes of section 163A (2) (a) (ii) of the Act, a person of a prescribed class is:

- (a) in the case of a document that is endorsed within New South Wales, any person of a class referred to in Part 1 of Schedule 6; or
- (b) in the case of a document that is endorsed within the Commonwealth of Australia or its Territories or within the British Commonwealth, any person of a class referred to in Part 1 or 2 of Schedule 6; or
- (c) in the case of a document that is endorsed within a foreign country, any person of a class referred to in Part 3 of Schedule 6.

**Attestation of execution of certain powers of attorney**

**40. (1)** For the purpose of attesting an instrument in accordance with section 163F (2) (b) of the Act within Australia, the following persons are prescribed persons:

- (a) a clerk of a local court;
- (b) a barrister or solicitor of a court of any State or Territory of the Commonwealth.

(2) For the purpose of attesting an instrument in accordance with section 163F (2) (b) of the Act in a country outside Australia, the following persons are prescribed persons:

- (a) a clerk of a local court;
- (b) a barrister or solicitor of a court of any state or Territory of the Commonwealth;
- (c) a legal practitioner duly qualified in that country, instructed and employed independently of any legal practitioner appointed under the instrument;
- (d) an Australian or a British Consular Officer exercising consular functions in that country.

(3) A person is not a prescribed person for the purposes of section 163F (2) (b) of the Act if the person is:

- (a) a solicitor acting for, or employed in the legal practice of, a solicitor appointed as an attorney under the instrument; or
- (b) a solicitor who is a member of a partnership which carries on a legal practice and of which an attorney under the instrument is a member.

**Imposition of restrictions etc. on certain land vested in public authorities**

**41.** For the purposes of paragraph (c) of the definition of “prescribed authority” in section 88D (1) of the Act, the Commonwealth Defence Housing Authority is a prescribed authority.

**Repeal**

**42.** The Conveyancing Act Regulations 1961 are repealed.

**Transitional**

**43. (1)** An instrument or plan which does not comply with the requirements of this Regulation but which complies with:

- (a) the Conveyancing Act Regulations 1961; or
- (b) the Bills of Sale Regulation,

as in force immediately before the commencement of this Regulation is to be accepted for registration by the Registrar-General during the period ending 6 months after that commencement.

(2) This clause does not require the Registrar-General to accept any instrument or plan which is not accompanied by the certificate referred to in section 184D (3) of the Act in accordance with the requirements of this Regulation.

## **SCHEDULE 1—FORMS**

### Form 1

(Cl. 5)

APPLICATION FOR REGISTRATION OF A WRIT, ORDER ETC. AFFECTING  
LAND

(Conveyancing Act 1919, sections 186 and 187)

(Signature)

Date: .....

## NOTES:

1. Insert name and address of applicant.
2. Insert date and nature of writ or order, title of proceedings and other necessary particulars.
3. Insert name and address of person in respect of whose land the application is lodged.
4. Complete if particulars are available.

**Form 2**

(Cl. 5)

**APPLICATION FOR RENEWAL OF REGISTRATION**

(Conveyancing Act 1919, section 186)

I, .....<sup>1</sup>  
apply for the renewal of the registration of .....<sup>2</sup>  
in the General Register of Deeds affecting land held in the name of .....<sup>3</sup>  
.....  
for a further period of 5 years.

Evidence in support of my right to have the renewal effected is set out below/attached.

.....  
(Signature)

Date: .....

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NOTES:

1. Insert name and address of applicant
2. Insert nature of instrument and its registered number.
3. Insert name and address of person in respect of whose land the original application for registration of the instrument was lodged.

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**Form 3**

(Cl. 6)

NOTICE OF RESUMPTION OF LAND NOT SUBJECT TO THE REAL  
PROPERTY ACT 1900

(Conveyancing Act 1919, section 196A (3) (a))

(Extract from Gazette)

I,.....<sup>1</sup>  
certify that the above matter is a true copy of the notification of resumption published in  
the Government Gazette on ..... at page .....

.....  
(Signature)

Date: .....

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NOTE:

1. Insert name and address of person signing the notice.  
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**Form 4**

(Cll. 12, 35)

## APPLICATION FOR VACATION OF REGISTRATION

(Conveyancing Act 1919, sections 190A and 200)

I, .....<sup>1</sup>  
apply for the vacation of the registration of .....<sup>2</sup>

Evidence in support of my right to have the registration vacated is set out below/attached.

.....

(Signature)

Date: .....

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NOTES:

1. Insert name and address of applicant.
2. Insert nature of instrument and its registration number.

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**Form 5**

(Cl. 27)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, PROFITS A  
PRENDRE, RESTRICTIONS ON THE USE OF LAND AND POSITIVE  
COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B  
OF THE CONVEYANCING ACT 1919

**PART 1**

Plan: Subdivision covered by Council Clerk's  
Certificate No.  
or  
Plan (*Repeat heading of plan.*)  
Reference to title:

Full name and address of owner of the  
land:

Full name and address of mortgagee of  
the land: (*Particulars should be given of any  
mortgagee holding the legal estate.*)

1. Identity of easement, profit à prendre, restriction or positive covenant firstly referred to in the abovementioned plan: (*Brief description in same terms as used in relevant statement in plan.*)

**SCHEDULE OF LOTS, ETC., AFFECTED**

Lots burdened. Lots, roads or Authority benefited.

(*Set out vertically in numerical sequence  
of lot numbers.*)

2. Identity of easement, profit à prendre, restriction or positive covenant secondly referred to in the abovementioned plan:

**SCHEDULE OF LOTS, ETC., AFFECTED**

Lots burdened. Lots, roads or Authority benefited.  
(*Set out vertically in numerical sequence  
of lot numbers.*)

(*Continue above pattern until all easements, profits à prendre, restrictions or positive covenants referred to in the abovementioned plan have been dealt with.*)

**PART 2**

Terms of easement, profit à prendre, restriction or positive covenant ("firstly", or as the case may be) referred to in the abovementioned plan:

*(Continue above pattern until all easements, profits à prendre, restrictions or positive covenants referred to in the abovementioned plan have been dealt with.)*

Name of person empowered to release, vary or modify restriction or positive covenant ("firstly", or as the case may be) referred to in the abovementioned plan:

*(Not required where it is intended that such restriction may only be released, varied or modified by the owners for the time being of all lots benefited, or by order of the Supreme Court.)*

**Form 6**

(Cl. 36)

**APPOINTMENT OF A RECEIVER BY A MORTGAGEE**

(Conveyancing Act 1919, section 109 (1) (c))

I, .....<sup>1</sup>  
 am the mortgagee under mortgage, dated .....<sup>2</sup>  
 and registered in the General Register of Deeds .....<sup>3</sup>  
 given by .....<sup>4</sup>  
 to .....<sup>4</sup>,  
 and am entitled to appoint a receiver under the power conferred by the Conveyancing Act 1919. <sup>5</sup>

In exercise of that power I appoint .....<sup>5</sup>  
 to be the receiver of the rents, profits and income of the property (the particulars of which are set out in the following Schedule) comprised in the mortgage.

I specify the rate of .....<sup>6</sup> per cent of the gross mounat of all money received by the receiver as the rate of commission which the receiver is entitled to retain.

I direct the receiver to insure and keep insured against loss or damage by fire any building, effects or property comprised in the mortgage (whether fixed to the land or not) which are of an insurable nature.<sup>7</sup>

The receiver accepts this appointment.

Dated this ..... day of ..... 19.....

Signed by the Mortgagee in the presence of

.....

(Witness)

Signed by the Receiver in the presence of

.....

(Witness)

#### SCHEDELE

*(insert particulars of mortgaged property)*

*(Note: This appointment must be registered before the person appointed may exercise the powers conferred on a receiver by section 115 of the Conveyancing Act 1919.)*

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#### NOTES:

1. Insert name and address of current mortgagee.
2. Insert registered number of the mortgage.
3. Insert name and address of mortgagor.
4. Insert name and address of original mortgagee.
5. Insert name and address of receiver.
6. The rate must not exceed 5 per cent.
7. Delete statement if not applicable.

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## SCHEDULE 2—PLAN FORMS

## Plan Form 1

(Cl 15, 18)

| PLAN FORM 1   |  | Plan Drawing only to appear in this space           |  | * OFFICE USE ONLY   |            |
|---|--|---|--|---|------------|
| SIGNATURES, SEALS AND STATEMENTS<br>of intention to dedicate public roads,<br>to create public reserves, drainage<br>reserves, easements, restrictions on<br>the use of land or positive covenants. |  | 13mm  |  | Registered:<br>C.A.:<br>Title System:<br>Purpose:<br>Ref. Map:<br>Last Plan:                                | 8mm<br>8mm |
| 156mm   |  | 226mm   |  | PLAN  | 80mm       |
| 94mm  |  | 50mm  |  | Reduction Ratio 1 :<br>Lengths are in metres.   | 4mm        |
| 156mm   |  | 226mm   |  | Mun. / State<br>City<br>Locality:<br>Parish:<br>County:<br>Plans used in preparation of survey/compilation. | 60mm       |
| CROWN LANDS OFFICE APPROVAL<br>(where necessary)  |  | 3mm   |  | SURVEYOR'S CERTIFICATE<br>(where necessary)   | 4mm        |
| COUNCIL CLERK'S CERTIFICATE<br>(where necessary)  |  | 90mm  |  | Table of mm   | 4mm        |
| SURVEYOR'S REFERENCE:   |  | WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION |  |   |            |

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## Plan Form 2

(Cl. 15)

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## Plan Form 3

(Cl. 15, 18, 23)

|  |      |  |      |  |   |
|--|------|--|------|--|---|
| Plan Form 3 To be used in conjunction with Plan Form 2 |      | WARNING: CREEPING OR FOLDING WILL LEAD TO REJECTION                  |      | OFFICE USE ONLY                              |   |
| 3mm  | 12mm | 4  | 12mm | 4  | 4 |
| Registered:  |      | This is sheet of my plan in sheets                                   |      | dated  |   |
| 35mm   |      | Surveyor registered under Surveyors Act 1979                         |      | Surveyor registered under Surveyors Act 1979 |   |
| 15mm   |      | This is sheet of the plan of sheets covered by my Certificate No. of |      | Council Clerk                                |   |
| 190mm  |      | For use where space is insufficient in any panel on Plan Form 2.     |      | 10mm   |   |
| 285mm  |      | 10mm   |      | 10mm   |   |
| 190mm  |      | 10mm   |      | 10mm   |   |
| 10mm   |      | 10mm   |      | 10mm   |   |
| Plan Drawing only to appear in this space              |      |  |      |  |   |
| SURVEYOR'S REFERENCE:                                  |      |  |      |  |   |

**SCHEDULE 3—REQUIREMENTS FOR INSTRUMENTS GENERALLY**

(Cll. 9, 10)

- (1) The text must be clearly printed or written:
  - (a) across the width of each sheet of paper used; and
  - (b) unless the Registrar-General otherwise permits, on each side of each sheet.
- (2) The sheets used must have clear margins:
  - (a) on the face of the first sheet—of not less than 25 mm (at the top) and 10 mm (on the left-hand and right-hand sides and at the bottom); and
  - (b) on the reverse side of the first sheet and on both sides of each subsequent sheet—of not less than 10 mm (on the left-hand and right-hand sides and at the top and bottom).
- (3) The paper used must be:
  - (a) white and free from discolouration and blemishes; and
  - (b) of not less substance than 105 grams per square metre or, in the case of an annexure where only one side of the paper is used, of not less substance than 80 grams per square metre; and
  - (c) of not less bursting strength than 240 kPa; and
  - (d) 297 mm in length by 210 mm in width (standard A4), or such other paper as is approved by the Registrar-General.
- (4) Typewriting or printing may be used if it is at least 10 point (1.8 mm) in size and is clear and legible and in dense black ink or dense dark blue ink. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread or are liable to mark or damage an adjacent sheet, will not be accepted.
- (5) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.
- (6) Typewriting, printing, writing or seals must not extend into a margin.
- (7) Typewriting, printing, writing or signatures must not extend into any seal.
- (8) In the top margin on the face of the first sheet of a registration copy there must be printed or written the nature of the original instrument and a note of the stamp duty, if any, appearing on it.
- (9) Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid.
- (10) Signatures or initials noticing alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.
- (11) The instrument must be flat and free from creases caused by folding or otherwise.
- (12) If a registration copy is made by a photographic or similar process approved by the Registrar-General, the image in the copy must be dense black, permanent, legible and free from excessive background. The process must not affect the quality and permanence of the paper.
- (13) A part of a lot must not be shown on a plan or diagram unless the whole of the lot is shown on another part of the plan or diagram, whether or not on the same sheet.

**SCHEDULE 4—REQUIREMENTS FOR DEPOSITED PLANS ETC.**

(Cl. 19)

- (1) The plan must be drawn:
  - (a) in dense black waterproof ink on the dull side of tracing linen; or
  - (b) in dense black plastic ink on a matt surface of polyester film, without colour or edging.
- (2) Each sheet of the plan must be free from blemishes and from creases caused by folding or otherwise.
- (3) All words, letters, figures and symbols appearing on the plan must (except as the Registrar-General otherwise approves):
  - (a) be shown in capital letters (except as provided in paragraph (9)); and
  - (b) be open in formation and construction; and
  - (c) be drawn in an upright style.
- (4) Each sheet must contain a north point (directed upwards) and the meridian to which it relates.
- (5) All parcels of land in the plan (including parcels intended for public reserves and drainage reserves, but excluding roads) must be numbered consecutively in strict numerical sequence.
- (6) Parcels must not be identified by reference to a “section” or “block”.
- (7) The complete dimensions (including area) of each parcel must be shown.
- (8) All areas:
  - (a) of less than one hectare—must be expressed in square metres;
  - (b) of not less than one hectare but less than 10,000 hectares—must be expressed in hectares;
  - (c) of 10,000 hectares or more—must be expressed in square kilometres, and not in any other unit of measurement of area (whether or not related to the square metre, hectare or square kilometre, as the case may be).
- (9) The expression of an area must be accompanied by the following symbols:
 

m<sup>2</sup> (for square metres);  
ha (for hectares);  
km<sup>2</sup> (for square kilometres).
- (10) All lengths must be expressed in metres and not in any other unit of measurement of length (whether or not related to the metre), without the use of any symbol or abbreviation to represent the metre as the unit of measurement employed.
- (11) There must be a statement on each sheet of the reduction ratio at which the plan is drawn.
- (12) The reduction ratio must be one of the following ratios (or multiples of powers of 10 of those ratios):

|         |         |         |
|---------|---------|---------|
| 1 : 50  | 1 : 200 | 1 : 600 |
| 1 : 100 | 1 : 250 | 1 : 800 |
| 1 : 125 | 1 : 300 | 1 : 900 |
| 1 : 150 | 1 : 400 |         |

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- (13) If Plan Form 1 is used the plan must be drawn at a reduction ratio which will admit of all details and notations being clearly reproduced by photographic process at the same ratio.
- (14) If another plan form is used the plan must be drawn at a reduction ratio which will admit of all details and notations being clearly reproduced by photographic process at double the ratio.
- (15) The identities of all adjoining lands must be shown on the plan.
- (16) The plan must contain sufficient information to define the site of any proposed easement or of any easement intended to be created on registration of the plan, and to indicate the relationship of any easements to the boundaries of any affected parcel.
- (17) The site, nature and origin of any existing easement affecting a parcel in the plan, and its relationship to the boundaries of that parcel, must be shown. Origin of any existing easement means the registration number of the instrument or plan, or to the Government Gazette, by which the easement was granted, reserved, notified or otherwise created.
- (18) A part of a lot must not be shown on a plan unless the whole of the lot is shown on another part of the plan, whether or not on the same sheet.
- (19) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the deposited plan the approximate position of the easement.

**SCHEDULE 5—REQUIREMENTS FOR SECTION 88B INSTRUMENTS**

(Cl. 28)

- (1) The text of a section 88B instrument must be clearly printed or written:
  - (a) across the width of each sheet of paper used; and
  - (b) unless the Registrar-General otherwise permits, on each side of each sheet.
- (2) The sheets used must have clear margins:
  - (a) on the face of the first sheet—of not less than 35 mm (on left-hand side), 10mm (on the right-hand side), 25mm (at the top) and 10 mm (at the bottom); and
  - (b) on the face of each subsequent sheet—of not less than 35 mm (on the left-hand side) and 10 mm (on the right-hand side and at the top and bottom); and
  - (c) on the reverse side of the fit sheet and of each subsequent sheet—of not less than 35 mm (on the right-hand side) and 10 mm (on the left-hand side and at the top and bottom).
- (3) The paper used must be:
  - (a) white and free from discolouration and blemishes; and
  - (b) of not less substance than 105 grams per square metre; and
  - (c) of not less bursting strength than 240 kPa; and
  - (d) 353 mm in length by 250 mm in width (standard B4)

or such other paper as is approved by the Registrar-General.

- (4) Typewriting may be used if dense black ink or dense dark blue ink is used and the lines do not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.
- (5) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink
- (6) Typewriting, printing, writing or seals must not extend into a margin.
- (7) Alterations must be made by striking through the matter intended to be altered and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid
- (8) Signatures or initials noticing alterations by interlineation or the striking through of matter must be placed in the margin as near as practicable to the alteration.
- (9) The final sheet must bear:
  - (a) the attested signatures of the persons who appear to the Registrar-General to be the owners, mortgagees, incumbrancees or covenant chargees of the land over which the easement, or in respect of which the restriction, covenant or profit à prendre, is intended to be created; and
  - (b) the capacity in which each signatory has signed.
- (10) If the instrument comprises more than one sheet:
  - (a) each sheet other than the first sheet and the final sheet must repeat the heading on the first sheet and the plan identification appearing in Part 1 of the instrument; and
  - (b) each sheet other than the final sheet must be signed by an attesting witness to the final sheet.

#### **SCHEDULE 6—PRESCRIBED WITNESSES FOR DEEDS ETC.**

(Cll. 38, 39)

##### **Part 1**

accountant  
 bank manager  
 barrister  
 chancellor, deputy chancellor or dean of a faculty of a university  
 clerk of a local court  
 commissioned officer in the defence forces of the Commonwealth of Australia  
 commissioner for taking affidavits  
 dentist  
 judge  
 justice of the peace  
 licensed conveyancer  
 magistrate  
 mayor or president of any local government council  
 medical practitioner  
 member of parliament of the Commonwealth or of a State or Territory

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member of the police force of the Commonwealth or of a State or Territory  
 minister of religion  
 notary public  
 pharmacist  
 postal manager of a post office  
 principal or deputy principal of a school or college  
 registered surveyor  
 solicitor  
 stockbroker  
 town or shire clerk or other executive officer administering local government  
 veterinary surgeon

**Part 2**

Australian or British Consular Officer exercising functions in the place where the document is executed or witnessed  
 Governor, Government Resident, Chief Secretary or Registrar of Titles holding office in the place where the document is executed or witnessed

**Part 3**

Australian or British Consular Officer exercising functions in country where the document is executed or witnessed  
 commissioned officer in the defence forces of the Commonwealth of Australia  
 commissioner for taking affidavits  
 judge  
 justice of the peace  
 magistrate  
 mayor or other chief officer of any local government corporation  
 medical practitioner  
 officer in charge of a police station  
 notary public  
 town or shire clerk or other executive officer administering local government

**SCHEDULE 7—FEES**

(Cl. 33)

| <b>Registration in the General Register of Deeds</b>   | <b>\$</b> |
|--|-----------|
| 1. For each registration, or renewal or vacation of registration, of any writ, order or legal proceeding made under Division 2 of Part 23 of the Act .....   | 15.00     |
| 2. For each registration of a crop or wool lien or a stock mortgage, or any other instrument relating to such liens or mortgages, made under the Liens on crops and Wool and Stock Mortgages Act 1898..... | 15.00     |

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|    |   |       |
|----|---|-------|
| 3. | For each registration of a bill of sale, or any other instrument relating to a bill of sale, made under the Bills of Sale Act 1898  | 15.00 |
| 4. | For removal of a caveat in relation to a bill of sale .....   | 15.00 |
| 5. | For registration under Division 5 of Part 6 of the Act of a memorandum containing provisions which are capable of being covenants that may be included in a bill of sale, crop or wool lien or stock mortgage ..... | 15.00 |
| 6. | For recording or registering any instrument not otherwise provided for in this Schedule .....   | 50.00 |
| 7. | On request for preparation of a registration copy of an instrument or part of an instrument .....   | 18.00 |
|    | In addition, for preparation of the copy—such reasonable fee (determined by the Registrar-General) as is warranted by the work involved.  |       |

**Copies**

|     |  |        |
|-----|--|--------|
| 8.  | For supplying a copy of a document or part of a document available from the Departmental Copy Services (other than a certified copy or a copy supplied in response to a telephone request) .....   | 3.80   |
|     | In addition, in the case of a document containing 20 or more pages, or if an application is made for multiple copies of a document containing 10 or more pages, such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in preparing the copy or copies.  |        |
| 9.  | On lodgment of an application for a certified copy of a document or part of a document in the custody of the Registrar-General<br>In addition:   | 50.00  |
|     | (a) if an application is received by post and:   |        |
|     | (i) no more than 20 documents are to be copied ...   | 8.50   |
|     | (ii) more than 20 documents are to be copied—for the first 100 documents or any part of that number  | 17.00) |
|     | (iii) more than 100 documents are to be copied—for each 100 documents or any part of that number after the first 100 documents .....   | 17.00  |
|     | (b) if a copy is prepared by a photocopying process—such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy   |        |
| 10. | In the case of a requisition for a copy available from the Departmental Copy Services which, in the opinion of the Registrar-General, is a request for a copy for which the above scale of fees is not appropriate, such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in providing the copy. |        |
| 11. | On lodgment of an application for a copy of a document in the custody of the Registrar-General other than a certified copy or a copy available from the Departmental Copy Services, such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy.  |        |

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|     |   |       |
|-----|---|-------|
| 12. | For supplying a copy (other than a certified copy) of a document in response to a telephone or facsimile request .....            | 17.00 |
|     | In addition, for a copy of each additional document required ...  | 3.80  |
|     | In addition, for supplying documents by facsimile transmission in response to a telephone request, for each sheet in excess of 1: |       |
|     | (a) within the Sydney telephone area covered by the 02 code   | 1.00  |
|     | (b) outside the Sydney telephone area but within New South Wales .....  | 1.20  |
|     | (c) outside New South Wales .....   | 2.00  |

**Official Searches (Old System Title)**

|     |  |       |
|-----|--|-------|
| 13. | On requisition for a search, or continuation of a search, from date of prior certificate of result of search (including office copy certificate of result of search or continuation of search) ..... | 53.00 |
|     | In addition, for each half-hour or part of a half-hour occupied in the search or continuation of search after the first hour .....   | 26.00 |
| 14. | On request for a copy of an Official Search .....  | 42.00 |

**Search for Writs, Orders or Legal Proceedings**

|     |  |       |
|-----|--|-------|
| 15. | For a search against each name (other than a search in response to a telephone request) .....  | 3.80  |
| 16. | For a search in response to a telephone request, in respect of a search for 1 or 2 names ..... | 17.00 |
|     | For a search of each additional name in excess of 2 .....                                      | 3.80  |

**Plans**

|     |  |        |
|-----|--|--------|
| 17. | On lodgment for registration or recording of a plan .....  | 360.00 |
|     | In addition, for each lot, allotment or portion shown or separately defined in the plan .....  | 50.00  |
|     | And, if the plan is accompanied by a section 88B instrument in which only 1 easement, restriction on the use of land, positive covenant or profit à prendre is identified, irrespective of the number of lots burdened or benefited, an additional ..... | 50.00  |
|     | And, if the plan is accompanied by a section 88B instrument in which the combined number of easements, restrictions on the use of land, positive covenants or profits à prendre is 2 or more, an additional .....  | 10.00  |
| 18. | For investigating a plan before lodgment .....   | 360.00 |
|     | In addition, for each half-hour or part of a half-hour in excess of the first 4 hours occupied in the investigation .....  | 26.00  |
| 19. | For preparation and supply of a plan .....   | 80.00  |
|     | In addition, for each half-hour or part of a half-hour in excess of the first hour occupied in the preparation .....   | 26.00  |
| 20. | On lodgment of an application for revival of a plan previously rejected or withdrawn—such fee as would be appropriate to the plan as a new lodgment.   |        |
| 21. | On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan .....   | 50.00  |

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|     |   |       |
|-----|---|-------|
| 22. | On lodgment of a section 88B instrument in substitution for another such instrument or part—such fee as would be appropriate to the instrument as an original lodgment. |       |
| 23. | On lodgment of an application to amend a plan .....   | 50.00 |

#### Miscellaneous

|     |   |       |
|-----|---|-------|
| 24. | On depositing a document or documents pursuant to section 64 of the Act .....   | 14.00 |
|     | In addition:  |       |
|     | (a) if the deposit is made by post.....   | 8.50  |
|     | (b) for each document in excess of 4 .....  | 3.00  |
| 25. | On application for return of a document or documents deposited pursuant to section 64 of the Act .....  | 14.00 |
|     | In addition:  |       |
|     | (a) if the application is made by post .....  | 8.50  |
|     | (b) for each document in excess of 4 .....  | 3.00  |
| 26. | For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act .....                               | 14.00 |
| 27. | For production of documents at the Office of State Revenue ....   | 16.00 |
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#### NOTE

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SCHEDULE 1—FORMS

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SCHEDULE 6—PRESCRIBED WITNESSES FOR DEEDS ETC.

SCHEDULE 7—FEES

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#### **EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake (with various modifications) the provisions of the Conveyancing Act Regulations 1961. The principal modifications arise from amendments to the Conveyancing Act 1919 to be effected by the commencement (simultaneously with this Regulation) of the Conveyancing (Amendment) Act 1992. The new Regulation contains provisions with respect to the following matters:

- (a) the registration of instruments in the General Register of Deeds (Part 2); and
- (b) the registration of plans with respect to land (Part 3); and
- (c) the conduct of searches of the registers kept under the Conveyancing Act 1919 (Part 4); and
- (d) the payment of fees under that Act (Part 5); and
- (e) other matters of a minor, consequential or ancillary nature (Parts 1 and 6).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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