



New South Wales

# Conveyancing (General) Regulation 1998

under the

## Conveyancing Act 1919

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

RICHARD AMERY, M.P.,

Minister for Agriculture, and  
Minister for Land and Water Conservation

### Explanatory note

The object of this Regulation is to repeal and remake the provisions of the *Conveyancing (General) Regulation 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),
- (b) the registration of plans with respect to land (Part 3),
- (c) the conduct of searches of the registers kept under the *Conveyancing Act 1919* (Part 4),
- (d) the payment of fees under that Act (Part 5),
- (e) other matters of a minor, consequential or ancillary nature.

This Regulation is made under the *Conveyancing Act 1919*, including section 202 (the general regulation-making power).

This Regulation (other than Part 5 and Schedule 6, which deal with fees) relates to matters of a machinery nature.

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

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## Conveyancing (General) Regulation 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Conveyancing (General) Regulation 1998*.

#### 2 Commencement

This Regulation commences on 1 September 1998.

#### 3 Definitions

In this Regulation:

***approved*** means approved for the time being by the Registrar-General.

***deposited plan*** means a plan (other than a strata plan) lodged for registration or recording in the office of the Registrar-General.

***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 and strata plans registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

***section 88B instrument*** means an instrument of a kind that:

- (a) under clause 27, is required to accompany a deposited plan that creates an easement, profit à prendre, restriction or positive covenant, or
- (b) under clause 28, is required to accompany a deposited plan that releases an easement or profit à prendre,

under section 88B of the Act, and includes a section 88B instrument within the meaning of the *Strata Schemes (Freehold Development) Regulation 1997* or the *Strata Schemes (Leasehold Development) Regulation 1997*.

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*strata plan* means a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

*the Act* means the *Conveyancing Act 1919*.

## Part 2 The General Register of Deeds

### 4 Registration of instruments generally

- (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 as set out in Schedule 6, and
  - (d) in the case of an instrument referred to in section 184E (4A), the notice referred to in that section, and
  - (e) a completed statement of the title particulars in the approved form, if required by the Registrar-General.
- (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 document as that on which the bill of sale is written or, if the bill of sale is accompanied by a registration copy that is not a photocopy of the bill of sale, on the same document 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 (3) of that Act, be annexed to or indorsed on the same document as that on which the bill of sale is written, and
  - (c) a photocopy of the bill of sale may be lodged as a registration copy so long as:
    - (i) the affidavit referred to in paragraph (a) appears on the same document as that on which the bill of sale is written, and
    - (ii) the photocopy is of an acceptable standard to the Registrar-General, and
    - (iii) each page of the bill of sale is photocopied on a separate sheet.

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- (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.

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

- (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 the approved form 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 as set out in Schedule 6,
- 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 the approved form accompanied by the relevant fee as set out in Schedule 6.

**6 Registration of notices of resumption etc**

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 the form of Form 1 as set out in Schedule 1 (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:
  - (i) the certificate referred to in section 184D (3) of the Act, and
  - (ii) the relevant fee as set out in Schedule 6, and
  - (iii) in the case of an instrument referred to in section 184E (4A), the notice referred to in that section.



## **7 Production of instrument etc and copy**

- (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 in such manner as may be approved 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.

## **8 Certificate to accompany instrument for registration**

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.

## **9 Instruments to comply with Schedule 2 requirements**

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 2.

## **10 Plans etc to comply with Schedule 2 requirements**

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 items (3), (4), (6), (7) and (9)–(13) of Schedule 2, and

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- (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.

**11 Allocation of distinctive references to instruments**

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.

**12 Vacation of registrations**

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 must:

- (a) be made in the approved form, and
- (b) be accompanied by the relevant fee as set out in Schedule 6.

## **Part 3 Register of plans**

### **Division 1 General**

#### **13 Electronic signatures, seals and certificates**

In this Part, a reference to a signature, seal or certificate means, in respect of a plan that is allowed by the Registrar-General to be lodged electronically, a signature, seal or certificate that is provided in an approved electronic form.

#### **14 Particulars of deposited plans to be recorded**

The Registrar-General is to record in the register of plans particulars of all deposited plans registered or recorded under Division 3 of Part 23 of the Act.

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

- (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.

#### **16 Numbering of parcels**

- (1) All parcels of land (including parcels intended for public reserves and drainage reserves, but excluding public roads) must be numbered consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number.
- (2) Parcels must not be identified by reference to a “section” or “block”.
- (3) The complete dimensions (including area) of each parcel must be shown.
- (4) Each deposited plan must include (if required by the Registrar-General) a table indicating the street address of each parcel shown in the plan.

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

- (1) The following matters must be shown in the relevant spaces of the information panels of a deposited plan:

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- (a) the purpose of the deposited plan and a short description of the land,
  - (b) the local government area, town or other locality, parish and county,
  - (c) certificates, signatures, seals and other information.
- (2) In the case of a plan of subdivision for lease purposes (within the meaning of Division 3B of Part 2 of the Act), the plan must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for lease purposes.

**18 Deposited plans to comply with Schedule 3 requirements**

- (1) A deposited plan that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 3.
- (2) A deposited plan that the Registrar-General permits to be lodged electronically must comply with such requirements as the Registrar-General specifies.

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

- (1) A deposited plan which comprises a plan of survey must comply with the *Surveyors (Practice) Regulation 1996* 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.

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

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.

## **21 Lodgment of plans**

- (1) A person lodging a plan for registration in the office of the Registrar-General must produce the plan at that office in such manner as may be approved.
- (2) The original plan must be accompanied by:
  - (a) a completed plan lodgment form in the approved form, and
  - (b) a completed statement of the title particulars in the approved form, if required by the Registrar-General, and
  - (c) one print of each sheet of the plan (each sheet being a positive reproduction on a light background), and
  - (d) the relevant fee as set out in Schedule 6, and
  - (e) a completed plan checklist in the approved form, if required by the Registrar-General, and
  - (f) such certificates of titles, and such instruments as the Registrar-General may require:
- (3) If a subdivision certificate is endorsed on the original plan, the print of each sheet of that plan must contain particulars of the approval under an original signature of the person who gave that certificate.

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

- (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 must:
  - (a) comply with the requirements set out in clause 1 of Schedule 3, and
  - (b) be set out in accordance with the approved form, and
  - (c) show, in the information panel of the plan, the purpose of the plan and the number of the registered plan to which it relates, and
  - (d) be signed by the surveyor responsible for the survey in the original plan.
- (2) The plan must be produced in such manner as may be approved at the office of the Registrar-General 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 as set out in Schedule 6.
- (4) The Registrar-General may refuse to accept a plan which, in the Registrar-General's opinion, does not comply with this clause.

### 23 Miscellaneous plans: section 195

For the purposes of paragraph (c) of the definition of *miscellaneous plan* in section 195 (1) of the Act, the following matters are prescribed as matters which, if shown on a plan, constitute the plan as a miscellaneous plan:

- (a) matter indicating the site of an easement, profit à prendre, restriction or positive covenant to be created under section 88B of the Act,
- (b) matter indicating the site of an easement or profit à prendre to be released under section 88B of the Act,

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- (c) matter indicating minor adjustments to the boundaries of development lots and association property within the meaning of the *Community Land Development Act 1989* in such a manner as to constitute the plan as a boundary adjustment plan within the meaning of that Act,
  - (d) matter indicating a division of land effected prior to 1 July 1920 by the erection of structures (such as buildings, walls and fences), being matter that states:
    - (i) that the various parts of the land so divided are separately rateable under the *Local Government Act 1993*, and
    - (ii) that the structures that are currently on the land are in the same position as were the structures by which the division of land was effected.

#### 24 Plans of identification: section 195

For the purposes of paragraph (i) of the definition of *plan of identification* in section 195 (1) of the Act, the following plans are plans of identification:

A plan supporting a primary application to bring land under the provisions of the *Real Property Act 1900*, being land in respect of which the applicant claims to have acquired title wholly or partly by adverse possession.

### Division 2 Deposited plans affecting interests in land

#### 25 Indication of site of proposed easement or variation of site of existing easement

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

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- (2) However, a deposited plan may designate the site of a proposed easement, profit à prendre, restriction or positive covenant that is intended to be created (otherwise than by registration of the plan) by an instrument of grant or reservation, or the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation, if:
  - (a) the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant, or of the proposed variation of existing easement or profit à prendre, includes the word “proposed” or an abbreviation of that word, and
  - (b) no other statement of the intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered elsewhere on the plan.
- (3) The designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with subclause (2) does not, for the purposes of section 88B of the Act, indicate in the prescribed manner an intention to create an easement, profit à prendre, restriction or positive covenant.
- (4) A notation referring to the proposed varied site of an existing easement or profit à prendre must not be entered on a deposited plan unless it is intended that the easement or profit à prendre is to be varied pursuant to section 47 (5A) of the *Real Property Act 1900*.

### 26 Indication of dedication of public roads or creation of reserves

In a deposited plan which, on registration, is intended to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*, the statement of intention to dedicate the road or to create the reserve must be legibly printed in the panel provided on the approved form.

### 27 Indication of creation of easements

- (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 the panel provided on the approved form, and
  - (b) the site of an easement must be indicated in the plan-drawing area of the approved 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 as defined in the *Surveyors (Practice) Regulation 1996*.
- (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 deposited plan must be accompanied by an instrument (a *section 88B instrument*) that complies with Division 3.

## **28 Indication of release of easements**

- (1) In a deposited plan which, on registration, is intended to release an easement or profit à prendre (in respect of some or all of the land to which it formerly applied) pursuant to section 88B of the Act:
- (a) a statement of intention to release the easement or profit à prendre must be legibly printed in the panel provided on the plan form, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release.
- (2) The deposited plan must be accompanied by a section 88B instrument that complies with Division 3.

## **Division 3 Section 88B instruments**

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

- (1) A section 88B instrument is to be in the approved form.

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- (2) 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 statement of intention, in the same order) as set out in the information panel in the form.
- (3) The instrument must repeat each statement (if any) of intention to release an easement or profit à prendre in the same form (and, where more than one, in the same order) as set out in the information panel in the form.
- (4) 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.
- (5) The instrument must contain, after each statement, a schedule setting out the lot numbers of the lots burdened by each easement or profit à prendre, if any, proposed to be released and, opposite the lot number of each lot burdened:
  - (a) the number of the lots that receive the benefit of the easement or profit à prendre, and
  - (b) the name of any road to which the easement is appurtenant, and
  - (c) the name of any prescribed authority in whose favour any easement in gross was created.

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- (6) 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.
  - (7) The instrument is to set out the text of each easement, profit à prendre, restriction or positive covenant referred to in the statements on the plan.
  - (8) An entry is not to be made in 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”, “easement to drain sewage”, “easement for repairs”, “easement for batter”, “easement for drainage of sewage”, “easement for drainage of water”, “easement for electricity purposes”, “easement for overhang”, “easement for services”, “easement for water supply”, “easement to permit encroaching structure to remain” or “right of access” unless it is intended that the meaning attributed to the expression concerned in the relevant part of Schedule 4A or Schedule 8 to the Act is to be modified by the instrument.

### **30 Section 88B instruments to comply with Schedule 4 requirements**

- (1) A section 88B instrument that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 4.
- (2) A section 88B instrument that the Registrar-General permits to be lodged electronically must comply with such requirements as the Registrar-General specifies.

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

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

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Division 3

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**32 Registration of section 88B instruments**

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.

**Division 4 Additional provisions with respect to land under the Real Property Act 1900**

**33 Application of Division**

This Division applies to deposited plans with respect to land that is subject to the provisions of the *Real Property Act 1900*.

**34 Deposited plan relating to a limited folio**

A deposited plan which affects land comprised in a limited folio (within the meaning of the *Real Property Act 1900*) must be a plan of survey.

**35 Subdivision or consolidation of part of land in a folio**

- (1) If a proposed subdivision or consolidation of land does not comprise the whole of a parcel of land described in a folio of the Register kept under the *Real Property Act 1900*, the deposited plan of the subdivision or consolidation must show the residue to scale.
- (2) The residue must be numbered as a separate parcel.
- (3) If the boundaries of the residue are extensive, the part of the plan showing the residue may be compiled, and the bearings for the boundaries omitted, unless the Registrar-General otherwise requires.
- (4) This clause does not apply to a deposited plan prepared solely for the purpose of showing the site of a public railway or irrigation channel unless a folio of the Register kept under the *Real Property Act 1900* is to be created for the site.

**36 Alteration of boundaries of strata title common property**

- (1) A deposited plan of subdivision or consolidation lodged for the purpose of altering the external boundaries of common property:
- (a) created under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
  - (b) held by an owners corporation constituted under the relevant Act, and
  - (c) comprised in a folio of the Register kept under the *Real Property Act 1900*,

must show to scale the whole of the common property as it will subsist after the alteration.

- (2) The common property must be numbered as a separate parcel in the plan.

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Part 4            Searches

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**Part 4      Searches**

**37   Official searches**

- (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 as set out in Schedule 6 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.

**38   Public searches**

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 am to 4.30 pm 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 approved means is by the Registrar-General furnishing a copy of the information, and
- (c) the prescribed fee is the relevant fee as set out in Schedule 6.

## **Part 5 Fees**

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

- (1) The fees specified opposite the matters listed in Schedule 6 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.

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

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.

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Part 6                Miscellaneous

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## **Part 6        Miscellaneous**

### **41    Vacation of registrations**

For the purposes of section 200 (2) of the Act, the prescribed form of application for vacation of a registration is the form of Form 2 as set out in Schedule 1.

### **42    Appointment of receiver by a mortgagee**

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 the approved form.

### **43    Compliance with covenants to produce documents**

- (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 not be handwritten.

### **44    Prescribed witnesses to deeds**

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 Australia, any person of a class referred to in Part 1 of Schedule 5, or
- (b) in the case of a deed that is signed within a foreign country, any person of a class referred to in Part 2 of Schedule 5.

### **45    Certification of copy of power of attorney**

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 Australia, any person of a class referred to in Part 1 of Schedule 5, or



- (b) in the case of a document that is endorsed within a foreign country, any person of a class referred to in Part 2 of Schedule 5.

#### **46 Attestation of execution of certain powers of attorney**

- (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 as an attorney 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.

#### **47 Easements in gross**

- (1) For the purposes of section 88A of the Act, each of the following corporations is a prescribed authority:
  - (a) Hunter Water Corporation Limited,
  - (b) Sydney Water Corporation Limited,

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- (c) an irrigation corporation within the meaning of the *Irrigation Corporations Act 1994*,
  - (d) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
  - (e) Rail Access Corporation.
- (2) For the purposes of section 88A of the Act, a permittee or licensee is a prescribed authority, but only in respect of easements for the purpose of the construction and use of pipelines, for any purpose incidental to any such purpose and for the purpose of access to pipelines or to apparatus or works. Expressions used in this subclause have the same meanings they have in the *Pipelines Act 1967*.

**48 Imposition of restrictions or public positive covenants on certain land vested in public authorities**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88D (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Commonwealth Defence Housing Authority,
- (c) Hunter Water Corporation Limited,
- (d) Sydney Water Corporation Limited,
- (e) Rail Access Corporation.

**49 Regulation of use of land not held by a prescribed authority**

For the purposes of paragraph (c) of the definition of *prescribed authority* in section 88E (1) of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Hunter Water Corporation Limited,
- (c) Sydney Water Corporation Limited,
- (d) Rail Access Corporation.

**50 Repeal**

- (1) The *Conveyancing (General) Regulation 1992* is repealed.

- (2) Any act, matter or thing that had effect under the *Conveyancing (General) Regulation 1992* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

**51 Transitional provision consequent on enactment of Environmental Planning and Assessment Amendment Act 1997**

- (1) This clause applies to:
- (a) any plan of subdivision certified in accordance with section 327 (1) (d) or (2) (b) of the repealed Act, regardless of when the plan is certified or lodged with the Registrar-General for registration under the Act, and
  - (b) any plan of the division of land (other than a plan of subdivision) lodged with the Registrar-General for registration under the Act before the appointed day.

- (2) The provisions of:

- (a) Division 3 of Part 23 of the Act, and
- (b) the *Conveyancing (General) Regulation 1992*,

as in force immediately before the appointed day apply to and in respect of a plan to which this clause applies as if the 1997 amending Act had not been enacted and the 1998 amending Regulation had not been made.

- (3) In this clause:

***appointed day*** means the day appointed under section 2 of the 1997 amending Act for the commencement of that Act.

***plan of subdivision*** has the same meaning as it had in section 327AA of the repealed Act.

***repealed Act*** means the *Local Government Act 1919*.

***the 1997 amending Act*** means the *Environmental Planning and Assessment Amendment Act 1997*.

***the 1998 amending Regulation*** means the *Conveyancing (General) Amendment Regulation 1998*.

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Schedule 1      Forms

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## **Schedule 1    Forms**

### **Form 1**

(Clause 6)

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

Conveyancing Act 1919, section 196A (3) (a)  
Conveyancing (General) Regulation 1998, clause 6  
(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: .....

**Notes:**

<sup>1</sup> Insert name and address of person signing the notice.

**Form 2**

(Clause 41)

**APPLICATION FOR VACATION OF REGISTRATION**

Conveyancing Act 1919, section 200

Conveyancing (General) Regulation 1998, clause 41

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: .....

**Notes:**

<sup>1</sup> Insert name and address of applicant.

<sup>2</sup> Insert nature of instrument and its registration number.

## **Schedule 2 Requirements for instruments generally**

(Clauses 9 and 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 one side only of each sheet.
- (2) The sheets used must have clear margins:
  - (a) on 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 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) not less than 80 grams per square metre, and
  - (c) 297 mm in length by 210 mm in width (standard A4), or such other paper as may be approved.
- (4) All text must be at least 10 point (1.8 mm) in size and be 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 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. An alteration must be initialled or verified by the parties to the instrument.
  - (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 approved process, 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 3 Requirements for deposited plans etc**

(Clause 18 (1))

### **1 Material on which plan to be drawn**

- (1) Each plan sheet must consist of a polyester film, or some other medium approved by the Registrar-General.
- (2) A plan must be drawn on one side of a plan sheet only, and must be drawn on a matt surface.
- (3) Each plan sheet must be free from blemishes and creases.

### **2 Use of approved forms**

- (1) A deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on one or more (but not more than 3) additional sheets in the approved form.

### **3 Margins**

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

### **4 Lettering**

Unless the Registrar-General otherwise approves, all words, letters, figures and symbols appearing on a plan:

- (a) must be drawn in dense black waterproof ink or dense black plastic ink, and
- (b) must be shown in capital letters (except as otherwise provided by this Schedule), and
- (c) must be open in formation and construction, and
- (d) must be drawn in an upright style.



**5 Use of colouring and edging prohibited**

Neither colouring nor edging are to be used on a plan sheet.

**6 Clarity of detail**

The plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.

**7 Alterations**

- (1) A plan may be altered only by striking through the matter to be altered.
- (2) In particular, a plan may not be altered by the use of liquid paper or by rubbing, scraping or cutting the surface of the plan sheet.
- (3) The Registrar-General may require a plan sheet to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for copying.

**8 Information to be included on plan sheets**

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively, in the form "Sheet ..... of ..... sheets".
- (2) Each plan sheet must contain a north point (directed upwards) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.
- (5) Any signature or seal of a person referred to in section 195D (1) or (2) that cannot satisfactorily be shown on the plan sheet may be shown on an additional plan sheet.

### **9 Linear dimensions**

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

### **10 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10 000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".
- (2) The total area of a parcel:
  - (a) must be shown within or relevant to the most significant part of the parcel, and
  - (b) must be the exact mathematical total of the areas shown elsewhere in the plan within or relevant to the component parts of that parcel.

### **11 Reduction ratio**

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

### **12 Identificatio of adjoining lands**

The identities of all adjoining lands must be shown.

### **13 Identification of easements**

- (1) A plan must contain sufficient information to define the site of
  - (a) any easement intended to be created as a consequence of the registration of the plan, and

- 
- (b) any easement intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement, or proposed variation or partial release of an easement, other than an easement referred to in paragraph (a) or (b),

and, where necessary, must also contain sufficient information to indicate the relationship of any such easement to the boundaries of any affected parcel or lot.

- (2) The site, nature and origin of any existing easement affecting a parcel or lot in a plan, and its relationship to the boundaries of that parcel or lot, must be shown wherever possible. *Origin*, in relation to an existing easement, means the Gazette reference or registration number of the instrument or plan by which the easement was granted, reserved, notified or otherwise created.
- (3) 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 plan the approximate position of the easement.

## **Schedule 4 Requirements for section 88B instruments**

(Clause 30(1))

- (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 one side only of each sheet.
- (2) The sheets used must have clear margins:
  - (a) on the first sheet—of not less than 10 mm (on the left-hand side), 10 mm (on the right-hand side), 25 mm (at the top) and 10 mm (at the bottom), and
  - (b) on each subsequent sheet—of not less than 10 mm (on the left-hand side) and 10 mm (on the right-hand side and at the top and bottom).
- (3) The paper used must be:
  - (a) white and free from discolouration and blemishes, and
  - (b) not less than 80 grams per square metre, and
  - (c) 297 mm in length by 210 mm in width (standard A4), or such other paper as may be approved.
- (4) All text must be at least 10 point (1.8 mm) in size and be 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) 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. An alteration must be initialled or verified by the parties to the instrument.
  - (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, 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 attested signatures of the persons who appear to the Registrar-General to be the owners, mortgagees, or covenant chargees of the land which has the benefit of the easement which is intended to be varied or released, and
    - (c) 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, and
    - (c) each sheet must be numbered sequentially in the top right hand corner of each sheet as “Sheet ..... of ..... sheets”.

## Schedule 5 Prescribed witnesses to deeds

(Clauses 44 and 45)

### 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 general manager of any local government council

medical practitioner

member of parliament of the Commonwealth or of a State or Territory

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

veterinary surgeon

## **Part 2**

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

legal practitioner

magistrate

mayor or general manager of any local government corporation

medical practitioner

officer in charge of a police station

notary public

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Schedule 6 Fees

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**Schedule 6 Fees**

(Clause 39)

**Registration in the General Register of Deeds**

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	\$20.00
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 <i>Liens on Crops and Wool and Stock Mortgages Act 1898</i>	\$20.00
3	For each registration of a bill of sale, or any other instrument relating to a bill of sale, made under the <i>Bills of Sale Act 1898</i>	\$20.00
4	For removal of a caveat in relation to a bill of sale	\$20.00
5	For registration under Division 5 of Part 6 of the Act of a memorandum containing provisions that are capable of being covenants that may be included in a bill of sale, crop or wool lien or stock mortgage	\$20.00
6	For recording or registering any instrument not otherwise provided for in this Schedule	\$56.00
7	On request for preparation of a registration copy of an instrument or part of an instrument	\$3.90 for up to 4 pages, and then \$3.90 for each additional 4 pages or part thereof.

In addition, for preparation of the copy—such reasonable fee (determined by the Registrar-General) as is warranted by the work involved.



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**Copies**

- |    |   |         |
|----|---|---------|
| 8  | For supplying a copy of a document or part of a document available from the Document Copy Service (other than a certified copy, a copy supplied in response to a telephone request or a copy relating to land the subject of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> ) | \$3.90  |
|    | 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  | For supplying a copy, available from the Document Copy Service:   |         |
|    | (a) of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>   | \$3.90  |
|    | (b) of a management statement relating to such a plan   | \$3.90  |
|    | (c) of a development contract relating to such a plan   | \$3.90  |
|    | (d) of annexure to such a plan, statement or contract   | \$3.90  |
| 10 | On lodgment of an application for a certified copy of a document or part of a document in the custody of the Registrar-General  | \$56.00 |
|    | In addition:  |         |
|    | (a) if an application is received by post and:  |         |
|    | (i) no more than 20 documents are to be copied  | \$10.00 |
|    | (ii) more than 20 documents are to be copied—for the first 100 documents or any part of that number   | \$20.00 |
|    | (iii) more than 100 documents are to be copied—for each 100 documents or any part of that number after the first 100 documents  | \$20.00 |

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Schedule 6 Fees

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- (b) if a copy is prepared by a photo-copying process—such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy.
- 11 In the case of a requisition for a copy available from the Document Copy Service that, 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.
- 12 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 Document Copy Service, such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy.
- 13 For supplying a copy (other than a certified copy) of a document in response to a telephone or facsimile request \$20.00
- In addition, for a copy of each additional document required \$3.90
- In addition, for supplying documents by facsimile transmission in response to a telephone request, for each sheet in excess of 1 \$1.00

**Official searches (General Register of Deeds)**

- 14 On requisition for a search, or the continuation of a search, from the date of the prior certificate of result of the search (including the office copy certificate of the result of a search or the continuation of the search) \$56.00
- In addition, for each half-hour or part of a half-hour occupied in the search or continuation of the search after the first hour \$28.00
- 15 On request for a copy of an official search \$56.00

## Conveyancing (General) Regulation 1998

## Fees

## Schedule 6

**Search for writs, orders or legal proceedings**

16	For a search against each name (other than a search in response to a telephone request)	\$3.90
17	For a search in response to a telephone request, in respect of a search for 1 or 2 names	\$20.00
	For a search of each additional name in excess of 2	\$3.90

**Plans**

18	On lodgment for registration or recording of a plan, other than a plan prepared solely for the purpose of placing survey information on public record	\$545.00
	In addition for each hour or part of an hour in excess of the first 4 hours occupied in examination of the plan	\$56.00
	In the case of land the subject of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> :	
	(a) for each additional sheet in excess of 4	\$56.00
	(b) for the management statement accompanying the community, neighbourhood or precinct plan, including any associated plans or sketches	\$112.00
	(c) for any development contract accompanying the community, precinct or neighbourhood plan	\$112.00
	In addition, for each lot, allotment or portion shown or separately defined on the plan	\$56.00
	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 to be created, irrespective of the number of lots burdened or benefited, an additional	\$56.00
	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 to be created is 2 or more, an additional	\$112.00

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## Conveyancing (General) Regulation 1998

## Schedule 6 Fees

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	And, if the plan is accompanied by a section 88B instrument in which only 1 easement or profit à prendre is to be released, irrespective of the number of lots burdened or benefited, an additional	\$56.00
	And if the plan is accompanied by a section 88B instrument in which the number of easements or profits à prendre to be released is 2 or more, an additional	\$112.00
	And, if the plan is lodged for the purpose of consolidating 2 or more folios of the Register kept under the <i>Real Property Act 1900</i> —for each folio of the Register to be consolidated, an additional	\$15.00
	And, if a plan lodged in connection with an application to bring land under the <i>Real Property Act 1900</i> includes land already under that Act and a consolidated folio of the Register kept under that Act is to be created—for each folio to be consolidated, an additional	\$15.00
19	On lodgment of an additional or replacement sheet in conjunction with an application to amend a registered community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	\$56.00
20	For recording a plan prepared solely for the purpose of placing survey information on public record	\$56.00
21	For examining a plan if survey information has been added to an original compiled plan as a result of a requisition	\$56.00
22	For pre-examination of a plan	\$545.00
	In addition, for each hour or part of an hour in excess of the first 4 hours occupied in the examination	\$56.00
23	For preparation and supply of a plan	\$100.00
	In addition, for each hour or part of an hour in excess of the first hour occupied in the preparation	\$56.00
24	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.	
25	On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan	\$56.00

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## Conveyancing (General) Regulation 1998

## Fees

## Schedule 6

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26	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.	
27	On lodgment of an application to amend a plan	\$56.00
	In addition, if the application involves the amendment of a Crown grant, a certificate of title or a folio of the Register kept under the <i>Real Property Act 1900</i> :	
	(a) for the first grant, certificate or folio	\$56.00
	(b) for each subsequent grant, certificate or folio	\$10.00

**Miscellaneous**

28	On depositing a document or documents pursuant to section 64 of the Act	\$20.00
	In addition:	
	(a) if the deposit is made by post	\$9.00
	(b) for each document in excess of 4	\$3.00
29	On application for return of a document or documents deposited pursuant to section 64 of the Act	\$20.00
	In addition:	
	(a) if the application is made by post	\$10.00
	(b) for each document in excess of 4	\$3.00
30	For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act	\$20.00
31	For production of documents at the Office of State Revenue	\$18.00
32	On request for entry of a marginal note evidencing a discrepancy between an original instrument and a registered copy of the instrument	\$56.00