



New South Wales

Real Property Amendment (LPI Authorised Transaction) Regulation 2017

under the

Real Property Act 1900

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Real Property Act 1900*.

VICTOR DOMINELLO, MP
Minister for Finance, Services and Property

Explanatory note

The object of this Regulation is to amend the *Real Property Regulation 2014* as a consequence of the enactment of the *Land and Property Information NSW (Authorised Transaction) Act 2016*. The Regulation:

- (a) repeals provisions relating to matters that are to be dealt with under lodgment rules made under the *Real Property Act 1900* (the **RP Act**), and
- (b) repeals provisions relating to matters that are to be dealt with under conveyancing rules made under the RP Act (including provisions relating to reasonable steps to be taken to confirm the identity of a mortgagor under section 56C of that Act), and
- (c) makes provision for matters relating to administrative reviews of decisions by the Registrar-General, and
- (d) provides for a mechanism for the adjustment for inflation of prescribed fees under the RP Act, and
- (e) reduces certain prescribed fees so that they are expressed exclusive of GST, and
- (f) sets out a per hour or part hour amount for certain prescribed fees that previously were amounts determined by the Registrar-General.

This Regulation is made under the *Real Property Act 1900*, including sections 96B, 96J, 115, 115A, 116, 135D and 144 (the general regulation-making power).

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Real Property Act 1900

1 Name of Regulation

This Regulation is the *Real Property Amendment (LPI Authorised Transaction) Regulation 2017*.

2 Commencement

- (1) This Regulation (subject to subclause (2)) commences on 19 May 2017 and is required to be published on the NSW legislation website.
- (2) Schedule 1 [16] to this Regulation commences on 1 July 2017.

Schedule 1 Amendment of Real Property Regulation 2014

[1] Clause 3 Definitions

Omit clause 3 (1). Insert instead:

- (1) In this Regulation:

fee unit—see Part 2 of Schedule 1.

the Act means the *Real Property Act 1900*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

[2] Clause 4

Omit the clause. Insert instead:

4 Lodgment of dealings, caveats and priority notices

- (1) A dealing, caveat or priority notice that is intended to be lodged with the Registrar-General must be lodged in the manner approved by the Registrar-General.

- (2) Schedule 1 sets out the prescribed fees for the lodgment of dealings, caveats and priority notices.

Note. Section 3B (2) of the Act provides that a fee prescribed under this or any other Act for or in respect of the exercise of a titling and registry function is, when the function is exercised by the authorised operator, the maximum fee that is payable and the authorised operator can accept a lesser fee for or in respect of the exercise of the function.

- (3) Despite subclause (2), if a dealing, caveat or priority notice is to be lodged electronically, the prescribed fee set out in Schedule 1 must be paid in accordance with the participation agreement (within the meaning of the *Electronic Conveyancing National Law (NSW)*) under which the lodgment is authorised.

[3] Clause 5 Certain instruments in paper form to comply with Schedule 2 requirements

Omit the clause.

[4] Clause 9 Annexure of plans to dealings, caveats and priority notices

Omit “or caveat” from clause 9 (1). Insert instead “, caveat or priority notice”.

[5] Clause 9 (2) and (3)

Omit the subclauses.

[6] Clause 9 (4)

Omit “Schedule 6”. Insert instead “the requirements of the lodgment rules (if any)”.

[7] Clause 10 Official searches

Omit “requisition” from clause 10 (1). Insert instead “request”.

[8] Clause 10 (2)

Omit clause 10 (2)–(6). Insert instead:

- (2) The prescribed fee for an official search is the fee set out in Schedule 1.

[9] Clause 11 Public searches

Insert “or, where the function of responding to a search request is exercised by the authorised operator, the ordinary business hours of the authorised operator” after “holiday” in clause 11 (a) (i).

[10] Clause 11 (b)

Omit the paragraph. Insert instead:

- (b) the prescribed manner in which information in the Register is to be made available to an applicant is:
 - (i) by providing a digital image of the document to the applicant in a form approved by the Registrar-General, or
 - (ii) by furnishing a certificate to the applicant in accordance with section 96C, 96D or 96G of the Act, and

[11] Clause 11 (c)

Omit “relevant”.

[12] Part 4 Reasonable steps in confirming identities of mortgagors

Omit the Part.

[13] Clause 17 Fees payable to the Registrar-General

Insert at the end of the clause:

Note. Section 3B (2) of the Act provides that a fee prescribed under this or any other Act for or in respect of the exercise of a titling and registry function is, when the function is exercised by the authorised operator, the maximum fee that is payable and the authorised operator can accept a lesser fee for or in respect of the exercise of the function.

[14] Clause 23A

Insert after clause 23:

23A Administrative review of decisions of Registrar-General: section 121

(1) Applications not to be made before request for internal review: section 121 (8) (d)

A person is not entitled to make an application under section 121 of the Act in relation to a decision of the authorised operator unless:

- (a) the person has requested an internal review of the decision by the authorised operator, and
- (b) the authorised operator has notified the person of the outcome of that internal review or the person has not, within 21 days of the lodgment of that request (or such other period as the authorised operator and person agree on), been notified of the outcome of that internal review.

(2) Application to include supporting information and evidence: section 121 (8) (c)

An application for a review by the Registrar-General under section 121 of the Act must include all the supporting information and evidence that the applicant seeks to rely on in the review.

(3) **Notice and reasons of decisions to be given in writing**

The notice of a decision on a review under section 121 of the Act, and the reasons for the decision, must be given by the Registrar-General to the persons referred to in section 121 (6) of the Act in writing.

[15] Schedule 1 Fees

Insert at the end of the Schedule:

- 39 On an application for a review by the Registrar-General of a decision pursuant to section 121 of the Act \$277.00

[16] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Fees

(Clauses 4, 10, 11 and 17)

Note. Section 3B (2) of the Act provides that a fee prescribed under this or any other Act for or in respect of the exercise of a titling and registry function is, when the function is exercised by the authorised operator, the maximum fee that is payable and the authorised operator can accept a lesser fee for or in respect of the exercise of the function.

Part 1 Fees payable during 2017/2018 financial year

The fees prescribed by this Part are exclusive of GST.

Item	Matter for which fee payable	Fee (in fee units)
Advertisements		
1	On advertisement, pursuant to section 12 (1) (h1) of the Act, of the intended exercise or performance of any power, authority, duty or function conferred or imposed on the Registrar-General by the Act	The cost incurred in publishing the advertisement
Production of documents		
2	For each Crown grant, certificate of title or other document produced once for the purpose of the subsequent lodgment of any application, request, dealing or plan	0.3888
3	For each Crown grant, certificate of title or other document produced once for the purpose of multiple subsequent lodgments (not exceeding 8) of any application, request, dealing or plan during a period not exceeding 3 months	0.7777
Applications, requests and dealings		
4	On lodgment of an application, request or dealing for which no fee is otherwise specifically provided	1.2655
5	On lodgment of a primary application to bring land under the Act pursuant to section 14 of the Act	18.9786
6	On lodgment of a resumption application to bring land under the Act pursuant to section 31A of the Act	3.4254

Item	Matter for which fee payable	Fee (in fee units)
7	In addition to any other item, on lodgment of an application (other than an application to dispose of Crown land arising from the closing of a public road under the <i>Roads Act 1993</i>), request, dealing or caveat that will result in making, altering or removing more than 1 recording—for each additional recording	1.2618
8	On lodgment of an application to dispose of Crown land arising from the closing of a public road under the <i>Roads Act 1993</i> , regardless of how many recordings will ensue	2.5237
9	On lodgment of an application or request for amendment of a folio of the Register, Crown grant or certificate of title	1.2655
10	On lodgment of an application for the determination under Part 14A of the Act of the position of the common boundary of adjoining lands	1.2655
11	For every sketch or diagram accompanying an application, request or dealing	1.2618
12	In addition to any other item, for the creation of a certificate of title on any application, request or dealing (other than pursuant to section 111 of the Act)—for each certificate	1.2618
Caveats		
13	On lodgment or recording of a caveat	1.2655
14	On withdrawal or partial withdrawal of a caveat pursuant to section 74M (1) of the Act	1.2655
15	On lodgment of a request for withdrawal or partial withdrawal of a Registrar-General's caveat (no fee is payable for withdrawal or partial withdrawal of a Registrar-General's caveat consequent on lodgment and registration of a dealing)	1.2655
16	On lodgment of a request for the Registrar-General to direct the manner of service of a notice on a caveator pursuant to section 74N (1) (e) of the Act	1.2655
17	On lodgment of an application for preparation of a notice for service on a caveator pursuant to section 74C (3), 74I (1) or (2), 74J (1) or 74JA (2) of the Act	1.2655
18	On lodgment of a notice of a change of name of a caveator or of the address for service of a notice on a caveator	1.2655
Priority notices		
19	On lodgment of a priority notice pursuant to section 74T of the Act	0.3442
20	On lodgment of an application for an extension of a priority notice pursuant to section 74V of the Act	0.1426
21	On withdrawal of a priority notice pursuant to section 74X of the Act	0.1426
Certificates of title		
22	On lodgment of an application for a new certificate of title under section 111 of the Act	1.2655

Item	Matter for which fee payable	Fee (in fee units)
Authentication of forms		
23	In addition to any other item, for examination and authentication of any dealing, application, request or caveat that is required by any Act to be in an approved form which contains departures from the approved form and which is not a form licensed by the Registrar-General	1.2618
Searches and digital images		
24	For providing a certificate under Part 11A of the Act:	
	(a) to a person attending at an office	0.1296
	(b) by electronic means	0.0867
25	For supplying a digital image of a document under Part 11A of the Act:	
	(a) to a person attending at an office	0.1296
	(b) by electronic means	0.0867
26	On lodgment of an application for a certified copy of a folio, dealing, record or instrument comprising part of the Register—for each copy	1.2618
27	For a request for a search of the Register by the Registrar-General—for the initial search of the Register, including investigation as to title reference, a copy of the relevant folio and delivery fee	3.4254
28	In addition to item 27, for inclusion in the search of any additional document forming part of the Register—for each document	0.1296
29	In the case of a request for aggregated data or other information from the Register that, in the opinion of the Registrar-General, is a search for which the above schedule of fees is not appropriate	2.3144 per hour or part hour spent in carrying out the search
Reports		
30	For supplying a Lease Folio Data Extract Report or a Lease Folio Caveats, Writs and Other Dealings Report:	
	(a) to a person attending at an office	0.3129
	(b) by electronic means	0.3129
Lodgment support services (LSS) for electronic conveyancing		
31	For supplying to an Electronic Lodgment Network (<i>Electronic Conveyancing National Law (NSW)</i> —section 13) the following electronic services:	
	(a) the suite of lodgment support services (known as “LSS 1”) comprising initial supply of title data, verifications that documents are in an appropriate form for electronic lodgment and automated checks for changes in title data initially supplied	0.1300
	(b) the suite of lodgment support services (known as “LSS 2”) comprising initial supply of title data and verifications that documents are in an appropriate form for electronic lodgment	0.0867

Item	Matter for which fee payable	Fee (in fee units)
	(c) the lodgment support service (known as “LSS 3”) comprising supply of updated title data following changes in title data initially supplied	0.0434
32	For a requisition sent by the Registrar-General requiring correction, re-execution or the supply of additional information in support of a dealing, application, request or caveat lodged for registration or recording	0.4629
Miscellaneous		
33	On depositing an instrument declaratory of trusts	1.2618
34	On depositing any other instrument not specified	1.2618
35	For recording of any memorial or notification not otherwise provided for	1.2618
36	On lodgment of a request for delivery of a document or documents pursuant to section 23A (3) (c) of the Act (no fee is payable if the request is made during the currency of the primary application)	0.3129
37	For furnishing a certificate of ownership (<i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2)) and incorporating in it any information as to subsisting encumbrances or interests	1.2618
38	In addition to item 37, for supplying each additional document forming part of the Register	0.1296
39	In addition to any other item, for any dealing, application, request or caveat that refers to more than 20 folios of the Register	1.2618
40	On an application for a review by the Registrar-General of a decision pursuant to section 121 of the Act	2.7700

Part 2 Adjustment of fees for inflation

1 Calculation of fee unit for purposes of Regulation

- (1) For the purposes of this Regulation, a *fee unit* is:
- in the financial year 2017/2018—\$100, and
 - in each subsequent financial year—the amount calculated as follows:

$$\$100 \times \frac{A}{B}$$

where:

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit and the amount of a fee calculated by reference to a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).

- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.
- (4) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Registrar-General is required to publish on the NSW legislation website a notice of the amount of the fee unit for the next financial year. That notice may be published by the addition of an editorial note relating to the amount of the fee unit in the in force version of this Regulation published on the NSW legislation website.
- (5) The Registrar-General is also required to give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of fee unit calculated under this clause.
- (6) This clause operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the publication of a notice by the Registrar-General under this clause.
- (7) In this clause:
CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.
financial year means a period of 12 months commencing on 1 July.

[17] Schedule 2 Requirements for certain instruments

Omit the Schedule.

[18] Schedule 5 Requirements for plans annexed to dealings (other than leases of premises) or caveats

Omit the Schedule.

[19] Schedule 6 Requirements for plans annexed to leases of premises

Omit the Schedule.