

# CUSTOMER INFORMATION BULLETIN



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## Importance of Registration.

Registration of documents effect changes to the Register. A person who neglects or fails to register an interest in land may lose an entitlement to the land or have the priority of the claim affected by an earlier registration.

Documents must be in registerable form, as laid down by the Transfer of Land Act and Strata Titles Act when presented to this office for registration.

Documents registering the usual simple housing purchase, if correct, proceed smoothly through the Office in about 10 working days.

Because Conveyancing and Settlements are matters dealing with people, the goal of perfect documents is not always easy to achieve. There are times when insufficient facts are received from clients and of course human error.

Where imperfect documents are lodged for registration the Registrar is empowered to require the lodging party to have the error or defect amended. This is a costly and time consuming process both for the Office of Titles and the parties involved.

## Amendment of Documents

The following is a guide to the nature of errors which may be corrected outside the Office of Titles before registration. It is important to remember the list is not meant to be exhaustive but merely a guide to show the nature of those errors which may be amended.

### (a) General

If a document is found to be defective then all of the parties to the document with their witnesses may amend it and certify the amendment with their initials. Deletions cannot be erased or covered over. One line drawn through the deletion with the correction above is the acceptable method.

It is important that an amendment must not alter the intent or effect of the document in question. The amendment can only place the document in a registerable form.

In the following text, amendments by Transferors, Transferees, Mortgagors and Mortgagees also include their witnesses.

(b) Land Description

Lot and survey details are of great importance for these are the legal description of any parcel of land and distinguish it from any other. Only minor amendments may be made and then only after careful deliberation. For example the word "plan" may be substituted for "diagram" and vice versa by the parties to the transaction. Reference to the land being the whole or part of the land in the Title may be added as may the volume and folio numbers if the Lot and survey details are correct. Where the effect of the alteration is to reduce the land transferred, the transferees must initial the amendment. Where the land transferrred is increased by an amendment, the Transferors must initial the amendment.

The words "leasehold" or "fee simple" may be added without initials but an amendment from fee simple to leasehold must be authenticated (by initialling) by the transferees.

Location particulars need not be shown but if added incorrectly may be amended by the transferees.

(c) Encumbrance details.

Encumbrances affect the transferee or mortgagee and it is their direct concern. Amendments which add to the encumbrances must be made by the transferees or mortgagees. The Transferor or Mortgagor may delete an encumbrance.

(d) Registered Proprietors, Mortgagors etc.

As it is very important to identify the registered proprietor shown on the certificate of title as the one and the same as the one shown on the document any amendment to a name or addition must be initialled by the party themselves with their witness. If the name on the title is incorrect then evidence proving that the transferor is indeed the registered proprietor must be filed with the document.

(e) Consideration

Generally if the Stamp Office has collected duty the Office of Titles is satisfied with the consideration shown. Any amendments to the consideration must be re-submitted to the Stamp Office for their seal of approval. All parties to a transaction should authenticate (by signing or initially) an amendment to this section of a document.

(f) Transferee

The full name, address and occupation of all transferees must be shown. If a transferee name has been added after stamp duty has been paid, then it must be resubmitted to the stamp office. Dependent on the degree of amendments to the name of the transferees, some may be made by the transferee affected only or may also require initials of Transferor.

A variation to the tenancy between the transferees must be initialled by both or all transferees.

(g) Attestation

If a transferee or mortgagor signs with an additional initial, then it must be explained by letter filed with the document or the transferee panel amended. Details of a witness' address and occupation may be added by the lodging party.

If more than the transferor or mortgagor with their witnesses signs, the additional signature will be ignored by the Office of Titles.

Where a transfer shows an attestation by an additional signature for a person not named in the transferee panel of the form, an explanation is required. The explanation must be in letter form, from the additional signatory personally stating why he or she signed the transfer and negating any interest in the land.

If each of the parties (transferee and transferor) sign in the wrong panel, then the words "transferor" and "transferee" may be deleted and transcribed onto the opposite side by the lodging party. No initials are required.

Parties to a document must sign it using their usual signature. If printing is the normal method used as a signature of the parties then a letter is required from that person or their solicitor identifying document and parties and a stating that the document had been correctly signed and witnessed and that the printed form of signature is their normal signature.

In the case of witnesses, printed signatures will not be accepted.

(h) Date on Documents

All documents must be dated when presented for registration. The party most affected by an amendment of a date must initial the amendment.

(i) Document Numbers

Document numbers on Discharges (of Mortgages) and Withdrawals (of Caveats) may be amended by the Mortgagee or Caveator.

(j) The "Extent" panel of a Withdrawal of Caveat or Discharge

Where the extent panel of the form has been left blank or amended then the words "whole" or "part" (whichever is appropriate) may be added by the Caveator or Mortgagee.

(k) Documents incorrectly witnessed

Section 145 of the Transfer of Land Act clearly lists the witnesses deemed competent by the Act to witness signatures.

If a document is received from overseas with an incompetent witness and time is of the essence a declaration may be sworn authenticating the signature. The declaration must be sworn by a person well acquainted with the person signing, and with his signature and handwriting, who

1. identifies the instrument for which the declaration is required or supplied.
2. declares positively that the signature thereon is the true signature and handwriting of the person executing the instrument, and
3. states over what period the declarant has known the person signing and how he has obtained a sufficient knowledge of the signature and handwriting of that person.

The acceptance of a document where the signature is authenticated by way of declaration is a matter of judgement and discretion by the Registrar.

It is suggested that such documents be submitted to an Assistant Registrar prior to settlement for an opinion as to acceptance.

(1) Witnesses - countries within the British Dominion

Pursuant to section 145(B) a list of countries with British Dominion is provided.

Antigua & Barbuda	New Zealand
Australia	Papua New Guinea
Bahamas	Saint Kitts-Nevis
Barbados	Saint Lucia
Belize	Saint Vincent
Canada	and the
Great Britain	Grenadines
Grenada	Solomon Islands
Jamaica	Tuvala
Mauritius	

(m) Minor Errors

No initials or authentication is required where the amendment corrects spelling mistakes in the text of documents or in addresses.

Conclusion

In the area of conveyancing, the intention and the effect of documents must be clear. The conveyancers must call on their own experience, skill and knowledge to ensure that their client's interest is being safeguarded. Documents must be in registerable form when presented to the Office of Titles for registration. The Office of Titles may give guidelines on the Practice and Procedure of this office and also on the requirements of the statutes that the office is charged with administering but in the final analysis the Office of Titles sets the acceptance standards of all documents.

It is hoped that this and further bulletins to follow will assist in attaining those standards.



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