LOD-07 Stopped Documents

Version 1 - 22/09/2017

The information provided in this guide is not intended to amount to legal advice. Professional assistance may be required to determine the most appropriate action to protect your legal rights. Please read our Terms of Use on the Land Titles Registration policy and procedure guides web page. Landgate accepts no responsibility where parties print this guide and seek to rely on information that is out of date.

1 General

All land transaction documents lodged at Landgate are examined by Registration Officers before they are registered. If a lodged document is found to be erroneous or defective, it will need to be fixed before it can be registered. A document in this situation is known as a Stopped Document.

2 Power to Require Amendments

The Registrar is empowered to require the lodging party to have the error or defect in a document amended. A Requisition Notice is issued for documents that are stopped. When a Requisition Notice is sent out, a requisition fee is levied in those cases where the requisition arises from a mistake that is clearly a matter of fact. Where the Registrar issues a requisition to clarify the intention of a document, no requisition fee is levied.

3 Requisition Notices

When a document is stopped, a Requisition Notice is faxed or posted to the lodging party and preparing party to specify exactly what is wrong with the documents(s). Depending on the type of document that is stopped, a Requisition Notice will be issued under either s.137 or s.192 of the Transfer of Land Act 1893 (TLA).

A requisition notice advises customers that there is a defect with the document that has been lodged with Landgate, or alternatively the notice may seek the clarification of some of the information in the document.

Documents that are subject to a requisition notice cannot be processed until the defects or clarification has been provided.

It is important to note that requisitions must be replied to within strict timeframes, refer to the
information below for further information on the strict timeframes.

3.1 Under Section 137 of the TLA

If a stopped document is a caveat that needs to be supported by a statutory declaration, a Requisition Notice under s.137 of the TLA will be sent out giving the lodging party 7 days to satisfy the requisition. If the statutory declaration is not filed within the 7-day time period, the caveat will automatically become null and void.

Note: The Registrar of Titles is not able to grant an extension of time for a Requisition Notice issued under s.137.

3.2 Under Section 192 of the TLA

From 1 September 2015, for all land transaction documents, with the exception of caveats requiring a statutory declaration, a Requisition Notice under s.192 of the TLA will be sent out to the lodging party giving 21 days to satisfy the requisition.

If the requisition has not been satisfied within the first 14 days from the issue of the notice, Landgate will then send a Final Notice informing the lodging party that the Registrar is allowing a further 7 days to comply with the requisition after which time the document may be rejected.

Note: The Registrar of Titles is able to grant an extension of time for a Requisitions Notice issued under s.192 of the TLA. Requests for an extension of time must be submitted in writing and will only be granted in the most exceptional circumstances.

3.3 Role of the lodging party

Under section 192B of the TLA, the lodging party has certain responsibilities that the Registrar of Titles is entitled to assume. This includes receiving Requisition Notices. Consequently, the lodging party is expected to communicate with the relevant preparing party or other party responsible for the matters addressed in Requisition Notices. Preparing and responsible parties are able to then deal directly with Landgate to rectify the documents and pay the requisition fees.

Consequently, the expected usual communication channels will be as follows:

- Landgate sends Requisition Notice to lodging party only.
- Lodging party attends to the requisition if it is responsible for the required fixes.
- Lodging party forwards the Requisition Notice to the preparing party or other relevant party responsible for the required fixes.
- The relevant party responsible for the required fixes engages directly with Landgate to rectify the documents and pay the requisition fees.

4 Uplifting Requisitioned (Stopped) Documents

Sometimes it is not possible to fix a document by sending Landgate a letter requesting an
amendment. A document may need to be executed by one of the parties. In this circumstance it is possible for the lodging party to uplift the defective document and take it away to have it fixed.

To uplift a document that has been stopped, the lodging party must make a request in writing to the Registrar of Titles. A photocopy of the document is made and the original is handed to the lodging party to be fixed. A period of 72 hours is usually given to fix and return a document.

If an uplifted document is not returned within the timeframe given, it may be rejected.

4.1 Uplifting

Documents requiring uplifting may be collected at:

- Midland office (in person or by courier)

or

- Posted to lodging party or authorised person.

Note: Documents cannot be uplifted via the Perth (Cloisters) office.

Request to uplift documents must:

- be on a company letterhead

- signed personally by the principal or an authorised person of the lodging party

- contain document reference number and name of the Landgate document Examiner (if known) and

- identify the person uplifting the document. (If a courier company, the name of the courier company).

To ensure that the documents that are to be collected in person or by courier are correctly prepared for collection, a faxed copy of the uplift authority letter should be sent to the document Examiner at least one (1) day before collecting the uplifted documents.

To assist the courier company when they collect the documents please provide them with the full details of the documents to be collected (i.e. document number, examiners’ name and telephone number).

The person who authorises the uplifting of the document(s) must take full responsibility for the return of the document to Landgate within three working days (72 hours). Documents not returned within three working days (72 hours) may be rejected.

4.2 Returning Uplifted Documents

Uplifted documents can be returned to Landgate:

- by post to the Midland office

or
- by hand (in person) at Midland or Perth (Cloisters) offices.

Corrected documents should be placed inside a sealed envelope addressed to the Landgate Examiner by name (if known), including the examination group number and document number.

Conveyancers should advise the Landgate document Examiner when returning documents via the Perth (Cloisters) office, as in most instances the documents will not reach the Examiner until the next working day.

5 Fixing Stopped Documents

Where requisitions are raised by Landgate on documents lodged for registration and amendments are required to those documents, such amendments must be authorised. The most emphatic authorisation is the initials of the parties to that document and their witnesses.

However, Landgate will also accept letters authorising the Registrar to amend the document on behalf of the parties to the document. Where the amendment or inclusion to the document is considered important, any letter of amendment or inclusion will need to be provided by the person or persons who are affected by the change or inclusion.

For example, an important amendment would be any change or inclusion to the tenancy that is shown in the transferee’s panel of a transfer. Any change or inclusion to the tenancy will need to be acknowledged by the transferee’s themselves.

Where the amendment or inclusion is minor in nature, the letter may be provided by the solicitor or settlement agent acting on behalf of and authorised by the party affected.

For example, a minor amendment may be the inclusion of an address of an applicant in a survivorship application.

Letters requesting amendments should:

- Contain details of the document to be amended

- State the authority under which the request is made

and

- Clearly express the amendment to be made.

- Be originally signed by the appropriate person/s and each signature should be independently witnessed and dated. The witness should sign, then write their full name, address and occupation

Where the request is made by a solicitor or settlement agent acting on behalf of their client, the request is to be made on a letterhead and be addressed to the Registrar of Titles. The letter is to be in the following format:

I . . . (insert full name) . . . am the (solicitor / settlement agent) for the transferee / transferor / etc.). I have made or authorised and I have authority to make and to authorise on behalf of such person(s) the amendments(s) (hereon / on the reverse hereof) countersigned by me.

Signed: ..........................

Witnessed: ..........................
6 Withdrawal of Documents from Registration

From 1 September 2015, Landgate no longer returns case documentation to the lodging party (except for Powers of Attorneys, Leases, Transfers and Duplicate Certificates of Title), but a lodging party may request that a document that is to be withdrawn from registration be returned to them.

Where the document being withdrawn is the subject of a requisition, a letter requesting the document be withdrawn from registration may be provided by the settlement agent, solicitor or lodging party/agent of the documents.

The letter requesting the withdrawal should be prepared on a letterhead of the business and must be signed by an individual from the lodging party/agency. The signing section should include the full name of the person signing and their position within the company that is requesting the withdrawal. The letter should also state whether the original document/s are required to be returned.

However, where the parties to a transaction wish to withdraw from registration a perfectly correct document, the letter from the lodging party requesting withdrawal from registration must give an acceptable reason. Letters requesting the withdrawal must also be signed by all parties to the document and by all parties that could be affected by withdrawal of the document. Each letter should clearly indicate the name of the person/s signing (their personal name) and their position within a company or agency (if applicable). The letter should also include a request to return the original documents if the original documents are required by the parties.

For example, where a document is not subject to a requisition and the parties to the document wish to withdraw documents from registration in the case of a discharge of mortgage, letters to withdraw would need to come from the Lodging Party, the Mortgagee and the Registered Proprietors.

7 Rejection of Documents

From 1 September 2015, Landgate no longer returns case documentation to the lodging party (except for Powers of Attorneys, Leases, Transfers and Duplicate Certificates of Title). However, when a document is rejected, the lodging party may request, in writing, that the original document/s be returned.

Any letter requesting the return of original rejected documents can be provided by the lodging party. Where the lodging party is a settlement agent, solicitor, bank or other agent, the letter should be prepared on a letterhead of the business and must be signed by an individual from the lodging party. The signing section should include the full name of the person signing and their position within the company that is requesting the return of the original document(s).

8 Also see

- LOD-01 Lodging of Electronic Documents
- LOD-02 Lodging of Documents