

TFR-09 Transfers by Sale for Rates (Local Government Act 1995)

Version 2 – 12/02/2018

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 Landgate accepts no responsibility where parties print this guide and seek to rely on information that is out of date.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

This document is subject to the Verification of Identity Practice issued jointly by the Western Australian Registrar of Titles and Commissioner of Titles. Please refer to the [VOI webpage](#).

There is a specific Transfer ([Transfer of Land \[Sale for Rates form\]](#)) printed for this purpose.

The rates for land levied under the Local Government Act 1995 (the Act) are a charge against the land upon which they are levied (s.6.43 of the Act) (see also [MEM-01 Memorials](#)). Where rates have been unpaid for three years or more, the Council of the Local Government is empowered by Part 6 Division 6 Subdivision 6 of the Act to:

- sell the land

- transfer the land to the Local Government or the Crown in right of the State of Western Australia (s.6.71)

or

- have the land revested in the Crown in right of the State of Western Australia (s.6.74).

The notice of intention to sell is, after publication, registered in the Office as a Memorial of Advertisement and is endorsed on each certificate of title affected thereby. The memorial remains in force for twelve months from the date of registration and acts as an absolute caveat until it is withdrawn or expires.

The Memorial must be endorsed on the title prior to the sale of the land by the local government.

A transfer ([Transfer of Land \[Sale for Rates\] form](#)), executed by a Local Government, using its common seal, effectively disposes of the interest of the registered proprietor in favour of the

transferee for an indefeasible estate in fee simple but subject to the statutory exceptions as set out in Sections 6.75. (1) (c) (d) and (e) and Schedule 6.3 clause 4. (1) (b) of the Act. The transfer may only be registered in the period that a memorial of advertisement is in force on the title.

1.1 Duplicate Title

The duplicate certificate of title (if any) should be produced for a transfer pursuant to Sale for Rates. If this is not done, the Registrar will order its production from the person holding it. Where the title is not produced an advertisement will be made in a newspaper published in the City of Perth or circulating in the neighbourhood of the land, indicating the intention to register a transfer notwithstanding the non-production of the duplicate certificate of title.

Note: Additional fees relating to advertisement will be charged.

Where a paper title is in existence, a new title is created and registered in the name of the transferee free from encumbrances except those referred to in s.6.75 of the Act. In the case of a digital title, a new version of the digital title is created and registered.

1.2 Effect on Encumbrances

Included in the encumbrances referred to in s.6.75 of the Act are Memorials lodged by State or Commonwealth Instrumentalities, and these (depending on their nature) may be shown as encumbrances, or withdrawn to permit the registration of the transfer, then re-lodged.

Other encumbrances such as mortgages, caveats and expired PSSOs are removed by the act of registration of the transfer, and no longer affect the land. A PSSO that is still current is removed as an encumbrance on the registration of the transfer if the written consent of the Sheriff is obtained and filed with the transfer.

1.3 Effect after 12 months

Where the land is offered for sale, but at the expiration of 12 months it remains unsold, s.6.71 of the Act states that the local Government can transfer the land to itself or to the State of Western Australia.

The ([Transfer of Land \(Sale for Rates\)](#)) form must be supported by a statutory declaration made by the Shire or Town Clerk, proving compliance with the provisions of Part 6 Division 6, Subdivision 6 of the Act. The transfer attracts no fee or duty. This section of the Act allows land that is encumbered to be transferred to the State of Western Australia free of any encumbrances.

Where rates and charges have been outstanding for a period of 3 years, s.6.74 of the Act allows the Local Government to have the land revested in the State of Western Australia. There is no requirement under this section for a local government to have attempted to sell the land.

Revestment is achieved by the lodgement of a transfer on a [Transfer of Land \(Revestment for Non Payment of Rates\)](#) form. The transfer attracts no fee or duty.

2 Also see

[- PSS-01 Property \(Seizure and Sale\) Order](#)

[- PSS-02 Property \(Seizure and Sale\) Order - removal](#)
