IMPORTANT INFORMATION:

This Landgate ‘How to Guide’ is currently under review to reflect changes to Landgate’s processes and/or the implementation of the Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity (VOI).

The VOI Practice aims to minimise the risk of land related fraud including identity theft and other improper dealings. The Practice is a more robust standard for confirming the identity of the person(s) authorised to transact or sell land. Landgate highly recommends that you read about VOI on its website here.

If you are a SELF-REPRESENTED PARTY, then you are advised to go to Landgate’s website here as there are additional requirements under VOI for self-represented parties. The transaction documents where self-represented parties are required to undergo VOI are:

- Transfer of Land (Transferor/Seller)
- Survivorship Application
- Transmission Application
- Power of Attorney
- Application for Lost Titles
- Application requesting issue of duplicate Certificate of Title for a Non-Issue.

Note: VOI is not required for a purchase of a property.

For further support or assistance, please contact Landgate’s advice line 9273 7044 or email advice@landgate.wa.gov.au
APPLICATION AND TRANSFER OF LAND BY PERSONAL REPRESENTATIVE

A guide to preparing the documents

Western Australian Land Information Authority
ABN 86 574 793 858
Preparing an **Application and Transfer of Land by Personal Representative**

This step by step guide is designed to show you how to prepare and lodge an Application by Personal Representative (also known as Transmission Application).

If you are completing the forms yourself, we advise you to exercise great care as the documents involved are legally binding. A competent professional, such as a solicitor or settlement agent, should prepare any complex land transaction documents.

These applications should only be used upon the death of a sole proprietor, or where a tenant in common landholder dies.

**What you should know about Certificates of Title**

Certificates of Title, otherwise known as Title Deeds, are issued by Landgate with one original and one duplicate copy. The original is always kept at Landgate. The duplicate copy is normally held by the registered proprietor (owner) or by a lending institution as security for a loan.

The important difference between these two Title Deeds is that the duplicate Certificate of Title does not include all encumbrances such as caveats and property (seizure and sale) orders. They are, however, always listed on the original Certificate of Title that is kept at Landgate.

All encumbrances need to be included in most documents pertaining to land transactions. For this reason we strongly recommend that you gain a copy of the original Certificate of Title from Landgate when completing land transfer or application forms. We commonly refer to this as a 'Title Search'.

**The Transmission Application process**

When a sole proprietor or tenant in common landholder dies, a specific process needs to take place so that land can be transferred by their personal representative(s).

If the deceased person had a Will, then the executor (as noted in the Will) must first arrange to become the court appointed executor of the estate. This is done through the Probate Office which is a section of the Supreme Court. Similarly, if the deceased did not have a Will, then their personal representative must arrange with the Probate Office to be appointed as administrator. In both cases, when the Probate Office agrees to appoint executors or administrators, a Grant of Probate (Probate) or Letters of Administration is given. The legal document issued from the Probate Office then enables applications to be made to Landgate by the Personal Representatives in question.

Once an executor/administrator has the Probate, they complete and lodge a Transmission Application at Landgate to get their name put on the relevant Certificate of Title of the deceased. Then, in their capacity as executors or administrators, they can deal with the land according to the Will of the deceased (eg: transfer it to the beneficiary(s)).

Following are the steps involved in lodging:

- A Transmission Application (A1 - Application by Personal Representative) to place the name of the personal representative of the deceased on a Certificate of Title; and
- A Transfer of Land (T1 or T2) to the Beneficiary(s) of the Will.

**SOME HELPFUL DEFINITIONS**

**Administrator:**
A person appointed by the Supreme Court to collect and distribute a deceased person’s estate when he died intestate or did not appoint an Executor or when the Executors refuse to act.

**Beneficiary:**
Receiver of benefits under a person’s Will.

**Caveat:**
A warning on the original Certificate of Title that there is a claim lodged against the land.

**Caveator:**
The person claiming a Caveat on a Certificate of Title.

**Certificate of Title:**
The original title deed retained by Landgate that specifies ownership of a defined parcel of land, and the lodged or registered interests or claims (encumbrances) against that ownership.

**Duplicate Certificate of Title:**
Copy of the original certificate of title normally held by the registered proprietor (owner) or lending institution as security for a loan.

**Encumbrance:**
A lodged or registered interest in such as mortgages, lease agreements, caveats and easements.
What documents do I need for my application?

The documents you will need are:

- A copy of the original Certificate of Title (Title Search) from Landgate’s Customer Contact Centre (Midland). A fee is payable for this service.
- A Transmission Application form (A1 - Application by Personal Representative) from either Landgate (Midland), the State Law Publisher, or any large stationery retailer.
- A Statutory Declaration form (B3) from either Landgate (Midland), the State Law Publisher, or any large stationery retailer. This only needs to be completed if there are differences in the name or address of the deceased as shown on the Probate and the Certificate of Title.
- The duplicate Certificate of Title.

(NOTE: If a lending institution or other third party holds the duplicate certificate, you must arrange to have it released to Landgate as applications by personal representatives can only be registered when this is received.) A fee is payable for this service.
- The original Probate or office copy Probate issued by the Probate Office.

Completing the Statutory Declaration

A Statutory Declaration is required from each person making the Transmission Application. The following should be included:

- Identification of the land by its volume / folio reference;
- Name of person(s) who currently own the land;
- What details are to be amended and why, with reference to any proof provided.

A - Full name, address and occupation of Declarant/s
B - Substitute relevant details as required
C - Date to be shown
D - Usual signature of Declarant/s
E - Usual signature of Witness

(Check list of competent witnesses on back of Statutory Declaration form before signing.) Print name, address, occupation and / or competency of witness

Executor:
A person appointed by a Will to administer the Testator’s estate.

Fee Simple:
The greatest estate that can be held by a person without being the absolute owner.

Intestate:
Dying without having made a valid Will.

Joint Tenants:
The ownership of the land in common by more than one person where there is a right of survivorship, ie. where on the death of one joint owner, the share of the interest of the deceased goes to the surviving owner(s).

Probate:
A certificate issued by the Supreme Court on application of Executors appointed by the Will, is valid and Executors authorised to administer the estate.

Proprietor:
Holder or owner of property.

Tenants in Common:
Where there is a desire of two or more people to hold the land in undivided shares. For example X has 1/3 share and Y has a 2/3 share of the land. Both X and Y can transfer their shares to another or others. On the death of one party the land does not automatically go to the remaining partner unless stated in the will.
4 steps to lodging the application

1. Complete the Transmission Application form (Application by Personal Representative) by referring to the original Certificate of Title (Title Search) and typing or clearly handwriting in dark ink in the spaces provided. Please refer to the sample form in this brochure to assist you.

2. Complete the Statutory Declaration form. Please refer to the sample form in this brochure to assist you.

3. Collect evidence to support your application. This will consist of an original Probate or an office copy Probate issued by the Probate Office. Landgate only needs to sight original copies, they will not be held. (NOTE: A copy certified by a Justice of the Peace or other statutory qualified person is NOT acceptable.)

4. Lodge the Application form, in person or by post, together with the Statutory Declaration, supporting evidence, duplicate Certificate of Title and the required fees at any of Landgate’s three offices.

NOTE: If a lending institution is sending the duplicate Certificate of Title to us, then please call our Progress / Issuing Section on (08) 9273 7314 before lodging your forms. This way we can inform you whether we have received it so that the application can proceed upon lodgement.

What documents do I need to transfer land to the beneficiary(s) of the Will?

Once the Transmission Application is lodged and accepted, the name of the personal representative will appear as proprietor (in the capacity of executor/administrator) of the land on the Certificate of Title.

A Transfer of Land can then be lodged to give effect to the terms of the Will of the deceased proprietor.

The documents you will need are:

- A Transfer of Land form (T1 or T2) from either Landgate (Midland), the State Law Publisher, or any larger stationary retailer.
- The duplicate Certificate of Title.

3 steps to lodging the transfer

1. Complete the Transfer of Land form by referring to the original Certificate of Title (Title Search) and typing or clearly handwriting in dark ink in the spaces provided. Please refer to the sample form in this brochure to assist you.

2. When completed, take the form to the Office of State Revenue for stamp duty assessment, payment and notation of stamp duty.
   (NOTE: Please seek advice about whether you will be liable to pay stamp duty from the Stamp Duties Division of the Office of State Revenue. See contact details on back page.)

3. Lodge the Transfer of Land form, in person or by post, together with the duplicate Certificate of Title and the required fees at any of Landgate's three offices.

NOTE: A Transfer of Land form can be lodged simultaneously with a Transmission Application form (Application by Personal Representative).
Need more information?
Please contact one of Landgate’s experienced Advice Officers at our Land Registration Centre. See contact details on back page.
4 ways to obtain a Title Search

1. Visit the Customer Contact Centre at Landgate’s Head Office in Midland.

2. Phone Landgate’s Customer Contact Centre on (08) 9273 7333 and request an order form to be sent to you via post, fax or email.

3. Visit our website www.landgate.wa.gov.au and click on Title Searching. Please select the order form you require, complete the details and fax or post to Landgate.

4. E-mail TISmail@landgate.wa.gov.au

PLEASE NOTE: Providing us with precise details about the land you are searching will ensure a fast, accurate and cost effective service. For more information about the details we require, please call our Customer Contact Centre on (08) 9273 7333.