Drafted in the Office of
Parliamentary Counsel

TASMANIA

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# LAND TITLES REGULATIONS 2022

## STATUTORY RULES 2022, No.

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# LAND TITLES REGULATIONS 2022

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Land Titles Act 1980*.

Dated 20 .

Governor

By Her Excellency's Command,

Minister for Parks

## PART 1 – PRELIMINARY

### 1. Short title

These regulations may be cited as the *Land Titles Regulations 2022*.

### 2. Commencement

These regulations take effect on 28 November 2022.

### 3. Interpretation

In these regulations –

***Act*** means the *Land Titles Act 1980*;

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***Registry of Deeds*** means the Registry within the meaning of the *Registration of Deeds Act 1935*.

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## PART 2 – BRINGING LAND UNDER THE ACT

### 4. Applications under section 11 of Act

An application under section 11 of the Act has the effect of a statutory declaration made by the person signing the application.

### 5. Notice to be given in Registry of Deeds

For the purposes of section 29 of the Act, the Recorder is to enter in the relevant index, kept in the Registry of Deeds in accordance with the *Registration of Deeds Act 1935*, the following:

(a) the names of all legal owners of estates in land brought under the Act;

(b) the names of all known equitable owners of estates in land brought under the Act;

(c) the registered numbers of all registered documents under the *Registration of Deeds Act 1935* from which title is derived;

(d) the locality of the land;

(e) the folio of the Register created by the Recorder for the land;

(f) any further particulars that the Recorder may determine.

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## 6. Verbal descriptions

For the purposes of section 32(6)(b) of the Act, ***verbal description*** means a description by reference to –

(a) the locality in which the land is situated, and such further description of the land (by reference to an assurance of that land registered in the Registry of Deeds or otherwise) as the Recorder requires to identify the land; or

(b) a plan of the land –

(i) lodged as a plan in the Registry of Deeds; or

(ii) shown or drawn on a memorial, or photocopy of the assurance, registered in that Registry.

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## PART 3 – REGISTER AND CERTIFICATES OF TITLE

### 7. Folios of Register to be numbered

The Recorder is to number each folio of the Register with a distinctive number.

### 8. Certificates of title

A certificate of title, if any, in respect of land –

(a) is to bear the same number, or identifying mark, as the folio of the Register in respect of the land; and

(b) unless otherwise provided by an Act, may contain any of the relevant particulars in respect of the land, as determined by the Recorder, that are contained in the folio of the Register, in respect of the land, as at the date of preparation of the certificate of title.

### 9. Searches of public records

(1) For the purposes of section 36(2) of the Act, information in a public record –

(a) is available to a person in the prescribed manner if it is made available by the Recorder, at the office of the Recorder, as soon as is practicable, within the times prescribed in paragraph (b), after the Recorder receives a request for the information from the person; and

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(b) is available at the prescribed times if it is provided, at the office of the Recorder, on a day other than a Saturday, Sunday or statutory holiday, between the hours of 9 a.m. and 4 p.m. on that day.

(2) For the avoidance of doubt, nothing in subregulation (1) prevents information in a public record from being available for inspection outside of the days and times permitted under that subregulation –

(a) as a result of a written request from a person that seeks to inspect the record; or

(b) on an internet site operated by, or on behalf of, the Department for the purpose of providing public access to that information.

(3) In this regulation –

***statutory holiday*** means a statutory holiday as defined in the *Statutory Holidays Act 2000*.

## 10. Copies of public records

In addition to section 37 of the Act, information in a public record may be provided to a person in the form of a copy of the record that contains the information –

(a) as a result of a written request from the person that seeks to inspect the record; or

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(b) on an internet site operated by, or on behalf of, the Department for the purpose of providing public access to that information.

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## PART 4 – REGISTRATION

### *Division 1 – Interpretation of Part*

### 11. Interpretation

(1) In this Part –

***application*** means an application or request made to the Recorder under the Act.

(2) For the avoidance of doubt, information or a document provided in addition to, or in support of, an application does not form part of the application for the purposes of this Part.

### *Division 2 – General provisions as to dealings and applications*

### 12. Dealings and applications to be attested

(1) A dealing lodged for registration under this Act is not required to be attested, as required by section 48(1) of the Act, if –

(a) the approved form of the dealing does not provide for attestation by a witness; or

(b) the Recorder otherwise dispenses with the attestation.

(2) An application lodged for registration under the Act is not required to be attested if –

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(a) the approved form of the application does not provide for attestation by a witness; or

(b) the Recorder otherwise dispenses with the attestation.

**13. General requirements for dealings, applications and other information**

(1) A dealing or application that is lodged for registration under the Act is to –

(a) be printed on one side of each page only; and

(b) be printed on white paper that is A4 size paper and of at least 80 grams of substance per square metre; and

(c) be printed free from discolouration and blemishes; and

(d) be printed with margins not less than 10 millimetres, and not more than 20 millimetres, in width on each page; and

(e) be clear and legible, especially with regard to signatures, names, imprints of seals, dates and addresses; and

(f) be capable of being clearly reproduced by a photocopying process; and

(g) be printed so that each plan contained in the dealing or application, if any, is

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printed in black ink without colour or edging; and

(h) be an original dealing or application; and

(i) contain the full name, and the complete residential or the complete workplace address, of –

(i) each witness to the dealing or application; and

(ii) all parties to the dealing or application; and

(j) be in the English language; and

(k) be printed in permanent black or blue ink; and

(l) have each page numbered to indicate the number of that page and the total number of pages lodged; and

(m) be dated.

(2) For the avoidance of doubt, the requirements specified in subregulation (1) apply to a dealing or application lodged in electronic format if the requirement is relevant to that electronic format.

(3) Information which is lodged in addition to, or in support of, a dealing or application, must –

(a) be the same size as that dealing or application; and

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(b) if referred to in the dealing or application, be clearly identifiable as the information referred to in the dealing or application; and

(c) if the information is lodged in paper format, be stapled to the dealing or application; and

(d) if the information is a copy of a document, comply with the requirements under the Act in relation to an office copy; and

(e) comply with the relevant requirements specified in subregulation (1).

(4) Despite subregulations (1) and (3), nothing in this regulation prevents the Recorder from accepting a dealing, application or other information that does not comply with the requirements of this regulation.

(5) In this regulation –

***photocopying process*** has the same meaning as in section 37(3) of the Act;

***printed***, in relation to a dealing or application, includes the ability to print the dealing, application or document.

## 14. Dealings, &c., not written in English language

(1) In this regulation, a reference to a dealing or an application includes a reference to all

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information and documents provided in addition to, or in support of, the dealing or application.

(2) If the Recorder accepts a dealing or application that is written in a language other than the English language, the Recorder may require that the dealing or application be accompanied by –

(a) a full written translation, of the dealing or application, in English that has been –

(i) made by a person who the Recorder is satisfied is suitably qualified to provide such a translation; and

(ii) certified, in a form approved by the Recorder or otherwise to the satisfaction of the Recorder, by the person who translated it, to be an accurate and complete translation of the dealing or application; and

(b) all other information that the Recorder, in the Recorder's discretion, requires in respect of the dealing or application.

## 15. Alteration to dealings and applications

(1) This regulation applies to a dealing or application, whether or not the dealing or application has been lodged for registration.

(2) An alteration to a dealing or application must –

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(a) be initialled, and the date on which the initialling occurs must be added next to the initialling, by or on behalf of each signatory to the dealing or application; and

(b) comply with the relevant requirements specified in regulation 13, for a dealing or application; and

(c) if the alteration is to remove a word contained in the dealing or application, be made by striking through the word or words to be removed in such a manner as not to render the original word or words illegible; and

(d) if the alteration is to add a word to the dealing or application, be made in a manner that ensures that –

(i) the word is clear and legible; and

(ii) the placement of that word in the dealing, or application, so altered is clear and legible; and

(e) not be made by rubbing, scraping or cutting the surface of the dealing or application, or obscuring any word on the dealing or application by any paint or other material.

(3) If an alteration to a dealing or application is made under subregulation (2) by a person on behalf of a signatory to the dealing or application –

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(a) the person –

(i) must state, in writing, on the dealing or application, the person's name and the capacity in which the person is acting on behalf of the signatory; and

(ii) in initialling the amended dealing or application in accordance with subregulation (2)(a), is taken to be representing that the person has full legal authority to do so on behalf of the signatory; and

(b) the Recorder may rely on the representation, referred to in paragraph (a)(ii), without making any further enquiry, that the person has full legal authority to date and initial the amended dealing, or application, on behalf of the signatory.

**16. Execution and lodgment of instruments under section 49(2) of Act**

(1) For section 49(2) of the Act, a person who is not yet registered as proprietor of the land may, subject to subregulation (2), execute and lodge for registration under the Act, instruments dealing with the land in the same manner as the registered proprietor of the land could execute and lodge instruments for registration.

(2) Except with the approval of the Recorder, not more than one transfer, nor more than one

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transfer by way of assent followed by a transfer, affecting the same folio of the Register or registered dealing may be lodged for registration in accordance with section 49(2) of the Act.

(3) A person who lodges an instrument for registration in accordance with section 49(2) of the Act must ensure that the certificate of title or duplicate registered dealing, if any, that has been issued by the Recorder and that is affected by the instrument is provided to the Recorder for the registration of the instrument.

(4) The Recorder must not register an instrument lodged in accordance with section 49(2) of the Act, until –

(a) subject to paragraph (b), the person executing the instrument has been registered as proprietor of the land to which the instrument relates; or

(b) in the case of transmission, the person, to whom the estate or interest is being transmitted, has been registered as proprietor of the land to which the instrument relates; or

(c) the right of the person, referred to in paragraph (a) or (b), to be registered as proprietor of the land to which the instrument relates has been proved to the satisfaction of the Recorder.

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### 17. Incorporation of provisions into dealings by reference to filed memorandums

(1) A person who wishes to incorporate the same provisions into more than one dealing may –

(a) lodge with the Recorder a memorandum containing those provisions; and

(b) incorporate those provisions into the dealings by appropriate words in the dealings, referring to the distinguishing number, or letter and number, allocated to the memorandum in accordance with subregulation (2).

(2) Where a memorandum is lodged with the Recorder under subregulation (1), the Recorder is to number the memorandum with a distinctive number, or letter and number, and the memorandum is taken to be a public record for the purposes of the Act.

## *Division 3 – Lodgment of dealings and applications*

### 18. General lodgment requirements

Unless otherwise specified in another Act, a dealing or application for registration under the Act is to be lodged singly.

### 19. Procedures

(1) A dealing or application that is presented for lodgment must be accompanied by –

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(a) a request made to the Recorder to register, or otherwise deal with, the dealing or application; and

(b) the relevant fee prescribed for that dealing or application, except where otherwise authorised by the Recorder.

(2) For the purposes of subregulation (1)(a), a request must be made, in a clear and legible manner, on a form approved by the Recorder.

**20. Recorder may refuse to accept dealings or applications in certain cases**

(1) The Recorder may refuse to accept a dealing or application for lodgment that –

(a) does not comply in all respects with the requirements of the Act; or

(b) does not comply with the requirements within another Act that apply to the dealing or application, or transaction to which the dealing or application relates; or

(c) appears to the Recorder to form part of a transaction that is the result of, or would result in, fraud or improper dealing; or

(d) requires a recording to be made on a certificate of title or duplicate registered dealing that is not immediately available to the Recorder for that purpose; or

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(e) is not accompanied by writing that is required by law, or is reasonably required by the Recorder, to be lodged with that dealing; or

(f) defines land by reference to a sealed plan that has not taken effect in accordance with Division 4 of Part 3, or section 112 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*; or

(g) refers to a lot on an unregistered strata plan.

(2) Subregulation (1)(d) and (e) do not apply where a dealing or application is accompanied by –

(a) an application to the Recorder under section 35 of the Act in respect of a certificate of title or duplicate registered dealing that has been lost, mislaid or destroyed; or

(b) a request for the Recorder to use the Recorder's discretion under section 160(5) of the Act to dispense with –

(i) the production of the certificate of title referred to in paragraph (a); or

(ii) the production of the duplicate registered dealing referred to in paragraph (a); or

(c) a request for the Recorder to call in the certificate of title or duplicate registered

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dealing that, to the satisfaction of the Recorder, falls under section 163 of the Act.

(3) For the avoidance of doubt, if the Recorder accepts a dealing, or application, for lodgment, that may be refused by the Recorder under subregulation (1) –

(a) the acceptance of the dealing or application does not mean that the dealing or application is in accordance with the Act for the purposes of registration; and

(b) section 50 of the Act still applies in respect of the dealing or application.

***Division 4 – Provisions as to registration***

**21. Notification of priority notices**

If a priority notice is lodged in accordance with the Act, the Recorder must ensure that the particulars of that priority notice so lodged are included in a search, under the Act, of the folios of the register that are affected by the notice.

**22. Prescribed period for purposes of section 52(2)(b) of Act**

For the purposes of section 52(2)(b) of the Act, the period of 90 days is prescribed.

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### 23. Prescribed circumstances under sections 52(7)(b) and 137(2)(b)(iii) of Act

For sections 52(7)(b) and 137(2)(b)(iii) of the Act, a prescribed circumstance is the entry by the Director of Housing into a hiring agreement under section 37D of the *Homes Act 1935*.

### 24. Recording of re-entry by lessors

For section 68(1) of the Act, the Recorder is to record a re-entry by the lessor on the folio of the Register evidencing the title to the reversion expectant on the lease.

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## PART 5 – MISCELLANEOUS

### 25. Forms approved by Recorder

(1) A dealing or application to be lodged under the Act must be made, for that dealing or application –

(a) in an approved form; or

(b) if no form is approved for the dealing or application under section 169A of the Act, in a form approved, from time to time, by the Recorder.

(2) For the avoidance of doubt –

(a) except as authorised by the Recorder, a reference to an approved form, or form approved by the Recorder, in subregulation (1) does not include a reference to that form, or a version of that form, if it has been materially altered or amended before being lodged under the Act; and

(b) an approved form or form approved by the Recorder, as referred to in subregulation (1), does not have enduring approval for the purposes of the Act.

(3) A consent to the recording of a highway under section 112(2) of the Act must be made in a form approved, from time to time, by the Recorder.

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## 26. Privately printed forms

(1) A person is not to print a form, that is approved in accordance with section section 169A(8)(a) of the Act, for use by the person under the Act unless that person is authorised by the Recorder under section 169A(8)(b) of the Act.

(2) For the avoidance of doubt, subregulation (1) does not apply to the use of a form in a format that is published on a website operated by, or on behalf of, the Department.

(3) The Recorder's authorisation for a person to use a form, as referred to in subregulation (1), may be subject to a condition that the Recorder may withdraw, by written notice, that authorisation after such period as may be fixed when the authorisation is given, being a period of not less than 12 months after the date of authorisation.

## 27. Notice in Registry of Deeds under section 126(5) of Act

For section 126(5) of the Act, the Recorder is to give notice in the Registry of Deeds, that land has been brought under the Act, in the manner prescribed by regulation 5.

## 28. Lodgment of plans

A map or plan required to be lodged or deposited with the Recorder under any Act is to be lodged in the manner prescribed by regulation 19 as if it were a dealing.

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## 29. Instruments made in exercise of power of attorney

(1) If a dealing, application or instrument is made, or appears to be made, in the exercise of a power of attorney, the Recorder may register the dealing, application or instrument if the attestation clause in it contains a declaration –

(a) if the donee of the power is an individual, other than a corporation, that the donee has not received notice of revocation of the power; or

(b) if the donee of the power is a corporation, that the individual executing the dealing, application or instrument has not received notice of revocation of the power.

(2) If the attestation clause referred to in subregulation (1) does not contain a declaration in accordance with that subregulation, a declaration to that effect is to be lodged with the Recorder in the approved form.

(3) A declaration under subregulation (2) is to be made –

(a) if the donee of the power is an individual, by the donee; or

(b) if the donee of the power is a corporation, by at least one individual executing the dealing, application or instrument.

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(4) A person must not make a declaration under this regulation that is false or misleading.

Penalty: Fine not exceeding 10 penalty units.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 20 .

These regulations are administered in the Department of Natural Resources and Environment Tasmania.

## EXPLANATORY NOTE

*(This note is not part of the regulations)*

These regulations –

(a) make provision in respect of various matters including the lodgment of dealings and applications under, and for the purposes of, the *Land Titles Act 1980*; and

(b) are made consequentially on the repeal of the *Land Titles Regulations 2012* under section 11 of the *Subordinate Legislation Act 1992*.

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