

Customer Information Bulletin

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1. STATUTORY DECLARATIONS MADE FOR THE PURPOSE OF THE *TRANSFER OF LAND ACT 1893 (TLA)*.

Following a review of the legal requirements in respect of Statutory Declarations made for the purpose of the TLA, a new practice is to be implemented, ensuring that statutory declarations presented at Landgate in support of a document lodged for registration, are in accordance with Section 12 of the *Oaths, Affidavits and Statutory Declarations Act 2005 (WA)*.

To provide the Conveyancing Industry with sufficient notice to the change in practice, documents lodged for registration on or after 1 March 2007 containing Statutory Declarations made for the purpose of the TLA, must ensure statutory declarations comply with the new practice.

At present Landgate accepts Statutory Declarations using forms under the relevant legislation from the place/state/country where the instrument is executed outside of Western Australia. This practice will be discouraged and unless another written law provides otherwise, a statutory declaration made for the purposes of the *Transfer of Land Act 1893 (TLA)* must be made in accordance with Section 12 of the *Oaths, Affidavits and Statutory Declarations Act 2005 (WA)*.

Statutory Declarations lodged with the Registrar of Titles may be made on a Form B3 in the prescribed form of Schedule 1 of the *Oaths, Affidavits and Statutory Declarations Act 2005*. (See paragraph 3.2.2 of the Land Titles Registration Practice Manual)

Note: If a statutory declaration is lodged with the Registrar of Titles for the purposes of the TLA that is not made in accordance with Section 12 of the *Oaths, Affidavits and Statutory Declarations Act 2005 (WA)*, it will need to be considered on a case by case basis to determine whether or not it will be acceptable (for the purposes for which it was lodged).

WITNESSING STATUTORY DECLARATIONS

Section 12 of the *Oaths, Affidavits and Statutory Declarations Act 2005* outlines a procedure to be followed by the person making the statutory declaration and the authorised witness. The person who is making the statutory declaration must in the presence of an authorised witness declare orally:

- that he or she is the person named as the maker of the statutory declaration
- that the contents of the statutory declaration are true,
- that the signature or mark is his or hers, and if necessary, that any attachment to the statutory declaration is the attachment referred to in it.

After the maker of the statutory declaration has complied with the above, the authorised witness must:

- sign or personally mark the statutory declaration,
- sign or initial any alteration in the statutory declaration that has been signed or initialled by the maker; and
- imprint or clearly write his or hers full name, address and qualification as an authorised witness.

AUTHORISED WITNESSES INSIDE WESTERN AUSTRALIA

An authorised witness for a statutory declaration that is made at a place **in Western Australia** is:

- any person described in the second column of Schedule 2 of the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA), or
- any person before whom, under the *Commonwealth Statutory Declarations Act 1959*, a statutory declaration may be made.

AUTHORISED WITNESSES OUTSIDE WESTERN AUSTRALIA

An authorised witness for a statutory declaration made under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA) is specified in Section 12(6) of that Act.

If a statutory declaration is made at a place **outside Western Australia but within Australia** then an authorised witness is:

- any person who, under the law of that place, has authority to take or receive a statutory, solemn or other declaration, (accompanied by a letter from the witness confirming they are authorised/qualified to witness such instrument at that place of execution) or,
- any person before whom, under the *Commonwealth Statutory Declarations Act 1959*, a statutory declaration may be made.

If a statutory declaration is made at a place **outside Australia** then an authorised witness is:

- a prescribed consular official who is performing official functions at that place,
- a person who is a justice or notary public under the law of that place,
- a person who has authority under the law of that place to administer an oath to another person or to take, receive or witness a statutory, solemn or oath declaration (accompanied by a letter from the witness confirming they are authorised/qualified to witness such instrument at that place of execution).

Note: A “prescribed consular official” means:

- an Australian Consular Officer, or an Australian Diplomatic Officer within the means of the *Commonwealth Consular Fees Act 1955*,
- a British consul or vice consul,
- an official prescribed by the regulations to be a prescribed consular official.

Documents lodged for registration on or after 1 March 2007 containing Statutory Declarations made for the purpose of the TLA, must ensure the Statutory Declaration complies with the above requirements. Documents lodged on or after 1 March 2007 containing Statutory Declarations which do not meet the requirements stated above may be requisitioned and requisition fees may be applied.

2. UPLIFTING REQUISITIONED DOCUMENTS

The following guidelines apply when Conveyancers are required to uplift documents to satisfy stopped document requisitions.

UPLIFTING

Documents requiring uplifting may be collected at

- Midland Office (in person or by courier),
- Bunbury Office (in person by prior arrangement),
- Posted to lodging party or authorised person.

Note: Documents can not be uplifted via the Perth Business Office.

Requests 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,
- identify the person uplifting the document, if a courier company the name of the courier company, and;
- Be set out substantially in the form of the letter shown below.

To ensure that the documents that are to be collected in person (or by courier) are correctly prepared for collection, it would be helpful if customers would fax a copy of the uplift authority letter to the relevant examiner at least one day before they wish to collect the 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).

Please note that the person who authorises the uplifting of the documents must take full responsibility for the return of the documents to Landgate within three working days. Documents not returned within three working days may be rejected.

RETURNING UPLIFTED DOCUMENTS

Documents can be returned

- by post to Midland,
- by hand at Midland, Perth or Bunbury offices.

Corrected documents should be placed inside a sealed envelope addressed to the Landgate examiner by name, including the examination group number and document reference number.

Conveyancers should advise Landgate document examiners when returning documents via the Perth or Bunbury office's, as on many occasions the documents will not reach the examiner until the next working day.



(to be printed on company letter head)

TO THE REGISTRAR OF TITLES

I _____ (insert full name) am authorised to request the uplifting of document/s on behalf of _____ (insert lodging party name).

I take full responsibility for the uplifting of documents via courier, in person, or via the post.

I acknowledge that I will return the documents to DLI in a sealed envelope within three (3) working days of collecting them/receiving them in the post.

If the documents go missing whilst in transit from or to DLI, or while they are in the possession of myself or a third party, then I will be responsible for replacing the missing documents.

I authorise that document/s _____ are to be:

- Uplifted by post to: _____

- Collected in person by: _____
In DLI's Midland or Bunbury Office (*delete which ever is not applicable*).
- Collected on my behalf by: _____
(insert name of courier company)

(personally signed)

For XYZ Settlement Co.
(date)

3. LODGEMENT OF BULK DOCUMENTS

Landgate encourages clients to lodge large volumes of documents as a bulk lodgement. Lodging in bulk provides the identical registration priority for all documents in the bulked bundle.

Conveyancers are encouraged to lodge bulked documents prior to 3.00pm each day. Lodging prior to 3.00pm allows Landgate Acceptance officers to enter document details and title information into the E-Lodgment database before the close of business, ensuring up to date information is available for clients searching through Landgate after the close of normal business hours.

To ensure all documents lodged after 3.00 pm can be recorded in the lodgement system before closure at 4.30pm, clients will be limited to lodging no more than 5 cases (containing approximately 15 to 20 documents) at a single time. Clients lodging more than 5 cases will be required to rejoin the document lodgement queue to lodge further cases. Clients who are lodging large number of documents, without bulking, after 3.00pm may experience delays in the lodgement process.

The following guidelines apply to the lodgment of documents in bulk.

- Bulk Documents may be lodged at Perth, Midland and Bunbury offices.



- Bulk bundles of documents must be lodged between 8.00am and not later than 3.00pm
- Bulk bundles are limited to 80 documents or less
- Registration fees must be paid within 24 hours of lodgement, preferably by 12.00pm on the next working day.
- Payment in the form of one cheque is preferred.
- Documents cannot be lodged after 4.30pm

Clients are reminded that payment for bulk lodgements must be receipted within 24 hours of lodgement and clients are encouraged to facilitate the receipting payment process to provide payment in the form of one cheque.

4. NEW EDITIONS OF LANDGATE PRACTICE MANUALS

All of the Landgate practice manuals have been updated and entirely new editions have been published. It is recommended that you any previous DLI versions of the practice manuals and replace them it in their entirety with the new Landgate editions.

The following are the new current Landgate editions of each practice manual:

| Practice Manual Name | Edition No. |
|-----------------------------------|-------------|
| Survey and Plan Practice | 5.0 |
| Strata Titles Practice | 4.0 |
| Land Titles Registration Practice | 8.0 |
| Guide to Strata Titles | 3.01 |

New updated editions of the Landgate practice manuals are now available from the Landgate website by following this link:

<http://www.landgate.wa.gov.au/Corporate.nsf/web/Landgate+Practice+Manuals>

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18th January 2007

