

TRANSFER BY PERSONAL REPRESENTATIVE



APPLICATION AND TRANSFER OF LAND BY PERSONAL REPRESENTATIVE

A guide to
preparing the documents

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

FORM B3
WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1983 AS AMENDED
OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

Landgate

I / WE, Barry Henry Smith of 35 Hart Street, Fremantle, Office Clerk

(name address and occupation of person (s) making the declaration)

Sincerely declare as follows -

1. I am the Executor of the Will of John Alan Citizen, deceased who died on the 15th July 2000. Probate was granted to me on the 8th November 2000.
2. The said John Alan Citizen was registered as the proprietor of the land comprised in Certificate of Title Volume 2186 Folio 690 wherein he was described as of 2 High Road, Fremantle.
3. The John Alan Citizen of 2 High Road, Fremantle as shown on the Certificate of Title is one and the same person as John Alan Citizen of 27 Dola Street, Suburbia as shown on the Grant of Probate.
4. I make this declaration in support of my application to be registered as the proprietor of the land in the said Certificate of Title by Transmission.

This declaration is true and I / WE know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the Oaths, Affidavits and Statutory Declarations Act 2005 at (place) Midland on 31st day of December 20 00 by -

Signature of person making the declaration (sign in the space above) **D** *Barry Henry Smith*

In the presence of - **E** *[Signature]*

Signature of authorised witness (sign in the space above)

Timothy James Watkins
20A Nikon Avenue
Subiaco WA 6008 - State Public Servant

(Print the full name, Address and qualification of authorised witness in the space above)

Executor:

A person appointed by a Will to administer the Testators 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).

Title Search:
Copy of the original Certificate of Title that always lists all encumbrances against ownership.
A fee is payable for this service

Transfer of Land Act:
An Act of Parliament which set up a public register of title to land, maintained

by the Registrar of Titles

Transferee:
The person(s) who is buying the property (Purchaser)

Transferor:
The person(s) who is selling the property (Vendor)



Need more information?

Please contact one of Landgate's experienced Advice Officers at our Land Registration Centre. See contact details on back page.

25G

WESTERN AUSTRALIA

REGISTER NUMBER: 10/DP35004

DUPLICATE EDITION: 4

DATE DUPLICATE ISSUED: 8/03/2001

VOLUME: 2186

FOLIO: 690

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

REGISTRAR OF TITLES

LAND DESCRIPTION:
A LOT 10 ON DEPOSITED PLAN 35004

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)
E JOHN ALAN CITIZEN OF 2 HIGH ROAD, FREMANTLE
(T H71 1033) REGISTERED 8 MARCH 2001

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

- H703194 MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD. REGISTERED 26.10.2000.
- H711032 RESTRICTIVE COVENANT BURDEN. REGISTERED 8.3.2001.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk do not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:
The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP35004.
PREVIOUS TITLE: NO PREVIOUS TITLE INFORMATION AVAILABLE.
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AREA: NO LOCAL GOVERNMENT AUTHORITY INFORMATION AVAILABLE.

FORM A1

APPROVAL NO. B1858

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

APPLICATION BY PERSONAL REPRESENTATIVE
TO BE THE REGISTERED PROPRIETOR OF LAND BY TRANSMISSION

DESCRIPTION OF LAND (Note 1)	EXTENT	VOLUME	FOLIO
A Lot 10 on Deposited Plan 35004	WHOLE	B 2186	C 690

APPLICANT (Note 2)
D Barry Henry Smith of 35 Hart Street, Fremantle

DECEASED PROPRIETOR (Note 3)
E John Alan Citizen of 2 High Road, Fremantle

DATE OF DEATH (Note 4)
F Fifteenth July 2000

DATE OF GRANT (Note 5)
G Eighth November 2000

The APPLICANT as Personal Representative of the abovenamed deceased HEREBY APPLIES to be registered as the proprietor of the interest of the said deceased in the land above described.

Dated this H 31st day of December Year 2000

SIGNATURE OF APPLICANT/S (Note 6)
I B. Smith
Applicant's Signature

FORM T1

APPROVAL NO. B1870

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

TRANSFER OF LAND

DESCRIPTION OF LAND (Note 1)	EXTENT	VOLUME	FOLIO
A Lot 10 on Deposited Plan 35004	WHOLE	B 2186	C 690

ESTATE AND INTEREST (Note 2)
J Fee Simple

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS (Note 3)
J H711032 Restrictive Covenant Burden

TRANSFEROR (Note 4)
P Barry Henry Smith as Executor of the Will of John Alan Citizen, deceased

CONSIDERATION (Note 5)
Terms of the Will of deceased

TRANSFeree (Note 6)
K Clare Janet Citizen of 27 Dola Street, Suburbia

THE TRANSFEROR for the consideration herein expressed HEREBY TRANSFERS TO THE TRANSFeree the estate and interest herein specified in the land above described, subject to the encumbrances as shown hereon.

Dated this L 31st day of December Year 2000

TRANSFEROR'S SIGN HERE (Note 7)
M Signed B. Smith
N In the presence of Ray Smith, 39 Hart St, Fremantle, J.P.

TRANSFeree'S SIGN HERE (Note 7)
O Signed C.J. Citizen
N In the presence of Jodi Smith, 10 Dola St, Suburbia, Home Duties.

- A** — To be copied from Certificate of Title
- B** — To be copied from Certificate of Title
- C** — To be copied from Certificate of Title
- D** — Full name and address of Executor(s) / Administrator(s)
- E** — Full name and address of deceased as shown on Certificate of Title
- F** — Date of Death
- G** — Date of Probate stated
- H** — Date application signed
- I** — Usual signature of Executor(s) / Administrator(s). No Witness required
- J** — To be copied from Certificate of Title
- K** — State full name(s) and address(es) of Transferee/s (beneficiary/s). If more than one person show 'joint tenants' or 'tenants in common'
- L** — Date to be shown
- M** — Usual signature of Transferor
- N** — Usual signature of Witness and print name, address and occupation
- O** — Usual signature of Transferee
- P** — Full name and capacity of Applicant

CONTACT LIST

Landgate

Advice Officers - Land Registration Centre

Cnr Morrison Road & Great Northern Highway,
MIDLAND 6056

Postal Address: PO Box 2222, MIDLAND 6936

Tel: (08) 9273 7044

Fax: (08) 9273 7651

Email: lrc@landgate.wa.gov.au

Website: www.landgate.wa.gov.au

Perth Branch Office

(Lodgement centre only - no advice service)

Mt Newman House / Terrace Level

200 St Georges Terrace, PERTH

Bunbury Regional Office

(Lodgement centre only - no advice service)

61 Victoria Street, BUNBURY

Tel: (08) 9791 0834

Fax: (08) 9791 0838

State Law Publisher

10 William Street, PERTH

Tel: (08) 9321 7688

Website: www.slp.wa.gov.au

Office of State Revenue

(Revenue Services - Stamp Duties)

Mt Newman House / Plaza Level

200 St Georges Terrace, PERTH

Tel: (08) 9262 1100

Website: www.dtf.wa.gov.au

Probate Office

111 St Georges Terrace, PERTH

Tel: (08) 9421 5152

Website: www.justice.wa.gov.au

Registrar General

(Births / Deaths / Marriages)

141 St Georges Terrace, PERTH

Tel: (08) 9264 1555

Website: www.justice.wa.gov.au

Ministry for Planning

Albert Facey House

469-489 Wellington Street, PERTH

Tel: (08) 9264 7777

Website: www.wapc.wa.gov.au

Guardianship & Administration Board

Hyatt Centre / Level 1

20 Terrace Road, EAST PERTH

Tel: (08) 9278 7350

Website: www.justice.wa.gov.au

State Administrative Tribunal

(Direct General Enquiries to Landgate)

Level 4

12 St Georges Terrace, PERTH

Tel: 1300 306 017

(08) 9219 3111

Website: www.justice.wa.gov.au

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.

