

**Reprint
as at 12 November 2018**

**Land Transfer Amendment Regulations (No 2) 2007
(SR 2007/261)**

Land Transfer Amendment Regulations (No 2) 2007: revoked, on 12 November 2018, pursuant to section 249(1) of the Land Transfer Act 2017 (2017 No 30).

Preamble

At Wellington this 27th day of August

Pursuant to section 236 of the Land Transfer Act 1952, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations amended	2
4 Interpretation	2
5 New regulation 6 substituted	2
6 Who must sign paper instruments	2
6 New regulation 11 substituted	5
11 Parties in respect of whom certification under section 164A of Act is required	5
7 Legal effect of certifications	5
8 Revocations	5
9 Registration as to part of land affected	6
10 Schedule 1 amended	6
11 Schedule 4 amended	6
Schedule	6
New Parts 1 and 2 of Schedule 1 substituted	

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

These regulations are administered by Land Information New Zealand.

1 Title

These regulations are the Land Transfer Amendment Regulations (No 2) 2007.

2 Commencement

These regulations come into force on 8 October 2007.

3 Principal regulations amended

These regulations amend the Land Transfer Regulations 2002.

4 Interpretation

Regulation 3 is amended by inserting the following definitions in their appropriate alphabetical order:

charge, in relation to a discharge instrument, means the charge, notation, or other thing to which the instrument relates

chargeholder, in relation to a discharge instrument, means the person who is authorised by an enactment or rule of law to require the Registrar to give effect to the instrument

discharge instrument means an instrument of any of the kinds listed under the item “discharge instrument” in Part 2 of Schedule 1.

5 New regulation 6 substituted

Regulation 6 is revoked and the following regulation substituted:

6 Who must sign paper instruments

If the instrument is of a class described in the first column of the following table and the case described in the second column applies, the party or parties specified (opposite those descriptions) in the third column must sign the instrument:

Instrument	Case	Parties who must sign
Transfer instrument (section 90 of Act)	Any land or estate or interest in land is transferred	The transferor
	An easement is reserved	The transferor and the transferee
	An easement or <i>profit à prendre</i> is created or surrendered, or the transfer contains covenants binding on the person who is to take the interest under the transfer	The transferor and the person who is to take the interest

Easement instrument (sections 90A and 90F of Act)	The easement to be created or surrendered is not in gross	The registered proprietors of the dominant and servient tenements
	The easement to be created or surrendered is in gross	The registered proprietor of the servient tenement and the grantee
	A land covenant is created or surrendered	The registered proprietors of the dominant and servient tenements
Easement variation instrument (sections 90C and 90F of Act)	The easement to be varied is not in gross	The registered proprietors of the dominant and servient tenements
	The easement to be varied is in gross	The registered proprietor of the servient tenement and the grantee
	A land covenant is varied	The registered proprietors of the dominant and servient tenements
Mortgage instrument (section 101 of Act)	All cases	The registered proprietor of the land, estate, or interest affected by the mortgage
Encumbrance instrument (section 101 of Act)	All cases	The registered proprietor of the land, estate, or interest affected by the encumbrance
Mortgage variation instrument (section 102 of Act)	The variation only operates to reduce the amount secured or the rate of interest	The mortgagee
	The variation only operates to increase the amount secured or the rate of interest	The registered proprietor of the land, estate, or interest affected by the mortgage
	All other cases	The registered proprietor of the land, estate, or interest affected by the mortgage, and the mortgagee
Mortgage priority instrument (section 103 of Act)	All cases	The registered proprietor of the land, estate, or interest affected by the

Mortgage discharge instrument (section 111 of Act)	All cases	mortgage, and every mortgagee under every mortgage that, as a result of the mortgage priority instrument, will be ranked after any mortgage over which it previously had priority The mortgagee
Lease instrument (section 115 of Act)	All cases	The lessee and the lessor
Lease variation instrument (section 116 of Act)	All cases	The lessee and the lessor
Lease surrender instrument (section 120 of Act)	All cases	The lessee and the lessor
Licence to occupy (section 121C of Act)	All cases	The flat or office owning company and the shareholder
Variation of licence to occupy (sections 121C and 121E of Act)	All cases	The flat or office owning company and the licensee
Surrender of licence to occupy (section 121K of Act)	All cases	The flat or office owning company and the licensee
Transmission (section 122 of Act)	All cases	The person applying to have a transmission registered
Caveat against bringing land under Act (section 136 of Act)	All cases	The caveator or the caveator's attorney or agent
Caveat against dealings with land under Act (section 137 of Act)	All cases	The caveator or the caveator's attorney or agent
Withdrawal of caveat (section 147 of Act)	All cases	The caveator or the caveator's attorney or agent under a written authority (or without written authority if the

proviso to section 147 of
the Act applies)

6 New regulation 11 substituted

Regulation 11 is revoked and the following regulation substituted:

11 Parties in respect of whom certification under section 164A of Act is required

If the instrument is of a class described in the first column of the following table and the case described in the second column applies, a certification must be given on behalf of the party specified (opposite those descriptions) in the third column:

Electronic instrument	Case	Specified party
Transfer instrument (section 90 of Act)	A conveyancer acting for the transferor	The registered proprietor
	A conveyancer acting for the transferee	The transferee
Mortgage instrument (section 101 of Act)	A conveyancer acting for the mortgagor	The mortgagor
	A conveyancer acting for the mortgagee	The mortgagee
Discharge instrument (section 111 of Act and various other enactments)	A conveyancer acting for the chargeholder	The chargeholder

7 Legal effect of certifications

Regulation 13 is amended by revoking subclause (2) and substituting the following subclause:

- (2) For the purposes of section 164E(3)(b) of the Act, on the registration of an instrument of a class described in the first column of the following table, the instrument has effect as an instrument made in writing and duly executed by the party or parties specified (opposite that description) in the second column:

Instrument	Parties deemed to have executed
Transfer instrument (section 90 of Act)	The transferor
Mortgage instrument (section 101 of Act)	The registered proprietor of the land or estate or interest affected by the mortgage
Discharge instrument (section 111 of Act and various other enactments)	The chargeholder

8 Revocations

Regulations 17, 18, 35, 36, and 37 are revoked.

9 Registration as to part of land affected

Regulation 24 is amended by adding the following subclause:

- (3) However, this regulation does not apply to electronic instruments.

10 Schedule 1 amended

- (1) Schedule 1 is amended by revoking Parts 1 and 2 and substituting the Parts 1 and 2 set out in the Schedule of these regulations.
- (2) Part 3 of Schedule 1 is amended by revoking the item relating to a discharge of mortgage and substituting the following item:

Discharge instrument	(a)	discharges, releases, withdraws, or otherwise cancels a charge from all the land in 1 or more computer registers; and
	(b)	affects only 1 charge

- (3) Part 3 of Schedule 1 is amended by revoking the item relating to a withdrawal instrument.

11 Schedule 4 amended

- (1) Clause 1 of Schedule 4 is amended by inserting the following definition in its appropriate alphabetical order:

repair and maintenance, in relation to an easement facility, includes the replacement of the easement facility.

- (2) Clause 11(4) of Schedule 4 is amended by inserting “or subclause (5)” after “subclause (2)”.
- (3) Clause 11 of Schedule 4 is amended by adding the following subclauses:
- (5) The grantor or grantee must promptly carry out at that party’s sole cost any repair and maintenance of the easement facility that is attributable solely to an act or omission by that party.
- (6) However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the grantor or grantee,—
- (a) that party must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and
- (b) the balance of those costs is payable in accordance with subclause (2).
- (7) The costs of any electric power used for the conveyance of water must be apportioned between users of the water in proportion to their usage of the water.

Schedule
New Parts 1 and 2 of Schedule 1 substituted

1

Permissible transactions

The following table sets out, for the purposes of regulation 4(2)(a), the number of instruments that may be included in a permissible transaction:

Class of permissible instrument	Number of instruments
Discharge instrument	No limit
Transfer instrument	1
Mortgage instrument	1

2

Permissible instruments

The following table describes, for the purposes of regulation 4(2)(b), the classes of permissible instrument:

Class of permissible instrument	Description
Mortgage instrument	Made under section 101(1) of Act
Transfer instrument	Made for the purpose of registering a transfer of land under section 90(1) of Act
Discharge instrument—	
(a) discharge of mortgage (includes discharge of encumbrance)	Section 111 of Act
(b) discharge of family benefit charge	Section 14(3) or (4), Family Benefits (Home Ownership) Act 1964
(c) discharge of charging order	Rule 599, District Courts Rules 1992 Rule 577, High Court Rules Section 184, Child Support Act 1991 Section 101, Domestic Proceedings Act 1968 Section 118, Family Proceedings Act 1980 Section 66 or 101, Local Government (Rating) Act 2002 Section 55, Maori Affairs Restructuring Act 1989 Section 80 or 153, Rating Act 1967 Section 143 or 186, Rating Powers Act 1988 Section 82 or 333, Te Ture Whenua Maori Act 1993

		Any other provision of an enactment that authorises the discharge of a charging order against land noted on the register
(d)	discharge of statutory land charge	Section 7, Statutory Land Charges Registration Act 1928 Section 52, Electricity Act 1968 Section 57(3), Estate and Gift Duties Act 1968 Section 14L(5), Farm Ownership Savings Act 1974 Section 18, Legal Aid Act 1969 Section 40, Legal Services Act 1991 Section 32, Legal Services Act 2000 Section 326(10), 331(1), 335(7), 355(5), 465, 468(5), 511(6), 626(1), 650(5), 674(7), or 692ZK(3), Local Government Act 1974, Section 372, Municipal Corporations Act 1954 Section 73(5), 74(5), or 107(6), Public Works Act 1981 Section 162(5), Rating Powers Act 1988 Section 109(5) or 315(3), Resource Management Act 1991 Section 5A, Rural Housing Act 1939 Section 125, Social Security Act 1964 Section 25, Soil Conservation and River Control Act 1941 Any other provision of an enactment that authorises the discharge of a statutory land charge against land noted on the register
(e)	withdrawal of caveat	Section 147 of Act
(f)	withdrawal of notice of claim	Section 42(3), Property (Relationships) Act 1976
(g)	cancellation or expiration of consent notice	Section 221(5), Resource Management Act 1991
(h)	cancellation of bond	Section 348, Local Government Act 1974
(i)	discharge of lien	Section 42, Wages Protection and Contractors' Liens Act 1939

(j)	cancellation of building-line restriction	Section 327A, Local Government Act 1974
(k)	withdrawal of notice of desire to acquire land	Section 18, Public Works Act 1981
(l)	discharge of compensation certificate	Section 19(7), Public Works Act 1981
(m)	discharge of certificate of consent	Section 115, Public Works Act 1981
(n)	release of irrigation notice	Section 220, Public Works Act 1981
(o)	discharge of irrigation charge	Section 221, Public Works Act 1981
(p)	discharge of Earthquake Commission notice	Regulation 5A(6), Earthquake and War Damage Regulations 1984
(q)	discharge of Earthquake Commission notice	Section 28, Earthquake Commission Act 1993
(r)	removal of notification of building consent	Section 74, Building Act 2004
(s)	discharge of tax charge	Section 367, Income Tax Act 1976

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 8 October 2007, amend the Land Transfer Regulations 2002 to support the expansion of electronic lodgement. This is to be done progressively with the ultimate aim of applying electronic lodgement to all instruments that may be lodged by conveyancers.

The regulations replace the table in regulation 6 of the principal regulations by completing the list of parties who must sign paper instruments. This is to better match signing provisions in the Land Transfer Act 1952 and to make the table more comprehensive.

The regulations add repair and maintenance to the definition of easement facility in Schedule 4 of the principal regulations.

The regulations also revoke the following provisions of the principal regulations, which are no longer required:

- regulation 17 (when duplicate certificate or other instrument of title must be produced):
- regulation 18 (when particulars of other instruments must be supplied):
- regulation 35 (delivery of new certificate of title issued on request):
- regulation 36 (delivery of new certificate of title issued on registration of instrument):

- • regulation 37 (general powers of Registrar as to delivery of documents).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 30 August 2007.

Eprint notes

1 *General*

This is an eprint of the Land Transfer Amendment Regulations (No 2) 2007 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Land Transfer Act 2017 (2017 No 30): section 249(1)