

**Reprint
as at 12 November 2018**



**Land Transfer Amendment Regulations (No 2) 2008
(SR 2008/283)**

Land Transfer Amendment Regulations (No 2) 2008: revoked, on 12 November 2018, pursuant to section 249(1) of the Land Transfer Act 2017 (2017 No 30).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 25th day of August 2008

Present:

His Excellency the Governor-General in Council

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.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by Land Information New Zealand.

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Regulations

1 Title

These regulations are the Land Transfer Amendment Regulations (No 2) 2008.

2 Commencement

These regulations come into force on 29 September 2008.

3 Principal regulations amended

These regulations amend the Land Transfer Regulations 2002.

4 Interpretation

The definition of **discharge instrument** in regulation 3 is amended by omitting “Part 2” and substituting “Part 1”.

5 Classes of instruments capable of being electronic instruments

Regulation 4 is amended by revoking subclause (2) and substituting the following subclause:

- (2) The instrument—
- must belong to a class of permissible instrument described in Part 1 of Schedule 1; and
 - is subject to the restrictions set out for instruments of that class in Part 2 of Schedule 1.

6 New regulations 11 to 13 substituted

Regulations 11 to 13 are revoked and the following regulations 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 transferor
	A conveyancer acting for the transferee	The transferee
Easement instrument (sections 90A, 90F of Act)	A conveyancer acting for the grantor	The grantor
	A conveyancer acting for the grantee	The grantee
Easement variation instrument (sections 90C, 90F of Act)	A conveyancer acting for the grantor	The grantor
	A conveyancer acting for the grantee	The grantee
Mortgage instrument (section 101 of Act)	A conveyancer acting for the mortgagor	The mortgagor
	A conveyancer acting for the mortgagee	The mortgagee
Encumbrance instrument (section 101 of Act)	A conveyancer acting for the encumbrancer	The encumbrancer
	A conveyancer acting for the encumbrancee	The encumbrancee
Mortgage variation instrument (section 102 of Act)	A conveyancer acting for the mortgagor	The mortgagor
	A conveyancer acting for the mortgagee	The mortgagee
Mortgage priority instrument (section 103 of Act)	A conveyancer acting for the mortgagor	The mortgagor
	A conveyancer or conveyancers acting for 1 or more mortgagees giving priority	Every mortgagee giving priority
	A conveyancer or conveyancers acting for 1 or more mortgagees taking priority	Every mortgagee taking priority
Discharge instrument (section 111 of Act and various other enactments)	A conveyancer acting for the chargeholder	The chargeholder
Lease instrument (section 115 of Act)	A conveyancer acting for the lessor	The lessor
	A conveyancer acting for the lessee	The lessee
Lease variation instrument (section 116 of Act)	A conveyancer acting for the lessor	The lessor
	A conveyancer acting for the lessee	The lessee

Electronic instrument	Case	Specified party
Lease surrender instrument (section 120 of Act)	A conveyancer acting for the lessor	The lessor
	A conveyancer acting for the lessee	The lessee
Licence to occupy (section 121C of Act)	A conveyancer acting for the licensor	The licensor
	A conveyancer acting for the licensee	The licensee
Surrender of licence to occupy (section 121K of Act)	A conveyancer acting for the licensor	The licensor
	A conveyancer acting for the licensee	The licensee
Application for transmission (sections 99A, 122 of Act)	A conveyancer acting for the applicant	The applicant
Caveat (sections 137, 205(4) of Act)	A conveyancer acting for the caveator	The caveator
Application to note merger of lease (regulation 25 of these regulations)	A conveyancer acting for the applicant	The applicant
Application for correction or change of name (regulation 26 of these regulations)	A conveyancer acting for the applicant	The applicant
Notice of claim (section 42(3), Property (Relationships) Act 1976)	A conveyancer acting for the claimant	The claimant
Application to settle land as a joint family home (sections 4, 5, 12A, Joint Family Homes Act 1964)	A conveyancer acting for the registered proprietor	The applicant
Application to cancel a joint family home (section 10(1)(a), Joint Family Homes Act 1964)	A conveyancer acting for the registered proprietor	The applicant
Application for deposit of unit title plan (section 5(3), Unit Titles Act 1972)	A conveyancer acting for the registered proprietor	The applicant
Esplanade strip (sections 232, 235, Resource Management Act 1991)	A conveyancer acting for the registered proprietor	The registered proprietor
	A conveyancer acting for the territorial authority	The territorial authority
Easement for access strip (section 237B,	A conveyancer acting for the registered proprietor	The registered proprietor

Electronic instrument	Case	Specified party
Resource Management Act 1991)	A conveyancer acting for the territorial authority	The territorial authority
Covenant against transfer, lease, or other disposition (section 240, Resource Management Act 1991)	A conveyancer acting for the registered proprietor	The registered proprietor
	A conveyancer acting for the territorial authority	The territorial authority

12 Form of certification

A certification that is given on behalf of a party specified in the third column of the table in regulation 11 must be in the following form:

‘I certify that I have the authority to act for *[insert description of the appropriate party from the third column of the table in regulation 11]* and that the party has the legal capacity to authorise me to lodge this instrument.

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument.

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply, and *[whichever of the following apply]*—

I certify that any statutory provisions specified by the Registrar relating to Maori freehold land have been complied with or do not apply *[use this form if an electronic workspace facility generates a notification that the land is or could be Maori land]; or*

I certify that the caveator or claimant under *[insert Caveat, or Notice of Claim, and number here]* has consented to this transaction, which is subject to the caveat or notice of claim, and I hold that consent *[use this form if the transaction is to be registered with caveator’s or claimant’s consent]; or*

I certify that the chargeholder under *[insert type and registration number of charge here]* has consented to this transaction and I hold that consent, or the charge does not prevent registration *[use this form if the title affected by the transaction is subject to a charge]; or*

I certify that the mortgagee under Mortgage *[insert the mortgage number here]* has consented to this transaction and I hold that consent *[use this form if the transaction is to be registered with the mortgagee’s consent]; or*

I certify that the licensor or lessor of the affected licence or lease has consented to this transaction, or notice has been given to the Commissioner of Crown Lands, or (in the case of mortgages) the licensor’s or

lessor's consent or notice to the Commissioner is not required under the Land Act 1948 [*use this form if the transaction is to be registered against a licence or lease under that Act*]; or

I certify that the mortgagee under Submortgage [*insert the submortgage number here*] has consented to this transaction and I hold that consent, or the mortgage postponed by this transaction is not subject to the sub-mortgage [*use this form if the title affected by the transaction is affected by a submortgage*]; or

I certify that the applicant is entitled to be registered as proprietor by virtue of transmission [*use this form if the transaction is an application for transmission*]; or

I certify that the territorial authority has consented to this transaction and I hold that consent, or the affected easement is not the subject of a condition imposed by the territorial authority [*use this form if the transaction to be registered is a variation of easement or a surrender of easement*].

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period.'

13 Legal effect of certifications

- (1) For the purposes of section 164E(1) of the Act, on the registration of an instrument of a class described in the first column of the following table, the instrument has the same effect as a deed executed by the party or parties specified (opposite that description) in the second column:

Instrument	Parties deemed to have executed instrument
Transfer instrument (section 90 of Act)	The transferor and the transferee
Easement instrument (sections 90A, 90F of Act)	The grantor and the grantee
Easement variation instrument (sections 90C, 90F of Act)	The grantor and the grantee
Mortgage instrument (section 101 of Act)	The registered proprietor of the land, estate, or interest affected by the mortgage
Encumbrance instrument (section 101 of Act)	The encumbrancer
Mortgage variation instrument (section 102 of Act)	The mortgagor and the mortgagee
Mortgage priority instrument (section 103 of Act)	The mortgagor; 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
Lease instrument (section 115 of Act)	The lessor and the lessee
Lease variation instrument (section 116 of Act)	The lessor and the lessee
Lease surrender instrument (section 120 of Act)	The lessor and the lessee

(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 where the case described in the second column of that table applies, the instrument has effect as an instrument made in writing and duly executed by the party or parties specified (opposite that description) in the third column:

Instrument	Case	Parties deemed to have executed
Transfer instrument (section 90 of Act)	Any land, 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, 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 to be created or surrendered	The registered proprietors of the dominant and servient tenements
Easement variation instrument (sections 90C, 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 to be 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 encumbrancer
Mortgage variation instrument (section 102 of Act)	All cases	The mortgagor and the mortgagee
Mortgage priority instrument (section 103 of Act)	All cases	The mortgagor; 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

Instrument	Case	Parties deemed to have executed
Discharge instrument (section 111 of Act and various other enactments)	All cases	The chargeholder
Lease instrument (section 115 of Act)	All cases	The lessor and the lessee
Lease variation instrument (section 116 of Act)	All cases	The lessor and the lessee
Lease surrender instrument (section 120 of Act)	All cases	The lessor and the lessee
Licence to occupy (section 121C of Act)	All cases	The flat or office owning company and the share-holder
Surrender of licence to occupy (section 121K of Act)	All cases	The flat or office owning company and the licensee
Application for transmission (sections 99A, 122 of Act)	All cases	The applicant
Caveat (sections 137, 205(4) of Act)	All cases	The caveator or the caveator's attorney or agent
Application to note merger of lease (regulation 25 of these regulations)	All cases	The registered proprietor
Application for correction or change of name (regulation 26 of these regulations)	All cases	The registered proprietor
Notice of claim (section 42(3), Property (Relationships) Act 1976)	All cases	The claimant or claimant's attorney or agent
Application to settle land as a joint family home (sections 4, 5, 12A, Joint Family Homes Act 1964)	All cases	The applicant
Application to cancel a joint family home (section 10(1)(a), Joint Family Homes Act 1964)	All cases	The applicant
Application for deposit of unit title plan (section 5(3), Unit Titles Act 1972)	All cases	The applicant
Esplanade strip (sections 232, 235, Resource Management Act 1991)	All cases	The registered proprietor and the local authority
Easement for access strip (section 237B, Resource Management Act 1991)	All cases	The registered proprietor and the local authority
Covenant against transfer, lease, or other disposition (section 240, Resource Management Act 1991)	All cases	The owner and the territorial authority

7 Registration as to part of land affected

Regulation 24(3) is revoked.

8 New Schedule 1 substituted

Schedule 1 is revoked and the Schedule 1 set out in the Schedule of these regulations substituted.

**Schedule
New Schedule 1 substituted**

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**Schedule 1
Electronic instrument**

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**Part 1
Permissible instruments**

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

Class of permissible instrument	Description
Transfer instrument	Made under section 90(1) of Act
Easement instrument	Made under sections 90A and 90F of Act
Easement variation instrument	Made under sections 90C and 90F of Act
Mortgage instrument	Made under section 101 of Act
Encumbrance instrument	Made under section 101 of Act
Mortgage variation instrument	Made under section 102 of Act
Mortgage priority instrument	Made under section 103 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 Sections 66, 101, Local Government (Rating) Act 2002 Section 55, Maori Affairs Restructuring Act 1989 Sections 80, 153, Rating Act 1967 Sections 143, 186, Rating Powers Act 1988 Sections 82, 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

Class of permissible instrument	Description
(d) discharge of statutory land charge	<p>Section 7, Statutory Land Charges Registration Act 1928</p> <p>Section 52, Electricity Act 1968</p> <p>Section 57(3), Estate and Gift Duties Act 1968</p> <p>Section 14L(5), Farm Ownership Savings Act 1974</p> <p>Section 18, Legal Aid Act 1969</p> <p>Section 40, Legal Services Act 1991</p> <p>Section 32, Legal Services Act 2000</p> <p>Sections 326(10), 331(1), 335(7), 355(5), 465, 468(5), 511(6), 626(1), 650(5), 674(7), 692ZK(3), Local Government Act 1974</p> <p>Section 372, Municipal Corporations Act 1954</p> <p>Sections 73(5), 74(5), 107(6), Public Works Act 1981</p> <p>Section 162(5), Rating Powers Act 1988</p> <p>Sections 109(5), 315(3), Resource Management Act 1991</p> <p>Section 5A, Rural Housing Act 1939</p> <p>Section 125, Social Security Act 1964</p> <p>Section 25, Soil Conservation and Rivers Control Act 1941</p> <p>Any other provision of an enactment that authorises the discharge of a statutory land charge against land noted on the register</p>
(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	Sections 304, 348, Local Government Act 1974, or section 109(2), Resource Management Act 1991
(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, 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

Class of permissible instrument	Description
(t) cancellation of amalgamation condition	Section 241, Resource Management Act 1991
(u) revocation of compulsory easement condition	Section 243(f), Resource Management Act 1991
Lease instrument	Made under section 115 of Act
Lease variation instrument	Made under section 116 of Act
Lease surrender instrument	Made under section 120 of Act
Licence to occupy	Made under section 121C of Act
Surrender of licence to occupy	Made under section 121K of Act
Application for transmission	Made under sections 99A, 122 of Act
Caveat	Made under sections 137, 205(4) of Act
Application to note merger of lease	Made under regulation 25 of these regulations
Application for correction or change of name	Made under regulation 26 of these regulations
Notice of claim	Made under section 42(3), Property (Relationships) Act 1976
Application to settle land as a joint family home	Made under sections 4, 5, 12A, Joint Family Homes Act 1964
Application to cancel a joint family home	Made under section 10(1)(a), Joint Family Homes Act 1964
Application for deposit of unit title plan	Made under section 5(3), Unit Titles Act 1972
Esplanade strip	Made under sections 232, 235, Resource Management Act 1991
Easement for access strip	Made under section 237B, Resource Management Act 1991
Covenant against transfer, lease, or other disposition	Made under section 240, Resource Management Act 1991

Part 2

Restrictions on electronic instruments

The following table sets out, for the purposes of regulation 4(2)(b), restrictions for each class of permissible instrument:

Class of permissible instrument	Restrictions
All instruments	An instrument required by any enactment to be executed by a court registrar or under a court seal cannot be an electronic instrument
Mortgage variation instrument	May affect only 1 mortgage
Discharge instrument	May affect only 1 charge
Transfer instrument, mortgage instrument, mortgage variation instrument, mortgage priority instrument, application for transmission, caveat, notice of claim, or application for correction or change of name	An instrument affecting any land, estate, or interest— <ul style="list-style-type: none"> (a) for which 1 computer register has been created; or (b) comprised in 1 registered instrument; or (c) for which more than 1 computer register has been created (if the affected registered proprietor is the same in each case); or

Class of permissible instrument	Restrictions
Application for transmission	(d) comprised in more than 1 registered instrument (if the type of estate or interest, and affected registered proprietor, are the same in each case). May not relate to a transmission of any land, estate, or interest comprised in a computer register noted with the words “No survivorship”.

Rebecca Kitteridge,
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 29 September 2008, amend the Land Transfer Regulations 2002. The regulations implement Landonline upgrade release 3.1 and will enable almost all land transactions to be lodged electronically. In particular, this release will enable the following instruments to be lodged electronically rather than on paper:

- easements (rights to use another person’s land for a specific purpose), easement variations, encumbrances (a type of mortgage), mortgage variations, leases, licences to occupy land, variations of leases and licences, transmissions (acquiring title by operation of law), caveats (claims of unregistered land entitlements or interests), mergers of leases, and corrections or changes of name:
- notices of claim on a land title by a spouse or a civil union or de facto partner of a land holder under the Property (Relationships) Act 1976. These have the same effect as caveats:
- applications to settle and to cancel settlements of land under the Joint Family Homes Act 1964:
- applications for the creation of stratum estates for buildings or parts of buildings under the Unit Titles Act 1972:
- agreements between local authorities and landowners creating esplanade strips, easements for access strips, and land amalgamation conditions under the Resource Management Act 1991.

In addition, 3 new conveyancer certifications required under the Land Transfer Act 1952 for variations of mortgage priority, transmissions, and variations or surrender of easements will be provided for electronic versions of these instruments.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 August 2008.

Reprints notes

1 *General*

This is a reprint of the Land Transfer Amendment Regulations (No 2) 2008 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

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