
Public consultation draft

Real Property Regulation 2008

This Regulation is made under the *Real Property Act 1900*, including sections 12AA, 61, 74B, 74F, 74N, 82, 91, 96B, 96D, 96G, 135 and 144 (the general regulation-making power).

This Regulation (other than the provisions dealing with fees) comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Information contained
in this document was correct at
time of publication, but may have
been superseded

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Clause 1

Preliminary

Part 1

Real Property Regulation 2008

under the

Real Property Act 1900

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Real Property Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

Note. This Regulation replaces the *Real Property Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approved means approved for the time being by the Registrar-General.

the Act means the *Real Property Act 1900*.

(2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4

Dealings and caveats

Part 2

Part 2 Dealings and caveats

4 Lodgment of dealings and caveats

A dealing or caveat that is intended to be lodged at the office of the Registrar-General must:

- (a) be lodged in the approved manner, and
- (b) be accompanied by the relevant fee set out in Schedule 1.

5 Certain instruments to comply with Schedule 2 requirements

Each of the following instruments must comply with the requirements set out in Schedule 2 if the instrument is intended to be lodged at the office of the Registrar-General:

- (a) an application or dealing that is required by the Act or any other Act to be in an approved form,
- (b) a caveat referred to in section 74B or 74F of the Act,
- (c) a declaration of trust (or a duplicate or an attested copy) lodged in accordance with section 82 of the Act.

6 Joint tenancy or tenancy in common to be stated

- (1) The following applications and dealings must state whether the persons concerned take as joint tenants or as tenants in common:

- (a) an application by 2 or more persons to be registered as proprietors of land,
 - (b) a transfer, mortgage, charge or lease in favour of 2 or more persons,
- and, if they take as tenants in common, the shares in which they take.

- (2) If the persons take as tenants in common, and if the shares in which they take are expressed as fractions, the shares must be stated by means of fractions having a common denominator and each numerator or denominator of the fraction must be an integer (for example: "A takes as to five-tenths, B takes as to three-tenths and C takes as to two-tenths").

7 Caveats: particulars of estate or interest claimed

The following caveats must specify the particulars set out in Schedule 3 in relation to the estate or interest to which a caveator claims to be entitled:

- (a) a caveat lodged under section 74B of the Act against a primary application,

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Part 2 Dealings and caveats

- (b) a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.

8 Caveats applying to part of land only: description of part

- (1) This clause applies to a caveat lodged under section 74F of the Act against a dealing, possessory application or delimitation plan, or against an application for cancellation of an easement or extinguishment of a restrictive covenant.
- (2) A caveat to which this clause applies that relates to part only of the land described in a folio of the Register or a current lease must describe the part in accordance with the requirements of Schedule 4.

9 Annexure of plans to dealings or caveats

- (1) A plan must not be annexed to or endorsed on a dealing or caveat lodged in the office of the Registrar-General unless the Registrar-General so approves.
- (2) A plan that is annexed to or endorsed on a dealing (other than a lease of premises) or caveat must comply with the requirements of Schedule 5.
- (3) A plan that is annexed to or endorsed on a lease of premises must comply with the requirements of Schedule 6.
- (4) Unless the Registrar-General otherwise approves, a lease of premises for a term of more than 25 years must show the leased premises in a plan annexed to or endorsed on the lease that complies with Schedule 6.

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Clause 10

Searches

Part 3

Part 3 Searches

10 Official searches

- (1) A requisition for an official search of the Register must be made in the approved form.
- (2) A requisition is to be limited to parcels of land held by one proprietor or jointly held by 2 or more proprietors.
- (3) A requisition may be lodged personally, by post, by facsimile or by other approved means.
- (4) The relevant fee set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (5) If a requisition is withdrawn after the commencement but before completion of a search, such fees as the Registrar-General determines having regard to the work done up to the time of withdrawal must be paid.
- (6) The Registrar-General may require an interim payment of fees before completion of a search.

11 Public searches

For the purposes of section 96B of the Act:

- (a) the prescribed times at which information in the Register is to be made available are 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday), and
- (b) the prescribed manner in which information in the Register is to be made available to an applicant is:
 - (i) by providing a copy of the information to the applicant in printed, electronic or other approved form, or
 - (ii) in the case of information contained in a computer folio of the Register, by furnishing a certificate to the applicant in accordance with section 96D or 96G of the Act, or
 - (iii) in the case of information contained in a bound volume to which the public has access, by permitting the applicant to inspect the bound volume, and
- (c) the prescribed fee is the relevant fee set out in Schedule 1.

