

Land Victoria Customer Information Bulletin

Edition 140 March 2013

Electronic Conveyancing (Adoption of National Law) Act 2013

Land Victoria is pleased to announce that the Electronic Conveyancing (Adoption of National Law) Bill 2012 was passed in the Lower House on 7 February 2013 and in the Upper House on 19 February. It received Royal Assent on 26 February. The *Electronic Conveyancing (Adoption of National Law) Act 2013* adopts in Victoria the national law relating to electronic conveyancing and makes consequential amendments to the *Transfer of Land Act 1958* (TLA). Most of the provisions came into operation on 14 March 2013. The repeal of existing Part IIIA of the TLA will occur when Electronic Conveyancing Victoria ceases to operate.

The Act facilitates the introduction of national electronic conveyancing in Victoria later this year.

Under the Act the Registrar of Titles is able to determine Operating Requirements. Any operator of an Electronic Lodgement Network must comply with these requirements. The Registrar may also determine Participation Rules. Users of an Electronic Lodgement Network (known as Subscribers) must comply with these rules. The Victorian Registrar intends to adopt both the Model Operating Requirements and Model Participation Rules developed by the Australian Registrars' Electronic Conveyancing Council.

Changes to credit/debit card payment process

In order to comply with the Payment Card Industry Data Security Standards (PCI DSS), Land Victoria has made changes to its EFTPOS payment process.

Visa or MasterCard debit or credit cards are the only acceptable cards. If a customer attends the office in person with the card, payment will be processed in the usual way. However, if a customer does not actually have the card, but merely has the number written down, the customer will be asked by Land Victoria staff to verbally provide the relevant card details, which will be immediately entered into the EFTPOS payment terminal. Receipt and retention of written card details is not permitted by PCI DSS.

If a lodgement is submitted by mail and the customer wishes to pay by credit card, the customer must provide a daytime phone contact number on the document(s) to be lodged and/or in a covering letter. A Land Victoria representative will ring each customer after lodgement of their dealing(s) to process an EFTPOS credit card payment. Payment will be confirmed over the phone and no written record will be kept of the card used in the transaction. A receipt will be provided.

There is no change to Land Victoria's cheque payment policy, which is set out in Customer Information Bulletin No.126 December 2010.

Certificate of Title nomination process

On 4 February 2013, Land Victoria introduced a new nomination process for Certificates of Title produced to facilitate the lodgement of a transaction by another party.

Some customer queries have been raised; this article aims to clarify various aspects of the new process.

- For dealings that require mortgagee consent for lodgement (such as a plan of subdivision), the production of the Certificate of Title with a Nomination Request form by the mortgagee (or agent) will be taken by Land Victoria to be consent to the transaction from the relevant party, i.e: the first mortgagee. Written consents from the holders of other encumbrances (second mortgages, caveats, notices etc.) are still required.

- If the Certificate of Title has been nominated to or is already in a dealing (the 'leader dealing'), another dealing (a 'follower dealing') can be presented for lodgement without the need to obtain a further Nomination Request form from the controlling party of the Certificate of Title.
- In circumstances of multiple parcels of land in one folio and two or more of those parcels are to be sold – resulting in multiple prospective lodgements – it will be easier for all parties if application is made prior to settlement under Section 32 of the *Transfer of Land Act 1958* (the Act) for the creation of separate folios for the parcels.

Notice of Acquisition (NOA)

Customer Bulletin No. 136 June 2012 provided extensive information on the NOA.

Since that time, the State Revenue Office (SRO) has changed the style of the published NOA form to improve data capture processes. The headings are no longer black bands with white writing.

It is recommended that users download the new form and change any internal template accordingly. SRO is permitting a transition period until the end of April 2013. Users should cease the use of forms that have the black band style of headings, or lack the words 'Notice of Acquisition' as the bold leading words in their heading.

Photocopies of Notices of Acquisition may be poor quality and illegible and cause difficulty in data capture processes. Customers should ensure that the Notice of Acquisition submitted to the Registrar of Titles is an original document, not a photocopy. Purchasers' representatives should be encouraged to provide original Notices of Acquisition at settlement.

Use of approved forms

The approval by the Registrar of a form under Section 121 of the Act operates for a period of two years from the date of approval. In addition, any expired form has a 'run off' period of 12 months, during which time the expired form is still acceptable. Once the 'run off' period has passed, an instrument produced using an expired form is generally unacceptable for lodgement.

However, the Registrar has discretion under Section 121(10) of the Act to accept an instrument, even though it is not in an approved form. This discretion allows the Registrar to continue to accept an instrument in an expired form if it does not differ in substance from the current, approved version of that form. However, in the exercise of that discretion, a fee commonly known as the 'sealing fee' may be charged.

The currency of a form's approval may generally be determined from the form approval number shown in the lower left corner of a form. In the eight digit number, the last four digits represent the year and month in which the form was approved, e.g: 14461203 was approved in March 2012. An instrument using that form will be acceptable for lodgement until March 2015.

The forms on the DSE website are always current, regardless of the approval number. Accordingly, any instrument produced using forms from the website will always be accepted.

Tips for using new forms on the DSE website

In November 2012, three new forms were published on the DSE website for Discharge of Mortgage, Transfer of Land and Mortgage (on the Forms, Guides and Fees page of the website).

Users should use the most up-to-date version of Adobe to ensure full value from the forms

To use these forms as they have been intended, the latest version of Adobe should be used.

The use of versions below version 9 may introduce errors or omissions, or may result in a document that does not appear to be a genuine product.

The latest version of Adobe is available from the DSE website.

Users should not try and copy the pdf forms into Word

The new forms are built in a software product that supports the use of Adobe.

Copying and pasting these forms into Microsoft Word may totally change the format of these forms and make them unacceptable.

Users should not tamper with the pdf forms

The three new forms have been built to be as easy to use as possible. Land Victoria believes that the operation of these forms covers the majority of intentions for their use and, as such, no tampering with the pdf forms is permitted. Not only could tampering invalidate the forms, but it could make them unusable.

Users should only use fields for their intended purpose

The three new forms have been constructed to assist users in producing documents for presentation and lodgement at Land Victoria.

Fields that are intended to contain data have been specifically built to allow the effective completion of the forms and the capture of data into VOTS (the Victorian Online Titles System).

A field such as 'Reason for Difference' (in a name) must be used solely for that purpose, not for the addition of any other information.

Use of Annexure Page

The three new forms have been designed and built so that a separate signing panel is created for each person who needs to sign. Each person should sign in the designated location on the form.

However, there may be occasions when it is necessary to use an Annexure Page, such as when a form has been constructed to be signed one way and the person is ultimately required to sign in a different way. For example, the form has been created for a person to sign in their own right, but the person ultimately signs through an attorney. In this case, the original signing panel should be crossed through and the new execution made on a properly identified Annexure Page.

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