

# Customer **INFORMATION** Bulletin

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**TITLE REGISTRATION SERVICES (Land Registry)** No 78 April 2001  
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## CONSIDERATION FOR 'OFF THE PLAN' PURCHASES

Land Registry is often asked what should be stated as the consideration in a transfer of a lot purchased "off the plan". There is a concessional rate of stamp duty payable in these cases. The advice of Land Registry is that if the transfer is provided on payment of a larger amount, it is that amount which is payable under the contract to obtain a transfer and take possession which should be expressed as the consideration. This means that the consideration (for the land and buildings) paid in order to achieve proprietorship from the vendor should be the consideration shown on the transfer.

The issue raised by the above practice may be complex in some cases. The parties to a transaction have the responsibility of including in the transfer the consideration which reflects the facts of their contract. There is no concession in payment of registration fees. Land Registry expects that the practice set out above will be applicable to the vast majority of cases.

## COMBINATION OF (T1) TRANSFER AND NOTICE OF ACQUISITION FORMS

Following consultation with representatives from the legal and conveyancing professions, Land Victoria and the State Revenue Office (SRO) are introducing a combined (T1) Transfer and Notice of Acquisition form. This new initiative is designed to benefit customers and support the future introduction of electronic lodgement and conveyancing.

The combined form is to be introduced as a pilot from 1 May 2001. Customers should now begin using the combined form for

conveyancing immediately, due to the lag between documentation, settlement and lodgement. During the pilot, however, customers may continue using the separate (T1) Transfer and Notice of Acquisition forms if they wish.

The pilot will initially target high volume common transactions and provide only for the transfer of a single title/parcel (except where there is an accessory unit to a flat/apartment) and a maximum of two transferors/transferees. The pilot will not cater for those special case transactions where the transferee is acting as a trustee or where only part of the land is being transferred.

A notification letter is being sent to listed Land Registry customers and includes a copy of the form and instructions for information. An electronic version of the form and instructions will be available via the Land Channel ([www.land.vic.gov.au/titles](http://www.land.vic.gov.au/titles)) and the SRO website ([www.sro.vic.gov.au](http://www.sro.vic.gov.au)) and printed versions will be available at the SRO and Land Registry offices.

For those customers without Internet access or who have not received a notification letter, please contact Land Registry ph 9603 5444 if you wish to obtain a copy of the form or instructions either on disk or in paper format.

**Suppliers of conveyancing packages who wish to take advantage of the form should now consider how they will incorporate the form into their existing products if such products are to be available in time for the 1 May 2001 launch of the pilot.**

If you require additional information please contact Adam Putnins (Land Registry) ph 9603 5406.



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## LOST TITLES – NEW PRACTICE FOR SECTION 31

In response to requests from customers the Registrar of Titles decided to review Land Registry practice in relation to applications to replace lost/destroyed Certificates of Title (Section 31 *Transfer of Land Act 1958*).

The Certificate of Title is a fundamental feature of the paper-based conveyancing system. Its misuse can result in a fraud against the registered proprietor.

Application can be made to the Registrar to replace one that has been lost or destroyed. However, because of the significance of the Certificate of Title, the Registrar demands a high standard of proof of loss or destruction. Section 31 also requires the making of a newspaper advertisement of the intention to grant an application. The Registrar is empowered to charge a contribution to the Consolidated Fund to cover the State's risk of a claim for compensation resulting from replacement.

A series of workshops to review the current practice commenced in December 2000. These included representatives of all major stakeholder groups and staff from Land Registry.

These workshops recently delivered to the Registrar a set of recommendations that would see a substantial change in practice. After detailed consideration, the Registrar has accepted the recommendations made.

The major details of the change are as follows:

### Contributions

Contribution rates for cases assessed as “low” to “normal” risk –

- \$100 for land (including improvements) valued at up to \$200,000.
- 0.1% thereafter for land valued up to \$500,000. For example, for land valued at \$225,000, the contribution would be \$225.
- \$600 maximum for land over \$500,000.

To assist applicants and speed processing, the Registrar will accept contributions based on these rates at the time of lodging an application for the grant of a new Certificate of Title.

Contributions should be made on the valuation placed on the land (including improvements) by the applicant as expressed in the statutory declaration made by the applicant in support of his or her application.

For land that is in the course of being sold, the valuation placed by the applicant should be the contract price being paid for the land. Where land is currently not being sold, the last municipal capital improved value should be used.

If Land Registry does not accept an applicant's valuation, the contribution would be reassessed on examination of the application and a further amount will be requested.

A contribution is not refundable once it is paid.

Where a case is assessed at examination as having a higher risk, a further amount of contribution beyond that required for “low” to “normal” risk applications may be required.

Applications with a higher risk are those where the surrounding circumstances raise the prospect of the misuse of the Certificate of Title. Circumstances of this type include applications where there is no satisfactory explanation for the loss available. The contribution in applications with a higher risk reflects the likelihood that a claim may be made for compensation from the State.

Applicants may seek to have their contributions reviewed by the Manager, Specialist Work Unit where the contribution would represent a significant hardship for the applicant.

### Advertisement

The Registrar will dispense with advertisement for applications on a *case by case basis* based on his assessment of risk. In cases in which the land is subject to a mortgage, and the evidence is that money is still owed to the mortgagee and both the owner and the mortgagee believe that the title is lost in the office of the mortgagee, the dispensation would most likely be granted.

If an advertisement is required, it is intended that the Registrar will notify the applicant as soon as possible after lodging. That way, the advertisement can be immediately placed in a newspaper to shorten the impact of the waiting period imposed by statute.

### Customer Information Pamphlet

A new Customer Information pamphlet has been created for assistance of customers in preparing an application. It will be available from the Customer Services Section of Land Registry.

### Evidence

To assist in the speedy processing of these applications, the Registrar has agreed to a series of standard format statutory declarations for financial institutions that will be required from a landowner and an officer of the institution.

Because the range of circumstances in which Certificates of Title are lost is so variable, it is not possible to establish standard form statutory declarations for other applicants.

However, to assist them, the new customer information pamphlet to be published shortly will provide detailed

assistance for other applicants in preparing the evidence required by the Registrar.

## Transitional Issues

Land Registry has had a practice of refunding the contribution in cases where a Certificate of Title is located after the application has been granted.

This practice will not continue. However, to ensure equity, a transitional arrangement has been put in place. Where a Certificate of Title is located after the application has been granted, refunds will be made for contributions paid at the old rate charged from 30 September 1998 until the commencement of the new practice.

## Commencement

The amended practice will be applicable to all applications lodged on or after 1 May 2001.

In the meantime, the Registrar has decided that, from 26 March 2001, Land Registry staff are to administer applications under Section 31 lodged before that date in such a way as to ensure contributions are required at the new rates set out above.

This will apply to all *assessments for contribution* made from 26 March 2001.

## Conclusion

These changes represent significant amendments to current practices for applications under Section 31 of the *Transfer of Land Act 1958*. The Registrar thanks all those who assisted in the development of these changes and believes that these new practices will offer more certainty to customers as well as providing the opportunity for speedier handling of these applications.



## Help Us To Complete The Picture

## CUSTOMER SATISFACTION SURVEY

In May 2001 Land Registry will be distributing a Customer Satisfaction Survey to a sample of customers. Land Registry's identified audience for the survey is regular external customers. Your responses, suggestions, feedback and ideas can make a difference to how we serve you in the future.

Land Registry wants to gather information about:

- Our current delivery of a number of key services
- Discover how much you know about future changes to our services

Land Registry has engaged independent experts to conduct the survey.

Your anonymity and confidentiality are guaranteed. It will only take you about 15 minutes to complete the questionnaire.

If you receive a survey it would be appreciated if you could complete and return it by the due date.

### **Customer Information Bulletin on E-Mail**

If you are currently on the mailing list to receive the Title Registration Services (Land Registry) *Customer Information Bulletin* but would like to receive it electronically by e-mail, please contact Sally Lynch of Land Registry's Communications Unit on [sally.lynch@nre.vic.gov.au](mailto:sally.lynch@nre.vic.gov.au), telephone 9603 5480 or fax 9603 5400.

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