

**SUMMARY OF CHANGES TO LAND TITLE PRACTICE MANUAL
PUBLISHED 1 APRIL 2022**

Part	Para	Summary
5/5A/6	2150	Clarify situations where a Form 5A is used and the supporting documentation requirements
5/5A/6	2160	Update text from Chief Executive to registrar
5/5A/6	2160	Insert new paragraph regarding the validity of the will
5/5A/6	3000 3100 3200 (new)	Insertion of new sections relating to Partnerships
5/5A/6	4140	Clarification of completion of Item 5 of the Form 5A and the requirements for the deposit of supporting documentation
5/5A/6	4260	Clarification of completion of Item 5 of the Form 6 and the requirements for the deposit of supporting documentation
11	0010	Update reference to Chief Executive to Registrar of Titles
11	0020	Update reference to Chief Executive to Registrar of Titles under the heading Under the Land Act 1994
11	0040	Update heading of section to reflect that it relates to caveats by the Registrar under the Land Title Act 1994
11	0045	Update reference to Chief Executive to Registrar of Titles and updated heading of section to reflect that it relates to caveats by the Registrar of Titles under the Land Act 1994
11	4055	Update text in the Note to include reference to Water Allocations
11	5700	Include instructions for completion of item 1
14	2260	Clarify current practice and update text in relation to applicable legislation
14	2335	Confirm that a duty notation is required for a vesting in a trustee
14	2360	Update text in relation to the requirements where an incorporated association is wound up and there is a distribution of surplus assets
14	2360	Update heading from "Recording Vesting in an Incorporated Association"
14	2360	Update text to reflect current requirements for a cancellation of an incorporated association
14	4050	Clarify that an address for service of notice is not required for a request to change name or request to correct name
14	Various	Clarify the requirement for an address for service of notice in relevant parts
14	Various examples	Update examples to reflect the requirement for an address for service of notice where applicable

Part 5, 5A, 6 – Transmission Applications

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Forms of Transmission

Form 5 – Transmission Application by Personal Representative (Grant in Queensland or Queensland recognised grant) [5-2140]

This form of Transmission Application is used by a personal representative who has obtained:

- a grant of representation in Queensland; or
- a reseal of a grant of representation in Queensland; or
- a Queensland Recognised Grant* which has not been resealed in Queensland.

* A Queensland Recognised Grant is a grant of *probate* or *letters of administration* (within the meaning of the *British Probates Act 1898*) from a jurisdiction to which the British Probates Act applies. The relevant Regulation sets out that the British Probates Act currently applies to grants of representation from other Australian states and territories, New Zealand and the United Kingdom of Great Britain and Northern Ireland.

On registration, the applicant appears on the title as ‘personal representative’.

Form 5A – Transmission Application by Personal Representative (No Grant in Queensland or no Queensland recognised grant) [5-2150]

This form of application is used where ~~ren~~:

<u>1</u>	<u>the deceased registered proprietor died leaving a will</u>	<p><u>Where:</u></p> <p>(a) <u>the applicant is or is entitled to be the deceased’s personal representative; or</u></p> <p>(b) <u>the registrar considers that the applicant would succeed in an application for a grant of representation (i.e. probate or letters of administration with the will annexed) but has not obtained such a grant.</u></p>
<u>2</u>	<u>the deceased registered proprietor died without a will (intestacy)</u>	<p><u>Where:</u></p> <p>(a) <u>the Registrar is of the opinion that the person would succeed in an application for a grant of representation; and</u></p> <p>(b) <u>the gross value of the deceased’s estate in Queensland at the date of death, other than property held by the deceased as a joint tenant, was not more than \$300,000 (or such other amount as may be prescribed by regulation); and</u></p> <p>(c) <u>letters of administration of the deceased’s estate have not been granted in Queensland within 6 months after the death of the registered proprietor.</u></p>

~~(a) — the deceased registered owner or holder of an interest left a will and the applicant is or is entitled to be the deceased’s personal representative or, in the opinion of the~~

- ~~Registrar, would succeed in an application for a grant of representation (i.e. probate or letters of administration with the will annexed) but has not obtained such a grant; or~~
- ~~(b) in the case of an intestacy, the applicant would, in the opinion of the Registrar, succeed in an application for a grant of letters of administration, and:~~
- ~~(i) the gross value of the deceased's estate in Queensland at the date of death, other than property held by the deceased as a joint tenant, was not over \$300,000 (or such other amount as may be prescribed by regulation); and~~
- ~~(ii) six months has elapsed from the date of death of the intestate and no letters of administration of the deceased's estate have been granted.~~

In these circumstances, the Registrar performs a similar role ~~somewhat akin to that of~~ a court of probate.

For the first situation where the deceased registered proprietor died leaving a will, the Registrar may require further evidence to be satisfied of the validity of the will and the testamentary capacity of the deceased registered proprietor at the date of the will:

Validity of the will

The Registrar will require a supplementary statutory declaration to establish the validity of the will if considered necessary, e.g. a statutory declaration of due execution where no attestation clause appears in the will or the will is undated. In such cases, a clear and true copy of the last original will must be provided as an exhibit to any supplementary statutory declaration and endorsed with the appropriate exhibit marking and certificate.

The Registrar will also examine the deceased's certificate of death to ensure that the cause of death does not suggest a lack of testamentary capacity at the date of the will. If it does, the Registrar will ask for evidence to clarify the matter.

For further information regarding supporting documentation refer to [5-4140].

On registration the applicant appears on the title as 'personal representative'.

Form 6 – Transmission Application for Registration as Devisee/Legatee

[5-2160]

This form of application is made by a devisee/legatee of the deceased registered owner or holder of the interest, with the written consent of the personal representative or person entitled to appointment as such.

As indicated, the applicant must be the person beneficially entitled under a will to a lot or an interest of a deceased registered owner or holder of an interest.

Presumption of Tenancy

For wills made or republished prior to 1 December 1975: the common law presumption of joint tenancy applies where there is no clear indication in the will as to the tenancy of the beneficiaries unless the will provides otherwise by express word or by necessary implication from the words used. E.g. a substitutional provision in a will is an indication that the primary beneficiaries are not to take as joint tenants. Where there is a substitutional provision or words of severance expressed in a will, the primary beneficiaries shall be taken to be tenants in common.

For wills made or republished on or after 1 December 1975: where there is no clear indication in the will as to the tenancy of the beneficiaries, s. 35 of the *Property Law Act 1975* provides that a

disposition should be construed as made to or for the beneficiaries as tenants in common, and not as joint tenants, unless the disposition provides that the beneficiaries are to take as joint tenants or tenants by entireties.

Beneficiaries Surviving Testator

Section 33B of the *Succession Act 1981* requires a beneficiary under a will to survive the testator for a period of 30 days, unless a contrary intention appears in the will. Accordingly, an application in Form 6 cannot be executed within 30 days of the deceased's death unless such a contrary intention appears in the will.

Interested Witnesses

As a Transmission Application in Form 6 is akin to a transfer from the personal representative to the beneficiary, for deaths prior to 1 April 2006 the terms of the former s. 15 of the *Succession Act 1981* applicable prior to 1 April 2006 and in force at the date of death are relevant. The former s. 15 of the Succession Act renders dispositions other than payments of debts or remuneration to a witness, his/her spouse or persons claiming under the witness or spouse, null and void.

The applicants are to declare that neither they nor a spouse of theirs was a witness to the deceased's will. If this is not declared to, the application will be requisitioned as follows:

'The applicant should, by statutory declaration, declare that neither they nor a spouse of theirs was a witness to the will of... deceased'.

Section 11 of the Succession Act that replaces the former s. 15 applies to deaths on or after 1 April 2006. This section does not void the beneficial disposition to the spouse of a witness. It does void a beneficial disposition to a witness in circumstances other than mentioned in s. 11(3) of the Succession Act. Therefore a statutory declaration is required from the applicant stating that they were not a witness to the will. If the declaration is not produced the application will be requisitioned as follows:

'The applicant should declare that they were not a witness to the will of [name of deceased], if such is the case (see s. 11 of the *Succession Act 1981*).'

For deaths on or after 1 April 2006, where a beneficial disposition has been made to a witness and one of the circumstances referred to in s. 11(3) of the Succession Act applies, the Registrar would require evidence of the particular circumstance. If there are more than two witnesses to the will, the matter will be gauged on its merits.

Validity of the will

The Registrar will require a supplementary statutory declaration to establish the validity of the will if considered necessary, e.g. a statutory declaration of due execution where no attestation clause appears in the will or the will is undated. In such cases, a clear and true copy of the last original will must be provided as an exhibit to any supplementary statutory declaration and endorsed with the appropriate exhibit marking and certificate.

The Registrar will also examine the deceased's certificate of death to ensure that the cause of death does not suggest a lack of testamentary capacity at the date of the will. If it does, the Registrar will ask for evidence to clarify the matter.

For further information regarding supporting documentation refer to [5-4260].

Registration

On registration, the devisee/legatee appears on the title as a registered owner or holder of an interest. The personal representative is obliged to ensure that a distribution of the assets is in order before consenting to these applications.

^{1,3} Upon satisfying the ~~Chief Executive~~ registrar that the beneficiary is entitled to an interest in a lease, sublease or licence under the will and the personal representative has given written approval, the beneficiary may be registered as lessee, sublessee or licensee under s. 379 of the *Land Act 1994*.

^{1,2} Life Estate Created by Will

[5-2163]

The recording of a beneficial remainder estate is prohibited by s. 30(2) of the *Property Law Act 1974*. That section states that ‘an interest in remainder created after the commencement of the Act must not be registered in the freehold land register’. Section 30(2A) provides that ‘subsection (2) has effect despite anything in the *Land Title Act 1994*’.

Under a will, only the personal representative (as trustee) can exercise the powers conferred by the *Trusts Act 1973* in respect of trust property, including any life estate. To clarify, where a life estate is created under a will the life estate is not able to be recorded on title. Instead the interest must be recorded in the name of the personal representative.

Therefore, a Form 6 – Transmission Application (by beneficiary) and a charge relating to a life estate cannot be registered.

A Form 5 or 5A – Transmission Application for transmission to the personal representative are the only acceptable forms in the circumstance. A request to record the life estate is **not** registrable in conjunction with the Form 5 or 5A.

¹Rights to Reside, Charges and Conditions in Will

[5-2167]

Section 5 of the *Trusts Act 1973* includes within the definition of ‘trust property’ a personal licence to reside for life given by will. However, this is a personal right or licence and, like other conditions and charges contained in the will, it does not constitute an estate or interest in land.

A right to reside, a charge or some other condition contained in a will may **not** be recorded on the title.

If the terms of a will place a condition on the beneficiary which must be complied with before the beneficiary can take the land, then evidence of the condition being complied with must be deposited with the application (e.g. a statutory declaration from the personal representative).

Undisclosed Trust

[5-2170]

The Registrar is not required to supervise undisclosed trusts and will register applications which, on their face, are entitled to registration.

Limitations

[5-2180]

Most Transmission Applications in Form 5 are straightforward, as the validity of the will or the administration in intestacy has already been established and proved in the court and some form of evidence issued. These applications register the applicant as ‘personal representative’.

If the grant of representation is a ‘limited’ grant to certain actions, e.g. limited to dealings with certain property, ‘limited’ should be noted in item 6 of the Form 5 after the words ‘personal representative’. The titles registry is only concerned where the executor is limited to certain actions and not a limitation on the appointment of the executor.

Other Equities

[5-2190]

There may be other equities affecting a lot or an interest, such as trust or partnership equities or the equity of a purchaser under a contract of sale (between the deceased and the purchaser). A lot or an interest which is the subject of a trust, partnership or contract of sale should **not** be dealt with by way of a ‘limited transmission’, i.e. a recording of the personal representative as ‘personal representative – trust’, ‘personal representative – partnership’ or ‘personal representative – contract of sale’. The personal representative should simply be recorded (by the transmission application) as ‘personal representative’. Once this has occurred, the other equities can be dealt with by way of the appropriate Form 1 – Transfer (e.g. a Form 1 – Transfer to Trustees (see Part 1, esp [1-2380] and [1-2390])).

Advertising Requirements

[5-2200]

The Registrar may require that public notice be given of a transmission application prior to registering the application. However, the Registrar has discretion in regard to this.

For information about advertising see [60-0760] and [60-0830].

[5-2210] to [5-2240] deleted

Partnerships

Partnerships generally

[5-3000]

If a partner is the registered proprietor of an interest that is partnership property, then dealings with that interest will be subject to the provisions of the *Partnership Act 1891* and any partnership agreement. Partnership property is not recorded as such in the registers kept by the Registrar of Titles and Registrar of Water Allocations.

Dealing with the interest of a deceased partner

[5-3100]

Upon the death of a partner, the legal interest in any land which is an asset of the partnership passes in accordance with the general rules of law applying to succession (see section 23(2) of the *Partnership Act 1891*).

Section 36(1) of the *Partnership Act* provides that a partnership will dissolve upon the death of a partner, subject to any agreement to the contrary between the partners. If there is no written agreement between the partners, the partnership will dissolve.

Titles Registry practice is therefore that the interest of a deceased partner should be dealt with in the usual way (i.e., by lodgement of a Form 4 – Record of Death for a deceased joint tenant or a Form 5/5A for a deceased sole owner or tenant in common) but following this, the interest should be dealt with in accordance with the terms of the partnership agreement.

Three common scenarios where a deceased partner is the registered proprietor of an interest are detailed below:

- Scenario 1 – the death of a partner who is a sole registered proprietor of a partnership interest:
- Scenario 1A – where the partnership dissolves

- Scenario 1B – where the partnership continues
- Scenario 2 – the death of a partner who is a registered proprietor of a partnership interest as a joint tenant with the other partner/s:
 - Scenario 2A – where the partnership dissolves
 - Scenario 2B – where the partnership continues
- Scenario 3 – the death of a partner who is a registered proprietor of a partnership interest as a tenant in common with the other partner/s:
 - Scenario 3A – where the partnership dissolves
 - Scenario 3B – where the partnership continues

Scenario 1 – Death of a partner who is a sole registered proprietor of a partnership interest

For example:

- Where a partner who is the sole registered owner of a lot dies.
- Where a partner who is the sole registered proprietor of a lease dies.

Scenario 1 – Table showing instruments required in order of lodgement

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
<u>1A</u>	<u>Dissolves</u>	<p><u>Form 5/5A – Transmission Application</u> by the personal representative of the deceased partner.</p> <p><u>Form 1 – Transfer</u> to distribute the interest to the entitled partners (or the beneficiary of the deceased partner) in accordance with the terms of the partnership agreement (and the will of the deceased partner)</p> <p><u>Completion:</u></p> <ul style="list-style-type: none"> • <u>Item 4: the consideration must accurately describe the basis of the transaction. Example wording:</u> <u>In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE] and in further consideration of [D] being entitled to the interest of [A], deceased, pursuant to the terms of his/her will dated [DATE].</u> <p><u>Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1):</u></p> <ul style="list-style-type: none"> • <u>evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*</u>.
<u>1B</u>	<u>Continues</u>	<p><u>Form 5/5A – Transmission Application</u> by the personal representative of the deceased partner.</p> <p><u>Form 1 – Transfer</u> from the deceased partner to the new or continuing partners.</p>

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
		<p><u>Completion:</u></p> <ul style="list-style-type: none"> <u>Item 4: the consideration must accurately describe the basis of the transaction. Example wording:</u> <u>In consideration of [B] and [C], being partners in the [PARTNERSHIP], assuming ownership of the land on behalf of the partnership in accordance with the partnership agreement of the [PARTNERSHIP] dated [DATE].</u> <p><u>Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1):</u></p> <ul style="list-style-type: none"> <u>evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*</u>.

* **Note:** reference can be made to the dealing number of a previous dealing where evidence was deposited.

Scenario 2 – Death of a partner who is a registered proprietor of a partnership interest as a joint tenant with the other partner/s

For example:

- Where two partners are the registered owners of a lot as joint tenants and one of the partners dies.
- Where two partners are the registered proprietors of a lease as joint tenants and one of the partners dies.

Scenario 2 – Table showing instruments required in order of lodgement

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
<u>2A</u>	<u>Dissolves</u>	<p><u>Form 4 – Record of Death</u> for the deceased partner.</p> <p><u>No additional evidence is required - only the evidence required for the Form 4 (refer to Part 4).</u></p> <p><u>Form 1 – Transfer</u> to distribute the interest to the entitled partners in accordance with the terms of the partnership agreement.</p> <p><u>Completion:</u></p> <ul style="list-style-type: none"> <u>Item 4: the consideration must accurately describe the basis of the transaction. Example wording:</u> <u>In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE].</u> <u>Item 5: insert the names of the entitled partners and the share in accordance with the terms of the partnership agreement. If the deceased partner is entitled to a share the partner’s name followed by ‘since deceased’ must be inserted. Example:</u> <u>[Partner A] since deceased _____ as tenants in common in [Partner B] _____ equal shares</u> <u>Item 6: If the deceased partner is entitled to a share his/her personal representative can sign on his/her behalf.</u>

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
		<p>Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1):</p> <ul style="list-style-type: none"> evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*. <p>Form 5/5A/6 – Transmission Application for the share of the deceased partner (if a share has been transferred to the deceased partner).</p>
<u>2B</u>	<u>Continues</u>	<p>Form 4 – Record of Death for the deceased partner.</p> <p>No additional evidence is required - only the evidence required for the Form 4 (refer to Part 4).</p>

* **Note:** reference can be made to the dealing number of a previous dealing where evidence was deposited.

Scenario 3 – Death of a partner who is a registered proprietor of a partnership interest as a tenant in common

For example:

- Where a partner who holds a 1/3 share in a lot as a tenant in common dies.
- Where a partner who holds a 1/3 share in a lease as a tenant in common dies.

Scenario 3 – Table showing instruments required in order of lodgement

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
<u>3A</u>	<u>Dissolves</u>	<p>Form 5/5A – Transmission Application by the personal representative of the deceased partner for the share of the deceased partner.</p> <p>Form 1 – Transfer to distribute the interest to the entitled partners (or the beneficiary of the deceased partner) in accordance with the terms of the partnership agreement (and the will of the deceased partner)</p> <p><u>Completion:</u></p> <ul style="list-style-type: none"> Item 4: the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE] and in further consideration of [D] being entitled to the interest of [A], deceased, pursuant to the terms of his/her will dated [DATE]. <p>Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1):</p> <ul style="list-style-type: none"> evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*.
<u>3B</u>	<u>Continues</u>	<p>Form 5/5A – Transmission Application by the personal representative of the deceased partner for the share of the deceased partner.</p> <p>Form 1 – Transfer of the deceased partner’s share from the deceased partner to the new or continuing partners.</p>

<u>Scenario</u>	<u>Partnership Status</u>	<u>Instruments required in order of lodgement</u>
		<p><u>Completion:</u></p> <ul style="list-style-type: none"> • <u>Item 4: the consideration must accurately describe the basis of the transaction. Example wording:</u> <u>In consideration of [B] and [C], being partners in the [PARTNERSHIP], assuming ownership of the land on behalf of the partnership in accordance with the partnership agreement of the [PARTNERSHIP] dated [DATE].</u> <p><u>Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1):</u></p> <ul style="list-style-type: none"> • <u>evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*</u>.

* Note: reference can be made to the dealing number of a previous dealing where evidence was deposited.

Evidence that a partnership interest is being dealt with in accordance with the terms of the partnership agreement [5-3200]

When a Form 1 – Transfer is lodged that changes the registered proprietor of an interest that is a partnership asset (as per the scenarios set out in [5-3100]), it must be accompanied by evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership in the form of either:

- if a written partnership agreement exists – a certified copy of the partnership agreement or certified copies of other partnership documentation (see [60-1030] regarding the deposit of supporting documentation), or
- if no written partnership agreement exists:
 - a statutory declaration from the personal representative for the deceased partner or a remaining partner declaring to the terms of the partnership and confirming that the interest in the lot being dealt with is an asset of the partnership; or
 - a letter from a solicitor acting for the personal representative of the deceased partner or the remaining partner(s), confirming that the interest in the lot is an asset of the partnership and stating that the dealing is in accordance with the terms of the partnership agreement.

Alternatively, if evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement has been deposited with a previous dealing, reference can be made to that dealing number.

Item 2**[5-4110]**

Insert the details of the lot which is being transmitted or the lot over which the interest being transmitted is registered. For further information see Part 1 – Transfer, esp [1-2020].

More than one lot on plan description may be included in this Item and if the space provided is insufficient, a Form 20 – Enlarged Panel should be used. A separate application is required for the transmission of different interests. For more information see [59-2020].

Item 3**[5-4120]**

The following must be inserted:

- The interest held by the deceased; and
- Where the interest held by the deceased constitutes only part of a lot or interest – the share as a fraction (e.g. $\frac{1}{4}$, $\frac{1}{2}$).

For example:

Whole of a lot or interest	Part of a lot or interest
‘Fee Simple’	‘ $\frac{1}{2}$ interest in Fee Simple’
‘Lease No. G123456’	‘ $\frac{1}{2}$ interest in Lease No. G123456’
‘Mortgage No. 701543622’	‘ $\frac{1}{2}$ interest in Mortgage No. 701543622’
‘State Lease’	‘ $\frac{1}{2}$ interest in State Lease’
‘Water Allocation’	‘ $\frac{1}{2}$ interest in Water Allocation’

Item 4**[5-4130]**

Insert the applicant’s full name. In the case of a company, its Australian Company Number should be provided.

Complete the postal address of the applicant(s) for service of notice if the deceased was:

- a registered owner of a freehold lot; or
- a holder of a lease or licence under the *Land Act 1994*; or
- a holder of a water allocation.

Item 5**[5-4140]**

The document/s deposited in support of the application must be ~~identified or detailed~~ listed here.

Any inapplicable documents ~~indicated~~ listed on the Form must be ruled through or deleted.

Refer to [60-1030] for information relating to the deposit of supporting documentation.

Original will

If the deceased registered proprietor died leaving a will then “*Original last will” must be included in this item and the original will must be deposited.

If the deceased registered proprietor died without a will (see [5-2150]) then “*Original last will” must be ruled through or deleted.

Death certificate – testamentary capacity at the date of the will

If the ~~deceased registered proprietor died leaving a will and the registered owner or holder of an interest~~ deceased is being deposited, the cause of death should be checked to ensure that it does not suggest a lack of testamentary capacity at the time the will was made. If it does, the Registrar will require evidence to be deposited to satisfy the Registrar that the deceased had testamentary capacity at the date of the will. For example:

- an original letter from a registered medical practitioner who treated the deceased during the period of time in which the will was drafted and executed. The letter is required to detail the deceased’s capacity during this time and state that in the practitioner’s opinion the deceased had testamentary capacity for the period in which the deceased’s will was drafted and executed; or
- a statutory declaration from a solicitor who was a witness to the execution of the will, detailing how they satisfied themselves as to the deceased’s testamentary capacity.

~~a letter from a registered medical practitioner stating, in his/her opinion, at the date of execution of the will the testator had testamentary capacity to make a will or a statutory declaration from a solicitor who witnessed the will setting out how the solicitor satisfied himself/herself as to the testator’s testamentary capacity, will be required.~~

Item 6

[5-4150]

Execution and dating of the Transmission Application is required as indicated on the Form. As noted on the Form, the Application may be signed by a solicitor on behalf of the applicant and no witness is required in this instance. However, the solicitor **must** print his/her full name immediately below the signature.

Declaration by Applicant

[5-4160]

The document/s deposited will be those necessary to establish the entitlement to be the personal representative of the deceased. In the case of an application by the executor of any unproved will, the original will and the certificate of death of the deceased are likely to be the only documents required.

As the Form is used in different circumstances, it is necessary to comment separately on the declarations required for the separate circumstances in which the Form is used. This Form of Transmission Application is used where:

- (a) the deceased registered owner or holder of an interest left a will and the applicant is or is entitled to be the deceased’s personal representative or, in the opinion of the Registrar, would succeed in an application for a grant of representation (i.e. probate or letters of administration with the will annexed); or
- (b) in the case of an intestacy, the applicant would be entitled, in the opinion of the Registrar, to obtain a grant of letters of administration (but has not obtained such a grant); and:
 - (i) the gross value of the deceased’s estate in Queensland, other than property held by the deceased as a joint tenant, was not over \$300,000 (or such other amount as may be prescribed by regulation); and
 - (ii) six months have elapsed from the date of death of the intestate.

representative as ‘personal representative – trust’ or ‘personal representative – partnership’. The personal representative would be recorded (by the transmission application) as ‘personal representative’. Once this has occurred, these other equities can be dealt with by way of the appropriate Form 1 – Transfer (e.g. a Form 1 – Transfer to Trustees (see [1-2380] and [1-2390])).

As previously noted, a Transmission Application may be registered in these circumstances only after six months from the date of death, where no letters of administration have been granted in that time and where the gross estate of the intestate in Queensland, other than property held by the deceased as a joint tenant, was not over \$300,000 (or as otherwise prescribed by regulation).

Documentation to be Lodged

[5-4210]

The following documentation must be lodged to register the transmission:

- (1) Form 5A;
- (2) documents referred to as ‘deposited’ in Item 5 of the Transmission Application;
- (3) Form 20 and supplementary statutory declaration/s, as appropriate; and
- (4) for a water allocation title:
 - (a) Form W2F152 – Notice to registrar of water allocations of existence of supply contract (for water allocations managed under a Resource Operations Licence) – see Part 49, esp. [49-0020]; or
 - (b) Water Allocation Dealing Certificate (for water allocations not managed under a Resource Operations Licence) – see Part 49, esp. [49-0060]; and
 - (c) Form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies (for water allocations subject to a Distribution Operations Licence) – see Part 49, esp. [49-2080].

Guide to Completion of Form 6

Item 1

[5-4220]

Insert the name, as recorded, of the deceased registered owner or holder of the interest.

Item 2

[5-4230]

Insert the details of the lot which is being transmitted or the lot over which the interest being transmitted is registered. For further information see Part 1 – Transfer, esp [1-2020].

More than one lot on plan description may be included in this Item and if the space provided is insufficient, a Form 20 – Enlarged Panel should be used. A separate application is required for the transmission of different interests. For more information see [59-2020].

Item 3

[5-4240]

The following must be inserted:

- The interest held by the deceased; and
- Where the interest held by the deceased constitutes only part of a lot or interest – the share as a fraction (e.g. $\frac{1}{4}$, $\frac{1}{2}$).

For example:

Whole of a lot or interest	Part of a lot or interest
'Fee Simple'	'½ interest in Fee Simple'
'Lease No. G123456'	'½ interest in Lease No. G123456'
'Mortgage No. 701543622'	'½ interest in Mortgage No. 701543622'
'State Lease'	'½ interest in State Lease'
'Water Allocation'	'½ interest in Water Allocation'

Item 4

[5-4250]

If there is more than one applicant, their entitlement should be shown, e.g. 'as joint tenants' or 'as tenants in common in equal shares' or 'as tenants in common in the shares of one-third and two-thirds respectively', etc as the case may be.

Item 5

[5-4260]

~~The document/s deposited in support of the Transmission Application should be identified here. The inapplicable documents indicated on the Form must be deleted. Refer to [60-1030] for information relating to the deposit of supporting documentation.~~

~~The document/s deposited in support of the application must be listed here.~~

~~Any inapplicable documents listed on the Form must be ruled through or deleted.~~

~~Refer to [60-1030] for information relating to the deposit of supporting documentation.~~

Death certificate – testamentary capacity at the date of the will

~~If the deceased registered proprietor died leaving a will and the certificate of death of the deceased is being deposited, the cause of death should be checked to ensure that it does not suggest a lack of testamentary capacity at the time the will was made. If it does, the Registrar will require evidence to be deposited to satisfy the Registrar that the deceased had testamentary capacity at the date of the will. For example:~~

- ~~• an original letter from a registered medical practitioner who treated the deceased during the period of time in which the will was drafted and executed. The letter is required to detail the deceased's capacity during this time and state that in the practitioner's opinion the deceased had testamentary capacity for the period in which the deceased's will was drafted and executed; or~~
- ~~• a statutory declaration from a solicitor who was a witness to the execution of the will, detailing how they satisfied themselves as to the deceased's testamentary capacity.~~

~~If the certificate of death of the registered owner or the holder of an interest is being deposited, the cause of death should be checked to ensure that it does not suggest a lack of testamentary capacity at the time the will was made. If it does, a letter from a registered medical practitioner stating, in his/her opinion, at the date of execution of the will the testator had testamentary capacity to make a will or a statutory declaration from a solicitor who witnessed the will setting out how the solicitor satisfied himself/herself as to the testator's testamentary capacity, will be required.~~

Part 11 – Caveat

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Part 11 – Caveat

General Law

Definitions

[11-0000]

A ‘caveat’ is a notice to the Registrar which, subject to some exceptions, has the effect of prohibiting the registration of an instrument or document, including a prior unregistered instrument or document (unless expressly excluded in the caveat) affecting the interest claimed by the caveator until the caveat is withdrawn, removed, lapses or is cancelled. The purpose of a caveat is to allow time for parties to apply to the court to enforce or determine an interest in a lot, or a lease, sub-lease, licence or an interest in a reserve under the *Land Act 1994*.

²However, as a caveat does not provide all of the benefits of the Torrens System and the *Land Title Act 1994*, it should not be seen as a viable alternative to registering the interest.

‘Caveator’, for a lot under the Land Title Act, means a person in whose favour the caveat is lodged (s. 4 of the Land Title Act).

‘Caveator’ for a lease, licence or an interest in a reserve under the Land Act over which a caveat has been lodged, means a person in whose favour the caveat is lodged (s. 3 of the Land Act).

‘Caveatee’, for a lot under the Land Title Act over which a caveat has been lodged, means:

- a registered proprietor of the lot; or
- someone (other than the caveator) who has an interest in the lot (s. 4 of the Land Title Act).

‘Caveatee’ for a lease, licence or interest in a reserve under the Land Act, over which a caveat has been lodged, means:

- a lessee of the lease or licensee of the licence; or
- someone, other than the caveator, who has an interest in the lease or licence; or
- the holder of an interest in a reserve (s. 3 of the Land Act).

Requirements of a Caveat

[11-0010]

Sections 121(1), (2) and (2A) of the *Land Title Act 1994* and s. 389C (1), (2) and (2A) of the *Land Act 1994* provide that a caveat must be signed by or on behalf of the caveator and the caveat must state:

- the name of the caveator;
- an address where documents can be served on the caveator (the address stated may be the address of a stated legal practitioner);
- ²unless dispensed with by the Registrar, the name and address of the registered owner of the lot affected by the caveat and each other person whose interest or whose right to registration of an instrument is affected by the caveat;

- ^{1,3}unless dispensed with by the ~~Chief Executive~~Registrar of Titles, the name and address of the lessee or licensee affected by the caveat and each other person whose interest or whose right to registration of a document is affected by the caveat;
- the registered interest affected by the caveat;
- ²if the caveat relates to only a part of the lot or part of a water allocation – a description of the affected part or in the case of a water allocation the number of megalitres affected;
- the interest claimed by the caveator; and
- the grounds on which the interest is claimed.

These requirements apply to all caveats under the Land Title Act and the Land Act other than a caveat prepared and registered by:

- the Registrar under s. 17 of the Land Title Act (s. 121(3) of the Land Title Act); or
- the ~~Chief Executive~~Registrar of Titles under s. 389L of the Land Act (s. 389C (3) of the Land Act).

Refer to [11-2100] for information regarding requisitions and rejection.

Persons Who May Lodge Caveat

[11-0020]

²Under the *Land Title Act 1994*

²Part 7, Division 2 is the division of the *Land Title Act 1994* that generally deals with the lodgement of caveats relating to interests in or over interests in freehold land and water allocations. Pursuant to s. 122(1) of the Land Title Act a caveat may be lodged by:

- a person claiming an interest in a lot;
- the Registrar under s. 17;
- the registered owner of the lot;
- a person to whom an Australian court has ordered that an interest in a lot be transferred
- a person who has the benefit of a subsisting order of an Australian court in restraining a registered proprietor from dealing with a lot.

²Section 122(2) of the Land Title Act makes it clear that an equitable mortgagee can only lodge a lapsing caveat.

²Provision is also made for the lodgement of a caveat in the following circumstances:

- ¹by a person objecting to an application for adverse possession (s. 104 of the Land Title Act);
- pursuant to an order of the Supreme Court when a person applies for an order that another person be registered as proprietor of a lot (s. 114 of the Land Title Act); and
- by a purchaser under an instalment contract (s. 74 of the *Property Law Act 1974*); and

- by an interest holder in a water allocation who has given notice under s. 73(1)(b) of the *Water Act 2000* (s. 171(3) of the *Water Act*).

1.3 Under the *Land Act 1994*

^{1.3} Chapter 6, Part 4, Division 11A of the *Land Act 1994* deals with the lodgement of caveats relating to interests in State land. Pursuant to s. 389D (1) of the *Land Act* a caveat may be lodged by:

- the ~~Chief Executive~~ Registrar of Titles under s. 389L(1); or
- a person to whom an Australian court has ordered that an interest in a lease or licence be transferred; or
- a person who has the benefit of a subsisting order of an Australian court in restraining a lessee from dealing with a lease or licensee from dealing with a licence.

²A Person Claiming an Interest in a Lot

[11-0030]

Pursuant to s. 122(1)(a) of the *Land Title Act 1994*, a person claiming an interest in a lot may lodge a caveat. The caveator must identify an interest in the lot in the caveat.

Caveatable interests

It is not within the scope of this manual to give an exhaustive list of caveatable and non-caveatable interests. The following are some examples of interests capable of supporting a caveat:

- The interest of a purchaser under a valid unconditional contract of sale. See Example 1 and the guide to completion at [11-4010].

While this represents a valid interest, the need for such a caveat has generally been superseded by priority notices (see Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice).

- The interest of a chargee under an agreement which specifically charges the land. See Example 2 and the guide to completion at [11-4010].
- The interest of an unregistered mortgagee (i.e. an equitable mortgagee). See Example 3 and the guide to completion at [11-4010].

An equitable mortgagee can only lodge a lapsing caveat (s. 122(2) of the *Land Title Act 1994*).

Mortgagees seeking the best protection available under the Torrens System should register their mortgage. An equitable mortgagee's caveat lapses unless an action is commenced in a court of competent jurisdiction. Equitable mortgagees' caveats are only appropriate if the mortgagee needs to commence a court action to enforce their mortgage.

- The interest of a beneficiary of a constructive, resulting or implied trust. See Example 4 and the guide to completion at [11-4010].
- The interest of the trustee in bankruptcy following the vesting of the property under section 58 of the *Bankruptcy Act 1966* (Cth). See Example 5 and the guide to completion at [11-4010].

See further [11-4040], [11-4050] and [11-4055].

Interests that are not caveatable

Rights and interests that are unlikely to sustain a caveat include, for example:

- A vendor's right to unpaid purchase money as this is not capable of giving rise to any equitable lien on the lot (s. 191 of the *Land Title Act 1994*).
- Judgement debts owed to financiers and other creditors.
- Personal contractual rights or a personal interest in land.
- The mere possibility of obtaining a court order or success in court.
- A right of first refusal or a right of pre-emption.
- The interest of a beneficiary under a discretionary trust.

See further [11-2020].

²Registrar (*Land Title Act 1994*)

[11-0040]

Pursuant to ss. 17(1) to (4) of the *Land Title Act 1994*, the Registrar may prepare and register a caveat over a lot or an interest in a lot, in favour of a person, to prevent a dealing with the lot that may prejudice:

- the Commonwealth, a State or a local government;
- a minor;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person because of misdescription of the lot or its boundaries, or fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 30(3) of the *Land Title Act*; or
- a person, other than a person mentioned in any of the above, who has an interest in the lot.

Also, the Registrar may act under section 17 to prevent a dealing with a lot to give effect to an order of a court of competent jurisdiction directed to the Registrar or upon the receipt of a submission in writing, provided it is supported by relevant evidence, from a person who is in a position to protect the interest, for example:

- the Attorney General in respect of the State or the Commonwealth;
- the guardian of a minor or some other person concerned about the rights of a minor;
- the Public Trustee or an administrator appointed for a person who has impaired capacity for a matter; or
- a person absent from the State or his/her solicitor.

In all cases, good reasons would have to be demonstrated before the Registrar would exercise the discretion.

The Registrar may only prepare and register a caveat under s. 17 of the Land Title Act in one of the circumstances set out in the Act.

A Registrar's caveat does not lapse (s. 126(1)(d) of the Land Title Act).

A Registrar's caveat may be removed by:

- voluntary withdrawal by the Registrar; or
- a court order.

The remedy available to the caveatee to apply to the Supreme Court under s. 127 of *the Land Title Act* for an order that the caveat be removed, applies equally to caveats lodged by the Registrar.

1.3 Chief Executive Registrar of Titles (Land Act 1994)

[11-0045]

Pursuant to ss. 389L(1) to (4) of the *Land Act 1994*, the **Chief Executive Registrar of Titles** may prepare and register a caveat over a relevant tenure in favour of the State, to prevent a dealing with the relevant tenure that may prejudice:

- the Commonwealth, a State or a relevant local government;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person because of misdescription of the tenure, or fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 295(2) of the Land Act; or
- a person, other than a person mentioned in any of the above, who has an interest in the relevant tenure.

The **Chief Executive Registrar of Titles** may also act under s. 389L(1) to prepare and register a caveat to prevent a dealing with a relevant tenure if the relevant tenure is to be extinguished; or to give effect to an order of a court of competent jurisdiction directed to the **Chief Executive Registrar of Titles**.

²Registered Owner

[11-0050]

Generally, a registered owner (irrespective of tenancy) is entitled to lodge a caveat which does not lapse (ss. 122(1)(c) and 126(1)(a) of the *Land Title Act 1994*). However, this does not entitle a registered owner to lodge a caveat without valid grounds to support it. The caveat will be requisitioned if valid grounds are not included to support the caveat. If details of the grounds are not then provided, the caveat will be rejected.

A caveat lodged by a registered owner will lapse where the lot is subject to a mortgage and the grounds stated in the caveat relate to the actions of the mortgagee in relation to registration of the mortgage (if the mortgage is already registered) or in relation to the mortgagee's power of sale (s. 126(1A) of the Land Title Act). In these situations, the caveat will be subject to the lapsing provisions of s. 126 of the Land Title Act (see [11-0190]).

Claim Category	Wording Example - Item 3 Estate or Interest Being Claimed	Wording Example - Item 4 Grounds of Claim
(and/or implied or resulting trust) See Example 4		the Caveator to the acquisition, conservation and/or improvement of the property.
Bankruptcy See Example 5	An equitable interest in the fee simple estate as Trustee in Bankruptcy of the estate of [NAME OF BANKRUPT REGISTERED OWNER], a bankrupt	Pursuant to section 58 of the <i>Bankruptcy Act 1966</i> , the property of [NAME OF BANKRUPT REGISTERED OWNER] vests in [NAME OF TRUSTEE IN BANKRUPTCY] as trustee appointed on [DATE].
Restraining Order	The Caveator has the benefit of a subsisting order of an Australian court in restraining the registered owner from dealing with the lot in Item 2	Pursuant to section 122(1)(e) of the <i>Land Title Act 1994</i> the caveator having the benefit of order [ORDER NUMBER] of the [COURT] Order made [DATE] (a certified copy deposited herewith), restraining [NAME OF REGISTERED PROPRIETOR], from dealing with the lot in Item 2.

* If the interest being claimed does not relate to all registered owners include “in the interest of [NAME OF REGISTERED OWNER/S]” (one or more, but not all, registered owners must be inserted).

e.g. An equitable interest as chargee of an estate in fee simple in the interest of Peter Jones.

If the interest being claimed does not relate to all registered owners include “identified in Item 3”.

e.g. Pursuant to clause 17 in an agreement dated 04/01/2020 between the registered owner identified in Item 3 and the Caveator, whereby the registered owner agreed to charge all their interest in the land with payment of monies owing to the Caveator.

Note: For caveats over State Leasehold lots – reference should be made to the relevant State Leasehold estate instead of the fee simple estate and to the lessee or licensee instead of the registered owner/proprietor. Any references to legislation should also be updated.

For caveats over water allocations – reference should be made to the water allocation instead of the fee simple estate (e.g., an equitable interest as mortgagee of a water allocation) and to the allocation holder instead of the registered owner/proprietor.

Item 5

[11-4060]

Insert in this item:

- the full name of every ²registered owner of the lot (^{1, 3}or lessee or licensee) affected by the caveat, including any capacity under which they are registered (e.g. John Smith as Trustee); and
- the postal address of every ²registered owner of the lot (^{1, 3}or lessee or licensee) affected by the caveat.

If there is insufficient space, insert “see Enlarged Panel” and use a Form 20 – Enlarged Panel (see [20-2020]).

Item 6

[11-4070]

Insert the full name/s (including capacity where applicable) and postal address/es of any other person/company/institution etc. having an interest in the land or State tenure that may be affected by the caveat (e.g. the mortgagee). A Form 20 – Enlarged Panel should be used if there is insufficient space.

Electronic Form Notes for Completion – Form 11 (electronic)

[11-5700]

Refer to the table below for notes for the completion of a Form 11 (electronic).

<u>Item</u>	<u>Notes</u>
<u>Item 1</u>	<p><u>Insert the full name of the caveator and an address where documents can be served on the caveator (this address may be the address of a stated legal practitioner).</u></p> <p><u>Only the legal entity name of the caveator is to be inserted in the name data fields. It is not permissible to include other words or symbols that are not part of the name of the caveator in any of the name data fields.</u></p> <p><u>Any other information such as ‘Administrator appointed’ or ‘in Liquidation’ is to be shown in the Organisation Status data field.</u></p>

Note: it is not currently possible to lodge an eConveyancing caveat where the caveator is a trustee, personal representative, statutory/trustee for sale or responsible entity or a registered owner.

Nil.

Part 14 – General Request

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Extension of Writ of Execution

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Refer to part 12, esp. [12-2010] and [12-2020]. See Example 10.

Standard Terms Document Forming Part of Instrument/Document

[14-2160]

Section 169 of the *Land Title Act 1994* or s. 318 of the *Land Act 1994* enables standard terms documents to be registered.

A registered standard terms document sets out the provisions, covenants and conditions of other instruments or documents, such as mortgages, leases, statutory covenants and easements.

Referring to a registered standard terms document removes the need to repeat all the provisions, covenants and conditions in instruments or documents to be lodged. For example, a mortgagee may register a standard terms document setting out its common mortgage covenants. For each subsequent mortgage, it need only prepare and lodge a *National Mortgage Form* which refers to the dealing number of the standard terms document.

Section 171(1) of the *Land Title Act* or s. 320(1) of the *Land Act* provides that, in addition to incorporating the terms of a standard terms document, an instrument or document may incorporate other terms into the instrument or document.

Under s. 168A of the *Land Title Act*, references to standard terms documents in ss. 170 and 171 include a standard terms document that has been or is taken to be registered under the *Land Act*.

Under s. 317A of the *Land Act*, reference to standard terms documents in ss. 319 and 320 include a standard terms document that has been or is taken to be, registered under the *Land Title Act*.

A Form 20 is used to set out the content of a standard terms document which must include the class of instrument or document to which it applies. A completed Form 14 – General Request to Register a Standard Terms Document must be lodged accompanied by the Form 20.

Practitioners and financiers are encouraged to register standard terms documents in instances where the terms and/or conditions and/or covenants are the same or very similar for multiple instruments or documents that they will lodge.

No fees are payable for lodgement.

See Example 11.

Request to Record Transmission by Bankruptcy

[14-2170]

Where a registered owner of a lot or the holder of an interest becomes bankrupt, that lot or interest will immediately vest in that person's trustee in bankruptcy. The person's trustee in bankruptcy will be a registered trustee where he/she has consented to act as the trustee in bankruptcy or, if no registered trustee has so consented, the trustee in bankruptcy will be the Official Trustee. The trustee in bankruptcy will deal with the lot or interest in accordance with the *Bankruptcy Act 1966* (Cth) to try to satisfy the bankrupt's creditors. A bankrupt cannot hold or deal with land or an interest in land in their personal capacity. See sections 58(1)(a), 58(1)(b) and 58(6) of the *Bankruptcy Act*.

Note: In accordance with ss. 160 and 161 of the *Bankruptcy Act*, the prescribed name for a private trustee is "The Trustee (or Trustees) of the Property of [Name of Bankrupt], a Bankrupt"; or if the property vests in the Official Trustee in Bankruptcy, the prescribed name is "Official Trustee in Bankruptcy".

A Form 14 – General Request must be lodged to register a transmission by bankruptcy pursuant to s. 115 of the *Land Title Act 1994* or s. 381 of the *Land Act 1994*. An extract from the National Personal Insolvency Index that is dated less than two weeks before, or any time after, execution of the Form 14, that evidences that the trustee has been appointed must be deposited with the request (see [60-1030]). Upon the transmission occurring, it is recorded on the title that the lot or interest is vested in the trustee in bankruptcy.

Throughout this topic, this Form is also referred to as a Form 14 – Request to Record Transmission by Bankruptcy.

Under the Bankruptcy Act, a transmission may be sought by:

- a trustee in bankruptcy (whether it be a registered trustee or the Official Trustee);
- a trustee in bankruptcy of a deceased debtor.

Lodgement fees are applicable and a duty notation is required.

[The address for service of notices to the applicant must be inserted in Item 5.](#)

Where the bankruptcy of a joint tenant severs a joint tenancy, a tenancy in common is created.² However, a separate title is not created unless it is required or evidenced by payment of the relevant fee by the trustee.

Where a trustee is registered on the title in the registry and a new trustee has been appointed but not registered on title, a new Form 14 – Request to Record Transmission by Bankruptcy to the new trustee must be lodged to precede a dealing with the bankrupt's interest by the new trustee. An extract from the National Personal Insolvency Index that is dated less than two weeks before, or any time after, execution of the Form 14, that evidences that the trustee has been appointed must be deposited with the request (see [60-1030]). This is supported by s. 58(2) of the Bankruptcy Act which is taken to mean that the trustee must be registered on title before they may deal with the property. Until registered, the trustee only has an equitable interest and therefore has no authority to deal with the property. This is also in line with s. 181 of the Land Title Act and s. 301 of the Land Act.

Bankruptcy of Debtor or Deceased Debtor's Estate

[14-2180]

A person may become bankrupt:

- On the acceptance of their own petition (Debtor's Petition) by the Official Receiver through the Insolvency and Trustee Service Australia (s. 55; s. 56A; and s. 57 of the *Bankruptcy Act 1966* (Cth)).
- When the court makes a sequestration order on the application of a creditor (Creditor's Petition) (s. 52 of the Bankruptcy Act).
- When the court makes a sequestration order on the application of a trustee or a creditor of a Part IV Composition or Arrangement (s. 76B); Part IX Debt Agreement (s. 185Q(5)); or a Part X Personal Insolvency Agreement (ss. 221(1), 222(10) and 222C(5) (from 1 December 2004). Prior to 1 December 2004 there were three types of Part X arrangements (Compositions, Deeds of Assignment or Deeds of Arrangement). An application for a sequestration order in these cases is equivalent to filing a creditor's petition.
- An administration order may be made by the court against the estate of a deceased debtor on the application of a creditor or a person administering the estate of a deceased person (s. 244 and s. 247 of the Bankruptcy Act).

Powers of a Trustee

[14-2240]

Section 134 of the *Bankruptcy Act 1966* (Cth) authorises the trustee of a bankrupt to sell, lease or mortgage property or to execute a power of attorney.¹ While there are no specific provisions to grant or accept an easement, this is regarded as acceptable if it improves the value of the property. The Registrar will register these instruments or documents without enquiry.

Section 190 of the *Bankruptcy Act* authorises the controlling trustee of a debtor to act in the name of the debtor as if duly appointed as the debtor's attorney to deal with relevant property of the debtor in any way that will be in the interests of creditors in the opinion of the controlling trustee.

Transfers by trustees to themselves are improper without leave of the court (Schedule 2, s. 60-20 of the *Bankruptcy Act*).

Annulment of Bankruptcy

[14-2250]

Where a bankruptcy is annulled, the property which has not been sold by the trustee in bankruptcy reverts to the bankrupt, subject to any order of the court directing that the property should vest in an appropriate person.

The former bankrupt or the person in whom the property is vested by the court order must lodge a Form 14 – General Request accompanied by an extract from the NPII current at the time of execution of the Form 14.

See Example 15.

If the trustee of a bankrupt or their solicitor executes the Form 14 no further evidence is required to be deposited.

If the former bankrupt or their solicitor executes the Form 14, the following evidence must also be deposited:

- (i) A Form 18 – General Consent to the instrument or document, executed by the trustee;
or
- (ii) A statutory declaration, by the trustee, stating that the former bankrupt is entitled to be registered as owner or holder of the property.

Disclaimer

[14-2260]

Disclaimer of Freehold Land under the *Land Title Act 1994* or a Lease or Licence under the *Land Act 1994* by a Trustee of a Bankrupt

Pursuant to s. 133 of the *Bankruptcy Act 1966* (Cth), notwithstanding the trustee of a bankrupt (trustee) has or has not become the registered owner of land or the holder of a lease or licence of a bankrupt under the *Land Act*, the trustee may disclaim freehold land or a lease or licence under the *Land Act* which is unsaleable or not readily saleable or burdened with onerous covenants.

If the trustee is disclaiming freehold land or a lease or licence under the *Land Act*, the trustee must notify the Registrar by lodging a Form 14 – General Request (deposited as an Administrative Noting Miscellaneous). This request must be signed by the trustee or a solicitor for the trustee and supported by a notice of the disclaimer pursuant to s. 133 of the *Bankruptcy Act*.

Evidence by way of a current National Personal Insolvency Index extract that is dated less than two weeks before, or any time after execution of the Form 14 – General Request to validate the trustee’s right to disclaim must be deposited with the Form 14.

The administrative advice will alert interested parties that all rights, interest and liabilities of the bankrupt in the freehold land or the lease or licence under the Land Act are terminated.

Lodgement fees are not applicable. A duty notation is not required.

Disclaimer of a Freehold Lease or a Sub-Lease under the *Land Act 1994* by a Trustee of a Bankrupt

A trustee of a bankrupt (trustee) may disclaim a freehold lease or a sub-lease under the Land Act, which is unsaleable or not readily saleable or burdened with onerous covenants, without the leave of the court only if:

- the trustee has given 28 days’ written notice of the intention to disclaim the freehold lease or the sub-lease under the Land Act to the lessor and any sub-lessees and mortgagees of the lease or the sub-lease under the Land Act; and
- the notified persons have not, within 28 days of receipt of the notice, required the trustee to apply to the court for leave to disclaim the freehold lease or the sub-lease under the Land Act.

To give notice effect to under s. 133(23) of the *Bankruptcy Act 1966* (Cth), a Form 14 – General Request to register-record the disclaimer must be lodged. The request may be made by the lessor.

The following must be deposited with the request:

- Evidence by way of a current National Personal Insolvency Index extract that is dated less than two weeks before or any time after execution of the Form 14 – General Request to validate the trustee’s right to disclaim must be deposited with the Form 14.
- A statutory declaration where the trustee declares that:
 - (1) the bankrupt is one and the same person as the registered lessee of the freehold lease or sub-lessee of the sub-lease under the Land Act being disclaimed;
 - (2) the trustee has given notice of intention to disclaim the freehold lease or the sub-lease under the Land Act to all interested parties pursuant to s. 133(4) and regulation 6.10 of the *Bankruptcy Act*, and
 - (3) no interested party has, within 28 days of the notice to disclaim, served notice requiring the trustee to apply to the court for leave to disclaim the freehold lease or the sub-lease under the Land Act.

Lodgement fees are applicable.

A duty notation is required if the term of the lease commenced prior to 1 January 2006.

Disclaimer of Freehold Land under the *Land Title Act 1994* or a Lease or Licence under the *Land Act 1994* by a Company Liquidator

If the company liquidator is disclaiming freehold land or a lease or licence under the Land Act, the liquidator may notify the Registrar by lodging a Form 14 – General Request (deposited as an Administrative Noting Miscellaneous), supported by a copy of the Notice of Disclaimer (a Form 525 under the *Corporations Regulations 2001* (Cth)).

Company Deregistered under the Australian Securities and Investments Commission (ASIC)

The property of a deregistered company vests in ASIC pursuant to s. 601AD of the *Corporations Act 2001* (Cth). If it is intended that the vesting be recorded on the title, a Form 14 – General Request is lodged to notify the Registrar. The property is then registered in the name of the ASIC. Upon registration, ASIC has power to deal with the property in any way (s. 601AE of the *Corporations Act*).

When dealing with the property of a deregistered company that has vested in ASIC, an instrument may be lodged which disposes of the property of the company, executed by ASIC, together with evidence that the company is deregistered, without the necessity of vesting the property in the name of ASIC on the title. Lodgement fees are payable.

²Foreclosure and Vesting

[14-2310]

A mortgagee, upon default by the mortgagor under the mortgage, may, subject to the terms of the mortgage, seek a foreclosure order under s. 78(2)(c)(ii) of the *Land Title Act 1994*. If the Court grants a foreclosure order, the mortgagor is no longer able to exercise its right of redemption and the title vests in the mortgagee.

Usually, such orders stipulate a time by which the mortgagor must repay the total amount owing under the mortgage and if the mortgagor defaults, foreclosure occurs and the title vests in the mortgagee.

The mortgagee then lodges a Form 14 – General Request to Register Order of Foreclosure and Vesting (also called a Request to Vest).

The following practice requirements apply:

- the applicant in Item 5 must be the mortgagee in whom the title will vest;
- a copy of the order certified by the Court must be deposited with the Form 14;
- if the court order stipulates conditions for foreclosure and vesting to occur – a statutory declaration from the mortgagee or their solicitor declaring that the conditions have been met must be deposited; and
- the Form 14 must have a duty notation.
- the address for service of notices to the applicant must be inserted in Item 5

Registry lodgement fees are payable.

See Example 18.

^{1,2}Dedication of Road by Notice

[14-2315]

Section 54(1) of the *Land Title Act 1994* allows for the dedication of the whole of a lot as a road for public use, by registration of a dedication notice. The form of a dedication notice is by way of a Form 14 – General Request.

Part of a lot may **not** be dedicated as a road for public use under s. 54 of the *Land Title Act*.

Item 6 of the Form 14 must request that ‘the within land be dedicated as road pursuant to s. 54(1) of the *Land Title Act*. The form must be executed by registered owner or their solicitor.

Once land has been resumed, there may be a following action to dedicate the land as road.

The publishing in the gazette of the taking of land notice cancels all registered interests in the land including mortgages, leases and easements and identifies the land taken and the manner in which the land is to be held by the constructing authority.

If, for example the wording of the taking of land notice states:

‘the land is taken by [Name of Department] as constructing authority for the State of Queensland for [a public purpose] as from [Date] and vests in the State of Queensland’

the lot becomes unallocated State land and is no longer recorded in the Freehold Land Register. Or, if for example the wording of the taking of land notice states:

‘the land is taken by [Name of Department] as constructing authority for the State of Queensland for [a public purpose] as from [Date] and vests in the State of Queensland’ for an estate in fee simple’

the lot taken will be recorded in the Freehold Land Register in the name of the State with reference to the representative department.

³Resumption of a Lease under the *Land Act 1994*

A Form 14 – General Request to record the resumption of a lease under Chapter 5 Part 3 Division 1 of the Land Act and a copy of the taking of leasehold interests in land notice (gazette notice) are required to be lodged.

Once the lease has been resumed the land becomes unallocated State land.

The publishing in the gazette of the taking of leasehold interests in land notice cancels all registered interests in the land including mortgages, leases and easements.

Revocation of Resumption

A revocation can only be considered if compensation has not been determined or paid.

A resumption may be revoked by publishing a revocation proclamation in the government gazette. To give effect to the revocation in the register, a Form 14 – General Request by the constructing authority to request revocation of resumption must be registered. A copy of the revocation notice must be deposited with the request.

See Example 19.

Vesting Order

By Proclamation

[14-2330]

A proclamation may vest land in the State, a statutory body representing the State or a local government.

A Form 14 – General Request to Vest must be lodged to vest the land in the name identified in the proclamation.

The following practice requirements apply:

- the applicant in Item 5 must be the person in whom the land is vested by the proclamation;

- a copy of the proclamation must be deposited with the Form 14; and
- the Form 14 must have a duty notation.

The address for service of notices to the applicant must be inserted in Item 5.

Registry lodgement fees are payable unless exempted by the legislation that authorises the vesting.

By Order of the Court

[14-2332]

A Court may order that a lot or an interest be vested in a person other than the registered owner or holder.

To record such an order on the register a Form 14 – General Request to Register Order of the Court (also called a Request to Vest) must be lodged.

The following practice requirements apply:

- the applicant in Item 5 must be the person in whom the lot or interest is vested;
- a copy of the order certified by the Court must be deposited with the Form 14; and
- the Form 14 must have a duty notation.

The address for service of notices to the applicant must be inserted in Item 5.

Registry lodgement fees are payable.

Vesting in a Trustee

[14-2335]

A Form 14 – General Request to Register Order of the Court (also called a Request to Vest) must be lodged to give effect to a vesting order made under the *Trusts Act 1973* or another Act.

The following practice requirements apply:

- the applicant(s) in Item 5 must be the trustee(s) in whom the land is vested by the vesting order;
- a copy of the vesting order certified by the Court must be deposited with the Form 14; and
- either:
 - an original Form 20 – Trust Details Form (see [51-4100]); or
 - all documents that create the trust upon which the interest is vested;

must be deposited with the Request. For information about depositing supporting documentation see [60-1030].

The Form 14 must have a duty notation and lodgement fees are payable.

The address for service of notices to the applicant must be inserted in Item 5.

[14-2340] deleted

Re-entry by Lessor by Repudiation

A request to record the re-entry by the lessor for repudiation is made in Form 14 – General Request. Item 6 of the Form 14 should state the lease is determined for common law repudiation. The request must be supported by statutory declaration/s, which must clearly:

- (1) State that the lease was determined for common law repudiation and not pursuant to a right of re-entry in the lease.
- (2) Provide evidence of the conduct of the lessee that amounted to a repudiation (for example, the lessee left the premises (in the case of land) or abandoned the water allocation on a particular date without consent and has not returned. The lessee may have also removed or abandoned some or all of its fixtures, fittings and stock).
- (3) Provide evidence of the conduct of the landlord that amounted to an acceptance of the repudiation (for example the lessor re-took possession of the premises or water allocation on a particular date after the lessee abandoned. The lessor may have also relet premises or water allocation/s to a new lessee etc.).

Lodgement fees are payable. The Request must have duty notation if the lease commenced before 1 January 2006.

There is no requirement to provide a copy of a notice of default under s. 124 of the Property Law Act to the Registrar where the lease is determined for repudiation at common law.

Recording Vesting in an Incorporated Association Vesting under the Associations Incorporation Act 1981

[14-2360]

A Form 14 – General Request is lodged in relation to incorporated associations in the following situations:

- Where land or an interest formerly held by trustees is to be vested in the name of an incorporated association under the *Associations Incorporation Act 1981* (as amended) a Form 14 – General Request is required.

The address for service of notices to the applicant must be inserted in Item 5.

Lodgement fees are payable.

See Example 24 and notations.

- Where two or more incorporated associations amalgamate, a Form 14 – General Request is lodged by the secretary of the new association requesting that the land or interest held by the previous associations be vested in the name of the new association. The Form 14 – General Request is executed by the secretary of the new association and is lodged, together with a certified copy of the certificate of incorporation of the new, amalgamated association. Land or interests previously held by the prior associations will now be recorded as being in the name of the new association. A duty notation is not required.
- Where a body which holds letters patent under the (now repealed) *Religious Educational and Charitable Institutions Act 1861* (repealed by No 74 of 1981, s. 4, sch 1) incorporates, a request to vest the land or interest so held in the association is lodged. The Form 14 – General Request is executed by the secretary of the association and is lodged with a certified copy of the certificate of incorporation of that body. A duty notation is not required.

- Where an incorporated association is cancelled, a Form 14 – General Request ~~is~~ may be lodged requesting the property of the cancelled association to be vested in the Public Trustee of Queensland pursuant to s94 of the Associations Incorporation Act, 1981. The Form 14 – General Request is lodged with a copy of the ~~Order in Council~~ gazette notice vesting the property in the Public Trustee. Alternatively, the ~~Governor in Council~~ chief executive of the department that administers the Associations Incorporation Act -may, by ~~an Order in Council~~ a gazette notice, vary the trusts and vest the property in another body or party. In this case, a Form 14 – General Request is lodged, together with a copy of the ~~Order in Council~~ gazette notice. A duty notation is ~~not~~ required in either case.
- Pursuant to section 92 of the Associations Incorporation Act, where an incorporated association is wound up under section 90, the chief executive of the department that administers the Associations Incorporation Act may, by a gazette notice, vest all or any of the surplus assets of the incorporated association in the Public Trustee. A Form 14 – General Request is lodged, together with a copy of the gazette notice. A duty notation is required.
- Where a receiver and manager appointed by a mortgagee executes an instrument or document for an association under the Associations Incorporation Act, a copy of the deed of appointment certified by a solicitor is required as evidence of the appointment.

Recording Vesting under the Returned & Services League of Australia (Queensland) Branch) Act 1956

[14-2365]

The Returned & Services League of Australia (Queensland Branch) Act provides that upon the passing of a resolution by any district branch or sub-branch adopting the Act, any land held by that district branch or sub-branch or by any person/s on behalf of the district branch or sub-branch becomes vested in the branch or sub-branch in the name of ‘Trustees of the Returned & Services League of Australia, (Queensland Branch) [name of sub-branch/district branch, as the case may be] Sub-Branch/District Branch [as the case may be]’. To record such a vesting, a Form 14 – Request to Vest must be lodged, together with a certificate that a resolution adopting the Act has been passed by the district branch or sub-branch, showing the **date of adoption** of the Act and signed by the president and secretary of the district branch or sub-branch (s. 3 of the Returned & Services League of Australia (Queensland Branch) Act).

No lodgement fees are payable and a duty notation is not required.

The address for service of notices to the applicant must be inserted in Item 5.

[14-2370] and [14-2380] deleted

Trustee

[14-2390]

A lot or an interest can be held by a registered owner or holder as trustee for one or more other parties. If no appointment of a new trustee is involved, the instruments or documents required to be lodged for registration in the registry in certain circumstances are as follows:

- where a trustee dies: a Form 4 – Record of Death (see part 51 – Trusts, esp. [51-2060] to [51-2090]); and
- where a trustee retires or is discharged: a Form 14 – General Request to record retirement or discharge, together with an original Form 20 – Trust Details Form (see [51-4100]) or documentary evidence, see Example 22.

Lodgement fees apply.

Forms

General Guide to Completion of Forms

[14-4000]

For general requirements for completion of forms see part 59.

Guide to Completion of Form 14 for Examples 1 to 25

Item 1

[14-4010]

Insert nature of request.

Item 2

[14-4020]

^{1,2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2,3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1,3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3

[14-4030]

Insert, as the case requires, the full name of the person/entity owning or holding the interest which is the subject of the request and shown in Item 4, for example:

- the registered owner of a freehold lot; or the holder of a lease or licence under the *Land Act 1994*, or the holder of a water allocation; or
- the registered proprietor or holder of a secondary interest (e.g. mortgagee or lessee of a lease of freehold).

Item 4

[14-4040]

Insert interest, either fee simple, water allocation, the type of State tenure e.g. State Lease, or lease or mortgage number.

Item 5**[14-4050]**

Insert full name of applicant.

Complete the postal address of the applicant for service of notice for a request that changes:

- the registered owner of a freehold lot; or
- the holder of a lease or licence under the *Land Act 1994*; or
- the holder of a water allocation; or
- ~~the name or any part of the name of the above, for example a Request to Change Name or Request to Correct Name.~~ An address for service of notice is not required for requests to change or correct the name of the registered owner.

Item 6**[14-4060]**

Insert details of the Request.

Item 7**[14-4070]**

Complete and execute where indicated.

Example 1 – Request to Record Correction of Name (Natural Person) supported by a declaration from the solicitor’s firm that prepared the original instrument or document

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

~~ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060~~

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2021

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **LOIS JANE FUNG** of 24 Logan Road, Logan in the State of Queensland, Solicitor, do solemnly and sincerely declare as follows:

1. My firm, Smith & Co prepared a Form 1 – Transfer in the name of WAYNE Kyle Pearson and Meredith Julie Pearson lodged under Dealing No. 710478823.
2. The name WAYNE Kyle Pearson in item 5 of the transfer was shown incorrectly.
3. The name should have been shown as DWAYNE Kyle Pearson.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2021)

L J Fung

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 1A – Request to Record Correction of Name (Natural Person) supported by a declaration by the registered owner

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

~~ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060~~

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2021

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1A (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **DWAYNE KYLE PEARSON** of 24 Hideaway Close, Narangba in the State of Queensland, do solemnly and sincerely declare as follows:

1. On 20 May 2003 a transfer to Wayne Kyle Pearson and Meredith Julie Pearson was lodged under dealing 710478823.
2. My name in item 5 on the transfer was shown incorrectly as WAYNE Kyle Pearson.
3. My name should have been shown as DWAYNE Kyle Pearson as evidenced by the name shown in the copy of my certificate of birth deposited herewith.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2021)

D K Pearson

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 2 – Request to Record Change of Name of Registered Owner (Natural Person)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD A CHANGE OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 10 ON RP225533

Title Reference

17688021

3. Registered Proprietor/State Lessee

GEOFFREY MATTHEW WINDSOR and LAURA MARGARET BARNARD

4. Interest

FEE SIMPLE

5. Applicant

LAURA MARGARET WINDSOR

~~ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060~~

6. Request

I hereby request that: in accordance with the declaration dated 21 November 20~~07~~21 deposited herewith, the change of name of Laura Margaret Barnard to Laura Margaret Windsor be registered.

7. Execution by applicant

21/11/21
Execution Date

L M Windsor
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 2 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [17688021]

I, **LAURA MARGARET WINDSOR**, do solemnly and sincerely declare as follows:

I am the person identical with Registered Owner **LAURA MARGARET BARNARD** named in Item 3 on the attached Form 14 – General Request.

My true and correct name is as shown in Item 5 on the Form 14 – General Request as **LAURA MARGARET WINDSOR** as on the 14th day of August 2021 I married **GEOFFREY MATTHEW WINDSOR**, as evidenced by the office copy Certificate of Marriage deposited herewith.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2021)

L M Windsor

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 3 – Request to Record Change of Name of Registered Owner (Corporation)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO RECORD CHANGE OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP977000

Title Reference

11326072

3. Registered Proprietor/State Lessee

XYZ CORPORATION LIMITED ACN 001 311 711

4. Interest

FEE SIMPLE

5. Applicant

EXIT CORPORATION LIMITED ACN 001 311 711

~~ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060~~

6. Request

I hereby request that: the change of name of the registered owner from XYZ Corporation Limited ACN 001 311 711 to Exit Corporation Limited ACN 001 311 711 be recorded.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/21

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

S Brown, Director
SAMUEL DENIS BROWN

.....
G Wolfe, Director/Secretary
GERALD JOSEPH WOLFE

.....
Applicant's or Solicitor's Signature

Example 12 – Request to Record Transmission by Bankruptcy (Request by Official Trustee)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 3

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

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1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger Code
21

2. Lot on Plan Description

LOT 2 ON RP571535

Title Reference

30066134

3. Registered Proprietor/State Lessee

EDWARD ROBERT SULLIVAN

4. Interest

FEE SIMPLE

5. Applicant

THE OFFICIAL TRUSTEE IN BANKRUPTCY

Address for the service of notices to the applicant: ~~USE CURRENT RECORDED ADDRESS~~ PO BOX 10443
ADELAIDE STREET BRISBANE QLD 4001

6. Request

I hereby request that: the applicant be registered as a proprietor of the estate or interest specified in Item 4 in the and described in Item 2 in consequence of the bankruptcy of EDWARD ROBERT SULLIVAN as evidenced by the National Personal Insolvency index extract and declaration deposited herewith.

7. Execution by applicant

The seal of the Official Trustee in Bankruptcy was hereto affixed by me,
Digby Nicholas Bartholomew Ross,
the Official Receiver for the Bankruptcy District of the State of Queensland

(seal)

D N B Ross

21/10/21

Execution Date**Applicant's or Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index;
- Supporting declaration/s.

Example 12 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 3

Title Reference [3006134]

I, **DIGBY NICHOLAS BARTHOLOMEW ROSS** of c/- 13th Level, 340 Adelaide Street, Brisbane in the State of Queensland, a Commonwealth Public Servant, do solemnly and sincerely declare that:

1. I am the Official Receiver for the Bankruptcy District of the State of Queensland under the *Bankruptcy Act 1966* (Cth) and am authorised to act on behalf of the Official Trustee in Bankruptcy pursuant to s. 18(8) of the Act.
2. Edward Robert Sullivan is registered as proprietor of an estate in fee simple in that land comprised in Indefeasible Title 30066334 being Lot 2 RP571535.
3. The said Edward Robert Sullivan registered as proprietor in the said Indefeasible Title is one and the same person as and identical with the Edward Robert Sullivan mentioned in extract from the National Personal Insolvency Index deposited herewith who disclosed his interest in the said land as an asset of his estate.
4. I am advised and verily believe that by virtue of section 58 of the *Bankruptcy Act 1966* (Cth) the Official Trustee in Bankruptcy is entitled to be registered as proprietor of the interest of Edward Robert Sullivan in the said land.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED by **DIGBY NICHOLAS**)
BARTHOLOMEW ROSS at Brisbane in the State of)
Queensland this 21st day of October 2021)

D B N Ross

.....
(Signature of Declarant)

H P Thomas JP (Qual.) #19833

.....
(Signature of a Justice of the Peace/Solicitor)

HAROLD PETER THOMAS

.....
(Name of Witness in Full)



**National Personal Insolvency Index
Insolvency Trustee Service Australia
Extract as at 04:18 pm 21-Nov-2007**

Name	SULLIVAN, EDWARD ROBERT		
Date of Birth	16-Sep-1942	Administration Type	Bankruptcy
Administration Number	QLD 2541/3/0	Petition Type	Debtor Petition
Date Filed	20-Oct-2006		
Date SA Filed	20-Oct-2006		
Entered on NPII	20-Oct-2006		
Date Ended	<No Data Held>		
Result	<No Result>		
Address	1 Choonda Street CORINDA QLD 4075		
Occupation	UNEMPLOYED		
Business Name	<No Data Held>		
Business Address	<No Data Held>		
Trustee	OFFICIAL TRUSTEE IN BANKRUPTCY		
Overall Summary	This individual is an undischarged bankrupt.		

**End of
Report**

The information in this extract comes from ITSA's National Personal Insolvency Index database as at the time and date indicated in this document. If you consider that the information contains errors, please promptly advise ITSA.

Example 13 – Request to Record Transmission by Bankruptcy (Request by Trustee other than Official Trustee)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number

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1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger Code
21**2. Lot on Plan Description**

LOT 33 ON RP213130

Title Reference

34567112

3. Registered Proprietor/State Lessee

ROBERT TIMOTHY MCCARTHY and ANNA JANE MCCARTHY

4. Interest

THE ½ SHARE OF AN ESTATE IN FEE SIMPLE HELD BY ROBERT TIMOTHY MCCARTHY IN THE LOT DESCRIBED IN ITEM 2.

5. Applicant

THE TRUSTEE OF THE PROPERTY OF ROBERT TIMOTHY MCCARTHY (a bankrupt)

ADDRESS FOR THE SERVICE OF NOTICES TO THE APPLICANT: ~~LEVEL 30, 1 EAGLE STREET~~ GPO BOX 301,
BRISBANE, 4000

6. Request

I hereby request that the applicant be registered as proprietor of the estate or interest specified in Item 4 in the land described in item 2 in consequence of the bankruptcy of ROBERT TIMOTHY MCCARTHY as evidenced by the National Personal Insolvency Index extract and in accordance with the declaration of Arthur Wayne Lachlan deposited herewith.

7. Execution by applicant*A W Lachlan*

Arthur Wayne Lachlan as Trustee in Bankruptcy

21/11/21

Execution Date**Applicant's or Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index (see Example 12);
- Supporting documentation.

Example 18 – Request to Register Order of Foreclosure and Vesting

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

REQUEST TO REGISTER ORDER OF FORECLOSURE AND VESTING

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger Code

21

2. Lot on Plan Description

LOT 6 ON RP177662

Title Reference

13352117

3. Registered Proprietor/State Lessee

XYZ CORPORATION PTY LTD ACN 003 976 423 (IN LIQUIDATION)

4. Interest

FEE SIMPLE

5. Applicant

BRISBANE BANKING CORPORATION LIMITED ACN 003 421 600

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: ~~22 REAL STREET, ASHGROVE QLD 4060~~ PO BOX 259 SOUTH BRISBANE 4101

6. Request

I hereby request that: in accordance with the court order dated 20 July 2021 deposited herewith you register the order for foreclosure and vesting of the interest of the Registered Owner shown in Item 4 above in the applicant.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/21

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

M J Kendall, Director
MARCUS JOHN KENDALL

.....
K M Chan, Director/Secretary
KEVIN MICHAEL CHAN

.....
Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Court issued copy of the order;
- If the court order stipulates conditions for foreclosure and vesting to occur – a statutory declaration from the mortgagee or their solicitor declaring that the conditions have been met.

Example 19 – Request to Record Revocation of Resumption

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Nature of request

REQUEST TO RECORD REVOCATION
OF RESUMPTION

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger
Code
21

2. Lot on Plan Description

LOT 10 ON RP223344

Title Reference

13123066

3. Registered Proprietor/State Lessee

MORETON BAY REGIONAL COUNCIL (FORMERLY CABOOLTURE SHIRE COUNCIL)

4. Interest

FEE SIMPLE

5. Applicant

MORETON BAY REGIONAL COUNCIL

ADDRESS FOR SERVICE OF NOTICES: ~~22 REAL STREET~~ PO BOX 22, NARANGBA QLD 4460

6. Request

I hereby request that: in accordance with the gazette notice dated 11 May 2021 revoking a previous gazette notice registered under dealing 6032214/88 you record the revesting of the above-described land in the name of DEVELOPMENT CO PTY LTD ACN 003 520 397 for an estate in fee simple.

7. Execution by applicant

S Jones,

.....
MORETON BAY REGIONAL COUNCIL
Stephen James Jones Chief Executive Officer
.....

21/11/21

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Proclamation revoking resumption.

Example 24 – Request to Record Incorporated Association

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

RECORDING UNDER THE ASSOCIATIONS
INCORPORATION ACT 1981

Lodger (Name, address, E-mail & phone number) **Lodger Code**

JOHN WATERHEAD.
24 FLATHEAD COURT
SURFHAVEN QLD 4999
(07) 3278 5943

2. Lot on Plan Description

LOT 999 ON RP999999

Title Reference

14399224

3. Registered Proprietor/State Lessee

WILLIAM SANDMAN and NORMAN BEACHCOMBER AS TRUSTEE OF THE COASTAL GOLF CLUB UNDER
NOMINATION OF TRUSTEES 666655554

4. Interest

FEE SIMPLE

5. Applicant

COASTAL GOLF CLUB INCORPORATED

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: ~~22 REAL STREET, ASHGROVE QLD 4060~~POX
5555 GOLD COAST MAIL CENTRE 9726

6. Request

I hereby request that: the Registrar of Titles record the interest of the above registered proprietors in the name of the applicant in accordance with s. 24 of the Associations Incorporation Act 1981 and certify that the applicant is incorporated as evidenced by the certificate of incorporation deposited.

7. Execution by applicant

J D Surfboard
JOHN DAVID SURFBOARD
Secretary, Coastal Golf Club Incorporated

21/11/21

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: It should be noted that:

- the registered proprietor/State Lessee in Item 3 should be as shown on the current title/lease; and
- the applicant in Item 5 is the incorporated association; and
- the request in Item 6 should be substantially as shown in the example; and
- the signing of Item 7 must be by the secretary of the association (see ss24(1), (2) and (3) of the *Associations Incorporation Act 1981*); and
- these Requests attract normal lodgement fees; and
- there is no duty payable; and
- a copy of the certificate of incorporation, issued by the relevant agency and certified by an appropriate officer of that agency is to be provided; or
- the alternative arrangements whereby the original certificate and a photocopy are presented, checked and the photocopy noted by the Receiving Officer as being a true copy of the original, the noted copy retained and the original returned to the lodger is acceptable.