

Part 33 – Release of Covenant/Profit a prendre

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021



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Part 33 – Release of Covenant/Profit a prendre¹

[33-0000] General Law

A covenant or profit a prendre that is registered in the Registry creates a charge over the lot(s) or land described in it and requires compliance with the obligations contained in the instrument or document.

The grantee may execute a release of a covenant or profit a prendre and on registration in the Land Registry, the charge is discharged to the extent shown in the release.

[33-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

Refer to [0-8100] and [0-8200].

[33-2000] Practice

The appropriate form for a release of either a covenant or a profit a prendre is a Form 33 – Release of Covenant/Profit a prendre.

[33-2100] Release of Covenant

A covenant may be wholly or partly released by registering a Form 33 – Release of Covenant.

A partial release of covenant must clearly specify the extent to which the covenant is released. If a covenant restricted several uses and was to be released from less than all of the uses, the use to be released can be described verbally and that description of an obligation may be included in item 5 of the Form 33 or if insufficient space, in a Form 20 – Enlarged Panel annexed to the Form 33.

For a partial release of part of the area affected by a covenant the area being released or the area not being released must be defined on a survey plan (see the Registrar of Titles Directions for the Preparation of Plans for the requirements for a plan for an area for a covenant).

A covenant that is for ensuring that lots or land remains in the same ownership can only be partially released if at least two lots or parcels of land remain subject to the covenant after the partial release.

The release must be signed by the covenantee.

[33-2200] Release of Profit a prendre

Under the provisions of ss. 97L(1) and (2) of the Land Title Act 1994 or ss. 373O(1) and (2) of the Land Act 1994 a profit a prendre may be released to the extent shown in the release.

A profit a prendre may be partially released i.e. so far as it relates to:

- part of the land; or
- some of the substances that may be taken from the land. For example, a profit that entitles a party to take trees and gravel might be partially released so that the trees are excluded leaving only the right to take gravel.

The release must clearly specify the extent to which the profit a prendre is being released.

If the release does not release the whole of the land from the profit a prendre, the area being discharged or the area not being discharged must be defined on a survey plan.

A Form 33 – Release of Covenant/Profit a prendre signed by the covenantee/grantee must be lodged to register a release of a profit a prendre.

Lodgement fees are payable.

A release of a profit a prendre requires a duty notation.

Forms

[33-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms.

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 Titles Queensland website.

1. Type/Dealing No. of instrument/document being released	Lodger (Name, address, E-mail & phone number)	Lodger Code
Type of Instrument/Document PROFIT A PRENDRE	SMYTHE & CO. SOLICITORS 45 ADELAIDE STREET BRISBANE QLD 4000 mail@smytheco.com.au (07) 3227 9850	490
Dealing Number 723651098.....		

2. Lot on Plan Description	Title Reference
LOT 33 ON RP587601	11567215
LOT 34 ON RP587601	11567216

3. Grantor/Covenantor
KRISTINA MARIA JOHNSON

4. Grantee/Covenantee
IVAN GEORGE JOHNSON

5. Execution by Grantee/Covenantee
*Full Surrender The Grantee/Covenantee releases the covenant/profit a prendre in item 1 so that the covenant/profit a prendre is extinguished.
*Partial Surrender The Grantee/Covenantee releases the covenant/profit a prendre in item 1 so far as relates to the land in item 2:- *so far as relates to a part of the land being *so far as relates to the substance taken from the land being *delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

P L Fish

.....signature

PETA LAUREL FISH

.....full name

SOLICITOR

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

15/11/2007

Execution Date

I G Johnson

.....
Grantee's/Covenantee's Signature

Guide to Completion of Form 33

[33-4010] Item 1

Insert the type of instrument/document and dealing number of the instrument/document to be released.

[33-4020] Item 2

The description of the lot should be 'Lot [number] on [Plan reference]'. The 'Title Reference' for each lot must also be completed.

[33-4030] Item 3

Insert the full name of the covenantor/grantor.

[33-4040] Item 4

Insert the full name of the covenantee/grantee.

[33-4050] Item 5

Complete and execute where indicated.

[33-6000] deleted

[33-7000] Case Law

Nil.

[33-8000] Fees

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60 8000].

[33-9000] Cross References and Further Reading

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 29 – Profit a prendre

Part 31 – Covenants

[33-9050] Notes in text

Note ¹ – This part does not apply to water allocations.

Note ² – This numbered section, paragraph or statement does not apply to freehold land.

Note ³ – This numbered section, paragraph or statement does not apply to State land.