

Customer INFORMATION Bulletin

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Office of the Registrar – General

TITLE REGISTRATION SERVICES (Land Registry) No 73 February 1999

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GENERAL LAW LAND CONVERSION Projects and changes

The *Transfer of Land (Single Register) Act 1998* commenced operation on 1 January 1999. The purposes of the amending Act are to close the register kept by the Office of the Registrar-General under the *Property Law Act 1958*, to require all dealings to be recorded on the register under the *Transfer of Land Act 1958* (TLA), and to simplify the schemes for conversion.

In practice, the changes mean all General Law land transacted after the commencement date will be converted to the Torrens system when documents are lodged for recording. Land which has been long held by institutional owners, family trusts, government land, such as railways and roads and other land not normally transacted, may be brought under the TLA by voluntary application or by conversion initiated by the Registrar. This will result in a significant increase in the rate of conversion, leading to the elimination of land under the General Law.

In brief, the amendment:

- repeals the land dealing registration provisions of the *Property Law Act 1958*;
- repeals the existing conversion schemes and re-enacts the three legal practitioner certificate based schemes introduced by the 1986 legislation. The procedures for conversion under these schemes are unchanged, save that any transaction may be evidenced by the simpler form of document already approved for use under the TLA; and

- introduces three other means of conversion:

- 1) The first requires a person seeking registration of a document that evidences a transaction with land under the General Law to record the document under the TLA.
- 2) The second provides for an application to be made for conversion without requiring a legal practitioner's certificate.
- 3) The third allows the Registrar to initiate conversion by creating a new folio of the Register for land.

The Act also introduces two new forms of folio of the Register, the **identified** folio and the **provisional** folio. All limited and qualified folios created prior to 1 January 1999 are deemed to be provisional folios.

Identified folios

An identified folio will be a Torrens system 'tag' for a General Law parcel. The folio will usually only contain a description of the land, no registered proprietor will be disclosed and a certificate of title will not be issued. The folio will be affected by all subsisting General Law interests. Notifications of interests in the land described in an identified folio may be recorded on the folio and a recorded notification will have status and authority much the same as a caveat under Section 89 TLA.

Provisional folios

The provisional folio replaces limited and qualified folios under the existing schemes. A provisional folio will have the usual characteristics of a Torrens title but in respect of a folio created without production of a

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legal practitioner's certificate, the folio will remain subject to any subsisting General Law interests and may be subject to other restrictions. A certificate of title will issue for a provisional folio with such warnings as are appropriate to the method of conversion.

Other matters to note:

- An immediate impact of the Act is the requirement to produce a prescribed search of land to record a transfer, mortgage or other specified dealing. In these cases a full search is required to be lodged; 30 year searches will have to be extended and updated.
- The Act provides for the Registrar to have greater discretions on conversion. A provisional or identified folio may be created in the Register at the Registrar's discretions where a Division 2 application for conversion (including a legal practitioner's certificate) is considered to be based on unsatisfactory or incomplete documents, conflicts with information held in the registers or contains insufficient information (Section 26S).
- All General Law mortgages affecting Torrens system land, whether the conversion occurred before or after 1 January 1999 are deemed by the Act to be mortgages under the TLA.
- The amendment maintains the present position that a defect in title indicated by a warning on a provisional folio ceases to affect the land after 15 years.

Principal sections of the *Transfer of Land Act 1958 (as amended)* to note:

In Part 2 –
Bringing Land under the Act –

Division 2 –
Section 13 – lodgment of deed

(or TLA instrument), with legal practitioner's certificate

Section 14 – application to create a folio of the Register with legal practitioner's certificate

Section 15 – application to create a folio of the Register by legal practitioner's certificate and with a plan of survey

Division 3

Section 22 – lodgment of deeds, without a legal practitioner's certificate

Section 23 – application to create a folio of the Register without a legal practitioner's certificate

Section 26S – conversion of an identified parcel of land by the Registrar

Copies of the Act are available from Information Victoria Bookshop, 365 Collins Street, Melbourne 3000.

Please refer enquiries to Peter Burns, Manager, Registrar-General's Office on 9603 5255 or at 5th floor, 456 Lonsdale Street, Melbourne.

Search Subsidy and General Law Search Library

In June 1997 a Search Subsidy scheme was introduced to reduce costs associated with conversion of General Law land. The subsidy scheme is currently rebating applicants up to 80 per cent of the cost of a full search. To date, more than 2500 subsidies have been paid totalling more than \$300,000.

The funds for the subsidy scheme, as well as the General Law Search Library, have been made available through a grant approved by the

Minister for Fair Trading and applied from the Estate Agents' Guarantee Fund. The subsidy will continue to be available until at least June 1999 and is payable on a search of land lodged with a conversion application, except in cases where a library search has already been completed for the General Law Search Library.

To establish the General Law Search Library, Title Registration Services is acquiring full searches from a professional title searching firm. Library Searches are available to all searchers and legal practitioners investigating land. Photocopies of the searches may be used in conversion applications and only photocopying charges are payable.

Both the Search Subsidy and the copies of Library Searches are available to assist all those now converting. **1800 FREECALL number (1800 224 189)** is also operating for customers to call with any inquiries and requests for information on the Library Search or Search Subsidy schemes.

Title Plans For Conversion

A contract with a surveying consultant company to produce title plans for each identified parcel of General Law land has been completed. These plans are the first drafts of title plans to be recorded when a folio of the Register is created for converted parcels. Until a parcel is converted these plans are available for reference and are updated with additional information on conversion or completion of a full search through the General Law Search Library.

The Title Plan production project was also funded under the Grant applied from the Estate Agents' Guarantee Fund. Special surveys are also being prepared for previously unsurveyed tracts of land in the Guildford and Alberton areas.