

Serial Number 1948/137



THE LAND TRANSFER REGULATIONS 1948

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 11th day of August, 1948

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Land Transfer Act, 1915, and, so far as concerns the revocation hereby effected of certain regulations enacted by Order in Council on the 14th day of December, 1886, pursuant to section 34 of the Deeds Registration Act, 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and for the purpose of consolidating and amending certain enactments heretofore in force, doth hereby make the following regulations.

REGULATIONS

PRELIMINARY

1. These regulations may be cited as the Land Transfer Regulations 1948.
2. These regulations shall come into force on the 1st day of September, 1948.
3. In these regulations "the Act" means the Land Transfer Act, 1915.
4. The respective regulations referred to in the table subjoined to this regulation are revoked :—

Regulations revoked

Date of Enactment.	Published in <i>Gazette</i> .	
	Year.	Page.
14th December, 1886	1886	1604
14th March, 1908	1908	907
22nd January, 1914	1914	303
17th December, 1914	1915	32
16th May, 1922	1922	1379
17th December, 1929	1929	3287
29th February, 1932	1932	418
	Published in Statutory Regulations.	
3rd February, 1937	Serial number 121/1937	
10th June, 1942	Serial number 1942/172	

5. All books of record, approved forms, and generally all acts of authority and all documents, matters, acts, and things, and all periods of time which originated or had effect under the regulations hereby revoked and are of continuing effect at the time of coming into force of these regulations, shall enure for the purposes of these regulations as if they had originated under these regulations, and shall, where necessary, be deemed to have so originated.

OFFICES AND OFFICE HOURS

6. In and for each district there shall be an office known as the Land Registry Office, which shall be open to the public for the transaction of business daily, except on Sundays, Saturdays, and holidays.

7. The hours during which the Land Registry Office shall be so open shall be from 9 a.m. to 0.30 p.m. and from 1.30 p.m. to 4 p.m.

BOOKS AND INDEXES TO BE KEPT

8. In addition to the Register-books and Provisional Register-books provided for by sections 33 and 46 of the Act, there shall be kept in and for each district the following books and indexes :—

- (1) An application-book, in which shall be entered particulars relating to all applications to bring land under the operation of the Act :
- (2) A journal-book in which shall be entered particulars of all instruments received for registration, referring to the same by number in the order in which they are so received for registration :
- (3) A nominal index, in which shall be entered the names of all persons having any registered interest in land, together with the nature of the instrument creating the interest—the property affected, and the folium of the Register-book :
- (4) A section index, in which shall be entered particulars of all land alienated from the Crown and subject to the Act, with the corresponding folium of the Register-book :

Provided that any index may be kept in the pages of a book bound together or unbound, or upon cards regularly arranged.

PRINTED FORMS

9. Solicitors, licensed land brokers, persons acting on behalf of Government Departments, banks, and others approved by the Registrar may have their own forms printed. In such case two proof copies shall be forwarded to the Registrar for approval, one to be returned when approved and the other to be filed for reference.

10. Hand-made paper of the best quality and of a size approved by the Registrar must be used for the printing of forms and for all instruments for registration. Inset sheets used with any form must be of the same size and of a good quality of paper.

11. An approval fee shall be payable in respect of every form used for registration purposes and not previously approved.

FORM OF INSTRUMENTS

12. All applications to bring land under the Act and instruments for registration or entry on the Register must be on forms in accordance with section 220 of the Act, and the parts of such forms which are not printed must be fairly and legibly written or typed. If typed, the original, and not a carbon copy, shall be retained in the Registry Office.

13. In the case of instruments presented for registration in duplicate or triplicate each part must be an exact replica of the other or others, both as to the body of the instrument and as to any declarations, consents, or other matters endorsed thereon or annexed thereto, and as to original signatures and seals relating to the execution making attestation and verification thereof respectively.

14. The Registrar may refuse to register any instrument—

- (a) Which purports to create estates or interests not capable of registration, or to deal with estates or interests not registered or not capable of registration :
- (b) Which purports to deal with land or other property not subject to the provisions of the Act :
- (c) Which purports to deal with matters not capable of inclusion in the Register :
- (d) Which for any other reason is incapable of complete registration.

15. Nevertheless, an instrument dealing only with land subject to the provisions of the Act, whether such land be in one registration district or more than one, may be accepted for registration as to part only of the land affected if a request for such partial registration be endorsed thereon and signed by the person presenting the same for registration. A partially registered instrument may at the like request be subsequently accepted for registration as to the remainder or any other part of the land affected thereby, subject to payment in respect of each such registration of the same fees as if each registration were effected by a separate instrument.

16. All applications, evidentiary documents, and other documents which do not upon registration become a part of the Register, or upon delivery to the Registrar require to be the subject of an entry in the Register, shall be fairly and legibly printed, written, or typed on paper of good quality and demy or foolscap size.

CORRECTION OF ERRORS

17. The Registrar may refuse to register any instrument containing an erasure or alteration. Mistakes should be corrected by drawing the pen through the words or figures written in error, and writing the correct words or figures over them. Any such correction and any interlineation or addition should be initialed by the persons executing the instrument and by the attesting witnesses.

18. Except as hereinafter mentioned, no alteration whatever shall be allowed to be made in any application or instrument during retention thereof in the office.

19. Errors or defects in description of parcels in any application to bring land under the Act may be amended by permission of the Registrar at any time before such application is gazetted by substitution of amended description and diagram :

Provided that such amendment shall not alter the subject-matter of the application so as to include land not originally the subject thereof.

20. The like errors or defects in instruments dealing with land under the Act may, before registration, be corrected in the like manner :

Provided that such corrections shall be in matter of description of parcels only, and shall not in any way materially alter the subject-matter of the instrument.

21. Every such amended description shall be expressed to be by way of substitution for the original description, and shall refer to the original application or instrument by name and number, and shall be signed by the applicant or the persons executing such instrument. It shall also be endorsed with the certificate that the same is correct as prescribed by section 175 of the Act.

22. No alteration whatever may be made in any instrument after the same has been registered.

REGISTRATION

23. Applications to bring land under the Act, and instruments, dealings, and other matters required to be registered or entered in the Register-book, or deposited, shall be presented by hand at the Land Registry Office by the person claiming thereunder or by some person acting on his or her behalf between the hours of 10 a.m. and 0.30 p.m. or between the hours of 1.30 p.m. and 3 p.m.

24. No application, instrument, dealing, or other matter shall be received for registration unless it complies in all respects with the requirements of the Act, and of these and any other regulations for the time being in force thereunder, or if it is contrary to any other law or regulation in force or if there appears to be fraud or improper dealing.

25. The certificate required by section 175 of the Act, if given by a solicitor, shall be signed by the solicitor in his own name and not in the name of any firm with which he may be connected, and shall show that he is acting for the party claiming under the instrument.

26. No instrument the memorial whereof is required to be entered upon the duplicate certificate or other instrument of title shall be received for registration unless such duplicate is produced therewith or has been previously lodged for the purpose of registration, except—

- (a) When the Registrar shall dispense with the production of the same under section 40 of the Act :
- (b) For the purpose of the giving of notice under section 183 of the Act for the production of the same :
- (c) In the case of any decree or order of any Court, or any Proclamation, Order in Council, or other instrument made or issued under any Act of the General Assembly :
- (d) In any case in which it is provided by any Act of the General Assembly that the production of such duplicate shall not be required.

DEFECTIVE INSTRUMENTS : HOW DEALT WITH

27. If after any application, instrument, or dealing has been received, any material defect, error, or omission shall be discovered therein, or if any caveat prevents the registration being proceeded

with, the Registrar shall forthwith give notice of the fact by requisition in writing to the person by whom the application, instrument, or dealing was presented.

28. If such requisition cannot be complied with the application, instrument, or dealing may be withdrawn or the Registrar may take the action provided for in section 2 of the Land Transfer Amendment Act, 1925. If the application, instrument, or dealing is withdrawn, the fees paid on reception thereof may be refunded or otherwise dealt with in accordance with the regulations under the Stamp Duties Act, 1923, relating to the refunds of fees. The withdrawn application or instrument, and all documents lodged in connection therewith, may be returned to the person by whom the same were presented or lodged, and every endorsement or entry relating to the instruments shall be cancelled, provided that a copy of such application or instrument be supplied for the office file.

DELIVERY OF DOCUMENTS

29. Every certificate of title, lease, or other instrument produced to the Registrar for the purpose of registering any dealing, and the duplicate or triplicate (if any) of every instrument presented for registration, shall be returned only to the person by whom the same was respectively produced or presented, or to such other person as he may in writing direct.

30. Any certificate of title issued for the balance or for any part of the land included in any partially cancelled certificate shall be delivered only to the mortgagee (if any), or to the person by whom such partially cancelled certificate was produced, or to such other person as he may in writing direct.

31. The foregoing provisions shall not be construed to prevent the Registrar from delivering to the registered proprietor or any other person any certificate of title, lease, or other instrument where it appears to the Registrar that such registered proprietor or other person is entitled to the custody of the same.

CAVEATS

32. In addition to the particulars required by section 147 of the Act, every caveat against dealings shall show how the estate or interest claimed is derived from the registered proprietor, and shall state whether it is intended to forbid the registration of instruments affecting the title of the registered proprietor altogether, or with exceptions; and if with exceptions, the exceptions shall be stated. A caveat so drawn shall not prevent the registration of any instrument or class of instruments specifically excepted from the operation thereof.

33. On the request in writing of any person presenting for registration any instrument the registration whereof is prevented by a caveat, and on payment of the prescribed fee, the Registrar shall give to the caveator the notice referred to in section 154 of the Act.

34. At any time prior to the receipt by the Registrar of a request to give the notice referred to in the last preceding regulation the caveator may, by notice in writing to the Registrar and upon payment of the prescribed fee, appoint another place or address within the district at, or to which, notices and proceedings relating to such caveat may be served or addressed in lieu of the place or address stated in the caveat.

35. If a caveator dies while a caveat is still in force the caveat may be withdrawn or a consent in terms of section 156 of the Act may be given by the legal personal representatives of the caveator, and if there are no such representatives, by the person or persons who appear to the Registrar to be properly entitled to the estate or interest protected by the caveat, subject, if the Registrar so requires, to his receiving a satisfactory indemnity against claims against the Crown or the Registrar arising out of his acceptance of the withdrawal or consent so given.

SEARCHES

36. On payment of the prescribed fees any person may search the Register and Provisional Register Books and Nominal Index, and all registered and deposited instruments and plans at any time during the hours specified in Regulation 7 hereof.

37. A single search shall be deemed to include—

- (a) The inspection of any one folium of the Register-book and of all registered instruments and plans referred to therein :
- (b) The inspection of any one registered or deposited instrument or plan without reference to any particular title.

38. A general search shall be deemed to include inspection of the Nominal Index and of not more than five titles in the name of one registered proprietor with the relative instruments and plans. If more than five titles are to be inspected, the inspection of each group of five titles is to be deemed a general search, provided that the titles in excess of five or a multiple of five may be searched at the rate applicable to either general searches or single searches, whichever is the lower.

39. For the purpose of assessing search fees, every search shall be deemed to be completed on the day on which the same is commenced :

Provided that the Registrar may, at his discretion, allow a search not completed on one day to be completed on the following or a subsequent day without further fee.

40. Every person making a search shall, at the time of the making thereof, enter his name in a book to be kept for that purpose, with such particulars of the title to be searched as are sufficient to identify the same :

Provided that every surveyor and other person legally authorized to make a search without payment of a fee shall enter his name and the necessary particulars in like manner in a special search-book kept for that purpose.

41. Reasonable assistance may be afforded by the officers of the Department to persons searching, but no search may be made by such officers except by special arrangement approved by the Registrar-General of Land, and no responsibility shall be incurred for the accuracy of any information so obtained.

PLANS

42. A person seeking to deposit a plan shall present the same at the Land Registry Office in the like manner and within the same hours as instruments for registration.

43. No dealing in which the description of parcels involves reference to a plan intended to be deposited shall be accepted for registration until the plan has been approved by the Registrar and deposited.

44. No alteration whatever shall be made in or to any plan after the same has been deposited :

Provided that, with the consent of the Registrar, additional or corrective information distinguished as such may be marginally added.

45. Before issuing a certificate or certificates of title pursuant to section 79 of the Act the Registrar may require a plan of the land comprised therein to be deposited, and, if he thinks fit, may require that the plan shall be one which complies with the requirements of section 178 of the Act.

46. No plan by way of subdivision and no plan showing new roads, streets, or rights-of-way shall be deposited until all necessary consents of public officers or of local bodies have been given and all requirements of the Public Works Act, 1928, the Municipal Corporations Act, 1933, the Land Subdivision in Counties Act, 1946, and other Acts regulating the subdivision of land, the laying out, dedication, formation, or widening of roads and streets, have been complied with.

47. Before accepting a plan for deposit the Registrar may at his discretion require the registered proprietor to take out one or more new certificates of title in respect of the land comprised in such plan.

FEEES

48. There shall be taken by the Registrar for the various matters set out in the Schedule hereto the respective fees set out in the said Schedule, and such fees shall be due and payable in advance.

49. (1) For the purposes of the said Schedule a plan of survey means a plan required to be in accordance with regulations relating to surveys and to be verified by the statutory declaration of a registered surveyor.

(2) To enable the fees payable in respect of a plan of survey to be assessed there shall be lodged with every such plan presented for checking and deposit a statutory declaration, duly stamped, made by the owner for whom the survey was made, or by some person acting on his behalf, stating the value of the land (including improvements) comprised in the plan.

50. There shall be taken by the Registrar for advertising a notice of application to bring land under the Act a fee of £1, and for advertising every other notice required to be advertised a fee of £1 10s. :

Provided that the Registrar may on any occasion require payment of such additional sum as shall in his opinion be necessary for carrying out any advertising, including such special advertising as he may in his discretion think proper in the circumstances of the case.

51. In cases where two or more proprietors holding separate parcels of land under separate certificates of title or having different interests or shares in separate parcels of land combine in one instrument to deal with their respective parcels or shares, the same registration fees shall be payable in respect of such instrument as if each proprietor had executed a separate instrument.

52. In cases in which freehold, leasehold, and mortgage and other estates or interests or any two of such estates or interests or of such classes of estates or interests are dealt with by one instrument the registration fee payable on such instrument shall be the highest payable in respect of any one of the estates or interests dealt with by such instrument, and additional fees shall be payable in respect of the additional folios of the Register-book, after the first, affected by the instrument.

53. In any case in which two or more interests on the same certificate of title are dealt with in the same instrument the same fee shall be payable as if such instrument affected interests on separate certificates of title.

54. In any other case in which two or more operations are included in one instrument the same fees shall be payable as if each operation were effected by a separate instrument.

55. The area of land or number of parcels or subdivisions which may be included in one certificate of title shall be in the discretion of the Registrar. In the case of a large area or number of parcels or subdivisions being, at the discretion of the Registrar, permitted to be included in one certificate, the Registrar may require payment of such additional fee as he shall consider reasonable to cover the extra work.

MISCELLANEOUS

56. The registered proprietor of any estate or interest claiming that such estate or interest has merged in a greater estate or interest of which he is also the registered proprietor may make an application to the Registrar to note the merger of the lesser estate or interest, and the application shall be supported by the statutory declaration of the registered proprietor or such other evidence as the Registrar deems necessary. The Registrar, on being satisfied that the merger has been effected at law and in equity, and on payment of the prescribed fee, shall notify it upon the Register-book and upon the appropriate instruments of title.

57. Where it appears to the satisfaction of the Registrar that a registered proprietor has changed his, her, or its name, or that the name of a registered proprietor is incorrectly stated in the Registrar's records, the Registrar may, on payment of the prescribed fee, endorse a memorial of such change of name or make the necessary corrections in his records, as the case may be :

Provided that no fee shall be payable where the correction of the Registrar's records is rendered necessary by reason of a mistake made by the Registrar or by any of his officers.

SCHEDULE

FEES PAYABLE TO DISTRICT LAND REGISTRARS UNDER THE
LAND TRANSFER ACT, 1915

	£	s.	d.
Registering memorandum of transfer, mortgage, encumbrance, or lease	0	10	0
Registering transfer or discharge of mortgage or of encumbrance	0	5	0
Registering any instrument varying the provisions of a mortgage in the manner provided for in section 104 of the Act	0	5	0
Registering memorandum of priority of mortgages	0	10	0
Registering discharge of any charge not elsewhere provided for	0	5	0
Registering transfer or surrender of lease	0	5	0
Registering memorandum of extension or variation of lease	0	10	0
For any certificate of title in lieu of Crown grant issued for the land comprised in a road closed under the provisions of subsection (7) of section 12 of the Land Act, 1924, and disposed of otherwise than by way of sale as Crown land	No fee		
For any certificate of title in lieu of Crown grant issued for any land granted under the provisions of section 99 of the Public Works Act, 1928	No fee		
For any certificate of title in lieu of Crown grant issued for any land granted or given by the Crown pursuant to any contract for the exchange of land authorized by any Act	No fee		
For every leasehold certificate of title where the rent reserved by the lease does not exceed £20 per annum	0	10	0
For every certificate of title on transfer for a monetary consideration not exceeding £50	0	10	0
For every other certificate of title	1	0	0
Registering transmission	0	10	0
Registering any vesting effected by Act of Parliament unless otherwise provided by such Act	0	10	0
Entering notice of marriage or other change or correction of name	0	10	0
Registering vesting of lease in mortgagee consequent on refusal of Official Assignee to accept same	0	10	0
Registering re-entry by lessor	0	10	0
Registering any order of the Maori Land Court	0	10	0
Entering notice of writ or order of Supreme Court	0	10	0
Noting caveat (not including any notice required pursuant to section 151 of the Act)	0	10	0
Cancellation or withdrawal of caveat and for every notice relating to any caveat (similar notices to different persons being deemed to be separate notices)	0	5	0
Registering any instrument or dealing with any matter not otherwise provided for	0	10	0
When any instrument or other matter purports to deal with or affect land included in more than one folium of the Register-book, for each folium after the first	0	2	0
Depositing any map or plan	0	5	0
Fees for checking plans and diagrams are to be charged as follows:—			
(a) For each £1,000 or part of £1,000 of the value of the land (including improvements) comprised in any plan of survey	0	5	0
(b) For any plan, not being a plan of survey or for any diagram, endorsed on a transfer or other instrument	0	5	0
(c) For the plan of any land vested in a local authority as defined in section 2 of the Public Works Act, 1928, the fees shall be at the rate in paragraph (a), but shall not exceed the sum of	5	0	0
Depositing power of attorney, declaration of trust, or any other instrument	0	10	0
Noting revocation of power of attorney	0	10	0
Noting determination of easement or <i>profit à prendre</i>	0	10	0
Cancelling covenant or agreement relating to fencing	0	10	0
For recording on a new lease the encumbrances, liens, and interests to which it is deemed to be subject under the provisions of section 5 of the Land Transfer Amendment Act, 1939, or any other enactment	0	5	0
Cancelling any memorandum pursuant to section 27 (2) or 44 of the Land Laws Amendment Act, 1929, or any other enactment and for which a charge is not otherwise provided	0	5	0

	£	s.	d.
For noting any merger	0	5	0
For every notice to produce deeds or instruments	0	5	0
For every single search	0	2	0
For every general search	0	5	0
For certified copy of any instrument—			
Not exceeding five folios	0	5	0
For every folio or part folio after first five	0	0	6
For every section or part of a section in a plan forming part of the certified copy	0	1	0
For issuing any provisional certificate of title	1	0	0
For issuing provisional lease or mortgage: The same fees as for a certified copy.			
For approving any form	0	1	0
For administering oath or affirmation in lieu of oath	0	5	0
For a certificate under section 170 or section 171 of the Act	0	5	0
For exhibiting deeds surrendered by applicant	0	5	0
Attending at Court to produce documents or to give evidence: For each day or part of a day	1	1	0

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette*: 12th day of August, 1948.
These regulations are administered in the Land and Deeds Department.