

**Reprint
as at 12 November 2018**



**Land Transfer Amendment Regulations 2008
(SR 2008/15)**

Land Transfer Amendment Regulations 2008: revoked, on 12 November 2018, pursuant to section 249(1) of the Land Transfer Act 2017 (2017 No 30).

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 18th day of February 2008

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 236 of the Land Transfer Act 1952, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by Land Information New Zealand.

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Regulations

1 Title

These regulations are the Land Transfer Amendment Regulations 2008.

2 Commencement

These regulations come into force on 31 March 2008.

3 Principal regulations amended

These regulations amend the Land Transfer Regulations 2002.

4 Class of instruments capable of being electronic instruments

Regulation 4(2)(a) is revoked.

5 Parties in respect of whom certification under section 164A of Act is required

The third column of the table in regulation 11 is amended by omitting “registered proprietor” opposite the item relating to transfer instruments and substituting “transferor”.

6 New regulation 12 substituted

Regulation 12 is revoked and the following regulation substituted:

12 Form of certification

A certification that is given on behalf of a party specified in the third column of the table in regulation 11 must be in the following form:

I certify that I have the authority to act for [*insert description of the appropriate party from the third column of the table in regulation 11*] and that the party has the legal capacity to authorise me to lodge this instrument.

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument.

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply, and—

I certify that any statutory provisions specified by the Registrar relating to Maori freehold land have been complied with or do not apply [*use*

this form if an electronic workspace facility generates a notification that the land is or could be Maori land]; or

I certify that the caveator of the caveat [*insert caveat number here*] has consented to this transaction, which is subject to the caveat, and I hold that consent [*use this form if the transaction is to be registered with caveator's consent*]; or

I certify that the chargeholder of the [*insert type and registration number of charge here*] has consented to this transaction and I hold that consent, or the charge does not prevent registration [*use this form if the title affected by the transaction is subject to a charge*]; or

I certify that the mortgagee of the mortgage [*insert the mortgage number here*] has consented to this transaction and I hold that consent [*use this form if the transaction is to be registered with the mortgagee's consent*]; or

I certify that the licensor or lessor of the affected licence or lease has consented to this transaction, or notice has been given to the Commissioner of Crown Lands, or (in the case of mortgages) the licensor's or lessor's consent or notice to the Commissioner is not required under the Land Act 1948 [*use this form if the transaction is to be registered against a licence or lease under that Act*].

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period.

7 Schedule 1 amended

- (1) Part 1 of Schedule 1 is revoked.
- (2) Item (h) of "Discharge instrument" in Part 2 of Schedule 1 is amended by omitting "Section 348, Local Government Act 1974" and substituting "Section 304 or 348, Local Government Act 1974, or section 109(2), Resource Management Act 1991".
- (3) Item (p) of "Discharge instrument" in Part 2 of Schedule 1 is amended by omitting "Regulation 5A(6)", and substituting "Regulation 5A".
- (4) Schedule 1 is amended by revoking Part 3 and substituting the Part 3 set out in the Schedule of these regulations.

8 Schedule 5 amended

Item 2(f) in Schedule 5 is amended by omitting "3" in the column headed "Auto registration (\$)" and substituting "No fee".

Schedule
New Part 3 substituted in Schedule 1

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Part 3

Necessary elements of electronic instruments

The following table sets out, for the purposes of regulation 4(2)(c), necessary elements for each class of permissible instrument:

Class of permissible instrument

Necessary elements

Discharge instrument	affects only 1 charge
Mortgage instrument	<p>is a mortgage of any land, estate, or interest—</p> <ul style="list-style-type: none"> (a) for which 1 computer register has been created; or (b) comprised in 1 registered instrument; or (c) for which more than 1 computer register has been created (if the mortgagor is the same in each case); or (d) comprised in more than 1 registered instrument (if the type of estate or interest, and mortgagor, are the same in each case)
Transfer instrument	<ul style="list-style-type: none"> (a) is a transfer of any land, estate, or interest— <ul style="list-style-type: none"> (i) for which 1 computer register has been created; or (ii) comprised in 1 registered instrument; or (iii) for which more than 1 computer register has been created (if the transferor is the same in each case); or (iv) comprised in more than 1 registered instrument (if the type of estate or interest, and transferor, are the same in each case); and (b) does not register the creation or surrender of any easement or <i>profit a prendre</i>; and (c) is a transfer in which the transferor is the registered proprietor or a local authority acting under the provisions of the Local Government (Rating) Act 2002; and (d) is not a transfer required by any enactment to be executed by a court registrar.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 31 March 2008, amend the Land Transfer Regulations 2002 to implement Landonline release 3.0 of the programmed expansion of electronic lodgement. The ultimate aim of the expansion is to apply electronic lodgement to all instruments that may be lodged by conveyancers.

The amendments to the Land Transfer Regulations 2002 include—

- removing the limitation in regulation 4(2) and Part 1 of Schedule 1 as to the number of instruments that can be included in a transaction by way of a transfer or mortgage:
- adding a certification requirement to regulation 12 to cover conveyancers submitting electronic transfer and mortgage instruments for registration against Crown leases or licences:
- enabling electronic discharges, transfers, and mortgages for part of a land title:
- enabling electronic transfers of interests by persons with statutory authority other than the owner:
- providing for the electronic registration of transfer instruments for co-transferees taking title as joint tenants and tenants in common in combination, and, for mortgage instruments for co-mortgagees taking a mortgage as joint tenants and tenants in common in combination:
- omitting from item 2(f) of Schedule 5 a fee that is currently waived.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 21 February 2008.

Reprints notes

1 *General*

This is a reprint of the Land Transfer Amendment Regulations 2008 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Land Transfer Act 2017 (2017 No 30): section 249(1)