



THOMSON REUTERS

Update Summary

PLEASE CIRCULATE IMMEDIATELY!

UPDATE 189

AUGUST 2024

**BAALMAN AND WELLS
LAND TITLES OFFICE PRACTICE**

Frank Ticehurst

Currently updated by

Greg Stilianou

Material Code 42725317

Print Post Approved PP255003/00332

© Thomson Reuters (Professional) Australia Limited 2024

Looseleaf Support Service

You can now access the current list of page numbers at:

<http://www.thomsonreuters.com.au/support/product-support.aspx?id=/mediaTree/58599>. If you have any questions or comments, or to order missing pages, please contact Customer Care LTA ANZ on 1300 304 195 Fax: 1300 304 196 Email: Care.ANZ@thomsonreuters.com

UPDATE COMMENTARY

Greg Stilianou has provided new commentary to the following chapters:

- Ch 1A – Recent Developments
- Ch 7 – Fees
- Ch 13 – NECS and Orders of Court
- Ch 17 – Strata Plans and Strata Title Dealings

A summary of the updates is as follows:

Ch 1A – Recent Development

The Recent Developments chapter is updated periodically as a ready reckoner for legal practitioners to quickly see what has changed in the law, and what content in the service has been updated. The new content relates to:

- The commencement of new versions of the Registrar-General's Operating Requirements (v7) and Participation Rules (v7).
- New commentary about section 138 of the *Real Property Act 1900* and the powers of the Supreme Court to make orders that affect a folio of the Register.
- Publication of a new version of the Connect user manual for electronic lodgment of plans of survey.
- Updates to land dealing forms that now require marking (stamping) with a duty assessment number as a result of amendments made to the *Duties Act 1997* that introduced a "change in beneficial ownership" as a dutiable transaction.
- Amendments made to the *Conveyancing (General) Regulation 2019* that operate to:
 - clarify how the Registrar-General allocates distinctive references to instruments lodged for registration in the General Register of Deeds electronically, and
 - require the Registrar-General to give persons who lodge instruments electronically a copy of the registered instrument, and
 - update the names of corporations that are prescribed to accept the benefit of an easement.
- The revisions made to the "Torren Assurance Fund" chapter as a result of eleven (11) Court decisions affecting the interpretation and application of Part 14 of the *Real Property Act 1900*.
- The thirty-one (31) strata reforms introduced by the *Strata Legislation Amendment Act 2023*.

- Increase in lodgment fees from 1 July 2024.

Please note, some of the above content has already been provided in a previous update, some content is provided in this update, and some content will be provided in a forthcoming update.

Ch 7 – Fees

The “Fees” chapter has been updated to account for the increase in lodgment fees that occurred on 1 July 2024. Of particular note are:

- Update the value of the Torrens Assurance Fund levy.
- Update the value of the dealing requisition fee and plan requisition fee.
- Update the value of the fee unit for 2024/25.
- Insert new Table of current lodgment fees for commonly lodged documents.
- Removal of the Regulation fee Schedules and replaced with cross-references to the relevant Appendix in the service (removes duplication).

Ch 13 – NECS and Orders of Court

In the National Electronic Conveyancing System (NECS) Chapter, commentary has been updated to account for the commencement of new versions of the Registrar-General’s Operating Requirements (v7) and Participation Rules (v7) from 28 March 2024.

Essentially, the existing ELNOs (PEXA and Sympli) have until 31 December 2025 to develop functional capability for all land transactions to be interoperable, and a timetable has been put in place for that to happen.

Additional finessing, updating and ironing out of commentary has been made throughout the Chapter.

In the Orders of Court Chapter, new commentary has been added about the Court’s powers in section 138 of the *Real Property Act 1900* to direct the Registrar-General to make a change to the folio of a Register for land. The following cases have been reviewed to supplement the commentary:

- *Loke Yew v Port Swettenham Rubber Co Ltd* [1913] AC 491
- *Prentice v Registrar-General* [2014] NSWSC 1060
- *Botterill v Botterill* [2000] NSWSC 1152
- *City of Canada Bay Council v Bonaccorso Pty Ltd* [2007] NSWCA 351
- *Lank v Lank* (1973) 21 FLR 384 at 387
- *Kogarah Municipal Council v Golden Paradise Corporation & Anor* [2005] NSWCA 230 at [102]
- *Crocombe v Pine Forest of Australia Pty Ltd (No 3)* [2007] NSWSC 217

Additionally, commentary has been added to assist practitioners determine when it is (and when it is not) required to name and join the Registrar-General as a party to court proceedings.

Ch 17 – Strata Plans and Strata Title Dealings

In 2021 a statutory review of the strata laws was complete, which recommended one hundred and thirty-nine (139) recommendations be made. The *Strata Legislation Amendment Act 2023* is the first wave of reforms and implements thirty-one (31) of the recommendations. The commentary in both chapters has been revised to account for the reforms.

The reforms in the amending Act address the strata renewal process, by-laws concerning pets and assistance animals, strata and association committees and overall governance.

Additional finessing, updating and ironing out of commentary has been made throughout the Chapter.