

Circular	2018/03
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Lodgment of standalone Transfers, Caveats and Mortgage Transactions from 1 July 2018

In 2016 the NSW Government announced the transition to electronic conveyancing and to progressively phase out paper certificates of title in NSW. The transition timetable is available [here](#). The timetable required Authorised Deposit-taking institutions (ADIs) to lodge their land transactions electronically from August 2017. From 1 July 2018, the timetable will focus on the legal and conveyancing professions, as well as the general public. The timetable will conclude on 1 July 2019 where all standard conveyancing transactions will be done electronically.

What dealings must be lodged electronically from 1 July 2018?

Standalone transfers, standalone caveats, and all standalone mortgage, discharge of mortgage or combinations thereof (such as a refinance transaction).

What is meant by “standalone” transfers, etc?

A standalone dealing means a dealing lodged without any other dealing affecting the same Folio(s) of the Register. Where a dealing is standalone, then it must be lodged electronically. If, for example a transfer was lodged with a discharge of mortgage, the transfer and discharge of mortgage can be lodged either electronically or in paper.

A standalone transfer, caveat or mortgage will be considered standalone if lodged together with a water access licence or a power of attorney, as they don't affect the same Folio(s) of the Register.

What has changed for mortgage transactions?

The previous requirement that discharges of mortgage, mortgages, and combinations thereof involving ADIs be lodged electronically has been extended to non-ADI lenders, including private mortgagees (e.g. citizens), from 1 July 2018.

What are the requirements for dealings dated before 1 July 2018?

Standalone transfers, caveats, and mortgage transactions involving non-ADIs dated before 1 July 2018 may continue to be lodged in paper. If a dealing is undated and lodged after 1 July 2018 it will be deemed to be dated after 1 July 2018 unless evidence to the contrary is provided. Paper caveats incorporate a statutory declaration and must be dated.

Can unrepresented parties continue to lodge in paper?

The Registrar General will allow lodging parties who don't have legal representation for that conveyancing transaction to lodge their dealings in paper. For more details see:

- [Conveyancing Rules Waiver CR 4/2018 – Transfers with unrepresented parties](#)
- [Conveyancing Rules Waiver CR 5/2018 – Unrepresented caveators](#)
- [Conveyancing Rules Waiver CR 6/2018 – Unrepresented non-ADI mortgagees](#)

Are there any other exceptions to the requirements?

The [Conveyancing Rules \(Version 4\)](#) provide that dealings need not be lodged electronically if the Folio of the Register for the land affected by the transfer is not electronically tradeable, or if an Electronic Lodgment Network is not available and has not been available for one clear Business Day.

In addition, there are certain dealings which are ineligible to be lodged electronically:

Transfers:

- Transfers on forms other than the 01T Transfer, such as the Transfer Including Easement.
- Transfers affecting more than 20 Folios of the Register.
- Transfers requiring an attachment to be registered (e.g. order of court)
- Transfers that need to be executed by a person other than the registered proprietor, such as a court officer. (Note this waiver does not apply to a transfer executed under a power of attorney).
- Transfers creating a life estate or estate in remainder.

In addition, the Registrar-General has issued a waiver for Transfers where land tax is required to be paid from settlement proceeds; where the transaction involves a simultaneous settlement; where a transaction involves a Water Access Licence; and Transfers affecting less than all the registered proprietors (see [Conveyancing Rules Waiver CR 3/2018 – Transfer exceptions](#))

Caveats:

- Caveats against a registered interest (for example, a registered lease).
- Caveats against part of the land in a Folio of the Register.
- Caveats against premises.
- Caveats requiring an attachment, such as a sketch plan.
- If there are multiple caveators and they are not represented by a single subscriber.
- Where the written consent of the registered proprietor is required for the purposes of section 74O *Real Property Act 1900*.

Mortgage transactions:

- Involving land securities located in jurisdictions where land registries are not enabled for electronic lodgment - see [Conveyancing Rules Waiver CR 1/2018 – Non ELN-Enabled Jurisdictions](#).
- Involving non-land securities which cannot be traded electronically - see [Conveyancing Rules Waiver CR 2/2018 – Non-Land Securities](#).

Further information

- Enquires may be made to Office of the Registrar General via email to: org-econveyancing@finance.nsw.gov.au