

Circular	2017/01
Issued	March 2017

## ***Land and Property Information NSW (Authorised Transaction) Act 2016 - Commencement of Schedule 4 and new Pricing Regulations***

The Government has proclaimed 19 May 2017 as the commencement date for the remaining uncommenced provisions of the *Land and Property Information NSW (Authorised Transaction) Act 2016* (the LPI Authorised Transaction Act). At the same time, amendments have been made to the Real Property, Conveyancing and Strata Development Regulations that adjust current LPI fees and set a formula that will cap annual increases to the Consumer Price Index (CPI). The amendment to the fees will commence on 1 July 2017.

### **What are the changes?**

The LPI Authorised Transaction Act amends the *Real Property Act 1900* and the associated land titling legislation to:

- Make reference to the Office of the Registrar-General
- Rename the Registrar General's Directions as the Registrar General's Guidelines
- Provide for Lodgment Rules to be made
- Establish a procedure for administrative review of decisions by the Registrar General
- Allow regulations to be made that set a formula for the annual increase of fees

To give effect to these changes, amendments have also been made to the *Real Property Regulation 2014*, the *Conveyancing (General) Regulation 2013* and the *Strata Schemes Development Regulation 2016* to:

- Repeal provisions that will be dealt with under the Lodgment Rules
- Repeal the confirmation of identity "reasonable steps" that a mortgagee must follow, so that these provisions can be dealt with under the Conveyancing Rules
- Include requirements for requesting a review of a decision by the Registrar General
- Adjust current LPI fees to include an increase for CPI
- Adjust LPI fees by showing the GST exclusive price and reducing the amount of some fees by 10%, to minimise the effect of a future GST liability
- Introduce a mechanism to increase fees annually by CPI, showing the fees in the form of fee units rather than as a dollar amount.

### **Office of the Registrar General**

The LPI Authorised Transaction Act establishes the mechanism for the Registrar General to be the regulator of a privately operated land title business. As a first step to achieving this, the language of the *Real Property Act 1900* has been changed so that documents are to be

“lodged with the Registrar General” and things are required to be done “by the Registrar General”. This will allow the Registrar General to delegate certain functions to a private operator while retaining responsibility for the proper performance of those functions. The Torrens Assurance Fund is retained as the central feature of the land title system, which continues to be backed by the State guarantee of title.

## **LPI fees**

The Government has made a commitment to monitor titling and registry fees and limit price increases for regulated services to a maximum of the consumer price index. To achieve this, the Regulation includes a CPI adjustment clause that will allow fees to be adjusted yearly without the need for an amendment to the Regulation. As part of this new regime, the fees are shown as fee units, rather than as dollar amounts.

Fees charged by a private operator of the land title registry will attract GST. To prevent an increase in fees to the end users of titling services, most current fees have been reduced by 10%.

## **Lodgment Rules**

The LPI Authorised Transaction Act introduces a new category of rules that can be made by the Registrar General to set requirements for the preparation and lodgment of documents. These Lodgment Rules are treated as requirements under an Act, so, dealings and plans that do not comply with them can be rejected or not accepted for lodgment.

The Amending Regulations have removed procedural and operation provisions from the Real Property, Conveyancing and Strata Development Regulations. These provisions will form the basis for a consolidated set of Lodgment Rules for plans and dealings.

Lodgment Rules (and any subsequent changes to them) must be published at least 20 business days before they can commence. The first version of the Lodgment Rules will be published by 20 April so that the rules can commence at the same time as the LPI Authorised Transaction Act. No substantive changes in practice will be made to the rules at this time.

## **Registrar General’s Guidelines**

As a consequence of the changes, the Registrar General’s Directions will be renamed as the Registrar General’s Guidelines. This name more accurately reflects its purpose, as a detailed practice guide that includes comprehensive information of the mandatory requirements for a wide range of registry instruments.

## **Administrative review by the Registrar General**

The LPI Authorised Transaction Act amends s 121 of the *Real Property Act 1900* to allow the Registrar General to review decisions made in the exercise of a titling and registry function. This new provision will allow a person who is dissatisfied with a decision of the private operator to have the decision reviewed by the Registrar General. The private operator will be required to give effect to any decision made by the Registrar General under review.

## **More information**

The [Proclamation and Regulations](#) can be found on the NSW legislation website.

Enquiries may be made by email to [ORG-Admin@finance.nsw.gov.au](mailto:ORG-Admin@finance.nsw.gov.au)