

(Reprint No. 5)

SOUTH AUSTRALIA

REAL PROPERTY (LAND DIVISION) REGULATIONS 1995

*These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at 30 **September** 1999.*

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REGULATIONS UNDER THE REAL PROPERTY ACT 1886

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being

No. 178 of 1995: *Gaz.* 31 August 1995, p. 616¹

as varied by

No. 135 of 1996: *Gaz.* 30 May 1996, p. 2806²

No. 148 of 1997: *Gaz.* 5 June 1997, p. 2937³

No. 64 of 1998: *Gaz.* 28 May 1998, p. 2314⁴

No. 75 of 1999: *Gaz.* 27 May 1999, p. 2846⁵

No. 198 of 1999: *Gaz.* 30 September, 1999, p. 1392⁶

¹ Came into operation 1 September 1995: reg. 2.

² Came into operation 8 July 1996: reg. 2.

³ Came into operation 1 July 1997: reg. 2.

⁴ Came into operation 1 July 1998: reg. 2.

⁵ Came into operation 1 July 1999: reg. 2.

⁶ **Came into operation 30 September 1999: reg. 2.**

N.B. The following regulations have been revoked:

No. 117 of 1997: *Gaz.* 13 May 1997, p. 1940 revoked by No. 148 of 1997: *Gaz.* 5 June 1997, p. 2937.

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the regulations see Appendix.

PART 1
PRELIMINARY

Citation

1. These regulations may be cited as the *Real Property (Land Division) Regulations 1995*.

Commencement

2. These regulations will come into operation on 1 September 1995.

Revocation

3. The *Real Property Act (Land Division) Regulations 1982* (see *Gazette* 4 November 1982 p. 1501), as varied, are revoked.

Interpretation

4. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Real Property Act 1886*;

"**the Mount Lofty Catchment Area**" means the part of the State delineated in G.R.O. Plan No. 180 of 1992 and described in that plan as "Water Supply Protection Zone";

"**outer boundary survey plan**" means a plan prepared in conformity with Part 4 for the purpose of defining the outside boundaries of the land proposed to be divided;

"**road**" includes a street.

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**PART 2
APPLICATION FOR DIVISION****Fees**

5. The fee prescribed by clause 1 of schedule 1 must accompany an application for the division of land.

Plan of division

6. The plan accompanying an application for division must be an original plan and must be prepared in accordance with Part 4.

Submission of outer boundary survey plan

7. (1) Subject to subregulation (2), a person who intends making an application for the division of land must, before making the application, submit to the Registrar-General—

- (a) an outer boundary survey plan of the land to be divided; and
- (b) the fee prescribed by clause 2 of schedule 1.

(2) Subregulation (1) does not apply in relation to an application for:

- (a) the division of land into five allotments or less; or
- (b) any other division of land in respect of which the Registrar-General has determined that subregulation (1) should not apply.

(3) The Registrar-General must examine the outer boundary survey plan and must, if satisfied that the requirements of these regulations have been met and the information on the plan appears to be adequate and accurate, send a copy of the plan to:

- (a) the applicant or the applicant's agent; and
- (b) the council for the area in which the land is situated.

Certificate of licensed surveyor

8. (1) The certificate of a licensed surveyor that must accompany an application for the division of land must be included on the plan of division that accompanies the application and must comply with regulation 22 of the *Survey Regulations 1992* made under the *Survey Act 1992*.

(2) Subject to subregulation (4), a certificate of a licensed surveyor is not required under section 223LD(3)(b) of the Act if—

- (a) the application is for the division of the land into no more than two allotments; and
- (b) the land is not within, or partly within, an area declared to be a designated survey area under the *Survey Act 1992*; and
- (c) party wall rights are not created by the division; and
- (d) there is no new boundary created by the division that defines an existing line of occupation or is located by reference to a physical structure or feature located on or below the surface of the land; and
- (e) the division does not involve the creation of a new road or the substantial widening of an existing road;

- (f) the land is not designated primarily for shopping, commercial, office or business use in the relevant Development Plan under the *Development Act 1993*, and is not used or intended to be used primarily for such purposes.

(3) For the purposes of subregulation (2)(a), any widening of an existing road that is considered by the Registrar-General to be minor, will not be counted as a separate allotment in relation to a plan of division of land.

(4) In a particular case the Registrar-General may require the certificate of a licensed surveyor to be provided in relation to a plan of division even though the requirement for the certificate is excluded by subregulation (2).

Removal of requirement for section 51 certificate

9. A certificate from the Development Assessment Commission under section 51 of the *Development Act 1993* is not required in respect of a division of land that is excluded from the definition of development by schedule 3 of the *Development Regulations 1993*.

Consent to plans of division

10. A certificate of consent is not required under section 223LH of the Act in relation to the division of land that is required to give effect to the acquisition of land under the *Land Acquisition Act 1969*, unless the Registrar-General specifically requires such a certificate.

Examination of plan

11. (1) As part of the Registrar-General's obligation to administer the Act and the regulations, the Registrar-General must examine the plan of division accompanying an application for division and must not accept the plan for deposit unless he or she is satisfied with it.

(2) The Registrar-General may require an applicant for the division of land to provide such further information as the Registrar-General requires in relation to the application.

Issue of certificates of title on deposit of plan

12. On depositing a plan of division in the Lands Titles Registration Office the Registrar-General must issue a separate certificate of title for each allotment created by the plan except a street, road or thoroughfare that vests under section 223L of the Act.

Notification on deposit of plan

13. After the Registrar-General deposits a plan of division in the Lands Titles Registration Office he or she must—

- (a) notify the applicant or the applicant's agent in writing of the deposit; and
- (b) notify the council for the area in which the land is situated in writing of the deposit and send a copy of the deposited plan to the council.

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**PART 3
APPLICATION FOR AMALGAMATION**

Fees

14. The fee prescribed by clause 3 of schedule 1 must accompany an application for the amalgamation of land.

Plan of amalgamation

15. The plan accompanying an application for amalgamation must be an original plan and must be prepared in accordance with Part 4.

Requirement for plan of survey

16. The Registrar-General may require the plan accompanying the application to be a plan of survey and to include the certificate of a licensed surveyor that complies with regulation 22 of the *Survey Regulations 1992* made under the *Survey Act 1992*.

Examination of plan

17. (1) As part of the Registrar-General's obligation to administer the Act and the regulations, the Registrar-General must examine a plan of amalgamation accompanying an application for amalgamation and must not accept the plan unless he or she is satisfied with it.

(2) The Registrar-General may require an applicant for amalgamation to provide such further information as the Registrar-General requires in relation to the application.

Restriction on amalgamations

18. Allotments cannot be amalgamated if, as a result of the amalgamation, a mortgage or encumbrance would subsist over part only of the amalgamated allotment.

Notification of amalgamation

19. After amalgamation of allotments under Part 19AB Division 3 of the Act the Registrar-General must notify the Minister for Infrastructure and the council for the area in which the land is situated in writing of the amalgamation and must send a copy of the plan (if any) that accompanied the application to the Minister and the council.

PART 4
REQUIREMENTS AS TO PLANS

Application of Part

20. This Part applies to and in relation to plans of division, plans of amalgamation and outer boundary survey plans.

Standard requirements for plans

21. (1) The requirements as to materials are as follows:

- (a) a plan must be drawn on double matt drafting film of a minimum thickness of 0.08 mm or a good quality tracing cloth or any other material which has been approved by the Registrar-General; and
- (b) all particulars on a plan must be in suitable waterproof black ink of a type recommended by the manufacturer of the drafting material; and
- (c) the ink must be allowed to dry naturally.

(2) If a plan comprises more than one sheet, the first sheet must be identified as "Sheet 1" and the second sheet as "Sheet 2" and so on.

(3) The following drafting standards apply:

- (a) all the particulars lines, numbers, letters, symbols and decimal points on the plan must be legible and not be defaced; and
- (b) erasures must be made by a method that does not damage the drafting material and is recommended by the manufacturer of the material; and
- (c) all lineal measurements must be in metric units; and
- (d) the minimum height of letters and numbers is 2.5 mm; and
- (e) the ratio of character height to line thickness is 10:1; and
- (f) all characters must be consistently open in formation and construction and comply substantially with styles as recommended by the Standards Association of Australia publication AS 1100 100, PART 6-1980 101-1992; and
- (g) every decimal point on the plan must appear either on the text base line or at mid-numeral height but decimal points must not appear in both places on the same plan;
- (h) the plan must have the symbol indicating North and other data orientated in accordance with figure A or B of schedule 2; and
- (i) the outer boundary of the subject land must be indicated by a line between 0.5 mm and 0.7 mm in thickness and all other lines must be between 0.25 mm or and 0.35 mm in thickness; and
- (j) subject to regulation 19(3) the plan must be drawn to any of the following scales:

1:100 1:125 1:1501:2001:2501:300
1:400 1:500 1:7501:8001:1000 or any greater number that is a
multiple of 10; and

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- (k) the plan must have a bar scale of a minimum length of 100 mm for the main diagram and a minimum length of 40 mm for enlargements (if any) that are drawn to scale.
- (4) For the purposes of subregulation (3)(a) lines, numbers, letters, symbols and decimal points will be taken to be legible only if they remain legible after the plan is reduced in size by 45 per cent.
- (5) The following further requirements apply:
- (a) the plan must include a panel on its right side in the form of figure C or E of schedule 2 and must include, in the box marked "Plan" in the panel—
- (i) the words "Plan of Division", "Outer Boundary Survey Plan" or "Plan of Amalgamation" whichever is appropriate; and
 - (ii) identification of the land comprised in the plan;
- (b) the plan must state the area of each allotment in accordance with the following requirements:
- (i) if the area is less than 1 hectare it must be expressed in square metres;
 - (ii) subject to subparagraph (iii), if the area is one hectare or more it must be expressed in hectares to four significant figures;
 - (iii) the area of an allotment that is bounded by a water course, lake or the sea or has any other kind of irregular boundary must be stated to the nearest 10 square metres or to three significant figures;
- (c) the abutting current property description must be shown by plan type and number or section number (preceded by the abbreviation "Sec." for section);
- (d) all existing roads and thoroughfares must be shown;
- (e) the position of all allotments must be related to a street corner or a substantial bend in an abutting road;
- (f) the certificate of title reference for all land shown on the plan must be stated;
- (g) the plan must contain the following information:
- (i) where the land is situated in a government town the name of the town must be stated in the appropriate part of the panel;
 - (ii) where the land is situated in an area to which a name has been assigned under the *Geographical Names Act 1991*, the name of the area must be stated in the appropriate part of the panel;
 - (iii) where the land is situated in the area of a council, the full name of the council must be stated in the appropriate part of the panel;
- (h) the measurements and bearings of the outside boundaries of all allotments, reserves, roads and thoroughfares must be shown except that the Registrar-General may direct that angles be shown instead of bearings;

- (i) the total area of the land shown on the plan must be stated except where this requirement is dispensed with by the Registrar-General;
 - (j) consecutive allotments must, as far as practicable, be identified by consecutive numbers which are not likely to be confused with numbers identifying the same or adjacent land before the division or amalgamation of the land;
 - (k) reserves, roads and thoroughfares must be named and numbered;
 - (l) the identifying numbers and the boundaries of Divisions and Sections superseded by the plan must be shown by broken lines comprised of dots unless this requirement is dispensed with by the Registrar-General;
 - (m) where the plan includes the certificate of a licensed surveyor, the plan must show the position of the pegs or other marks used in previous surveys and the position and construction of new permanent marks;
 - (n) where a plan that does not include the certificate of a licensed surveyor shows land bounded by a watercourse, lake, the sea or some other irregular boundary, the Registrar-General may require the accuracy of the boundary shown on the plan to be certified by a licensed surveyor.
- (6) An original plan must not be folded or creased.

Easements

22. (1) A plan must include the following information in relation to existing easements affecting the land and, in the case of a plan of division, easements to be created or varied by deposit of the plan:

- (a) the position of the easement and the identity of the servient land; and
- (b) the identity of the dominant land or, if there is no dominant land, the identity of the person or body who has the benefit of the easement and the purpose of the easement.

(2) The information required by subregulation (1) must be provided in a form approved by the Registrar-General.

Outer boundary survey plan

23. (1) Subject to subregulation (2), an outer boundary survey plan must be—

- (a) 353 mm × 500 mm in size and the format of the plan must conform with figure E of schedule 2; or
- (b) 500 mm × 707 mm in size and the format of the plan must conform with figure C of schedule as to the first sheet of the plan and with figure D of that schedule as to subsequent sheets.

(2) The Registrar-General may accept a plan of such other dimensions as he or she thinks fit.

(3) In addition to the information required by the other provisions of this Part, an outer boundary survey plan must show the position of the walls, fences and other erections on or adjacent to the boundaries shown on the plan together with the relevant offsets.

(4) The words "Outer Boundary Plan" must be included in the panel marked "Plan" in figure C or E of the second schedule.

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(5) An outer boundary survey plan must include the certificate of a licensed surveyor that complies with regulation 22 of the *Survey Regulations* made under the *Survey Act 1992*.

Plans dividing land into more than five allotments

24. (1) This regulation applies to a plan dividing land into more than five allotments and is in addition to the other requirements of this Part.

(2) A plan to which this regulation applies must be 500 mm × 707 mm in size and the format of the plan must conform with figure C of schedule 2 as to the first sheet of the plan and with figure D of that schedule as to each subsequent sheet.

(3) The scale of the plan must comply with the following requirements:

- (a) where the area of the smallest allotment is 300 square metres or less, the scale of the plan must be at least 1:750;
- (b) where the area of the smallest allotment is more than 300 square metres but is 2 000 square metres or less, the scale of the plan must be at least 1:1000;
- (c) where the area of the smallest allotment is more than 2 000 square metres but less than 1 hectare, the scale of the plan must be at least 1:2500;
- (d) where the area of the smallest allotment is one hectare or more, the scale of the plan must ensure that the area on the plan occupied by the allotment is not less than nine square centimetres.

(4) The plan must include the certificate of a licensed surveyor that complies with regulation 22 of the *Survey Regulations 1992* made under the *Survey Act 1992*.

Plans dividing land into five allotments or less

25. (1) This regulation applies to a plan dividing land into five allotments or less and is in addition to the other requirements of this Part.

(2) The plan must be—

- (a) 353 mm × 500 mm in size or such other size as the Registrar-General directs and the format of the plan must conform with figure E of schedule 2; or
- (b) 500 mm × 707 mm in size or such other size as the Registrar-General directs and the format of the plan must conform with figure C of schedule 2 as to the first sheet of the plan and with figure D of that schedule as to subsequent sheets.

Plans of amalgamation

26. A plan of amalgamation must be—

- (a) 353 mm × 500 mm in size or such other size as the Registrar-General directs and the format of the plan must conform with figure E of schedule 2; or
- (b) 500 mm × 707 mm in size or such other size as the Registrar-General directs and the format of the plan must conform with figure C of schedule 2 as to the first sheet of the plan and with figure D of that schedule as to subsequent sheets.

**PART 5
MISCELLANEOUS**

Transactions involving part of an allotment

27. The following classes of transactions are excluded from the provisions of section 223LB of the Act:

- (a) the granting of, and all dealings with, a lease of part of an allotment;
- (b) the granting of, and all dealings with, a license in respect of part of an allotment;
- (c) the granting, selling, transferring, conveying, mortgaging or encumbering of an estate or interest in part of an allotment if the transaction—
 - (i) is necessary to enable the deposit of a plan of division under Part 19AB of the Act to proceed; or
 - (ii) is one to which the Crown, whether in right of the State or the Commonwealth, is a party; or
 - (iii) involves or is incidental to the acquisition of land for the purposes of an authorised undertaking referred to in the *Land Acquisition Act 1969*; or
 - (iv) involves a lawfully existing lease or license and where any subsequent transaction or dealing, including any transaction or dealing which has occurred at any time prior to the commencement of this regulation is in respect of the whole of the land comprised in that lawfully existing lease;
- (d) the granting, selling, transferring, conveying, mortgaging or encumbering of an estate or interest in land comprising part of an allotment if—
 - (i) the land is to be used for widening or adding to an existing road, road reserve or drainage reserve; and
 - (ii) after becoming part of the road, road reserve or drainage reserve, the land will be vested in the Crown, a Minister of the Crown, an instrumentality or agency of the Crown or a council.

Lease of part of an allotment

28. A lease of part of an allotment must identify the land let by reference to a plan deposited in the General Registry Office unless the Registrar-General authorises some other method of identification.

Persons on whom notice must be served under the first schedule of the Act

29. The Registrar-General must serve notice under clause 1(1)(b) of the first schedule of the Act on all persons who have, or claim, an estate or interest in the land of whom he or she knows or could reasonably be expected to know.

Persons whose consents are required under the first schedule of the Act

30. The consents of all persons who have, or claim, an estate or interest in the land of whom the Registrar-General knows or could reasonably be expected to know are required under clause 1(2)(c) of the first schedule of the Act.

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SCHEDULE 1

Fees

1. The fee for an application for the division of land is—

- (a) where deposit of the plan of division will not vest an estate or interest in land (except a road reserve) in any person—\$82;
- (b) in all other cases—\$216.

2. Subject to clause 3, the fee for an application for the amalgamation of allotments is \$82.

3. There is no fee for an application for the amalgamation of allotments that are wholly within the Mount Lofty Catchment Area.

Note: Fees for the examination of the plan of division or amalgamation, deposit or acceptance for filing of the plan and for the issue of new certificates of title are payable under the Real Property (Fees) Regulations 1991.

SCHEDULE 2

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APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Regulation 4: definition of "the Mount Lofty Catchment Area" inserted by 198, 1999, reg. 3

Schedule 1: substituted by 135, 1996, reg. 3; varied by 148, 1997, reg. 4; substituted by 64, 1998, reg. 3; **varied by 75, 1999, reg. 3; 198, 1999, reg. 4**