

Registrar-General of Land e-dealing Compliance Review

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Introduction

This information sheet explains the e-dealing compliance review process and evidence that must be retained to support the certifications made when registering any instruments electronically.

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Statutory Authority for the Review

The statutory authority is set out in Sections 164A(3)(d) and 164C of the Land Transfer Act 1952 and Regulation 14 of the Land Transfer Regulations 2002 and specifies that:

- The Registrar-General of Land (RGL) is authorised to undertake a compliance review of e-dealing certifications provided by practitioners.
- Practitioners must hold supporting evidence showing the truth of their certifications and retain the evidence for 10 years.

The RGL is authorised to request production of supporting evidence for review purposes.

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The Review Process

An initial compliance review is undertaken after a practitioner has commenced using the e-dealing system. The process is as follows:

- A small sample of e-dealing transactions is selected for review.
- The practitioner is requested to complete a questionnaire and supply supporting evidence for the certifications given in the e-dealings selected for review.
- The supporting evidence must be supplied to the RGL **within ten working days** of the request being received.
- The RGL will issue a compliance certificate at the end of the review.

Further reviews may be conducted depending on the result of the previous review.

Law firms and practitioners can make a valuable contribution to the review process and minimise the impact on their own time by:

- Setting up protocols to ensure that **all** supporting evidence is retained and can be easily accessed.
- Ensuring that **all** relevant authorities and other necessary evidence are returned to the RGL with the review questionnaire.

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Documentary Evidence for e-dealing Certifications

The New Zealand Law Society (www.lawsociety.org.nz) has prepared a set of guidelines for lawyers to follow to ensure that e-dealing documentation is completed correctly.

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Authority and Instruction (A&I)

The appropriate Authority and Instruction (A&I) form specified in the NZLS guidelines should be completed by the client(s) and retained as evidence of authority to register. The witness to the client signing the A&I should not be a party to the transaction.

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Client Identity

Photo ID or any other documentation used to identify the client

A copy of the form of photo ID or any other documentation used to identify the client should be attached to the A&I form. If the names of the clients recorded in the A&I and/or on the title (Computer Register) do not match the names recorded in the photo ID, please have the discrepancies reconciled.

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Verification of client identity

LINZS20002 Standard for verification of identity for registration under the Land Transfer Act 1952 specifies the requirements to ensure that landowners and other interested parties are properly identified to manage the risk of fraud or improper dealing in transactions with land.

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Additional evidence required to verify client identity

Additional evidence will be required for a compliance review if one of the transactions selected includes:

- an authority and instruction form that has been witnessed by someone outside of the firm – delegation of verification of identity, and/or
- a high risk transaction.

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Delegating verification of identity (see page 13 of the Standard)

A delegate must be an independent trusted person whom you can reasonably rely on to carry out the identity verification function on your behalf.

If you rely on a delegate outside your firm, to complete the verification of identity requirements for a client Authority & instruction form, you will need to describe the basis upon which you relied on the delegate to verify the identity of your client(s). A file note attached to the authority and instruction form is a suggested method to retain the information at the time of the transaction.

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High risk transactions (see paragraph 5 of the Standard)

If one of the transactions selected for review involves:

- a client who is not previously known to you or your firm, and
 - one of the scenarios set out in paragraphs 5.1(a) to (c)
- you will need to document what further steps you have taken to verify the identity of the client in accordance with paragraph 5.2 of the Standard. Copies of the supporting documentation will need to be provided for the compliance review (this is in addition to the documentation required under paragraph 4.1 (a)(ii) of the Standard). A file note attached to the authority and instruction form is a suggested method to retain the information at the time of the transaction.

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Attorney

If an A&I form is completed by someone acting as attorney, a copy of the Power of Attorney and certificate of non-revocation must be retained on file and supplied as part of the evidence for the compliance review.

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Consents

If a certification has been made that consent to registration has been obtained and held, (e.g. caveator's consent) evidence of that signed consent should be supplied as part of the evidence for the compliance review.

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Compliance with Statutory Provisions

The statutory requirements specified by the Registrar-General of Land in the New Zealand Gazette should be considered and where necessary, documentation held to show that the applicable consents and requirements have been complied with.

In relation to Maori freehold land in particular, evidence that the requirements of Te Ture Whenua Maori Act 1993 have been complied with must be retained and supplied as part of the evidence for the compliance review.

Evidence is required for every instrument a practitioner has certified and signed within each of the e-dealings selected for review. A list of instruments and details of documentary evidence follows:

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a) Discharge Instrument

(including a discharge of mortgage, withdrawal of caveat, cancellation of building line restriction and any of the other kinds of discharge instrument listed in the Land Transfer Regulations 2002)

The supporting evidence to be retained should include the following:

- **For an Institutional Chargeholder**
 - i) A copy of the completed paper Discharge, or
 - ii) All pages of the signed letter of authority from the chargeholder or
 - iii) A copy of the original email from the chargeholder (such as those sent via ANZ's SOLD system) together with all pages of the letter of authority.

NB: Where the letter of authority is provided from a party who is not the chargeholder, please provide evidence explaining the linkage (i.e. the chain of authority) between the authoriser and the chargeholder.
- **For a Crown Agency or Local Authority:**

Such as a Govt dept, Court Registrars, Crown Owned Entities (Incl. Legal Services Board or Agency), SOE's, District or City Councils

A copy of the completed paper Discharge
- **For a Private Chargeholder:**

Authority & Instruction form(s)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc as appropriate.

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b) Transfer Instrument

The supporting evidence to be retained should include the following:

- Authority & Instruction form(s) –transferor(s) (if acting for)
- Authority & Instruction form(s) – transferee(s) (if acting for)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc as appropriate

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c) Mortgage Instrument

The evidence to be retained should include the following:

- Authority & Instruction form(s) – registered proprietor(s)/ mortgagor(s), and
- **For an Institutional Mortgagee:**
All pages of the signed letter of authority [if the mortgagor, property identifier (i.e. Computer Register or street address) and priority amount is not mentioned in the letter, other relevant documentation should be supplied (e.g. a copy of the loan agreement).
NB: Where the letter of authority is provided from a party who is not the chargeholder, please provide evidence explaining the linkage (i.e. the chain of authority) between the authoriser and the chargeholder.
- **For a Private Mortgagee:**
Authority & Instruction form(s) completed by the private mortgagee(s)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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d) Mortgage variation / Mortgage priority instruments

- Authority & Instruction form(s) – registered proprietor(s)/ mortgagor(s), and
- **For an Institutional Mortgagee:**
All pages of the signed letter of authority.
- **For a Private Mortgagee:**
Authority & Instruction form(s) completed by the private mortgagee(s)
Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc. as appropriate.

NB:

- For a Mortgage variation, consent must be obtained from any other mortgagee/encumbrancee
- For a Mortgage priority instrument, authority must be obtained from all mortgagees (including those gaining priority)

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e) Application for transmission

- Authority & Instruction form(s) – completed by the applicant(s) including photo ID - this provides evidence of client identity and authority for the application component of the transmission.
- Statutory declaration of the applicant(s); the statutory declaration is separate supporting document that must be retained with the A&I form. The statutory declaration must refer to the relevant documents evidencing the event.
- The documents evidencing the event must be retained with the A&I form. Examples of documents evidencing transmission are as follows:
- **Transmission by Survivorship on death of registered proprietor:**
Certified copy of the entry in the Register of Deaths.
- **Transmission to Executor or Administrator on death of registered proprietor:** Certified copy of Probate/Letters of Administration granted by the High Court of New Zealand to the applicant(s).
- **Transmission to Amalgamated Company pursuant to Part 13 Companies Act 1993:** Copy of document(s) as specified in LINZG20705: Guideline for transmission following amalgamation of companies

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f) Caveat

Either an A&I from the caveator or written confirmation from the caveator (by email, letter, file note or other documentation) that the practitioner is authorised to act for the caveator.

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g) Notice of Claim

Either an A&I from the claimant or written confirmation from the claimant (by email, letter, file note or other documentation) that the practitioner is authorised to act for the claimant.

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h) Application for correction or change of name

Authority & Instruction form(s) completed by the applicant(s)
Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate
Refer to *LINZG20704 Guideline for making application to change or correct names on the Register* for more information.

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i) Easement instrument to Grant Easement or Profit a prendre or Create Land Covenant

- Authority & Instruction form(s) – grantor(s) (if acting for)
 - Authority & Instruction form(s) – grantee(s) (if acting for)
- Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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j) Easement instrument to Surrender Easement or Profit a prendre or Land Covenant

- Authority & Instruction form(s) – grantor(s) (if acting for)
 - Authority & Instruction form(s) – grantee(s) (if acting for)
- Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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k) Easement Variation instrument to Vary Easement or Profit a prendre or Land Covenant

- Authority & Instruction form(s) – grantor(s) (if acting for)
 - Authority & Instruction form(s) – grantee(s) (if acting for)
- Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc as appropriate

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l) Encumbrance Instrument

- Authority & Instruction form(s) – encumbrancer(s) (if acting for)
- Authority & Instruction form(s) – encumbrancee(s) (if acting for)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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m) Lease Instrument/Lease Variation/Lease Surrender

- Authority & Instruction form(s) – lessor(s) (if acting for)
- Authority & Instruction form(s) – lessee(s) (if acting for)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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n) Licence to Occupy/Surrender of Licence to Occupy - (Part 7A Land Transfer Act 1952)

- Authority & Instruction form(s) – licensor(s) (if acting for)
- Authority & Instruction form(s) – licensee(s) (if acting for)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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o) Application to note merger of lease

- Authority & Instruction form(s) - the applicant(s)
- Applicant(s) statutory declaration (regulation 25 Land Transfer Regulations 2002)

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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p) Application to settle land as a joint family home

- Authority & Instruction form(s) completed by the applicant(s)
- The statutory declaration by the applicant(s) in Form 1 or 1A Joint Family Homes Regulations 1965 (as the case may require) – including a copy of the husband or wife's consent [section 5(1) Joint Family Homes Act 1964]

Including a copy of the photo ID and consents etc. as appropriate

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q) Application to cancel a Joint Family Home - (Section 10(1)(a) Joint Family Homes Act 1964

- Authority & Instruction form(s) - the applicant(s)
Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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r) Application for deposit of unit title plan

- Authority & Instruction form(s) - the applicant(s)
Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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s) Instrument Creating Esplanade Strip - (Sections 232 and 235 Resource Management Act 1991)

- Authority & Instruction form(s) - the registered proprietor(s)
- Written confirmation from the Territorial Authority that the practitioner is authorised to act for the Territorial Authority.

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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t) Easement for Access Strip - (Section 237B Resource Management Act 1991)

- Authority & Instruction form(s) - the registered proprietor (s)
- Written confirmation from the Territorial Authority that the practitioner is authorised to act for the Territorial Authority.

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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u) Covenant against transfer, lease or other disposition - (Section 240 Resource Management Act 1991)

- Authority & Instruction form(s) - the registered proprietor (s)
- Written confirmation from the Territorial Authority that the practitioner is authorised to act for the Territorial Authority.

Including a copy of any Power of Attorney and certificate of non-revocation, photo ID and consents etc, as appropriate.

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Other Landonline Instruments

Please note that there are other instruments lodged electronically which do not require a compliance review. Examples would include notices, consents or certificates authorised by other legislation, which do not require the same level of identity verification or execution as Land Transfer Act instruments.

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