

Authority and Instruction (A&I) Forms



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In most respects, the *e-dealing* process mirrors the paper process. However, a new feature of the *e-dealing* process is the requirement for Authority & Instruction (A&I) forms to be completed and witnessed before the *e-dealing* process starts.

> **What is the purpose of A&I forms?**

The A&I form gives the conveyancer conducting the transaction the necessary authority to lodge an *e-dealing* on behalf of the client for the purposes of s164A of the Land Transfer Act.

The same issues of legal capacity required in the paper environment are also addressed in the A&I form. To ensure full protection, conveyancers must have need to ensure that clients sign the appropriate A&I form and guarantee details provided are correct as this is the information the lawyer will rely on to complete the *e-dealing* transaction.

For more information see Guideline I of the New Zealand Law Society (NZLS) *e-dealing* Guidelines on the NZLS website, www.lawyers.org.nz.

> **What types of A&I forms are there?**

There are three main types of A&I forms:

- Private Individual
- Private Corporate (e.g. a non-publicly listed company or an incorporated society etc)
- Public Corporate (e.g. a publicly listed company, territorial authority or government department).

These forms can be downloaded from the NZLS website and can be modified according to a firm's requirements, subject to the restrictions in Guideline K of the NZLS *e-dealing* Guidelines.

> **What are the requirements for executing A&I forms?**

It is not necessary for a lawyer to personally witness the A&I form being signed. The certifying lawyer must be satisfied that reasonable steps have been taken to establish the identity, capacity

and bona fides of the client on whose behalf the certifications are made.

Where a client is selling or mortgaging a property and the client is not personally known to the certifying lawyer, or other member of the firm, the lawyer should consider obtaining additional evidence linking the client to the property (eg. a rates or electricity bill).

Extra care is required when the identity of the client is being established by someone outside the lawyer's firm. A faxed copy of the A&I form and identification is acceptable. However, the lawyer is reminded that he or she takes responsibility for the document that has been witnessed outside the office.

Lawyers are responsible for the establishment of a client's identity and therefore need to select a person they can rely upon as a witness outside the firm.

A copy of photo identification (ID) must be attached to all A&I forms. The same copy ID may be used again for clients on a regular basis (and a new ID obtained when the photo ID expires).

Where an A&I form is executed by an attorney, the lawyer needs to exercise special care and attention relative to both the identity of the attorney and the currency of the Power of Attorney (see Guideline L of the NZLS *e-dealing* Guidelines).

> **What are the storage requirements for compliance reviews?**

The statutory requirement is that A&I forms be retained for 10 years. A LINZ Compliance Review will usually occur within three to six months of the dealing being registered. Any inquiry more than 12 months after registration would only be if a specific concern was raised.

Firms are advised to store A&I forms in a way that works best with their current systems. If the volume of transactions selected for Compliance Review is small and if your client files are readily accessible on-site for at least six months after

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closure of the file, that should suffice without the need for holding the A&I separately.

If you are already set up to scan your files and store them electronically then that option could be also used for A&I forms.

For further information on the retention of authorities, see Guideline N of the NZLS *e-dealing* Guidelines.