

TASMANIA

**CONVEYANCING AND LAW OF PROPERTY
REGULATIONS 2022**

STATUTORY RULES 2022, No. 97

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

**PART 2 – DETERMINATION AND VARIATION OF CERTAIN
INTERESTS AFFECTING USER OF LAND**

4. Applications
5. Determination of application
6. Notice of appearance
7. Procedure if conference held to determine application
8. Procedure if conference not held
9. Summoning witnesses
10. Obtaining statutory declarations
11. Hearings
12. Options prior to determination of application
13. Powers of Recorder
14. Powers of Supreme Court

PART 3 – MISCELLANEOUS

15. Lodgment of documents
16. Service of documents

CONVEYANCING AND LAW OF PROPERTY REGULATIONS 2022

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Conveyancing and Law of Property Act 1884*.

Dated 21 November 2022.

B. BAKER
Governor

By Her Excellency's Command,

R. C. JAENSCH
Minister for Parks

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Conveyancing and Law of Property Regulations 2022*.

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

r. 2

Part 1 – Preliminary

2. Commencement

These regulations take effect on
28 November 2022.

3. Interpretation

In these regulations –

Act means the *Conveyancing and Law of Property Act 1884*;

application means an application under
section 84B, 84C or 84D of the Act;

lodge means lodge with the Recorder;

Recorder means the Recorder of Titles
appointed under the *Land Titles Act 1980*;

seal means seal with the Recorder’s seal of
office.

**PART 2 – DETERMINATION AND VARIATION OF
CERTAIN INTERESTS AFFECTING USER OF LAND**

4. Applications

- (1) An application is to be in a form authorised by the Recorder.
- (2) The Recorder may, by requisition sent to an applicant's address for service shown in the application, require the applicant to give the Recorder further information about the application.
- (3) If an applicant receives a requisition under subregulation (2) and does not give the Recorder the further information within 90 days after being sent the requisition, the Recorder is not required to take any further action in respect of the application.

5. Determination of application

- (1) If a notice of appearance has not been lodged in relation to an application in accordance with regulation 6(2), the Recorder may finally determine that application under section 84F of the Act without taking further action.
- (2) If a notice of appearance has been lodged in relation to an application in accordance with regulation 6(2), the Recorder may finally determine that application under section 84F of the Act, without taking further action, not less

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

r. 6 Part 2 – Determination and Variation of Certain Interests Affecting User of
Land

than 30 days after the expiry of the relevant
period for the notice under regulation 6(2).

6. Notice of appearance

- (1) A person who proposes to become a party to the proceedings on an application may, at the times specified in regulation 9 of the *Land Titles Regulations 2022*, inspect the application and all other information lodged in respect of the matter.
- (2) To become a party to the proceedings on an application, a person must lodge a notice, in a form authorised by the Recorder, within –
 - (a) the time fixed in the notice given under section 84E of the Act in relation to the application, or such further time as the Recorder permits; or
 - (b) if no such time is fixed, 30 days after the person was given notice of the application, or such further time as the Recorder permits.

7. Procedure if conference held to determine application

- (1) The Recorder may, by notice in a form authorised by the Recorder, summon a conference of parties to the proceedings on an application.
- (2) For the avoidance of doubt, nothing in subregulation (1) requires the Recorder to

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

Part 2 – Determination and Variation of Certain Interests Affecting User of
Land

r. 8

summon a conference under this regulation in respect of an application.

- (3) At a conference, the parties may do all or any of the following in respect of an application:
- (a) reach agreement on as many matters as possible;
 - (b) discuss the possibility of settlement of the proceedings;
 - (c) consider the simplification of the issues arising from the application;
 - (d) consider the necessity or desirability of amendments to the application;
 - (e) consider the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
 - (f) consider the limitation of the numbers of expert witnesses;
 - (g) consider whether an order should be made under regulation 13;
 - (h) consider any other matter that may aid in the speedy disposition of the proceedings.

8. Procedure if conference not held

- (1) If the Recorder considers that a conference of the parties is unnecessary, the Recorder may, by

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

Part 2 – Determination and Variation of Certain Interests Affecting User of
Land

r. 9

service specified in the party's notice of
appearance under regulation 6.

9. Summoning witnesses

- (1) A party to the proceedings on an application who wishes to summon a witness may prepare a summons in a form authorised by the Recorder.
- (2) The Recorder must, on payment of 38 fee units, seal the summons.
- (3) The party wishing to summon the witness must serve the sealed summons on the witness as if it were a writ of subpoena.

10. Obtaining statutory declarations

- (1) A party to the proceedings on an application who wishes to obtain a statutory declaration may prepare a list of questions to be answered and a requisition in a form authorised by the Recorder.
- (2) The Recorder must, on payment of 38 fee units, seal the requisition.
- (3) The party wishing to obtain the statutory declaration must serve the sealed requisition on the proposed declarant as if it were a writ of subpoena.
- (4) A person who is served with a requisition under subregulation (3) must –

12. Options prior to determination of application

For the avoidance of doubt, the Recorder may, at any stage before determining an application –

- (a) make such orders under regulation 13, relating to the matters specified in regulation 7(3), as the Recorder thinks just in respect of the application; and
- (b) specify which matters in respect of the application require proof in accordance with regulation 8.

13. Powers of Recorder

- (1) For the avoidance of doubt, the Recorder may, in determining an application for an order pursuant to section 84F of the Act, may –
 - (a) exercise any power of a judge under rules 184, 295, 296, 303, 304, 606 and 798 of the *Supreme Court Rules 2000* as if the proceedings on the application were an action in the nature of an equity suit; and
 - (b) exercise any power of a judge under rules 427, 431 and 435 of those Rules as if the application were a pleading; and
 - (c) if the application is one in which a question of compensation may arise, hear the matter with an assessor and, for that purpose, exercise the powers of a judge under rule 560 of those Rules; and

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

r. 14 Part 2 – Determination and Variation of Certain Interests Affecting User of Land

- (d) if no person has a legal right to represent a person under disability who is, or in the opinion of the Recorder should be, a party to the proceedings, order that an appropriate person is to do so.
- (2) If the Recorder provides for the costs of a party, the Recorder must award –
 - (a) a specified amount; or
 - (b) costs to be taxed.
- (3) If the Recorder awards costs to be taxed –
 - (a) the party awarded the costs must submit a bill of costs to the Recorder; and
 - (b) the Recorder must tax and allow that bill of costs as if the Recorder were the taxing officer of the Supreme Court acting under a judgment of that Court.

14. Powers of Supreme Court

For the avoidance of doubt, if the proceedings on an application are removed into the Supreme Court under section 84G of the Act, the Court has all the powers of the Recorder under this Part.

PART 3 – MISCELLANEOUS

15. Lodgment of documents

- (1) A document is taken to be lodged under these regulations if it is delivered to the Recorder, together with –
 - (a) a printed lodgment form that is in a form authorised by the Recorder; and
 - (b) each relevant fee prescribed under the Act, if any.
- (2) Despite subregulation (1), the Recorder may accept for lodgment a document that has been sent to the Recorder by postal or electronic means if the Recorder considers it reasonable to do so.

16. Service of documents

A document is effectively given or sent to a person under these regulations if –

- (a) in the case of a natural person, it is –
 - (i) handed to the person; or
 - (ii) left at, or sent by post to, the person's postal or residential address, place or address of business or employment last known to the giver or sender of the document or any address nominated by the person; or

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

r. 16

Part 3 – Miscellaneous

- (iii) faxed to the person’s fax number, if the person has nominated a fax number for this purpose; or
 - (iv) emailed to the person’s email address, if the person has nominated an email address for this purpose; and
- (b) in the case of any other person, it is –
- (i) left at, or sent by post to, the person’s principal or registered office or principal place of business or any address nominated by the person; or
 - (ii) faxed to the person’s fax number, if the person has nominated a fax number for this purpose; or
 - (iii) emailed to the person’s email address, if the person has nominated an email address for this purpose.

Conveyancing and Law of Property Regulations 2022
Statutory Rules 2022, No. 97

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 23 November 2022.

These regulations are administered in the Department of Natural Resources and Environment Tasmania.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) detail the procedure for determining certain applications made under the *Conveyancing and Law of Property Act 1884*; and
- (b) detail the powers of the Recorder of Titles in determining such applications; and
- (c) make provision for the lodgment of certain documents in such applications; and
- (d) are made consequentially on the repeal of the *Conveyancing and Law of Property Regulations 2012* under section 11 of the *Subordinate Legislation Act 1992*.