

Guidance Notes – Notice of Death by Surviving Proprietor on an Instrument

These guidance notes are of a general nature and are not intended to, and cannot, replace the advice of a Legal Practitioner.

This form is to only be used when the deceased was a joint tenant on a registered instrument. When a sole proprietor or tenants in common is noted on an instrument then form 035-TAI-Transmission Application on an Instrument is required.

This guidance note is to be read in conjunction with the Verification of Authority Rules and Verification of Identity Rules on the [Access Canberra website](#).

All panels must be completed in full.

If an annexure is required, use form 029-ANN-Annexure. If more than one page is required in the annexure these pages shall be numbered consecutively and bound to this document by staples along the left margin.

All handwriting must be clear, legible and in black ink.

Any alteration to information provided on this form must be struck through with a black pen. Substitute information must be clear, and all parties must sign in the margin. Do not use correction fluid or tape.

The Registrar-General may refuse to accept any instrument that does not comply with the *Land Titles Act 1925* or these notes.

PRIVACY NOTICE

The collection of personal information in this form is required by law under the *Land Titles Act 1925*, to ensure accurate and legal transfer of title or registration of other interests relating to land and for maintaining publicly searchable registers and indexes. Personal information collected on this form will be handled in accordance with the Territory Privacy Principles in Schedule 1 of the *Information Privacy Act 2014*. More detailed information about how Access Canberra handles this personal information is available at: <https://www.act.gov.au/acprivacy>

LODGMET INFORMATION

Access Canberra – By appointment only at Dickson Specialised Centre, 480 Northbourne Avenue, Dickson (Next to the Dickson Interchange for light rail and bus services)

Book an appointment [here](#) at Dickson Specialised Centre.

Lodgment fees apply.

CONVEYANCE DUTY

Please contact the [ACT Revenue Office](#) for the requirements of Conveyance Duty (commonly known as Stamp Duty)

A Buyer Verification Declaration or Seller Verification Declaration is not required for this form.

COMPLETION OF FORM

LODGING PARTY DETAILS

The lodging party needs to complete all fields. The Customer Reference Number is only required for approved subscribers who have a lodgment account to the ACT Land Information System. If the lodging party does not have a lodgment account, this field can be left blank. The lodging party will receive a Registration Confirmation Statement by email upon registration of the document to the provided email address.

LAND DESCRIPTION

Legal identifier of the land must be supplied. To assist with district/division (suburb), section, block, and unit (where applicable) visit actmapi.act.gov.au.

The instrument number this application is associated with must be included. Once registered this application will appear on historical title searches.

REGISTERED DEALING NUMBER AND TYPE OF DEALING

This is the registered instrument where the deceased was the beneficiary. Dealing types can be but are not limited to Caveat, Sublease, Mortgage etc.

FULL NAME AND ADDRESS OF SURVIVING TENANT

Full name of the surviving tenant as stated on instrument and current postal address.

FULL NAME OF DECEASED & DATE OF DEATH

Full name and date of death of the deceased is to be stated.

Note: this name should match the Land Titles Register and the registered death certificate.

CERTIFICATION

Certifications are statements made by a Certifier that they have undertaken a specific action prior to lodging the Registry Instrument to the Land Titles Office. A Certifier must provide the required Certifications when signing Registry Instruments or other Documents and provide the Certifications required for the role they are undertaking.

All parties must execute the document under certification.

Certification statements (dot points) must be made by the certifier, being one of the following:

- a. **A legal practitioner**
- b. **If the applicant is not represented by a legal practitioner – the applicant (i.e. self- represented party)**
- c. **If a party to an instrument is not represented by a legal practitioner – that party (i.e. self-represented party)**

Any inapplicable certification statement(s) must be deleted.

All certification statements apply where the certifier is a legal practitioner.

By certifying this form, the legal practitioner acknowledges they have taken reasonable steps to verify that their client is a legal person and has the right to enter the conveyancing transaction. Where a legal practitioner is a certifier on a Land Titles Instrument, the certifier must state the firm of where they are practicing. If the legal practitioner does not work at a firm and is known as an “in house” solicitor or counsel, that legal practitioner must state the jurisdiction of where they hold a practicing certificate in.

The first two listed certification statements do not apply where the Certifier is a self-represented party. Self-represented parties are only required to make certifications relating to retaining evidence to support the registry instrument or document and ensuring the registry instrument or document is correct and compliant with relevant law and any prescribed requirement.

The self-represented party is required to have their Verification of identity (VOI) completed and provide evidence of authority to deal by using the self-represented party pack found [here](#). Self-represented parties must sign in the certification panel and have that signature witnessed by the authorised person completing the VOI or by an adult over the age of 18 who is not a party to this document. The completed original self-represented party pack is to accompany the application at time of lodgment.

Note: - An attorney, body corporate or a corporation cannot make certification statements. They are required to complete the form as a self-represented party.

SUPPORTING DOCUMENTS

Certified copy of death certificate.

If there is a registered mortgage/charge on title, then mortgagees/chargees consent is required. Registry Instrument 042-C-Consent is available from the Access Canberra Website.

Further evidence may be required in support of this application.

EVIDENCE TO BE LODGED FOR SELF-REPRESENTED

If you are a self-represented party, satisfactory evidence is to accompany this application. Evidence may include but not limited to:

- Self-represented party pack
- Authority to deal
- Death certificate
- If there are name discrepancies on the register or death certificate, further information may be required to satisfy the Registrar-General.

EVIDENCE TO BE RETAINED BY LEGAL PRACTITIONERS AND MORTGAGEE CORPORATIONS

Any evidence to support verification of identity carried out by a legal practitioner or mortgagee corporations, must be retained:

- (a) by the Legal Practitioner for at least 7 years from the date of lodgment of the Registry Instrument in the Land Titles Office;
- (b) by the mortgagee until they cease to be mortgagee in respect of the mortgage.

Evidence is required to be retained in order to demonstrate that the transaction was completed in accordance with legislative and other requirements and the certifications required were accurately made. Evidence may be required to be provided to the Registrar-General for the purpose of monitoring compliance with legislative and other requirements. The evidence must be legible, stored safely and securely, and accessible and may include:

- Client Authorisation
- Verification of identity
- Right to deal
- Other Prescribed Requirements; and
- Any evidence required by the Duty Authority.

Have a question or need assistance? Click the Contact us form button at the end of the [ACTLIS](#) home page or you can call this office on (02) 6207 0491

Easier. Simpler. Here to Help.

act.gov.au/accessCBR



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