Guide to applications by legal personal representative



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About this guide

This guide sets out the requirements to lodge an Application by legal personal representative, under the *Transfer of Land Act 1958*.

This application is to be is used by the executor(s) or administrator(s) of a deceased sole proprietor or a tenant in common of land (vacant land, house and land, strata units etc.), mortgage or lease.

If the deceased is registered as a joint tenant, an Application by surviving proprietor must be lodged by the surviving proprietor(s).

Note: as an Application by legal personal representative is mandated to be lodged in an Electronic Lodgment Network (ELN), paper applications should not be submitted unless an exception applies. One exception is when the applicant(s) is not represented by a conveyancer or lawyer. This guide applies to those lodgments.

Documents required by Land Use Victoria

Application by legal personal representative

The approved form for an Application by legal personal representative is available at [*Fees, Guides and Forms | Land Use Victoria* and must be fully completed.](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms)

Certificate(s) of Title

The Certificate(s) of Title must either be nominated or be held by you. There are two types of Certificate of Title currently in use – either a paper Certificate of Title (pCT) or an electronic Certificate of Title (eCT).

A Register search statement (commonly referred to as a ‘title search’) shows whether a Certificate of Titles is a pCT or an eCT and, if it is an eCT, who has control of it.

If the Certificate of Title is a pCT it may be:

* held by you; or
* held by a financial institution, conveyancer or lawyer or other party (for example an accountant).

If you cannot find the pCT, refer to the Guide to replacing a lost or destroyed Certificate of Title – Non-represented parties at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration%3Efeesguides%20and%20forms)*.*

If the Certificate of Title is an eCT it will be in the control of:

* a Subscriber to an ELN, for example a financial institution, conveyancer or lawyer; or
* the Registrar of Titles (Registrar).

**Represented or ELN Subscriber lodging party**

If the lodging party of the paper lodgment is represented and/or is an ELN Subscriber and the Certificate of Title is:

* a pCT, the person in possession of the pCT must convert the pCT to an eCT and nominate the eCT to the paper instrument.
* An eCT and control of the eCT is not held by the Registrar, the eCT must be nominated by the eCT Control to the paper instrument.
* an eCT and control of the eCT is held by the Registrar, the registered proprietor’s representative must first apply to take control of the eCT from the Registrar, then nominate the eCT to the paper instrument.

**Non-represented lodging party**

If the lodging party of the paper lodgment is non-represented and is not an ELN Subscriber and the Certificate of Title is:

* a pCT held by the lodging party, the pCT must be provided at lodgment.
* a pCT held by someone other than the lodging party, the person holding the pCT must complete an Application to nominate a paper Certificate of Title available at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration%3Efeesguides%20and%20forms).
* an eCT and control of the eCT is not held by the Registrar, the eCT must be nominated by the eCT Control to the paper instrument.
* no action is required by the lodging party.

For over-the-counter lodgments by non-represented parties, the applicant/s must provide a properly completed prescribed [statutory declaration](https://www.land.vic.gov.au/__data/assets/word_doc/0036/698607/Statutory-Declaration-OTC-APR.docx) located at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration%3Efeesguides%20and%20forms).

Unless an eCT is in the control of the Registrar, fees may apply for someone other than the lodging party to supply or nominate the Certificate of Title.

More information can be found in the Certificates of Title and Administrative Notices guide at: [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms).

After your application and any associated instruments has been processed, eCT Control will be held by the person put forward as eCT Control at the time of lodgment or control will be given to the Registrar.

**Property Title Alert(s)**

To ascertain whether or not the Certificate(s) of Title has/have been nominated, a single Property Transaction Alert on Title or one or more Pre-lodgement Check(s) can be made through [*landata.online*](https://www.landata.online/)or another authorised information broker.

Customers who subscribe to a Property Transaction Alert on Title are notified by email when a Certificate of Title has been nominated at Land Use Victoria.

A Pre-lodgement Check is made prior to lodgment to confirm that the Certificate(s) of Title has/have been nominated, to inform of a prior dealing affecting that title or to provide details of the controlling party of Certificate(s) of Title.

More information can be found at [*Where to find information about land titles | Land Use Victoria*](https://www.land.vic.gov.au/land-registration/for-individuals/where-to-find-information-about-land-titles).

Verification of identity

All parties to a conveyancing transaction must have their identity verified.

When a conveyancer or lawyer represents a client, the conveyancer or lawyer is responsible for verifying their client’s identity. For further information, refer to the Guide to verification of identity for paper conveyancing transactions for conveyancers, lawyers and mortgagees available at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms)*.*

If a party to a conveyancing transaction is not represented by a conveyancer or lawyer (a non-represented party), verification of identity needs to be undertaken by Australia Post – the Approved Identity Verifier. In addition, Australia Post will witness the non-represented party signing any conveyancing documents including Registry instruments. For further information, refer to the Guide to verification of identity for people not using a conveyancer or lawyer available at [*Verification of identity | Land Use Victoria*](https://www.land.vic.gov.au/land-registration/for-professionals/verification-of-identity).

Notice of Acquisition

A completed and signed Notice of Acquisition must be supplied.

Further information on the Notice of Acquisition is available at [*Notice of acquisition of an interest in land | State Revenue Office Victoria*](file:///C%3A/Users/ms77/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/5YOMBVD3/sro.vic.gov.au/forms/notice-acquisition-interest-land)*.*

Evidence of appointment as legal personal representative

Evidence of appointment as legal personal representative can be provided in one of the following forms:

* a completed and signed statutory declaration by the legal personal representative and a copy of the front page of the grant of probate/letter of administration
* a certified copy of the front page of the grant of probate
* a certified copy of the front page of the letter of administration

From 1 July 2020, grants of probate or letters of administration are issued in electronic form only by the Supreme Court of Victoria. As such, grants dated after 1 July 2020 do not need to be certified.

A full death certificate or extract is not required.

[The statutory declaration form](https://www.land.vic.gov.au/__data/assets/pdf_file/0033/493962/Statutory_Declaration_for_APR_.pdf) is located at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms). See also “How to complete the statutory declaration” later in this guide.

If providing a certified copy of the front page of either a grant of probate or letters of administration, the certification wording should state:

“I certify that this is a true copy of the front page of the [grant of probate / grant of letters of administration] of which it purports to relate and that the grantee has not been removed.”

The certification can be given by the applicant, or the applicant’s conveyancer or lawyer if the applicant is represented.

Supporting statutory declaration for non-represented parties

For lodgments by non-represented parties, the applicant/s must provide a properly completed [statutory declaration](https://www.land.vic.gov.au/__data/assets/word_doc/0036/698607/Statutory-Declaration-OTC-APR.docx) in the form located at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms)*.*

Additional information

Rating bodies

Each rating body (water, sewerage, council etc.) needs to be notified of the change of ownership. To notify these bodies a copy of the completed Notice of Acquisition should be sent.

Fees

Land Use Victoria fees are payable at lodgment.

Lodgment fees are available at [*Fees, Guides and Forms | Land Use Victoria*](http://www.land.vic.gov.au/land-registration/fees-guides-and-forms). Acceptable payment methods are available at [*How to pay | Land Use Victoria*](https://www.land.vic.gov.au/land-registration/first-time-here/common-mistakes#heading-13)*.*

Multiple joint proprietors, all deceased

If two or more individuals are registered as joint proprietors and all of them are deceased, then an Application by surviving proprietor cannot be lodged as there is no surviving proprietor(s) remaining to sign as applicant.

Instead, an Application by legal personal representative must be lodged. The applicant(s) must be the executor(s) or administrator(s) of the last deceased joint proprietor. The requirements detailed in this guide apply, with the following changes/additions.

In the ‘Representative capacity’ panel, recite the representative capacity of the applicant(s), e.g. “as executor of the will of (name of deceased)” or “as administrator of the letters of administration of (name of deceased), where the named deceased is the last deceased joint proprietor.”

In the ‘Deceased registered proprietor’ panel, insert the full name of the last deceased joint proprietor and then recite the earlier death of the other joint proprietor(s) e.g. “Mary Smith, the other registered proprietor John Smith died on 1 July 2000”.

An additional statutory declaration is required as proof of the earlier death of the other joint proprietor(s). Death certificate(s) is/are not required. The additional statutory declaration should be made by the applicant, but can be made by any person who has sufficient means of knowledge.

How to complete an approved form for an Application by legal personal representative

This form should be completed online and printed for signing and lodgment.

* If the form is being completed manually rather than online:
* the writing must be clear and legible and in BLOCK LETTERS
* only use black or blue pen
* correction fluid must not be used
* the back of the form must not be used

The points below assist in completing an Application by legal personal representative

Lodged by

This section allows for the entry of the details of the person or corporation lodging the application.

Please insert the following:

* name, telephone number and postal address for contact details or for the return of any documents
* any reference you have used for the application and your Land Use Victoria customer code (if applicable).

Land

Allows for the entry of the volume and folio number(s) of affected folio(s), e.g. volume 12345 folio 125.

This number is located in the top right-hand corner of a pCT or can be found on a Register search statement.

Multiple folios, numbered consecutively, may be inserted as a single range entry, e.g. volume 12345 folio 125-132.

If the application is over a mortgage, charge or lease insert the instrument number and affected folio(s), e.g. AJ125345L affecting volume 10554 folio 785.

Applicant

Insert the full name(s) and current address(es) of the applicant(s). The address(es) provided will be used for receipt of notices.

Please note that a ‘care of’ or ‘post office box’ is not an acceptable address.

Representative capacity

Insert the representative capacity of the applicant(s), e.g. “as executor of the will of…” or “as administrator of the letter of administrations of…”.

Deceased registered proprietor

Insert the full name of the deceased. If the deceased’s name differs from that shown on the folio of the Register, then a recital is required, e.g. “Mary Smith formerly Mary Brown”.

Date

Insert the date the form is signed by the applicant, in DD/MM/YYYY format.

Signing

An application can be signed by the parties in their own right or by a conveyancer or lawyer representing the parties, an Authorised deposit taking institution or an ELN Subscriber.

### Non-represented Individual

If you are not represented by a conveyancer or lawyer the following signing option should be selected:

* Leave Blank – the individual will be signing in his/her own right. This will open data boxes to enable the applicant to type in their name and the name of the witness.

The application needs to be signed in front of the Approved Identity Verifier (Australia Post), who will witness you signing at the same time as verifying your identity.

See Verification of identity earlier in this guide.

Note: An Attorney cannot sign on behalf of a non-represented individual. A conveyancer or lawyer will need to be engaged if an attorney under a power of attorney wishes to sign the application.

Non-represented Corporation (Company)

If the corporation is not represented by a conveyancer or lawyer the following option should be selected:

* Leave blank – Corporation will sign in their own right. The corporation name must be typed in the ‘executed on behalf of’ panel. The corporation can sign by executing with or without a Common Seal:
	+ Multi-person Company – Director and Director or Director and Secretary sign
	+ Sole-person Company – Sole Director and Secretary sign
	+ Sole-person Company – Sole Director signs.

The director’s or secretary’s full name and role must be typed in the ‘Signer name’ panel.

The company officer(s) need to sign the transfer after affixing the common seal (if used) in front of the Approved Identity Verifier (Australia Post) at the same time as verifying the company officer(s) identity.

See Verification of Identity earlier in this guide.

Note: A person other than a Director, Secretary or sole Director and Secretary cannot sign on behalf of a non-represented corporation. Representation will need to be obtained.

Non-represented Other Organisation

If the party is a different type of legal entity (for example, a Council, statutory body or an Incorporated Association) which is not represented by a conveyancer or lawyer the following option should be selected:

* Leave Blank – allows for a manual entry of signing clause.

The usual signing clause for the organisation can be typed in including the names and roles of those signing.

The authorised person(s) need to sign the transfer in front of the Approved Identity Verifier (Australia Post) at the same time as verifying the authorised person(s) identity.

See Verification of Identity earlier in this guide.

Note: An Attorney cannot sign on behalf of a non-represented organisation. Representation will need to be obtained.

Represented parties

If any of the parties to the application are represented by a conveyancer or lawyer or are an Authorised Deposit-Taking Institution or another type of ELN Subscriber the following signing options should be selected:

**Individual Represented by a Conveyancer or Lawyer or who is a Conveyancer or Lawyer**

If a party is an individual, the following signing options will appear:

* Authorised Deposit Taking Institution
* Electronic Lodgment Network Subscriber
* Australian Legal Practitioner
* Licensed Conveyancer
* Law Practice
* Conveyancing Practice
* Leave Blank – allows for a manual keying of signing clause.

The appropriate selection should be made.

If an Australian Legal Practitioner or a Licensed Conveyancer employed by a lawyer represents a party, ‘Australian Legal Practitioner’ or ‘Licensed Conveyancer’ should be selected.

If an Australian Legal Practitioner represents a party, ‘Australian Legal Practitioner’ should be selected. If a non-practitioner employee of an Australian Legal Practitioner is signing an instrument on behalf of a client, then ‘Law Practice’ should be selected.

If a Licensed Conveyancer represents a party, ‘Licensed Conveyancer’ should be selected. If a non-practitioner employee of a Licensed Conveyancer is signing an instrument on behalf of a client, then ‘Conveyancing Practice’ should be selected.

In all cases, the signer details need to be completed and the form signed on behalf of the party.

The options presented are:

* Representing another
* Representing self

Signer panels:

* Name – full name of person signing
* Organisation – full name of conveyancing firm or law firm for whom the person signing works.

#### Corporation Represented by a Conveyancer or Lawyer or who is a Conveyancer or Lawyer

If a party is a corporation, the following signing options will appear:

* Authorised Deposit-taking Institution
* Electronic Lodgment Network Subscriber
* Australian Legal Practitioner
* Licensed Conveyancer
* Law Practice
* Conveyancing Practice
* Leave Blank

The appropriate selection should be made.

If an Australian Legal Practitioner or a Licensed Conveyancer employed by a lawyer represents a party, “Australian Legal Practitioner” or ”Licensed Conveyancer” should be selected.

If an Australian Legal Practitioner represents a party, “Australian Legal Practitioner” should be selected. If a non-practitioner employee of an Australian Legal Practitioner is signing an instrument on behalf of a client, then “Law Practice” should be selected.

If a Licensed Conveyancer represents a party, ”Licensed Conveyancer” should be selected. If a non-practitioner employee of a Licensed Conveyancer is signing an instrument on behalf of a client, then “Conveyancing Practice” should be selected.

In all cases, the signer details need to be completed and the form signed on behalf of the party.

The options presented are:

* Representing another
* Representing self.

Signer panels:

* Name – Full name of person signing
* Organisation – Full name of conveyancing firm or law firm for whom the person signing works.

#### Organisation Represented by a Conveyancer or Lawyer or who is a Conveyancer or Lawyer

If a party is an Organisation, the following signing options will appear:

* Authorised Deposit Taking Institution
* Electronic Lodgment Network
* Australian Legal Practitioner
* Licensed Conveyancer
* Law Practice
* Conveyancing Practice
* Leave Blank.

The appropriate selection should be made.

If an Australian Legal Practitioner or a Licensed Conveyancer employed by a lawyer represents a party, “Australian Legal Practitioner” or ”Licensed Conveyancer” should be selected.

If an Australian Legal Practitioner represents a party, “Australian Legal Practitioner” should be selected. If a non-practitioner employee of an Australian Legal Practitioner is signing an instrument on behalf of a client, then “Law Practice” should be selected.

If a Licensed Conveyancer represents a party, “Licensed Conveyancer” should be selected. If a non-practitioner employee of a Licensed Conveyancer is signing an instrument on behalf of a client, then “Conveyancing Practice” should be selected.

In all cases, the signer details need to be completed and the form signed on behalf of the party.

The options presented are:

* Representing another
* Representing self.

Signer panels:

* Name – full name of person signing
* Organisation – full name of conveyancing firm or law firm for whom the person signing works

#### Authorised Deposit-taking Institution

If signing is by an Authorised Deposit taking Institution, the only option is to represent self.

Signer panels:

* Name – full name of person(s) signing
* Organisation – full name of Authorised Deposit-taking Institution

In the case of an Attorney, the date of the power of attorney must be specified and a certified copy provided.

The signer details need to be completed and the form signed on behalf of the party.

#### Electronic Lodgment Network Subscriber

If being signed by an ELN Subscriber, the only option is to represent self.

Signer panels:

* Name – full name of person(s) signing
* Organisation – full name of Electronic Lodgment Network Subscriber

In the case of an Attorney, the date of the power of attorney must be specified and a certified copy provided.

The signer details need to be completed and the form signed on behalf of the party.

Statutory declaration in support of Application by legal personal representative

The statutory declaration that accompanies the Application by legal personal representative is sufficient proof of death. The declaration is usually made by the applicant, but it can be made by any person who has sufficient means of knowledge.

This statutory declaration is separate to the prescribed statutory declaration for non-represented parties lodging an application by legal personal representative.

How to complete the statutory declaration

Insert the full name and residential address of the person making the statutory declaration.

Clause 1 – insert the full name of the deceased proprietor and the date of death.

Clause 2 – insert the volume and folio number(s) of the affected folio(s).

Clause 3 – insert the date of the grant.

Clause 4 – state the limitations that apply to the grant; or, if none, state “Nil”.

Clause 5 – requires the person making it to state their means of knowledge, e.g. “I am the applicant” or “I am the solicitor for the applicant and the applicant is the Legal Personal Representative” (if appropriate) would be an acceptable statement.

* Insert where the declaration is being signed, e.g. ‘Melbourne’.
* Insert date the declaration is being signed.
* The person signing the declaration must do so in front of a qualified person under the *Oaths and Affirmations Act 2018* – a full list can be found at [*Statutory Declarations | Justice and Community Safety*](https://www.justice.vic.gov.au/statdecs).
* The witness must sign and insert his/her full name, address and qualification.
* A copy of the front page of the grant must be exhibited to the statutory declaration (this copy does not need to be certified).

Contact us

For location and contact details, refer [*Contact Us | Land Use Victoria*](https://www.land.vic.gov.au/contact-us)