

Land Transfer Act 2017 - Frequently asked questions

Below you'll find some answers to questions about how the Land Transfer Act 2017 (LTA 2017) will be implemented, and the transition processes to support it.

If you have further questions please contact the LINZ Customer support line on:

- Email: customersupport@linz.govt.nz
- Call 0800 665 463.

"Commencement" relates to the date the LTA 2017 comes into force, which is from Monday 12 November 2018.

"Part signed" describes a dealing where only some of the related instruments have been signed by all parties.

Updated 9 November 2018

Transition process

Are there transitional provisions in the LTA 2017 setting out what happens to dealings in progress on commencement?

Yes. [Schedule 1 of the LTA 2017](#) outlines the transitional provisions, which we've outlined below.

Clause 2 of the Schedule deals with instruments ***lodged and matters in progress*** before commencement.

Clause 3 deals with instruments ready ***but not yet lodged*** before commencement.

What certifications will be displayed on commencement?

All instruments signed on or after 12 November will display the updated certifications in Landonline, regardless of the status of the dealing.

My dealing was created before commencement, but will be signed and lodged after this date - what certifications will apply?

If you are certifying instruments on or after 12 November, the new certifications will apply.

I have an instrument that was part-signed prior to commencement - what will happen to the instrument on 12 November?

Any lodged instruments with an attached image which are part signed as at 5pm, 9 November will:

- have their certifications and signatures cleared, and
- revert to a 'Draft' status.

You can either:

- complete signing before 5pm, 9 November, **or**
- re-certify and re-sign all roles for the instrument on or after 12 November.

Autoreg instruments and template instruments that have stepped down to **lodge** due to added text are not affected and will retain their 'part signed' status.

My dealing was signed before commencement but hasn't been lodged - will I need to re-sign?

Where **all** the instruments in a dealing have been signed by **all** parties, but the dealing has not been lodged, the instruments **will not** need to be re-signed solely because the commencement date has passed.

As above, any lodged instruments with an attached image which are part signed as at 5pm, 9 November will:

- have their certifications and signatures cleared, and
- revert to a 'Draft' status.

You can either:

- complete signing before 5pm, 9 November, **or**
- re-certify and re-sign all roles for the instrument on or after 12 November.

Autoreg instruments and template instruments that have stepped down to **lodge** due to added text are not affected and will retain their 'part signed' status.

My dealing was created and lodged prior to commencement - what happens if it gets requisitioned after commencement?

The lodgement date for the dealing will stay the same.

All instruments will retain the 1952 Land Transfer Act views as they were initially created, signed and lodged prior to commencement, unless a requisition requires a change that clears a certification.

New instruments will also have 1952 Land Transfer Act views as dealing lodgement date is prior to commencement.

Existing certifications will remain under the 1952 Land Transfer Act.

Any re-certified or instruments that are lodged separately will have LTA 2017 certifications.

My dealing was created and lodged prior to commencement - what happens if it is rejected, withdrawn or refused and re-lodged after commencement?

Instruments in the replacement dealings will initially retain 1952 Land Transfer Act views and original certifications.

If any instruments are changed and re-signed on or after 12 November 2018, the instrument view will update to the LTA 2017 view with 2017 certifications.

Any new instruments added to the dealing will have LTA 2017 views and 2017 certifications.

When will instruments in the LTA 2017 format be available in Landonline?

Landonline will automatically display the updated instruments from 12 November.

Will instruments in the old 1952 Act format still be available in Landonline after commencement?

After 12 November 2018, instruments in the 1952 Act format will only be available where relevant.

I'm preparing a subdivision dealing that will be lodged after commencement. Can I include an easement instrument creating a land covenant, or can I use a covenant instrument instead?

If you're preparing your dealing pre-commencement you should use an easement instrument to create land covenants (but not land covenants in gross). The covenant instrument form (LCOV) is available now on the LINZ website, but you will not be able to sign, certify or lodge covenant instrument before the 12 November 2018, as this is new feature of the LTA 2017.

An easement instrument creating land covenants prepared prior to commencement can still be signed, certified and lodged after commencement. If you're preparing instruments after commencement, then a covenant instrument must be used to create land covenants.

My client wants to create a land covenant in gross. When will I be able to do this?

The covenant instrument form (LCOV) is available now on the LINZ website, but you will not be able to sign, certify or lodge a land covenant in gross before the 12 November 2018, as this is new feature of the LTA 2017.

You can only use the new covenant instrument to create a land covenant in gross.

I obtained a guaranteed search prior to commencement - what time periods will apply?

The time periods set out in section 172A of the LTA 1952 apply to any guaranteed search obtained prior to 12 November - see Schedule 1, clause 7 of the LTA 2017.

What happens to provisional titles on commencement?

Titles registered on the provisional register under section 50 of the LTA 1952 will become qualified titles under the LTA 2017 and sections 18-19 will apply - see Schedule 1, clause 5 of the LTA 2017.

My dealing contains a signed instrument that will require certifications on or after 12 November - can I still lodge my dealing?

If there are any Statutory Land Charges or Māori Land Court instruments that were signed prior to the 12 November they will not have certifications, and will be acceptable as is and can be submitted.

If they are subsequently edited and have been re-signed on or after 12 November they will then require certifications, or they will fail pre-validation. You will know they have failed pre-validation as the following message will display in Landonline - "*The instrument has not been signed by an authorised Conveyancing Professional for each role in the instrument.*"

If the instrument was signed prior to 12 November 2018 without certifications and is not edited, these instrument types are all LODGE so you can continue to submit as the dealing will step down anyway – there is no need to re-sign in this scenario.

What do I do if I continue to have difficulty lodging my dealing?

If you've followed the advice above and continue to have difficulty in lodging your dealing, you can submit a request for an exemption under clause 3(2) of Schedule 1 of the LTA 2017.

To do this, create a request in Landonline in the usual way, and link the request to your dealing.

Authority and Instruction (A&I) forms

What A & I form should I use?

From 12 November 2018, practitioners can generate the updated A&I forms from Landonline **or** use the new templates available [here](#) and on the [Property Law Section](#) website.

The Landonline-generated A&I forms may still be used, even though these look different to the A&I forms on the LINZ and PLS website. They look different because only changes to section 4 and the Notes to the Form are being incorporated into the Landonline release on 10 November. Changes to sections 3 and 5 are scheduled for the next release in May 2019. However, guidance on these matters can be found in the Notes to the Form.

If an A&I form was signed prior to 12 November, practitioners can continue to rely on that A&I form and do not need to go back to the client to have a new A&I form signed in the new format. LINZ has addressed this and other frequently asked questions [here](#)

Practitioners can be assured, either the A&I forms templates available [here](#) or those generated from Landonline can be used.

Practitioners may potentially require different instruments if they certify and sign on or after 12 November for an instrument whose code is changing - if the A&I doesn't match the instruments being lodged will this be an issue? For example, a practitioner has signed an A&I signed for an S145/A145 on 9

November for a dealing they will certify and sign and submit on 12 November.

We will accept A&I forms citing the old codes in this case.

What do I do if I've set up the e-dealing before commencement and settlement is on 16 November, but only one of the two parties has signed the A&I and the other one may not be able to sign before 5pm Friday 9 November?

If a party has not signed the A&I prior to 12 November, the A&I can still be used however the verification of identity should be in terms of the guideline "[Authority and Identity Requirements for E-Dealing Guideline 2018 – LINZG20775](#)"

If a dealing is lodged based on an A&I signed prior to 12 November and the dealing is requisitioned, rejected or withdrawn, can the A&I still be relied upon if the dealing is relodged *after* 12 November?

Yes, the A&I can still be relied upon as long as it authorises the instruments in the dealing that is relodged. If additional instruments are added to the dealing and these are not authorised in the A&I, a new A&I will be required for the new instruments.