Standard for verification of identity for registration under the Land Transfer Act 1952

LINZS20002

Effective date: 30 October 2013
Table of contents

Terms and definitions .................................................................................................3
Foreword .....................................................................................................................4
   Introduction ............................................................................................................4
   Purpose of standard ..............................................................................................5
   Brief history of standard ......................................................................................5
   References .............................................................................................................5
1 Scope .....................................................................................................................6
2 Intended use of standard .....................................................................................6
3 General witnessing criteria .................................................................................6
4 Verification in routine transactions .....................................................................7
   4.1. General requirements for practitioners .....................................................7
   4.2. Verification in the absence of government-issued photographic ID ............8
   4.3. Exception for Public Corporates ...............................................................8
5 High-risk transactions ............................................................................................9
   5.1. Definition ......................................................................................................9
   5.2. Verification for high-risk transactions .......................................................9
6 Assessment of paper instruments .......................................................................10
Appendix: Declaration of identity form for the purposes of paragraph 4.2 .........11
Guidance material .....................................................................................................G1
   General requirements for practitioners verifying identity ................................G2
   Suitable ID for the purposes of the standard ....................................................G5
   Exception for Public Corporates ......................................................................G7
   Verification for high-risk transactions .............................................................G8
   Assessment of paper instruments .....................................................................G9
## Terms and definitions

For the purposes of this standard, the following terms and definitions apply.

<table>
<thead>
<tr>
<th>Term/Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>computer register</td>
<td>as defined in the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002</td>
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<tr>
<td>electronic instrument</td>
<td>as defined in s 2 of the LTA</td>
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<td>ID</td>
<td>identification document</td>
</tr>
<tr>
<td>instrument</td>
<td>as defined in s 2 of the LTA</td>
</tr>
<tr>
<td>interested party</td>
<td>a person, including a landowner, who is required by the LTA or LTR to authorise an instrument, or any other person legally authorised to act on the person's behalf</td>
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<tr>
<td>landowner</td>
<td>a registered proprietor, signatory, or any other person legally authorised to act on behalf of a registered proprietor</td>
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<tr>
<td>LINZ</td>
<td>Land Information New Zealand</td>
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<td>LTA</td>
<td>Land Transfer Act 1952</td>
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<td>LTR</td>
<td>Land Transfer Regulations 2002</td>
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<tr>
<td>paper instrument</td>
<td>as defined in s 2 of the LTA</td>
</tr>
<tr>
<td>practitioner</td>
<td>as defined in s 2 of the LTA</td>
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<tr>
<td>Public Corporate</td>
<td>a publicly listed company (i.e. whose equity shares are listed on the stock exchange), territorial authority, government department, state enterprise, a trustee company, Crown agents, autonomous Crown entity, or a Crown entity company</td>
</tr>
<tr>
<td>Private Corporate</td>
<td>a non-publically listed company or incorporated society</td>
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<tr>
<td>register</td>
<td>a land transfer register constituted by the Land Transfer Act 1952</td>
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<tr>
<td>registered proprietor</td>
<td>person seised or possessed of any estate or interest in land. Refer to s 2 of the LTA for the definition of &quot;proprietor&quot;.</td>
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<tr>
<td>RGL</td>
<td>Registrar-General of Land</td>
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</table>
Foreword

Introduction

Legal obligation to verify identity

(a) When dealing with an interest in land, every interested party must authorise the transaction. The Land Transfer Act 1952 (LTA) and Land Transfer Regulations 2002 (LTR) provide requirements for authorising instruments for registration purposes.

(b) If presented for lodgement in paper form, an instrument must be signed by the interested party and witnessed. The instrument must also be signed correct for the purposes of the LTA. These requirements are set out in ss 157 and 164 of the LTA and rr 6 and 16 of the LTR.

(c) If presented for lodgement in electronic form, an instrument must be certified in accordance with ss 164A to 164E of the LTA and digitally signed by a practitioner authorised by the interested party.

(d) Among other things these certifications must specify that the person giving the certification has taken reasonable steps to confirm the identity of the person who gave the authority to lodge the instrument, holds evidence of the steps taken under s 164(1) of the LTA, and has retained that evidence for 10 years under r 14 of the LTR. If required by the Registrar-General of Land (RGL) under s 164C(3) of the LTA, the practitioner must produce evidence of the steps taken to confirm identity. Under s 164B(2) of the LTA, the RGL may revoke a person's certification rights if it turns out that person does not hold such evidence or has given a fraudulent or materially incorrect certification.

(e) In all cases it is essential that the identity of the interested party be verified.

(f) The requirement to verify identity for a transaction relating to land also arises in other circumstances. For example, Part 2 of the Financial Transactions Reporting Act 1996 imposes a general obligation on practitioners, banks, and others involved in the conveyancing process to take reasonable steps to verify the identity of clients.

(g) Rules 2.5 and 2.6 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 confirm the importance of a lawyer having reasonable grounds to believe, and taking appropriate steps to ensure the accuracy of, matters he or she certifies under ss 164 and 164A to 164E of the LTA.

Importance of verification

(a) The legal obligation to verify identity is an essential safeguard against identity fraud in conveyancing transactions.

(b) A practitioner may discharge these obligations by personally conducting the identity checks or by delegating these functions to some other independent trusted person the practitioner can reasonably rely on. In either case, the practitioner who provides the certification is responsible for the adequacy of the identity verification.

(c) When a practitioner or employee of a practitioner's firm has not witnessed the execution of an instrument presented in paper form, the person registering the instrument under delegated authority from the Registrar-General of Land (RGL) is responsible for verifying identity of the interested parties.

(d) While the LTA and LTR require identification of the interested party for the purposes of registration, they do not prescribe the manner in which this is achieved.
Purpose of standard

This standard aims to ensure that interested parties are properly identified to manage the risk of fraud or improper dealing in transactions with land.

Brief history of standard

This standard supersedes the following documents:


References

The following documents are relevant to the application of this standard.

- Financial Transactions Reporting Act 1996
- Land Information New Zealand, Registrar-General of Land. 2013. LINZG20704: Guideline for making applications to change or correct names on the Registrar-General of Land’s records. Wellington: LINZ.
- Land Transfer Act 1952
- Land Transfer Regulations 2002
- Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

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1 **Scope**

This standard:

(a) sets out the minimum requirements for verifying identity when registering land transactions, and

(b) includes guidance material to assist with compliance with the standard.

2 **Intended use of standard**

This standard is intended for use by:

(a) practitioners who witness or certify paper or electronic instruments relating to land transactions for the purposes of registration under the LTA, and

(b) Land Information New Zealand (LINZ) staff with delegated authority from the RGL to register land transactions, who are verifying the identity of interested parties where a practitioner is not involved.

3 **General witnessing criteria**

A witness to an instrument must:

(a) be at least 18 years of age, and

(b) not be a party to the transaction.
4 Verification in routine transactions

4.1. General requirements for practitioners

(a) A practitioner or delegate must examine the following documents to verify the identity of an interested party who is signing or giving them authority to lodge an instrument for the purposes of the LTA:

(i) an original government-issued photographic ID, such as a passport, driver licence, or firearms licence, and

(ii) in the case of a landowner transferring or mortgaging, a document showing the landowner's name and the physical address of the property, such as a rates demand, bank statement, or utility account.

(b) If a practitioner knows a landowner personally and can vouch for their identity, the requirement in (a)(ii) may not be necessary. The requirement in (a)(i) to examine photographic ID is still necessary.

(c) For electronic lodgement, a practitioner or delegate must copy the documentation in (a)(i) and (a)(ii), when applicable, record that each copy is a true copy of the original that they have sighted, and as required by s 164(1) of the LTA and r 14 of the LTR retain the copies for 10 years from the date of lodgement of the relevant electronic instrument.

(d) If required by the RGL under s 164C(3) of the LTA, a practitioner must produce the copies in (c).

(e) The requirements of (a) do not apply to a person signing or giving authority who is an authorised officer of a Public Corporate (see paragraph 4.3).

GENERAL REQUIREMENTS FOR PRACTITIONERS

For guidance see General requirements for practitioners verifying identity on page G2 of the guidance material.

SUITABLE ID FOR THE PURPOSES OF THE STANDARD

For guidance see Suitable ID for the purposes of the standard on page G5 of the guidance material.
4.2. **Verification in the absence of government-issued photographic ID**

(a) Where an interested party does not have suitable photographic ID, their identity may be verified by a witness.

(b) A witness must:

(i) know the interested party personally and be able to vouch for their identity,

(ii) sign a statutory declaration in the form set out in the Appendix verifying the interested party's identity,

(iii) provide a government-issued photographic ID, as verification of their own identity, to the person taking the declaration, and

(iv) sign a photograph of the interested party, verifying it is a true likeness of the interested party.

(c) For electronic lodgement, the practitioner or delegate must retain the statutory declaration, with the attachments in (b)(iii) and (b)(iv), on file for 10 years (s 164(1) of the LTA and r 14 of the LTR) and produce it if required by the RGL under s 164C(3) of the LTA.

4.3. **Exception for Public Corporates**

(a) Where an interested party giving authority to lodge an instrument is a Public Corporate, the requirement for photographic ID in paragraph 4.1(a)(i) does not apply.

(b) If contact was not initiated by the practitioner who received the authority to lodge an instrument, the practitioner must verify the authenticity of the documentation with the Public Corporate.²

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² The New Zealand Law Society *Property Transactions and E-Dealing: Practice Guidelines* provide an authority and instruction form for use when dealing with a Public Corporate.
5 High-risk transactions

5.1. Definition

A high-risk transaction is one where the existing landowner as transferor or mortgagor is not previously known to the practitioner who is providing the certificate and:

(a) is transferring or mortgaging unencumbered land, or
(b) provides contact details which are not connected to the physical address of the property, or
(c) provides unfamiliar or foreign documents to verify identity.

5.2. Verification for high-risk transactions

(a) In addition to the documents required in paragraph 4.1, whether or not photographic ID has been produced, further steps to verify identity must be taken and documented in high-risk transactions. Further steps may include, but are not limited to:

(i) checking the historical view of the computer register to identify potential inconsistencies, for example, to confirm there is no obvious age discrepancy between the person purporting to deal with the land and the details of the registered landowner,

(ii) independently obtaining contact details for the physical address of the property and contacting the landowner using those details, and

(iii) other independent corroboration.

(b) For electronic lodgement the practitioner or delegate must retain the documents set out in (a) for 10 years (s 164(1) of the LTA and r 14 of the LTR), and produce them if required by the RGL under s 164C(3) of the LTA.

For further information see Verification for high-risk transactions on page G8 of the guidance material.
6 Assessment of paper instruments

(a) When a transaction dealing with land is presented to LINZ as a paper instrument, the person registering the transaction with delegated authority from the RGL must verify the identity of an interested party as follows:

(i) When a paper instrument has been witnessed by a practitioner or a staff member of a practitioner's firm, then the person registering can presume the interested party's identity has been verified in accordance with paragraph 4.

(ii) When a paper instrument has not been witnessed by a practitioner or a staff member of a practitioner's firm, then the person registering must ensure:

(A) the execution of the instrument is verified by a statutory declaration given by the executing interested party, or the witness to the execution, in accordance with r 16 of the LTR; or

(B) original government-issued photographic ID of the executing interested party in accordance with paragraph 4.1 has been produced and copied at lodgement, and retained with the instrument, where the executing interested party has presented the paper instrument in person; or

(iii) where a paper instrument has been executed by a person authorised by a Public Corporate but lodged by another person, the person registering verifies the authenticity of the instrument with the Public Corporate.

(b) If the transaction is a high-risk transaction as defined in paragraph 5.1, the person registering must carry out the additional steps set out in paragraph 5.2.

(c) The LINZ office registering the transaction must ensure there is a record kept of all information and inquiries made towards verifying identity of signatories, including the presenter's details.

ASSESSMENT OF PAPER INSTRUMENTS

For guidance see Assessment of paper instruments on page G9 of the guidance material.
Appendix: Declaration of identity form for the purposes of paragraph 4.2

I [full name of witness] of [town/city of residence], [occupation] do solemnly and sincerely declare that:

1. I am aged 18 years or over.
2. I have personally known [full name of interested party whose identity is being verified] for [number of years].
3. The residential address of [full name of interested party whose identity is being verified] is [interested party's full residential address].
4. The photograph annexed to this declaration and marked with the letter “A” is a true likeness of [full name of interested party whose identity is being verified].
5. I am the holder of government-issued photographic identification, an extract of which, showing my photograph and the identification number, is annexed to this declaration and marked with the letter “B”.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Signature

DECLARED at [town, country]

this [dd] day of [Month] 20[yy]

before me

Signature Name

A person authorised to take a statutory declaration under the Oaths and Declarations Act 1957
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Guidance material
Verification of identity for registration under the Land Transfer Act 1952

Introduction
This guidance material provides best practice information and examples to assist practitioners and interested parties in meeting the requirements of the standard.

Contents
This section contains the following topics:

<table>
<thead>
<tr>
<th>Topic</th>
<th>See Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>General requirements for practitioners verifying identity</td>
<td>G2</td>
</tr>
<tr>
<td>Suitable ID for the purposes of the standard</td>
<td>G5</td>
</tr>
<tr>
<td>Exception for Public Corporates</td>
<td>G7</td>
</tr>
<tr>
<td>Verification for high-risk transactions</td>
<td>G8</td>
</tr>
<tr>
<td>Assessment of paper instruments</td>
<td>G9</td>
</tr>
</tbody>
</table>
General requirements for practitioners verifying identity

Delegating verification of identity

(a) Where a certifying practitioner cannot personally verify the identity of an interested party, for example if the party lives in another location or is in another country, the practitioner may have identity verification carried out by a delegate. The delegate must be an independent trusted person who the practitioner can reasonably rely on.

(b) For example, it would be reasonable to rely on documents witnessed by a practitioner in another firm, or some other trusted professional. On the other hand, it would not be reasonable to rely on documents witnessed by a friend or relative selected by the client.

(c) Where a party being identified is in another country, it is reasonable for a practitioner to rely on a notary public, or someone else specified in r 16(4) of the LTR, to witness and verify their identity.

(d) The practitioner should retain a file note or other written record of their reason for relying on a particular delegate, if it is not obvious from the delegate's occupation.

(e) The practitioner will need to advise the interested party being identified:

(i) that they are to provide the delegate with the documents specified in paragraphs 4.1(a) and 4.2(b) of the standard, where relevant/applicable, and

(ii) the delegate will need to examine the documents and create certified copies for the practitioner to retain as evidence of identity.

(f) If the party being identified does not have suitable photographic ID, as set out in Suitable ID for the purposes of the standard on page G5, then the practitioner should advise them to follow the process described in paragraph 4.2 of the standard.

(g) No matter who carries out the identity checks, it is the certifying practitioner who is ultimately responsible.

Verifying identity with rates demand for transfer or mortgage transactions

(a) A document required by paragraph 4.1(a)(ii) of the standard, such as a rates demand, should be one that the landowner has received from the relevant territory authority, bank, or utility supplier.

(b) By contrast, documents required by paragraph 4.1(a)(ii) of the standard, obtained by a practitioner, would not have probative value and are therefore not suitable for confirming he or she is dealing with the landowner.

continued on next page
Multiple landowners

Where there are several landowners transferring or mortgaging a property, documentation required by paragraph 4.1(a)(ii) of the standard provided by at least one of the landowners is sufficient.

Note: The photographic IDs for all landowners must be examined as required by paragraph 4.1(a)(i) of the standard.

New landowners transferring or mortgaging

(a) Paragraph 4.1(a)(ii) of the standard does not apply to a transferee who is mortgaging or on-selling the property in the same transaction.

(b) Where the landowner has purchased only recently and does not hold the documents required by paragraph 4.1(a)(ii) of the standard, and is not previously known to the practitioner, then the practitioner should treat a transfer or mortgage as a high-risk transaction and carry out the checks outlined in paragraph 5.2 of the standard.

Practitioners who know the landowner personally

(a) A practitioner who is confident as to the identity of a landowner on the basis of personal knowledge may choose to dispense with the requirements of paragraph 4.1(a)(ii) of the standard to examine a document such as a rates demand, or treat a transaction as not falling under the category of ‘high-risk’ for the purposes of paragraph 5.1 of the standard.

(b) The practitioner must still examine and retain photographic ID documentation as required by paragraph 4.1(a)(i) of the standard, or have that done by a reliable delegate, to verify that it is indeed that landowner who authorised him or her to deal with their land.

(c) An element of judgement is required in the application of these standards. For example, it may be reasonable to claim personal knowledge on the basis that the landowner has been a longstanding client of the firm, even though most of the client interaction has been with other lawyers in the firm.

(d) It would, however, be unreasonable to claim personal knowledge if the landowner is a stranger, was previously unknown to the firm, or has only recently become a client.

(e) The practitioner should retain a file note or other written record explaining their personal knowledge and other circumstances that give them confidence in the landowner’s identity.

continued on next page
General requirements for practitioners verifying identity, continued

**Instructions received outside the practitioner's office**

When a practitioner anticipates receiving instructions outside the office, where a copier is not available, they should arrange to have copies of evidentiary documents made in advance so that they can comply with paragraph 4.1(c) of the standard.

**Passport security features**

(a) Passports may have security features built into them so that a copy cannot be passed off as the original. For example, recently issued New Zealand passports cause the word ‘void’ to appear on photocopies that are made from them.

(b) A photocopy of a passport that includes the word ‘void’ is suitable for retention, provided the practitioner or their delegate has examined the original.
Suitable ID for the purposes of the standard

Examples of suitable ID

(a) A passport, NZ driver licence, or NZ firearms licence are suitable government-issued photographic ID for the purposes of the standard (paragraph 4.1(a)(i)).

(b) Other forms of photographic ID may be suitable, if they are:

   (i) issued by an NZ central government agency for the express purpose of identifying the holder to police, immigration, or other government authorities, and

   (ii) the issuing process for that photographic ID requires a high standard of proof of the person’s identity, equivalent to that required for a passport, NZ driver licence, or NZ firearms licence, and

(c) the issuing agency requires renewal at regular intervals.

Suitable government-issued photographic IDs

(a) The issuing processes for passports, driver licences, and firearms licences can be found at the following websites:

   (i) New Zealand Passports—http://www.dia.govt.nz


   (iii) NZ Transport Agency—http://www.nzta.govt.nz

(b) A SuperGold Card with the holder’s photograph is suitable. The process for adding a photograph to a SuperGold Card is similar to obtaining a replacement driver licence, and the Ministry of Social Development states that the card can be used for identification if the holder does not have a current driver licence or passport.

Unsuitable government-issued photographic IDs

(a) A SuperGold Card without the holder’s photograph is not suitable; as such cards are not issued for the purpose of identity verification.

(b) Government employee ID cards, or local government-issued cards are not acceptable because the issuing authority does not intend such cards to be used for identification purposes generally or outside the context in which they are issued.

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**Suitable ID for the purposes of the standard, continued**

**Expired government-issued photographic IDs**

(a) An expired passport, driver licence, or similar, is not suitable for the purposes of paragraph 4.1(a)(i) of the standard. A non-current form of photographic ID with an out-of-date photograph does not provide sufficient confirmation of identity.

(b) If the person being identified only holds an expired photographic ID, then the practitioner should verify their identity following the process set out in paragraph 4.2 of the standard.

**Overseas government-issued photographic IDs**

(a) A current passport issued in another country is suitable for the purposes of paragraph 4.1(a)(i) of the standard, because it is issued for the purpose of identifying the holder internationally.

(b) Other overseas government-issued photographic IDs are not suitable because they are not issued for the purpose of identifying the holder internationally.

(c) An overseas-issued driver licence is not suitable, as it is only issued to licence the holder to drive in the country of issue. An international driver permit issued to allow the holder to drive legally short-term in other countries is also not suitable.

(d) If an overseas client does not hold a current overseas-issued passport see paragraph 4.2 of the standard.

**Photographic ID to support a witness statutory declaration**

If an interested party presents a photographic ID card that is not an acceptable government-issued photographic ID, it may still be a suitable photograph for paragraph 4.2(b)(iv) of the standard, to support the statutory declaration of a witness.

**Name discrepancy between photographic ID and computer register**

(a) If an interested party’s name on their photographic ID does not match their name on the relevant computer register, then a practitioner will need to retain additional documentation, such as an official certificate evidencing a name change, or a statutory declaration by the interested party, as evidence the party named on the computer register and the photographic ID is one and the same person.

(b) Suitable additional documentation will be similar to the supporting documentation described in LINZG20704: Guideline for making application to change or correct names on the Registrar-General of Land’s records.
Exception for Public Corporates

Public Corporates

Public Corporates, being publicly listed companies, territorial authorities, or government departments/agencies, can be expected to properly manage their delegations to officers to authorise transactions on their behalf, in accordance with any governing statutory requirements. This means a practitioner who initiates contact with a Public Corporate can reasonably rely on the authenticity of documentation the Public Corporate provides without the need for further verification of signatories' identities or authority to sign.

Note: Paragraph 4.3(b) of the standard requires a practitioner who did not initiate contact to verify the authenticity of documentation with the relevant Public Corporate.

Private Corporates

If the interested party giving authority is a Private Corporate, for example, a company that is not publicly listed, or an incorporated society, then the practitioner must verify signatories' identities in accordance with paragraphs 4.1 to 4.2 of the standard as applicable, as well as their authority to sign for the corporate entity in accordance with the Companies Act 1993 or other relevant governing statute and the corporate entity's constitution.

Institutional chargeholders

The standard does not change existing institutional chargeholder guidelines for chargeholder authorities for transactions such as new mortgages or discharges. The provisions set out in the New Zealand Law Society Property Transactions and E-dealing Practice Guidelines, relating to reliance on letters of instruction and executed discharges, still apply.
Verification for high-risk transactions

(a) The purpose of part 5 of the standard is to define a 'high-risk transaction', where there is a greater likelihood of people acting fraudulently, and to provide suggestions for how practitioners can make their independent inquiries in those situations.

(b) Paragraph 5.2 of the standard requires the practitioner or delegate to not only examine and retain copies of photographic ID and a document, such as a rates demand under paragraph 4.1 of the standard, but also to make further independent inquiries to corroborate those documents and satisfy themselves the client really is the landowner.

(c) The level of further investigation required for high-risk transactions is in line with the expectations of the banking and finance industry, and the legal profession.

(d) The RGL does not intend practitioners to go to unreasonable lengths to confirm client identity.
Assessment of paper instruments

Signing correct

The requirements set out in part 6 of the standard, Assessment of paper instruments, apply whether or not the instrument is signed correct by a practitioner.

Witness details

The requirements set out in part 6 of the standard, Assessment of paper instruments, mean there needs to be sufficient information supplied and retained with the instrument to ensure the witness can be contacted, for example, name, occupation, and firm name if the witness is a practitioner or employee of a practitioner's firm, or name, occupation, and contact details for other witnesses.