

Inability to Receive Instruments

LTP/1999/001 | Version 2.4

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1. Version History

Date	Version	Author	Description/Comments
05 January 1999	V1		To advise Departmental staff of the procedure
25 July 2004	V2	.	Amended to clarify the requirements and to update the disclaimer for and information sheet
1 June 2005	V2.1		Conversion Project – ne Word/XML template
20 April 2008	V2.2		Remove attachment
2 December 2010	V2.3		Update Corporate branding
19 September 2013	V2.4		Update Corporate branding and refreshing of text to fit current template

2. Approval

Liz Dann Executive Director, Titles Registry	19 th September, 2013
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3. Purpose

This procedure describes the titles registry's requirements for the lodgement of instruments when the Automated Titles System (ATS) is not available.

4. Rationale

Background

If ATS is unavailable for any reason then it is not possible to lodge any dealing and endorse the time and date and therefore give the dealing its priority.

When ATS is unavailable clients should be informed that, as we do not have the means to allocate priority, we cannot accept dealings for lodgement until the system is restored. However if a client has difficulty returning to a departmental office to lodge at another time, an alternate facility is available to manually assess and receipt payment of the prescribed fees for your dealings and hold them at a departmental office until ATS is back on-line.

If a client wishes to use this service they will be required to complete a customer agreement form. This agreement must be signed by either a party to the dealing or by a partner of a law firm and must include a completed schedule of dealings to be lodged.

The fees are to be assessed and a manual receipt written for the monies tendered.

All dealings left at a lodgement centre of the department during these times are to be treated in a similar fashion to dealings received through the mail. That is the dealings are entered into the system at the discretion of the titles registry and not in a particular order in relation to other dealings including those presented when the system is again available.

All dealings left at an office during a period when ATS is unavailable must be reconciled with the manual receipt when they are lodged into ATS.

5. Procedure

If ATS is unavailable, for any reason, clients must be informed that dealings cannot be lodged.

If a client insists on leaving their dealings it must be explained that:

1. leaving their dealings with us at this time does not mean that the dealings are lodged;
2. only when their dealings are entered into ATS do the dealings have their priority;
3. as we cannot enter their dealings into ATS we cannot give their instruments priority;
4. they will be issued with a manual receipt for the monies left with their dealings at this time;
5. when ATS comes back online the dealings will be entered into ATS and they will then receive their lodgement summary.

If after this explanation a client wishes to leave their dealings for later lodgement a disclaimer form must be signed either by a party to the dealing or a partner of a law firm lodging the dealing to the effect that the above was explained and they accept that priority has not been established.

When ATS is again available the dealings are entered into ATS but not necessarily prior to other dealings presented after ATS becomes available.



The disclaimer must remain with the dealing and be imaged along with the dealing. Where there is more than one dealing left with us then the disclaimer will be imaged with the first dealing. A message goes into the dealing notes of each subsequent dealing stating which dealing the disclaimer is with.

If you are in the middle of a lodgement when ATS becomes unavailable then a manual receipt can be issued for only that part of the lodgement that has already been entered onto ATS.

All dealings left for lodgement when ATS is unavailable must be reconciled with the manual receipt when they are entered onto ATS.

Every effort must be made to enter all dealings into ATS as quickly as possible after the system is again available.

6. Responsibilities

Receiving officers in the titles registry lodgement and registration centres.

7. Definitions

Section 178 of the *Land Title Act 1994* states "----- instruments have priority according to when each of them was lodged -----" and that "----- an instrument is taken to be lodged on the date and at the time endorsed on the instrument -----". Section 298 of the *Land Act 1994* mirrors this provision. The definition of 'lodge' under section 4 of the *Land Title Act 1994* and section 3 of the *Land Act 1994* means "file in the land registry for registration", i.e. enter into ATS not just leaving the dealings at a departmental lodgement office.

In this procedure "dealing" means an "instrument" within the meaning of the *Land Title Act 1994* or a "document" within the meaning of the *Land Act 1994*.

8. Legislation

Land Title Act 1994

Land Act 1994