

6 April 2021

Mr Bruce Roberts
Registrar of Titles
Landgate
1 Midland Square,
MIDLAND WA 6056

Email: Bruce.Roberts@landgate.wa.gov.au

Dear Registrar

POSTAGE DELAYS AND STATUTORY TIME LIMITS – CAVEATS

I refer to notice periods found in sections 138 and 138B of the *Transfer of Land Act 1893* (WA) (the TLA).

The Law Society's membership has raised issues regarding the service of notices to a person under the TLA. I understand that mail from Landgate is being received, for example, 10 days into a 14 day notice period, placing considerable pressure on practitioners to take action in regards to the notice.

I understand a reason for this is the Federal Government's adjusted performance standard for Australia Post, to support the postal operator to manage changes in service demands occasioned by the COVID-19 pandemic.¹

I note that the current explanatory note on a Caveat notice provides: 'unless you can prove otherwise, the date of this letter is also the date this letter was posted'. It appears the only avenue to request a postponement to a lapse date of a caveat is to prove the date of actual service is later than the deemed date of service. However, the issue is that the deemed service date in s.240(4) of the TLA is ambitious compared to the ordinary course of post at the moment.

I also note Part 3B of the *Transfer of Land Regulations 2004* allows for the service of notice by email. The Law Society of Western Australia would welcome exploration of electronic service as a potential solution to this issue, and the Society would be willing to encourage practitioners to provide email addresses on caveats and approved forms.

¹ <https://auspost.com.au/service-updates/current-updates/temporary-changes-to-letter-delivery>

Alternatively, in anticipation of a future comprehensive review of the TLA, it may be appropriate to reflect the postal realities in Australia in any amendments to the service provisions in the legislation.

If you have any queries please contact Mary Woodford, General Manager Advocacy and Professional Development on 9324 8646 or mwoodford@lawsocietywa.asn.au

Yours sincerely

A handwritten signature in blue ink that reads "J Boujos". The signature is fluid and cursive, with the first letter 'J' being particularly large and stylized.

Jocelyne Boujos
President

Copy to:

Ms Susan Dukes
Commissioner of Titles
1 Midland Square, Midland WA 6056
Susan.Dukes@landgate.wa.gov.au