

# Free searches of the Titles Register

LTP/2013/707 | Version 5

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## Version History

Date	Version	Author	Description/Comments
1 June 2005	1.1		Conversion Project - new Word / XML template
30 July 2006	2	.	Replace Version 1.1 - Updated to reflect changes to procedures
30 April 2006	2.1		Change of name of document
3 August 2006	2.2		Correct minor typographical error on title page
26 July 2007	2.3		Amend reference to fees
22 November 2010	3		Change title of document and amend document to make relevant to all agencies
5 December 2011	4		Inclusion of reference to Fair Trading Act 1989 (Qld)
19 September 2013	4.1		Update Corporate branding and refreshing of text to fit current template
6 February 2014	5		Complete rewrite and modernisation; and changing of document ID from LTP/2002/001 to LTP/2013/707 due to new register

## Approval

<p>Liz Dann Executive Director, Titles Registry</p>	<p>6<sup>th</sup> February, 2014</p>
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## 1. Summary

There are certain organisations or people that are exempt from paying fees for titles searches. This policy sets out who is eligible and the preferred way in which those searches are to be made available, in particular to maximise efficiency for all while allowing for audit and reconciliation to occur. The department's preferred mode of access to searches for those organisations with both legislative authority for free searches and frequent and ongoing requirements is for the organisation to obtain the searches electronically, through access to ATS under the terms of a signed agreement with the Registrar and using secure and monitored password access.

## 2. Purpose

To establish the policy and procedure relating to people/organisations obtaining free titles searches.

## 3. Rationale

Under s35 of the *Land Title Act 1994* a person, on payment of the regulated fee, can obtain a copy of a titles search.

Under s35(6) the Registrar may enter into an arrangement with another department of the Queensland government allowing the department to obtain a copy of a search without payment of the fee, so long as that search is not being used for a commercial purpose, including, for example, the marketing or sale of the information; or included in another database of information, in any form, other than with approval from the registrar.

The *Land Act 1994* has similar provisions regarding state land related register searches, and the *Water Act 2000* has similar provisions regarding water related searches.

A number of Acts also provide that various other organisations or specific people may obtain searches for free. In particular, s265A of the *Local Government Act 2009 (Qld)* provides that a local government may conduct searches of registers or documents about land in the land registry in accordance with the practice of the registry without payment of a fee.

The people or organisations where legislation provides for free searches are referred to in this policy as "exempt organisations".

The Queensland Police Service, the Queensland Office of the Director of Public Prosecutions and the Queensland Crime and Misconduct Commission all have various legislative provisions that make them exempt organisations.

Other legislation under which the Registrar deems certain people or organisations to be exempt from payment of the search fee includes:

- *Income Tax Assessment Act 1936 (Cth)*
- *Taxation Administration Act 1953 (Cth)*
- *Social Security (Administration) Act 1999 (Cth)*
- *Taxation Administration Act 2001 (Qld)*
- *State Penalties Enforcement Act 1999 (Qld)*
- *Criminal Proceeds Confiscation Act 2002 (Qld)*



- *Public Trustee Act 1978 (Qld)*
- *Fair Trading Act 1989 (Qld)*

## 4. Policy

All people who wish to obtain a copy of a titles search have to pay the regulated fee, unless they are exempt under an Act.

Because there are some organisations that are therefore exempt, the department has put in place processes to ensure that free copies of searches are only obtained by those organisations that are exempt, for the purposes allowed by the legislation exempting them, and that the quantum of these free searches obtained is recorded and auditable.

To this end, the department's preferred mode of access to searches for those organisations with both legislative authority for free searches and frequent and ongoing requirements is for the organisation to obtain the searches electronically, through access to ATS under the terms of a signed agreement with the Registrar and using secure and monitored password access. Quantities of searches obtained, and by whom, are as a result automatically recorded and can be monitored.

For those exempt organisations that have only rare requirements for searches, the searches can be ordered at a DNRM counter, or by email.

Where exempt organisations use the DNRM counters or email, they must provide individual verification of authorisation from their organisation for free searches (see attached a sample form which can be used by the organisation) and verification of identity. DNRM must record the verification of authority, sign that they have assessed verification of identity and record the number of searches obtained.

Obtaining free copies of searches does not mean that delivery is also free where the organisation has asked to have the searches delivered by post or some other means where there is a significant additional cost involved.

Any search undertaken through one of the online information brokers attracts payment of the normal broker fee, no matter whether the organisation is or is not an exempt organisation. No refunds will apply, and any questions or queries regarding searches through online information brokers must be directed to the online information brokers.

## 5. Procedure

For exempt organisations using a DNRM counter or email, free search requests must be submitted to DNRM in writing on agency letterhead or on a properly completed departmental request (see attached sample). The request must quote the Act and the specific section authorising the free search. Each request must be supported by appropriate evidence of authority from the agency, and refer to the authorised employee by name, which is then verifiable (eg by an employee's government ID card). A letter of authority can remain current for 12 months and may be used on multiple occasions.

DNRM will retain the original request and a copy of the letter of authority for audit purposes.



Where a solicitor or surveyor (or similar) conducts searches on behalf of an exempt organisation, a letter of authority from the exempt organisation, referring to the relevant firm/company by name, and appropriate evidence of the identity of the person making the request, must be provided. Such a letter may be used for a period of 30 days. A copy of the letter must be retained by DNRM with the search request. The solicitor, surveyor (or similar) must be advised that the copy of the search obtained is only to be used for uses directly related to the exempt organisation they are working for and is not permitted to be used for any other purpose.

Free search requests for small numbers of searches (eg under 10) will usually be processed within 48 hours of being submitted. Timing of fulfilment of large volume searches need to be negotiated with the relevant local DNRM manager.

The exempt organisation's authorised representative must sign for the searches when they are collected.

An exempt organisation may provide an adequate number of stamped self-addressed envelopes in which the copies of the searches will be posted to them, or the exempt organisation may have the searches posted to them, but they will be charged for postage. Postage fees must be paid by cash, cheque or credit card when a search request is submitted.

The department must keep a record of all such searches provided and how they were delivered or collected.

At any time the department may choose to audit letters of authority and/or the quantum of searches being provided. Any abnormally high volume of free search requests, citation of legislative authority that does not appear on the departmental form or any request submitted with an out-of-date authority document should be referred to the Registrar for attention.

## 6. Application of Policy

Searches relevant to this policy include the following:

- produced from the Automated Titles System
  - current/historical title search
  - current/historical State tenure search
  - current/historical water allocation search
  - current/historical reserve search
  - current/historical plantation licence search
  - search of power of attorney
  - search of USL
- produced from the imaging system
  - print of instrument
  - print of historical title
  - print of document
  - print of community management statement
  - print of survey plan

This policy does not relate to other searches and saleable products for example, information extracted from Queensland Valuation Administration System or from the imaging system (permanent marks or sketch plans), survey field notes, smartmaps, maps or aerial photography.

This policy does not relate to investigative searches of the register/s by the Registrar or an employee of the department or where additional computer programming is required, such as searches conducted under the following provisions:

- item 11 of schedule 2 Land Title Regulation 2005
- item 9 of schedule 11 of the Land Regulation 2009
- item 20 schedule 16 of the Water Regulation 2002

## 7. Attachments

Attachment A: Request for standard search of the Titles Registry

## Request for standard search of the Titles Registry<sup>#</sup>

<b>DNRM Business Centre</b>	<b>Phone: 07</b>	<b>Fax: 07</b>
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### Customer details

<b>Agency:</b>			
<b>Address:</b>			
<b>Contact Name:</b>	<b>Phone:</b>		
<b>Order no.:</b>	<b>Fax:</b>		
<b>Date:</b>			
<b>Delivery (circle)</b>	For collection	Fax*	Post**
*Handling charges may apply and must be paid when order is submitted			
**Postage charges may apply and must be paid when order is submitted or stamped self addressed envelopes submitted			

### Authorising legislation

<p style="font-size: small;">Authorising legislation and relevant section must be stated Search must be required for agency business under the authorising Act.</p>
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### Search details

Type of search and details	Quantity (DNRM use)
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10	

### Collection details

<b>Collected by:</b> _____	<b>Signature:</b> _____	<b>Date:</b> _____
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DNRM use

Details of Customer ID			
Name: _____	Employee no. etc: _____		
Request no.: _____	Processed by: _____	Date: _____	
Searches faxed/posted by: _____	Entered in Revenue Forgone Register by _____		

<sup>#</sup>Order is subject to DNRM policy LTP/2013/707—a letter of authority is required with each order or batch of orders

