

³Part 33 – Release of Covenant/Profit a prendre

Table of Contents

General Law.....	[33-0000]
Practice	[33-2000]
Release of Covenant.....	[33-2100]
Release of Profit a prendre	[33-2200]
Forms	
General Guide to Completion of Forms.....	[33-4000]
Guide to Completion of Form 33	
Item 1	[33-4010]
Item 2	[33-4020]
Item 3	[33-4030]
Item 4	[33-4040]
Item 5	[33-4050]
Case Law	[33-7000]
Fees	[33-8000]
Cross References and Further Reading	[33-9000]
Notes in text	[33-9050]

³Part 33 – Release of Covenant/Profit a prendre

General Law

[33-0000]

An instrument of covenant or profit a prendre that is registered in the Land Registry creates a charge over the lot(s) described in it and requires compliance with the obligations contained in the instrument.

The grantee may execute an instrument to release a covenant or profit a prendre and on registration in the Land Registry, the charge is discharged to the extent shown in the instrument of release.

Practice

[33-2000]

The appropriate form for a release of either a covenant or a profit a prendre is a Form 33 – Release of Covenant/Profit a prendre.

Release of Covenant

[33-2100]

A covenant may be wholly or partly released by registering a Form 33 – Release of Covenant.

A partial release of covenant must clearly specify the extent to which the covenant is released. If a covenant restricted several uses and was to be released from less than all of the uses, the use to be released can be described verbally and that description of an obligation may be included in item 5 of the Form 33 or if insufficient space, in a Form 20 – Enlarged Panel annexed to the Form 33.

For a partial release of part of the area affected by a covenant the area being released or the area not being released must be defined on a survey plan (see the Registrar of Titles for the Preparation of Plans for the requirements for a plan for an area for a covenant).

A covenant that is for ensuring that lots remain in the same ownership can only be partially released if at least two lots remain subject to the covenant after the partial release.

The instrument must be signed by the covenantee.

Release of Profit a prendre

[33-2200]

Under the provisions of ss 97L(1) and (2) of the *Land Title Act* 1994 a profit a prendre may be released to the extent shown in the instrument of release.

A profit a prendre may be partially released i.e. so far as it relates to:

- part of the land; or
- some of the substances that may be taken from the land. For example, a profit that entitles a party to take trees and gravel might be partially released so that the trees are excluded leaving only the right to take gravel.

The release must clearly specify the extent to which the profit a prendre is being released.

If the instrument does not release the whole of the land from the profit a prendre, the area being discharged or the area not being discharged must be defined on a survey plan.

A Form 33 – Release of Covenant/Profit a prendre signed by the grantee must be lodged to register a release of a profit a prendre.

Lodgement fees are payable.

A release of a profit a prendre requires a notation of the payment of transfer duty.

Forms

General Guide to Completion of Forms

[33-4000]

For general requirements for completion of forms see part 59 – Forms, esp ¶[59-2000].

Dealing Number



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Collection of this information is authorised by the Land Title Act 1994 and the Land Act 1994 and is used to maintain the publicly searchable registers in the land registry. For more information about privacy see the department's website.

1. Type/Dealing No. of instrument/document being released	Lodger (Name, address, E-mail & phone number)	Lodger Code
Type of Instrument/Document PROFIT A PRENDRE	SMYTHE & CO. SOLICITORS 45 ADELAIDE STREET BRISBANE QLD 4000 mail@smytheco.com.au (07) 3227 9850	490
Dealing Number 723651098.....		

2. Lot on Plan Description	County	Parish	Title Reference
LOT 33 ON RP857601	STANLEY	MITCHELL	11567215
LOT 34 ON RP857601	STANLEY	MITCHELL	11567216

3. Grantor/Covenantor
KRISTINA MARIA JOHNSON

4. Grantee/Covenantee
IVAN GEORGE JOHNSON

5. Execution by Grantee/Covenantee
***Full Surrender**

The Grantee/Covenantee releases the covenant/profit a prendre in item 1 so that the covenant/profit a prendre is extinguished.

***Partial Surrender**

The Grantee/Covenantee releases the covenant/profit a prendre in item 1 so far as relates to the land in item 2:-
*so far as relates to a part of the land being
*so far as relates to the substance taken from the land being

*delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

P L Fish
.....signature
PETA LAUREL FISH
.....full name
SOLICITOR
.....qualification

15/11/2007
Execution Date

I G Johnson
.....
Grantee's/Covenantee's Signature

Witnessing Officer
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Guide to Completion of Form 33

Item 1

[33-4010]

Insert the type of instrument and dealing number of the instrument to be released.

Item 2

[33-4020]

The description of the lot should be 'Lot [number] on [Plan reference]'. The 'County', 'Parish' and 'Title Reference' for each lot must also be completed. In the case of State tenure, the tenure No. should also be inserted in the description panel, eg –

Lot on Plan Description	County	Parish	Title Reference
Lot 6 on RP137064 [where land is State tenure: 'SL27/32371']	Stanley	Tingalpa	16243027

Item 3

[33-4030]

Insert the full name of the grantor.

Item 4

[33-4040]

Insert the full name of the grantee.

Item 5

[33-4050]

Complete and execute where indicated.

¶[33-6000] deleted

Case Law

[33-7000]

Nil.

Fees

[33-8000]

Fees payable to the land registry are subject to an annual review.

See the current *Land Title Regulation 2005* – Schedule 2, item numbers 2(h) and 2(m).

Cross References and Further Reading

[33-9000]

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 29 – Profit a prendre

Part 31 – Covenants

Notes in text

[33-9050]

Note ³ – This part is not applicable to water allocations or the Water Allocations Register.