

DISCHARGES

There are two basic types of Discharges registerable at Land Titles, full and partial. In the event that the instrument being discharged is fully satisfied and the encumbrance is to be removed from all affected titles, a Full Discharge is to be used. At all other times a Partial Discharge is to be used, even where one title is being completely released, with the encumbrance surviving on other titles.

In completing the Discharge form, regardless of whether the Discharge is to be full or partial, list all of the current titles that the discharge is to affect. In a Partial Discharge the affected lands must be set out, but should not be set out in a full discharge.

When discharging instruments which have been transferred, assigned or amended, please discharge the original instrument, and not the Transfer, Assignment, or Amendment. Discharging the original instrument will have the effect of removing all of the instruments that affect it. In cases where the instrument has been transferred or assigned details of the transfer or assignment must be set out.

A Discharge of a Judgment (or Order) for spousal support must be executed by the person in whose favour the Order was made (s.21 (5) *The Judgments Act*). If the Judgment contains a provision the support of children it may only be discharged by an Order of the court (s. 21(1) *The Judgments Act*). Please provide a court certified copy of the Order attached to a Request/Transmission form.

DISCHARGES EXECUTED BY AGENTS

An agent may execute the Discharge of a **Caveat** where the agent also executed the caveat (s. 75 (7.1) *The Real Property Act*). An agent may discharge a **builder's lien** provided the agent has the authorisation in writing to do so (s. 55(1) *The Builders' Liens Act*). This authorisation must be attached to the Discharge when it is filed at Land Titles. A **Judgment** which is for neither alimony, maintenance, nor child support may be discharged by "any person entitled to discharge the Judgment" (s. 20 *The Judgments Act*). This may be an agent (s. 75(7.1) *The Real Property Act*), provided that they are the agent who registered the Judgment.

See **ESTATES** for the execution of Discharges by the executors named in an unprobated will.

See also **PERSONAL PROPERTY SECURITY NOTICES**.