

Removal and Withdrawal of Caveats

Removal and Withdrawal of Caveats – what is the difference?

It is not uncommon for these two dealings to be confused however they are distinctly different.

It is imperative for representatives to ensure the correct form has been utilised and prepared correctly on behalf of their client, keeping in mind the responsibilities of a solicitor or registered conveyancer when making certifications under section 273 of the *Real Property Act 1886* (RPA).

False certification may result in penalties.

Removal of Caveat (RX)

A caveatee, (registered proprietor of land, or proprietor of an interest in land, subject to a caveat), is entitled under s191(1)(e) of the RPA to lodge an [Application to Remove Caveat](#).

- This procedure is sometimes referred to as “warning” the caveat.
- A [Removal of Caveat](#) is required to be completed and lodged.
- If the caveatee is represented by a solicitor or registered conveyancer, the execution is affected by the solicitor or conveyancer – who has been duly authorised and must hold a properly completed [client authorisation](#)
- The Registrar-General's [Verification of Identity Requirements](#) and [Verification of Authority Guidelines](#) must be complied with.

Upon receipt of lodgement of an Application to Remove Caveat, Land Services SA will send to the caveator (at the address nominated in the caveat for the service of notices) a notice to inform of that lodgement so as the caveator can take the required action to ensure the caveat is not removed.

After the expiration of twenty-one (21) days from the posting of the notice the caveat will be removed.

The caveat will not be removed if a court order (directing that the time for removal be extended beyond the 21-day period) made under section 191(1)(g) of the RPA, is served upon the Registrar-General.

Please note:

- Any caveatee contesting the lodgement of a caveat should be aware they may need to attend court.
- Any application for an order extending the time for removal of a caveat must be lodged with the Supreme or District Court of South Australia.
- An application under s 191(1)(e) of the RPA cannot be made to the Registrar-General for the removal of a caveat that is lodged by a Settlor or by a Beneficiary under a Will or Settlement.
- It is not mandatory to lodge Removal of Caveat applications electronically, therefore you may lodge by paper or electronically via an Electronic Lodgement Network Operator (ELNO).

A removal of caveat may be utilised where it is not possible to obtain the signature of the caveator to withdraw a caveat (for example, where a caveator is a corporation which is now defunct).

[Form RX – Removal of Caveat](#)

[Form RX Guidance Note - Application to Remove Caveat](#)

Withdrawal of Caveat (WX)

A caveator (person who lodged the caveat) may apply to withdraw the caveat if their claim has been satisfied. This is done by lodging a [Withdrawal of Caveat](#).

- In this instance, there is no 21-day time period or need for notices to be issued
- If the caveator is represented by a solicitor or registered conveyancer, the execution is affected by the solicitor or conveyancer – who has been duly authorised and must hold a properly completed [client authorisation](#)
- The Registrar-General's [Verification of Identity Requirements](#) and [Verification of Authority Guidelines](#) must be complied with.

Please note:

- If you are a Solicitor or Registered Conveyancer acting on behalf of the caveatee (the registered proprietor) you CANNOT certify the Withdrawal of Caveat.
- It is mandatory to lodge Withdrawals of Caveat electronically via an ELNO.

[Form W1 – Withdrawal of Caveat](#)

[Form W1 Guidance Note - Withdrawal Caveat](#)

Self-Represented Parties

- A person that completes the [Form RX](#) or [Form W1](#) without the assistance of a Registered Conveyancer or Legal Practitioner, will need to comply with the legislative requirements and provide the relevant certifications that apply to self-represented parties.
- Land Services SA strongly advises all people to seek [professional assistance](#) when dealing with any estate and interest in land