



## Easements

An easement is a right held by one property owner (or person) to make use of the land of another for a limited purpose. Therefore, it is an interest in land and is dutiable property.

A transaction is dutiable where it amounts to any of the following situations:

1. a transfer of an easement whether conditional or not; or
2. a grant or surrender of an easement; or
3. a vesting of an easement by or as a consequence of a statute or court order.

The one **exception** to the above, is where an easement is created by and contained within a Schedule of Easements attached to a Sealed Plan.

Where an easement is transferred (other than as part of a transfer of the land itself), granted, vested or surrendered, the duty payable is determined on the dutiable value of the easement.

Where no consideration is provided, the value in most cases will be nominal.

## Covenants and Restrictive Covenants

A covenant (including a restrictive covenant over land) is an agreement creating an obligation. Where a covenant is attached to land, it is an interest in land and, therefore, is dutiable property.

A transaction that amounts to either of the following two situations is dutiable:

1. a creation (grant or vesting) of a covenant; or
2. an extinguishment (surrender) of a covenant.

Where a covenant is created or extinguished, the duty payable is to be assessed on the dutiable value.

Where no consideration is provided, the value in most cases will be nominal.

## Can TRO Agents self-endorse these transactions?

Yes, see the notes below:

- i) Transactions relating to easements (including transfer, grant, vesting or surrender) are mandatory for self-endorsement;
- ii) A covenant is an optional transaction for self-endorsement. However, if the transaction is submitted to the SRO for assessment an administrative fee will apply.

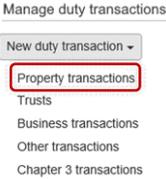
## More information about duty transactions

- a) [Duty instrument TRO self-endorsement arrangements guideline.](#)
- b) [Documentary evidence requirements guideline.](#)
- c) [Evidence of value revenue ruling.](#)



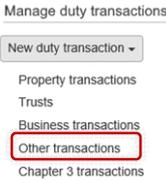
## Entering the transaction in TRO

### Easements

- From the *New duty transaction* drop-down menu, select *Property transactions*. 
- On the *Dealing information* screen, from the *Transfer type* drop-down box select *Easement*. Enter the *Client reference* and the *LTO dealing number*.
- A few points to note before you progress through *Transferor information*, *Transferee information*, *Transaction information*, and *Exemptions and concessions* screens:
  - i) PID or the Volume/Folio references are required;
  - ii) check the names of transferor and transferee are correct;
 

**Important:** Where the parties to the transfer are individuals, please enter their correct date of birth to ensure a match between the person and the transaction. The State Revenue Office requires this data.
  - iii) on the *Transaction information* screen, if the monetary consideration is \$0.00, choose one of the non-monetary considerations from the drop-down options (for example, select *Gift* if the transfer is because of 'neighbourly kind regard'); and
  - iv) if claiming an exemption/concession, select the relevant category and section from the drop-down menu.
- Self-endorse the transaction.

### Covenants

- From the *New duty transaction* drop-down menu, select *Other transactions*. 
- On the *Dealing information* screen, from the *Transaction type* drop-down menu, select *Restrictive covenant/transfer of mortgage*. Enter the *Client reference* and the *LTO dealing number*.
- A few points to note before you progress through *Transferor information*, *Transferee information*, *Transaction information*, and *Exemptions and concessions* screens:
  - i) PID or the Volume/Folio references are required;
  - ii) check the names of transferor and transferee are correct;
 

**Important:** Where the parties to the transfer are individuals, please enter their correct date of birth to ensure a match between the person and the transaction. The State Revenue Office requires this data.
  - iii) on the *Transaction information* screen, if the monetary consideration is \$0.00, choose one of the non-monetary considerations from the drop-down options (for example, select *Gift* if the transfer is because of 'neighbourly kind regard'); and
  - iv) if claiming an exemption/concession, select the relevant category and section from the drop-down menu.
- Self-endorse the transaction, or Submit to SRO for approval.



## Frequently asked questions

**Q. I have a surrender of an easement. Which transaction type do I use?**

A. Use the transaction type *Easement* for transactions that grant, transfer, vest or surrender an easement.

**Q. What is the difference between a property transfer with an easement and the transfer of an easement?**

A. ***Property transfer with an easement***

This transaction transfers the ownership of the property and simultaneously creates an easement.

*Example*

Matthew owns two adjacent parcels of land, A and B. He intends to sell parcel A to Ben.

However, Matthew needs a right of carriageway over parcel A to enable him to access his parcel B.

In the transfer of parcel A to Ben, Matthew makes the transfer subject to a right of way. When registered, the transaction i) transfers the ownership of parcel A to Ben, and ii) creates an easement over Ben's land for the benefit of Matthew's land.

This transaction type should be entered in TRO as a *Property Transfer*.

***Transfer of an easement***

A transfer of an easement grants or surrenders the right of an easement on a property, but does **not** transfer the ownership of the property.

**Q. Is a carriageway an easement?**

A. Yes, an easement is sometimes referred to as a carriageway.

**Q. I have a transaction, which grants an easement. Who is the transferor and who is the transferee in this type of transaction?**

A. The transferor is the property owner and the transferee is the person who is granted the easement.

*Example*

Tom owns farming land either side of Mary's property. Tom needs to use some of Mary's land to transport his cattle. Mary grants an easement for this purpose. Mary is the transferor and Tom is the transferee.

**Q. I have a transaction, which surrenders an easement. Who is the transferor and who is the transferee in this type of transaction?**

A. The transferor is the person who currently holds the easement. The transferee is the person who originally granted the easement (the property owner).

*Example*

From the example above, if Tom no longer needs to use some of Mary's land to transport his cattle, then Tom surrenders the easement back to Mary. Tom is the transferor and Mary is the transferee.

**Q. What is the dutiable value of an easement or restrictive covenant?**

A. The dutiable value is the greater of the consideration paid and the unencumbered value of the dutiable property. Generally, the Commissioner of State Revenue will accept the consideration paid as the dutiable value for an easement or covenant. In most cases, easements and covenants are transferred for nominal consideration. However, it is important that you check what, if any, consideration has been paid.