

72 Hour Hold on documents by Teranet Manitoba COVID-19 Update from The Law Society of Manitoba

Teranet Manitoba has temporarily suspended their in-person land titles and personal property registry client service to help limit the exposure and spread of COVID-19. Teranet clients will not be able to visit the Teranet office in person to deliver cheques or paper documents, so they have set up temporary post office boxes to receive mail.

In addition, effective March 23, 2020, Teranet announced that there will be a delay in processing any paper submissions. All incoming mail will be subjected to a three-day quarantine/waiting period before it is processed.

The Law Society requirements surrounding eRegistration for firms that provide payments to Teranet via cheque will be impacted by the above changes. Where firms are sending trust cheques after a transaction closes and waiting for an eReceipt from Teranet before proceeding with eRegistration, the three-day waiting period may put lawyers offside their prompt registration obligations under accepted trust conditions.

The Law Society is prepared to recognize the impact of Teranet's changes as they affect transactions that are closing while the Teranet safety measures are in place. Until further notice, the Society will allow firms to send a trust cheque to the Teranet PO box before closing, provided that the member ensures that, if the transaction does not close, the trust money sent to Teranet will be returned forthwith to the trust account.

Note that the necessity to forward trust funds to Teranet before closing may turn on the terms of the trust conditions exchanged and whether they accommodate the three-day delay in registration. The widely-used NCP trust conditions accommodate the longer delay, requiring only that registrations occur "forthwith and within the time limit required under any policy of gap title insurance that you have placed.". Several title insurers are now providing extended gap title insurance that expressly covers a disruption in LTO operations. If you are relying on title insurance, check the policy terms to determine the scope of gap coverage and ensure that the age of your title search meets its requirements.

The standard trust condition under the Western Law Societies' Conveyancing Protocol calls for the conveyance documents and related fees to be forwarded to the LTO within 2 business days of closing. During this disruption in Teranet services and until further notice, the Law Society will interpret that trust condition as accommodating any delay in registration occasioned by a delay in the LTO processing of submissions or payments.

Where possible, members who use trust cheques to complete eRegistration should structure transactions so that they may still send a trust cheque after the transaction closes and wait for the eReceipt prior to eRegistration. Where this is not possible and for the duration of the Teranet changes, the member may send the trust cheque in advance of

closing to accommodate Teranet's new measures, and ensure that if the deal is cancelled, the trust money that had been sent to Teranet is returned forthwith to the trust account.

For members now considering opening a restricted trust account or adopting EFT payments from the general account in light of Teranet's new measures, please refer to the Society's detailed information on requirements found on our [website](#).