

Bulletin 2026-07

Land Titles Act

Date: October 5, 2026

S. 118 Restrictions

Introduction

Section 118 of the *Land Titles Act* ("**LTA**") enables the registration of self-imposed restrictions on alienation. These restrictions can be used to protect various interests that otherwise would not be registrable or capable of being the subject matter of a restrictive covenant under s. 119 of the LTA.

Section 118 Restrictions are versatile tools that can be applied in relation to rights and obligations stemming from a wide variety of sources, including transfer payment agreements, co-ownership agreements, subdivision agreements and severance approvals. They can be used to support intercorporate control. Certain restrictions provided for by statute, such as those under the *Social Housing Reform Act* are registered using this document type. The Public Guardian and Trustee also registers these types of restrictions.

Section 118 Restrictions operate by providing that the owner of the land (or a charge) may not transfer or charge the property without the consent of a benefitting third party(ies) (the "**Consenting Party**"). The instrument is a straightforward one, as the underlying benefits or obligations being protected are not incorporated into the instrument. Unlike the requirements for a s. 119 Restrictive Covenant, the Consenting Party is not required to own benefitting land. The underlying rights, interests or obligations protected are not required to constitute estates, rights or interests in the land itself.

Subsection 118 (1) 2 provides that the registered owner may impose restrictions preventing the owner from transferring or charging the land without the consent of a third party. This type of restriction is by far the most common. It is registered using

the "Application to Annex Restrictive Covenants s. 118" document type. This subsection also provides that a registered owner of a charge may restrict transfer of the charge without the consent of a third party. Such a restriction is registered using the "Annex Restrictive Covenants S.118-Charge" document. The restriction on the transfer of a charge is a rare document type. The requirements for restrictions placed by the registered owner of land will be set out below, followed by modifications required for the restriction of a transfer of charge.

A. Requirements for Application to Annex Restrictive Covenants S.118

1. Registrant and Consenting Party

The restriction is self-imposed. The Applicant must be the registered owner of the land (with one exception for the Public Guardian and Trustee discussed below). In a situation where there are multiple owners, one owner may restrict their own ability to transfer or charge their interest. Not all owners must be included as Applicants. However, if not all owners are Applicants the consent of the remaining owner(s) must be included in Statement 62. This helps prevent restrictions from being used in an abusive manner.

The Consenting Party must be a third party and may be identified by position (for example, the Director of Planning for the Municipality of _____). The Applicant may not be the Consenting Party, as it would be non-sensical to attempt to restrict yourself from transferring or charging your own land without your own consent as the act of transferring and charging implicitly requires the owner's consent. Occasionally, restrictions have been presented in which owners attempt to restrict transfer or charge without their own consent. These are based on a misunderstanding of the restriction. The restriction only applies to the registered owner's ability to transfer or charge. It would not, for example, restrict a chargee from registering a transfer under a power of sale. It is therefore both improper and ineffective to register a restriction requiring your own consent in an attempt to prevent registrations by other interest holders.

More than one third party may be specified as a Consenting Party.

The Consenting Party may be a co-owner. This may be appropriate in situations involving an unregistrable co-ownership agreement.

The registered owner of a leasehold interest may also restrict transfer or charge, but to be able to register a restriction a leasehold PIN must exist. A s. 118 restriction registered against a leasehold parcel may only restrict the registration of a transfer, charge or transfer of charge on that parcel. It does not restrict the ability to register a notice of lease with respect to subleases or other documents related to subleases.

Restrictions Registered by the Public Guardian and Trustee

The Public Guardian and Trustee (“**PGT**”) may register a s. 118 restriction if they have the authority to act on behalf of the registered owner. When registering an Application to Annex Restrictive Covenants S. 118 the following language is included in statement 62:

“I, (name), Solicitor, have the authority to bind the Public Guardian and Trustee. The Public Guardian and Trustee is the Statutory Guardian of the property of (name), the registered owner of the property described herein”.

Reference to the source of the authority, whether that is the *Substitute Decisions Act*, *Public Guardian and Trustee Act*, *Crown Administration of Estates Act* or Court Order, must also be included in Statement 62. If a Court Order is the source of the authority, the law statement must confirm that the order is in full force and effect.

2. Nature of Restrictions

Subsection 118 (1) 2 provides that the registered owner may restrict transfer or charge unless “the consent of some person or persons, to be named by the registered owner, is given to the transfer or the creation of a charge”. Only transfer, charge and/or transfer of charge may be restricted by this document type. Other types of registrations, for example, notices of lease may not be restricted.

The restriction should be entered into Statement 61 and should simply provide that there shall be no transfer/transfer or charge/charge without consent of X (the Consenting Party). Nothing further should be included or attached.

A Restriction that attempts to make consent conditional, optional or applicable only for a certain period of time will not be accepted for registration.

For further clarity:

- The consent cannot have conditions (e.g. "the consent shall be given if X").
- The consent cannot be optional (e.g. "consent is required if X"). It must be required for every transfer or charge.
- The consent cannot be combined with another condition (e.g. "consent and/or X is required").
- The restriction cannot be time limited (e.g. "consent of X is required for a period of 5 years"). It continues to apply until consent is given to a transfer or the restriction is deleted with consent (see Section 3 below).
- The conditions on which consent may be given are between the parties and should not be included.
- The underlying interests, obligations or rights should not be referenced and the documents from which they arise should not be attached or referenced.

These requirements streamline the registration and discharge of restrictions and ensure that s. 118 restrictions do not circumvent the requirements of s. 119 or s. 71 to give de facto notice of unregistrable personal interests or rights.

Section 118 does contemplate two other types of restrictions. The first is a restriction against transfer or charge unless "Notice of an application for a transfer or for the creation of a charge is transmitted by registered mail" to a specified address. This provides little actual benefit to the third party and accordingly, in practice, is almost never used.

The final restriction contemplated by s. 118 is a restriction against transfer or charge unless "Some other matter or thing is done as is required by the registered owner and approved by the land registrar." An example of "some other matter or thing" would be "No transfer or charge unless the provisions of X agreement have been complied with" or "No transfer or charge unless these lands are also conveyed

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along with other specified lands". Such restrictions have not been approved in practice for many years for the following reasons.

- A self-imposed restriction does not benefit the registered owner. There must be another party or parties requiring or deriving a benefit from the restriction involving "some other matter or thing" and that benefit can effectively be protected by a restriction requiring the consent of the benefitting party(ies).
- It is usually straightforward to determine if consent has been given, whereas disagreements could occur over whether "some other matter or thing" has occurred. If there is a disagreement as to whether a restriction applies it is preferable that the parties resolve the disagreement before the title has traded or been charged. Requiring consent ensures there is no disagreement or a resolution is first achieved.
- A consent-based restriction can be readily enforced by the Land Registry by requiring a consent statement upon which the Land Registry will rely. If the matter or thing relates to something occurring or not occurring on title, there may be some expectation that the Land Registry will review the restriction and question or refuse to accept an unblocking statement regarding the occurrence of "some other matter or thing".
- The parties benefiting from the completion of "some other matter or thing" are often difficult to determine. Accordingly, obtaining consent to ultimately delete the restriction from benefiting parties can be complicated or impossible without court intervention.
- "Some other matter or thing" may relate to personal covenants and agreements (i.e. those creating personal rights as opposed to interests in land), environmental warnings or restrictions. When the fulfillment of contractual obligations is incorporated into the restriction it may act or attempt to act as de facto notice of unregistrable, non-title related interests. In this manner "some other matter or thing" could be used to undermine the principles underlying the Land Titles system and the specific requirements of ss. 71 and 119.

3. Registrations while Restrictions in Effect

The registration of an Application to Annex Restrictive Covenants s. 118 activates a "no dealings indicator" ("**NDI**"). This will prohibit the registration of transfers, charges and certain other documents unless a requisite "unblocking statement" has been included in the submitted document.

The unblocking statements that may be applicable when an NDI is activated by s. 118 restrictions are:

3755 In accordance with registration [insert number], the consent of [insert name] has been obtained for the registration of this document.

3756 The registration of this document is not prohibited by registration [insert number].

3726 [insert name], has consented to the registration of this document, subject to the continuance of registration number [insert number]

and

3757 In accordance with registration [insert number], [insert name] has consented to the registration of this document. [import consent]

Those statements in bold above are law statements. A law statement must be used unless preapproval has been granted to use 3757. Exceptional circumstances must apply for the use of a non-law unblocking statement. Preapproval is rarely granted.

If multiple NDIs are active on a parcel due to the registration of multiple restrictions, additional appropriate unblocking statements must be entered manually into Statement 62.

Consent Statements

Statement 3755 is a general consent statement. If used alone in a transfer, the restriction will be deleted.

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Important: 3726 must be used in addition to 3755 to provide a one-time consent. 3726 confirms that the transferee consents to the continuation of the restrictions. The party named in 3726 is the transferee(s). If 3726 is also included the restriction will not be deleted on registration of the transfer containing the statements.

If the Consenting Party is an individual who is deceased, their Estate Trustee may provide consent. In this case, the law statement must include the date of death of the consenting party and the wording of Statement 3512, which confirms the Court file number and date of issuance of the certificate of appointment.

If the Consenting Party is a dissolved Ontario corporation, the Ministry of Infrastructure, which administers the Forfeited Corporate Property Act, may provide consent.

The use of consent statements evidences the reliance that the Land Registry places on lawyers to help maintain the integrity of the system. Before making a consent statement a lawyer should always independently confirm the consent of the Consenting Party. Reliance should not solely be placed on the client's confirmation that consent has been given or on a consent that has been provided by a registered owner client. As with all law statements, the evidence on which the statement is based should remain in the file. Note also that the use of false or incorrect law statements may have an impact on a lawyer's continued authorization to register documents in the electronic land registration system.

Document Not Prohibited Statement

The use of Statement 3756 requires a lawyer to review the restriction and circumstances to determine whether the document being submitted would be prohibited by the active restriction. For example, a restriction only relating to transfer would not prohibit the registration of a charge. A restriction may restrict transfer, but it restricts transfer by the owner (or their personal representative). Accordingly, statement 3756 would generally be applicable if a mortgagee was registering a transfer by power of sale. Transfers of Easement and the release of easements by Transfer, Release and Abandonment are not considered transfers for the purposes

of s. 118. Accordingly, statement 3756 would generally be appropriate to use in these document types.

If the NDI is activated due to the registration of Annex Restrictive Covenants S. 118 – Charge, a specific unblocking statement is available:

***3733 Registration of this document is not prohibited by registration number [insert number], which prevents dealings against charge number [insert number].**

Unblocking Statements - Other

There is one other unblocking statement available, but it is not applicable to an NDI activated by an Application to Annex Restrictive Covenants s. 118. It reads:

3741 This document is being registered pursuant to Inhibiting Order [insert number]

Statement 3741 only relates to NDIs that are activated as a result of the registration of an Inhibiting Order under s. 23(1) of the LTA and therefore cannot be used to unblock an NDI activated by s. 118 restrictions.

Unblocking Statements While Multiple NDIs in Effect

If a parcel has NDIs in effect from multiple different restrictions, unblocking statements must be made for each restriction. Since only one custom unblocking statement may be selected in the document, additional unblocking statements must be manually entered into Statement 62 along with a clarification of which “no dealings” instrument each unblocking statement relates to.

4. Modification of Section 118 Restrictions

Modifications are rarely made in practice, as the restriction is straightforward and there are few aspects that can be modified. Modification by Application General or other document type would create risk, as parties searching title may only review the restriction document type to determine the restrictions. Accordingly, for administration purposes, modifications must be made by discharge/deletion of the

original Application to Annex Restrictive Covenants S. 118 and replacement with a modified restriction.

5. Removal of s. 118 Restriction

Consent Statement in Transfer

As stated in Section 3 above, the use of the general consent statement (Statement 3755) without the continuation statement (Statement 3726) in a Transfer will remove the s. 118 restriction without further application.

The use of statement 3755 in a Charge will not remove the restriction.

Application to Delete Restrictions

An Application to Annex Restrictive Covenants S. 118 can be deleted using an Application to Delete Restrictions document type containing Statements 3737 and 3642:

3737 The applicant applies to delete these restrictions by reason of [indicate reason for deletion and expiry date in yyyy/mm/dd format, if any]

Note: section 118 restrictions cannot have an expiry date, so there will be no expiry date to enter into 3737.

***3642 I confirm that all of the required party(ies) have consented to the deletion of this restriction.**

3642 is a law statement. It is required even if the applicant is the Consenting Party.

If the restriction cannot be sourced due to system limits an Application General containing the above referenced required statements may be used.

Court order

In circumstances in which consent cannot be obtained, an Application to Annex Restrictive Covenants s. 118 may only be deleted by Court Order.

B. Requirements for Annex Restrictive Covenants S.118- Charge

Annex Restrictive Covenants S. 118 – Charge is a very rare document type. It restricts a Chargee from transferring the charge without the consent of a Consenting Party.

The requirements of Annex Restrictive Covenants S. 118- Land are generally applicable, with the following modifications:

- The Applicant is the owner of the charge (the Chargee) being restricted.
- The consent statement for this document type is 3755
- An Annex Restrictive Covenants s. 118 – Charge will be deleted upon the registration of a Transfer of Charge containing statement 3755. If the restriction is to continue, statement 3726 must also be included.
- The restriction will not be deleted automatically if a postponement or agreement amending the terms of the restricted charge are registered containing the consent of the party specified in the restriction.

When a restricted charge is discharged, the related discharge should contain the consent statement to delete the restriction. If the consent statement is not included in the discharge, the Annex Restrictive Covenants s. 118- Charge will need to be deleted by registration of a separate Application to Delete Restrictions.

This bulletin is effective on October 5, 2026. As of the same date, Bulletin 2001-3 is revoked in its entirety. To the extent that anything in this bulletin conflicts with past requirements or guidance, the provisions of this bulletin prevail.

(original signed by)
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