

SECTION 417 CERTIFICATES

RETAINING RIGHTS OVER LAND AFTER DEEMED PERMITS EXPIRE

IMPORTANT

To avoid losing rights over land when your deemed permit expires you should ensure a section 417 certificate is registered before deemed permits expire on **1 October 2021**.

Deemed permits

A deemed permit is a permit under section 413(1) of the Resource Management Act 1991 in substitution for a mining privilege.

If you are a deemed permit holder you may have rights under that permit over land you do not own.

For example, a deemed permit may include a right for a water race to cross land not owned by the permit holder.

Expiry of deemed permits including rights over land

Deemed permits, including rights over land not owned by the permit holder, expire on **1 October 2021**.

Section 417 certificates

Under section 417 of the Resource Management Act the Otago Regional Council may issue to a deemed permit holder a certificate specifying rights that the permit holder has over land not owned by the permit holder.

Registration of section 417 certificates to create an interest in land

A section 417 certificate may be registered against each record of title it specifies rights over.

A registered section 417 certificate creates an interest for the permit holder in the land it is registered over.

Section 417 certificates remain in force after deemed permits expire

Registered section 417 certificates remain in force after deemed permits expire.

Registered section 417 certificates are private property rights

Registered section 417 certificates are private property rights and are not automatically transferred when a deemed permit is transferred.

Changes in ownership of registered section 417 certificates may be registered under the Land Transfer Act 2017 by transfer instrument or transmission instrument.

Checking rights over land under your deemed permit

If you hold a deemed permit which gives you rights over land you do not own, then you need to check:

- with Otago Regional Council if a section 417 certificate has been issued and correctly records the rights you have over the correct land; and
- on the register of land whether the section 417 certificate is registered in the correct name against the land it specifies rights over.

Obtaining a section 417 certificate

If you need to obtain a section 417 certificate, then you need to apply to Otago Regional Council using this form: <https://www.orc.govt.nz/media/8733/form-4b-s417-certificate.pdf>

Registering and changing ownership of section 417 certificates

If you need to register a section 417 certificate, then you need to lodge the section 417 certificate with Land Information New Zealand for registration against the affected records of title.

If you need to change the ownership of a section 417 certificate, then you need to lodge a transfer instrument or transmission instrument with Land Information New Zealand for registration against the affected records of title.

Getting help

This is a specialised and complex area involving both resource management and property law.

Your resource management consultant can help you to check a section 417 certificate has been issued and correctly records the rights you have over the correct land and to apply for a section 417 certificate if you need to.

Your lawyer can help you to check if a section 417 certificate is registered in your name against the land it specifies rights over and to register or change the ownership of a section 417 certificate.

Otago Regional Council strongly recommends that you obtain expert advice from your resource management consultant and lawyer.