

### MODEL PARTICIPATION RULES GUIDANCE NOTE

### INSTRUCTING PRACTIONER ENGAGING A SUBSCRIBER (E-LODGMENT SUBSCRIBER)

### 1 INTRODUCTION

This guidance note aligns with Version 6 of the Model Participation Rules and explains:

- what an e-lodgment Subscriber is;
- how a Client Authorisation is completed when an e-lodgment Subscriber is engaged;
- how Verification of Identity (VOI) is conducted when an e-lodgment Subscriber is engaged;
- how verification of right to deal is conducted when an e-lodgment Subscriber is engaged;
- how certifications are made when an e-lodgment Subscriber is engaged; and
- how evidence is retained when an e-lodgment Subscriber is engaged.

Capitalised terms have the meanings given to them in the Model Participation Rules, Model Operating Requirements or Electronic Conveyancing National Law.

This guide does not constitute legal advice nor does it replace prudent conveyancing practice. Nothing written in this guide overrides the Electronic Conveyancing National Law, Participation Rules, any other relevant legislation or Registrar's Prescribed Requirements.

#### 2 WHAT IS AN E-LODGMENT SUBSCRIBER?

A conveyancer or lawyer (Instructing Practitioner) may instruct a conveyancer or lawyer who is a Subscriber to act on behalf of the Instructing Practitioner's Client to undertake work in an Electronic Lodgment Network, including creating and Digitally Signing electronic Registry Instruments and other electronic Documents. The Subscriber instructed by the Instructing Practitioner is referred to in this guidance note as an 'e-lodgment Subscriber'.

An e-lodgment Subscriber must ensure that its professional indemnity insurance covers this role, including the approach it adopts to fulfilling its obligation under the Model Participation Rules.

### 3 HOW IS A CLIENT AUTHORISATION COMPLETED WHEN AN E-LODGMENT SUBSCRIBER IS ENGAGED?

A Client Authorisation must be made directly between the e-lodgment Subscriber and the Client. The e-lodgment Subscriber is the Representative and should be noted on the Client Authorisation as such. The Instructing Practitioner should not sign the Client Authorisation except as set out below.

Representative Agent means a person authorised by a Representative to act as the Representative's agent including to sign the Client Authorisation. The Instructing Practitioner is not the Representative Agent and should not sign the Client Authorisation as such, unless the e-lodgment Subscriber specifically appoints the Instructing Practitioner as its Representative Agent by a written agency agreement. Where the Instructing Practitioner signs the Client Authorisation as Representative Agent, the e-lodgment Subscriber's details should still be noted in the Representative section.

The Instructing Practitioner is not the Client Agent and should not sign the Client Authorisation as such unless the Instructing Practitioner has been appointed as attorney for the Client under a power of attorney.

There must be a Client Authorisation directly between the e-lodgment Subscriber and each Client, including where those Clients are referred to the e-lodgment Subscriber by the same Instructing Practitioner.

Examples of completed Client Authorisation are annexed to this guidance note. Note that these are just examples, and consideration should be given to the particular circumstances of each case.

For further information see Model Participation Rules Guidance Note #1: Client Authorisation.

### 4 HOW IS VERIFICATION OF IDENTITY CONDUCTED WHEN AN E-LODGMENT SUBSCRIBER IS ENGAGED?

The e-lodgment Subscriber must take reasonable steps to verify the identity of the Client. The e-lodgment Subscriber may specifically appoint the Instructing Practitioner to undertake the verification of identity by a written agency agreement, either as an agent who must

undertake reasonable steps as required by the e-lodgment Subscriber or as an Identity Agent.

Identity Agent means a Person who is an agent of either a Subscriber, or a mortgagee represented by a Subscriber, appointed in writing, and who:

- (a) the Subscriber or mortgagee reasonably believes is reputable, competent and insured in compliance with Insurance Rule 2; and
- (b) is authorised by the Subscriber or mortgagee to conduct verification of identity on behalf of the Subscriber or mortgagee in accordance with the Verification of Identity Standard.

If the Instructing Practitioner is appointed as an Identity Agent, the e-lodgment Subscriber must ensure that the Instructing Practitioner complies with the requirements for Identity Agents under the Model Participation Rules. This includes meeting the requirements to be an Identity Agent, applying the Verification of Identity Standard and providing an Identity Agent Certification as set out in Schedule 9 of the Model Participation Rules. The e-lodgment Subscriber will need to check that the Instructing Practitioner's professional indemnity insurance covers being an Identity Agent.

If the e-lodgment Subscriber appoints the Instructing Practitioner as an agent (not as an Identity Agent), the Instructing Practitioner does not need to apply the Verification of Identity Standard but must verify identity in some other way that constitutes taking reasonable steps. If this is the case, the e-lodgment Subscriber cannot rely on the deeming provision in Model Participation Rules 6.5.6.

For further information see Model Participation Rules Guidance Note #2: Verification of Identity.

# 5 HOW IS VERIFICATION OF THE RIGHT TO DEAL CONDUCTED WHEN AN E-LODGMENT SUBSCRIBER IS ENGAGED?

The e-lodgment Subscriber must take reasonable steps to verify that the Client is a legal Person and has the right to enter into the Conveyancing Transaction. This verification must be undertaken by the e-lodgment Subscriber, not the Instructing Practitioner, unless the Instructing Practitioner has been appointed as the e-lodgment Subscriber's agent. The e-lodgment Subscriber will need to check that the Instructing Practitioner's professional indemnity insurance covers being such an agent.

For further information see Model Participation Rules Guidance Note #4: Right to Deal.

# 6 HOW ARE CERTIFICATIONS MADE WHEN AN E-LODGMENT SUBSCRIBER IS ENGAGED?

The e-lodgment Subscriber must provide the certifications as to Identity, Authority, Evidence and Correctness when Digitally Signing electronic Registry Instruments and other electronic Documents. These certifications are made by the e-lodgment Subscriber, not the Instructing Practitioner.

For further information see Model Participation Rules Guidance Note #3: Certifications.

## 7 HOW IS EVIDENCE RETAINED WHEN AN E-LODGMENT SUBSCRIBER IS ENGAGED?

Under the Model Participation Rules, the e-lodgment Subscriber, not the Instructing Practitioner, must retain the supporting evidence for the transaction for at least seven years.

For further information see Model Participation Rules Guidance Note #5: Retention of Evidence.

### 8 FREQUENTLY ASKED QUESTIONS

- Q1: Is the e-lodgment Subscriber or Instructing Practitioner responsible for responding to and complying with a Compliance Examination?
- A1: It is the e-lodgment Subscriber who must respond to a Compliance Examination and who must comply with any requirements of a Compliance Examination, including producing all the requested documentation.
  - For further information see Model Participation Rules Guidance Note #6: Compliance Examinations.
- Q2: I am an e-lodgment Subscriber. Can I enter into a single Client Authorisation for each Instructing Practitioner that refers work to me?
- A2: The Client Authorisation operates between you and the Client, not between you and the Instructing Practitioner. Therefore, you will need a properly completed Client Authorisation for each Client. If the Instructing Practitioner has a particular Client with multiple matters that will be referred to you, you could seek to complete a Standing Authority or Batch Authority Client Authorisation and have that signed by the Client.
  - For further information see Model Participation Rules Guidance Note #1: Client Authorisation.

ABC Pty Ltd (e-lodgment Subscriber) completes the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs (Clients) and Eric Lodge, an employee of ABC Pty Ltd.

[Note the 'Terms of this Client Authorisation' form part of the Client Authorisation but have not been set out in this example.]

	ning publicly searchable registers and inde	
presentative Re	ference: BLOGGS-16-4-15 CLIENT 1	CLIENT 2
NAME	FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS
NAME ACN/ARBN ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE
AUTHORITY TYPE		AUTHORITY BATCH AUTHORITY attion or expiration date:/ (attach details of conveyancing transaction(s) below) transaction(s))  CONVEYANCING TRANSACTION(S) 2
PROPERTY ADDRESS	14/52 ALDEDT ST. DDISDANE	10/400 OHEEN ST PRISPANE
LAND TITLE REFERENCE(S) (and/or property description)	11/53 ALBERT ST, BRISBANE 71011681 LOT 1 ON RP 1569	10/100 QUEEN ST, BRISBANE
CONVEYANCING TRANSACTION(S)	<ul> <li>▼ TRANSFER</li> <li>□ PRIORITY</li> <li>□ DISCHARGE/</li> <li>□ WITHDE</li> <li>NOTICE</li> <li>RELEASE</li> <li>OF CAV</li> </ul>	RAWAL 🗌 PRIORITY 🔲 DISCHARGE/ 🗌 WITHDRAWAL OF
ADDITIONAL	MORTGAGE  ☐ OTHER	MORTGAGE  OTHER
ADDITIONAL INSTRUCTIONS		
INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY
INSTRUCTIONS	Transaction(s); and (c) if I am acting as a Client Agent that I	CLIENT 2 / CLIENT AGENT 2  The Representative in relation to the Conveyancing have no notice of the revocation of my authority to act
INSTRUCTIONS	I CERTIFY that:  (a) I am the Client or Client Agent; and (b) I have the legal authority to instruct the Transaction(s); and (c) if I am acting as a Client Agent that I on behalf of the Client.  I AUTHORISE the Representative to act behalf of the Client, in accordance with the Participation Rules and any Prescribed I (a) sign documents on my behalf as required (b) submit or authorise submission of documents and (c) authorise any financial settlement in (d) do anything else necessary to composite Trederick Albert Bloggs    DATE   12/4/21       CLIENT/CLIENT AGENT	The Representative in relation to the Conveyancing have no notice of the revocation of my authority to act on my behalf, or where I am a Client Agent to act on the terms of this Client Authorisation and any Requirement to:
	CLIENT 1 / CLIENT AGENT 1  I CERTIFY that:  (a) I am the Client or Client Agent; and (b) I have the legal authority to instruct the Transaction(s); and (c) if I am acting as a Client Agent that I on behalf of the Client.  I AUTHORISE the Representative to act behalf of the Client, in accordance with the Participation Rules and any Prescribed I (a) sign documents on my behalf as required (b) submit or authorise submission of documents and (c) authorise any financial settlement in (d) do anything else necessary to composite the prederick Albert Bloggs    DATE   12/4/21   CLIENT/CLIENT AGENT   FREDERICK ALBERT BLOGGER   CAPACITY   FREDERICK ALBERT BLOGGER   CLIENT/CLIENT AGENT   CLIENT/C	The Representative in relation to the Conveyancing have no notice of the revocation of my authority to act on my behalf, or where I am a Client Agent to act on the terms of this Client Authorisation and any Requirement to:
NAME _	CLIENT 1 / CLIENT AGENT 1  I CERTIFY that:  (a) I am the Client or Client Agent; and (b) I have the legal authority to instruct the Transaction(s); and (c) if I am acting as a Client Agent that I on behalf of the Client.  I AUTHORISE the Representative to act behalf of the Client, in accordance with the Participation Rules and any Prescribed I (a) sign documents on my behalf as required (b) submit or authorise submission of documents on any dehalf as required (c) authorise any financial settlement in (d) do anything else necessary to composite Trederick Albert Bloggs    DATE   12/4/21	The Representative in relation to the Conveyancing have no notice of the revocation of my authority to act on my behalf, or where I am a Client Agent to act on the terms of this Client Authorisation and any Requirement to:

SIGNATORY NAME:

CAPACITY:

SIGNATORY NAME: CAPACITY:

ABC Pty Ltd (e-lodgment Subscriber) appoints Lamb Lawyers (Instructing Practitioner) as its Identity Agent and Lawrence Lawyer, an employee of Lamb Lawyers, verifies the identity of Frederick Albert Bloggs and Freda Amy Bloggs (Clients) and ABC Pty Ltd completes the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs in person and Eric Lodge, an employee of ABC Pty Ltd.

[Note the 'Terms of this Client Authorisation' form part of the Client Authorisation but have not been set out in this example.]

	CLIENT AUTHORIS	SATION Version 6
When this form	is signed, the Representative is authorised to act for	or the Client in a Conveyancing Transaction(s).
	on Statement: The information in this form is collec aining publicly searchable registers and indexes.	eted under statutory authority and used for the
	Reference: BLOGGS-16-4-15	
	CLIENT 1	CLIENT 2
NAME ACN/ARBN ADDRESS	FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS
ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE
<u> </u>		
AUTHORITY TYP	E ✓ SPECIFIC AUTHORITY ☐ STANDING AUTHORIT	TY BATCH AUTHORITY
	(set out conveyancing transaction ends on revocation or expired details below) (tick relevant conveyancing	
(0	CONVEYANCING TRANSACTION(S) 1	CONVEYANCING TRANSACTION(S) 2
PROPERTY ADDRESS		
LAND TITLE	11/53 ALBERT ST, BRISBANE 71011681	10/100 QUEEN ST, BRISBANE
REFERENCE(S) (and/or property	LOT 1 ON RP 1569	
description)	( TDANOSED	TRANSFER THORTOLOGY TO ONVEAT
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INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY
	CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2
CLIENT AUTHORISATION AND SIGNING	(d) I am the Client or Client Agent; and (e) I have the legal authority to instruct the Repr Transaction(s); and (f) if I am acting as a Client Agent that I have no on behalf of the Client.  I AUTHORISE the Representative to act on my behalf of the Client, in accordance with the term Participation Rules and any Prescribed Require (e) sign documents on my behalf as required for (f) submit or authorise submission of documents and (g) authorise any financial settlement involved in (h) do anything else necessary to complete the  Frederick Albert Bloggs  DATE 12/4/21  CLIENT/CLIENT AGENT FREDERICK ALBERT BLOGGS NAME CAPACITY  If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME Lawrence Lawyer  DATE 12/4/21	behalf, or where I am a Client Agent to act on as of this Client Authorisation and any ment to: or the Conveyancing Transaction(s); and ats for lodgment with the relevant Land Registry; in the Conveyancing Transaction(s); and
Ω		
NAME	REPRESENTATIVE ABC Pty Ltd	REPRESENTATIVE AGENT (if applicable)
ACN/ARBN ADDRESS	101 469 148 1/100 KING STREET, BRISBANE	
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REPRESENTATIVE DETAILS AND SIGNING SIGNING ACN/ARBN ADDRESS SABADA WAN BENEVILLE AND SIGNING ACN/ARBN	aken to ensure that this Client Authorisation was lient or Client Agent.  IF APPLICABLE:	
Z	Eric Lodge	DATE //
	DATE 12/4/21 SIGNATORY NAME: ERIC LODGE	SIGNATORY DATE //
REP	CAPACITY:	NAME: CAPACITY:

ABC Pty Ltd (e-lodgment Subscriber) appoints Lamb Lawyers (Instructing Practitioner) as its Representative Agent and Lawrence Lawyer, an employee of Lamb Lawyers, completes the verification of identity and the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs (Clients) and Lawrence Lawyer.

[Note the 'Terms of this Client Authorisation' form part of the Client Authorisation but have not been set out in this example.]

	CLIENT AUTHORIS	SATION Version 6	
	m is signed, the Representative is authorised to act f	or the Client in a Conveyancing Transaction(s).	
	tion Statement: The information in this form is collectaining publicly searchable registers and indexes.	cted under statutory authority and used for the	
	Reference: BLOGGS-16-4-15		
<b>Ø</b>	CLIENT 1	CLIENT 2	
NAME ACN/ARBN ADDRESS	FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS	
ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE	
AUTHORITY TY	PE SPECIFIC AUTHORITY STANDING AUTHOR (set out conveyancing transaction ends on revocation or exp		
	details below) (tick relevant conveyancin	ng transaction(s) below) transaction(s))  CONVEYANCING TRANSACTION(S) 2	
PROPERTY			
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LAND TITLE REFERENCE(S)	71011681 ) LOT 1 ON RP 1569		
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ADDITIONAL	☐ OTHER	☐ OTHER	
INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY	
	CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2	
CLIENT AUTHORISATION AND SIGNING	on behalf of the Client.  I AUTHORISE the Representative to act on my behalf of the Client, in accordance with the term Participation Rules and any Prescribed Require (i) sign documents on my behalf as required for the Client.	ns of this Client Authorisation and any ement to: or the Conveyancing Transaction(s); and nts for lodgment with the relevant Land Registry; in the Conveyancing Transaction(s); and	
NAME	REPRESENTATIVE ABC Pty Ltd	REPRESENTATIVE AGENT (if applicable)  Lamb Lawyers	
ACN/ARBN ADDRESS	101 469 148 1/100 KING STREET, BRISBANE	101 469 147 1/100 QUEEN STREET, BRISBANE	
NAME ACN/ARBN ADDRESS	I/We CERTIFY that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the persons named above as Client or Client Agent.  SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:  Lawrence Lawyer		
2	DATE / /	DATE 12/4/21	
	SIGNATORY NAME:  CAPACITY:	SIGNATORY Lawrence Lawyer NAME: CAPACITY:	

Frederick Albert Bloggs and Freda Amy Bloggs (Clients) appoint Lawrence Lawyer as a Client Agent through a power of attorney and ABC Pty Ltd (e-lodgment Subscriber) verifies the identity of Lawrence Lawyer and completes the Client Authorisation which is signed by Lawrence Lawyer (Client Agent) and Eric Lodge, an employee of ABC Pty Ltd.

[Note the 'Terms of this Client Authorisation' form part of the Client Authorisation but have not been set out in this example.]

\A	/hon this form i	CLIENT AUTHORIS	
Pri۱	acy Collection	s signed, the Representative is authorised to act f n Statement: The information in this form is collec- ining publicly searchable registers and indexes.	
		eference: BLOGGS-16-4-15	
		CLIENT 1	CLIENT 2
ENT All 6	NAME ACN/ARBN	FREDERICK Albert BLOGGS	FREDA Amy BLOGGS
CLIEN	ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE
	AUTHORITY TYPE	SPECIFIC AUTHORITY STANDING AUTHOR (set out conveyancing transaction ends on revocation or exp details below) (tick relevant conveyancin CONVEYANCING TRANSACTION(S) 1	iration date:/ (attach details of conveyancing
TAILS	PROPERTY ADDRESS	11/53 ALBERT ST, BRISBANE	10/100 QUEEN ST, BRISBANE
ION DE	LAND TITLE REFERENCE(S) (and/or property description)	71011681 LOT 1 ON RP 1569	
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F		MORTGAGE  OTHER	MORTGAGE  OTHER
	ADDITIONAL INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY
		CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2
CLIENT AUTHORISATION AND SIGNING		on behalf of the Client.  I AUTHORISE the Representative to act on my behalf of the Client, in accordance with the term Participation Rules and any Prescribed Require (m) sign documents on my behalf as required for the Client.	behalf, or where I am a Client Agent to act on as of this Client Authorisation and any ement to: or the Conveyancing Transaction(s); and ants for lodgment with the relevant Land Registry; in the Conveyancing Transaction(s); and
AND	NAME	REPRESENTATIVE ABC Pty Ltd	REPRESENTATIVE AGENT (if applicable)
ILS	ACN/ARBN	101 469 148	
REPRESENTATIVE DETAILS AND SIGNING	ADDRESS _	I/We CERTIFY that reasonable steps have been a signed by each of the persons named above as C SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENTALIVE AGE	Client or Client Agent.
REPRESEN	-	Eric Lodge  DATE 12/4/21 SIGNATORY NAME: ERIC LODGE	DATE // SIGNATORY NAME: CARACITY: