



Department of Environment,
Land, Water & Planning

Waiver No: OR3/2016

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OPERATING REQUIREMENTS

WAIVER

Victoria

Section 27 Electronic Conveyancing National Law (Victoria)

Title

This instrument is Victorian Operating Requirements Waiver OR3/2016 – Non-ADI Mortgagee insurance.

Enabling Provisions

1. Under sections 22 and 25 of the Electronic Conveyancing National Law (Victoria) (the National Law) the Registrar of Titles (Registrar) has determined and published Version 3 of the Operating Requirements which came into effect on and from 9 November 2015.
2. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Operating Requirements if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Affected Requirements

Operating Requirements 14.1(a) and 14.4(a).

Explanatory Statement

Under Operating Requirement 14.1(a) an Electronic Lodgment Network Operator (ELNO) must only register a Subscriber if the applicant to become a Subscriber meets the eligibility criteria set out in the Participation Rules.

Under Operating Requirement 14.4(a) an ELNO must obtain and retain evidence to confirm that each Subscriber holds the insurance they are required to hold in accordance with the Participation Rules.

Privacy Statement

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Under Participation Rule 4.4, one of the eligibility criteria is that, a Subscriber to an Electronic Lodgment Network (ELN) must comply with the Insurance Rules set out in Schedule 6 of the Participation Rules.

A 'Non-ADI Mortgagee' is a body corporate mortgagee who is not an ADI but is the holder of an Australian Credit Licence.

It is understood that some Non-ADI Mortgagees have an excess of greater than \$20,000 per claim.

The Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver modifying insurance obligations under the Participation Rules for Non-ADI Mortgagees.

Accordingly, the Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver to modify Property Exchange Australia Limited's obligations under Operating Requirements 14.1(a) and 14.4(a).

Partial Waiver

Subject to the Conditions, the Registrar grants Property Exchange Australia Limited a partial waiver of its obligation to comply with Operating Requirements 14.1(a) and 14.4(a) in relation to Non-ADI Mortgagees and to the extent that Non-ADI Mortgagees do not meet the Insurance Rules in the Participation Rules by having an excess of greater than \$20,000 per claim but less than or equal to \$250,000 per claim.

Conditions

A partial waiver of Operating Requirements 14.1(a) and 14.4(a) is granted on the conditions that:

- (a) Property Exchange Australia Limited prevents Non-ADI Mortgagees from acting as a Representative in the ELN known as Property Exchange Australia.
- (b) if Property Exchange Australia Limited becomes aware of a material change to any Non-ADI Mortgagee's insurance, Property Exchange Australia Limited will advise the Registrar.

Commencement

This partial waiver commences on the date it is signed.

Period during which this waiver applies

This partial waiver operates to the earlier of:

- (a) Non-ADI Mortgagees fully complying with the Insurance Rules set out in Schedule 6 of the Participation Rules; or
- (b) the commencement of Version 4 of the Participation Rules (Victoria); or
- (c) the revocation of this waiver by the Registrar.

Dated: 6 September 2016

Signed by:

A handwritten signature in black ink that reads "Jane Allan". The signature is written in a cursive style with a large initial 'J'.

Jane Allan

Deputy Registrar of Titles