

# **PARTICIPATION RULES**

## **WAIVER**

**New South Wales**

**Section 27 *Electronic Conveyancing National Law (NSW)***

### **Title**

This instrument is NSW Participation Rules Waiver PR 2/2015 – Certifications.

### **Enabling Provisions**

1. Under sections 23 and 25 of the Electronic Conveyancing National Law (NSW) (the National Law) the Registrar General (Registrar) has determined and published Version 3 of the Participation Rules 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 Participation Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

### **Affected Rule**

Participation Rule 7.10.

### **Explanatory Statement**

Under Participation Rule 7.10, a Subscriber to an Electronic Lodgement Network (ELN) must comply with the Certification Rules set out in Schedule 3 of the Participation Rules.

Version 3 of the Participation Rules, which comes into effect on and from 9 November 2015, includes some minor changes to the wording of certifications required under the Certification Rules. Those wording changes will not be able to be implemented in the ELN, known as “PEXA” and operated by Property Exchange Australia Ltd, on 9 November 2015 when Version 3 of the Participation Rules comes into effect.

The wording of the certifications will be updated to comply with the Certification Rules in Schedule 3 of Version 3 of the Participation Rules in a PEXA system release on 23 November 2015. However, Registry Instruments and other electronic Documents (whether or not signed prior to, on or after 23 November 2015), in an Electronic Workspace which contains at least one Registry Instrument or electronic Document signed prior to 23 November 2015, but not submitted for lodgment until on or after 9 November may contain the wording of the Certification Rules in Schedule 3 of Version 2 of the Participation Rules.

The Registrar is of the view that, in the interim, the continued use of the wording of the Certification Rules in Schedule 3 of Version 2 of the Participation Rules is reasonable in all the circumstances.

### **Waiver**

Subject to the Conditions, the Registrar grants Subscribers to Property Exchange Australia Ltd’s ELN a partial waiver of the Subscriber’s obligation to comply with Participation Rule 7.10.

**Conditions**

Partial waiver of Participation Rule 7.10 is granted on the following conditions:

1. This waiver applies to any Registry Instrument or other electronic Document (whether or not signed prior to, on or after 23 November 2015), in an Electronic Workspace which contains at least one Registry Instrument or electronic Document signed prior to 23 November 2015, but not submitted for lodgement until on or after 9 November 2015.
2. Any Registry Instruments or other electronic Documents to which Condition 1 applies must contain (as appropriate) the wording of the Certification Rules in Schedule 3 of Version 2 of the Participation Rules.
3. This waiver will be taken to be a notice marked as "For Communication to Subscribers" under Operating Requirement 19.4(d) and Property Exchange Australia Ltd must provide notice of the waiver and any expiry or revocation of the waiver to Subscribers.

**Commencement**

This waiver commenced on: 9 November 2015

**Period during which this waiver applies**

This waiver operates to the earlier of:

- a) the date on which Electronic Workspaces in PEXA contain no Registry Instruments or other electronic Documents signed prior to 23 November 2015; or
- b) the publication of notice by the Registrar that the waiver is revoked.

**Dated: 16 November 2015**

**Signed by:**



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Registrar