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Queensland Operating Requirements

Waiver

Waiver No: OR 4/2015

1 June 2015

**Pursuant to Section 27 of the Electronic Conveyancing National Law
(Queensland)**

OPERATING REQUIREMENTS WAIVER

Section 27 Electronic Conveyancing National Law (Queensland)

Title

This instrument is Operating Requirements Waiver OR 4/2015 – ELNO monitoring – Settlement Notices.

Enabling Provisions

1. Under sections 22 and 25 of the Electronic Conveyancing National Law (Queensland) (the National Law) the Registrar of Titles (“Registrar”) has determined and published Version 2 of the Operating Requirements relating to use of an Electronic Lodgement Network (Operating Requirements) which came into effect on and from 25 May 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 Requirement

Operating Requirement 14.7.

Explanatory Statement

Under Operating Requirement 14.7, an Electronic Lodgment Network Operator (“ELNO”) must monitor compliance of Subscribers with the Participation Rules relating to the use of an Electronic Lodgement Network, which have been determined and published by the Registrar under sections 23 and 25 of the National Law, and must take specified actions in the event of a breach or suspected breach by a Subscriber of the Participation Rules.

The Registrar has granted Subscribers a partial waiver of the obligations to comply with Participation Rule 6.3 (b) and Participation Rule 6.5.1 (d) (Waiver PR2/2015).

The Registrar is of the view that an ELNO should not be required to monitor compliance with, and take action in the event of a breach or suspected breach of, Participation Rule 6.3 (b) and Participation Rule 6.5.1 (d), to the extent that Waiver PR2/2015 applies.

The Registrar has determined that a waiver should be granted to modify the ELNO’s obligations under Operating Requirement 14.7, pending formal amendment of the Participation Rules as referred to in Waiver PR 2/2015.

Waiver

Subject to the Conditions, the Registrar grants the ELNO a partial waiver of the ELNO’s obligation to comply with Operating Requirement 14.7.

Conditions

Partial waiver of Operating Requirement 14.7 is granted on the condition that an ELNO complies with Operating Requirement 14.7 insofar as it relates to compliance by Subscribers

with Participation Rule 6.3 (b) and Participation Rule 6.5.1 (d) with the following amended paragraphs substituted:

6.3. Client Authorisation

If a Subscriber is a Representative, the Subscriber must:

...

- (b) **except for Caveats and Settlement Notices, for which a Client Authorisation is optional**, enter into a Client Authorisation with its Client before the Subscriber Digitally Signs any Document in the ELN ~~except for Caveats~~; and

6.5. Verification of Identity

6.5.1. The Subscriber must take reasonable steps to verify the identity of:

...

- (d) **except for Settlement Notices, for which verification of identity is optional**, each Client Party it intends to represent in the ELN or each of their Client Party Agents at or before the signing of the Client Authorisation; and

Commencement

This waiver commenced on 1 June 2015.

Period during which this waiver applies

This waiver operates until the earlier of:

- (a) the date on which Waiver PR2/2015 ceases to apply; or
- (b) the publication of a revocation of this waiver by the Registrar.