



## OPERATING REQUIREMENTS WAIVER

Victoria

### Section 27 *Electronic Conveyancing National Law (Victoria)*

#### Title

This instrument is Victorian Operating Requirements Waiver OR2/2016 – State Trustees Limited 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

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



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.

State Trustees Limited has applied to be a Subscriber to the ELN known as Property Exchange Australia which is operated by PEXA Limited.

It is understood that State Trustees Limited's professional indemnity insurance has an excess of greater than \$20,000 per claim.

State Trustees Limited is a Victorian state government owned company and the government of Victoria guarantees losses arising from the negligence, wilful default and fraud of State Trustees Limited, its officers, employees, servants and agents. The Registrar is of the view that State Trustees Limited has sufficient insurance to cover the types of Conveyancing Transactions it will undertake in the ELN, acting on its own behalf.

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 State Trustees Limited and to the extent that State Trustees Limited does not meet the Insurance Rules in the Participation Rules by having an excess of greater than \$20,000 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 State Trustees Limited 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 State Trustees Limited'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 until the earlier of:

- (a) State Trustees Limited fully complying with the Insurance Rules set out in Schedule 6 of the Participation Rules; or
- (b) the revocation of this waiver by the Registrar.

**Dated:** 2 March 2016

**Signed by:**



Ian Ireson  
Deputy Registrar of Titles

