



PARTICIPATION RULES WAIVER Victoria

Section 27 *Electronic Conveyancing National Law (Victoria)*

Title

This instrument is Victorian Participation Rules Waiver PR1/2020 – Certification 6.

Enabling Provisions

Under sections 23 and 25 of the Electronic Conveyancing National Law (Victoria) (the National Law) the Registrar of Titles (Registrar) has determined and published Version 5 of the Participation Rules which came into effect on and from 25 February 2019 (Participation Rules). Capitalised terms used in this instrument and not defined have the meaning given to those terms in the National Law or the Participation Rules.

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 Participation Rules

Participation Rule 7.10.1 as it applies to Certification 6 in the Certification Rules (Affected Participation Rule).

Explanatory Statement

Under Participation Rule 7.10.1, a Subscriber to an Electronic Lodgment Network (ELN) must comply with the Certification Rules set out in Schedule 3 of the Participation Rules as required when Digitally Signing an electronic Registry Instrument or other electronic Document.

Certification 6 is required when a Subscriber holds a paper certificate of title and wishes to either convert it to an electronic certificate of title or convert it to an electronic certificate of title and nominate it to an electronic workspace or a paper instrument. The Subscriber certifies that:

The Certifier has:

(a) retrieved; and

(b) either securely destroyed or made invalid,

the (duplicate) certificate(s) of title for the folio(s) of the Register listed in this Registry Instrument or Document.'

As a result of COVID-19 Stage 3 and Stage 4 restrictions some Subscribers and their Clients have not been able to retrieve paper certificates of title from storage facilities or a Client holds a certificate of title and cannot provide it to the Subscriber.

Accordingly, the Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver modifying the obligations of Subscribers under the Affected Participation Rules.

Waiver

Subject to the Conditions, the Registrar grants to Subscribers a partial waiver of their obligations to comply with the Affected Participation Rule.

Conditions

The partial waiver is granted on the condition that at the time of giving Certification 6 the Subscriber is satisfied that:

1. The paper certificate of title either issued to the:
 - a. Subscriber; or
 - b. Subscriber who then provided the paper certificate of title to its Client; or
 - c. Subscriber's Client;
2. Stage 3 or Stage 4 COVID-19 restrictions are in place and as a result:
 - a. the Subscriber and/or the Subscriber's Client is unable to retrieve the paper certificate of title; or
 - b. the Client holds a certificate of title and cannot provide it to the Subscriber;
3. If the Subscriber's Client has control of or holds the paper certificate of title, the Subscriber's Client undertakes to provide the Subscriber with the paper certificate of title as soon as possible following the end of the Stage 3 or Stage 4 COVID-19 restrictions; and
4. As soon as possible following the end of the Stage 3 or Stage 4 COVID-19 restrictions, the Subscriber receives or retrieves the paper certificate of title and either invalidates it or securely destroys it.

Commencement

This partial waiver commences on the 30 March 2020.

Period during which this waiver applies

This partial waiver operates to the earlier of:

- a. The Subscriber fully complying with the Affected Participation Rules; or
- b. 31 December 2020.

Dated: 25 / 08 / 2020

Signed by: *Ian Ireson*

Ian Ireson
Registrar of Titles