

Model Operating Requirements (MOR) Version 4 Consultation Draft – feedback table

This table responds to the feedback received on the Consultation Draft of the MOR published in December 2016.

| # | Rule | Stakeholder feedback | Action taken | ARNECC response |
|----------|--|--|--|---|
| 1 | 2.1.2 | The definition of 'Signer' uses language that does not mirror the wording of the definition of 'Certifier'. It is suggested that some minor adjustment be considered. | The MOR has been amended. | Definition of Signer amended to delete reference to certifying. |
| 2 | 2.1.2, 5.1, 5.2, 5.3 and Schedule 3, Categories one, two and three | Suggest revising the definition of Business Plan in order to limit the scope of information required to be submitted to ARNECC in accordance with MOR Schedule 3, Category Two and Three (ie limit content in the plan that is relevant to the ELNO's operation of the ELN). | The MOR has been amended. | Definition amended to limit it to the content in the Business Plan that is relevant to the ELNO's operation of the ELN. |
| 3 | 5.2(b) | Suggest expanding the list of electronic Registry Instruments and other electronic Documents to reflect current expectations of the e-conveyancing industry. | The MOR has been amended. | List expanded to include documents relating to duty and the management of certificates of title. |
| 4 | 5.4 | ELNOs are already required under ECNL Clause 18 and Operating Requirement 3 to comply with the Operating Requirements. The Participation Rules set out the obligations on Subscribers to an ELN and impose no explicit obligations on ELNOs. Also, the Land Titles legislation in each jurisdiction impose obligations on parties lodging registry instruments and other documents for registration by land registries. In electronic conveyancing, the parties that lodge registry instruments and other documents are Subscribers to an ELN. | Proposed amendment withdrawn and further amendment made. | MOR 10.1(a)(i) amended to include the ECNL and Land Titles Legislation. |
| 5 | 7.6 | Suggest including new Operating Requirement 7.6.2(c)(iii) 'does not limit who can be issued with a digital certificate or who can rely upon digital signings made with the certificate' to achieve maximum efficiency for industry in electronic conveyancing and the avoidance of any cost and inconvenience barriers for new ELNOs. | None. | The current framework described within the MOR is not prescriptive and allows for multiple solutions. It was established in recognition of the existing market for digital framework suppliers. The option to implement an open or hybrid digital certificate environment is at the discretion of an ELNO. |

| # | Rule | Stakeholder feedback | Action taken | ARNECC response |
|----|---|---|---------------------------|--|
| 6 | 7.9, 7.10(d), 14.7(d) and (e), 14.8, 15.9, 20.1(a)(iv), 21.4(b) | It is proposed that the word 'immediately' be replaced with 'as soon as reasonably practicable' to provide a more reasonable notification framework in ORs 7.9, 7.10(d), 14.7(d) and (e), 14.8, 15.9, 20.1(a)(iv) and 21.4(b). | The MOR has been amended. | 'immediately' is appropriate and remains for MOR s 7.9, 7.10(d), 14.7(d), 14.8, 20.1(a)(iv) and 21.4(b). 'immediately' has been replaced with 'promptly' in MOR 14.7(e). 'immediately' has been deleted from MOR 15.9. |
| 7 | 10.9 | The obligation in Operating Requirement 10.9 should reflect only that Duty had been paid or an irrevocable commitment to pay had been made to the Duty Authority. There is currently no functionality to ensure that this occurs to the satisfaction of the Duty Authority. | None. | Obligation exists on the basis that any payment of duty/commitment to pay needs to be to the satisfaction of the Duty Authority. |
| 8 | 14.1(e) | In Version 3 of the MOR, the requirement that Subscribers be legally entitled to conduct Conveyancing Transactions under the laws of the relevant Jurisdiction was removed. Suggest this requirement be re-inserted in OR 14.1(e). | None. | Obligation has not changed. Wording was amended previously to be consistent with MPR. |
| 9 | 14.7(e) | The MOR only states notification is required for access changes associated with 'Restrictions', 'Suspensions', 'Terminations' and 'Reinstatements'. The request 'when Subscribers withdraw from a Jurisdiction' does not fall into any of these options. Suggest an additional item related to 'Withdrawals' be considered for inclusion in the MOR to make this expectation more explicit. | The MOR has been amended. | The term 'termination' is clarified to include resignation. |
| 10 | 20.1 | What is involved in becoming operational following granting of an approval is largely unknown to ELNO applicants. The details of data standards, interface specifications, document definitions and business rules are all unavailable to ELNO applicants. Also unavailable is any information on the expectations of land registries and revenue offices as to testing of systems integration both as regards to means and extent of testing and availability of time and facilities for testing. These uncertainties make it impossible for an ELNO applicant to form any view as to how long it may take to implement an ELNO approval. To address this situation and provide some assurance to ELNO applicants that their time is not being wasted in applying for approval, it is suggested that the following wording be included at 20.1(b)(i): ', without reasonable excuse.' | The MOR has been amended. | Amended as suggested. |

| # | Rule | Stakeholder feedback | Action taken | ARNECC response |
|----|--|---|---------------------------|--|
| 11 | 20.1 | Propose including the words 'within a reasonable time' in Operating Requirement 20.1(b)(ii). | The MOR has been amended. | Amended as suggested. |
| 12 | Schedule 5 - Compliance Examination Procedure - para 2.2 | The Registrar should be required to give a receipt for retained Documents; accordingly, it is important that Operating Requirement 2.2 be retained. | The MOR has been amended. | The paragraph has been reinstated and 'If requested by the ELNO' inserted. |