

Proposed Model Operating Requirements

Stakeholder Consultation Briefing

30 March 2012

Proposed Model Operating Requirements (MOR)

Model Requirements for anyone wanting to operate an Electronic Lodgement Network (ELN)

Requirements will form part of the agreement between each Registrar and an Electronic Lodgement Network Operator (ELNO)

Guidance Notes to be developed will give guidance on how an ELNO may decide to meet its obligations

Relevant Legislation

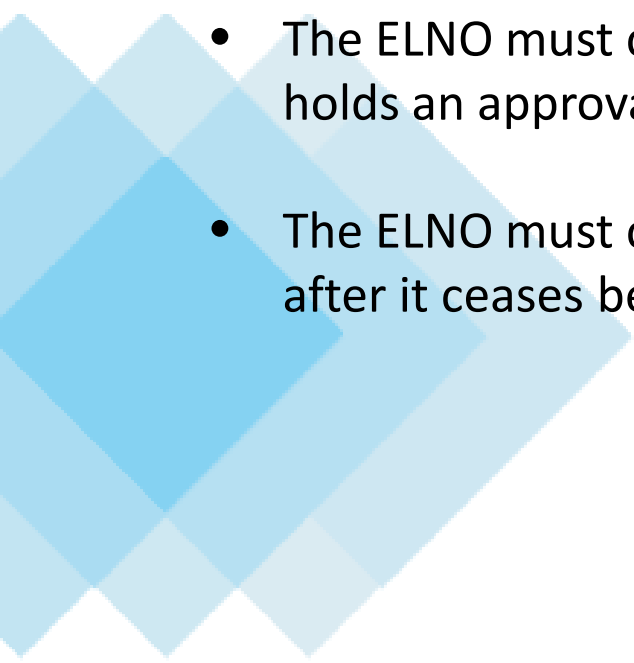
The following sections of the proposed Electronic Conveyancing National Law (ECNL) apply to the Operating Requirements:

- **Section 15** – The Registrar may approve a person to provide and operate an ELN
- **Section 18** – An ELNO must comply with the Operating Requirements
- **Section 19** – The Registrar may renew an approval as an ELNO if the ELNO continues to fulfil the Operating Requirements
- **Section 20** – The Registrar may revoke or suspend an ELNO’s approval if it fails to meet the Operating Requirements
- **Section 22** – The Registrar may set requirements relating to the operation of an ELN by an ELNO

Relevant Legislation

- **Section 24** – deals with consistency of Operating Requirements across all jurisdictions
- **Section 25** – The Registrar must ensure the Operating Requirements are publicly available
- **Section 27** – The Registrar may waive compliance with any provisions of the Operating Requirements
- **Section 33** – The Registrar may conduct a compliance examination to ensure an ELNO is adhering to the Operating Requirements

Section 3 – Compliance with Operating Requirements

- The ELNO must be able to comply with the Operating Requirements at the time of application to become an ELNO
 - The ELNO must comply with the Operating Requirements while it holds an approval
 - The ELNO must continue to comply with certain requirements even after it ceases being an ELNO
- 

Section 4 – ELNO Eligibility Requirements

The ELNO must:

- have an ABN
- be a corporation and comply with Corporations Act 2001
- be of good character and reputation
- have sufficient financial, technical and operational resources
- comply with insurance rules

Section 5 – Operation of ELN

- ELNO must encourage widespread industry use
- ELNO must provide a National System (i.e. available to every Land Registry and to subscribers in all States and Territories)
- ELNO must satisfy various general obligations

Section 6 – Initial Testing

- ELNO must not commence operating the ELN before testing it to the satisfaction of the Registrar



Section 7 – Obligations Regarding System Security and Integrity

The ELNO must:

- Have an Information Security Management System in place
- Ensure that only registered subscribers and their authorised users can access the ELN
- Take reasonable steps to ensure its systems are virus free
- Take reasonable steps to prevent unauthorised access
- Comply with data usage rules
- Use a reliable Digital Certificate regime using Digital Certificates issued by a Gatekeeper PKI provider
- Have an effective means to verify Digital Certificates and that documents have not been altered since execution
- Notify subscribers of any compromise

Section 8 – Safety, Security and Integrity of Titles Register

The ELNO must:

- Ensure it does nothing to diminish safety, security and integrity of titles register



Section 9 –Risk Management

The ELNO must:

- Identify and mitigate all risks in its operation of the ELN
- Ensure that use of the ELN does not result in a greater risk of fraud or error
- Ensure that there is no net increase in the Registrar’s liabilities from the ELNO’s activities and operations.

Section 10 – Minimum System Requirements

The ELNO must ensure that the ELN meets the minimum functional requirements for:

- Functionality
- Adaptability
- Data standards
- Application of Registrar’s business rules
- Provision of transaction integrity services
- Use of Registrar’s document templates
- Presentation of documents following settlement and duty and fee payment

Section 11 – Minimum Performance Level Requirements

- The ELNO must ensure the ELN meets the specified minimum service levels
- The ELNO must monitor and record its performance against the service levels

Section 12 – Business Continuity and Disaster Recovery

- The ELNO must have a well documented Business Continuity and Disaster Recovery Plan
- The Plan must be regularly reviewed by an independent person
- The ELNO must implement any recommendations of the review

Section 13 – Change Management

- The ELNO must have in place a Change Management Framework
- The Change Management Framework must be regularly reviewed by an independent person
- The ELNO must implement any recommendations of the review
- No changes can be made to the ELN except in accordance with the Change Management Framework

Section 14 – Subscribers

The ELNO must:

- Comply with rules on subscriber registration
- Not impose any unreasonable barriers to potential subscribers or unreasonably refuse to accept a subscriber
- Maintain a register of subscribers and users
- Obtain and retain evidence that each subscriber holds the relevant insurances
- Ensure that it provides sufficient training resources for subscribers
- Monitor subscribers' compliance with the participation rules
- Restrict, suspend or terminate a subscriber if directed by Registrar

Section 15 – Compliance Monitoring and Reporting

The ELNO must:

- Monitor compliance against the Operating Requirements
- Demonstrate and report on compliance with the Operating Requirements as set out in the Operating Requirements
- Demonstrate compliance with the Operating Requirements at any time if asked by the Registrar
- Notify the Registrar in the case of non-compliance
- Remedy any non-compliance

Section 16 – Independent Certification

- Where Independent Certification used to demonstrate compliance, expert to be approved by Registrar

Section 17 – Compliance Examination

- If the Registrar conducts a compliance examination as allowed under the ECNL, the ELNO must comply with the procedure for this examination

Section 18 –Reports

- The ELNO must supply the Registrar with a monthly report on certain matters in the Operating Requirements
- The ELNO must supply the Registrar with an annual report on its compliance against the Operating Requirements



Section 19 – Data and Information Obligations

- The ELNO must indefinitely retain workspace data, documents, notifications and subscriber and user registration documents
- The ELNO must generate and indefinitely retain activity logs and audit records
- The ELNO must comply with the data usage rules

Section 20 – Registrar’s Powers

- The Registrar can suspend or revoke an ELNO’s approval

Section 21 – Business and Services Disengagement

- The ELNO must have a Business and Services Disengagement Plan in place
- The Disengagement Plan must be regularly reviewed by an independent person
- The ELNO must implement any recommendations of the review

Section 22 – Jurisdiction Specific Operating Requirements

- Some Jurisdictions may choose to impose additional operating requirements
- An ELNO must comply with these additional Jurisdiction specific operating requirements

