



Instrument No: OR1/2014

OPERATING REQUIREMENTS WAIVER

Section 27 Electronic Conveyancing Act 2014

Enabling Provisions

1. Under sections 22 and 25 of the *Electronic Conveyancing Act 2014* (“EC Act”) the Registrar of Titles (“Registrar”) has determined and published Operating Requirements.
2. Under sections 23 and 25 of the EC Act the Registrar has determined and published Participation Rules.
3. Section 27(1) of the EC Act permits the Western Australian Land Information Authority or 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.
4. Section 27(2) of the EC Act 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.

Title

This instrument is Operating Requirements Waiver OR1/2014 – Certifications.

Affected Requirement

Operating Requirement 10.1(a)(i).

Explanatory Statement

Under Operating Requirement 10.1(a)(i), an Electronic Lodgement Network Operator (“ELNO”) must ensure that the Electronic Lodgement Network (“ELN”) provides sufficient functionality to enable Subscribers to comply with the Participation Rules.

Under Participation Rule 7.10, a Subscriber to an ELN must comply with the Certification Rules set out in Schedule 3 of the Participation Rules.

It is understood that the wording of the certifications in Release 1 of Property Exchange Australia Ltd’s ELN, known as PEXA (Property Exchange Australia), are not the same as the wording in the Certification Rules contained in the Participation Rules. It is further understood that the certifications will be updated to be identical to the Certification Rules at a time proposed by Property Exchange Australia Ltd and agreed to by the Registrar.

The Registrar is of the view that the variation in wording is not material to the certifications being given.

The Registrar has granted Subscribers a partial waiver of the requirement to comply with Participation Rule 7.10.

Waiver

Subject to the Conditions, the Registrar grants Property Exchange Australia Ltd a partial waiver of the ELNO’s obligation under Operating Requirement 10.1(a)(i) to ensure that the functionality of the ELN enables a Subscriber to comply with the Participation Rules, to the extent that the functionality must enable the certification set out under the Conditions below to be given by a Subscriber in substitution for Certification 5 that would otherwise be required under the Participation Rules.



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Conditions

Partial waiver of Operating Requirement 10.1(a)(i) is granted on the following conditions.

1. The following certification is provided in substitution for Certification 5 that would otherwise be required under the Participation Rules.
 - “5. The Subscriber or the mortgagee it represents:
 - (a) has taken reasonable steps to verify the identity of the mortgagor; and
 - (b) holds a mortgage on the same terms as this Registry Instrument signed by the mortgagor.”
2. This waiver will be taken to be a notice marked as “For Communication to Subscribers” under Operating Requirement 19.4(d) and Property Exchange Australia Ltd must provide notice of the waiver and any expiry or revocation of the waiver to Subscribers.

Commencement

This waiver commences on the date below.

Period during which this waiver applies

This waiver operates until the earlier of:

- (a) Property Exchange Australia Ltd changing the ELN to enable Certification 5 in the Participation Rules to be given by Subscribers; or
- (b) the publication by the Registrar that the waiver is revoked.

Dated: June 2014

Signed by:

Jean Villani
Registrar of Titles