



**PARTICIPATION RULES  
WAIVER  
Victoria  
Section 27 *Electronic Conveyancing National Law (Victoria)***

**Title**

This instrument is Victorian Participation Rules Waiver PR4/2021 – Transfer of Mortgage.

**Enabling Provisions**

1. 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 6 of the Participation Rules which came into effect on and from 12 April 2021 (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.
2. 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 6.13.1(d) (Affected Participation Rule).

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 2014*. 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 authorized by law. Enquiries about access to information about you held by the Department should be directed to [foi.unit@delwp.vic.gov.au](mailto:foi.unit@delwp.vic.gov.au) or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.

## **Explanatory Statement**

Under Participation Rule 6.13.1 where a mortgagor (in its capacity as mortgagor) is not a Subscriber or represented by a Subscriber, the mortgagee, or the mortgagee's Representative, must:

- (a) ensure that the mortgagor grants a mortgage on the same terms as the mortgage signed by, or on behalf of, the mortgagee; and
- (b) ensure that the mortgagee or the mortgagee's Representative holds the mortgage granted by the mortgagor; and
- (c) provide Certification 5 of the Certification Rules; and
- (d) for a transfer of mortgage, ensure that the transferee mortgagee or the transferee mortgagee's Representative holds the mortgage granted by the mortgagor.

Previous versions of the Participation Rules have required mortgagee's or their representatives to comply with the obligations in Participation Rule 6.13.1 (a) – (c). Version 6 of the Participation Rules introduced a new obligation where the electronic Registry Instrument or other electronic Document being Lodged is a transfer of a mortgage, being an obligation for the transferee mortgagee or the transferee mortgagee's Representative to hold the mortgage granted by the mortgagor referred to in Participation Rule 6.13.1(a) and (b) relating to the mortgage being transferred.

An industry peak body has requested a temporary waiver of the Affected Participation Rule on behalf of Subscribers. A temporary waiver will give Subscribers time to make any operational changes required to ensure compliance with the Affected Participation Rule.

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

## **Waiver**

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

## **Conditions**

The waiver is granted on the conditions that any Subscriber that is complying with the Affected Participation Rule must continue to do so.

## **Commencement**

This waiver commences on 12 April 2021.

## **Period during which this waiver applies**

This waiver operates to the earlier of:

- (a) 12 July 2021; or
- (b) Subscriber(s) fully complying with the Affected Participation Rule; or
- (c) the revocation of this waiver by the Registrar.

**Dated: 11/06/21**

**Signed by:**



**Jane Allan**  
***Deputy Registrar of Titles***