



# **PARTICIPATION RULES WAIVER Victoria**

## **Section 27 *Electronic Conveyancing National Law (Victoria)***

### **Title**

This instrument is Victorian Participation Rules Waiver PR8/2021 – Victorian government entities.

### **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 Rules 5.1.1, 6.3, 7.10 and Certification Rule 2 (Affected Participation Rules).

### **Explanatory Statement**

Under Participation Rule 5.1.1, a Subscriber may act on its own behalf or on behalf of its Clients when accessing and using an ELN.

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.

The Registrar recognises that some Victorian government entities and Statutory Bodies may act on their own behalf and on behalf of other Victorian government entities, Statutory Bodies, Local Government Organisations and other classes of Persons none of which might be characterised as Clients. This is so they can perform their legislated functions and continue with their usual conveyancing procedures.

Under Participation Rules 6.3, if a Subscriber is a Representative, the Subscriber must enter into a Client Authorisation except where not required under that Participation Rule for certain types of instrument. The Client Authorisation in Schedule 4 of the Participation Rules sets out that a Representative is limited to Australian Legal Practitioners, Law Practices and Licensed Conveyancers. Victorian government entities and Statutory Bodies acting on behalf of others are unlikely to be Australian Legal Practitioners, Law Practices or Licensed Conveyancers.

Under Participation Rule 7.10, the Certification Rules must be complied with. Certification Rule 2 by which a Certifier certifies they hold a properly completed Client Authorisation may not be required. Where, through this waiver, the Registrar has waived a Subscriber's obligation to comply with Certification Rule 2 but a Registry Instrument or other electronic Document requires the Certifier to provide Certification Rule 2, Certification Rule 2 (Client Authorisation) will be deemed to have not been provided and the Registrar will not rely upon this Certification Rule 2.

Accordingly, the Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver modifying the obligations of Subscriber(s) who represent the Crown in right of Victoria through its departments and agencies or Victorian Statutory Bodies under the Affected Participation Rules.

## **Waiver**

Subject to the Conditions, the Registrar grants the Crown in right of Victoria through its departments and agencies and Victorian Statutory Bodies (Victorian Government Entities) a partial waiver of their obligations to comply with the Affected Participation Rules.

## **Conditions**

The partial waiver is granted on the conditions that:

1. If the Victorian Government Entity acts for classes of Persons who are not Victorian Government Entities or Victorian Local Government Organisations, any Signer must be an Australian Legal Practitioner or Licensed Conveyancer employed by the Victorian Government Entity.

2. The Victorian Government Entity is to only transact for other Victorian Government Entities, Local Government Organisations or for a class of Person it is permitted to act for under its governing legislation.

3. The Victorian Government Entity must satisfy itself that its governing legislation does not preclude it from acting for other Victorian Government Entities and, where applicable, specifies it is permitted to act for classes of Persons who are not Victorian Government Entities.

### **Commencement**

This partial waiver commences on the date it is signed.

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

This partial waiver operates to the earlier of:

- (a) Victorian Government Entities fully complying with the Affected Participation Rules; or
- (b) the revocation of this waiver by the Registrar.

**Dated: 19/08/21**

**Signed by:**



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