

PARTICIPATION RULES WAIVER

Queensland Section 27 Electronic Conveyancing National Law (Queensland)

Title

This instrument is Queensland Participation Rules Waiver PR 1/2022 – Public Trustee of Queensland.

Enabling Provisions

1. Under sections 23 and 25 of the Electronic Conveyancing National Law (Queensland) (the National Law) the Registrar of Titles (Registrar) has determined and published Version 6 of the Participation Rules for Electronic Conveyancing (Participation Rules) which came into effect on and from 12 April 2021. 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 6.3, 7.10 and Certification Rule 2

Explanatory Statement

Under Participation Rule 6.3, a Representative Subscriber must enter into a Client Authorisation with its Client before the Subscriber Digitally Signs any electronic Registry Instrument or other electronic Document in the ELN. A Representative Subscriber must take reasonable steps to ensure the Client Authorisation is signed by the Subscriber's Client.

The Public Trustee of Queensland routinely acts on behalf of Persons who have impaired capacity (as defined in the *Guardianship and Administration Act 2000* (Qld)), including as an administrator under the *Guardianship and Administration Act 2000* (Qld) or as financial manager under section 79 of the *Public Trustee Act 1978* (Qld).

The Public Trustee of Queensland cannot obtain a Client Authorisation, or have it signed by a Person with impaired capacity. The Public Trustee of Queensland will, however, hold and be able to produce evidence to support its ability to act on behalf of Persons with impaired

capacity such as an order or decision of the Queensland Civil and Administrative Tribunal or relevant Court.

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 the Public Trustee of Queensland'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 the Public Trustee of Queensland under the Affected Participation Rules.

Waiver

Subject to the Conditions, the Registrar grants the Public Trustee of Queensland a partial waiver of their obligation to comply with the Affected Participation Rules.

Conditions

The partial waiver is granted on the condition that where the Public Trustee of Queensland is able to comply with the Affected Participation Rules with respect to a particular circumstance, transaction or dealing, the Public Trustee of Queensland comply with the Affected Participation Rules.

Commencement

This partial waiver commences on 14 January 2022.

Period during which this waiver applies

This partial waiver operates until it is revoked by the Registrar.

Dated: 14/1/2022

Signed by: 

Elizabeth Dann

On behalf of Queensland Titles Registry Pty Ltd

Agent of the Registrar of Titles