

# PARTICIPATION RULES WAIVER

## New South Wales Section 27 *Electronic Conveyancing National Law*

### Title

This instrument is New South Wales Participation Rules Waiver PR 2/2022 – Statutory Bodies.

### Enabling Provisions

1. Under sections 23 and 25 of the *Electronic Conveyancing National Law* (the National Law) the Registrar General 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 (Affected Participation Rules).

### Explanatory Statement

The Registrar General recognises that some NSW government entities and Statutory Bodies may act on their own behalf and on behalf of other NSW government entities, NSW government agencies, Statutory Bodies, Local Government Organisations and other classes of Person 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 Rule 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 instruments. 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. NSW 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 is waived. Where, through this waiver, the Registrar General has waived a Subscriber's obligation to comply with Certification Rule 2 (**Waived Certification**) but a Registry Instrument or other electronic Document requires the Certifier to provide the Waived Certifications in the Electronic Workspace, the Registrar General will not rely upon the Waived Certifications.

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 are NSW government entities and Statutory Bodies under the Affected Participation Rules.

### **Waiver**

Subject to the Conditions, the Registrar grants the Crown in the right of NSW through its departments and agencies and NSW Statutory Bodies (**NSW 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 the NSW Government Entity:

- (a) must be engaged in legal work and a lawyer or conveyancer employed by the entity must sign the Registry Instruments. See section 10(1) of the Legal Profession Uniform Law (NSW) and section 4 of the Conveyancers Licensing Act 2003.
- (b) must satisfy itself that governing legislation does not preclude it from acting for others. The entity must be satisfied that it is not in contravention of section 10(1) of the Legal Profession Uniform Law (NSW) for any transaction or dealing it lodges using an ELN.
- (c) is to only transact for other NSW Government entities, or for a class of people defined in legislation that is core to their legislative functions.

### **Commencement**

This waiver commences on the date it is signed.

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

This waiver operates until the revocation of this waiver by the Registrar General.

**Dated: 30 November 2022**

**Signed by:**



**Danusia Cameron  
Registrar General**