PARTICIPATION RULES
WAIVER

New South Wales
Section 27 *Electronic Conveyancing National Law*

Title

This instrument is New South Wales Participation Rule Waiver PR 1/2023 – Certifications.

Enabling Provisions

1. Under sections 23 and 25 of the *Electronic Conveyancing National* (NSW) (the National Law) the Registrar General ("Registrar") has determined and published Version 6 of the Participation Rules for Electronic Conveyancing (Participation Rules) which came into effect on 12 April 2021.

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 7.10 under Version 6 of the Participation Rules (Affected Participation Rule).

Explanatory Statement

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

Version 6 of the Participation Rules came into effect on 12 April 2021 and included some minor changes to the wording of the certifications required under the Certification Rules in Version 5. The wording changes have not yet been implemented in the ELN known as 'PEXA', and operated by Property Exchange Australia Ltd, and the ELN known as 'Sympli', operated by Sympli Australia Pty Ltd.

NSW Participation Rules Waiver 1/2022, which also waived compliance with the Certification Rules in Version 6 of the Participation Rules, will lapse on 30 June 2023. Additional time is required to implement the changes.

The wording of the certifications is anticipated to be updated to comply with the Certification Rules in Version 6 of the Participation Rules in PEXA and Sympli on or before 30 November 2024. However, electronic Registry Instruments and other electronic Documents:
*   whether signed prior to, on or after 30 November 2024,
*   in an Electronic Workspace which contains at least one electronic Registry Instrument or electronic Document signed prior to 30 November 2024, and
*   not submitted for lodgment until on or after 12 April 2021

may contain the wording of the Certification Rules in Schedule 3 of Version 5 of the Participation Rules.

The Registrar is of the view that, in the interim, the continued use of the wording in the Certification Rules in Schedule 3 of Version 5 of the Participation Rules is reasonable. Accordingly, the Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver modifying the obligations of Subscribers under the Affected Participation Rule.

Waiver

Subject to the Conditions, the Registrar grants Subscribers to Property Exchange Australia Ltd's ELN, PEXA, and Sympli Australia Pty Ltd's ELN, Sympli, a partial waiver of their obligations to comply with the Affected Participation Rule.

Conditions

The partial waiver is granted on the conditions that:
  (a) This waiver applies to any electronic Registry Instruments and other electronic Documents (whether signed prior to, on or after 30 November 2024) in an Electronic Workspace which contains at least one electronic Registry Instrument or electronic Document signed prior to 30 November 2024 but not submitted for lodgment until on or after 12 April 2021.
  (b) Any electronic Registry Instruments or other electronic Document to which Condition (a) applies must contain (as appropriate) the wording of the Certifications Rules in Schedule 3 of Version 5 of the Participation Rules.

Commencement

This waiver commences on 1 July 2023.

Period during which this waiver applies

This partial waiver operates until:
  (a) the date on which electronic workspaces in Property Exchange Australia Ltd's ELN, PEXA, and Sympli Australia Pty Ltd's ELN, Sympli, contain no electronic Registry Instruments or other electronic Documents signed prior to 30 November 2024; or
  (b) the revocation of this waiver by the Registrar.

Dated: 17 May 2023

Signed by:

Danusia Cameron
Registrar General