

PARTICIPATION RULES WAIVER

New South Wales

Section 27 *Electronic Conveyancing National Law (NSW)*

Title

This instrument is Participation Rules Waiver PR 3/2018 – Lessor/Lessee Certifications.

Enabling Provisions

1. Under sections 23 and 25 of the Electronic Conveyancing National Law (NSW) (the National Law) the Registrar General (“Registrar”) has determined and published Version 4 of the Participation Rules which came into effect on and from 27 May 2017.
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 Requirement

Participation Rule 7.10 and Schedule 3.

Explanatory Statement

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

Certification 1 of Schedule 3 states:

The Certifier has taken reasonable steps to verify the identity of the [transferor/transferee/mortgagee/mortgagor/caveator/applicant].

System Release 9.0.1 scheduled for December 2018 by the ELN Operator, Property Exchange Australia Ltd, will enable Subscribers to lodge Leases electronically in New South Wales. This capability will be available prior to the changes to Certification 1 in Version 4 of the Participation Rules to cater for lessors and lessees.

The Registrar has therefore determined that a partial waiver should be granted to reflect that (in addition to a transferor, transferee, mortgagee, mortgagor, caveator and applicant) a lessor or lessee may be a party to which Certification 1 of Schedule 3 is applicable.

Partial Waiver

The Registrar grants Subscribers a partial waiver modifying the Subscriber’s obligations to comply with Participation Rule 7.10 (Version 4 of the Participation Rules) by allowing a Subscriber to select the insertion of lessor or lessee for a Lease.

Commencement

This partial waiver commences on 8 December 2018.

Period during which this waiver applies

This waiver operates to the earlier of:

- (a) an amended version of the Participation Rules which reflects that a lessor or lessee may be a party to which Certification 1 of Schedule 3 is applicable; or
- (b) the publication of a revocation of this waiver by the Registrar.

Dated: 29 November 2018

Signed by:



Jeremy Cox
Registrar General