

CONVEYANCING RULES WAIVER

New South Wales Section 12E *Real Property Act 1900 (NSW)*

Title

This instrument is Conveyancing Rules Waiver CR 2/2021 – Certifications.

Enabling Provisions

1. Under section 12E of the Real Property Act 1900 (RPA), the Registrar General (“Registrar”) has determined and published Version 5 of the Conveyancing Rules which came into effect on and from 1 July 2019.
2. Section 12E(10) of the RPA permits the Registrar to waive compliance with all or any provisions of the Conveyancing Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Affected Conveyancing Rule

Conveyancing Rule 10 under Version 5 of the Conveyancing Rules (Affected Conveyancing Rule)

Explanatory Statement

Under Conveyancing Rule 10, the Registrar can accept and register a National Mortgage Form (NMF) lodged in paper in a limited number of scenarios set out in CR 1/2021 (Required Dealings Exceptions) and provided that the mortgagee or the mortgagee’s Representative provides certain certifications under the Certification Rules set out in Schedule 3 of the NSW Participation Rules.

Version 6 of the NSW Participation Rules which will take effect on 12 April 2021 include minor changes to the wording of certifications required under the Certification Rules. These wording changes have not yet been implemented in the Electronic Lodgment Network (ELN) known as ‘PEXA’, and operated by Property Exchange Australia Ltd, and the ELN known as ‘Sympli’, operated by Sympli Australia Pty Ltd.

The wording of the certifications will be updated to comply with the Certification Rules in Version 6 of the Participation Rules in PEXA and Sympli on or before 30 June 2022. The changes will affect instances where an NMF is prepared but cannot be lodged electronically and the NMF must then be lodged in paper.

The Registrar is of the view that the continued use of the wording in the Certification rules in Schedule 3 of Version 5 of the NSW Participation Rules is reasonable for NMFs that are lodged in paper.

Waiver

Subject to the Conditions, the Registrar grants a partial waiver to mortgagees and mortgagee Representatives of their obligations to comply with the Affected Conveyancing Rule.

Conditions

The partial waiver is granted on the conditions that:

- (a) This waiver applies to any National Mortgage Form permitted to be lodged in paper which is signed on or before 30 June 2022.
- (b) Any national Mortgage Form to which Condition (a) applies must contain (as appropriate) the wording of the Certifications Rule in Schedule 3 of Version 5 of the NSW Participation Rules.

Commencement

This waiver commences on 12 April 2021.

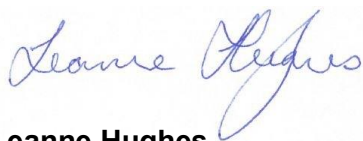
Period during which this waiver applies

This partial waiver operates to the earlier of:

- (a) 30 June 2022, or
- (b) the revocation of this waiver by the Registrar.

Dated: 1 April 2021

Signed by:



Leanne Hughes
Acting Registrar General