



STATUS

Current version for 14 May 2021 to date. Last modified on 14 May 2021 (see Historical on page 6 below).

CONVEYANCING RULES

WAIVER

New South Wales

Section 12E *Real Property Act 1900 (NSW)*

Title

This instrument is Conveyancing Rules Waiver CR 1/2021 – Required Dealings Exceptions.

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 Rule

Conveyancing Rule (Version 5) 8.7 (CR 8.7) and 8.8 (CR 8.8)

Explanatory Statement

CR 8.7 provides that a Mainstream Dealing or combination of Mainstream Dealings (defined to mean a transfer, mortgage, discharge of mortgage, caveat, withdrawal of caveat or transmission application) signed on or after 1 July 2019 and before 30 June 2020 must be lodged using an Electronic Lodgment Network (ELN) except where the folio of the Register for the land affected by the dealing is not Electronically Tradeable, or if an ELN is not available and has not been available for one clear Business Day.

CR 8.8 provides that any Required Dealing (defined as a Mainstream Dealing or a dealing declared to be a Required Dealing under Rule 8.8) signed from 1 July 2020 must be lodged using an ELN, except where the folio of the Register for the land affected by the dealing is not Electronically Tradeable, or if an ELN is not available and has not been available for one clear Business Day.

The Registrar has determined that there are certain types of Dealings affected by CR 8.7 and CR 8.8 that in the Registrar’s opinion are not able to be lodged electronically, or in the circumstances, may unfairly affect the parties if required to be lodged electronically.

Waiver

The Registrar grants a waiver of the obligation to comply with CR 8.7 and CR 8.8 in the following circumstances:

1. *Caveat*
 - 1.1. where the caveator is not represented by a legal practitioner or licensed conveyancer;
 - 1.2. that only affects part of the land in a folio of the Register;
 - 1.3. lodged against premises contained in a lease;
 - 1.4. affecting a registered interest (e.g. a mortgage, lease or charge);
 - 1.5. involving multiple caveators who are not represented by a single Subscriber.

2. *Withdrawal of Caveat*

- 2.1. where the caveator is not represented by a legal practitioner or licensed conveyancer;
- 2.2. that only affects part of the land in a folio of the Register;
- 2.3. involving multiple caveators who are not represented by a single Subscriber;
- 2.4. that does not affect all the caveators (when there are multiple caveators);
- 2.5. affecting a registered interest (e.g. a mortgage, lease or charge);
- 2.6. where an attachment is required, such as a copy of the probate;
- 2.7. where the caveat is withdrawn by a person other than the caveator.

3. *Discharge of Mortgage*

- 3.1. where the mortgagee is an individual(s) and not represented by a legal practitioner or licensed conveyancer;
- 3.2. that only affects part of the land in a folio of the Register;
- 3.3. that does not affect all the mortgagees (when there are multiple mortgagees);
- 3.4. that does not affect all the mortgagors (when there are multiple mortgagors);
- 3.5. where the mortgage to be discharged is a sub-mortgage, mortgage of lease or mortgage of charge.

4. *Mortgage*

- 4.1. where the mortgagee is an individual(s) and not represented by a legal practitioner or licensed conveyancer;
- 4.2. over an interest or share in land or part of the land in a folio of the Register;
- 4.3. that does not affect all the registered proprietors;
- 4.4. affecting more than 20 folios of the Register, which cannot be separated.

5. *Transfer*

- 5.1. where both the transferee and transferor are not represented by a legal practitioner or licensed conveyancer and the transfer is standalone;
- 5.2. creating a life estate and estate in remainder;
- 5.3. that only affects part of the land in a folio of the Register;
- 5.4. affecting more than 20 folios of the Register, which cannot be separated;
- 5.5. where execution by a person other than the registered proprietor is required, such as a court officer or a guardian when a person's estate is subject to management under the NSW Trustee and Guardian Act 2009;
- 5.6. where the transfer involves transactions or obligations outside of the Torrens Register, for example where the transaction (or a chain of transactions) involves:
 - 5.6.1. properties located in other jurisdictions;
 - 5.6.2. the purchase or sale of a company title unit;
 - 5.6.3. handing over old system documents relating to qualified or limited title (or both);
 - 5.6.4. financial settlement that includes the transfer of a Water Access Licence;
 - 5.6.5. sales of businesses where the subject matter of the sale involves assets other than interests in land.

6. *Transmission Application*

- 6.1. where the applicant is not represented by a legal practitioner or licensed conveyancer;
- 6.2. where an interest in land is affected (e.g. a mortgage, lease or charge);
- 6.3. where a life estate and estate in remainder is created by the transmission application;
- 6.4. where an estate in remainder is affected;
- 6.5. where the applicant is also the registered proprietor who holds the whole of an estate or interest in different capacities and it is intended to show that registered proprietor separately for each share held.

7. *Notice of Death*

- 7.1. where the applicant is not represented by a legal practitioner or licensed conveyancer;
- 7.2. where a registered interest in land such as a lease or mortgage is affected.

8. *Variation of Lease*
 - 8.1. where either the lessor or lessee are not represented by a legal practitioner or licensed conveyancer;
 - 8.2. where a registered interest in land such as a sub-lease is affected;
 - 8.3. involving multiple parties who are not represented by a single Subscriber;
 - 8.4. affecting more than 20 folios of the Register, which cannot be separated.
9. *Change of Name*
 - 9.1. where the party is not represented by a legal practitioner or licensed conveyancer;
 - 9.2. affecting more than 20 folios of the Register, which cannot be separated.
10. *Change of Name of Lessee, Mortgagee or Chargee*
 - 10.1. where the party is not represented by a legal practitioner or licensed conveyancer;
 - 10.2. where a registered sub-lease or sub-mortgage is affected;
 - 10.3. that does not affect all the mortgagees (when there are multiple mortgagees);
 - 10.4. affecting more than 20 folios of the Register, which cannot be separated.
11. *Change of Address of Owners Corporation*
 - 11.1. where the party is not represented by a legal practitioner or licensed conveyancer.
12. *Change of Address of Association*
 - 12.1. where the party is not represented by a legal practitioner or licensed conveyancer.
13. *Change of Address for Service of Notices on Caveator*
 - 13.1. where the party is not represented by a legal practitioner or licensed conveyancer;
 - 13.2. where a registered interest in land such as a lease or mortgage is affected;
 - 13.3. involving multiple caveators who are not all represented by a single Subscriber;
 - 13.4. affecting more than 20 folios of the Register, which cannot be separated.
14. *Change of Name of Caveator*
 - 14.1. where the party is not represented by a legal practitioner or licensed conveyancer;
 - 14.2. where the caveat is recorded against a registered interest in land such as a lease or mortgage;
 - 14.3. affecting more than 20 folios of the Register, which cannot be separated.
15. *Transfer Severing Joint Tenancy in an Interest*
 - 15.1. where the applicant is not represented by a legal practitioner or licensed conveyancer;
 - 15.2. where a registered interest in land such as a sub-lease or sub-mortgage is affected;
 - 15.3. involving multiple parties who are not represented by a single Subscriber;
 - 15.4. affecting more than 20 folios of the Register, which cannot be separated.
16. *Transfer Severing Joint Tenancy*
 - 16.1. where the applicant is not represented by a legal practitioner or licensed conveyancer;
 - 16.2. involving multiple parties who are not represented by a single Subscriber;
 - 16.3. affecting more than 20 folios of the Register, which cannot be separated.
17. *Transfer Altering Tenancy (Joint Tenants to Tenants in Common in Equal Shares)*
 - 17.1. where all the registered proprietors are not represented by a legal practitioner or licensed conveyancer;

- 17.2. involving multiple parties who are not represented by a single Subscriber;
 - 17.3. affecting more than 20 folios of the Register, which cannot be separated.
18. *Transfer Altering Tenancy (Tenants in Common in Equal Shares to Joint Tenants)*
- 18.1. where all the registered proprietors are not represented by a legal practitioner or licensed conveyancer;
 - 18.2. involving multiple parties who are not represented by a single Subscriber;
 - 18.3. affecting more than 20 folios of the Register, which cannot be separated.
19. *Transfer Creating a Profit a Prendre*
- 19.1. where both the transferee and transferor are not represented by a legal practitioner or licensed conveyancer and the transfer is standalone;
 - 19.2. that only affects part of the land in a folio of the Register;
 - 19.3. involving multiple parties who are not represented by a single Subscriber;
 - 19.4. affecting more than 20 folios of the Register, which cannot be separated.
20. *Transfer Creating a Forestry Right*
- 20.1. where both the transferee and transferor are not represented by a legal practitioner or licensed conveyancer and the transfer is standalone;
 - 20.2. that only affects part of the land in a folio of the Register;
 - 20.3. involving multiple parties who are not represented by a single Subscriber;
 - 20.4. affecting more than 20 folios of the Register, which cannot be separated.
21. *Transfer of Interest*
- 21.1. where both the transferee and transferor are not represented by a legal practitioner or licensed conveyancer and the transfer is standalone;
 - 21.2. involving multiple parties who are not represented by a single Subscriber;
 - 21.3. that does not affect all the mortgagees (when there are multiple mortgagees);
 - 21.4. that affects a lease, sub-lease or mortgage of a lease;
 - 21.5. affecting more than 20 folios of the Register, which cannot be separated.
22. *Transfer without Monetary Consideration*
- 22.1. where both the transferee and transferor are not represented by a legal practitioner or licensed conveyancer and the transfer is standalone;
 - 22.2. involving multiple parties who are not represented by a single Subscriber;
 - 22.3. affecting more than 20 folios of the Register, which cannot be separated;
 - 22.4. where a life estate and estate in remainder is created or affected.
23. *Consolidation/change of by-laws*
- 23.1. where the party is not represented by a legal practitioner or licensed conveyancer;
 - 23.2. where the party is only seeking to consolidate the existing by-laws.
24. *Positive Covenant*
- 24.1. where either the registered proprietor or the prescribed authority are not represented by a legal practitioner or licensed conveyancer;
 - 24.2. involving multiple registered proprietors who are not represented by a single Subscriber;
 - 24.3. affecting more than 20 folios of the Register, which cannot be separated.
 - 24.4. where the prescribed authority is not a Subscriber
25. *Positive Covenant (with Registered Interest Holder Consent)*
- 25.1. where either the registered proprietor or prescribed authority are not represented by a legal practitioner or licensed conveyancer;
 - 25.2. involving multiple registered proprietors who are not represented by a single Subscriber;
 - 25.3. affecting more than 20 folios of the Register, which cannot be separated.
 - 25.4. where the prescribed authority is not a Subscriber

26. *Positive Covenant Affecting Land Vested in a Prescribed Authority*
- 26.1. where the prescribed authority is not a Subscriber or otherwise represented by a legal practitioner or licensed conveyancer;
 - 26.2. where a registered interest in land such as a lease or mortgage is affected;
 - 26.3. affecting more than 20 folios of the Register, which cannot be separated.
27. *Restriction on the Use of Land by a Prescribed Authority*
- 27.1. where either the registered proprietor or the prescribed authority are not represented by a legal practitioner or licensed conveyancer;
 - 27.2. involving multiple registered proprietors who are not represented by a single Subscriber;
 - 27.3. affecting more than 20 folios of the Register, which cannot be separated;
 - 27.4. where the prescribed authority is not a Subscriber.
28. *Restriction on the Use of Land by a Prescribed Authority (with Registered Interest Holder Consent)*
- 28.1. where either the registered proprietor or the prescribed authority are not represented by a legal practitioner or licensed conveyancer;
 - 28.2. involving multiple registered proprietors who are not represented by a single Subscriber;
 - 28.3. affecting more than 20 folios of the Register, which cannot be separated;
 - 28.4. where the prescribed authority is not a Subscriber.
29. *Restriction on the Use of Land*
- 29.1. where both the registered proprietor and the applicant are not represented by a legal practitioner or licensed conveyancer;
 - 29.2. involving multiple parties who are not represented by a single Subscriber;
 - 29.3. affecting more than 20 folios of the Register, which cannot be separated.
30. *Restriction on the Use of Land (with Registered Interest Holder Consent)*
- 30.1. where both the registered proprietor and the applicant are not represented by a legal practitioner or licensed conveyancer;
 - 30.2. involving multiple parties who are not represented by a single Subscriber;
 - 30.3. affecting more than 20 folios of the Register, which cannot be separated.
31. *Restriction on the Use of Land Vested in Prescribed Authority*
- 31.1. where the prescribed authority is not a Subscriber or otherwise represented by a legal practitioner or licensed conveyancer;
 - 31.2. affecting more than 20 folios of the Register, which cannot be separated.
32. *Variation of Mortgage*
- 32.1. where the mortgagee(s) is an individual and not represented by a legal practitioner or licensed conveyancer;
 - 32.2. where a registered interest in land such as a lease or mortgage is affected;
 - 32.3. involving multiple parties who are not represented by a single Subscriber;
 - 32.4. that does not affect all the mortgagees (when there are multiple mortgagees);
 - 32.5. affecting more than 20 folios of the Register, which cannot be separated.
33. *Charge*
- 33.1. where both the chargor and chargee are not represented by a legal practitioner or licensed conveyancer;
 - 33.2. where a registered interest in land such as a lease or mortgage is affected;
 - 33.3. involving multiple parties who are not represented by a single Subscriber;
 - 33.4. affecting more than 20 folios of the Register, which cannot be separated.

34. *Covenant Charge*

- 34.1. where the prescribed authority is not a Subscriber or otherwise represented by a legal practitioner or licensed conveyancer;
- 34.2. affecting more than 20 folios of the Register, which cannot be separated.

35. *Discharge of Charge*

- 35.1. where the party is not represented by a legal practitioner or licensed conveyancer;
- 35.2. where a registered interest in land such as a lease or mortgage is affected;
- 35.3. involving multiple parties who are not represented by a single Subscriber;
- 35.4. affecting more than 20 folios of the Register, which cannot be separated.

36. *Transactions not able to be completed electronically*

- 36.1. where written evidence from Revenue NSW is presented with the paper dealings at NSW LRS confirming that the transaction cannot be processed electronically;
- 36.2. where written evidence from the ELNO is presented with the paper dealings at NSW LRS confirming that the transaction cannot be processed electronically.

Commencement and Period during which this waiver applies

This waiver commences on 22 March 2021 and operates until the earlier of 22 March 2022 or the publication of a revocation of this waiver by the Registrar.

Dated: 1 March 2021

Signed by



**Leanne Hughes
Acting Registrar General**

Historical:

Version	Date issued	Date effective	Amendments
1.0	1 March 2021	22 March 2021	N/A
1.1	14 May 2021	14 May 2021	Amended by Conveyancing Rules Waiver CR 3/2021 - Amended cl. 8.1, 24.1, 25.1, 26.1, 27.1 & 28.1.