

Real Property Act 1900

Section 12E

Conveyancing Rules - (COVID-19 Pandemic) Amendment

This amendment to the Conveyancing Rules is made under section 12E(1), (4) and (5) of the Real Property Act 1900. The amendment is to be added as Schedule 1 to Version 5 of the Rules. It will come into effect on 27 April 2020 and will cease to apply on the repeal of Schedule 1, *Electronic Transactions Regulation 2017*.

A handwritten signature in black ink, appearing to read 'Jeremy Cox', written in a cursive style.

Jeremy Cox
Registrar General

Schedule 1 – Altered execution and certification requirements for paper documents in response to COVID-19 pandemic

***Real Property Act 1900* Section 12E(1)**

(1) Making of conveyancing rules

The Registrar-General may from time to time determine, in writing, rules for or with respect to the preparation and lodgment of documents to give effect to conveyancing transactions (the conveyancing rules), including rules for or with respect to the following:

- (c) matters to be certified, or relating to the certification of matters, for the purposes of documents, including:
 - (i) the form of certifications, and
 - (ii) the classes of persons who may certify those matters, and
 - (iii) any supporting evidence and retention requirements.
- (g) the execution and attestation of documents that give effect to conveyancing transactions (including providing for certification, authentication or other alternatives to execution or attestation to prove or establish such transactions).

Section 117 Certificate of correctness

- (1) The Registrar-General may reject, or may refuse to accept or to take any action in relation to, any primary application, dealing, caveat or priority notice unless it is certified: ...
- (b) if it is lodged in paper form - in accordance with the conveyancing rules.

- 12.1 This Schedule takes effect on 27 April 2020.
- 12.2 This Schedule ceases to apply on the repeal of Schedule 1, *Electronic Transactions Regulation 2017* (see Note 1).
- 12.3 Division 2, Part 2 of the *Electronic Transactions Act 2000* applies to the signing of:
 - (a) any instrument that is to be lodged for registration under the *Real Property Act 1900*;
 - (b) a certificate referred to in Rule 6.1.2 (a) or (b);
 - (c) an instrument under section 88B of the *Conveyancing Act 1919*; and
 - (d) any other instrument that is to be lodged for registration with a plan.
- 12.4 A person who signs electronically under Rule 12.3 must confirm their identity and their intention to sign the instrument electronically by either:
 - (a) including a statement on the instrument near or above their electronic signature to the following effect: *Electronic signature of me, [insert full name], affixed by me, or at my direction, on [insert date], OR*
 - (b) using a digital signing platform that indicates on the instrument that an electronic signature was applied, and the date and time that this occurred.
- 12.5 A copy of a document signed electronically in accordance with this Schedule may be lodged as an original of that document.

NOTE:

- 1. This Schedule is intended to operate for the same period that Schedule 1, *Electronic Transactions Regulation 2017* applies. Schedule 1 of the Regulation will be repealed on 23 October 2020, or on an earlier date as may be determined by Parliament. For more information, please refer to sections 17 and 18 *Electronic Transactions Act 2000*.
- 2. Rule 12.3 applies to overcome the current prohibition created by clause 6 of the *Electronic Transactions Regulation 2017*.
- 3. Witnessing requirements may be satisfied using an audio visual link in accordance with Schedule 1, *Electronic Transactions Regulation 2017*.