

Conveyancing Rules – (COVID-19 Pandemic) Amendment – October 2021

## *Real Property Act 1900*

### Section 12E

#### **Conveyancing Rules – (COVID-19 Pandemic) Amendment**

This amendment to the Conveyancing Rules is made under section 12E(1) and (3) of the *Real Property Act 1900*. The amendment is to be added as Schedule 1 to Version 6 of the Rules. The amendment ceases to apply on 31 December 2021.



Jeremy Cox

Registrar General

1 September 2021

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

***Real Property Act 1900***

**Section 12E(1) Conveyancing Rules**

**(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 refuse to accept or to take any action in relation to, any primary application, dealing, caveat or priority notice unless it is certified as required by the conveyancing rules.

- 12.1 This Schedule takes effect on 11 October 2021.
- 12.2 This Schedule ceases to apply 31 December 2021.
- 12.3 Division 2, Part 2 of the *Electronic Transactions Act 2000* applies to the execution 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. Rule 12.3 applies to overcome the current prohibition created by clause 6 of the *Electronic Transactions Regulation 2017*.
2. Witnessing requirements may be satisfied using an audio visual link in accordance with Division 2, Part 2B *Electronic Transactions Act 2000*.
3. Where a digital signing platform is used that does *not* indicate on the instrument the date and/or time that the electronic signature is affixed, Rule 12.4 may be satisfied provided this signature is accompanied by the statement set out in 12.4(a).