

CONVEYANCING RULES

WAIVER

New South Wales

Section 27 *Electronic Conveyancing (Adoption of National Law) Act 2012*

Title

This instrument is New South Wales Conveyancing Rules Waiver CR 1/2019 – Certifications.

Enabling Provisions

1. Under section 12E of the *Real Property Act 1900* (RPA), the Registrar General (“Registrar”) has determined and published Version 4 of the Conveyancing Rules which came into effect on and from 15 May 2018.
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 4 of the Conveyancing Rules (CR10).

Explanatory Statement

Under CR10, the Registrar can accept and register a National Mortgage Form (NMF) lodged in paper in various scenarios, 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 5 of the NSW Participation Rules which came into effect on 25 February 2019 included minor changes to the wording of certifications required under the Certification Rules. These wording changes will not be able to be implemented in NSW Land Registry Services for NMFs lodged electronically until 9 November 2019. The changes will also 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 4 of the NSW Participation Rules is reasonable for NMFs that are lodged in paper.

(A similar waiver for electronic Registry instruments and other electronic Documents has previously been granted - see

https://www.registrargeneral.nsw.gov.au/_data/assets/pdf_file/0005/458195/NSW-Participation-Rules-Waiver-PR1-2019.pdf).

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 lodged in paper signed on or before 30 June 2020.
- (b) Any National Mortgage Form to which Condition (a) applies must contain (as appropriate) the wording of the Certifications Rules in Schedule 3 of Version 4 of the NSW Participation Rules.

Commencement

This partial waiver commences on 25 February 2019.

Period during which this waiver applies

This partial waiver operates to the earlier of:

- (a) 1 July 2020; or
- (b) the revocation of this waiver by the Registrar.

For the removal of any doubt, this waiver continues to apply during this period despite the commencement of Version 5 of the Conveyancing Rules.

Dated: 18 April 2019

Signed by:



Jeremy Cox
Registrar General