



Waiver No: PR1/2015

PARTICIPATION RULES WAIVER

Western Australia
Section 27 *Electronic Conveyancing Act 2014*

Title

This instrument is Participation Rules Waiver PR 1/2015 – Verification of Identity by Subscriber Mortgagee.

Enabling Provisions

1. Under sections 22 and 25 of the *Electronic Conveyancing Act 2014* (the EC Act) the Registrar of Titles ("Registrar") has determined and published Version 2 of the Participation Rules relating to use of an Electronic Lodgement Network (Participation Rules) which came into effect on and from 18 March 2014 in Western Australia.
2. Section 27 of the EC Act permits the Registrar to waive compliance with all or any provisions of the Participation Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Affected Requirement

Participation Rules 6.5.1(b) and (c)

Explanatory Statement

Under Participation Rule 6.5.1(b), a Subscriber who is a mortgagee ("Subscriber Mortgagee") must, if the mortgagor is not represented by a Subscriber, take reasonable steps to verify the identity of each mortgagor or their agent at or before the signing of the mortgage. Under Participation Rule 6.5.1(c), a Subscriber representing a mortgagee must, if the mortgagor is not represented by a Subscriber, take reasonable steps to verify the identity of each mortgagor or their agent at or before the signing of the mortgage, unless the mortgagee has already taken reasonable steps to verify the identity of each mortgagor or their agent.

The Registrar understands that some mortgagees may follow business processes in mortgage transactions, whereby verification of identity of a mortgagor who is not represented by a Subscriber ("an unrepresented mortgagor") is not undertaken at the same time as signing of a mortgage.

The Registrar is of the view that the Participation Rules should be amended to maintain the requirement that Subscriber Mortgagees and Subscribers representing mortgagees verify the identity of an unrepresented mortgagor, but to remove the requirement that this be done at the same time as signing of a mortgage.

The Registrar has determined that a waiver should be granted pending formal amendment of the Participation Rules.



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Waiver

Subject to the Conditions, the Registrar grants all Subscriber Mortgagees a partial waiver of the obligation to comply with Participation Rule 6.5.1 in relation to the requirement in paragraphs (b) and (c) that verifying the identity of each unrepresented mortgagor or their agent be done at or before the signing of the mortgage.

Conditions

Partial waiver of Participation Rule 6.5.1 as described above is granted on the condition that Participation Rule 6.5.1 with the following revised paragraphs (b) and (c) are complied with:

- (b) where the Subscriber is a mortgagee, and the mortgagor (in its capacity as mortgagor) does not have a Representative, each mortgagor or their agent; and
- (c) where the Subscriber represents a mortgagee, and the mortgagor (in its capacity as mortgagor) does not have a Representative, each mortgagor or their agent – however, the Subscriber need not take reasonable steps to verify the identity of each mortgagor or their agent if the Subscriber is satisfied that mortgagee has taken reasonable steps to verify the identity of each mortgagor or their agent; and

Commencement

This waiver commenced on the date specified below.

Period during which this waiver applies

This waiver operates until the earlier of:

- (a) an amended version of the Participation Rules which contains the above revised paragraphs (b) and (c) for Participation Rule 6.5.1 comes into effect; or
- (b) the publication of a revocation of this waiver by the Registrar.

Date

6/7/2015

Signed by

Jean Villani
Registrar of Titles