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| Land Use Victoria  Customer Information Bulletin 185 February 2019 |
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# Operating requirements and participation rules for electronic conveyancing

On 21 January 2019 the Registrar of Titles determined Version 5 of both the Operating Requirements and Participation Rules for electronic conveyancing under section 22 and section 23 respectively of the Electronic Conveyancing National Law (Victoria).

Version 5 of the Operating Requirements and Participation Rules was published on 24 January 2019 and takes effect on 25 February 2019.

In determining Version 5 of the Operating Requirements and Participation Rules, the Registrar adopted the model operating requirements and model participation rules developed and approved by the Australian Registrars' National Electronic Conveyancing Council (ARNECC).

Please note:

The changes to the certifications set out in Schedule 3 of the Participation Rules will be implemented following system changes by both Electronic Lodgment Network Operators (ELNO) and Land Use Victoria. This is expected to occur in August 2019. In the meantime, a waiver will permit Version 4 certifications to be given.

Availability of the provisions relating to a Subscriber acting as an attorney to digitally sign instruments will depend on when both ELNO and Land Use Victoria system changes can be made. This is currently anticipated to be in May 2020.

The *Operating Requirements Version 5* and *Participation Rules Version 5* are at [www.propertyandlandtitles.vic.gov.au/publications](http://www.propertyandlandtitles.vic.gov.au/publications).

# SPEAR electronic lodgment network participation rules

On 21 January 2019 the Registrar of Titles determined Version 2 of the SPEAR Electronic Lodgment Network Participation Rules under section 23 of the Electronic Conveyancing National Law (Victoria).

Version 2 of the SPEAR Electronic Lodgment Network Participation Rules was published on 24 January 2019 and takes effect on 25 February 2019.

In determining Version 2 of the SPEAR Electronic Lodgment Network Participation Rules, the Registrar adopted, where applicable, the model participation rules developed and approved by the Australian Registrars' National Electronic Conveyancing Council (ARNECC).

The SPEAR Electronic Lodgment Network Participation Rules Version 2 is at [www.propertyandlandtitles.vic.gov.au/publications](http://www.propertyandlandtitles.vic.gov.au/publications).

# Registrar’s requirements for paper conveyancing transactions

On 21 January 2019 the Registrar of Titles determined Version 6 of the Registrar's Requirements for Paper Conveyancing Transactions under section 106A of the *Transfer of Land Act 1958.*

Version 6 of the Registrar's Requirements for Paper Conveyancing Transactions was published on 24 January 2019. Version 6 comes into operation on 25 February 2019, effective as set out in the Registrar's Requirements for Paper Conveyancing Transactions.

In determining Version 6 of the Registrar's Requirements for Paper Conveyancing Transactions, the Registrar adopted, where applicable, the model participation rules developed and approved by the Australian Registrars' National Electronic Conveyancing Council (ARNECC).

The *Registrar’s Requirements for Paper Conveyancing* – *Version 6* is at [www.propertyandlandtitles.vic.gov.au/publications](http://www.propertyandlandtitles.vic.gov.au/publications).

# Release of the first residual document

As stated in Customer Information Bulletin 183 (November 2018), functionality to enable the remaining instrument types (residual documents) to be lodged electronically is being incrementally deployed in PEXA through the early months of 2019. Its use by conveyancers, lawyers, ADIs and subscribers will be required from 1 August 2019.

The first residual document to be released is an Application to record a section 173 of the *Planning and Environment Act 1987* agreement. This document type will be able to be lodged electronically by PEXA Subscribers from 4 March 2019.

A guide outlining the requirements for these applications is currently being developed. This guide will be updated as other residual documents are made available.

A release schedule for the remaining residual documents will be published in the next Customer Information Bulletin.

# Removal of a Registrar’s Caveat lodged on behalf of a represented person

A Registrar’s Caveat will be removed by the Registrar in the following circumstances.

1. If a copy of the Order that revokes the Guardianship and Administration Board Order or the Victorian Civil and Administrative Tribunal Order is produced to Land Use Victoria.
2. If the transferor in a transfer of land is the represented person and the transfer is signed under certification on behalf of the transferor, the Registrar’s Caveat will be removed upon registration of the transfer.
3. If a deceased registered proprietor in an application under sections 49 or 50 of the *Transfer of Land Act 1958* is the represented person, the Registrar’s Caveat will be removed upon registration of the application.

No further evidence will be required in support of any of the above.

Please note: notification to the Registrar of Titles that an administrator's authority to administer the affairs of a represented person lapsed due to revocation of the administrator's appointment or notification of the death of the registered proprietor will NOT result in the removal of the Registrar's Caveat.

# Trusts in the Register

Under section 37 of the *Transfer of Land Act 1958*, trustee capacity cannot be recorded in the Register. Several instruments have been lodged, mainly electronic instruments, that include a reference to a trust.

The name of a proprietor of any interest in land, including a mortgagee, must only be the name of a legal person. Therefore, words such as ‘as trustee for’, ‘as custodian for’, or the abbreviations ‘ATF’ or ‘ACF’ or any words including the name of the trust must not be included in an instrument. Using such words may result in an instrument being requisitioned and/or rejected.

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