



Waiver No PR2-2016

## PARTICIPATION RULES

### WAIVER

[Jurisdiction]

*Section 27 Electronic Conveyancing Act 2014*

#### **Title**

This instrument is WA Participation Rules Waiver PR2-2016 – Subscriber / Identity Agent Certification.

#### **Enabling Provisions**

1. Under sections 23 and 25 of the *Electronic Conveyancing Act 2014* (the EC Act) the Registrar of Titles (Registrar) has determined and published:
  - a. Participation Rules which came into effect on and from 18 March 2014.
  - b. Version 3 of the Participation Rules which came into effect on and from 9 November 2015.
  - c. Version 3.1 of the Participation Rules which came into effect on and from 15 January 2016.
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 Rules**

Participation Rules: Schedule 8, paragraph 9(e).

Version 3 of the Participation Rules: Participation Rule 6.5.5(d)(ii) and Schedule 9.

Version 3.1 of the Participation Rules: Participation Rule 6.5.5(d)(ii) and Schedule 9.

#### **Explanatory Statement**

Under Participation Rule 6.5.1 a Subscriber must take reasonable steps to verify the identity of the Persons listed under that rule.

Under Participation Rule 6.5.2 (Participation Rules) and Participation Rule 6.5.6 (Version 3 and Version 3.1 of the Participation Rules) compliance with the Verification of Identity Standard in Schedule 8 will be deemed to constitute taking reasonable steps for the purposes of Participation Rule 6.5.1.

Under Schedule 8 (Participation Rules) and Rule 6.5.5(a) (Version 3 and Version 3.1 of the Participation Rules) a Subscriber is permitted to use a Subscriber Agent or Identity Agent respectively to undertake verification of identity.



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Where a Subscriber uses a Subscriber Agent or Identity Agent, the Subscriber must receive from that agent a certification (**Subscriber / Identity Agent Certification**) in the form set out in Schedule 8, paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) as applicable.

The Registrar has become aware that in some cases Subscriber Agents / Identity Agents prepare a certification which does not exactly replicate the Subscriber / Identity Agent Certification in Schedule 8 paragraph, 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) as applicable.

From the information provided the Registrar is satisfied that the certifications provided by the Subscriber / Identity Agent substantially comply with the form of the Subscriber / Identity Agent Certification in Schedule 8, paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) as applicable.

The Registrar is of the view that it is not necessary for the certification provided by the Subscriber / Identity Agent to exactly replicate the Subscriber / Identity Agent Certification set out in Schedule 8 paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) respectively provided:

- (a) the certification made by the Subscriber / Identity Agent substantially complies with the form of the Subscriber / Identity Agent Certification in the form set out in Schedule 8, paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) respectively; and
- (b) the Subscriber and Subscriber/Identity Agent otherwise comply with Schedule 8, paragraph 9(e) (Participation Rules) or Rule 6.5.5 (Version 3 and Version 3.1 of the Participation Rules) as applicable.

Accordingly, the Registrar has determined that it would be reasonable in all the circumstances to grant a partial waiver modifying a Subscriber's obligations under the Participation Rules.

#### **Partial Waiver**

Subject to the Conditions, the Registrar grants Subscribers to an Electronic Lodgement Network a partial waiver modifying the Subscriber's obligations to comply with:

Schedule 8, paragraph 9(e) (Participation Rules);

Rule 6.5.5 (d)(ii) and Schedule 9 (Version 3 of the Participation Rules);

Rule 6.5.5 (d)(ii) and Schedule 9 (Version 3.1 of the Participation Rules);

by providing that where a Subscriber / Identity Agent provides a certification which substantially complies with the form provided in Schedule 8, paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) as applicable the Subscriber will have complied with Schedule 8, paragraph 9(e) or Schedule 9 respectively.



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### Conditions

The partial waiver is granted on the conditions that:

- (a) the Subscriber / Identity Agent provides a certification which substantially complies with the form provided in Schedule 8, paragraph 9(e) (Participation Rules) or Schedule 9 (Version 3 and Version 3.1 of the Participation Rules) as applicable.
- (b) the Subscriber and Subscriber / Identity Agent otherwise complies with Schedule 8, paragraph 9(e) (Participation Rules); or Rule 6.5.5 (Version 3 and Version 3.1 of the Participation Rules) as applicable.

### Commencement

This partial waiver commences on 18 March 2014.

### Period during which this waiver applies

This partial waiver operates to the earlier of:

- (a) the date the Participation Rules are amended to provide for the adequacy of substantial compliance with the Subscriber / Identity Agent Certification; or
- (b) the revocation of this waiver by the Registrar.

### Signed by

**Jean Villani**  
**Registrar of Titles**

**Dated** 19/02/2016.

