



## NATIONAL ELECTRONIC CONVEYANCING SYSTEM (NECS) – FREQUENTLY ASKED QUESTIONS

### Electronic Lodgement File

**1. What is meant by the term ELF?**

ELF stands for Electronic Lodgement File, which is the online file that will be shared to complete an EC transaction.

**2. Which party is responsible for the initial creation of the Electronic Lodgement File?**

Any authorised subscriber can start an Electronic Lodgement File.

**3. Can everyone see all parts of the Electronic Lodgement File?**

No. Parties can only see information they are entitled to see depending on their role in the transaction.

**4. Can two parties update the Electronic Lodgement File at the same time?**

Yes this is possible.

**5. What are the security issues involved with the use of the Electronic Lodgement File?**

All subscribers must sign an Accession Agreement to use the EC system. Part of this deed includes the need to obtain and use digital certificates when signing on behalf of clients. These certificates can only be obtained from an authorised Certifying Authority (CA), and will only be issued after the subscriber has been through a process administered by a CA as determined by the Accession Deed.

**6. What is the Accession Deed?**

The Accession Deed is the document that you have to sign and forward to Land Exchange to become a subscriber to the EC system.

**7. What happens if there is an error with any part of the Electronic Lodgement File?**

Data can be changed after it is entered, both before and after it is digitally signed. It can be changed before it is digitally signed by simple editing. If it is changed after it has been digitally signed, the existing **digital signature** becomes invalid and the party has to re-sign their data. If the changes affect data digitally signed by other parties, these digital signatures will also be made invalid, emails will be sent to those parties advising them that data has changed and inviting them to review the Electronic Lodgement File and consider re-signing the data.

**8. What happens when a dispute arises between the client and their representative? Does the representative still have access to the Electronic Lodgement File? Does the Electronic Lodgement File need to be restarted?**

The Accession Deed will require the agent to notify the EC system when an agent's authority has been withdrawn during the life of an Electronic Lodgement File. Whether the Electronic Lodgement File will need to be restarted is a matter to be decided between the parties.

**9. How do you link dependent ELF's?**

A pre-requisite for linking ELF's is that their settlement time and date are the same and the Access Pin is known / supplied to the Subscriber linking the ELF's. The ELF's are then linked by the source ELF disbursing a dollar value to the receiving ELF. This establishes a link between the ELF's and ensures they are settled simultaneously.

**10. Where there may be two or more people in the same ELF at the same time, is there a possibility of overwriting information in the same ELF by two different parties, irrespective of whether they are in the same workgroup?**

If the User attempts to change data that is "stale" (i.e. updated by another user) they will receive a message advising that the data has been updated and they should "refresh" their screen.

**11. How will Subscribers be notified or made aware that an ELF is due to be archived?**

The ELF is automatically deleted after 90 days.

**12. Will the Land Registry keep a record of the ELF?**

LR will not receive a copy of the ELF. They will receive a file containing the Registrar's Instruments and instructions as to lodgment and registration, the format of the Certificate of Title to issue from the dealing, and details of the Responsible Party, if an eCT, then details of the eCT Control.

**13. If a party to the Electronic Lodgement File cancels a settlement, how long does the Electronic Lodgement File stay in the system?**

If there is no activity on an Electronic Lodgement File for 90 days an email will be sent to the parties asking if the Electronic Lodgement File should be deleted. If there is no further activity within the next 7 days from this email, the Electronic Lodgment File will be deleted.

## Electronic Title

### **14. How does the electronic Certificate of Title work?**

The electronic Certificate of Title (eCT) is an electronic flag on the Titles System Register signifying that the Certificate of Title has not been issued in a paper format. The eCT will be held by the Register on behalf of the eCT Control (the party entitled to control and/or possession of a paper Certificate of Title). The Registrar will comply with the eCT Control's instructions as to how the eCT is to be dealt with.

### **15. Will all titles be electronic Certificates of Title?**

No, paper Certificates of Title will still be used in the paper-based Conveyancing system. For electronic Conveyancing it will be necessary to have converted the paper Certificate of Title into the new electronic Certificate of Title before completing the transaction.

### **16. When will the paper Certificate of Title be issued?**

A paper Certificate of Title can be issued on registration using the electronic Conveyancing system if requested by the subscriber.

### **17. Will there be an identification number linked to the electronic Certificate of Title?**

Yes. Like a paper Certificate of Title, the electronic Certificate of Title will have a unique identifier.

### **18. With the electronic Certificate of Title, is there any proposal to phase out paper Certificates of Title?**

No. Paper Certificates of Title will still be necessary to meet various situations that can not be dealt with electronically.

## Instruments

### **19. What kind of transactions can be undertaken in EC?**

It is proposed that under the EC system you will be able to perform combinations of discharge, transfer, mortgage transactions, withdrawals of caveats, caveat and survivorship applications.

### **20. Once a property has been transferred using EC, must it always be transferred using EC?**

No, subscribers can determine whether they subsequently use the EC system or the paper-based Conveyancing system.

### **21. Are documents registered when electronic data is sent to Land Registry?**

No, documents are not automatically registered, however the electronic instruments created in the EC system are sent to Land Registry for lodgment as part of the settlement process. Registration will occur in due course.

### **22. Can the system accommodate a first and second mortgagee?**

Yes the EC system can accommodate a number of mortgagees, a first and any number of subsequent mortgagees.

### **23. If a mortgage is discharged through EC, can I get a paper title?**

Yes. A paper Certificate of Title can be requested at any time by the electronic Certificate of Title (eCT) Control.

### **24. If there is a caveat recorded during the electronic transaction would parties be notified?**

Any party to the Electronic Lodgement File is able to do a pre-lodgement check, which would indicate if a change to the Register had occurred. However, it would not detail what the change was. EC will not change the current Conveyancing practice of requiring a check search of the Register prior to settlement.

### **25. Could third party caveators be invited into the Electronic Lodgement File at any stage?**

Yes. A function has been developed to allow the removal of caveats by agents of caveators.

### **26. How will a paper withdrawal of caveat be handled if a consideration is attached?**

EC does not deal with hybrids. It will be the vendor's responsibility to have the caveat removed just as it is today. If the vendor cannot make satisfactory arrangements with the caveator's representative regarding payment of the consideration then the settlement may have to revert to paper.

### **27. How many types of validations are available to users of the EC system?**

There are two types - type 1 validation is an instrument check and type 2 validation is an ELF check that validates the ELF as a complete transaction.

### **28. What does the type 1 validation include?**

Type 1 includes adherence to the correct schema that the volume and folio is valid and in the correct format, and that where the party dealing is not the same as the party shown on the Register a justification is provided. There are other more detailed validations that are dependant upon the instrument type.

### **29. What does the type 2 validation include?**

*Type 2 includes all instrument checks plus additional validations to ensure lodgability of the Registrar's instruments.*

30. **Does the Transfer of Land document exist in EC?**  
There are no paper documents in EC, as electronic instruments replace them.
31. **Does the State Guarantee apply to transactions using EC?**  
Yes, in the same way as it applies to paper-based Conveyancing after lodgement and registration of the relevant instruments.
32. **Will supporting documents be required in electronic form?**  
Currently, supporting documents will be required in paper format.
33. **Can subscribers still sign using a power of attorney?**  
Yes, however we expect that most subscribers will use representation agreements to sign on behalf of clients.

### Using the system

34. **Who can use the EC system?**  
The system has been designed to accommodate the parties in the Conveyancing process - solicitors, conveyancers and the financial institutions. They will be required to sign an Accession Deed with the Land Registry, which will require minimum standards relating to insurance and digital certificates.
35. **What format will the User ID be in?**  
The User ID will be system generated taking 3 letters from the User's first and last names and adding two random numerics.
36. **What if a user changes surname (eg due to marriage) will this impact on the User ID?**  
No, unless the Subscriber's policy requires that the User's digital signature be cancelled and a new one applied for in the User's married name in case of a User with signing rights. For a User who can only view or enter data, the only changes that might be required are totally under the control of the Subscriber.
37. **How often will the administrator be required to change passwords?**  
The initial password given to the Subscriber Administrator by LX will be a one-hour password to be changed by the Subscriber Administrator upon accessing the EC system. From then on EC forces a change to all passwords every 3 months, to be confirmed by our security consultants.

### Settlement

38. **How will settlement work?**  
There is no physical settlement in the EC system. Settlement, lodgement, self-assessment of duty (where applicable) and notification of transaction details to the SRO will occur electronically, in one continuous consecutive process. The information required by other statutory authorities may also be sent at this time. Provided the ELF is ready at the agreed settlement date and time, the settlement process is automatically initiated by the EC system. First, a pre-lodgement check is conducted with DLI to ensure that the Registrar's Instruments are capable of being lodged. If this check is successful DLI will guarantee lodgement. The EC system then sends the financial settlement details to the Financial Settlement Manager (FSM) who advises EC upon successful completion. Lodgement with DLI occurs after successful financial settlement and electronic funds transfer. The data to be provided to the SRO is also transmitted at this time. The data required by the local government and other statutory authorities to update their records may also be transmitted by the EC system.
39. **Will EC reduce the length of settlement time?**  
No because the length of settlement is decided between the parties involved in the property transaction.
40. **Up to which point can a party pull out of a settlement whilst using Electronic Funds Transfer?**  
A party can pull out at any time prior to settlement. The consequence of this action is the same as would apply today.
41. **How does a seller/buyer authorise a representative to act on their behalf?**  
EC will require a formal Agency Agreement to be entered into between the seller/buyer and their representative so that the representative can digitally sign on behalf of their client.
42. **Is there any impact on the Consumer Credit Code?**  
The Consumer Credit Code does not impact on the EC system. EC does not replace existing contractual arrangements between parties and their clients, specifically with respect to mortgages.
43. **What is the electronic authority to deal?**  
It is the EC subscriber that currently has control of the electronic Certificate of Title. This subscriber will be known as eCT Control.
44. **What changes would be made to the current Contract of Sale?**  
There will be no change, however this will be a matter between the parties. For example, if specific contracts call for bank cheques, this may need to be modified if EFT is chosen.
45. **What is the role of the Responsible Party?**  
The Responsible Party would be the party that Land Registry would contact in relation to the dealing and

would be responsible for answering any requisitions. In a discharge, transfer, mortgage it would most likely be the buyer's representative, as they usually end up being responsible for answering requisitions in the current system.

46. **Will adjustments be done in EC?**

No, only the values from the adjustment statement will be input into the financial component of the ELF. Adjustments must be completed and settled off-line, as they are today.

47. **Can payments to municipal authorities be undertaken in EC?**

Yes, if the subscriber knows the BSB and account details of the statutory authority, and that authority permits direct electronic payment.