



Waiver No: PR 1/2024

# PARTICIPATION RULES WAIVER

South Australia

**Section 27 *Electronic Conveyancing National Law (South Australia) Act 2013***

## Title

This instrument is South Australian Participation Rules Waiver PR 1/2024 – Department of Treasury & Finance SA.

## Enabling Provisions

1. Under sections 23 and 25 of the *Electronic Conveyancing National Law (South Australia) Act 2013* (the National Law) the Registrar-General (“Registrar”) has determined and published Version 7 of the Participation Rules for Electronic Conveyancing (Participation Rules) which came into effect on and from 28 March 2024. Capitalised terms used in this instrument and not defined have the meaning given to those terms in the National Law or the Operating Requirements.
2. Section 27 of the National Law 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 Participation Rules

Participation Rules 6.3, 6.4, 6.5, 7.10 and Schedule 3 - Certification Rules 1 and 2 (Affected Participation Rules).

## Explanatory Statement

The Department of Treasury & Finance SA (Subscriber) is currently registered as a Principal Subscriber and has requested Electronic Lodgement Network Operators (ELNO) change their profile type to be a Representative Subscriber due to operational responsibilities under their Fines Enforcement and Recovery Unit. This includes applying and/or removing charges in accordance with the *Fines Enforcement and Debt Recovery Act 2017* which empowers the Chief Recovery Officer to apply a charge over land where a debtor has outstanding fines debt. The Subscriber requires the ability to both discharge and create new interests for: The person employed in the Public Service of the State (from time to time) as the Chief Recovery Officer under section 4(2) of the *Fines Enforcement and Debt Recovery Act 2017*.

Under Participation Rules 6.3, 6.4, 6.5, if a Subscriber is a Representative, the Subscriber must take reasonable steps to verify its Client has the right to enter into the transaction, verify the Client’s identity and obtain a properly completed Client Authorisation, except where not required under the Participation Rule for certain types of instruments. The Department of Treasury & Finance SA, in its capacity as a Principal Subscriber, in circumstances where it may lodge electronic Registry Instruments or other electronic

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Documents under the name of the Chief Recovery Officer, cannot perform the obligations imposed by Participation Rules 6.3, 6.4, 6.5 as practically, the Department of Treasury & Finance SA is still acting for itself.

Under Participation Rule 7.10, a Subscriber must provide those of the certifications set out in the Certification Rules as required when Digitally Signing an electronic Registry Instrument or other electronic Document. Schedule 3 - Certification Rule 1 by which a Certifier certifies that they have taken reasonable steps to confirm the identity of the relevant party is waived. Schedule 3 - Certification Rule 2 by which a Certifier certifies they hold a properly completed Client Authorisation is waived.

The Registrar-General has determined that it would be reasonable in the circumstances to grant a partial waiver modifying the obligations of Subscriber(s) who are the Department of Treasury & Finance SA under the Affected Participation Rules.

**Partial Waiver**

Subject to the Conditions, the Registrar grants the Department of Treasury & Finance SA a partial waiver of its obligations to comply with the Affected Participation Rules.

**Conditions**

The partial waiver is granted on the condition that the Department of Treasury & Finance SA is to only transact for itself and the Chief Recovery Officer (as appointed from time to time) and must not act for others.

**Commencement**

This partial waiver commences on the date it is signed.

**Period during which this waiver applies**

This partial waiver operates until the revocation of this partial waiver by the Registrar.

**Dated: 16 September 2024**

**Signed by:**

A handwritten signature in black ink that reads 'Jenny Cottnam'.

**Jenny Cottnam  
Registrar-General**