



# 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 6/2021 – User good character.

#### 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 6 of the Participation Rules which came into effect on and from 12 April 2021 (Participation Rules). Capitalised terms used in this instrument and not defined have the meaning given to those terms in the National Law or the Participation Rules.
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 Rule 7.2.3(a) (Affected Participation Rule).

#### Explanatory Statement

Under the Affected Participation Rule, a Subscriber must take reasonable steps to ensure that each of its Users have not been subject to:

- i. an Insolvency Event within the last 5 years; or
- ii. a conviction of fraud or an indictable offence which may impact the conduct of a Conveyancing Transaction or a conviction for any offence of dishonesty against any law in connection with business, professional or commercial activities; or
- iii. disqualification from managing a body corporate under the Corporations Act; or
- iv. any determination of disciplinary action of any government or governmental authority or agency, or any regulatory authority of a financial market or a profession which may impact on the conduct of a Conveyancing Transaction
- v. any current restriction on their right to access an ELN.

Previous versions of the Participation Rules have required Subscribers to take reasonable steps to ensure that Signers and Subscriber Administrators have not been subject to the events specified in Participation Rule 7.2.3(a)(i-iv). Version 6 of the Participation Rules expanded the requirements to all Users and added the requirement to take reasonable steps to ensure that Users are not and have not been subject to any restriction on their right to access an ELN.



An industry peak body has requested a temporary waiver of the Affected Participation Rule on behalf of Subscribers. It is understood that a number of Subscribers may not comply with the Affected Participation Rule in relation to Users other than Signers or Subscriber Administrators, as well as in relation to ensuring all Users have not been subject to a restriction on their right to access an ELN. A temporary waiver will provide sufficient time for Subscribers to extend existing checks so that Subscribers will comply with the Affected Participation Rule.

Accordingly, the Registrar has determined that it would be reasonable in the circumstances to grant a partial waiver modifying the obligations of Subscriber(s) under the Affected Participation Rule.

### **Waiver**

Subject to the Conditions, the Registrar grants Subscribers a partial waiver of their obligations to comply with the Affected Participation Rule.

### **Conditions**

The partial waiver is granted on the conditions that:

- (a) for Participation Rule 7.2.3(a)(i-iv), it is limited to Users that were not Subscriber Administrators or Signers prior to 12 April 2021;
- (b) for Participation Rule 7.2.3(a)(v), it applies to all Users; and
- (c) any Subscriber that is complying with the Affected Participation Rule must continue to do so.

### **Commencement**

This partial waiver commences on the 12 April 2021.

### **Period during which this waiver applies**

This partial waiver operates to the earlier of:

- (a) 12 October 2021
- (b) Subscribers fully complying with the Affected Participation Rule; or
- (c) the revocation of this waiver by the Registrar.

**Dated: 23 June 2021**

**Signed by:**

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

**Jenny Cottnam**  
**Registrar-General**