



Updated ARNECC Model Participation Rules and Operating Requirements for e-conveyancing

Version 6 of the [Model Participation Rules](#) and [Model Operating Requirements](#) governing the use of electronic conveyancing platforms (ELNs) in Australia have recently been published and adopted by the [Victorian Registrar of Titles](#) and will apply from 12 April 2021.

LPLC recommends that practitioners conducting e-conveyancing familiarise themselves with the changes and audit their current policies, procedures and precedents to ensure compliance. The rules mandate cyber security awareness training and background checks for users, so firms should also turn their minds to reviewing their staff hiring and induction procedures.

Key changes to the Participation Rules include:

Tightening of cyber-security training requirements

- **All ELN users and administrators must complete cybersecurity awareness training covering the secure use of the system.** Under the new Operating Requirements, Operators will be required to update their security policy to outline the training requirements for users and make available resources and information.
- **Training is not limited to users and administrators.** Subscribers must also ensure that everyone who has access to their information technology systems, defined in the Rules as both hardware and software, have completed cyber security awareness training covering the secure use of their system, email, and other electronic communication.¹

Client Authorisation

- **Removal of the Subscriber's ability to act on behalf of their clients as an Attorney in e-conveyancing transactions.** Subscribers must obtain a signed Client Authorisation form to sign and transact on the ELN.
- **Changes to the Client Authorisation form.** There is no requirement to sign a new Client Authorisation form if the existing Client Authorisation is still valid.
- **Subscribers are no longer required to re-verify the identity of their client every two years where they are acting under a current Client Authorisation** and have previously

¹ ARNECC has noted that "anyone accessing a Subscriber's System could exploit a weakness that could potentially lead to attacks on other systems including an ELN": Model Participation Rules Consultation Draft 6.1 Feedback Table dated February 2021.



complied with the Verification of Identity requirements under Participation Rule 6.5.1 (a) at the time the Client Authorisation was signed.

Verification of Identity and Authority

- **Subscribers must take reasonable steps to verify the identity of a mortgagee or mortgagor** when amending or varying a mortgage.
- **Subscribers must take reasonable steps to verify the authority of any person providing instructions on behalf of a client** to bind the client in lodging caveats or priority notices, or in extensions or withdrawals of priority notices

Good Character Checks

- **Subscribers must take reasonable steps to ensure that each of their “non-exempt” users, principals and officers who have access to the ELN have not been subject to various matters** including:
 - insolvency in the last five years
 - disqualification from managing a body corporate
 - convictions for dishonesty offences in business, professional or commercial activities
 - other convictions, offences and findings which may impact on the conduct of a conveyancing transaction including fraud or determination of a disciplinary action by a governmental or regulatory authority.

Legal practitioners are exempt and presumed to comply with the good character requirements. However, if an ELN Operator or Registrar has grounds to suspect non-compliance, they could be required to provide evidence of compliance.

This is a summary of the major changes only. To be aware of and understand all updates LPLC recommends practitioners read version 6 of the [Participation Rules](#) carefully and look out for ARNECC's Guidance notes relevant to these changes. Land Use Victoria has published a handy [marked up version of the rules](#) showing amendments made to the preceding version.