

Australian Capital Territory

Land Titles (Verification of Identity) Rules 2026

Disallowable instrument DI2026-136

made under the

Land Titles Act 1925, s 28BE (Verification of identity rules)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Land Titles (Verification of Identity) Rules 2026* (the *instrument*) as made by the Registrar-General (the *Registrar*) and presented to the Legislative Assembly (the *Assembly*). It has been prepared in order to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

Background

In July 2008 the Council of Australian Governments agreed, pursuant to the *Seamless National Economy National Partnership Agreement*, that there should be a new electronic conveyancing system for the settling of real property transactions in all Australian States and Territories.

The *Intergovernmental Agreement for an Electronic Conveyancing National Law* (IGA) came into operation on 21 November 2011. The Law is set out in the appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012* (NSW) (the *Electronic Conveyancing National Law*). In the ACT the Electronic Conveyancing National Law is adopted by operation of the *Electronic Conveyancing (National Law) Act 2020*.

The Electronic Conveyancing National Law makes possible the implementation of a national electronic conveyancing system in Australia and has the object of promoting efficiency throughout Australia in property conveyancing.

Pursuant to section 23 of the Electronic Conveyancing National Law, the Registrar may issue Participation Rules for operators of, and subscribers to, an Electronic Lodgement Network.

Those Participation Rules may include provisions relating to verification of identity and can require taking reasonable steps to verify the identity of a client or other entity involved in a conveyancing transaction.

Overview

This instrument makes the Verification of Identity Rules (the **Rules**), which are companion rules to the Participation Rules and align the verification of identity processes for in-person conveyances with those that apply in the electronic conveyancing context.

The changes include removal of definition and references to ‘Attorney’ due to removal of ‘Attorney’ as a defined term from the Model Participation Rules and has been amended to maintain consistency; and several other minor amendments for clarity and consistency.

Establishing confidence in a person’s identity is a critical starting point for delivering a range of government services and benefits, as it is for many transactions conducted by the private sector and other non-government organisations.

These Rules reflect the Commonwealth’s *National Identity Proofing Guidelines* which are part of the *National Identity Security Strategy* administered by the Commonwealth Department of Home Affairs. They are intended to provide a high to very high level of assurance of identity (Level 3 to Level 4 from the guidelines).

These Rules require that ‘reasonable steps’ are taken to verify identity. Verifying a person’s identity in accordance with these Rules requires inspection of supporting documents that connect the person to the land which is being conveyed, or which otherwise show their authority to be a party to the Registry Instrument. The supporting documents to be inspected will vary depending on the circumstances.

Where people are unable to establish their identity through official documents, it is possible for a subscriber to verify the identity of a person in some other way that constitutes the taking of reasonable steps. For example, it may be possible to obtain other documents which support identity or to make inquiries with the client or a third party such as a doctor, nurse or government officer

The requirements reflect ‘best practice’, are similar to those already followed within the industry, and are not considered onerous.

Regulatory Impact Statement – not required

Pursuant to section 36 (1) (g) of the *Legislation Act 2001* a regulatory impact statement is not required for this instrument as the Rules being made are part of a nationally uniform scheme of legislation.

Human Rights

During the development of this instrument due regard was given to rights under the *Human Rights Act 2004* (the **HRA**).

This instrument engages with the rights under section 12 of the HRA. Section 12 of the HRA provides that everyone has the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily, and not to have their reputation unlawfully attacked

This instrument introduces changes to the Rules which contains requirements regarding individual's personal information for the purpose of lodging land title registry instruments and other documents, the changes engage and may limit the right to privacy under section 12.

The legitimate purpose of including an individual's personal information is to facilitate a property transaction by affecting a legal transfer of land or register interests in land and to ensure the integrity of the Land Titles Register.

These requirements serve a legitimate objective, that is, the protection of individual land ownership from fraudulent behaviour.