

Australian Capital Territory

Land Titles (Verification of Authority) Rules 2026

Disallowable instrument DI2026-137

made under the

Land Titles Act 1925

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Land Titles (Verification of Authority) Rules 2026* (the *instrument*) as made by the Registrar-General (the *Registrar*) and presented to the Legislative 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* 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, and do, include provisions relating to verification of authority and can require the taking of reasonable steps to verify the authority of a client or other entity involved in a conveyancing transaction.

Overview

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

Amendments include broadened definition of ‘Court’ several other minor amendments designed to provide clarity legal practitioners, remove duplication and to support reordered relevant sections

Establishing confidence in a person’s authority in a conveyancing transaction is a critical element of ensuring the integrity of the land titles system.

The *Land Titles Act 1925* requires that the authority of a party to a Registry Instrument, to enter into the relevant transaction, is verified. Examples of when this is required include:

- Prior to entering into a mortgage, a mortgagee must verify the authority of the mortgagor to enter into the mortgage, in accordance with these Rules;
- Prior to varying a mortgage, a mortgagee must verify the mortgagor’s authority to enter into the variation, in accordance with these Rules; and
- Prior to executing a Registry Instrument on behalf of a client, a legal practitioner must verify the authority of their client to have the right to enter to be a party to that Registry Instrument, in accordance with these Rules.

The requirement to verify authority serves a legitimate objective, that is, the protection of individual land ownership from fraudulent behaviour.

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 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 contain requirements regarding individuals' personal information for the purpose of lodging land title registry instruments and other documents. These changes engage and may limit the right to privacy under section 12.

According to section 28 of the HRA, human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

The requirement to verify authority serves a legitimate objective, that is, the protection of individual land ownership from fraudulent behaviour.

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.