

Article Information

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Queensland hops on the bandwagon: E-conveyancing Mandate February 2023

Queensland is finally set to join New South Wales, Victoria, South Australia and Western Australia as Titles Queensland mandates the lodgement of instruments and documents (unless exempt) through an Electronic Lodgement Network (ELN).

E-conveyancing Mandate

Titles Queensland has announced that from 20 February 2023 and in accordance with the *Land Title Regulation 2022*^[1] (**Regulation**), certain instruments and documents must be lodged through an ELN (such as PEXA), unless an exemption is applicable.

The e-conveyancing mandate has been eagerly anticipated for Queensland, marking the end of paper settlements and bringing the state in line with NSW, VIC, SA and WA. The implementation of e-conveyancing streamlines the property transaction process and eliminates the need for physical document exchange.

What documents are required to be lodged electronically?

Under section 5 of the Regulation^[2], a 'required instrument' must be lodged using an ELN if it is an instrument or document that can be lodged under section 7 the *Electronic Conveyancing National Law (Queensland)*^[3]. The required documents include:

- An instrument of transfer;
- An instrument of mortgage;
- An instrument releasing a mortgage;
- A caveat for a lot;
- A request to withdraw a caveat;
- A priority notice
- A request to extend a priority notice;
- A request to withdraw a priority notice;
- An application to be registered as a personal representative for a registered owner of a lot who has died.

What are the exemptions for electronic lodgement?

A full list of the exemptions to the Mandate are set out in section 5(2) of the Regulation^[4]. The exemptions include, but are not limited to the following:

- documents or instruments that cannot be prepared, lodged or deposited using an ELN because the ELN does not have the functionality;
- if the subscriber is unable to use an ELN for the whole day for reasons beyond their control, for example, if the subscriber does not have internet access for a full day.
- the land registry's system does not have the functionality to accept or process the instrument.
- a party to an instrument is a natural person and is not a subscriber to an ELN and does not have a solicitor / law firm acting for them.
- documents executed in paper prior to 20 February 2023.

Benefits of e-conveyancing

The development of electronic conveyancing and ELNs offer several benefits for all parties involved:

1. **Efficiency** - e-conveyancing enables faster and more efficient property transfers, eliminating the need to attend settlements in person and reducing the time taken for documents to be lodged and registered.
2. **Security** - ELNs provide a secure platform for the exchange of information and funds between parties, with encryption and secure digital signatures used to protect sensitive information. This gives all parties peace of mind during the transfer process as their information and funds are secure. In most instances, parties receive cleared funds immediately after settlement.
3. **Accuracy** - there are less administrative errors as the ELN technology eliminates human error where possible by automatically generating instruments and documents for lodgement. The ELN platform also verifies documents prior to lodgement to ensure that there are no errors that would be requisitioned and delay registration.

Conclusion

The majority of states in Australia have now moved to electronic conveyancing with the hopes of ACT and TAS to follow suit in the future. The use of a ELN, such as PEXA ensures that settlements are completed, faster, more efficiently and with increased security.

Key Takeaways

- The e-conveyancing mandate will come into effect on 20 February 2023 for Queensland transactions.
- Documents or instruments that have been signed prior to 20 February 2023 in paper by at least one party to the documents can still be lodged in paper.
- There are certain exemptions to the mandate which are detailed in section 5(2) of the Regulation^[5].

^[1] *Land Title Regulation 2022.*

^[2] *Ibid.*

^[3] *Electronic Conveyancing National Law (Queensland).*

^[4] *Land Title Regulation 2022.*

^[5] *Ibid.*