

NORTHERN TERRITORY OF AUSTRALIA

**ELECTRONIC CONVEYANCING (NATIONAL UNIFORM LEGISLATION)
(ACT AMENDMENT) REGULATIONS 2024**

Subordinate Legislation No. 5 of 2024

Table of provisions

1	Title.....	2
2	Commencement	2
3	Legislation amended	2
4	Section 3 amended (Definitions).....	2
5	Section 7 amended (Documents may be lodged electronically)	2
6	Section 12 amended (Reliance on, and repudiation of, digital signatures).....	3
7	Section 18A inserted	3
	18A ELNO required to establish and maintain interoperability	
8	Section 19 amended (Renewal of approval as ELNO)	4
9	Section 22 amended (Operating requirements for ELNOs)	4
10	Section 33 amended (Compliance examinations)	5
11	Section 35 amended (Registrar may refer matter to appropriate authority)	6
12	Section 37 amended (Delegation by Registrar).....	6
13	Section 40 amended (Registrar not responsible for additional services provided by ELNO).....	7
14	Part 4, Division 4 inserted.....	8
	Division 4 Other matters	
	43 Registrar authorised to disclose certain information	
	44 Forms	
15	Repeal of Regulations	8



NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 5 of 2024*

Electronic Conveyancing (National Uniform Legislation) (Act Amendment) Regulations 2024

I, Hugh Crosbie Heggie, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Electronic Conveyancing (National Uniform Legislation) Act 2013*.

Responsible Minister:

C. J. PAECH
Attorney-General and Minister for Justice

H. C. HEGGIE
Administrator

Date of making: 18 April 2024

1 Title

These Regulations may be cited as the *Electronic Conveyancing (National Uniform Legislation) (Act Amendment) Regulations 2024*.

2 Commencement

These Regulations commence on the day after the day on which they are made.

3 Legislation amended

These Regulations amend the Appendix to the *Electronic Conveyancing (National Uniform Legislation) Act 2013*.

4 Section 3 amended (Definitions)

Section 3(1)

insert

another registrar means a person who is a Registrar as defined in the application law of another participating jurisdiction.

interoperability means the interworking of ELNs operated by ELNOs in a way that enables:

- (a) a subscriber using an ELN (the ***first subscriber***) to complete a conveyancing transaction that involves a subscriber using another ELN without the first subscriber having to be a subscriber to the other ELN; and
- (b) the preparation of a registry instrument or other document in electronic form using data from different ELNs.

interoperability requirement means the requirement set out in section 18A(1).

5 Section 7 amended (Documents may be lodged electronically)

Section 7(2), after "under"

insert

section 44 or

6 Section 12 amended (Reliance on, and repudiation of, digital signatures)

(1) After section 12(1)(c)(ii)

insert

(iia) each ELNO whose ELN is used in connection with that conveyancing transaction; and

(2) After section 12(1)(c)(iv)

insert

(v) in the case of a document that contains a direction for the payment of money as part of that conveyancing transaction – each financial institution that pays or receives money in accordance with that direction; and

(3) After section 12(5)

insert

(6) In this section:

financial institution means:

(a) an authorised deposit-taking institution as defined in section 5(1) of the *Banking Act 1959* (Cth); or

(b) a bank constituted by a law of this jurisdiction or of another State or the Commonwealth.

7 Section 18A inserted

After section 18

insert

18A ELNO required to establish and maintain interoperability

(1) A person approved as an ELNO under section 15 must, in accordance with the operating requirements, establish and maintain interoperability between the ELN operated by the person and each ELN operated by another ELNO.

(2) The Registrar may waive compliance with the interoperability requirement if the Registrar is satisfied that granting the waiver is reasonably necessary in all the circumstances.

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- (3) A waiver under subsection (2) may:
- (a) be total or partial; and
 - (b) apply to particular persons approved as an ELNO under section 15 or particular classes of those persons; and
 - (c) apply generally or be limited in its application by reference to specified exceptions or factors; and
 - (d) apply indefinitely or for a specified period; and
 - (e) be unconditional or subject to conditions or restrictions.

8 Section 19 amended (Renewal of approval as ELNO)

Section 19(1)

omit

continues to meet the qualifications for approval

insert

meets the qualifications for renewal of approval

9 Section 22 amended (Operating requirements for ELNOs)

(1) After section 22(2)(a)

insert

(ab) changes in the control of an ELNO;

(2) Section 22(2)(b)(i) and (f)

omit

an ELN

insert

the ELN operated by the ELNO

(3) Section 22(2)(c)

omit, insert

(c) interoperability, including, without limitation:

- (i) requiring an ELNO to enter into agreements with other ELNOs with respect to interoperability; and

-
- (ii) specifying matters to be dealt with, and standard provisions to be included, in those agreements; and
 - (iii) the resolution of disputes between an ELNO and other ELNOs relating to interoperability;
- (ca) the technical and operational requirements for an ELN, including, without limitation, data standards and other requirements relating to interoperability, for example, data standards with respect to associated financial transactions;
 - (cb) the integration of an ELN with other electronic systems;
 - (cc) the separation of services provided by the ELN operated by an ELNO from other services provided by the ELNO;
 - (cd) fees and charges payable to an ELNO, including, without limitation, principles relating to:
 - (i) the setting and publication of fees and charges; and
 - (ii) the apportionment of liability to pay fees and charges; and
 - (iii) the circumstances in which fees and charges are not payable;
 - (ce) the resolution of disputes between an ELNO and subscribers to the ELN operated by the ELNO or clients of those subscribers;
 - (cf) participation by an ELNO in a scheme for an industry code relating to associated financial transactions and compliance by an ELNO with that code;

10 Section 33 amended (Compliance examinations)

(1) Section 33(a)

omit

either or both

insert

any

(2) After section 33(a)(i)

insert

(ia) ascertaining whether or not the interoperability requirement is being, or has been, complied with;

11 Section 35 amended (Registrar may refer matter to appropriate authority)

(1) After section 35(2)

insert

(2A) The Registrar may refer a matter to an appropriate authority despite any law of this jurisdiction relating to privacy or confidentiality.

(2) Section 35(3)(b)(ii)

omit

business.

insert

business; and

(3) After section 35(3)(b)(ii)

insert

(iii) another registrar.

12 Section 37 amended (Delegation by Registrar)

(1) Section 37, before "The"

insert

(1)

(2) Section 37(b)

omit

5.

insert

5;

(3) After section 37(b)

insert

(c) the power conferred by section 44 to approve forms.

(4) Section 37, at the end

insert

(2) The Registrar may, in an instrument of delegation, authorise the person to whom a power or function is delegated to subdelegate that power or function.

13 Section 40 amended (Registrar not responsible for additional services provided by ELNO)

(1) Section 40, heading

after "ELNO"

insert

or associated financial transactions

(2) Section 40, before "The"

insert

(1)

(3) Section 40, at the end

insert

(2) The mere fact that the operating requirements include provisions relating to the following matters does not make the Registrar responsible for the regulation or conduct of associated financial transactions:

(a) data standards relating to those transactions;

(b) participation by an ELNO in a scheme for an industry code relating to those transactions and compliance by an ELNO with that code.

14 Part 4, Division 4 inserted

After section 42

insert

Division 4 Other matters**43 Registrar authorised to disclose certain information**

- (1) The Registrar may disclose information about the following matters to ARNECC, another registrar or a person or body who or which has functions under, or responsibility for the administration or oversight of, this Law or the land titles legislation:
 - (a) an ELNO's compliance with the operating requirements or the interoperability requirement;
 - (b) a subscriber's compliance with the participation rules;
 - (c) a compliance examination conducted under Part 3, Division 5;
 - (d) any other matter relating to the performance of the Registrar's functions under this Law.
- (2) The Registrar may disclose the information despite any law of this jurisdiction relating to privacy or confidentiality.
- (3) This section does not limit or affect section 35 or any power or duty of the Registrar under the land titles legislation or any other law of this jurisdiction to disclose the information.

44 Forms

The Registrar may approve forms for use under this Law.

15 Repeal of Regulations

These Regulations are repealed on the day after they commence.