

2020

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELECTRONIC CONVEYANCING NATIONAL LAW (ACT) BILL 2020

SUPPLEMENTARY EXPLANATORY STATEMENT

Presented by
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ELECTRONIC CONVEYANCING NATIONAL LAW (ACT) BILL 2020

Outline

This supplementary explanatory statement relates to the Electronic Conveyancing National Law (ACT) Bill 2020 as presented to the Legislative Assembly.

It has been prepared in order to assist the reader of the Bill and to help inform debate on proposed new subsection 25 (5) and (6):

'(5) Subsection (1) (b) and (4) do not apply to an operating requirement or participation rule notified before the day this schedule commences.

Note: An operating requirement or participation rule may be notified after this Act is notified and before it commences (see Legislation Act, s 81).

(6) Subsection (5) and this subsection expire on 1 June 2021.'

The introduction of new subsection 25(5) to the Bill would ensure disallowable rules made for electronic conveyancing (E-Conveyancing), prior to 1 June, could come into effect the day after they are notified.

This compares with the default position under the Electronic Conveyancing National Law that such rules need to stand for 20 business days before they can come into effect.

It will allow E-Conveyancing to be available sooner in the ACT.

Proposed new subsection 25(6) has the effect of removing subsections 25(5) and subsection 25(6) itself after one year. This accords with Parliamentary Counsel's drafting process by providing for the automatic removal of a provision once it is no longer in force.

The supplementary explanatory material below contains an explanation of the operation of section 25 as a whole, including the operation of the Government's amendment.

It does not form part of the Bill and has not been endorsed by the Assembly.

Detail

Schedule 1 – Modifications – Electronic Conveyancing National Law

Clause 1.1 – Section 25

This clause will displace existing section 25 of the Electronic Conveyancing National Law for the purposes of the Australian Capital Territory. Subclause (1) clarifies that an operating requirement and a participation rule are disallowable instruments. Subject to other circumstances allowing for an earlier commencement set out in section 25, an operating requirement or participation rule must be notified 20 business days before the changes take effect.

The intention of this provision is to provide accountability to the Legislative Assembly and reasonable notice of any changes to users of the electronic conveyancing system.

The exception is set out in subclause (2) and is where the Registrar is satisfied that an operating rule or a participation rule must be changed urgently because an emergency situation exists. In that case the requirement or rule may be commenced earlier than the period of 20 business days specified in subclause (1)(b).

Subclause (3) provides guidance on when an emergency situation exists. Under that provision an emergency situation exists if the Registrar considers that, because of the occurrence of an event or the existence of particular circumstances, the operation, security, integrity or stability of an electronic lodgment network is being, or is likely to be, jeopardised.

Subclause (4) provides for the validity of an operating requirement or participation rule which is notified less than 20 days before its commencement, although confirms such a measure will commence on the 20th business day after its notification.

A second exception is set out in subclause (5). Notwithstanding the operation of subclause (1)(b) and (4), an operating requirement or participation rule published by the Registrar under the Electronic Conveyancing National Law (ACT) prior to 1 June 2020, will be able to come into effect on the day after they are notified on the Legislation Register.