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This article appeared in the [Australian Conveyancing and Property Law Tracker](#)

**Vic: Electronic Conveyancing National Law receives assent**

28 February 2013

The *Electronic Conveyancing (Adoption of National Law) Act 2012* (Vic) was assented to on 26 February 2013 and is yet to commence on a date to be proclaimed.

The *Electronic Conveyancing (Adoption of National Law) Act 2012* (NSW), hosting the (proposed) model Electronic Conveyancing National Law (Appendix to the Act), was assented to on 20 November 2012 (also to commence on proclamation). The Appendix to the Act is referred to as the Electronic Conveyancing National Law (the Law).

Legislation to adopt the Law has also been introduced in [Queensland: Electronic Conveyancing National Law \(Queensland\) Bill 2012](#).

The object of the Law is:

“ ... to promote efficiency throughout Australia in property conveyancing by providing a common legal framework that:

- (a) enables documents in electronic form to be lodged and processed under the land titles legislation of each participating jurisdiction, but
- (b) does not derogate from the fundamental principles of the Torrens system of land title as incorporated in the land titles legislation of each participating jurisdiction, such as indefeasibility of title.”

Key features include

- The Registrar may operate an Electronic Lodgment Network (ELN), or authorise others to operate a network, allowing transaction documents (in an approved form) to be lodged electronically. Sections 38 to 40 discuss the liability of the Registrar in relation to monitoring activities in a network or conducting compliance examinations – the Registrar is not required to do so, and no compensation is payable for any loss or damage arising out of anything done or omitted in good faith in connection with those matters.
- Use of an ELN may be governed by “operating requirements” and/or “participation rules” covering matters such as insurance cover required by the network operator or details relating to client authorisations, digital signatures, etc (see s 22, 23). The operating requirements and participation rules are determined by the Registrar (s 22 and 23). The Registrar must have regard to any model operating requirements or participation rules published by the Australian Registrars’ National Electronic Conveyancing Council (ARNECC), established by the Intergovernmental Agreement.
- The Acts will commence on proclamation (and different parts of the Act may commence at different times), with certain transactions under the Law expected to be operational from the second quarter of 2013 (see [www.necd.com.au](http://www.necd.com.au)).
- Appellate responsibility for certain decisions of the Registrar in relation to ELNs and network operators (see s 28 of the Law):
  - NSW: Supreme Court
  - Victoria: Supreme Court and County Court.
- The Law generally excludes the interpretation legislation of each participating jurisdiction and contains specific interpretation provisions (Sch 1).

**Summary**

The new system will allow land conveyancing transactions to be completed in an electronic environment and instruments to be lodged directly into state and territory electronic land registers. This will remove the need to have paper documents signed and to attend a physical settlement. However, use of the new system will not be mandatory and the existing paper-based process for conveyancing transactions will continue.

**Editorial comment:**

Until the operating requirements and participation rules are made by the Registrar (s 22 and 23), and made publicly available, it is unknown precisely the details of the operation of the ELN. However, it is possible that ARNECC may publish model rules in the meantime, which the Registrar would be required to consider in determining his/her own state rules (s 24). In any event, subscribers to the ELN will be required to comply with the participation rules when they are determined and made publicly available (s 26).

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