

I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.

Legislative Assembly Chamber,  
Brisbane,

The Clerk of the Parliament.

*29 April* 2013

In the name and on behalf of the Queen, I assent to this Bill.

*Penelope Wenlock*

Government House,

Brisbane, *29th April,*

2013



Queensland

**No. 17 of 2013**

**A BILL for**

**An Act to adopt in Queensland a national law relating to electronic conveyancing and to amend this Act, the Land Act 1994 and the Land Title Act 1994 for particular purposes**





Queensland

# Electronic Conveyancing National Law (Queensland) Bill 2013

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	6
2	Commencement . . . . .	6
3	Definitions . . . . .	6
<b>Part 2</b>	<b>Application of Electronic Conveyancing National Law</b>	
4	Application of Electronic Conveyancing National Law . . . . .	7
5	Minister must table amendments of Electronic Conveyancing National Law . . . . .	7
6	Meaning of generic terms in Electronic Conveyancing National Law for the purposes of this jurisdiction . . . . .	7
7	Responsible tribunal for Electronic Conveyancing National Law (Queensland) . . . . .	9
8	Exclusion of interpretation legislation of this jurisdiction . . . . .	10
<b>Part 3</b>	<b>Provision specific to this jurisdiction</b>	
9	Review of decision by QCAT as responsible tribunal . . . . .	10
<b>Part 4</b>	<b>Miscellaneous</b>	
10	Regulation-making power . . . . .	10
<b>Part 5</b>	<b>Amendment of Acts</b>	
<b>Division 1</b>	<b>Amendment of this Act</b>	
11	Act amended . . . . .	10
12	Amendment of long title . . . . .	11
<b>Division 2</b>	<b>Amendment of Land Act 1994</b>	
13	Act amended . . . . .	11
14	Amendment of s 286A (Land practice manual) . . . . .	11
15	Amendment of s 287 (Registered documents must comply with particular requirements) . . . . .	11
16	Amendment of s 288 (Certain documents must be signed) . . . . .	12

Contents

---

17	Amendment of s 288A (Original mortgagee to confirm identity of mortgagor) . . . . .	12
18	Amendment of s 288B (Mortgage transferee to confirm identity of mortgagor) . . . . .	13
19	Replacement of ss 289 and 290. . . . .	14
	289 Giving consent for dealings . . . . .	14
20	Renumbering of s 290AA (Offence not to use appropriate form) .	15
21	Insertion of new ch 6, pt 1, div 3D . . . . .	15
	Division 3D Electronic conveyancing documents	
	290O Reference to a particular type of document includes its electronic conveyancing form. . . . .	15
	290P What is an electronic conveyancing document. . . . .	15
	290Q Signing or executing an electronic conveyancing document . . . . .	16
22	Amendment of s 305 (Requisitions) . . . . .	16
23	Amendment of s 306 (Rejecting document for failure to comply with requisition) . . . . .	16
24	Amendment of s 307 (Borrowing lodged document before registration) . . . . .	17
25	Amendment of s 310 (Execution of documents). . . . .	18
26	Replacement of s 313 (Delivery of documents) . . . . .	18
	313 Delivery of paper documents . . . . .	18
27	Amendment of s 314 (Dispensing with production of document) .	18
28	Amendment of s 322A (Severing joint tenancy by transfer) . . . . .	19
29	Amendment of sch 6 (Dictionary) . . . . .	19
<b>Division 3</b>	<b>Amendment of Land Title Act 1994</b>	
30	Act amended . . . . .	21
31	Amendment of s 9A (Land title practice manual) . . . . .	21
32	Amendment of s 10 (Form of instruments). . . . .	21
33	Amendment of s 11 (Execution of certain instruments) . . . . .	21
34	Amendment of s 11A (Original mortgagee to confirm identity of mortgagor) . . . . .	22
35	Amendment of s 11B (Mortgage transferee to confirm identity of mortgagor) . . . . .	23
36	Replacement of ss 12 and 13. . . . .	23
	12 Giving consent for dealings . . . . .	23
37	Insertion of new pt 2, div 2A. . . . .	24
	Division 2A Electronic conveyancing documents	

---

14A	Reference to a particular type of document includes its electronic conveyancing form. . . . .	25
14B	What is an electronic conveyancing document. . . . .	25
14C	Signing or executing an electronic conveyancing document . . . . .	25
38	Amendment of s 42 (Issuing of certificates of title). . . . .	26
39	Amendment of s 44 (Note about issue of certificate of title etc.) . . . . .	26
40	Amendment of s 50 (Requirements for registration of plan of subdivision) . . . . .	26
41	Amendment of s 59 (Severing joint tenancy) . . . . .	26
42	Amendment of s 155 (Correcting unregistered instruments) . . . . .	27
43	Amendment of s 156 (Requisitions) . . . . .	27
44	Amendment of s 157 (Rejecting instrument for failure to comply with requisition) . . . . .	27
45	Amendment of s 158 (Borrowing lodged instrument before registration) . . . . .	28
46	Amendment of s 161 (Execution and proof). . . . .	29
47	Amendment of s 164 (Dispensing with production of instrument) . . . . .	29
48	Amendment of s 185 (Exceptions to s 184) . . . . .	30
49	Replacement of s 198 (Delivery) . . . . .	30
	198 Delivery of paper documents . . . . .	30
50	Amendment of sch 2 (Dictionary) . . . . .	31



**2013**

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**A Bill**

for

**An Act to adopt in Queensland a national law relating to electronic conveyancing and to amend this Act, the *Land Act 1994* and the *Land Title Act 1994* for particular purposes**

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[s 1]

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## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Electronic Conveyancing National Law (Queensland) Act 2013*.

## 2 Commencement

- (1) This Act, other than sections 38 and 39, commences on a day or days to be fixed by proclamation.
- (2) Different days may be appointed under subsection (1) for the commencement of different provisions of the Electronic Conveyancing National Law set out in the appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012* of New South Wales.
- (3) The *Acts Interpretation Act 1954*, section 15DA does not apply to this Act.

## 3 Definitions

- (1) For the purposes of this Act, the ***local application provisions of this Act*** are the provisions of this Act other than the Electronic Conveyancing National Law (Queensland).
- (2) In the local application provisions of this Act—  
***Electronic Conveyancing National Law (Queensland)*** means the provisions applying in this jurisdiction because of section 4.
- (3) Terms used in the local application provisions of this Act and also in the Electronic Conveyancing National Law set out in the appendix to the *Electronic Conveyancing (Adoption of*



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*National Law) Act 2012* of New South Wales have the same meanings in this Act as they have in that Law.

## **Part 2                                      Application of Electronic Conveyancing National Law**

### **4                                      Application of Electronic Conveyancing National Law**

The Electronic Conveyancing National Law, as in force from time to time, set out in the appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012* of New South Wales—

- (a) applies as a law of this jurisdiction; and
- (b) as so applying may be referred to as the Electronic Conveyancing National Law (Queensland); and
- (c) so applies as if it were part of this Act.

### **5                                      Minister must table amendments of Electronic Conveyancing National Law**

- (1) This section applies if the Electronic Conveyancing National Law set out in the appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012* of New South Wales is amended.
- (2) The Minister must table a copy of the amendment in the Legislative Assembly.
- (3) Failure to comply with subsection (2) does not affect the application of the amendment under section 4.

### **6                                      Meaning of generic terms in Electronic Conveyancing National Law for the purposes of this jurisdiction**

In the Electronic Conveyancing National Law (Queensland)—

[s 6]

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**land titles legislation** means any of the following—

- (a) the *Body Corporate and Community Management Act 1997*;
- (b) the *Building Units and Group Titles Act 1980*;
- (c) the *Integrated Resort Development Act 1987*;
- (d) the *Land Act 1994*;
- (e) the *Land Title Act 1994*;
- (f) the *Mixed Use Development Act 1993*;
- (g) the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*;
- (h) the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*;
- (i) the *Sanctuary Cove Resort Act 1985*;
- (j) the *South Bank Corporation Act 1989*;
- (k) the *Water Act 2000*;
- (l) any other Act prescribed under a regulation for this definition;
- (m) a regulation made under an Act mentioned in any of paragraphs (a) to (k) or prescribed under paragraph (l);
- (n) any other law of this jurisdiction that authorises or requires something to be deposited, registered, noted or recorded in a titles register.

**Registrar** means—

- (a) for approving the form of a document under section 7 of the Electronic Conveyancing National Law (Queensland), or receiving or processing a document under section 8 of the Law, for the purposes of—
  - (i) the *Land Act 1994*—the chief executive of the department in which that Act is administered; or

- (ii) the *Water Act 2000*, chapter 2, part 4, division 6—the registrar of water allocations under section 147 of that Act; or
- (b) otherwise—the registrar of titles under the *Land Title Act 1994*.

**registry instrument** means any document that may be lodged under the land titles legislation for—

- (a) creating, transferring, disposing of, mortgaging, charging, leasing or dealing with in any other way an estate or interest in land or a water allocation; or
- (b) getting something registered, noted or recorded in the titles register; or
- (c) getting the registration, note or record of something in the titles register changed, withdrawn or removed.

**this jurisdiction** means Queensland.

**titles register** means—

- (a) any of the registers kept under—
  - (i) the *Land Title Act 1994*, section 7; or
  - (ii) the *Land Act 1994*, section 276; or
- (b) the water allocations register kept under the *Water Act 2000*, section 148; or
- (c) any other register prescribed under a regulation for this definition.

## 7 Responsible tribunal for Electronic Conveyancing National Law (Queensland)

QCAT is the responsible tribunal for this jurisdiction for the purposes of the Electronic Conveyancing National Law (Queensland).

[s 8]

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**8 Exclusion of interpretation legislation of this jurisdiction**

The *Acts Interpretation Act 1954* does not apply to the Electronic Conveyancing National Law (Queensland) or to instruments made under that Law.

**Part 3 Provision specific to this jurisdiction**

**9 Review of decision by QCAT as responsible tribunal**

A reference in the Electronic Conveyancing National Law (Queensland) to an appeal against a decision is, for an appeal to QCAT as the responsible tribunal, a reference to a review of the decision as provided under the QCAT Act.

**Part 4 Miscellaneous**

**10 Regulation-making power**

The Governor in Council may make regulations under this Act.

**Part 5 Amendment of Acts**

**Division 1 Amendment of this Act**

**11 Act amended**

This division amends this Act.

**12 Amendment of long title**

Long title, from ‘conveyancing’—  
*omit, insert*—  
‘conveyancing’.

**Division 2 Amendment of Land Act 1994**

**13 Act amended**

This division amends the *Land Act 1994*.

**14 Amendment of s 286A (Land practice manual)**

- (1) Section 286A(5), ‘subsection (4)’—  
*omit, insert*—  
‘subsection (5)’.
- (2) Section 286A(4) and (5)—  
*renumber* as section 286A(5) and (6).
- (3) Section 286A—  
*insert*—
- ‘(4) The manual may provide for the chief executive’s approval of the form of an electronic conveyancing document for the Electronic Conveyancing National Law (Queensland), section 7(1)(a).’.

**15 Amendment of s 287 (Registered documents must comply with particular requirements)**

- (1) Section 287(1)(b)(i), ‘filled in’—  
*omit, insert*—  
‘completed’.
- (2) Section 287—

[s 16]

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*insert—*

- ‘(4) Subsections (2) and (3) do not apply to an electronic conveyancing document.’.

## **16 Amendment of s 288 (Certain documents must be signed)**

Section 288—

*insert—*

- ‘(3) For a document that is an electronic conveyancing document, subsections (1) and (2) apply subject to the form approved for the document under the Electronic Conveyancing National Law (Queensland), section 7.’.

## **17 Amendment of s 288A (Original mortgagee to confirm identity of mortgagor)**

- (1) Section 288A(2), ‘the person who executed the mortgage or amendment as mortgagor’—

*omit, insert—*

‘the person who is the mortgagor under the mortgage or amendment’.

- (2) Section 288A—

*insert—*

- ‘(2A) For subsection (2), a person is the mortgagor under a mortgage or amendment of mortgage if the person executes the mortgage or amendment as mortgagor, including, if the mortgage or amendment is an electronic conveyancing document, through a subscriber digitally signing the document under the Electronic Conveyancing National Law (Queensland).

- ‘(2B) Also, for subsection (2), a person is the mortgagor under a mortgage or amendment of mortgage if the mortgage or amendment is an electronic conveyancing document and the person signs, as mortgagor, a document that under the

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participation rules under the Electronic Conveyancing National Law (Queensland)—

- (a) is required as a supporting document for the mortgage or amendment of mortgage; and
- (b) is required to be kept by the original mortgagee.’.

## **18 Amendment of s 288B (Mortgage transferee to confirm identity of mortgagor)**

- (1) Section 288B(2), from ‘the person who executed’ to ‘about to become,’—

*omit, insert—*

‘the person who was the mortgagor under the mortgage was identical with the person who, when the mortgage was registered, was’.

- (2) Section 288B—

*insert—*

‘(2A) For subsection (2), a person was the mortgagor under a mortgage if the person executed the mortgage as mortgagor, including, if the mortgage is an electronic conveyancing document, through a subscriber digitally signing the document under the Electronic Conveyancing National Law (Queensland).

‘(2B) Also, for subsection (2), a person was the mortgagor under a mortgage if the mortgage is an electronic conveyancing document and the person signed, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—

- (a) was required as a supporting document for the mortgage; and
- (b) was required to be kept by the original mortgagee mentioned in section 288A(2).’.

[s 19]

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## **19 Replacement of ss 289 and 290**

Sections 289 and 290—

*omit, insert—*

### **‘289 Giving consent for dealings**

- ‘(1) Subject to subsections (2) to (4), if the consent of a person is required or permitted for a dealing with a lease, sublease or licence, the consent must be—
- (a) written on the document for the dealing (the *relevant document*); or
  - (b) if the chief executive considers it appropriate—deposited with the relevant document.
- ‘(2) If the relevant document is an electronic conveyancing document, the person is taken to have complied with subsection (1) if the consent—
- (a) is in the form of an electronic conveyancing document; and
  - (b) is deposited with the relevant document.
- ‘(3) Subsection (4) applies if the relevant document is lodged or deposited in an electronic form by an electronic communication under—
- (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.
- ‘(4) The person is taken to have complied with subsection (1) if—
- (a) a method is used to identify the person and to indicate the person’s consent; and
  - (b) having regard to all the relevant circumstances when the method was used, the method was as reliable as was appropriate for the purposes for which the consent was communicated; and
  - (c) the chief executive consents to the requirement being met by using the method.’



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**20 Renumbering of s 290AA (Offence not to use appropriate form)**

Section 290AA—  
*renumber* as section 290.

**21 Insertion of new ch 6, pt 1, div 3D**

After section 290N—  
*insert*—

**‘Division 3D                    Electronic conveyancing documents**

**‘290O Reference to a particular type of document includes its electronic conveyancing form**

‘A reference in this Act to a document of a type that may be lodged or deposited under this Act includes a reference to the document in the form of an electronic conveyancing document.

**‘290P What is an *electronic conveyancing document***

- ‘(1) An *electronic conveyancing document* is a document under the Electronic Conveyancing National Law (Queensland) that—
- (a) is of a type mentioned in schedule 6, definition *document*, paragraphs (a) to (g); and
  - (b) is lodged electronically under section 7 of the Law, in the land registry.

*Note*—

Under the Electronic Conveyancing National Law (Queensland), schedule 1, section 12(1), definition *document*, a document includes any record of information that exists in a digital form and is capable of being reproduced, transmitted, stored and duplicated by electronic means.

[s 22]

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- ‘(2) Subsection (3) applies to a document that is lodged or deposited in an electronic form by an electronic communication under—
- (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.
- ‘(3) To remove any doubt, it is declared that the document is not an electronic conveyancing document.

**‘290Q Signing or executing an electronic conveyancing document**

‘If this Act provides for a document to be signed or executed and the document is an electronic conveyancing document, the document must be digitally signed as provided for under the Electronic Conveyancing National Law (Queensland).’.

**22 Amendment of s 305 (Requisitions)**

Section 305(3)—

*omit, insert—*

- ‘(3) The requisition may—
- (a) state when, and where, it must be complied with; and
  - (b) if it relates to an electronic conveyancing document, be accompanied by a copy of the document.’.

**23 Amendment of s 306 (Rejecting document for failure to comply with requisition)**

(1) Section 306(2)—

*omit, insert—*

- ‘(2) A document rejected under subsection (1) loses its priority under section 298.
- ‘(2A) If the chief executive rejects a document under subsection (1) the chief executive must—

- 
- (a) give a written notice of the rejection to the person to whom the chief executive gave the requisition for the document; and
  - (b) if the document is in paper form—return the document to the person who lodged or deposited it.’.
- (2) Section 306(3), ‘or in’—  
*omit, insert—*  
‘or recorded in’.
  - (3) Section 306—  
*insert—*
- ‘(3A) An electronic conveyancing document that has been rejected under subsection (1) can not be relodged.’.
- (4) Section 306(4), ‘This section’—  
*omit, insert—*  
‘Subject to subsection (5), this section’.
  - (5) Section 306(2A) to (4)—  
*renumber* as section 306(3) to (6).

**24 Amendment of s 307 (Borrowing lodged document before registration)**

- (1) Section 307, heading, after ‘lodged’—  
*insert—*  
‘**or deposited**’.
  - (2) Section 307(1)—  
*omit, insert—*
- ‘(1) The chief executive may permit any of the following persons to borrow a document lodged or deposited in paper form before the document is registered or used for the purpose for which it was deposited—
- (a) the person who lodged or deposited the document;

[s 25]

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- (b) a person for whom the document was lodged or deposited;
- (c) an agent of a person mentioned in paragraph (a) or (b).’.

## **25 Amendment of s 310 (Execution of documents)**

Section 310, at the end—

*insert—*

*‘Note—*

Under the Electronic Conveyancing National Law (Queensland), section 9(3)(b), if a registry instrument is digitally signed in accordance with the participation rules applicable to the instrument, the requirements of any other Queensland law relating to the execution, signing, witnessing, attestation or sealing of documents must be regarded as having been fully satisfied.’.

## **26 Replacement of s 313 (Delivery of documents)**

Section 313—

*omit, insert—*

### **‘313 Delivery of paper documents**

- ‘(1) This section applies if the chief executive is required or permitted to return—
  - (a) a document that has been lodged or deposited in paper form; or
  - (b) a document in paper form that is a representation of an electronic conveyancing document.
- ‘(2) The chief executive may return the document by leaving it at a place designated for the purpose in the land registry.’.

## **27 Amendment of s 314 (Dispensing with production of document)**

- (1) Section 314, heading, ‘document’—

*omit, insert—*

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**‘paper document’.**

- (2) Section 314(1), ‘document’—  
*omit, insert—*  
‘document in paper form’.

**28 Amendment of s 322A (Severing joint tenancy by transfer)**

Section 322A(4)—  
*omit, insert—*

- ‘(4) The chief executive may register the transfer only if the chief executive is satisfied the severing party has given each other joint tenant written notice of the severing party’s intention to sever the joint tenancy under subsection (2).’.

**29 Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definition *approved form*—  
*omit.*

- (2) Schedule 6—  
*insert—*

**‘approved form** means—

- (a) for an electronic conveyancing document—a form approved by the chief executive under the Electronic Conveyancing National Law (Queensland), section 7; or  
(b) otherwise—a form approved by the chief executive under section 444 for use under this Act.

**copy**, of a document, if the document is an electronic conveyancing document, means—

- (a) a representation of the document in paper form; or  
(b) a reproduction or representation of the document in digital form.

**electronic conveyancing document** see section 290P.

[s 29]

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***Electronic Conveyancing National Law (Queensland)*** see the *Electronic Conveyancing National Law (Queensland) Act 2013*, section 4.

***endorse***, in relation to endorsing information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the information will be readily accessible as part of the document so as to be useable for subsequent reference.

***file***, a document, if the document is an electronic conveyancing document, means lodge the document electronically under the Electronic Conveyancing National Law (Queensland), section 7.

***note***, in relation to noting particular information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the information will be readily accessible as part of the document so as to be useable for subsequent reference.’.

- (3) Schedule 6, definition *deposit*—

*insert*—

‘*Note*—

For filing an electronic conveyancing document, see the definition *file*.’.

- (4) Schedule 6, definition *document*—

*insert*—

‘(h) an electronic conveyancing document.’.

- (5) Schedule 6, definition *lodge*—

*insert*—

‘*Note*—

For filing an electronic conveyancing document, see the definition *file*.’.

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## **Division 3                      Amendment of Land Title Act 1994**

### **30        Act amended**

This division amends the *Land Title Act 1994*.

### **31        Amendment of s 9A (Land title practice manual)**

- (1) Section 9A(5), ‘subsection (4)’—  
*omit, insert—*  
‘subsection (5)’.
- (2) Section 9A(4) and (5)—  
*renumber* as section 9A(5) and (6).
- (3) Section 9A—  
*insert—*
- ‘(4) The manual may provide for the registrar’s approval of the form of an electronic conveyancing document for the Electronic Conveyancing National Law (Queensland), section 7(1)(a).’.

### **32        Amendment of s 10 (Form of instruments)**

- (1) Section 10(1)(b)(i), ‘filled in’—  
*omit, insert—*  
‘completed’.
- (2) Section 10—  
*insert—*
- ‘(5) Subsections (3) and (4) do not apply to an instrument that is an electronic conveyancing document.’.

### **33        Amendment of s 11 (Execution of certain instruments)**

Section 11—

[s 34]

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*insert—*

- ‘(3) For an instrument that is an electronic conveyancing document, subsections (1) and (2) apply subject to the form approved for the instrument under the Electronic Conveyancing National Law (Queensland), section 7.’

**34 Amendment of s 11A (Original mortgagee to confirm identity of mortgagor)**

- (1) Section 11A(2), ‘the person who executed the instrument as mortgagor’—

*omit, insert—*

‘the person who is the mortgagor under the instrument’.

- (2) Section 11A—

*insert—*

- ‘(2A) For subsection (2), a person is the mortgagor under an instrument of mortgage or amendment of mortgage if the person executes the instrument as mortgagor, including, if the instrument is an electronic conveyancing document, through a subscriber digitally signing the instrument under the Electronic Conveyancing National Law (Queensland).

- ‘(2B) Also, for subsection (2), a person is the mortgagor under an instrument of mortgage or amendment of mortgage if the instrument is an electronic conveyancing document and the person signs, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—

- (a) is required as a supporting document for the instrument of mortgage or amendment of mortgage; and
- (b) is required to be kept by the original mortgagee.’.



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**35 Amendment of s 11B (Mortgage transferee to confirm identity of mortgagor)**

- (1) Section 11B(2), from ‘the person who executed’ to ‘about to become,’—

*omit, insert—*

‘the person who was the mortgagor under the instrument of mortgage was identical with the person who, when the instrument of mortgage was registered, was’.

- (2) Section 11B—

*insert—*

‘(2A) For subsection (2), a person was the mortgagor under an instrument of mortgage if the person executed the instrument as mortgagor, including, if the instrument is an electronic conveyancing document, through a subscriber digitally signing the instrument under the Electronic Conveyancing National Law (Queensland).

‘(2B) Also, for subsection (2), a person was the mortgagor under an instrument of mortgage if the instrument is an electronic conveyancing document and the person signed, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—

- (a) was required as a supporting document for the instrument of mortgage; and
- (b) was required to be kept by the original mortgagee mentioned in section 11A(2).’.

**36 Replacement of ss 12 and 13**

Sections 12 and 13—

*omit, insert—*

**‘12 Giving consent for dealings**

- ‘(1) Subject to subsections (2) to (4), if the consent of a person is required or permitted for a dealing with a lot, the consent must be—

[s 37]

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- (a) written on the instrument for the dealing (the *relevant instrument*); or
  - (b) if the registrar considers it appropriate—deposited with the relevant instrument.
- ‘(2) If the relevant instrument is an electronic conveyancing document, the person is taken to have complied with subsection (1) if the consent—
- (a) is in the form of an electronic conveyancing document; and
  - (b) is deposited with the relevant instrument.
- ‘(3) Subsection (4) applies if the relevant instrument is lodged or deposited in an electronic form by an electronic communication under—
- (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.
- ‘(4) The person is taken to have complied with subsection (1) if—
- (a) a method is used to identify the person and to indicate the person’s consent; and
  - (b) having regard to all the relevant circumstances when the method was used, the method was as reliable as was appropriate for the purposes for which the consent was communicated; and
  - (c) the registrar consents to the requirement being met by using the method.’.

### **37 Insertion of new pt 2, div 2A**

After section 14—

*insert—*

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## **‘Division 2A            Electronic conveyancing documents**

### **‘14A    Reference to a particular type of document includes its electronic conveyancing form**

‘A reference in this Act to a document of a type that may be lodged or deposited under this Act includes a reference to the document in the form of an electronic conveyancing document.

### **‘14B    What is an *electronic conveyancing document***

- ‘(1) An *electronic conveyancing document* is a document under the Electronic Conveyancing National Law (Queensland) that is lodged electronically under section 7 of that Law, in the land registry.

*Note—*

Under the Electronic Conveyancing National Law (Queensland), schedule 1, section 12(1), definition *document*, a document includes any record of information that exists in a digital form and is capable of being reproduced, transmitted, stored and duplicated by electronic means.

- ‘(2) Subsection (3) applies to a document that is lodged or deposited in an electronic form by an electronic communication under—
- (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.
- ‘(3) To remove any doubt, it is declared that the document is not an electronic conveyancing document.

### **‘14C    Signing or executing an electronic conveyancing document**

‘If this Act provides for a document to be signed or executed and the document is an electronic conveyancing document,

[s 38]

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the document must be digitally signed as provided for under the Electronic Conveyancing National Law (Queensland).’.

**38 Amendment of s 42 (Issuing of certificates of title)**

(1) Section 42(1), ‘must’—

*omit, insert—*

‘may’.

(2) Section 42(4), ‘The registrar’—

*omit, insert—*

‘If the registrar issues a certificate of title, the registrar’.

**39 Amendment of s 44 (Note about issue of certificate of title etc.)**

(1) Section 44, heading, ‘Note about’—

*omit, insert—*

**‘Record of’.**

(2) Section 44(a), ‘make a note’—

*omit, insert—*

‘record’.

**40 Amendment of s 50 (Requirements for registration of plan of subdivision)**

Section 50(2)(a), after ‘endorsed with’—

*insert—*

‘or accompanied by’.

**41 Amendment of s 59 (Severing joint tenancy)**

Section 59(2)—

*omit, insert—*

- 
- ‘(2) However, the registrar may register the instrument of transfer only if the registrar is satisfied the registered owner has given each other joint tenant written notice of the registered owner’s intention to sever the joint tenancy under subsection (1).’.

**42 Amendment of s 155 (Correcting unregistered instruments)**

Section 155(1), after ‘survey’—

*insert—*

‘that is in paper form’.

**43 Amendment of s 156 (Requisitions)**

Section 156(3)—

*omit, insert—*

- ‘(3) The requisition may—
- (a) state when, and where, it must be complied with; and
  - (b) if it relates to an electronic conveyancing document, be accompanied by a copy of the document.’.

**44 Amendment of s 157 (Rejecting instrument for failure to comply with requisition)**

- (1) Section 157, heading, after ‘instrument’—

*insert—*

‘**or document**’.

- (2) Section 157(2)—

*omit, insert—*

- ‘(2) An instrument rejected under subsection (1) loses its priority under section 178.

- ‘(2A) If the registrar rejects an instrument or document under subsection (1) the registrar must—

[s 45]

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- (a) give a written notice of the rejection to the person to whom the registrar gave the requisition for the instrument or document; and
  - (b) if the instrument or document is in paper form—return the instrument or document to the person who lodged or deposited it.’.
- (3) Section 157(3), ‘or in’—  
*omit, insert—*  
‘or recorded in’.
- (4) Section 157—  
*insert—*
- ‘(3A) An electronic conveyancing document that has been rejected under subsection (1) can not be relodged.’.
- (5) Section 157(4), ‘This section’—  
*omit, insert—*  
‘Subject to subsection (5), this section’.
- (6) Section 157(2A) to (4)—  
*renumber* as section 157(3) to (6).

**45 Amendment of s 158 (Borrowing lodged instrument before registration)**

- (1) Section 158, heading, after ‘lodged’—  
*insert—*  
**‘or deposited’.**
- (2) Section 158(1)—  
*omit, insert—*
- ‘(1) The registrar may permit any of the following persons to borrow an instrument lodged or deposited in paper form before the instrument is registered or used for the purpose for which it was deposited—

- (a) the person who lodged or deposited the instrument;
- (b) a person for whom the instrument was lodged or deposited;
- (c) an agent of a person mentioned in paragraph (a) or (b).'

#### 46 **Amendment of s 161 (Execution and proof)**

Section 161, at the end—

*insert—*

*Note—*

Under the Electronic Conveyancing National Law (Queensland), section 9(3)(b), if a registry instrument is digitally signed in accordance with the participation rules applicable to the instrument, the requirements of any other Queensland law relating to the execution, signing, witnessing, attestation or sealing of documents must be regarded as having been fully satisfied.'

#### 47 **Amendment of s 164 (Dispensing with production of instrument)**

- (1) Section 164, heading, 'instrument'—

*omit, insert—*

**'paper instrument'**.

- (2) Section 164(1), 'instrument'—

*omit, insert—*

'paper instrument'.

- (3) Section 164(3)—

*renumber* as section 164(4).

- (4) Section 164—

*insert—*

- '(3) Also, the registrar may dispense with the production of a certificate of title of a lot if the registrar is satisfied the certificate of title is held by a registered mortgagee of the lot.'

[s 48]

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#### **48 Amendment of s 185 (Exceptions to s 184)**

(1) Section 185(1A)(b)—

*omit, insert—*

‘(b) the person who was the mortgagor under the instrument of mortgage or amendment of mortgage was not the person who was, or who was about to become, the registered proprietor of the lot or the interest in a lot for which the instrument was registered.’

(2) Section 185—

*insert—*

‘(1B) For subsection (1A)(b), a person was the mortgagor under an instrument of mortgage or amendment of mortgage if the person executed the instrument as mortgagor, including, if the instrument is an electronic conveyancing document, through a subscriber digitally signing the instrument under the Electronic Conveyancing National Law (Queensland).

‘(1C) Also, for subsection (1A)(b), a person was the mortgagor under an instrument of mortgage or amendment of mortgage if the instrument is an electronic conveyancing document and the person signed, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—

(a) was required as a supporting document for the instrument of mortgage or amendment of mortgage; and

(b) was required to be kept by the original mortgagee mentioned in section 11A(2).’

#### **49 Replacement of s 198 (Delivery)**

Section 198—

*omit, insert—*

#### **‘198 Delivery of paper documents**

‘(1) This section applies if the registrar is required or permitted to return—



- 
- (a) a document that has been lodged or deposited in paper form; or
  - (b) a document in paper form that is a representation of an electronic conveyancing document.
- ‘(2) The registrar may return the document by leaving it at a place designated for the purpose in the land registry.’.

## 50 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *approved form*—

*omit.*

- (2) Schedule 2—

*insert—*

**‘*approved form* means—**

- (a) for an electronic conveyancing document—a form approved by the registrar under the Electronic Conveyancing National Law (Queensland), section 7; or
- (b) otherwise—a form approved by the chief executive under section 194 for use under this Act.

***copy***, of a document, if the document is an electronic conveyancing document, means—

- (a) a representation of the document in paper form; or
- (b) a reproduction or representation of the document in digital form.

***electronic conveyancing document*** see section 14B.

***Electronic Conveyancing National Law (Queensland)*** see the *Electronic Conveyancing National Law (Queensland) Act 2013*, section 4.

***endorse***, in relation to endorsing information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the

[s 50]

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information will be readily accessible as part of the document so as to be useable for subsequent reference.

**file**, a document, if the document is an electronic conveyancing document, means lodge the document electronically under the Electronic Conveyancing National Law (Queensland), section 7.

**note**, in relation to noting particular information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the information will be readily accessible as part of the document so as to be useable for subsequent reference.’.

- (3) Schedule 2, definition *deposit*—

*insert*—

‘*Note*—

For filing an electronic conveyancing document, see the definition *file*.’.

- (4) Schedule 2, definition *instrument*—

*insert*—

‘(h) an electronic conveyancing document.’.

- (5) Schedule 2, definition *lodge*—

*insert*—

‘*Note*—

For filing an electronic conveyancing document, see the definition *file*.’.