

ECONVEYANCING MANDATE EXEMPTION REQUEST FORM - GUIDE TO COMPLETION

The Exemption Request Form must be deposited by the lodger with a lodgement, when a 'required instrument' is lodged in paper form. Required Instruments and exemptions are set out in this guide to completion. Further information is also available online at [Titles Queensland \(titlesqld.com.au\)](https://titlesqld.com.au)

eConveyancing

Electronic conveyancing (or eConveyancing) allows instruments and documents needed for property transactions to be digitally prepared, signed, settled and lodged through an Electronic Lodgment Network (**ELN**). There are currently two approved Electronic Lodgment Network Operators (**ELNOs**) that offer eConveyancing subscription services to financial institutions, legal practitioners, and other eligible subscribers which are:

- Property Exchange Australia Ltd ([PEXA](https://pexa.com.au)); and
- Sympli Australia Pty Ltd ([Sympli](https://sympli.com.au)).

eConveyancing Mandate and Required Instruments

From 20 February 2023, in accordance with the [Land Title Regulation 2022](#) (Qld) (**Regulation**), certain types of instruments and documents (referred to as '**required instruments**') must be lodged through an ELN unless an exemption applies.

Pursuant to section 4 of the Regulation, each of the following instruments or other documents is a '**required instrument**' which must be lodged electronically through an ELN:

- (a) an instrument of transfer for a lot (Form 1 – Transfer);
- (b) an instrument of mortgage for a lot (National Mortgage Form);
- (c) an instrument releasing a mortgage of a lot (Form 3 – Release);
- (d) a caveat for a lot (Form 11 – Caveat);
- (e) a request to withdraw a caveat lodged over a lot (Form 14 – Request to withdraw caveat);
- (f) a priority notice for a lot (PNN);
- (g) a request to extend a priority notice over a lot (PNE);
- (h) a request to withdraw a priority notice over a lot (PNW);
- (i) an application to be registered as a personal representative for a registered owner of a lot who has died (currently only a Form 5 – Transmission Application may be lodged).

Postal

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Exemptions to electronic lodgement

There are some exemptions which may apply to required instruments. If an exemption applies, the lodger can lodge the required instrument in paper form but, in that case, Titles Queensland will require the lodger to deposit an Exemption Request Form (**ERF**) with the instrument. In accordance with section 5 of the Regulation, a required instrument does not need to be lodged electronically through an ELN if one or more of the following exemptions apply:

1. A party is an unrepresented individual

A party to the instrument, who is a natural person (i.e. not a company etc.), is not a Subscriber to an Electronic Lodgment Network Operator (i.e. not a subscriber to PEXA or Sympli) and is not represented by an Australian legal practitioner or an incorporated legal practice.

2. Functionality

The Electronic Lodgment Network and/or Titles Queensland system does not have the functionality to complete the transaction.

Example: Although a Form 1 – Transfer is a required instrument; it is not currently possible to lodge a transfer by a third party through eConveyancing.

3. Circumstances beyond control

When the eConveyancing lodgement was attempted, circumstances beyond the lodger's control prevented the lodgement from proceeding.

Example: Where the lodger experiences internet access issues for the entire day, or the Electronic Lodgment Network was unavailable for use for the entire day.

4. Combined lodgements / instruments

The instrument is required to be lodged with another instrument that cannot be lodged using eConveyancing

Example: Where a transfer must be lodged with a plan of survey and the plan of survey cannot be lodged using eConveyancing

5. Combined lodgements / instruments involving unrepresented individuals

The instrument is required to be lodged with another instrument which includes a party who is an unrepresented person.

Example: Where a release of mortgage must be lodged in combination with a transfer and the mortgagee releasing the mortgage is an unrepresented individual.

6. Rejected or withdrawn documents with an associated financial transaction

The instrument:

- a) replaces an instrument that was lodged using eConveyancing and subsequently rejected or withdrawn under section 157 or section 159 of the *Land Title Act 1994*; and
- b) for which an associated financial transaction has been completed.

Example: A Form 1 - Transfer is lodged, and the purchase price has already been paid to the seller. Prior to registration of the transfer, the lodger identifies an error and

withdraws the transfer for it to be re-lodged with the correct information. The re-lodged transfer, although a transfer is a required instrument, will be acceptable in paper form.

7. *Duties Act 2001* (Qld) exemption

The instrument(s) being lodged give effect to a transaction that is not an '*ELN lodgement*' or '*ELN transfer*' within the meaning of the *Duties Act 2001* (Qld) section 156D.

For further information refer to

[Electronic conveyancing transactions | Business Queensland](#)

[Online Property Settlement, Tracking & Insights | PEXA](#)

[Making e-Settlements Simple | Sympli](#)

Completion of the Exemption Request Form (ERF)

- An ERF is required to be deposited with any required instrument as set out in the **eConveyancing Mandate and Required Instruments** section
- Where multiple instruments are lodged over the same title(s) (e.g. Release, Transfer, Mortgage), only one ERF is required to be deposited.
- The ERF should be deposited with the relevant instrument, where applicable. If the exemption relates to all instruments lodged together over the same title(s), it should be deposited with the first instrument.
- Insert the relevant title reference in the space provided in the request statement. if more than one, use the first title reference only.
- Tick as appropriate the applicable reason/s from the seven (7) exemption reason options.
- Insert the name of the signatory and their company or firm name (if applicable). The signatory can be the lodging party or a legal representative or agent for a party to the instrument.
- Sign and date the confirmation statement at the bottom of the ERF.

Refer to example of completed ERF below:

This Exemption Request Form **must** be deposited by the lodger with a lodgement, when a 'required instrument' is lodged in paper form.

To: Registrar of Titles

I hereby request the Registrar of Titles accept this paper lodgement relating to title reference: **14643034**

[Insert no.].

This instrument cannot be lodged using eConveyancing because of the reason(s) indicated below:
(Please tick as appropriate)

- ☐ 1. **A party is an unrepresented individual:** A party to the instrument, who is a natural person, is not a Subscriber to an Electronic Lodgment Network Operator and is not represented by an Australian legal practitioner or an incorporated legal practice.
- ☒ 2. **Functionality:** The Electronic Lodgment Network and/or Titles Queensland system does not have the functionality to complete the particular transaction.
- ☐ 3. **Circumstances beyond control:** When the eConveyancing lodgement was attempted, circumstances beyond the lodger's control prevented the lodgement from proceeding.
E.g. internet access issues for the entire day, the Electronic Lodgment Network is unavailable for use for the entire day.
- ☐ 4. **Combined lodgements / instruments:** The instrument is required to be lodged with another instrument that cannot be lodged using eConveyancing.
E.g. a transfer that must be lodged with a plan of survey and the plan of survey cannot be lodged using eConveyancing.
- ☐ 5. **Combined lodgements / instruments involving unrepresented individuals:** The instrument is required to be lodged with another instrument which includes a party who is an unrepresented person.
- ☐ 6. **Rejected or withdrawn instruments with an associated financial transaction:** The instrument:
- replaces an instrument that was lodged using eConveyancing and subsequently rejected or withdrawn under section 157 or section 159 of the *Land Title Act 1994*; **and**
 - for which an associated financial transaction has been completed.
- E.g. purchase price for the property has been paid; money has been given in return for granting a mortgage or charge over the property; taxes, duty (including transfer duty), fees or charges payable relating to the transaction have been paid.*
- ☐ 7. **Duties Act 2001 (Qld) exemption:** The instrument(s) being lodged give effect to a transaction that is not an ELN lodgement or ELN transfer within the meaning of the *Duties Act 2001* (Qld) section 156D.

I confirm that the above is true and correct to the best of my knowledge.

Name: **Eileen Veronica White**

[insert lodging party / legal representative / agent's name and any other relevant details]

Company / Firm Name: **Luca Law**
(if applicable)

Signature: **E V White**

Date: **26 / 02 / 2023**
DD/MM/YEAR