



Property Exchange Australia Ltd (PEXA) welcomes the introduction of the Revenue and Other Legislation Amendment Bill 2018 and specifically the measures proposed to support the expansion of e-Conveyancing.

About PEXA

PEXA was formed in 2010 to fulfil the Council of Australian Governments' initiative to deliver a single national electronic system for the settlement of real property transactions for the Australian property industry.

PEXA provides an electronic conveyancing solution to its members, which include lawyers and financial institutions, allowing them to lodge documents with Land Registries and complete financial settlements electronically.

Payment direct to the Revenue Office

The explanatory note in relation to the Bill says: "These amendments seek to strike an appropriate balance between the rights and liberties of individuals and minimisation of risk to revenue, particularly those risks associated with allowing endorsement of e-conveyancing documents for transfer duty of the basis of a payment commitment."

PEXA submits that risk to revenue could best be minimised if the OSR chose to accept payments directly from a PEXA settlement, rather than have them directed to the self-assessor. In other jurisdictions, when there is a payment commitment, the duty verification service which operates between PEXA and the Revenue Office serves to populate the amount of duty payable in the Workspace. At settlement execution, that amount is paid directly to the predefined account of the Revenue Office. Such an arrangement delivers benefits to the state whereby:

- The risk to revenue is minimised
- Revenue is collected by the state earlier, giving the state the benefit of earlier access to funds
- The state is able to readily reconcile payments received with assessments

Expansion of scope – more transactions will now be suitable for e-Conveyancing

PEXA welcomes the proposal to allow all types of land to be transacted electronically (the removal of the "cottage conveyance" limitation). Specifically, the proposed changes to the definition of ELN Transfer and the proposal to introduce definitions for ELN Lodgements and eligible land are welcomed.

Presently, not all transactions can be self-assessed in OSR Connect. For example, transactions where the originally named purchaser in a contract nominates a subsequent purchaser.

- Non-monetary (zero consideration) transfers

It seems that the present exclusion against non-monetary transactions is proposed to be removed. For the avoidance of doubt, PEXA submits that non-monetary (zero consideration) transactions ought to be capable of electronic transfer.

Non-monetary transactions are capable of completion in PEXA in other states and should be available in Queensland. Often transfers between related parties are completed by one practitioner acting for both parties and do not involve financial institutions. These transfers can be a useful learning tool for practitioners hesitant to use PEXA, as it allows them to transact without the interaction of other participants.

Allowing non-monetary transfers to be completed in PEXA will open up scope for transfers of varying degrees of simplicity: spousal transfers (during a relationship or after a breakdown), transfers to change the manner of holding (for example from joint tenants to tenants in common), transfers from executors to beneficiaries, transfers from trustees to beneficiaries and gifts between family members. Only some of these are subject to duty on the full market value of the property and others would be subject to an exemption.

- transfers by direction

The PEXA System does not cater to transfers by direction. Instead two transfers must be created in the one Workspace, A to B, then B to C. Both transfers are lodged with the Land Registry in one bundle. However, these transactions are currently out of scope for Queensland. The requirement would be that both transfers are assessed in OSR Connect and the stamp duty verification run in respect of each transfer between OSR Connect and one PEXA Workspace.

PEXA submits the reference to “one or more transfers” in sub-paragraph (b) of the definition of ELN Transfer should be amended to refer to “one transfer” thereby permitting an arrangement where the two agreements can be completed by way of two separate transfers, each capable of assessment for duty.



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Expand to include other dutiable transactions

PEXA repeats that all transfers capable of being lodged in paper ought to be available in the electronic channel. All transfers should be brought into scope, including:

- a transfer from the transferor to a transferee nominated by the purchaser; and
- transfers related to on-sales (two transfers lodged together and each subject to duty).

Conclusion

PEXA welcomes the Revenue and Other Legislation Amendment Bill as a good first step toward the expansion of scope for e-Conveyancing and looks forward to working with the revenue office and industry to support transition to further electronic conveyancing.

A handwritten signature in black ink, appearing to read 'Amy Gerraty', is positioned above the typed name.

Amy Gerraty
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