

National Partnership Agreement to Deliver a Seamless National Economy (SNE NP)

Report card prepared by the COAG Business Advisory Forum
Taskforce

- April 2013 -

Overview

In 2008, COAG agreed to implement regulatory and competition reforms under the National Partnership Agreement to Deliver a Seamless National Economy (SNE NP). The SNE NP comprises 27 deregulation priorities, eight areas of competition reform and reforms to regulation making and review.

The SNE NP ended on 31 December 2012. While the majority of the deregulation priority reforms were completed at this time, or were close to completion, several remained outstanding. In addition, some of the competition reforms contained milestones that extended beyond this end date.

COAG agreed on 7 December 2012, that from 1 January 2013, where SNE NP reforms remain outstanding, relevant COAG fora would be tasked with completing any remaining milestones and providing biannual reports to COAG (by 1 April and 1 September each year). These biannual reports are to be provided through the Business Advisory Forum Taskforce, until such time as reform milestones are completed.

These reporting arrangements replace the oversight of reform implementation previously undertaken by the Business Regulation and Competition Working Group.

18 of the 27 deregulation priorities and four of the eight competition reforms have now been completed. This includes Oil and Gas Reform and National Access Regime which were finalised in December 2012.

The following report card provides a summary of key SNE NP progress since the last report cards were published by COAG in December 2012.

The 27 deregulation priority reforms

1. Occupational Health and Safety – This reform is continuing to be implemented.

This reform aims to introduce nationally uniform OH&S laws, comprising a model Act, model regulations and model codes of practice and a nationally consistent approach to compliance and enforcement policy.

Since the last report, the model occupational health and safety laws commenced in Tasmania and SA (with a 12 month transition period in SA), on 1 January 2013. The model laws had previously commenced on 1 January 2012 in the ACT, NSW, NT, Queensland, and the Commonwealth.

The Victorian Government has advised that it will not be introducing the model law in its current form. WA has advised that its decision to implement the model law is subject to analysis of the local costs and benefits of the reform.

COAG agreed on 13 April 2012, that national occupational health and safety laws will be reviewed by the end of 2014.

2. Environmental Assessment and Approval Processes – This reform is now operational.

3. Payroll Tax – This reform is now operational.

4. Licences of Tradespeople – This reform is continuing to be implemented.

A national occupational licensing system (NOLS) will deliver benefits to business, consumers and the wider community through enhanced mobility of licensed tradespeople between jurisdictions.

On 13 April 2012, COAG announced that, due to the complexities of the reform, the NOLS would now commence from 2013 (rather than the scheduled commencement date of 1 July 2012). Since then, steady progress has been made. Consultation on the legislation, regulations and Regulation Impact Statements for the first four occupations (electrical, plumbing and gas fitting, refrigeration and air conditioning, and property occupations) concluded in mid-October 2012, and Decision RISs are being drafted for consideration by the Standing Council on Federal Financial Relations.

5. Health Professional Registration and Accreditation – This reform is now operational.

6. Trade Measurement – This reform is now operational.

7. Rail Safety - This reform is now operational.

8. Consumer Policy Framework - This reform is now operational.

9. Product Safety - This reform is now operational.

10. National Regulation of Trustee Corporations - This reform is now operational.

11, 12, and 13. Phase One National Consumer Credit Regulatory Regime – These reforms are now operational.

14. Development Assessment (DA) – these reforms are now operational.

15. National Construction Code (NCC) – This reform is continuing to be implemented.

A single consolidated set of national building and plumbing regulations is now in place for the majority of Australian businesses. The national construction code reform is operational in all jurisdictions, except WA.

On 13 August 2012, the WA Minister for Commerce agreed to a review of the WA plumbing legislation which would consider how best to adopt the PCA.

16. Chemicals and plastics regulation – This reform is continuing to be implemented.

Thirteen of the 30 Productivity Commission (PC) recommended Chemicals and Plastics reforms remain to be completed under the SNE NP including harmonisation of regulatory controls for poisons; reforms relating to the impact of chemicals on the environment; reforms to harmonise the regulation of security sensitive ammonium nitrate; reforms to the regulatory framework for agricultural and veterinary chemicals; and reforms dependent on completion of occupational health and safety reform.

All Early Harvest Reforms (EHR) under the chemicals and plastics reform stream have been completed for the purposes of the SNE NP.

17. Registering Business Names – This reform is now operational.

18. Personal Property Securities (PPS) – This reform is now operational.

19. Standard Business Reporting (SBR) – This reform is now operational.

20. Food regulation - This reform is now operational.

21. National Mine Safety Framework – This reform is continuing to be implemented.

This reform aims to create a nationally consistent health and safety regime in the Australian mining industry.

The first National Mine Safety Regulators Forum was held in Sydney in mid-February 2013, and was attended by over 50 inspectors, representing each jurisdiction (except the NT). The build of the National Mine Safety Database has been completed, with refinements currently underway as part of the testing and review process, in anticipation of the start of data entry, on 1 July 2013. However other reform milestones remain to be completed to finalise this reform. The Select Council on Workplace Relations is currently considering core mine safety regulations and, the three major mining states of NSW, Queensland and WA are considering additional regulations for higher risk activities such as underground mining. In January 2013, Victoria advised that it will not adopt the mine safety regulations in their current form.

22. E-conveyancing – This reform is continuing to be implemented.

The aim of this reform is to create a single national electronic system for land title transactions.

E-conveyancing reform is on track to be completed in line with COAG agreed milestones, by June 2013, noting that the ACT has advised that, due to the disproportionate costs it faces as a small jurisdiction and its unique leasehold system, it is reserving its position on participating.

The E-conveyancing National Law passed the NSW Parliament, and received Royal Assent on 20 November 2012; and passed the Victorian Parliament, and received Royal Assent on 26 February 2013. Legislation was also introduced into the Queensland Parliament in November 2012. The March 2013 election in Western Australia delayed consideration of the

mirror legislation, and will be considered by the new Cabinet as soon as possible.

23. Oil and Gas Regulation – This reform is now operational.

The aim of this reform is to streamline Commonwealth, State and Territory upstream petroleum regulations.

On 14 December 2012, the last milestone of this reform was completed, when the Standing Council on Energy and Resources endorsed the Guidelines for Engagement for Petroleum Developers with Local Government, which were developed in consultation with State and Northern Territory Governments, the Australian Petroleum Production and Exploration Association and the Australian Local Government Association.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the National Offshore Petroleum Titles Administrator (NOPTA) were established on 1 January 2012. NOPSEMA and NOPTA provide oversight of all petroleum, mining and greenhouse gas storage activities in Commonwealth offshore areas. The States and the NT have the option to confer their regulatory powers in their coastal waters onto these regulators.

24. Maritime Safety – This reform is continuing to be implemented.

COAG signed the intergovernmental agreement to establish the Australian Maritime Safety Authority as the single national regulator for maritime safety in August 2011.

On 9 November 2012, SCOTI Ministers agreed that the Marine Safety (Domestic Commercial Vessel) National Law Act 2012, which underpins the national arrangements would commence by proclamation in March 2013. With the exception of NSW (where legislation to apply the national law was given Royal Assent on 20 November 2012) and Western Australia (where the March 2013 election delayed consideration of the legislation), the States and the NT have advised they will have their respective application laws in place by mid-2013. These laws are required to enable the jurisdictions to perform functions on behalf of AMSA as the National Maritime Regulator and to ensure full coverage of the national arrangements.

Note: Maritime safety is both a regulatory and competition reform.

25. Wine Labelling – This reform is now operational.

26. Directors' Liability – This reform is continuing to be implemented.

The final milestone for Directors' Liability reform requires all jurisdictions to develop a legislative plan for the agreed reforms and to introduce legislation by December 2012. Legislation to give effect to this reform has been passed by the Commonwealth, NSW, Victoria and the ACT, and introduced in Qld, SA and Tasmania.

27. Phase Two Consumer Credit reforms – This reform is continuing to be implemented.

The majority of the consumer credit reforms have been completed. However, Part Two of the second phase of consumer credit reforms remains to be finalised. A draft Bill (the Credit Reform Phase 2 Bill) was released for public comment with submissions closing on 1 March 2013. The Commonwealth has confirmed that the small business lending reforms require more detailed consideration and are to be extracted from the Bill. To enact legislation giving effect to Part Two of Phase Two of this reform, the Commonwealth requires a referral of power from the states and territories, and consultations with jurisdictions are continuing.

The eight Competition Reforms

1. Review of Australia's Anti-dumping and Countervailing System – this reform is complete.

2. Review of Parallel Import Restrictions on Books – this reform is complete.

3. Previously agreed energy market reforms – This reform is continuing to be implemented.

These reforms will be incorporated into the revised Standing Council on Energy and Resources' implementation plan that applies to the new energy market reform agenda agreed by COAG on 7 December 2012. Progress against the revised implementation plan will be considered by energy ministers on 10 May 2013.

4. National Access Regime – this reform is complete.

This reform had two milestones, to pass Commonwealth legislation, and to 'commence a Productivity Commission (PC) review of the National Access Regime, including the impact of the (legislation)'.
The legislation – *the Trade Practices Amendment (Infrastructure Access) Act 2010* - received assent on 13 July 2010. The PC review commenced on 25 October 2012. A draft report is due to be released by May 2013 and the report finalised by October 2013.

5. Infrastructure Reforms – This reform is continuing to be implemented.

5a. Certification

This reform involves the submission of state third party access regimes for certification by the National Competition Council (NCC) by December 2010. Victoria's access regimes for rail, and the multi-jurisdictional energy access regimes for electricity and gas, remain to be submitted for certification.

5b Implement simpler and consistent approach to access regulation of interstate rail track

The benefits of this reform are a simpler and consistent approach to access regulation, particularly with respect to two parts of the rail track network identified in the milestones — the interstate track between Perth and Kalgoorlie, and the Brisbane to NSW border standard gauge track.

Interstate rail is now subject to the Australian Rail Track Corporation (ARTC) access undertaking, except Perth-Kalgoorlie which is subject to Western Australia's certified access regime.

The Queensland interstate standard gauge rail track between Brisbane and the NSW border was transferred to ARTC under a long term lease arrangement in January 2010. However, Queensland understands that this section of the track is not subject to the 2008 ARTC access undertaking.

5c Review and reform of significant ports

Under this reform, States will undertake transparent public reviews of the regulation and effectiveness of competition in ports and port authority, handling and storage facility operations at significant ports.

All States have reviewed the regulation of significant ports. On 11 July 2011, the Parliamentary Secretary to the Treasurer certified the Dalrymple Bay Coal Terminal Access Regime as effective for a period of ten years.

Queensland and New South Wales have implemented the findings of their reviews. The Northern Territory gazetted relevant regulations on 4 July 2012 and its Five Year Port Development Strategy is currently being revised to reflect the new government's strategic and economic outlook, for consideration by government before the end of the 2012-13 financial year. Western Australia is continuing to implement the recommendations of their review.

5d Competitive tendering

Under the *Competition and Infrastructure Reform Agreement*, governments agreed to consider the use of competitive tendering to establish the terms and conditions for the supply of significant new services provided by government owned monopoly infrastructure.

The Trade Practices Amendment Regulations 2010 (No. 2) (Commonwealth) commenced on 4 June 2010 giving effect to the competitive tendering principles.

The Productivity Commission review of the National Access Regime, and the CIRA, commenced on 25 October 2012.

5e Competitive neutrality

Reporting of the competitive neutrality requirements under the *Competition Principles Agreement* and the *Competition and Infrastructure Reform Agreement*.

The 2010-11 report was considered by COAG on 25 July 2012.

The 2011-12 report has been prepared for consideration.

6. Rationalisation of occupational licences – this reform is complete.

7. National Transport Reforms – this reform is incomplete

7a National regulator for the operation of heavy vehicles.

This reform will establish a national heavy vehicle regulator with responsibility for all vehicles over 4.5 gross tonnes, including registration, operations, compliance and enforcement

On 19 August 2011, COAG signed the Intergovernmental Agreement (IGA) on Heavy Vehicle Regulatory Reform, to establish a National Heavy Vehicle Regulator (NHVR). Western Australia is yet to sign the IGA, but expressed support for the reform.

The NHVR was established on 21 January 2013 following the passage of the Heavy Vehicle National Law Bill, in Queensland on 23 August 2012 and the formal appointment of the NHVR Board in October 2012.

The Standing Council on Transport and Infrastructure (SCOTI) agreed an Amendment Bill on 13 August 2012, which passed the Queensland Parliament on 14 February 2013. Transport Ministers agreed the Heavy Vehicle National Regulations on 25 February 2013.

Other states and territories will need to introduce legislation to apply the National Law, and most have indicated that passage of legislation will be achieved before 1 July 2013. Subject to the completion of a cost-benefit analysis Western Australia has indicated that it will implement separate legislation, rather than legislation that directly applies the national law, and will retain separate fatigue managements in its Work Health and Safety legislation.

7b National rail safety regulator and investigator

This reform will establish a single, national rail safety regulatory and investigation framework.

SA will host the national rail safety regulator, which will administer a single national act, and the Australian Transport Safety Bureau's rail safety investigation role will be enhanced.

COAG has agreed to implement the reform through template legislation. The Rail Safety National Law was passed by the South Australian Parliament on 1 May 2012. Tasmania and NSW passed legislation in October 2012 and the Northern Territory in November 2012, to apply the national law in those jurisdictions. Victoria introduced legislation into Parliament to apply the national law in Victoria on 6 March 2013.

SCOTI appointed the inaugural National Rail Safety Regulator in June 2012, and two non-executive members of the national regulator were appointed by Ministers in November 2012.

On 13 September 2012, the Australian Parliament passed the *Transport Safety Investigation Amendment Act 2012*, supporting the role of the Australian Transport Safety Bureau (ATSB) as the national rail safety investigator. The ATSB's expanded role commenced from 20 January 2013.

On 20 January 2013 the National Rail Safety Regulator commenced operation in four jurisdictions, with the ACT, Queensland, Victoria and Western Australia expected to pass legislation before the end of 2013.

7c National maritime safety regulator

This reform will provide effective, consistent and efficient national maritime safety regulation for commercial vessels through the establishment of a national maritime regulator and implementation of national maritime safety regulations

On 19 August 2011, COAG signed the Intergovernmental Agreement for the establishment of a single national regulator for domestic vessel safety in Australia.

On 18 May 2012, the SCOTI agreed to the national law to establish the Australian Maritime Safety Authority (AMSA) as the National Maritime Regulator of domestic commercial vessels. The national law was passed by the Australian Parliament and received Royal Assent on 12 September 2012.

On 9 November 2012, SCOTI Ministers agreed that the Marine Safety (Domestic Commercial Vessel) National Law Act 2012, which underpins the national arrangements would commence by proclamation in March 2013. With the exception of NSW (where legislation to apply the national law was given Royal Assent on 20 November 2012) and Western Australia (where the March 2013 election has delayed consideration of the legislation), the States and the NT have advised they will have their respective application laws in place by mid-2013. These laws are required to enable the jurisdictions to perform functions on behalf of AMSA as the National Maritime Regulator and to ensure full coverage of the national arrangements.

8. Road Reform Plan – this reform is incomplete.

This initiative is considering whether to implement major reforms to road charging and investment arrangements for heavy vehicles and is intended to provide better price signals and improved funding mechanisms and governance arrangements for road freight infrastructure providers and users. If the proposed reforms are implemented it would enable Australia to meet more efficiently the forecast growth in the national freight task, and improve the efficiency of transport infrastructure use and provision.

Work on the Heavy Vehicle Charging and Investment reforms (formerly the COAG Road Reform Plan) continues to progress constructively under new project governance arrangements. The feasibility study was noted by COAG out-of-session in July 2012 and COAG also agreed revised reporting milestones for 2012 and 2013. In line with the revised milestones, work is progressing on the development of a Regulatory Impact Statement exploring implementation options which will be considered by SCOTI before being submitted to COAG in late 2013.