

MINISTERIAL STATEMENT

Ministerial statement on amending the Electronic Conveyancing National Law to deliver a secure national interoperability regime and effective competition

Amendments to require interoperability confirmed to be introduced in February 2022

Changes to the Electronic Conveyancing National Law (ECNL) have been confirmed for introduction into NSW Parliament in February 2022.

This is a key milestone to deliver a secure national interoperability regime and effective competition.

The amendments will require an organisation approved as an Electronic Lodgment Network Operator (ELNO) to establish and maintain interoperability with each electronic lodgment network operated by another ELNO.

Ministers recognise this is a complex reform, which may require multiple regulatory amendments. While the basic requirement for ELNOs to interoperate will be included in the changes to be introduced in February 2022, Ministers recognise that stakeholders have provided important insights during the 2021 ECNL consultation, which must be properly considered. This will occur in 2022, along with the consideration of an enforcement regime, with further amendments to be introduced at a later date. Ministers wish to reiterate their thanks to all those who provided submissions and confirm that they will receive robust consideration.

Ministers thank ARNECC and the National Industry Interoperability Panel for their ongoing significant work and expertise developing the national interoperability regime. Introducing changes to the ECNL to require interoperability in February 2022 as agreed by all ministers, and supported by industry peak bodies, and the ACCC provides a clear indication of governments' resolve to see interoperability implemented without delay.

Ministers will meet next in early 2022 to coincide with the introduction of the first set of amendments to the ECNL.

Background

On 18 October 2021, relevant Ministers and their representatives from all jurisdictions met to discuss progress with the national interoperability reform, to support a sustainable competitive market structure for electronic conveyancing. At that meeting, all State and Territory ministers agreed to NSW introducing changes to the ECNL into NSW Parliament in February 2022. Relevant federal ministers endorsed this timetable. The ACCC also asked governments to enable legislation and national regulations immediately to require interoperability.

Changes to the NSW Act are implemented automatically in the ACT, Queensland, Tasmania and Victoria. Other jurisdictions (South Australia, Western Australia and the Northern Territory) need to take separate steps.

ARNECC is informed by the National Industry Interoperability Panel made up of Registrars or their nominees and jurisdictional experts, representatives from the Australian Banking Association, Australian Institute of Conveyancers, Law Council of Australia, ELNOs, the major four banks and a number of other banks. The Australian Competition and Consumer Commission is an observer to this consultation process.
