



Property Occupations Interim Advisory Committee

Communiqué #4 on Progress

(This paper reflects IAC advice to date and does not purport to outline settled government policy. It is provided for the purpose of communicating progress and responses are not sought at this time.)

Introduction

The National Occupational Licensing System (NOLS) is being developed to remove licensing inconsistencies across state and territory borders and provide for a more mobile workforce. Licence holders will be able to perform work in any state or territory with a single national licence. The NOLS will reduce red tape, improve business efficiency and the competitiveness and productivity of the national economy. Initially, four occupational areas will be covered by the NOLS: electrical, plumbing and gasfitting, refrigeration and air conditioning mechanics, and property occupations.

Interim Advisory Committees (IACs) have been established to provide policy advice to the COAG National Licensing Steering Committee in the development of national licensing for each occupational area. The Property Occupations IAC (POIAC) met on a number of occasions during 2010 to develop a series of proposals in relation to:

1. licence categories, scopes of work and licence types;
2. eligibility requirements, both skill based and non-skill based.

A summary of the advice to date of the POIAC follows. Please note that this information is provided on the following basis:

- This advice will inform the policy considerations of the National Licensing Steering Committee and the advice it provides to the Ministerial Council for Federal Financial Relations;
- The policy will be subject to public consultation through a Consultation Regulation Impact Statement (RIS) for this occupation which will be released in the second half of 2011. Following public consultation, a Decision RIS will need to be agreed by jurisdictions through the Ministerial Council;
- The summary represents the majority view of IAC members, noting that a consensus may not have been reached on all policy elements.

Current licence holders

The COAG decision to establish the NOLS agreed that all current holders of state and territory licences would be transitioned appropriately into the new licensing structures, with licence conditions if necessary, to ensure that they continue to be able to undertake their current work. The details of these transitional arrangements are still being developed.

Background

IACs are comprised of members with a wide range of expertise including in the fields of regulation, industry operations and practices (from both a union and employer perspective), safety, consumer advocacy, insurance (where relevant) and training. Each IAC is assisted in its consideration of policy by the views of an occupation-specific Regulator Working Group, comprising regulators from each jurisdiction.

Advice provided by the IACs will inform the Steering Committee and its development of the proposed regulations for the NOLS. In providing advice the IACs were required to take into account:

- the objectives and principles contained in the *Intergovernmental Agreement for a National Licensing System for Specified Occupations* signed by the Council of Australian Governments (COAG) on 30 April 2009; and

- the eight best practice regulation principles set out in COAG's *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*.

Where practicable a consistent approach to the development of licence policy has been taken across occupations.

Further background on the NOLS as well as future updates can be found at www.nola.gov.au

Progress with legislation and the establishment of the National Occupational Licensing Authority

The *Occupational Licensing National Law Act 2010* (the National Law) was passed by Victoria's Parliament as host jurisdiction on Friday, 17 September 2010, and has so far been applied in Queensland and New South Wales. It is expected that other jurisdictions will pass the legislation by early 2011. The National Law can be found at www.nola.gov.au.

The National Law establishes the framework for the NOLS and a new body, the National Occupational Licensing Authority (NOLA), which will administer the system. The NOLA Chair and Board are expected to be appointed in autumn 2011.

Proposed Licence Structure for Property Occupations

1. Licence categories and scopes of work

Following consideration of a range of options for licence categories, scopes of work and licence types for the property occupations, the POIAC has developed a proposal based on six licence categories. The licence categories and their scope of work are shown in Table 1.

Note that where the licensing structure proposed for the national licensing system includes subgroups not currently regulated in a particular jurisdiction (for example, auctioneers), the principles of the *Intergovernmental Agreement for a National Licensing System for Specified Occupations* state that that jurisdiction will not be required to extend its licensing to cover that subgroup.

Table 1: Proposed Work Categories and their Scopes of Work

Licence category	Scope of work
Estate agent	Sale, purchase, lease or management of real property. Act in an agency relationship for the sale, purchase, lease or management of real property. An estate agent is not authorised to conduct an auction of real property or act as a strata managing agent or a business agent.
Strata managing agent	Management of any function of the body corporate or owners' corporation under a strata or community title scheme. Exercise any function of a body corporate or owners' corporation in the management of the body corporate or owners' corporation under a strata or community title scheme. A strata managing agent is not authorised to act as an estate agent or a business agent or an auctioneer.
Business agent	Sale, purchase and lease of a business Act in an agency relationship for the sale, purchase and lease of a business. A business agent is not authorised to conduct an auction of real property or act as an estate agent or strata managing agent.
Auctioneer	Conduct an auction of real property.

Licence category	Scope of work
	An auctioneer is not authorised to operate a trust account or act in an agency relationship as an estate agent or business agent, operate a real estate or business agent business, or act as a estate agent's representative or business agent's representative
Estate agent's representative	Act under the authority of a licensed estate agent in the sale, purchase, lease or management of real property. An estate agent's representative is not authorised to operate a trust account or operate a real estate or business agent business, or conduct an auction of real property, or act as a strata managing agent or business agent's representative.
Business agent's representative	Act under the authority of a licensed business agent in the sale, purchase and lease of a business. A business agent's representative is not authorised to operate a trust account or operate a business agent's or real estate agent's business, or conduct an auction of real property, or act as a strata managing agent or an estate agent's representative.

It should also be noted that the majority of members of the POIAC supported the deregulation of the sale and auctioning of livestock as insufficient evidence of market failure has been identified. This position was strongly opposed by the member from the Australian Livestock and Property Agents Association (ALPAA).

2. Licence Types

The POIAC has proposed that the regulations for property occupations should make provisions for issuing of a licence to:

- an individual; or
- a body corporate.

3. Eligibility requirements

a) Skill-based eligibility requirements

The POIAC has proposed that a skilled-based eligibility should be based on the qualifications or skill sets from the national Training Package (CPP07 Property Services Training Package).

A Certificate IV level qualification is proposed as appropriate for an estate agent, strata management agent and business agent. A skill set is proposed for an auctioneer, an estate agent's representative and a business agent's representative. The POIAC also proposed one skill set for an estate agent wishing to operate as a business agent and another for a business agent wishing to operate as an estate agent.

The majority of members have supported an approach that does not include experience requirements, additional to a properly delivered and assessed competency based qualification.

b) Non-skilled eligibility requirements

The POIAC has proposed a range of non-skilled eligibility requirements include personal probity and financial probity.

4. Exemptions and conditions

The POIAC has proposed a range of exemptions and conditions for the property occupations. These will be covered more fully in the Consultation Regulation Impact Statement which will be released in the second half of 2011.

Next Steps

The POIAC will continue to provide advice on licensing policy during 2011 including for transitional processes. Draft regulations and a Consultation Regulation Impact Statement for each occupational area will be released for public comment early in the second half of 2011. The public will have 6 to 8 weeks to make comments on the proposals at this time.

Key dates

1 Jan 2011	Establishment of the National Occupational Licensing Authority
Second half 2011	Draft regulations and Consultation Regulation Impact Statement released for public comment
End of 2011	Ministerial Council for Federal Financial Relations to consider finalised regulations and Decision Regulation Impact Statement
Early - Mid 2012	Regulations to be adopted in all jurisdictions
1 July 2012	Commencement of the National Occupational Licensing System for the first four occupational areas: electrical, plumbing and gasfitting, refrigeration and air conditioning and property occupations.