

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to adopt the Occupational Licensing National Law (the **National Law**) hosted by the Victorian Parliament and set out in the Schedule to the *Occupational Licensing National Law Act 2010* of Victoria. The National Law gives effect to the Intergovernmental Agreement for a National Licensing System for Specified Occupations, signed by the Council of Australian Governments on 30 April 2009 and establishes a national licensing scheme for the following occupations:

- (a) airconditioning and refrigeration,
- (b) electrical,
- (c) plumbing and gasfitting,
- (d) property-related occupations.

It is envisaged that additional occupations will be included in the national licensing scheme over time; this may be done by amending the National Law or by prescribing the occupations in regulations.

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Before the National Law commences it will be necessary for New South Wales, and each of the other States and Territories participating in the national licensing scheme, to enact legislation providing for consequential amendments of other Acts and transitional and savings arrangements consequent on the adoption of the National Law.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Specifically, clause 3 (1) provides that the National Law set out in the Schedule to the *Occupational Licensing National Law Act 2010* of Victoria, as applied in New South Wales, is to be known as the *Occupational Licensing National Law (NSW)*.

Clause 3 (2) provides that if a term is used in the proposed Act and in the National Law, the term has the same meaning in the proposed Act as it has in the National Law.

Part 2 Adoption of Occupational Licensing National Law

Clause 4 provides that the National Law, as in force from time to time, applies as a law of New South Wales (clause 4 (a)).

Each jurisdiction that adopts the National Law will have an equivalent provision in its adopting Act so that the National Law will be the law of each jurisdiction and is not only the law of Victoria. The effect is that a person licensed in an occupation to which the National Law applies (see Overview of Bill) is licensed nationally to carry out that occupation, rather than requiring a licence in each jurisdiction, and each of the entities created by the National Law is created not only by Victorian law but the law of each jurisdiction. For example, the National Occupational Licensing Authority will be not only a Victorian body but also a body of each jurisdiction in which the National Law applies. Section 6 of the National Law clarifies that the effect is the creation of one single national entity rather than separate bodies in each jurisdiction.

Clause 4 (b) provides that the National Law, as applying in New South Wales, may be referred to by the name *Occupational Licensing National Law (NSW)*.

Clause 4 (c) provides that the National Law, as applying in New South Wales, is part of the proposed Act. This is to ensure that the text of the National Law has effect for all purposes in New South Wales as an ordinary Act of Parliament. The effect of the proposed provision is that a reference in legislation to “an Act” or “any other Act” will include the National Law as applying in New South Wales.

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Clause 5 provides that a number of Acts that generally apply to New South Wales legislation do not apply to the *Occupational Licensing National Law (NSW)* or to instruments, including regulations, made under that Law. In particular, Acts dealing with the interpretation of legislation, financial matters and matters relating to the employment of public servants will not apply to the *Occupational Licensing National Law (NSW)*. Instead, provisions have been included in the National Law to deal with each of these matters, ensuring that the same law applies in relation to each jurisdiction that adopts the National Law. Acts dealing with freedom of information, the role of the Ombudsman, privacy and records will also not apply to the *Occupational Licensing National Law (NSW)* except to the extent that functions are being exercised under that Law by a State entity.

Clause 6 provides for the declaration of the Supreme Court as a relevant tribunal or court for the purposes of section 13 of the National Law and the declaration of the Administrative Decisions Tribunal as a relevant tribunal or court for the purposes of sections 93 and 94 of the Law.

Clause 7 provides that, for the purposes of taking disciplinary action in relation to licensees carrying out work in New South Wales, the show cause process set out in Division 4 of Part 3 of the National Law applies.

Clause 8 provides that a penalty specified at the end of a provision of the National Law indicates that a contravention of the provision is punishable by a penalty of not more than the specified penalty.

Part 3 Miscellaneous

Clause 9 is the general regulation-making power.

Clause 10 provides that the regulations may contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Note on Occupational Licensing National Law

A copy of the National Law is set out in the Note to the proposed Act. The explanatory memorandum for the National Law, as set out in the Schedule to the *Occupational Licensing National Law Act 2010* of Victoria, is available at www.legislation.vic.gov.au