



Full Day Hansard Transcript (Legislative Council, 28 May 2014, Proof)

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Extract from NSW Legislative Council Hansard and Papers Wednesday, 28 May 2014 (Proof).

MUTUAL RECOGNITION (AUTOMATIC LICENSED OCCUPATIONS RECOGNITION) BILL 2014

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Matthew Mason-Cox.

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [12.17 p.m.]: I move:

That this bill be now read a second time.

I am delighted to introduce the Mutual Recognition (Automatic Licensed Occupations Recognition) Bill 2014, which will enable certain licensed tradesmen and tradeswomen such as electricians to work in their licensed trade in New South Wales on the basis of the licence they hold in their home jurisdiction. In this way an occupational licence will operate like a driver licence. This bill achieves the main goals of the former National Occupational Licensing System policy by providing a power to recognise a licence issued by another jurisdiction as being equivalent to a New South Wales licence and leveraging existing administrative structures to support this objective. This bill proposes a low-cost model that will facilitate labour mobility.

In December 2013 the Council of Australian Governments [COAG] decided not to continue with the National Occupational Licensing System policy. The model set out in this bill makes good on the COAG announcement that States would work to develop alternative options to national licensing.

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The model set up in this bill enables a variety of occupational licences issued by other jurisdictions, and which have an equivalent in New South Wales, to be prescribed, thereby deeming that licence to be a New South Wales licence for practical purposes. The bill builds on the current mutual recognition policies that have been in place since 1992. This automatic version of mutual recognition will mean, however, that the holder of a prescribed licence will be able to carry out their trade without registering in, or being required to hold a licence issued by, New South Wales to do so. The licence with which the person has been issued in their principal place of residence will be sufficient to carry out the regulated work. This model supports our tradespeople, particularly our regional communities, and especially those who live near a State or a Territory border.

The Hon. Dr Peter Phelps: Hear! Hear! Like Queanbeyan.

The Hon. MATTHEW MASON-COX: Indeed, like Queanbeyan and like the Tweed and communities along the River Murray. It is a very important development for regional New South Wales. The bill will deem a recognised licence issued under the law of another jurisdiction to be the same as an equivalent local licence that is issued in New South Wales, provided the holder of the recognised licence has their principal place of residence in that other jurisdiction. The clear objective is to ensure that the person holding their original licence is able to work under that licence in New South Wales. It is envisaged that these persons who live in border communities and their small businesses will be the main beneficiaries of the policy. If the person moves to New South Wales, they must apply for a New South Wales licence under the general mutual recognition policy that has been in place since 1992. The remainder of the bill contains provisions to support this fundamental principle.

The New South Wales laws apply to the deemed local licence. Disciplinary and enforcement action can be taken against the holder of a deemed local licence in the same circumstances that action can be taken against the holder of a local licence. The same rights of appeal and review will apply in respect of any action as apply in respect of action against a local licence. If a person is disqualified from holding a licence in New South Wales, the person is prohibited from working under a licence issued by another jurisdiction as a deemed local licence in New South Wales. New South Wales law will not be circumvented by this policy. If the person's licence in their home jurisdiction becomes suspended then it is ineffective under this policy because it is no longer current and their recognised licence is no longer in force. If the original licence has a condition, that condition is part of the deemed New South Wales licence under this policy. The bill contains a power for local and interstate licensing authorities to establish a shared register should that be warranted in future.

As you can see, the bill, and its policy, is conceptually simple. The bill contains definitions of "disciplinary action" and "enforcement action" for the purposes of notifying interstate licensing authorities of action taken by New South Wales against the holder of a licence that they have issued. Disciplinary action is defined to include all the actions that can be taken against the holder of a licence, including cancelling or suspending a licence, imposing conditions on the licence or any disqualification on the holder of the licence. An adverse finding or determination against the licence holder can be made, as a reprimand or caution can be issued. An undertaking can be required from the licence holder and a financial penalty can be imposed as well as any other action that is prescribed. Enforcement action is defined as the prosecution or conviction or the issue of a penalty notice to the holder of the licence for any offence. Other enforcement action can be prescribed in the regulations.

If disciplinary action and enforcement action is taken against the holder of a deemed local licence, the local licensing authority must notify the appropriate interstate licensing authority that issued the recognised licence. A power has been provided to the local licensing authority in New South Wales to record particulars about disciplinary and enforcement action taken in another jurisdiction against the holder of a New South Wales licence. The entry in the register may be made in terms used to describe the action in information that is provided to the local licensing authority. This means that a more fulsome record of relevant information may be kept in the relevant public register of licensees. The deemed local licences will be prescribed in a regulation, and the regulation-making power is broad enough to support the objectives of the bill.

In the first instance, it is proposed that Queensland electrical mechanics and Australian Capital Territory unrestricted electricians will be deemed to be equivalent to the New South Wales qualified supervisor certificate holder, electrical wiring. Queensland has already recognised the New South Wales licence as being equivalent in its Electrical Safety Act and Regulations. In the case of the Australian Capital Territory, the population is so small and the economy so integrated with New South Wales that early recognition is entirely sensible. The Minister is required to review the Act after five years to determine whether the policy objectives remain valid and to establish whether the terms of the legislation remain appropriate for achieving those objectives. The report of the review is to be tabled in each House of Parliament within the following 12 months.

The main driver of this policy is a red tape reduction commitment to small business and to improve the economic conditions of regional communities, especially those close to State and Territory borders, thereby reducing their costs. It will no longer be necessary for specified occupations to hold two licences to do the same work on the Gold Coast and in Tweed Heads, for example, or places like Queanbeyan and the Australian Capital Territory. I know the member for Monaro will be grateful for that, as he is licensed in the building profession. The regulation that will accompany this bill will list the name of the deemed local licence against the relevant New South Wales licence. It is intended to ensure that the arrangements are reciprocated, so that in general New South Wales people obtain the identical benefit that will be extended to deemed licensees. Jurisdictions, especially those on the east coast, are committed to achieving this goal.

The policy had its gestation in the efforts to improve the operation of the mutual recognition policies and the now abandoned National Occupational Licensing System policy. While the national licensing policy proposal was on foot, decision regulation impact statements were commissioned and published for public consultation. In relation to the refrigeration and air-conditioning occupations, the decision regulation impact statement demonstrated that the greatest net benefit—more than \$16.5 million in net present value—would be obtained for New South Wales by abandoning its duplicative licence in favour of the Commonwealth licence. This bill delivers that benefit by repealing the requirement for a New South Wales refrigeration and air-conditioning licence. Forthwith, New South Wales refrigeration mechanics will require a single licence for their work—and that can only be a good thing. They will no longer need two refrigeration licences to do the same work. The Australian Refrigeration Council, which administers the licence on the Commonwealth's behalf, has a free public register that allows for searches to be undertaken for licensed refrigeration and air-conditioning mechanics by either name or location.

The bill provides for the restricted electrical licence that refrigeration and air-conditioning mechanics require to disconnect and reconnect their fixed electrical equipment. All electrical licensing is administered by the States and this restricted electrical licence makes New South Wales nationally consistent in its approach. Repealing this New South Wales requirement means that a barrier will be removed. That in itself improves the viability of local and regional communities by cutting costs, and relying on a single and uniform regulatory control. I am pleased to bring to the attention of the House the fact that the bill goes further in removing red tape. New South Wales is the only jurisdiction that has mandatory continuing professional development for residential builders and swimming pool builders. The Independent Pricing and Regulatory Tribunal [IPART] has estimated that the burden on these very small businesses is about \$8.1 million per annum—that means each and every year. When this requirement is removed, New South Wales builders will be treated the same as other residential builders in Australia.

The Australian Consumer Law, the Home Building Act and commercial incentives will motivate and require builders to build well. The Australian Consumer Law provides for consumer guarantees. A builder is obliged to guarantee that their services are provided with due care and skill. This means that they must use an acceptable level of skill or technical knowledge when providing the services and take all necessary care to avoid loss or damage when providing those services. The services provided must achieve the consumer's stated purpose and

the services must be of sufficient quality to achieve the desired results. A mandatory education requirement for builders and swimming pool builders is no longer necessary, as since 1 January 2011 the Australian Consumer Law has both assured and required that consumers get the right outcomes. The proposed legislative amendments are common-sense proposals that will streamline the regulatory landscape. One licence and not two will be sufficient; the consumer protection laws and not additional requirements will ensure that licensed occupations are held to account for the services they provide.

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The leadership of New South Wales in relation to these reforms is indicative of the Government's commitment to remove redundant and duplicative regulatory requirements. The Australian Capital Territory is waiting to see the New South Wales model, so that it can prepare similar legislation, and once the architecture of the arrangements is settled New South Wales will be able to enter into negotiations with Victoria.

When the provisions in the bill become operational, New South Wales and Queensland electricians will be able to work in either jurisdiction, as I have explained. In addition, once the bill commences, New South Wales will be in a position to extend the automatic mutual recognition provisions for plumbers, drainers and gasfitters in concert with Queensland. As agreed by the Council of Australian Governments, it is the role of governments to continue to create the conditions for business to evolve and grow, adapt and compete, and thereby assist workers to develop the skills they need to adjust to new opportunities. These preconditions are essential to improve the efficiency of the enterprises which employ regulated occupations. Accordingly, I commend the bill to the House.