MUTUAL RECOGNITION (AUTOMATIC LICENSED OCCUPATIONS RECOGNITION) BILL 2014

Second Reading

Mr DOMINIC PERROTTET (Castle Hill—Minister for Finance and Services) [10.05 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Mutual Recognition (Automatic Licensed Occupations Recognition) Bill 2014, which will enable certain licensed occupations 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 be able to operate like a driver's licence. This bill achieves the main goals of the former National Occupational Licensing Scheme 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 which will facilitate labour mobility. In December 2013 the Council of Australian Governments [COAG] decided not to continue with the National Occupational Licensing Scheme policy. Our model, as set out in this bill, makes good on the COAG's announcement that States would work to develop alternative options to national licensing. 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. This 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 that 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, our regional communities, especially those who live on a border, and small business whose needs lie at the heart of this Liberal-Nationals Government.

I will now explain the detail of the bill. 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. This is provided that the holder of the recognised licence has their principal place of residence in that other jurisdiction.

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The clear objective is to ensure that the person holding the original licence is able to work under that licence in New South Wales. It is envisaged that these people who live and work in border communities 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 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 as those taken against the holder of the local licence. Similarly, the same rights of appeal and review will apply in

respect of any action as those that apply with respect to 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 the future.

The policy behind this bill 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 can a reprimand or caution be issued. An undertaking can be required from the licence holder and a financial penalty 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 licence. A power has been provided to the local licensing authority in New South Wales to report 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 licences. 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 only sensible. The Minister who has responsibility for the Act 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 who live on 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. 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. 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 for refrigeration and air-conditioning occupations in favour of the Commonwealth licence. Currently, air-conditioning and refrigeration mechanics in New South Wales must hold an Australian Refrigeration Council licence and a New South Wales refrigeration air-conditioning licence. The training is identical under both licences. The New South Wales licence duplicates the applicable Commonwealth licence. Thus, the unamended bill introduced in the other place by my colleague the Hon. Matthew Mason-Cox, Minister for Fair Trading, sought to repeal the requirement for a New South Wales refrigeration and air-conditioning licence.

The bill would have instead created a new category of specialist electrical wiring work that applies only to the disconnection or reconnection of refrigeration or air-conditioning equipment. This would make New South Wales consistent with the approach taken in other Australian jurisdictions. No other Australian State or Territory has the sort of intrusive occupational licensing requirements for air-conditioning and refrigeration mechanics as New South Wales. Other States and Territories rely to a much greater extent on the Commonwealth licensing requirement, the work health and safety laws, public health laws, Australian Standards, manufacture guidance material and the Australian Consumer Law. The holding of a New South Wales licence is no substitute or alternative for these requirements.

However, the bill was passed in the other place with an amendment to retain the existing licensing for refrigeration and air-conditioning work—in essence, to maintain the status quo. This defeated the Government's attempt to reduce red tape for tradespeople and improve the viability of local and regional communities by cutting costs for building. The unamended bill went further in its attempts to remove red tape by removing mandatory continuing professional development for residential builders and swimming pool builders, based on the recommendations contained in the Independent Pricing and Regulatory Tribunal [IPART] review of licensing in 2014. The IPART has estimated that the burden on these very small businesses is about $8.1 million per annum.

A decade ago, the continuing professional development requirement [CPD] was introduced partly in response to concerns about building. It subsequently became evident that these concerns had a basis in the entry standards for a builder's licence. Since 2006, the entry standards to obtain a builder's licence and other licences have become more strict. Formal qualifications are required. In most cases, two qualifications are necessary for a builder's licence as well as proven on-site building experience. The most common applications are made by applicants who have achieved a Certificate III in Carpentry and a Certificate IV in Building and Construction or a Certificate IV in Building and Construction and Diploma of Building and Construction. All applications for a building licence are carefully examined and verified.

In the 10 years since CPD commenced, licensees have more training than their predecessors and this better educated builder is more than able to keep abreast of change. Sixty per cent of builders have entered the industry since 2006 under the higher qualification requirement. Targeted Fair Trading information programs also keep builders up to date. These include email newsletters, material on its website and educational seminars run throughout the State. Many tradespeople also keep up to date through their association, such as the Master Builders Association or the Housing Industry Association [HIA]. New South Wales is the only State that has CPD requirements for builders. The HIA supports the removal of CPD requirements for tradespeople. However, despite these goals to reduce red tape for tradespeople in New South Wales, members in the other place decided to maintain the status quo. While we oppose the amendments, the Government prefers to pass the bill in its amended form.

Finally, amendments were made to the bill to provide a power for the licensing authority to recognise licences pertaining to New Zealand. The current Trans-Tasman Mutual Recognition (NSW) Act 1996 provides for mutual recognition of New Zealand occupational licences and it would be desirable to provide a power under this bill should there be a need to allow for automatic mutual recognition of certain licences issued in New Zealand.

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The bill is another step in common-sense proposals which will streamline the regulatory landscape. One licence and not two will be sufficient. The consumer protection laws and no additional requirements will ensure that licensed occupations are held to account for the services they provide. 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. For many years Queensland has recognised the various electrician licences as being the same as the Queensland licence through its external licence recognition provisions in the Electricity Safety Act.

This bill will ensure New South Wales is in a position to reciprocate, and will provide the framework to work with Queensland to extend similar reciprocal arrangements to plumbers, drainers and gasfitters. The Australian Capital Territory is also waiting to see the New South Wales model. Negotiations with Victoria will be able to proceed once the architecture of the arrangements is settled. As agreed by the Council of Australian Governments it is the role of Government 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. I commend the bill to the House.