

Mutual Recognition (Automatic Licensed Occupations Recognition) Bill 2014

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide for the automatic mutual recognition of certain occupational licences issued in other jurisdictions (*recognised licences*) so that an individual who holds a recognised licence will be deemed to hold the equivalent New South Wales licence (with the licences to which automatic mutual recognition will apply to be prescribed by the regulations),
- (b) to require a NSW licensing authority to notify the relevant interstate licensing authority of any disciplinary or enforcement action taken by the NSW licensing authority in respect of a deemed local licence,
- (c) to provide for particulars about disciplinary and enforcement action taken in another jurisdiction against a NSW licence holder to be recorded in a relevant register kept by a NSW licensing authority,
- (d) to remove the requirement that persons who carry out refrigeration work or air-conditioning work must hold a specific refrigeration or air-conditioning authority for specialist work under the *Home Building Act 1989* and instead create a new category of specialist electrical wiring work that applies only to the disconnection and reconnection of refrigeration or air-conditioning equipment that is fixed electrical equipment,
- (e) to remove mandatory continuing professional development obligations for the holders of contractor licences, supervisor certificates and tradesperson certificates issued under the *Home Building Act 1989*.

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. *Recognised licence* is defined to mean a licence issued under a law of another State or Territory, or another jurisdiction prescribed by the regulations, that is prescribed by the regulations as a recognised licence. The scheme of mutual recognition will only apply to those prescribed licences.

Part 2 Mutual recognition of licences

Clause 4 provides that an individual who holds a recognised licence under the law of another jurisdiction is deemed to hold the local licence that is prescribed as equivalent to that recognised licence, but only if the person's principal place of residence is in that other jurisdiction.

Clause 5 provides for the application of the laws of New South Wales to a person who is deemed to hold a local licence. A person who holds a deemed local licence is taken to hold the local licence for the purposes of the laws of New South Wales (unless the regulations otherwise provide).

Clause 6 provides that a person does not hold a deemed local licence in New South Wales if the person is disqualified in New South Wales from holding or applying for the local licence concerned.

Clause 7 provides that if a licence held under the law of another jurisdiction is suspended in that jurisdiction, the deemed local licence is also taken to be suspended.

Clause 8 provides that, if a recognised licence in another jurisdiction is subject to a condition or limitation, the local licence that the person is deemed to hold is taken to be subject to the same

condition or limitation.

Clause 9 provides that a local licensing authority may enter into an arrangement with interstate licensing authorities for the purposes of establishing a shared register of recognised licence holders and for other purposes related to the recognition of recognised licences issued in another jurisdiction.

Part 3 Disciplinary and enforcement action

Clause 10 defines the terms *disciplinary action* and *enforcement action*, which are used in the proposed Part.

Clause 11 requires a local licensing authority to notify the relevant interstate licensing authority of any disciplinary or enforcement action taken by the local licensing authority in respect of a deemed local licence.

Clause 12 provides for particulars about disciplinary and enforcement action taken in another jurisdiction against a NSW licence holder to be recorded in a relevant register kept by the local licensing authority.

Part 4 Miscellaneous

Clause 13 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 14 provides for the review of the proposed Act in 5 years.

Schedule 1 Savings, transitional and other provisions

Schedule 1 provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act or any Act that amends it.

Schedule 2 Amendment of Home Building legislation

Home Building Act 1989 No 147

Schedule 2.1 [1] omits refrigeration work and air-conditioning work from the definition of *specialist work* in the *Home Building Act 1989*. This will mean that provisions of that Act that regulate specialist work will no longer apply to refrigeration work or air-conditioning work (including provisions that require a person to hold a specific authority under that Act for specialist work).

Schedule 2.1 [3] omits a requirement that an individual who does refrigeration work or air-conditioning work must hold an endorsed contractor licence, supervisor certificate or tradesperson certificate authorising the person to do that work or to be under the immediate supervision of the holder of an endorsed contractor licence or supervisor certificate that authorises its holder to do refrigeration work or air-conditioning work.

Schedule 2.1 [4] removes mandatory continuing professional development obligations for the holders of contractor licences, supervisor certificates and tradesperson certificates issued under the *Home Building Act 1989*. The amendment also removes the power that allows refusal of the renewal or restoration of an authority on the grounds that the applicant or its directors, partners or employees have not completed approved further education courses or other training.

Schedule 2.1 [2] and [5] make consequential amendments.

Home Building Regulation 2004

Schedule 2.2 [1] omits the definitions of *air-conditioning work* and *refrigeration work* from the *Home Building Regulation 2004*, as a consequence of the repeal of the provisions of the Act that regulate that work as specialist work.

Schedule 2.2 [2] removes air-conditioning work and refrigeration work from the existing prescribed categories of specialist work, as a consequence of the repeal of the provisions of the Act that regulate that work as specialist work.

Schedule 2.2 [3] declares the disconnection and reconnection of refrigeration and air-conditioning equipment that is fixed electrical equipment to be a category of specialist work under the *Home Building Act 1989*, so that it will be a category of specialist work that a contractor licence or supervisor certificate can be issued for.