

New South Wales

Occupational Licensing National Law Repeal Bill 2015

Explanatory note

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

This Bill is cognate with the *Regulatory Reform and Other Legislative Repeals Bill 2015*.

Overview of Bill

The object of this Bill is to terminate the involvement of NSW in a scheme to replace State and Territory based licensing arrangements with a national occupational licensing scheme (*NOLS*), initially for air-conditioning and refrigeration, electrical, plumbing, gasfitting and property-related occupations. The Bill:

- (a) repeals the *Occupational Licensing (Adoption of National Law) Act 2010*, and
- (b) dissolves the national entities that have been established under the Occupational Licensing National Law, and
- (c) enacts savings and transitional arrangements consequent on that dissolution.

This Bill gives effect in NSW to the decision of the Council of Australian Governments to terminate the national occupational licensing reform in favour of jurisdictions minimising licensing impediments to labour mobility. For that purpose, the *Mutual Recognition (Automatic Licensed Occupations Recognition) Act 2014* has been enacted in NSW to provide for the automatic mutual recognition of certain occupational licences issued in other jurisdictions so that an individual who holds a recognised licence from another jurisdiction is taken to hold the equivalent NSW licence.

Outline of provisions

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

Clause 2 provides that the proposed Act commences, or is taken to have commenced, on the date on which the *Occupational Licensing National Law Act 2010* of Victoria (the **Victorian Act**) is repealed.

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

Clause 4 repeals the *Occupational Licensing (Adoption of National Law) Act 2010* of New South Wales (the **NSW Act**) that applies the text of the Occupational Licensing National Law set out in the Victorian Act as a law of New South Wales.

Clause 5 dissolves the following entities established under the Occupational Licensing National Law in so far as they are constituted by the NSW Act:

- (a) the National Occupational Licensing Authority,
- (b) the National Occupational Licensing Board,
- (c) each Occupational Licence Advisory Committee.

Each of those entities was separately established by the Victorian Act, the NSW Act and the adoption Acts of the other participating States and Territories. However, the relevant Parliaments adopting the Occupational Licensing National Law declared their intention that the Law has the effect of establishing a single national entity.

Clause 5 also provides that:

- (a) the members of the Licensing Board or a Licence Advisory Committee cease to be members and are not entitled to any remuneration or compensation as a result, and
- (b) any remaining assets, rights or liabilities (if any) of the dissolved entities become, on their dissolution, the assets, rights and liabilities of the Crown in right of the participating States and Territories, and
- (c) any act, matter or thing that is authorised or required to be done in relation to those assets, rights or liabilities by the dissolved entities is authorised or required to be done by the Secretary of the NSW Treasury.

Clause 6 abolishes the National Occupational Licensing Authority Fund established under the Occupational Licensing National Law and provides that any money or property standing to the credit of the Fund immediately before its abolition are assets to be dealt with under clause 5.

Clause 7 makes provision for any final financial statements of the National Occupational Licensing Authority for the period before its dissolution that have not been prepared, audited and published to be prepared, audited and published after its dissolution by the Secretary of the NSW Treasury.

Clause 8 transfers to the custody of the NSW Treasury the records of the entities dissolved by the proposed Act and provides that the *State Records Act 1998* of New South Wales and other laws of New South Wales apply to those records as if they were the records of NSW Treasury.

Clause 9 provides for the making of regulations, including regulations that contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Clause 10 omits a provision of the *Civil and Administrative Tribunal Act 2013* that allocates the functions of the Civil and Administrative Tribunal of New South Wales in relation to the Occupational Licensing National Law.

Clause 11 omits a provision of the *Criminal Procedure Regulation 2010* that requires the relevant Department to pay court fees in relation to offences against the Occupational Licensing National Law.

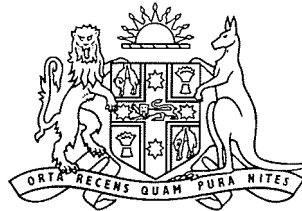


New South Wales

Occupational Licensing National Law Repeal Bill 2015

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New South Wales

Occupational Licensing National Law Repeal Bill 2015

No , 2015

A Bill for

An Act to repeal the *Occupational Licensing (Adoption of National Law) Act 2010*; and to enact savings and transitional provisions consequent on that repeal.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Occupational Licensing National Law Repeal Act 2015</i> .	3
2 Commencement	4
This Act commences, or is taken to have commenced, on the date on which the <i>Occupational Licensing National Law Act 2010</i> of Victoria is repealed.	5 6
3 Definitions	7
In this Act:	8
<i>dissolution date</i> means the date on which the <i>Occupational Licensing National Law Act 2010</i> of Victoria is repealed.	9 10
<i>Licensing Advisory Committee</i> means an Occupational Licence Advisory Committee established under section 132 of the <i>Occupational Licensing National Law (NSW)</i> .	11 12 13
<i>Licensing Authority</i> means the National Occupational Licensing Authority established by section 97 of the <i>Occupational Licensing National Law (NSW)</i> .	14 15
<i>Licensing Board</i> means the National Occupational Licensing Board established by section 103 of the <i>Occupational Licensing National Law (NSW)</i> .	16 17
<i>Occupational Licensing National Law (NSW)</i> means the provisions applying as a law of this jurisdiction, before the dissolution date, because of section 4 of the <i>Occupational Licensing (Adoption of National Law) Act 2010</i> of New South Wales.	18 19 20
4 Repeal of National Law Act of this jurisdiction	21
The <i>Occupational Licensing (Adoption of National Law) Act 2010</i> of New South Wales is repealed.	22 23
5 Dissolution of National Licensing Authority, Licensing Board and Advisory Committees	24 25
(1) On the dissolution date, each of the following is dissolved in so far as it is constituted by the <i>Occupational Licensing National Law (NSW)</i> :	26 27
(a) the Licensing Authority,	28
(b) the Licensing Board,	29
(c) a Licensing Advisory Committee.	30
(2) The persons who were members of the Licensing Board or a Licensing Advisory Committee immediately before its dissolution cease to be members and are not entitled to any remuneration or compensation because of the loss of that office.	31 32 33
(3) Any assets, rights or liabilities of the Licensing Authority, the Licensing Board or a Licensing Advisory Committee become, on its dissolution, the assets, rights and liabilities of the Crown in right of Victoria, New South Wales, Queensland, South Australia, Tasmania and Northern Territory.	34 35 36 37
(4) Any act, matter or thing that is authorised or required to be done in relation to those assets, rights or liabilities by the Licensing Authority, the Licensing Board or a Licensing Advisory Committee is authorised or required to be done by the Secretary of the NSW Treasury.	38 39 40 41
(5) In this section:	42
<i>assets</i> means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal	43 44

property of any description (including money), and includes securities, choses in action and documents.	1
	2
liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).	3
	4
rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).	5
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6 Abolition of National Occupational Licensing Authority Fund	7
(1) On the dissolution date, the National Occupational Licensing Authority Fund established under section 142 of the <i>Occupational Licensing National Law (NSW)</i> is abolished.	8
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(2) Any money or property standing to the credit of the Fund immediately before its abolition are assets of the Licensing Authority to which section 5 applies.	11
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7 Final Licensing Authority financial statements	13
(1) The Secretary of the NSW Treasury is to make arrangements for the preparation, auditing and publication of financial statements of the Licensing Authority in accordance with Australian Accounting Standards for the period before its dissolution for which financial statements have not been prepared, audited and published.	14
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(2) The Secretary may, for that purpose, require any persons who were members of the Licensing Board before its dissolution to exercise any functions with respect to those financial statements that they would have been required to exercise if the Licensing Authority and Licensing Board had not been dissolved.	19
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8 Transfer of certain records to NSW Treasury	23
(1) The records of an entity dissolved by this Act are transferred by the operation of this section to the custody of the NSW Treasury.	24
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(2) The <i>State Records Act 1998</i> of New South Wales and other laws of New South Wales apply to those records, and so apply as if they were the records of NSW Treasury.	26
	27
(3) In this section, records has the same meaning it has in the <i>State Records Act 1998</i> of New South Wales.	28
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9 Regulations	30
(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	31
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(2) Without limiting subsection (1), the regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.	35
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(3) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.	37
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(4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	39
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(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	42
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(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	1 2 3
10	Consequential amendment of Civil and Administrative Tribunal Act 2013 No 2	4
	The <i>Civil and Administrative Tribunal Act 2013</i> is amended by omitting “ <i>Occupational Licensing National Law (NSW)</i> ” from clause 4 (1) of Schedule 5.	5 6
11	Consequential amendment of Criminal Procedure Regulation 2010	7
	The <i>Criminal Procedure Regulation 2010</i> is amended by omitting paragraph (x) of the matter relating to the Department of Finance and Services in Schedule 2A.	8 9