

**Submission
No 2**

INQUIRY INTO MUTUAL RECOGNITION (NEW SOUTH WALES) AMENDMENT BILL 2021

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Mutual Recognition (New South Wales) Amendment Bill 2021

J O'Dwyer / April 2021



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Introduction

Master Electricians Australia MEA is a national membership association that operates providing technical, safety, education and business advice services.

MEA industry's leadership position is sustained by active participation of over 3000 members. These members are representative of the 37,000 Contractors and 90,000 electricians and technical staff in the \$19 billion-dollar electrotechnology industry. Established in 1937 MEA purpose is to champion safety, excellence, trust and confidence in the industry for businesses and consumers.

MEA is the industry's choice and voice when it comes to education, safety and business support. Our website is www.masterelectricians.com.au

Mutual Recognition (New South Wales) Amendment Bill 2021

MEA supports the introduction of the bill to enable the Federal Government to progress with removing current barriers within the occupational area of the electrical industry.

The NSW amendment bill is in response to the Federal Governments AMR bill. These submissions reflect the submissions MEA has submitted to the federal government. This paper reflects our position on the questions asked federally.

Industry Summary

MEA strongly supports Automatic Mutual Recognition (AMR) of Occupational Registrations in the Electrical Services / Contracting Industry. Our submission concerns the Electrical Contracting / Services industry and does not reflect or comment on other occupations.

The electrical services industry generates approximately \$19 Billion in revenue has over 37,000 enterprises and employs over 80,000 registered electrical workers nationally. This does not include the electrical generation and supply industry.

The electrical contracting / services industry is regulated via 8 state and territory-based licensing regimes. The Industry has two main designations, electrical contractors and electrical workers. Currently there is a system in place for mutual recognition of electrical licenses for electrical workers. There is no mutual recognition for electrical contractors.

It is recognised that the proposed AMR does not intend to alter any arrangements for contractors.

The term electrical worker covers a broad cross section of workers which include those licenses as described in Appendix 1. The industry licenses, both restricted and unrestricted, are assigned based on over 35 relevant qualifications, see appendix 2 and accompanying relevant experience needed to support the issuing of a license. All of these occupational registrations of electrical workers, are employees and operate in a system "Contract of Service" for an employer of some description, which may include themselves as a sole trader.



A small but significant need which has been highlighted by the consultation paper is to reduce costs and delays for employees / workers to become mobile and respond to employer and community needs as the workforce demands ebb and wain in different industries and locations.

Workforce mobility is a significant factor for Australia as we have seen since the GFC and end of mining booms whereby many thousands of employees have had to adapt and move to where work is located. In a recent paper by NCVER “An exploration of labour mobility in mining and construction: who moves and why.” By Georgina Atkinson Jo Hargreaves National Centre for Vocational Education Research © 2014. [NCVER exploration labour mobility](#). The researchers summarise the need well by saying

“ Labour mobility is one of the core elements of a well-functioning labour market and is a relatively common phenomenon in Australia. The Australian economy, during its various cycles, often experiences both labour and skills shortages. This study reinforces that labour mobility itself is linked to those cycles, in that in a slow labour market a person may move for stable employment, while in a buoyant economy employers use incentives to influence mobility. With the Australian mining industry now experiencing a downturn after a very strong peak, it is imperative that more is understood about what encourages or impedes mobility”

The report goes on to identify some key messages

- *Around 10% of workers change their job each year. Of those who change jobs, only 5% move considerable distances (for example, interstate). Around 2% of workers commute long distances.*
- *The majority of labour mobility decisions are driven by the personal priorities of the individual, including family commitments.*
- *When the labour market is buoyant, competition for workers is high and poaching is common. This can lead to cycling through the same group of workers and an increase in the temporary movement of workers, especially those who have the desired skills and experience.*
- *Sudden fluctuations in growth require a rapid response to labour recruitment by industry. If this is coupled with a strong preference from employers to hire individuals with specific levels of experience, then contradictions arise.*
- *In relation to fly-in fly-out (FIFO) workers, individuals are often attracted by high salaries and new opportunities, but may struggle to find employment due to strict entry requirements (including experience levels and regulatory and licensing requirements).*
- *Solutions to filling skill and labour shortages may be best addressed through a combination of a broader search radius, a more flexible approach to relevant experience, engagement with apprenticeship programs and collaborative programs/activities with education providers to produce work-ready graduates.*

It is clear from the key messages that mobility is needed to address sudden fluctuations in growth and requires a rapid response to labour recruitment, but workers may struggle to find employment due to strict entry requirements (including experience levels and regulatory and licensing requirements).

In a current example of the affect of labour mobility and competition the Western Australian market for electrical workers is in a state of high need and mobility. Large mining conglomerates have, due to covid19, made decisions to only employ WA residents. This has had an effect due to boarder closures resulting in a lack of electrical workers being able to enter WA. As such local contractors are reporting 20% loss of workers since October 2020 and long waits for consumers to have work completed is due to lower number of workers. Wages are rising and small electrical businesses are struggling to recruit and maintain employees. In a normal market this sort of need would result in an influx of workers who would be suitable to employ.

We believe that AMR will address a small but important part of delivering an efficient and responsive mobile labour force.

Alternative Industry Examples

The topic of nationalisation of registrations, licenses etc has been a constant struggle for Australia due to the Commonwealth model of federated states with separation of powers as detailed in the constitution. However, nationalisation of licenses to protect consumer and participants is not new. Past examples of success include AHPRA and Drivers Licenses.

Drivers licenses and their issuing is a state jurisdiction responsibility. Licenses are recognised and valid in other states and territories. Since 1997, nationwide uniform arrangements have been in place for the regulation of full drivers licenses for motor vehicles, as well as their renewal, suspension and cancellation. These are all outcomes that will protect consumers and workers if they were engaged within the current proposal.

Australian Health Practitioner Regulation Agency (AHPRA) works with the 15 National Boards to help protect the public by regulating Australia's registered health practitioners. Their primary role is to protect the public and set standards and policies that all registered health practitioners must meet. The AHPRA model is not the outcome that AMR will reach but does demonstrate how such a model may over a period of time be achieved. Importantly this example demonstrates how each industry was still in charge of its own circumstances and evolution.

In both of these cases it was successful due to political, regulatory and industry leadership and commitment, something that is necessary for the AMR to be achieved. We must not allow the opportunity to be lost based on state parochial mind sets or entrenched industry positions.

Previous Attempts

The National Occupational Licensing Project (NOLA) was formed following the 2007 election of the Rudd Labor government. It was one of the Council of Australian Government's (COAG) Seamless Economic Reforms, designed to reduce unnecessary regulation which had become and continues to be costly, cumbersome and ineffective. Significantly NOLA was trying to license businesses (contractors) and electrical workers at the same time. The biggest stumbling block were the minimum requirements for businesses. States and territories were

not able to agree on what the “minimum” requirements for licenses should be. Many participants perceived this “race to the bottom” would result in jurisdiction hopping and as such many groups including Governments, Employer and Unions were not in favour of. This is not a feature of the current AMR proposed model.

A key failure of NOLA was the inconsistencies in Business or as is the case in the electrical industry “Contractor” requirements across the country. When you compare the to the AHPRA implementation a “highwater mark” was taken to uplift the minimum education requirements and CPD requirements of these professions nationally.

The AMR model should be supported due to the fact that the educational qualifications are recognised by state bodies through an existing manual recognition system.

MEA response to the purpose and scope of the exposure draft bill of the federal legislation

A person who is registered for an occupation in their home state is entitled to carry on those activities authorised under their home state registration in a second state and that mutual recognition is operationalised through automatic deemed registration.

The draft bill establishes, and MEA supports, a deemed recognition of licensing being automatically recognised in another state, subject to state and territories exemptions. MEA strongly supports that exemptions should be as a last resort and that recognition should be the starting position of all regulators. Appendix 2 of this report lists almost 40 Australian VET qualifications that different regulators recognise, or require, in establishing the current mutual recognition of a worker. In addition to support automatic deemed recognition MEA would highlight there are no state or territory governments that require workers to demonstrate any knowledge of local state-based rules or regulations prior to commencing under the current system of assessed recognition.

Will not be required to pay extra fees or meet any additional requirements for the issue or renewal of a registration

MEA supports this recommendation as a direct reduction in worker costs.

Will need to comply with local laws in the second state and is subject to any applicable disciplinary actions.

MEA supports strongly. Through recent consultations some interest groups and regulators have raised the issue that a lack of knowledge of local rules, regulations, code of practice and other instruments is inherit and that these in themselves cause risks to other workers and consumers.

MEA does not support this view. As we have already raised, occupational electrical licenses have no requirement to undertake additional training, nor in the current mutual recognition

program, is there any requirement to prove that a worker has otherwise obtained additional knowledge even from self-directed learning.

We view the current safeguards in the states as relevant and are neither reduced or negatively affected by the automatic deeming of licenses. A worker in the electrical industry must perform work under supervision of an electrical contractor or an approved employer in every state. The electrical contractors and employers have obligation placed upon them by state electrical legislation and harmonised work health and safety (WHS) legislation to ensure their workers are competent in their duties and have the correct licenses. Having the correct license ensure that the required VET qualification has been achieved.

The proposed AMR laws do not apply to electrical contractors. State and Territory governments laws will continue to provide the same level of safety and consumer protection that is currently in place. Interstate workers commencing are informed of the electrical regulation, WHS, and code of practice that are in force within a particular state or territory by their employer.

Will need to apply for a new home state registration should their home state change.

MEA supports this approach however has no position on the length of time that may well be necessary for a change to be required. MEA however does recognise that a permanent change to residential address should be the first requirement. MEA supports this on the basis that fly in fly out (FIFO) or Drive in Drive out (DIDO) arrangements for projects and construction does not mean that workers will move their entire family and place of residence. As such we believe that once the persons residential address permanently changes (or within three months of that permanent change as the case with drivers licenses) then application to the new state regulator should occur. This will then provide funding for licenses and enforcement of those licenses by the new home state regulator.

State and Territory may declare that specific registrations are exempt from automatic deemed registration in their jurisdiction

MEA supports States and Territories to enact an exemption on the basis that there is currently no equivalent license in place in the jurisdiction. However, should there be skills or tasks that are similar which are licensed already, perhaps through an alternative trade, that mutual recognition via an assessment process can be undertaken.

State declared exemptions may result in a form of State or Territory sanctioned protectionism that will reduce the effectiveness of AMR. MEA suggests the legislation should ensure that a decision of a State or Territory Government does not and cannot breach anti-competition laws or impede the free movement of trade and labour across state borders.

State and Territory may declare a specific registration temporarily exempt from automatic deemed registration,

MEA supports States and Territories to enact a temporary exemption on the basis to allow for implementation of the system or to facilitate improvements in the current educational or qualifications of a given occupation.

MEA does not envisage that this would be required in the Electrical Industry given the advance stage and utilisation of current mutual recognition systems.

State and Territory will be required to make available to each other relevant information about a registered person and prepare and publish guidance.

Mutual recognition systems are integral to the electrical licensing system in each state. Mutual recognition system protects workers, employers, consumers, and the public.

The current licensing regime in each state and territory assesses the suitability of an electrician. In basic terms, regulators check the applicant has

- Proof of identity
- the relevant 4-year apprenticeship and post trade experience if required
- the required units of vocational training and testing.
- Their location
- Fees paid
- Is a fit and proper person
- Review license history if any

Once assessed and approved all states and territories publish a national database of those who have met the requirements. These databases assist the public to ensure they are using a licensed tradesman (or Electrical Contractor). Most states have a publicly accessible webpage identifying current licensed workers and, in some states, electrical contractors.

In the electrical industry it is a requirement for all employers to ensure that all their workers are

- correctly licensed for the work they undertake and
- to ensure they are competent to undertake the work they are instructing them to undertake.

It is an obligation under each state and territory licensing system that employers ensure workers are aware of the states or territories requirements. The state and territory rules and requirements include that an employee has an acceptable understanding of

- Relevant WHS laws
- Relevant Electrical Acts and Regulations
- Relevant Codes of Practice including electrical.

- Relevant conduct rules by state regulators in regard to different classes of work including but not limited to high-risk work.
- Relevant Australian Standards including but not limited to AS/NZS 3000/2018 (required to complete the work)

As an example, the following are resources published by the Department of Commerce in Western Australia to assist employers and electricians understand relevant information.

- Battery Energy Storage Systems (BESS)
- Code of Practice for Persons working on or near energised electrical installations.
- Code of Practice for Vegetation worker electrical safety
- Frequently asked questions for electricians
- Guidelines for the safe management of high voltage (HV) installations
- Notification and Certification of electrical installing work
- RCD requirements for sale, rent and hire properties.
- Safe working guidelines and effective supervision of electrical apprentices
- Safe working guidelines for electrical workers
- The new Wiring Rules.
- The sample inspection system
- Working on or near energised electrical installations
- Small Scale Renewable Energy Installations in Western Australia
- Notice of Completion required for obtaining the Small-scale technology certificates.

<https://www.commerce.wa.gov.au/building-and-energy/electrical>

Each of the other states also have similar resources. It is clear in these example that where a jurisdiction has a specific electrical safety division information and resources located in one area is much more conducive to be found and understood as opposed to having it split across 2 departments.

- Queensland
 - <https://www.worksafe.qld.gov.au/laws-and-compliance/electrical-safety-laws>
- NSW
 - <https://www.safework.nsw.gov.au/legal-obligations/employer-business-obligations/directors-and-officers>
- Northern Territory
 - <https://electricallicensing.nt.gov.au/publications>
- Victoria
 - <https://esv.vic.gov.au/technical-information/electrical-installations-and-infrastructure/>
- South Australia
 - <https://esv.vic.gov.au/technical-information/electrical-installations-and-infrastructure/>
- Australian Capital Territory

- <https://www.worksafe.act.gov.au/health-and-safety-portal/safety-by-industry/electrical-and-electronics>
- <https://www.planning.act.gov.au/build-buy-renovate/for-industry/regulation/inspections/electrical-inspections>

All states and territories operate an inspection and enforcement regime. Some states such as Victoria have instigated rules by which a specific inspection is undertaken by a third-party inspector upon completion of certain work. As an example, Victoria have a Certificate of Electrical Safety COES <https://esv.vic.gov.au/licensing-coes/coes/esvconnect-coes/>

We acknowledge these rules vary in each state. Importantly in the present process of mutual recognition Contractors must ensure their staff (including both intra-state and inter-state) understand what work needs to be inspected and that the appropriate testing and record keeping is undertaken and the responsibilities that comes in issuing COES to consumers.

Those license holders breaching relevant laws or industry standards are prosecuted. Licensing Boards in each state or territory apply relevant sanctions, suspensions, cancellations, and fines.

MEA recognises that there are differences between states and territories in their inspection regimes and prosecutorial practices, however these differences occur now with current mutual recognition system. MEA does not see AMR vastly changing or resulting in different outcomes than what is currently being experienced in the existing systems.

MEA does suggest that the current bill can be strengthened by having a single point of recording of all electrical licenses. Each state would transition towards a central IT platform to record license application approvals, prosecutions, fines, sanctions, suspensions and conditions that are placed on a license holders license during their entire career. This IT platform would then form the basis for employers and consumer national database to review licenses and ensure they were licensed and could undertake the work.

We believe that the current process of mutual cooperation between regulators regarding the sharing of outcomes of prosecution and sanctions of electricians does not provide real time protection for consumers or employers when hiring electricians. This system of a national database would be implemented without removing any state powers or changing jurisdictional responsibilities.

MEA also believes that for this data to be available across jurisdictions that the bill be amended by requiring State and Territories to collect and transmit relevant personal information sufficient to achieve the outcome of a reliable central repository of electrical workers licenses information including all investigations and disciplinary outcomes.

The Bill and the relevant state and territory bills should also ensure that enforcement activities and investigations are not hampered by license holders absconding across state borders to avoid prosecutions. Those who are investigated and who do not participate in prosecutions should be able to be sanctioned in absentia and that this should be upheld and supported by all other states. This is similar to the national drivers license model.

National databases of license holders / registrations exist for AHPRA ASIC and ACCC for people holding positions of accountability. The Federal Government is also currently implementing Director Identification Number (DIN) for Company directors to reduce insolvency, phoenixing and protect consumers to track those that move around the country to avoid detection and continue to operate illegally. Mutual Recognition and the electrical industry being matched with consumer protection of a national database would improve consumer protection and accountability for employees and contractors.

State and Territory may not prevent a person from seeking mutual recognition under the existing framework

MEA supports that the current system of mutual recognition will continue for those who choose to use it and who decide to relocate on a more permanent basis to a particular state.

Conclusion

MEA strongly supports automatic mutual recognition based on the current federal bill, the above information including the protections that have been built into the system and the bill as provided for NSW to allow the federal legislation to proceed. We believe this system is very aligned to the current drivers license model that operates in Australia.

MEA does however highlight that cross-border enforcement, national tracking and real time availability of license details are imperative to its success for regulators employers and consumers.

MEA supports an approach in the near future that would see the electrical industry reaching a “high water” mark in terms of

- Harmonising License types
- Harmonising conduct and safety rules
- expansion of the manual mutual recognition process to include contractor licenses based on a high water mark of requirements which would include
 - Education (Business and Technical)
 - Insurance
 - CPD (continual professional development)

MEA has appreciated the opportunity to make a submission regarding the AMR Bill and we are available should it be deemed pertinent to provide further information if required.

Jason ODwyer

Manager Policy and Advocacy





APPENDIX 1

State Electrical Worker Licenses

NSW

- **Qualified supervisor certificate**
- **Endorsed contractors license**

Queensland

- **Electrical mechanic**
- **Electrical lineperson**
- **Electrical fitter**
- **Electrical joiner**
- **Restricted Electrical work license**
- **Electrical work training permit**

Victoria

- Electrician's licence (A)
- Restricted electrical worker's licence (REL)
- Switchgear worker's licence (SW)
- Supervised worker's licence (L)
- Electrician (Supervised) Worker's (ES)

South Australia

- Electrical Worker license with conditions of
 - Any Electrical Work
 - Refrigeration and Air conditioning (excluding hazardous areas)
 - Instrumentation (excluding hazardous areas)
 - Refrigeration and Air conditioning or Instrumentation (including hazardous areas)
 - Electrical Transmission Linework
 - Electrical Distribution Linework
 - Electrical Rail Traction Work
 - Electrical Cable Jointing Work
 - Service and Replacement of Single Phase 240v Water Heaters (rated up to 4.8kw or 450L) & Associated Components.

Western Australia

- Electrical installing work - to electricians.
- Electrical training - to apprentices and trainees.
- Restricted electrical work - to restricted electrical workers. Restricted Electrical Licences (RELs) are issued to persons other than electricians to legally carry out a "restricted"



range of electrical tasks. The holder of a REL is not permitted to carry out the installation or alterations to fixed wiring or to repair or replace items such as power points, lighting fittings etc.

Tasmania

- Electrical License – practitioner
- Electrical license – provisional
- Electrical license – restricted

Northern Territory

- Electrical workers licence
- Restricted electrical worker

ACT

- Unrestricted electrical license
- Restricted electrical license
 - Electrotechnology systems assembly and servicing electrical fitting.
 - Electrotechnology systems mechanical fitting
 - Electrotechnology systems plumbing and gas fitting.
 - Electrotechnology systems refrigeration and air-conditioning
 - Electrotechnology systems type B gas appliances.



APPENDIX 2

List of acceptable electrical qualifications for various electrical unrestricted and restricted licenses in Australia.

- UEE30811 or UEE30807 or UEE30806 - Certificate III in Electrotechnology Electrician
- UEE31307 or UEE31306 or UTE30999 Certificate III in Electrotechnology Refrigeration and Air Conditioning
- MEM30298 Certificate III in Engineering - Mechanical Trade (Refrigeration)
- MEM30205 Certificate III in Engineering - Mechanical Trade (Refrigeration and Air Conditioning)
- MEM30298 Certificate III in Engineering - Mechanical Trade (Air Conditioning)
- UTE30899 Certificate III in Electrotechnology Instrumentation
- UEE31211 or UEE31210 or UEE31207 or UEE31206 Certificate III in Instrumentation and Control
- UTE NES211 - Disconnect and reconnect explosion-protected electrical equipment connected to fixed wired supply up to 1,000 volts a.c. or 1,500 volts d.c.
- UEENEPP004A - Disconnect and reconnect explosion-protected electrical equipment connected to low voltage supply.
- UEENEPP004B - Disconnect and reconnect explosion-protected electrical equipment connected to low voltage supply
- UTT30101 Certificate III in ESI - Transmission (Powerline)
- UET30106 or UET30109 Certificate III in ESI – Transmission
- UET30512 or UET30519 Certificate III in ESI - Power Systems - Transmission Overhead
- UTT30101 Certificate III in ESI - Distribution (Powerline)
- UET30206 or UET30209 Certificate III in ESI – Distribution
- UET30612 Certificate III in ESI - Power Systems - Distribution Overhead
- UTT30402 or UET30306 or UET30309 Certificate III in ESI - Rail Traction
- UET30712 or UET30719 Certificate III in ESI - Power Systems - Rail Traction
- UTT30301 Certificate III in ESI - Cable Jointing (Powerline)
- UET30306 or UET30409 Certificate III in ESI - Cable Jointing
- UET30812 Certificate III in ESI - Power Systems - Distribution Cable Jointing
- UTE NES208(R) - Disconnect and reconnect fixed wired electrical equipment connected to fixed wire supply up to 1,000 volts a.c. or 1,500 volts d.c.;
- UEENEPP001A(R) - Disconnect and reconnect fixed wired electrical equipment connected to a Low Voltage supply;
- UEENEPP001B(R) - Disconnect and reconnect fixed wired electrical equipment connected to a Low Voltage supply.
- UEENEPP014A - Disconnect - reconnect water heaters connected to low voltage installation wiring