

**Submission
No 13**

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

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Australian Government

Department of the Prime Minister and Cabinet

Improving occupational mobility

Submission to the inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021

June 2021

Foreword

I am pleased to present a submission from the Department of the Prime Minister and Cabinet to inform the inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021.

After Commonwealth and state and territory government agreement, the Australian Government announced in August 2020 the introduction of a uniform scheme for the automatic mutual recognition of occupational registrations (AMR). Introducing the scheme is part of a broader set of regulatory reforms to assist Australia's economic recovery and to increase the strength and resilience of the Australian economy.

AMR is a significant reform that will drive higher economic activity in NSW as well as all other states and territories — adding around \$2.4 billion to the Australian economy over the next ten years. Australians living in NSW cross-border regions will benefit every day. Communities will be better supported to respond and rebuild following natural disasters, including the recent bushfires and floods that ravaged NSW.

The NSW Bill refers powers to allow the Commonwealth to enact legislation to provide the framework for the AMR scheme. The Commonwealth legislation will give effect to an intergovernmental agreement signed by the Prime Minister, State Premiers and the Northern Territory Chief Minister at National Cabinet on 11 December 2020. Passage of the NSW referral Bill is necessary to meet the 1 July commencement date agreed by National Cabinet.

The AMR scheme builds on existing mutual recognition arrangements and maintains protections and standards that communities expect from registered tradespeople and other professionals. States and territories will have flexibility in how they implement the scheme and remain responsible for registration requirements and for compliance and enforcement activity carried out in their jurisdiction.

Implementation of the scheme will improve the mobility of Australia's labour force while maintaining safeguards for workers and consumers. The scheme does not weaken important requirements for workers to demonstrate the competencies and experience required by their home State.

This submission sets out the benefits of AMR, the collaborative approach to reform taken by governments, and the key features of the AMR scheme that is provided for by the Commonwealth legislation.

I trust that the Committee finds this submission valuable.



Phil Gaetjens

Secretary

Department of the Prime Minister and Cabinet

Automating existing mutual recognition processes

In 2019, almost one in five Australian workers, including electricians, plumbers, teachers, real estate agents and security officers, required a registration or a licence to perform their work.¹ Differences in registration requirements between states and territories for the same occupation make it harder for tradespeople and other professionals to take up work opportunities across borders. This raises the costs for employers to fill job vacancies and reduces competition and choice for consumers and businesses. Registration requirements can also create particular challenges for those living and working in border regions and delay the recovery from natural disasters, including when workers are needed urgently to restore critical infrastructure.

Currently, registered individuals are entitled to be registered for an equivalent occupation in a second jurisdiction under the Commonwealth *Mutual Recognition Act 1992* (MRA) on the basis of their existing registration and without further assessment of their qualifications, skills or experience.

Licensees seeking to receive an equivalent registration to work in another jurisdiction under mutual recognition need to:

- approach the regulator in each jurisdiction they wish to work in;
- provide detailed personal information (and sometimes further information on work history) and prove they are registered or licensed in another jurisdiction; and
- pay registration fees, often including an additional application fee.

In 2015, the Productivity Commission concluded that the current mutual recognition scheme imposes unnecessary costs on individuals and businesses that operate across states. The Productivity Commission recommended governments expand the use of automatic mutual recognition (AMR) to facilitate greater labour mobility and improve the efficiency of mutual recognition arrangements for individuals and businesses.² More recently, a 2020 NSW Government statutory review into the existing NSW state-based AMR scheme for certain electrical trade work licences, found that there is potential to extend the scheme to other occupational licences to maximise the benefits to the community.³

Initiated by a request from the state and territory Treasurers that the Australian Government consider potential reforms to mutual recognition arrangements, in August 2020 the Commonwealth and state and territory governments agreed to introduce a uniform scheme for AMR. Later that year, in December 2020, the Prime Minister, State Premiers and the Northern Territory Chief Minister signed an intergovernmental agreement (IGA) to establish the scheme from 1 July 2021, subject to the passage of legislation.

AMR simply automates mutual recognition processes, allowing workers registered or licensed for an occupation to perform the same activities they are licensed to perform in their home jurisdiction in another jurisdiction, without needing to apply and pay for a further registration. It is a demonstrable example of reducing red tape. AMR builds on existing mutual recognition arrangements, such as information sharing protocols and systems, which will reduce the extent of changes needed to implement the scheme.

NSW referral Bill

Introducing AMR requires amendments to existing arrangements in the MRA to set out when a person is entitled to AMR, a person's obligations, and certain powers for state and territory Ministers and regulators to ensure standards

¹ Department of the Prime Minister and Cabinet 2021, [Analysis of the potential costs and benefits of implementing automatic mutual recognition of occupational registrations](#), May 2021.

² Productivity Commission, [Mutual Recognition Schemes](#), 2015.

³ NSW Fair Trading, [Statutory Review of the Mutual Recognition \(Automatic Licensed Occupations Recognition\) Act 2014, Report](#), September 2020.

of worker and public health and safety are maintained, as well as protection for consumers, the environment and animal welfare. The Commonwealth requires a new referral of power from a state to enable these amendments to be made, which is the purpose of the Mutual Recognition (New South Wales) Amendment Bill 2021.

The NSW Government previously provided a referral of power to enable the establishment of the MRA. The new referral updates the existing referral to enact legislation for the implementation of the AMR framework, which was designed and agreed by National Cabinet and outlined in the IGA in December 2020.

The Australian Government will continue to collaborate with states and territories on the implementation of the scheme. A cross-jurisdictional steering group will monitor the implementation of AMR and support ongoing improvements to the regulatory environment.

AMR is a significant economic reform

AMR is a significant microeconomic reform and a milestone for National Cabinet.

AMR will increase the strength and resilience of the NSW and Australian economies by reducing the time and cost for Australians to take up jobs across jurisdictional borders while maintaining safeguards for workers and the community.

Improving labour mobility

AMR will improve labour mobility by enabling people to take up new job opportunities wherever they arise, better utilising the skills of the Australian labour force. Businesses will be able to provide services more seamlessly across Australia. Improved access to skilled workers will increase output, investment, productivity and competition.

In its 'Going for Growth 2021' report, the OECD found introducing AMR in Australia would 'boost labour mobility, increasing opportunities for workers and competition by fostering reallocation of resources'.⁴

PricewaterhouseCoopers (PwC) found that over 168,000 workers will directly benefit each year from AMR reforms, including 44,000 who are expected to work across borders who would not otherwise have done so.

AMR will make it easier and less expensive for workers to come to NSW, including in occupations with identified skills gaps such as surveyors, plumbers and electricians.⁵

Generating benefits for the wider economy

All jurisdictions, including NSW, are expected to benefit from AMR through higher economic activity.

PwC estimated that across Australia AMR could lead to additional economic activity of around \$2.4 billion over 10 years as a result of savings to workers and businesses, productivity improvements, faster recovery from infrastructure outages and natural disasters.

Businesses large and small will be able to bid more confidently for interstate projects and advertise without fear of breaching local licensing laws. For these businesses, the process and cost of working across borders will be more certain.

The reforms will particularly benefit workers living in border regions, those who relocate temporarily for work, fly-in fly-out workers, and people who provide services remotely. In 2016, for example, almost one in four people who worked in Wodonga, many of whom work in licensed occupations, lived in Albury. A plumber based in Albury

⁴ Organisation for Economic Co-operation and Development (OECD), 'Going for Growth 2021: Shaping a Vibrant Recovery', April 2021, p. 75.

⁵ Department of Education, Skills and Employment, New South Wales individual occupational reports, various.

seeking to work in Wodonga would save around \$400 in application and registration fees over three years, and avoid unnecessary paperwork, as a result of AMR.

AMR will also enable jurisdictions to respond faster to critical and large-scale events, such as infrastructure outages. AMR will help communities respond to natural emergencies and disasters, including the bushfires and floods that recently devastated parts of NSW, as workers with particular skills can respond more quickly to help with immediate or longer-term recovery efforts in another jurisdiction. This will reduce the period taken for businesses, households and communities in affected regions to rebuild and recover.

States retain responsibility for occupational licensing

The national AMR framework provides flexibility for states and territories to implement AMR in a way that suits their local circumstances and assessments, including in relation to specific occupations.

State and territory Ministers may declare specific registrations exempt from AMR in their jurisdiction where they determine there are significant risks to consumer protection, the environment, animal welfare, or the health or safety of workers or the public. These exemptions will be published and will automatically expire after five years. State and territory Ministers can make a new exemption declaration following a review.

States and territories also determine notification requirements for specific occupations, set registration requirements and local laws, continuing professional development (CPD) requirements, and public protection and working with vulnerable people requirements.

Industry stakeholders can participate in decision making processes as state and territory Ministers must conduct appropriate consultation when determining the need for exemptions and notification.

Safeguards will maintain standards

AMR will not enable people to provide services they are not qualified to perform, nor will it dilute standards.

To be eligible for AMR, individuals must:

- hold a substantive registration in their home State and will only be able to work within the scope and conditions of their substantive registration;
- understand and obey the local laws in the jurisdiction they work in — failure to do so could result in disciplinary action, the suspension or cancellation of all licences related to that occupation and exclusion from the AMR scheme;
- satisfy public protection requirements, such as taking out insurance or paying into a compensation fund, and meet local standards of compliance set out in local laws;
- where required, satisfy CPD requirements (as long as the requirement is not based on the attainment or possession of a qualification or experience relating to fitness to carry on the occupation, as is the case under mutual recognition arrangements).

Workers cannot pick a state in which they consider it to be 'easier' to gain a substantive licence and then seek automatic recognition in other states — a person's home State (and the licence they use for AMR) must be their principal place of residence or work.

Individuals subject to disciplinary, civil or criminal action or who have conditions on their substantive registration as a result of such action will not be eligible for AMR.

- Where individuals have a disciplinary action taken against them in a second State, their home State licence will also be affected in the same way.

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- A person will, however, be able to appeal to the relevant body in their home State if they consider the suspension or cancellation inappropriate. Further, a home State regulator has the discretion to reinstate the home State registration to allow a person to continue to work in their home State.

AMR will improve information sharing and cooperation between regulators, particularly as more jurisdictions and registrations are covered by the scheme. Regulators will be required to share information with other state regulators about participants in the scheme, which will help them to better manage compliance and enforcement activities, and reduce regulatory burden on businesses and workers.

Mutual recognition does not rely on registration requirements and standards being harmonised across jurisdictions. Similarly standards do not need to be harmonised for AMR to be effective. Improved regulator cooperation through AMR will, however, complement work to harmonise standards across jurisdictions. Greater transparency of decisions taken by regulators will help to identify occupations where a more consistent approach to regulation across states and territories would improve outcomes for workers, businesses and consumers.

A collaboration across governments

The NSW Government partnered with the Commonwealth to lead the design of the AMR reform, in collaboration with all other state and territory governments. NSW has helped shape the scheme design, to ensure consistency with existing AMR schemes operating in NSW. This includes existing arrangements for holders of certain electrical trade work licences from Queensland, Victoria and the ACT that enable electrical tradespeople to seamlessly work in NSW. AMR will not disrupt this scheme, nor other arrangements such as the legal practice scheme or national recognition for veterinarians. National schemes, such as the one in place for many health practitioners, will also continue to operate.

The Australian Senate passed the Mutual Recognition Amendment Bill 2021, with minor amendments moved by the Government, on 12 May 2021.⁶ This is an important endorsement of the national scheme, ahead of the NSW Parliament finalising its consideration of the NSW referral legislation. Passage of the NSW referral Bill is necessary to meet the 1 July commencement date agreed by National Cabinet.

Stakeholders broadly support the intent of AMR

Draft legislation to amend the MRA was developed by the Commonwealth in collaboration with states and territories and, through them, regulators responsible for determining licencing requirements and enforcing local laws. The draft legislation was released in December 2020 for public consultation.

As part of this process, 168 unique submissions were received from businesses across a range of occupations, industry and professional associations, individuals, unions and regulators. Nine virtual national roundtables on AMR were held with industry stakeholders across January and February 2021, with more than 60 participants. The Commonwealth and state and territory governments also held a range of meetings and lead consultations with industry, unions and regulator stakeholders.

Feedback from stakeholders during consultations indicated broad support for the intent of AMR and the national framework. Key benefits identified included increased labour mobility, reduced administrative costs and fees, and greater productivity and efficiency.

⁶ Parliament of Australia, [Mutual Recognition Amendment Bill 2021](#), May 2021.

Feedback from stakeholders also highlighted the challenges in implementing AMR, including differences in licensing requirements and related state laws.⁷ This feedback contributed to strengthening the safeguards in the scheme outlined above, to address potential risks and ensure that the expected benefits from AMR are realised.

Key improvements to safeguards included:

- strengthening regulator oversight of workers by, for example, ensuring interstate workers must satisfy working with vulnerable people tests where required
- expanding exemption criteria for the environment and animal welfare
- simplifying and extending temporary exemptions for a smoother transition.

Supporting a smooth transition

The Australian and state and territory governments have committed to work together to support the implementation of AMR.⁸

Over the initial year of the scheme, governments and local regulators will support stakeholders through the transition. This will include guidelines and information regarding the operation of AMR in relation to the specific registrations, notification requirements and exemptions. State and territory Ministers may exempt a registration for a temporary period of up to 12 months, which gives governments more time to refine key aspects of implementing AMR, such as information sharing processes, which registrations should be exempt from the scheme for a period up to five years, and to pass any consequential amendments to local laws.

The Australian Government committed \$11 million in the 2021-22 Budget to support implementation of the scheme. This funding will provide up-to-date information to workers and consumers about AMR, the benefits and safeguards, and to improve information exchange between jurisdictions.

⁷ Department of the Prime Minister and Cabinet 2021, '[Analysis of the potential costs and benefits of implementing automatic mutual recognition of occupational registrations](#)', May 2021.

⁸ '[Intergovernmental Agreement on the Automatic Mutual Recognition of Occupational Registration](#)', 11 December 2020.