Productivity Commission Mutual Recognition Review

Trans Tasman Mutual Recognition Agreement

Submission by the Institution of Professional Engineers New Zealand Incorporated (IPENZ)

Introduction

The Institution of Professional Engineers New Zealand Incorporated (IPENZ) is the Registration Authority under the Chartered Professional Engineers of New Zealand Act 2002. The register under this Act opened on 1 January 2003 so our experience in respect of operating the TTMRA is limited. However, we contracted to provide services to the Engineers Registration Board under the 1924 Engineers Registration Act, and have also therefore encountered the TTMRA in a service role previously.

The only Australian legislation that has concerned engineers registration activities outlined above is the Engineers Registration Act of Queensland. Only 2-3 people applied under the 1924 Act, and so far only 1-2 have inquired about registration under the 2002 Act.

Issues

The issues we see as important are as follows:

1. There needs to be clear differentiation of differences driven by need and those driven by differences in custom or operating practice. The former are likely to arise from differences in:
   a. climate,
   b. geological factors
   c. biodiversity, and
   d. indigenous culture.

2. For example, in New Zealand we have considerable risk to life and property from seismic events that are unlikely to arise in Australia. In climate terms we have very different needs for coping with wind and rain rather than catastrophic events such as bushfires which is more an Australian need. Biodiversity creates a large difference in terms of the greater number of hazardous organisms found in Australia. Indigenous culture difference leads to standards that can be different. Obviously, the effect in each of the professional services areas must be evaluated on a case by case basis. Differences driven by need must be recognised because these do have real and important effects on standards for goods, and standards for services.

3. In contrast, there is no reason for differences driven by custom or operating practice to be accepted as necessary in the long term.

4. The “exceptions” list should be derived from the above principles for classification.

5. In the goods area we are aware of the possibility that prefabricated buildings that meet Australian standards would not meet our own in certain seismic and climate (especially wind) conditions. Thus there is a difference by need which should be allowed as an exception.

6. For engineering services, there will always be a requirement for difference by need – in certain disciplines there are local codes and conditions that must be learnt (especially seismic). The New Zealand Engineers Registration Board handled this by requiring local knowledge to be demonstrated. However this has a down side. To get local knowledge a person needs to practise. Ideally that practice should be under supervision, but there is nothing in the registration legislation that allows for a registration to be "probationary" or "under supervision" for a period of 6-12 months. Hence the practice by the individual attempting to get local knowledge is uncontrolled or unsupervised, and therefore potentially dangerous.

7. We therefore propose that there be a category in the TTMRA where someone seeking registration in a need-based professional activity (such as work requiring a knowledge of local seismic codes) can attain an intermediary or conditional registration (i.e. a less than full registration) until such time as he/she has achieved local knowledge requirements. During this period the person's work can be subject to specified conditions, such as having their work monitored until they can satisfactory the requirements for full registration. (We note that to give effect to this concept might need legislative change beyond the TTMRA).

8. There is a structural issue with the TTMRA. Registration regimes have evolved over the years through various stages –
   a. one-off proof of competence to achieve registration for life (assuming annual fees are paid),
   b. registration subject to mandatory demonstration of participation in continuing professional development, and
   c. most latterly, registration subject to regular rechecking of competence.

9. If the legislation on the two sides of the Tasman is out of step in terms of the stage of evolution then the effective standard becomes the lowest common denominator. Thus when NZ updated its engineering registration to the most modern of the three stages (regular re-proof) at a time when Queensland were still using the first stage (lifetime registration) New Zealand is forced to accept the most dated approach. Our submission is more on the general impact of this point than the specific impact for engineering.

10. In respect of the problem outlined in 9., under the Chartered Professional Engineers Act 2002 (CPEng Act) we must register any Queensland-registered engineer, even if he/she has not proven his/her competence for many years (whereas all NZ engineers must prove or re-prove their competence to get on the register, even if they did prove their competence at some time in the past). This sets a lower bar under TTMRA (hence the lowest common denominator description above). Our work-around is to use the powers under the CPEng Act to require those engineers to undergo immediate checking of competence, and if they fail to meet the competence standard in this review they are then removed from the register.

11. In 2002 Queensland introduced new legislation governing the way engineers are registered. While there are differences with the New Zealand CPEng Act (for example, it proscribes the practice of anyone not registered as a Registered Professional Engineer Queensland whereas the purpose of the New Zealand legislation is to create 'CPEng' as a quality mark),

there are similarities. These include reference to competence-based assessment, the requirement for all existing registrants to re-apply for registration and inclusion of provisions for the periodic revalidation of competency. In preparing this submission, IPENZ has consulted with the Institution of Engineers (Australia), which is currently considering similar changes within their professional membership classes.

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