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Mutual Recognition Review
Productivity Commission
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Submission:

By the Zealand Institute of Valuers (NZIV);
On the Review of Mutual Recognition Schemes by the Australian Government
Productivity Commission;
Subsequent to the issue of the Discussion Paper dated 10 April 2008.

Preamble

1. This submission by the NZIV relates to certain parts of the issues paper, in particular that relating to 'deemed registration' and occupational equivalency.

Background - New Zealand Institute of Valuers & Valuers Registration Board.

2. The valuing profession is currently regulated by provision within the Valuers Act 1948.
3. The Act:
 - Establishes the New Zealand Institute of Valuers, (NZIV) determines the make up of the Council and requires the Institute to make rules and
 - Establishes the independent Valuers Registration Board (VRB)
 - Provides for the VRB to register individuals of a minimum age holding recognised qualifications with minimum practical experience and provides that all registered valuers must be members of the NZIV
 - Gives jurisdiction to the VRB to discipline registered valuers with penalty and appeal provisions and
 - Stipulates that Public Valuers must hold an Annual Practising Certificate..
 - Requires the VRB to provide annually, a register of Registered Valuers and a list of registered valuers who have an annual practicing certificate.
4. The New Zealand Institute of Valuers (NZIV) and the Valuers Registration Board (VRB) are separate legal entities linked through the requirement under the Act, for registered valuers to be mandatory members of the NZIV and thus comply with the NZIV: Rules, Code of Ethics and Practice Standards.

5. The NZIV has certain statutory responsibilities for registered valuers. The statutory functions are described in Section 10 of the Valuers Amendment Act 1997 outlined below.
6. The general functions of NZIV are: -
 - To promote and encourage ethical conduct among valuers and other members of the Institute; and
 - To preserve and maintain the integrity and status of valuers and other members of the Institute generally; and
 - To provide opportunities for the acquisition and communication of knowledge in relation to the valuing of land and related subjects; and
 - To consider and suggest amendments to the law relating to the valuing of land and related subjects; and
 - To provide means for the amicable settlement of professional differences; and
 - To protect and promote the interests of the profession of valuing and the interests of the public in relation to valuations of land and related subjects.
7. The NZIV considers its authority in this matter to come from the requirement to fulfil its statutory functions above, thus it must bring to the attention of the AGPC an issue regarding 'deemed registration' as permitted under the Trans-Tasman Mutual Recognition Act 1997.
8. The NZIV is concerned about the inconsistency created by 'deemed' registration in New Zealand for those registered in another jurisdiction, in particular Australian states where licensing or registration exists for valuers.
9. For example in New South Wales under the Valuers Act 2003 qualified valuers are able to register in NSW with a minimum TAFE course of 18 months to two years study, no practical experience and minimum age of 18.
10. Hypothetically this means a 20 year old TAFE qualified valuer arrives in NZ, is deemed registered, applies for registration while in the meantime working, becomes registered and sets up practice to the public, with no experience;
11. Or a NZ qualified valuer, without experience 'shops' for registration in NSW, is registered (NZ qualifications are acceptable in NSW) and returns to NZ 'deemed' registered and applies for registration while working as above.
12. (In NZ a valuer must have a bachelors degree or equivalent and three years practical experience before registration and the issuing of a practising certificate to practise to the public)
13. Because the NZIV must in accordance with the Valuers Act, take on registered valuers (in NZ) as members, in the above cases the NZIV ends up with an inconsistency with regard to the member entry point and then its roll of registered valuers, in the case of a TAFE qualified valuer, the lesser qualification and in both cases, the lack of experience.
14. While the TTMRA provides for conditions, this is very restrictive and in accordance with section 25 (3) no more onerous than that which the local jurisdiction would impose.

15. The NZIV has one month to object to an application for registration under section 23 of the Valuers Act 1948.
16. This in itself is a timing problem given the registering authority has one month to act on an application for 'deemed' registration' under the TTMRA. If no objection is raised the applicant is deemed registered.
17. The problem seems to be the basis of an equivalent occupation under section 14 of the TTMRA, whereby:

"...an occupation for which individuals may be registered in an Australian jurisdiction is taken to be an equivalent occupation to an occupation for which individuals may be registered in New Zealand if the activities authorised to be carried out under each registration are substantially the same."

18. Although section 14 (2) (a) provides for equivalence,

(2) Subsection (1) is subject to—

(a) The fact that equivalence of occupations between New Zealand and an Australian jurisdiction may be achieved by the imposition of conditions on deemed registration or registration; and

the entitlement, (i.e. 'deemed registration') to registration is strengthened in section 15 (2)

(2) The entitlement described in subsection (1) arises by virtue of this Act, and no law of New Zealand requiring an individual seeking to carry on that occupation to have any particular qualification before doing so applies to any individual who is registered in an Australian jurisdiction for an occupation and who gives notice to the local registration authority for the equivalent occupation in accordance with section 19.

and made clearer in section 25, especially (3).

(3) No condition imposed under subsection (2)(c) may be more onerous than a condition that the local registration authority would impose in similar circumstances, having regard to relevant qualifications, if the registration were effected apart from this Act.

19. Historically this has not been a problem but with the changes to valuer registration in New South Wales (effective 2005) it now is.
20. The TTMRA does not adequately provide for a registering authority subject to an application for registration; where an applicant possesses a lesser qualification and less or no practical experience with comparison to the registration requirements of the jurisdiction where registration is being applied for, to require equivalence conditions added to an applicant's registration.

21. Additionally in these cases, it seems totally incongruous that an applicant can practice (sec 15 (1) (b)

(b) Pending such registration, to carry on the equivalent occupation in New Zealand.

& sec 24) with 'deemed registration' while awaiting the outcome of the application.

24 Deemed registration

(1) Subject to section 26, an applicant is, pending the grant or refusal of registration, entitled to carry on his or her occupation in New Zealand as if the applicant were subject to registration in New Zealand.

(2) References in this Act to deemed registration mean the entitlement referred to in subsection (1).

Recommendation

22. The NZIV recommends that the TTMRA is amended to:

- Allow the new registering jurisdiction (authority) to impose conditions on an applicant to provide equivalence to the new jurisdictions occupation standards and;
- To prevent an applicant from being entitled to work during the application period and;
- Extend the application period from one month to 6 weeks.

Thank you for the opportunity of making this submission.

Yours faithfully,
New Zealand Institute of Valuers



J. L. Hancock
President

D A Culav
Councillor.