

18 July 2008

Mutual Recognition Review
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Attention: Carole Gardner

Dear Commission Members

Review of Mutual Recognition Schemes

1.0 Introduction

- 1.1 Thank you for providing the Plumbers, Gasfitters, and Drainlayers Board of New Zealand ("the Board") with an opportunity to make a submission in respect of the Review of Mutual Recognition Schemes (June 2008).

2.0 Overview

- 2.1 The Board is a statutory Board established under Plumbers, Gasfitters, and Drainlayers Act 2006 ("the Act"). The Board's primary mandate under the Act is to ensure the protection of consumer health and safety through the registration and licensing of persons undertaking plumbing, gasfitting and/or drainlaying work in New Zealand. The Board issues New Zealand registration once a person satisfies the Board that they have met the minimum requirements as set out in the Act.

3.0 Trans-Tasman Mutual Recognition Act - Equivalence

Do you have knowledge of areas in which discussion and negotiation between registration bodies have made mutual recognition of occupations possible? Can you provide information on the adjustments that were made to achieve equivalence?

- 3.1 Since 1956 the Board has been a signatory to the Australian New Zealand Reciprocity Agreement (ANZRA) which enabled reciprocity of New Zealand and Australian plumbing, gasfitting and drainlaying qualifications for registration purposes. ANZRA developed a simple reciprocity certificate which was issued by one regulatory authority so that it could be presented to another regulatory authority where registration was being sought, after which registration was then granted immediately.

- 3.2 Further, ANZRA developed an assessment tool to both evaluate and maintain consistency of the minimum competencies required for basic registration between jurisdictions and to assist in the assessment of overseas qualifications. This system was called the National Plumbing and Services Assessment System (NPSAS). This package was developed through a very broad consultative process involving the Australian National Training Authority (ANTA) steering committee, the Executive Committee of the ANZRA and the members of the Gas Technical Regulators Committee (GTRC).
- 3.3 Since July 2007 all ANZRA functions have been incorporated under the National Plumbing Regulators Forum (NPRF) and the long established process of reciprocity as previously detailed has ceased. The Board now process Australian applications for registration under the TTMRA and carries out its own assessment processes for overseas qualified persons (other than Australians) wishing to become registered in New Zealand.

4.0 Plumbers Gasfitters and Drainlayers Act 2006 ("2006 Act")

Do you have any concerns about the interaction between the MRA and TTMRA and any other legislation? If so, what are your concerns about the effectiveness and efficiency of the MRA and TTMRA and the other legislation? What changes would you recommend, and what costs and benefits would they involve?

- 4.1 Under the 2006 Act, New Zealand plumbers, gasfitters, and drainlayers are only entitled to be registered if they can satisfy the Board that they are, amongst other things, a "fit and proper" person to be registered under the Act (refer section 36(d) of the Act).
- 4.2 It is submitted that despite mutual recognition under the TTMRA, the Board wish to satisfy itself that those persons from Australia granted "deemed registration" and subsequently registration in New Zealand are also "fit and proper" persons entitled to New Zealand registration.
- 4.3 This may result in unnecessary duplication as reported in the Issues Paper (page 14) where such character checks are not all mutually recognised across Australian jurisdictions and with New Zealand.
- 4.4 In the Board's view, in order to satisfy equivalency, character checks should be mutually recognised to avoid such duplication. Although there are provisions set out under the notification requirements under TTMRA (section 19 (e), (f) and (g) refers) these are not in fact wide enough for the Board to satisfy itself that the applicant has the necessary skills and judgment to fit the criteria required to be "fit and proper", an established legal definition amongst other occupational groups.

5.0 Jurisdiction shopping and hopping

Is jurisdiction shopping and hopping occurring for occupations? If so, to what extent is it occurring and what are the costs (such as a 'race to the bottom') and benefits (such as regulatory competition and innovation between jurisdictions)? What specific examples and other evidence do you have to support your arguments?

- 5.1 The Board has concerns relating to 'jurisdiction shopping and hopping' and has first hand experience of this practice with respect to overseas applicants (other than Australian or New Zealand nationals) applying for qualification recognition for the purposes of gaining registration and licensing in one jurisdiction and then moving to another jurisdiction, thus taking advantage of differing assessment processes.
- 5.2 In particular, the Board has identified two specific groups who take advantage of the different regulatory controls and assessment criteria used to evaluate the prerequisites for registration.
- 5.3 The first group are individuals whose country of origin is other than Australia or New Zealand. These individuals seek out the regulatory authority with the lowest assessment standards and who therefore provide the easiest pathway to registration. In the most serious instance, an individual gained registration in an Australian state, and within a short space of time migrated to New Zealand and received registration. This individual became the first person ever to be struck off the public register after being found guilty by the Board's disciplinary tribunal of serious misconduct.
- 5.4 The other group are individuals who have undergone training in New Zealand and have not met the Board's requirements for registration. These individuals, then seek out the regulatory authority with the lowest assessment standards, achieve registration in Australia and then return immediately to New Zealand and present their Australian registration as a prerequisite for New Zealand registration.
- 5.5 The Board believes that the main driver is not cost, but rather identifying the easiest route to gain registration, knowing that the registration once gained, gives the individual options of entry to other jurisdictions where otherwise they may have been denied.

Are possible measures designed to prevent jurisdiction shopping and hopping affected by a lack of legal certainty? If so, how could this uncertainty be removed?

- 5.6 The Board does not believe that this is about legal uncertainty. The TTMRA is clear in that registration is of right, however the regulatory authority does have discretion in respect of licensing and the limitations that can be imposed to ensure competency can be demonstrated. It is the Board's opinion that country of origin, (if not Australia or New Zealand) qualifications and work experience in the appropriate Australia or New Zealand jurisdiction must be

disclosed, as in the cases that the Board has dealt with this most important information was not disclosed until serious complaints were received and during the subsequent investigation.

Would measures such as sufficient language proficiency, residency requirements or bonds reduce jurisdiction shopping and hopping? What would be their costs and benefits?

- 5.7 It is the Board's opinion that the most effective method of preventing shopping and hopping is for there to be a standard registration assessment tool adopted by all regulatory authorities which assess an applicant's practical and theoretical knowledge to an agreed standard; similar to the ANZRA model (see 3.2).

6.0 Conclusion

- 6.1 In conclusion, the Board overall supports the TTMRA concept. However, it does have major concerns over the issue relating to shopping and hopping. If allowed to continue, this practice has the potential to undermine regulatory confidence in the TTMRA. By introducing a standard assessment tool and insisting upon more and better verified background information from applicants, this practice in the Board's view would significantly reduce.

Again the Board wish to thank the Commission for the opportunity to provide comment on the review of Mutual Recognition Schemes.

Please do not hesitate to contact me directly should you require further information or assistance.

Yours sincerely



P W Routhan
Registrar & CEO