

## AUSTRALASIAN TEACHER REGULATORY AUTHORITIES

### **SUBMISSION TO PRODUCTIVITY COMMISSION REVIEW OF MUTUAL RECOGNITION SCHEMES JULY 2008**

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#### BACKGROUND

The Australasian Teacher Regulatory Authorities (ATRA) consists of the following teacher regulatory authorities:

- Queensland College of Teachers
- Teachers Registration Board of South Australia
- Teachers Registration Board Tasmania
- Victorian Institute of Teaching
- Western Australian College of Teaching
- New South Wales Institute of Teachers
- Teacher Registration Board of the Northern Territory

The predominant purpose of ATRA is to better meet the need for a highly qualified, proficient and reputable teaching profession by engaging in such activities as the following:

- (a) facilitating collaboration, and where appropriate co-ordination, between and among its members in the development and promotion of professional standards and professional learning for the teaching profession within Australia and New Zealand;
- (b) providing a means whereby senior officers and chairs of member bodies may:
  - counsel together on matters of concern;
  - formulate and forward to appropriate authorities advice on relevant matters including those of national concern;
  - collect and disseminate information on matters of collective interest;
  - effectively evaluate any activities undertaken; and
  - reach decisions by consensus;
- (c) identifying common and agreed issues and planning priorities through studies of the problems and needs of Members, their relations with other educational institutions, with Governments, and with the community and to encourage, sponsor and publish or otherwise promulgate the results of such studies;
- (d) advocating and promoting teacher regulatory functions including teacher registration, accreditation and/or certification functions;
- (e) initiating action on, or reacting quickly to, events and issues of importance affecting teacher regulatory functions including teacher registration, accreditation and/or certification functions;
- (f) promoting by study and discussion, the effectiveness and efficiency of Members;
- (g) consulting and liaising with educational bodies within Australia and New Zealand and overseas in the interest of promoting improvement in teacher quality;
- (h) representing the views of Members in matters concerning teacher quality, in particular in discussions with Governments, Governmental authorities and instrumentalities and public bodies and the community at large, or any section thereof;

- (i) collecting, compiling, disseminating and distributing among members and the public, information of common concern and information which will assist in the management and further development of Members;
- (j) acquiring in the interests of the public and teacher regulatory authorities, knowledge of proposed or enacted Australian, New Zealand and overseas legislation in any way relating to teacher regulations including teacher registration, accreditation and certification and in particular that which affects or could affect education generally and teacher regulation in particular;
- (k) promoting the interests of Members collectively, recognising that each Member has an unfettered right to act in its own best interests as it perceives them and that groups of members may pursue their particular interests within the framework of the Association; and
- (l) facilitating opportunities for members to develop knowledge and skills, interstate and overseas.

Overall, ATRA members grant registration to well over 1000 applicants under mutual recognition legislation each year.

## ISSUES

This submission does not attempt to respond to all questions posed in the Productivity Commission Issues Paper but comments only on issues particularly pertinent to ATRA.

### ***Issues Paper Section 4: Coverage – Exceptions and exclusions***

*Should the character checks required for some occupations continue to not be mutually recognised across Australian jurisdictions and with New Zealand? If so, why, and what evidence do you have that the benefit of not having mutual recognition outweighs the cost? (page 14)*

The view of ATRA is that character checks (including a criminal record check) should be required by each jurisdiction because there are differences among jurisdictions in the legislative provisions applying to criminal history checks. Registration authorities in some jurisdictions are able to obtain more information than others through police checks. For example, provisions differ regarding the type of offences and whether and to what extent 'spent' convictions are revealed. In addition authorities have different legislative provisions in relation to the frequency of criminal record checks, for example, on renewal of registration which could range from 3 – 5 years. Any offences occurring from the date of the criminal record check, which may have been undertaken over four years ago, would not have been taken into consideration by the originating jurisdiction.

Although there are some arrangements in place between jurisdictions to share information relating to aspects of character (excluding criminal record information), it is in the public interest to ensure at the time of admission to the Register that every reasonable check has been made to determine fitness and propriety given the registration authorities are the 'gatekeepers' of the profession.

ATRA considers that the one month period within which (under section 21(1) of the *Mutual Recognition Act*) registration must be granted by the local registration authority is too short to allow adequate character checks to be undertaken in all cases. For example, more time is needed to allow the registration authority to confirm that the criminal history provided by the police service is in fact that of the applicant, and to allow natural justice considerations to be

effected (e.g., adequate time for an applicant to make submissions in response to any criminal history or other relevant material).

ATRA believes that the additional level of security provided by each jurisdiction undertaking its own character checks is essential as the protection of children is paramount.

Some jurisdictions have serious concerns about implementing deemed registration prior to a criminal record check being undertaken as there are potential implications for child safety/protection.

### ***Issues Paper Section 5: Occupations – Interpretation of equivalence***

*Are registration bodies assessing the equivalence of occupations between jurisdictions in markedly different ways, and if so, what impact is this having on cross-border labour mobility? (page 17)*

To ATRA's knowledge, the various teacher registration authorities in Australia and New Zealand are not interpreting the equivalence of occupations in markedly different ways.

There are local differences among these jurisdictions as to whether early childhood teachers (in institutions catering for children below school age) and vocational educational teachers are required to be registered. For example, kindergarten teachers in Queensland no longer need to be registered as teachers, while kindergarten teachers are required to be registered in other states (e.g. South Australia).

New South Wales and Australian Capital Territory do not have equivalent teacher registration authorities and therefore teachers moving between those and other jurisdictions are not covered under the mutual recognition legislation arrangements applicable to other States, Territories and New Zealand with like registration authorities.

*Are marked differences between jurisdictions in the number (or even existence) of licences for specific occupations hindering the assessment of occupation equivalence?*

ATRA is aware of no marked differences among jurisdictions in this regard.

### ***Conditions and prerequisites***

*How often do occupation-registration bodies impose conditions on people registering under mutual recognition? In which occupations or jurisdictions does this most often occur, and what conditions are imposed? (page 18)*

To ATRA's knowledge, this is not widespread in teacher registration and occurs only in isolated individual cases. ATRA does not generally impose conditions on persons granted full registration under mutual recognition; however, there are a small number of registrants who may be restricted to teaching certain subjects because this restriction pertained to them in their originating State.

*Are occupation-registration bodies applying their prerequisites for initial registration to people seeking registration under mutual recognition? If so, what is the extent of this problem and how can it be addressed?*

ATRA is not aware of this occurring in the field of teacher registration.

*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?*

As far as ATRA is concerned, this has not been an issue. Shopping and hopping has not occurred to the extent feared at the time of the previous review of mutual recognition arrangements.

The New Zealand Teaching Council currently accepts a three-year higher education pre-service teaching qualification for registration as a primary or early childhood teacher. This may have the potential to lead to jurisdictional shopping and hopping as the Australian States and Territories have a four-year requirement.

### ***Shift to national licensing***

*What are the costs and benefits of moving from mutual recognition to national licensing for registered occupations (other than health professions), and is there a net benefit from doing so? (page 21)*

ATRA is an incorporated body representing the interests of all Australian States and Territories with input from New Zealand as appropriate.

ATRA is satisfied with the current operation of the existing mutual recognition scheme as it applies to teacher registration. In our view, there is no need for national licensing. ATRA operates under a federalist model and meets regularly to address any issues arising in regard to registration of teachers. ATRA reports to both AESOC and MCEETYA. A National licensing model would need to be carefully considered particularly in respect to governance and resourcing as this would have an impact on existing State and Territory legislation. Currently all teacher registration authorities are self-funded through the collection of registration fees from teachers.

### ***Section 6: Awareness, expertise and governance***

*The underlying problem may be that mutual recognition is not at the forefront of regulatory responsibilities. Rather, it is one of many issues facing policy makers and regulators across a wide range of goods and occupations. This works against building up and maintaining expertise on mutual recognition matters in specific agencies, particularly smaller ones, such as some occupation-registration bodies. (page 23)*

ATRA sees it as a problem that there is no central agency which can advise on interpreting and applying mutual recognition legislation and that it is therefore up to each jurisdiction to obtain its own legal advice on these matters. This has the potential to result in differing legal interpretations on operational aspects relating to the implementation of mutual recognition legislation.

*Another factor could be the governance arrangements for the MRA and TTMRA. Mutual recognition is inherently decentralised, with policy development, administration and enforcement largely remaining with individual jurisdictions.... (page 23)*

ATRA works on a federalist model with Terms of Reference that reflect a collaborative approach in promoting consistency on a national basis.

There are concerns under the current arrangement that New Zealand could unilaterally (i.e. without the consent of Australian jurisdictions) recognise (though other mutual recognition arrangements) teachers from another country where requirements for practising as a teacher are less stringent than those applying in Australian states. This issue needs to be raised with New Zealand as it has implications for mutual recognition arrangements with Australia.