

Department of Treasury and Finance

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Ms C Gardner
Mutual Recognition Review
Productivity Commission
LB2 Collins Street East
MELBOURNE Vic 8003

Dear Ms Gardner

REVIEW OF MUTUAL RECOGNITION SCHEMES

I refer to the Issues Paper released by the Productivity Commission on 12 June 2008 in relation to the review of the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement.

The Department of Treasury and Finance, which is responsible for administration of the mutual recognition schemes in Tasmania, has sought comments from State Government agencies and statutory authorities in respect of the matters raised in the Issues Paper.

From the comments received, the general view is that mutual recognition has provided a practical way to overcome regulatory differences that have previously restricted the mobility of goods and labour across jurisdictions.

Specific comments in relation to the questions outlined in the Paper are outlined below.

Rationale for mutual recognition

The main benefits of mutual recognition include lower costs to business, improved industry competitiveness and improved occupational mobility. The Land Transport Division of the Department of Infrastructure, Energy and Resources (DIER) has advised that the operation of mutual recognition has assisted in alleviating skills shortages in land transport occupations. On this issue of whether mutual recognition provides a better outcome than harmonisation, responses received indicated that mutual recognition operates more effectively where eligibility standards are harmonised.

Coverage

In relation to the status of the permanent exemption for ozone protection, the Department of Primary Industries and Water has stated that, as the responsibility for regulation of this area has been transferred from the states and territories to the Australian Government, an assessment as to the need for retaining this exemption should be undertaken by the Australian Government.

In terms of the issues underpinning temporary exemptions, it is Tasmania's view that the time period for which the exemptions can be granted needs to be extended. Tasmania was recently confronted with the same situation as in South Australia regarding the prohibition of the sale of fruit and confectionary-flavoured cigarettes. As a result, additional legislation was required to assist in achieving the objective of the bans, which resulted in additional administrative and implementation costs being borne by the State. It is considered that a two year extension period under both the MRA and TTRMA would be more feasible and would also overcome the issues around trying to obtain an extension under the TTRMA, which is a very time consuming and cost prohibitive process.

While the rollover process relating to the special exemptions under the TTRMA is time consuming and administratively burdensome, it is considered that the role of the cooperation programs is an important one. However, there is a need to streamline the process, while ensuring that the work of the cooperation programs continues to occur.

Occupations

Three main issues have been raised in relation to the operation of mutual recognition in relation to occupations. The first relates to equivalence. The Property Agents Board of Tasmania has indicated that the prevalence of "quick courses" has been increasing and, in its experience, persons who have undertaken such courses and subsequently become registered under mutual recognition are not as successful in property agency practices, in dealing with complaints and in conflict resolution. In addition, the Board has found that, as no further assessment of qualifications and experience is required, it is often the case that persons seeking mutual recognition of their competencies possess little knowledge of the specific legislative requirements of the State. An issue relating to the requirement for a licence to be "current" before it can be mutually recognised by another jurisdiction was also listed as a barrier to the seamless movement of workers between jurisdictions.

The Department of Justice highlighted the issue that sales consultants in the real estate industry in Tasmania, who are not required to be licensed in Tasmania, are not able to obtain registration under mutual recognition in other jurisdictions. It was recognised that issues of equivalence can often be overcome by a national registration process for occupations. However, and in the particular case of property agents, this may result in a higher level of regulation than previously existed in some jurisdictions.

In respect of national registration, it is recognised that centralising registration functions for occupations is more beneficial to some occupations than others. In some cases, some local registration related functions may be required for certain occupations.

It has been suggested that land surveyors is an occupation where the feasibility of national licensing should be investigated.

The Land Transport Division of DIER has stated that the primary benefit from national licensing of land transport occupations would be consistency in skills and eligibility criteria. However, the Division stated that this could be achieved more cost effectively through improved harmonisation.

The Division stated that the implementation costs and associated impacts of moving to a national licensing system for land transport occupations would be very significant and would include:

- constitutional issues (referral of state powers to the Australian Government);
- issues for states and territories enforcing Australian Government laws;
- management difficulties due to transport occupations being a second licensing tier, with the first licensing tier being the driver licence (for example medical standards, road safety);
- land transport occupations being linked to operator accreditation, which is currently managed by the states and territories;
- the creation of a new national land transport occupation database that connects each jurisdiction;
- the large task in aligning land transport occupations as the Skills Taskforce mapping process showed little uniformity or consistency;
- the development of the relevant eligibility criteria for each occupation;
- the development of agreed national processes;
- transitional arrangements;
- obtaining industry agreement;
- resolution of issues in relation to whether states and territories would continue to licence or a new national agency is developed;
- financial contributions to the national system; and
- the treatment of the loss of revenue from licensing fees.

Notwithstanding these comments, the Division did note that for those occupations that involve cross-boarder movement, for example coach tour drivers, the benefits of a national system would be greater.

The Division also provided comments in respect of the hindrances around service provision across jurisdictions, despite the existence of mutual recognition, particularly the fact that a person must enter the new jurisdiction to make an application under mutual recognition. Therefore, persons who want to perform their occupation for a short period of time only to meet a seasonal demand (for example where cruise ships and navy ships lead to more demand for bus and taxi drivers) must visit Tasmania to apply for the ancillary certificate and then return to perform the occupation.

The Division suggested that this issue could be resolved with the creation of an exemption under mutual recognition legislation where a visiting driver who is in the new jurisdiction for a specified period of time (for example less than three months) and holds a current authority in another jurisdiction is exempted from the requirement to hold an authority in the visiting jurisdiction for this period. This would be similar to the exemption in vehicle and traffic legislation from the requirement to hold a driver licence if a person is entering another jurisdiction for a period of less than three months.

The third issue, which was raised by the Land Transport Division of DIER, relates to occupational prerequisites relating to character checks and "fit and proper" person tests. While there is a move towards harmonisation of eligibility standards, it has been suggested that harmonisation should also extend to character checks and "fit and proper" person tests. It is recognised that training and experience is a large component of a person's competence and character checks and "fit and proper" person tests are also important in assessing the capacity to undertake an occupation.

It appears that while skills and experience have been mutually recognised, persons are being refused registration under mutual recognition in other jurisdictions on the grounds that they do not meet those jurisdictions' character tests. While this technically breaches mutual recognition principles, it has been suggested that harmonisation should include character and fit and proper persons tests in order to overcome this issue. This may also raise some issues in relation to the Ministerial declarations, which focus primarily on qualifications.

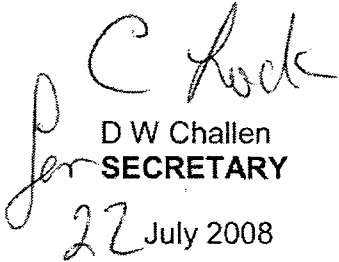
In relation to the jurisdiction "shopping and hopping" questions in the Issues Paper, the Land Transport Division of DIER stated that licensing authorities have developed a national training course for car driving instructors and are currently in the process of developing a national training course for heavy vehicle driving instructors which will assist in mutual recognition and ensure equivalent training standards across Australia. The Division also states that nationally consistent eligibility criteria, including a training course, have been developed for taxi drivers.

Thank you for the opportunity to make a submission.

I look forward to receiving a copy of the Commission's Draft Report.

Should you have any queries, please contact Megan Sperring on 6233 4167 or by e-mail: megan.sperring@treasury.tas.gov.au.

Yours sincerely


D W Challen
SECRETARY
22 July 2008

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