



Hon Andrew Fraser MP
Member for Mount Coot-tha



COPY
Queensland
Government

Treasurer of Queensland

TRX-05855

31 JUL 2008

Mr Gary Banks
Productivity Commission
LB2 Collins Street
EAST MELBOURNE VICTORIA 8003

Dear Mr Banks

I would like to thank you for the opportunity to comment on the *Productivity Commission Issues Paper: Review of Mutual Recognition Schemes* (the paper).

Queensland's formal submission is attached and includes practical examples of the successes and limitations of mutual recognition arrangements.

The benefit offered by the current scheme architecture is that it provides for local responses to issues which impact on public confidence (eg, toxic goods and coronial inquests into unsafe/fatal occupational standards) while at the same time providing business certainty for national trade.

On this basis, Queensland supports all efforts under both mutual recognition and the Council of Australian Governments (COAG) national reform agenda, to enhance productivity, economic efficiency and labour mobility. However, acceptable standards to protect licensees, consumers and public health and safety must be maintained.

Thank you for your consideration of the Queensland Government submission. I look forward to commenting on the draft report when it is released in October/November 2008.

Yours sincerely

ANDREW FRASER

Level 9 Executive Building
100 George Street Brisbane 4000
GPO Box 611 Brisbane
Queensland 4001 Australia
Telephone +61 7 3224 6900
Facsimile +61 7 3229 0642
Email treasurer@ministerial.qld.gov.au
ABN 65 959 415 158

QUEENSLAND GOVERNMENT SUBMISSION

to the

Productivity Commission Issues Paper: Review of Mutual Recognition Schemes

JULY 2008

Queensland supports all efforts, both under mutual recognition and the Council of Australian Government's (COAG) national reform agenda, to enhance productivity, economic efficiency and labour mobility. However, acceptable standards to protect licensees, consumers and public health and safety must also be maintained.

Current mutual recognition arrangements provide sufficient flexibility for jurisdictions to provide local responses to local issues that impact upon public confidence, health and safety, such as toxic goods and coronial inquests into unsafe and fatal occupational standards and practices. Any recommended enhancements to mutual recognition arrangements either through the Productivity Commission review or the COAG reform agenda will need to consider options to uphold this flexibility in exceptional circumstances. Furthermore, public policy and associated regulatory frameworks that emerge in response to technological advancement and coronial inquests must not be undermined.

This submission provides a summary of the key issues identified by Queensland in regard to the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA), which are supported by practical and examples.

The issues and examples provide a general response to the topics outlined in the issues paper, rather than directly answering the questions posed in the paper and are reported against relevant issues paper headings in the order they appear in the paper.

Please note that Queensland reserves the right to provide further comment pending the release of the Productivity Commission draft report on the Review of Mutual Recognition Schemes, expected October/November 2008.

1. Coverage

1.1 Coverage of occupational licences

The range of occupations licensed under the MRA and TTMRA appear adequate.

1.2 Coverage of goods

The removal of exemptions are supported where possible and practical (refer to 1.2(a)). However, further work is needed to streamline recognition of goods approved and certified in another jurisdiction to mitigate the need for goods to be recertified by a recognised body. The current situation is inefficient and not consistent with the principles of mutual recognition (refer to 1.2(b)). The extension of mutual recognition could be considered to address this situation.

While the Gas Technical Regulators Committee is working towards greater acceptance of certifying bodies across the states, progress is slow.

Example 1.2(a): Natural gas appliances

Work has been undertaken by the Gas Technical Regulators Committee (GTRC) in cooperation with New Zealand in relation to the removal of the exemption of natural gas appliances from the TTMRA. This should allow natural gas appliances to be easily traded between Australian jurisdictions and New Zealand and remove unnecessary complexities.

Example 1.2(b): Gas Appliances

All states require gas appliances to be certified or approved by a recognised body before they can be installed/used. Technically, in some states an unapproved gas appliance may be able to be sold but cannot be used until certified/approved.

The issue is that an appliance approved/certified in one jurisdiction is not automatically approved for use in another. The appliance has to be certified/approved by a body recognised by the other jurisdiction. If the first approving body is not recognised in the other jurisdiction, the appliance has to be recertified by another body acceptable in the new State. In simple terms, if an appliance can be sold in and used in one jurisdiction, then it should be able to be sold and used in all jurisdictions.

1.3 Temporary and Permanent Exemptions

Under certain circumstances, the MRA and the TTMRA have the potential to undermine specific public policy and legislative provisions. For example, under Part 2D (Prohibited Products) of the *Tobacco and Other Smoking Products Act 1998*, it is illegal to sell, supply or display ice pipes and bongs. However, as long as the offending items comply with the labelling requirements of the *Commonwealth Mutual Recognition Act 1992*, these items can lawfully be sold in Queensland.

Any reforms identified by the Productivity Commission regarding the processes to support temporary and permanent exemptions should not undermine or add duplication to the milestone agreement on product safety reforms, reached by the Council of Australian Governments (COAG) in July 2008.

1.4 Special exemptions

The effectiveness of the annual rollover process for special exemptions (TTMRA) is currently undermined by the inability of jurisdictions to resolve issues associated with the five 'special exemptions' areas over the past decade. Due to specific positions being taken by jurisdictions on these areas, it is doubtful that jurisdictions are likely to reach a resolution and a compromise is not anticipated.

Therefore, the perceived but limited benefit of the annual rollovers does not appear to justify the continued high investment of resources to support this process. The continued rollover in perpetuity of special exemptions is not consistent with the intent and spirit of mutual recognition to facilitate movement of goods and labour across borders. It would therefore be far more productive to declare permanent exemptions on goods where jurisdictional agreement, after a period of three to five years, has not been reached.

A potential option to accelerate resolution of inter-jurisdictional disagreements could include the consideration of imposing a cap on rollovers. Alternatively, in particularly contentious areas where there is high risk to public health and safety, a one-off extended exemption period (e.g. 3 to 5 years) could be considered. This would reduce the annual administrative burden on Government and would provide adequate time for jurisdictions to fully interrogate all viable legislative solutions.

2. Occupations

2.1 Interpretation of equivalence

Under the MRA and TTMRA, a registered occupation in one jurisdiction is equivalent to a registered occupation in another jurisdiction if the activities authorised to be carried out under each registration are 'substantially the same'. The phrase 'substantially the same' creates some ambiguity, and thus interpretations of equivalence can vary from jurisdiction to jurisdiction or possibly even assessment to assessment within the same jurisdiction.

Furthermore, there appears to be significant difficulties in identifying the activities carried out under particular licence classes in other jurisdictions. These difficulties can hamper and delay the movement of labour across jurisdictions, adding unnecessary administrative burden and are not consistent with the intent or spirit of mutual recognition. Development of proposals to streamline this process should be considered.

Example 2.1(a): Marine authorities

The result of a survey of State Marine Authorities in late 2005 indicates there is no consistent approach to considering the mutual recognition of Australian/New Zealand marine qualifications across jurisdictions, and that marine authority obligations under the TTMRA may not be fully implemented in all cases.

2.2 Conditions and prerequisites

The use of conditions and prerequisites is supported by the Queensland Government where it is used to achieve licence equivalence. It provides an avenue for occupational licences that are similar but not 'substantially the same' to be recognised across jurisdictions.

2.3 Occupational Registration and Training – “Jurisdiction shopping and hopping”

As there appears to be evidence of jurisdictional shopping and hopping, harmonisation of qualifications would better enhance the application of the MRA and TTMRA and go a long way to addressing jurisdictional shopping and hopping. It is also likely that harmonisation of qualifications would lead to greater acceptance of mutual recognition by jurisdictions and less inconsistent interpretation of what is an equivalent licence.

The significant differences in occupational registration requirements between jurisdictions is a disincentive to complete more stringent educational and training frameworks established in some jurisdictions to satisfy public policy outcomes developed to address specific occupational and consumer safety issues (eg, as reported on through coronial inquests). Under these circumstances, it would not be expected that appropriate standards be diminished. However, opportunities to achieve best practice regulation while maintaining acceptable standards to protect licensees, consumers and public health and safety should be explored.

Example 2.3(a): Valuers

To practice as a valuer in Queensland, it is necessary for a person to undertake a university course on valuation, spend two years gaining practical experience and submit to a competency interview by the Valuers Registration Board of Queensland (the Board) before they are registered as a valuer.

The Queensland Government has been advised by the Board that this high standard is being eroded because of the following:

- a) New South Wales requires that a valuer be registered. However, to become registered it is necessary only for that person to have undertaken a two year TAFE course. There is no requirement that the person submit to an interview to assess competency. Notwithstanding these differences, under the MRA, a valuer in New South Wales may be registered in Queensland.
- b) A person who has completed the university course in Queensland but has not obtained the requisite practical experience is able to gain registration as a valuer in New South Wales. Once this occurs they are able to gain registration in Queensland under the MRA.

2.4 Ministerial declarations – the future for Mutual Recognition

The use of ministerial declarations to specifically identify equivalent occupations across jurisdictions provides an efficient pathway for achieving interstate recognition of qualifications (refer to example 2.4(a)).

Overall, the ministerial declaration process and the national collaboration effort to develop declarations are supported by the Queensland Government. The process has the potential to improve efficiency of recognition of qualifications across jurisdictions by expediting the process for registration that currently applies under the broader mutual recognition arrangements.

Example 2.4(a): COAG Skills Recognition working group

The Queensland Government participated in the COAG Skills Recognition working group process which resulted in ministerial declarations for gas fitting occupations. This was considered a good process as it resulted in a clearer understanding of interstate licences and has allowed for a more definitive process for assessing mutual recognition applications.

2.5 Shift to national licensing

Harmonisation of the training framework underpinning mutual recognition could potentially mitigate many of the operational, compliance and interpretation issues identified in the Issues Paper. This would need to be considered in the context of the further work to be undertaken to implement COAG's agreement on the development of a national trade licensing system. The imposition of conditions and suspension or cancellation of a licence are key mechanisms for ensuring compliance and should remain with the safety regulator.

In investigating opportunities for enhancements to Mutual Recognition arrangements, careful consideration should be given to how the COAG proposed national licensing framework will complement any proposed reforms to Mutual Recognition, both in principle and operationally. While both reform initiatives seek to enhance productivity and labour mobility, and until all occupations are captured by a national licensing system, the MRA and TTMRA remain important vehicles.

Mutual recognition arrangements are based on the principle that once trained and registered in one jurisdiction, a registered person may undertake equivalent activities in other jurisdictions, irrespective of jurisdictional differences for occupational training requirements. However, a national licensing framework for selected occupations seeks to harmonise the training and skills required to satisfy registration requirements between jurisdictions, to promote consistently skilled licensees across all jurisdictions on the basis this will improve mobility of skilled labour, particularly for occupations in demand.

A national licensing framework may not always be the most appropriate and efficient means to approach cross jurisdictional harmonisation, particularly in small industries or where there is little movement of licence holders across jurisdictions. In such circumstances, mutual recognition may prove to be the most efficient and cost effective approach to facilitating labour mobility. Detailed analysis of the benefits of transitioning industries to a national licensing framework is required before any commitments are made, consistent with COAG's approach on this issue.

In regard to the building industry, the potential establishment of a national register and accreditation system for building occupations (PC Issues Paper, p21) has merit. COAG has requested a report on the progress towards pursuing national governance arrangements for selected trades including the establishment of a publicly available register of licences. Such a system would promote significant economic benefits achieved through greater labour mobility within this industry. A national register and database is likely to promote greater efficiencies within and across jurisdictions and access to information rather than the current system of maintaining separate state registers. At the same time, acceptable standards to protect consumers and the public and workplace health and safety must be maintained.

3. Awareness, expertise and governance

Raising industry and government awareness of the MRA and TTMRA, and their obligations under these schemes will be important in influencing the operational effectiveness of the schemes. This may be achieved by making mutual recognition an integral component of regulatory reform and associated governance arrangements for more productive monitoring and compliance.