



15 December 2008

Mutual Recognition Review
Productivity Commission
LB 2 Collins Street East
Melbourne
Victoria 8003
Australia

Attention: Carole Gardner

Dear Commission Members

Review of Mutual Recognition Schemes – Draft Research Report

Thank you for providing the Plumbers, Gasfitters, and Drainlayers Board of New Zealand ("the Board") with a copy of the draft research report and the opportunity to attend the TTMRA roundtable discussions in New Zealand on 26 November 2008.

The Board also thanks you for the opportunity to make further submissions in respect of two of the Commission's findings and recommendations; namely the need to demonstrate evidence of harm where concerns have been raised about variations in occupational standards between jurisdictions (draft finding 5.2) and the finding in which legal advice to the Commission indicated that "people who register under mutual recognition can probably not be required to undertake training while holding that registration" (draft finding 5.5).

Draft Finding 5.2

As discussed at the meeting on 26 November 2008, the need to establish evidence of "harm" where there are variations in occupational standards between jurisdictions is, it is submitted, placing the ambulance at the bottom of the cliff.

This Board has provided a specific example of evidence of potential 'harm' caused by variation in standards in its previous submission (refer paragraph 5.3). All plumbers, gasfitters and drainlayers as occupational groups carry out the type of work that can, if non-compliant, pose significant potential safety risks to the public. In the Board's opinion, it is the potential harm that may occur to members of the public rather than evidence of actual harm, that is important. In other words, it is respectfully submitted that the draft report's focus on a harmful event that has already occurred, is the wrong approach.

The details relating to paragraph 5.3 of the Board's previous submission are as follows. A craftsman gasfitter, Mr X, obtained registration in New Zealand on 6 October 2005 after moving from Australia to live in New Zealand. Mr X held a New South Wales contractor licence that expired on 1 July 2007. The Registrar of the Board confirmed Mr X's Australian examination results in 1994 entitled Mr X to independent certifier status in Australia under ANZRA. Under the reciprocity agreement with Australia at that time, Mr X was granted current licences as a craftsman plumber, craftsman gasfitter and registered drainlayer in New Zealand.

Mr X appeared before the Board on disciplinary charges on 16 May 2007 for gasfitting work carried out between May and June 2006 and was de-registered as a craftsman gasfitter.

In particular, Mr X was found guilty of improper and incompetent conduct so as to render him unfit to be registered under the Plumbers, Gasfitters and Drainlayers Act 1976 ("the Act") in that he certified gasfitting work which was not safe (incorrect clearances in respect of an instantaneous water heater, incorrect pipe sizing to supply adequate flow of gas at intended pressures, permitted an unsafe ignition, and certified non-compliant installations which included imported installations not declared safe and suitable for use in New Zealand).

The Board in imposing de-registration noted Mr X's lack of fundamental gasfitting knowledge, his use of the Australian gas standard which itself was significantly out of date, his lack of understanding of the New Zealand certification requirements, little if any idea in relation to the importing of dangerous installations and his total disregard for industry regulations. The Board also had real concerns about Mr X's knowledge and ability to supervise others (at least 6 apprentice employees working for the company).

The Board was very concerned with the severity of the significant offending by Mr X who it noted had worked in New Zealand for only a very short time. Mr X, through his counsel, submitted to the Board at the time submissions were received on penalty that Mr X had over 30 years of practice in the gasfitting/plumbing trade and had no prior disciplinary record. The Board was unable to establish for how long Mr X had been registered in Australia.

Accordingly, the Board submits that variations in standards can and do pose potential risk of significant harm in some cases. It is the "potential" to cause harm rather than the actual harm that is significant.

Draft Finding 5.5

The Board does not accept the legal advice received by the Commission that "people who register under mutual recognition can probably not be required to undertake training while holding that registration". It is submitted by the Board that the TTMRA does not override licensing laws enacted by Parliament in other jurisdictions such as New Zealand. However, the Board would agree that greater clarity is required with respect to the conditions that can legitimately be imposed to achieve equivalence of registration between New Zealand and Australia under those legislation schemes.

The requirement regarding professional development is, in New Zealand, a requirement relating to the annual renewal of a practising licence as opposed to a condition attached to renewal of registration. This is because, in New Zealand registration once granted is for life unless the registration authority removes this by way of disciplinary order or the registrant requests that his or her name be removed pursuant to the applicable provision of the Plumbers, Gasfitters and Drainlayers Act 1976 ("the Act").

In New Zealand at the current time, once registered, a plumber or drainlayer only need pay a prescribed fee to uplift an annual licence to carry out "sanitary plumbing" or "drainlaying" work. However, it should be noted that legislation has been passed to shortly introduce ongoing competency requirements to match those currently in place for gasfitters, as detailed below.

A registered gasfitter must satisfy the Registrar that s/he is competent to carry out gasfitting every year s/he applies to uplift a practising licence, other than the initial granting of a licence to carry out gasfitting work when first registered. Thereafter, the applicant must obtain 16 points (or hours of learning) each year prior to uplifting his or her licence. These 16 points are effectively a condition precedent to the granting of an annual licence. In relation to a gasfitter from Australia applying for registration under TTMRA, the applicant is granted a licence for three months and in that time must achieve the required 16 continuing professional development points.

The ongoing requirement is the same whether or not the applicant is applying for a licence for the first time having registered under mutual recognition or not. It is not an impediment to registration itself but a pre-requisite to engaging in the activities for which that person is already registered and must demonstrate competency.

It is noted that the Commission accepts that ongoing conditions or requirements for the further training and ongoing professional development apply equally to all registered persons within an occupation, including those registered under mutual recognition.

Conclusion

The Board wishes to thank the Commission for the opportunity to provide further 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