# Cover image: Mutual Recognition Schemes, Productivity Commission Research Report, September 2015 Mutual Recognition Schemes

Productivity Commission Research Report, September 2015

Commonwealth of Australia 2015

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| The Productivity Commission |
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# Foreword

Australia’s and New Zealand’s mutual recognition schemes are unique in the world by their extensive scope and coverage. They make it easier to do business across borders and give consumers a wider and more competitive range of goods and services.

This is the third time that the Commission has been asked to review the mutual recognition schemes. Such reviews are required every five years under the terms of the schemes.

The Commission has found that the schemes are operating well for covered goods and occupations. However, there is a risk of the benefits being slowly eroded due to regulators not always implementing mutual recognition as required, weak oversight, and an increase in the number of goods and related laws permanently kept out of scope. Whether, and how, to address these issues was a focus for much of the review.

In conducting the review, the Commission consulted with a wide range of stakeholders in Australia and New Zealand, including by holding roundtables in Melbourne and Wellington. Many parties also provided input through written submissions. The Commission thanks all of those who contributed.

The Commission is also grateful to the NZ Ministry of Business, Innovation and Employment for seconding one of its officials to the review.

The review was undertaken by a team in the Commission’s Melbourne office, led by Greg Murtough.

Jonathan Coppel  
Presiding Commissioner

September 2015

# Terms of reference

2014 REVIEW OF THE MUTUAL RECOGNITION AGREEMENT  
AND THE   
TRANS-TASMAN MUTUAL RECOGNITION ARRANGEMENT

I, Joseph Benedict Hockey, Treasurer, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a review of the operation of the Mutual Recognition Agreement (MRA) and the Trans‑Tasman Mutual Recognition Arrangement (TTMRA) since the previous review, released in 2009.

1) The Commission is to:

a) assess the coverage, efficiency and effectiveness of the MRA and TTMRA;

b) recommend ways to further improve the inter-jurisdictional movement of goods and skilled workers, and reduce red tape, including examining the scope for automatic mutual recognition where applicable;

c) address matters identified by the Cross-Jurisdictional Review Forum, including, but not restricted to:

- the nature and extent of any problem caused by use of goods requirements that restrict the sale of goods under both the MRA and TTMRA, and the costs and benefits of any solutions proposed;

- the issues associated with extending mutual recognition to business registration requirements under the MRA or TTMRA where similar requirements would result in an individual being registered, and the costs and benefits of any options proposed; and

d) examine, following the entry into force of the Agreement on Trans-Tasman Court Proceedings and Regulatory Enforcement, the extent to which the Agreement could facilitate the Trans-Tasman provision of services by particular occupations, based on a single registration,

- consider how such an arrangement could operate; and

- identify and document evidence of any occupations where there is sufficient demand for, and barriers to, cross-border service provision to merit inclusion in such an arrangement;

e) examine the extent to which Commonwealth regulatory agencies are aware of their obligations under the TTMRA and have implemented mutual recognition processes.

2) In undertaking the research study, the Commission is to consult relevant stakeholders in Australia and New Zealand, including the Cross-Jurisdictional Review Forum and to substantiate recommendations, wherever possible, with evidence relating to the scale of the problem and the estimated cost of both the problem and any solution(s) proposed. The Commission should also have regard to the approaches being taken by the Council for the Australian Federation towards ‘minimising labour impediments to improving labour mobility’, following the decision by the majority of States at COAG on 13 December 2013 to not pursue the National Occupational Licensing Scheme reform.

3) The Commission’s report shall be presented to Australian Heads of Government and the New Zealand Prime Minister nine months from the date of commissioning and the Commission’s report is to be published.

4) Within three months of receiving the Commission’s findings, the Cross-Jurisdictional Review Forum is to present to Australian Heads of Government and the New Zealand Prime Minister a Review Report responding to those findings.

J. B. HOCKEY  
Treasurer

[Received 11 December 2014]

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# Abbreviations

AACA Architects Accreditation Council of Australia

AAT Administrative Appeals Tribunal

ADRs Australian Design Rules

AHPRA Australian Health Practitioner Regulation Agency

AHMAC Australian Health Ministers’ Advisory Council

AMR Automatic mutual recognition

APEC Asia-Pacific Economic Cooperation

ASQA Australian Skills Quality Authority

CAF Council for the Australian Federation

CER Closer Economic Relations

CJRF Cross-Jurisdictional Review Forum

COAG Council of Australian Governments

CPD Continuing professional development

CRSBANZ Council of Reciprocating Surveyors’ Boards of Australia and New Zealand

GDP Gross domestic product

GHS Globally Harmonised System of Classification and Labelling of Chemicals

ICNA Industrial Chemicals (Notification and Assessment)

ILO International Labour Organisation

IP Intellectual property

IPART NSW Independent Pricing and Regulatory Tribunal

ISO International Organisation for Standardisation

LPG Liquefied petroleum gas

LTRs Land Transport Rules

MRA Mutual Recognition Agreement

NICNAS Australian National Industrial Chemicals Notification and Assessment Scheme

NOLS National Occupational Licensing Scheme

NRAS National Registration and Accreditation Scheme

NZEPA New Zealand Environmental Protection Authority

NZLS New Zealand Law Society

OECD Organisation for Economic Co-operation and Development

PC Productivity Commission

QCA Queensland Competition Authority

RTO Registered training organisation

SOM COAG Senior Officials Meeting

SUSMP Standard for Uniform Scheduling of Medicines and Poisons

TTCPRE Trans-Tasman Court Proceedings and Regulatory Enforcement

TTMRA Trans-Tasman Mutual Recognition Arrangement

TTOT Trans-Tasman Occupations Tribunal

UN United Nations

UNECE United Nations Economic Commission for Europe

VET Vocational education and training

VPBNSW Veterinary Practitioners Board of New South Wales

WTO World Trade Organisation

# Glossary

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| --- | --- |
| Automatic mutual recognition (AMR) | A model of occupational registration which allows individuals to provide services beyond their home jurisdiction without having to register again under the mutual recognition schemes. |
| COAG Ministerial Councils | They include Ministers from the Commonwealth, states and territories and, in some cases, New Zealand. Such councils can be called upon to make decisions on how a specific good or occupation is to be treated under the mutual recognition schemes. |
| Coregulation | Coregulation involves government endorsement, usually by legislation, of a licensing scheme administered by a private‑sector professional body. |
| De facto registration | An arrangement where legislation authorises people who meet certain requirements (such as training requirements) to practise an occupation, without further reference to a registration body. |
| Deemed registration | Deemed registration allows a registered person who applied for mutual recognition in another jurisdiction to carry on their occupation in that jurisdiction, pending the outcome of their application. |
| External equivalence | An alternative term for automatic mutual recognition. Currently used to describe Queensland’s automatic mutual recognition arrangement for electricians. |
| Harmonisation | The alignment of different standards or regulations across jurisdictions. This does not mean that standards are identical in each jurisdiction, but rather that they are consistent or compatible to the extent that they do not result in barriers to trade. |
| Ministerial Declaration | A statutory instrument currently used in Australia to prescribe the equivalence of particular occupations. Ministers from two or more jurisdictions may jointly declare that occupations are equivalent, and may also specify or describe the conditions required to achieve equivalence. |
| Mutual recognition | Mutual recognition, as defined in Australia’s Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement, allows goods that can legally be sold in one jurisdiction to be sold in other jurisdictions without having to satisfy additional requirements. Similarly, people registered to practise an occupation in one jurisdiction are entitled to be registered for an equivalent occupation in other jurisdictions after notifying the local registration authority. |
| Negative occupational licensing | A statutory scheme that allows a person or business to practise an occupation unless they breach certain statutory requirements. |
| Occupational equivalence | Registered occupations in different jurisdictions are considered equivalent under the mutual recognition schemes if the activities authorised to be carried out in each jurisdiction are substantially the same. |
| Registration of an occupation | The licensing, approval, admission, certification (including by way of practising certificates) or any other form of authorisation, of a person required by or under legislation for carrying on an occupation. |
| Shopping and hopping | The practice of registering in a jurisdiction with less stringent requirements and then obtaining registration through mutual recognition in a more stringent jurisdiction. |
| Uniformity | A single standard or regulation that applies across all jurisdictions. |