

2 March 2015

Mutual Recognition Schemes Study
Productivity Commission
Locked Bag 2
Collins Street East
MELBOURNE VIC 8003

Sent via email to: mutual.recognition@pc.gov.au

Dear Commissioner,

Master Electricians Australia is grateful for the opportunity to provide a submission in response to the Productivity Commission's Mutual Recognition Schemes Issues Paper.

Master Electricians Australia (MEA) is a dynamic and modern trade association representing electrical contractors. A driving force in the electrical industry and a major factor in the continued success and security of electrical contractors, MEA is recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. The organisation's website is: www.masterelectricians.com.au.

As an organisation representing the electrical and communications industry we are passionate about maintaining the highest of licensing standards for electrical workers and contractors. The high risk nature of working in the electrical industry demands that only those persons with the requisite levels of skills and experience should be permitted to perform electrical work for the public. Throughout the consultation process for national occupational licensing MEA consistently pushed for best practice standards to be adopted. We were disappointed that COAG's proposed model for national licensing seemed to favour a "lowest common denominator" approach to regulation.

Now that national occupational licensing is no longer being pursued by government, we welcome the Productivity Commission's inquiry into mutual recognition schemes. We are optimistic that this inquiry will assist in the development of a more streamlined licensing regime in Australia that makes no compromises on electrical safety standards.

We have chosen to focus our response on the terms of reference at 1(b), namely the Commission's task to *"recommend ways to further improve interjurisdictional movement of goods and skilled workers, and reduce red tape, including examining the scope for automatic mutual recognition where applicable"*.

Mutual recognition

We would argue that maintaining the current system of mutual recognition is not the most effective strategy for improving interjurisdictional movement of skilled workers or to reduce red tape. There are several disadvantages associated with the existing model of mutual recognition, namely:

1. Differing licensing standards

The hazards of mutual recognition arrangements for electrical occupations and contractors are similar to those associated with COAG's proposed national licensing model. Electrical contractors licensed in states with lower licensing standards can perform electrical work in states that have adopted best practice licensing criteria.

Of specific concern are electrical contractor licensing standards in NSW which are lower than most states and territories and which many state governments are strongly opposed to. Queensland and Western Australia in particular have expressed their concern about NSW electrical contractor licensing standards throughout the national licensing consultations. Areas of specific concern for electrical contractor licensing standards in NSW are:

- Contractors are not required to hold professional indemnity insurance;
- Appropriate business and safety training are not licensing criteria; and
- Applicants do not need to show any evidence of experience.

These issues acts as barrier to states like Queensland and Western Australia supporting mutual recognition. These states could have option of restricting recognition to those licences where equivalency has been declared. However, it would not serve to ease the licensing impediments for electrical contractors working across state lines, thereby defeating the purpose of a more harmonised licensing regime.

At present the application fees for Electrical Contractors and varying lengths of licence are:

State/Territory	Licence length	Application fee
Queensland	1 year	\$337.40
New South Wales		
- Sole Trader	3 years	\$566.00
- Company	3 years	\$961.00
Victoria	5 years	\$573.00
Tasmania	1 year	\$488.40
South Australia	1 year	\$184.00
Northern Territory	3 years	\$215.00
Western Australia	5 years	\$531.00 (incs application and registration fees)
Australian Capital Territory	3 years	\$722 (incs application and licence term fees)

At present the application fees for Electrical Workers and varying lengths of licence are:

State/Territory	Licence length	Application fee
Queensland	5 years	\$70.70
New South Wales	3 years	\$137.00
Victoria	5 years	\$368.00
Tasmania	3 years	\$310.80
South Australia	3 years	\$235.00
Northern Territory	5 years	\$50.00
Western Australia	5 years	\$365.00 (incs application and registration fees)
Australian Capital Territory	3 years	\$722 (incs application and licence term fees)

In addition, electrical workers have a number of additional licenses they require in order to be competitive in the marketplace, including communication cabling, fire protection, security installer and solar PV accreditation.

2. *Administrative burden*

Licence holders and Contractors still need to approach the regulator in each jurisdiction they wish to work in and prove they are licensed in another jurisdiction.

3. *Financial burden*

Licensees would still be required to pay a fee to receive an equivalent licence for that jurisdiction. This process imposes financial costs and time delays, and may impede short-term interstate service provision.

External Equivalence Arrangements

MEA would however be supportive of the introduction of external equivalence arrangements, a form of automatic mutual recognition, for electrical worker occupations. This arrangement is in place in Queensland and under Schedule 1 of the *Electrical Safety Regulation 2002* external Australian and New Zealand licences are taken to be equivalent to particular Queensland electrical work licences. A person performing electrical work within the authority of one of these current external licences is taken to hold an electrical work licence and is not legislatively required to apply for the equivalent Queensland licence.

In order to realise the full benefits of such an arrangement it is proposed external equivalence would need to be adopted by all states and territories throughout Australia, with the range of occupations currently covered to be gradually expanded.

The introduction of an external equivalence scheme was an Electrical Regulatory Authorities Council (ERAC) directive 20 years ago that has never been fully implemented.

BENEFITS

- Electrical worker and contractor licensees would only need to register with the state in which they reside, thereby easing the administrative burden experienced by both the licensees and licensing regulators.
- It would allow for greater mobility of labour for electrical licensees working across state lines.
- State governments would retain control of licensing standards in their own states by having the option not to recognise a licence if it is considered to be at a lesser level.
- State governments would also have the ability to enforce additional licensing criteria. For example, an electrical contractor may be asked to show evidence of adequate insurance and a minimum level of experience as a licensed electrician.
- Providing the states with more control will overcome the concerns expressed by many state regulators about the national licensing model proposed by National Occupational Licensing Authority (NOLA) whereby licensing criteria was at the lowest common denominator level.
- Would ease the financial burden on electrical licensees of paying licensing fees in multiple jurisdictions.

OBSTACLES

- *Lost licensing fees*

State governments may be reluctant to support this model given the licensing fees they will lose from licensees who will no longer need to apply for a licence in each state they wish to perform work. This is a particular issue for West Australian and Victorian governments whose electrical licensing regulators are funded by electrical licensing fees.

However, this may be balanced by the administrative savings that will result from the changes.

A risk may also be created whereby licensing in states with lower costs are more attractive to register with.

- *Legislative challenges*

Further opposition from Western Australia may result from the *Mutual Recognition Act* in Western Australia not allowing for external equivalence arrangements.

However, it is our view there is potential to successfully challenge the WA provisions to accommodate external equivalence arrangements. It must be noted that before any legal challenges are mounted regarding the legitimacy of the WA laws the costs involved would need to be balanced against the overall benefits to be realised.

- *Electrical Contractor licences*

A major impediment to acceptance of this model concerns electrical contracting licenses. Currently, in New South Wales there is no requirement for electrical contractors to hold professional indemnity insurance. This is likely to deter the majority of state governments from permitting NSW contractors to operate in their state.

However, this obstacle is not insurmountable. Regarding insurance requirements, there is the option of requiring interstate licensees to simply provide a Certificate of Currency or a statutory declaration. Another alternative may be the introduction of a conduct rule for business licensees from states that do not require insurance.

Alternatively, electrical contractors licences could be initially excluded under external equivalence arrangements. There may be potential for states without insurance requirements and other electrical contractor licence standards to later change their criteria when they recognise the benefits of their contractors being able to operate interstate.

- *Power Distributors administrative requirements*

There are also administrative obstacles regarding the processes used by electric power distribution bodies. For example in Queensland, Energex and Ergon cannot accept electrical contractor forms from interstate licence holders as they will not be on their licence database.

However, a system could be introduced whereby interstate distributors have access to the licence databases of other states to allow the relevant forms to be accepted. Alternatively, when a contractor submits a form which would include their licence identifier and state of registration, they could be required to sign terms and conditions attesting to the currency of their licence status. For those electrical contractors from a state not recognised under the external equivalence scheme, they would not have their forms accepted.

- *Restricted Electrical Licences (RELs)*

The numerous categories of RELs could be an obstacle to an Australia wide external equivalence scheme being adopted.

However, in practice, it is uncommon for REL holders to operate across state lines. Excluding REL holders from the scope of an external equivalence scheme is unlikely to have any significant impact on the mobility of labour.

- *New Zealand involvement*

There is also the issue of New Zealand's involvement in external equivalence arrangements. An overseas trained electrical licence holder would be able to travel to New Zealand, obtain a New Zealand electrical licence and under external equivalence arrangements have permission to work in Australia. The concern being that the standard of training in other countries may not be to the same level as Australia which could create an electrical safety risk. Ensuring the appropriate levels are met could create a significant burden for New Zealand and Australian state regulators who would need knowledge of each country's licensing criteria. It has been highlighted in other national licensing processes, such as nursing, that entry to Australia via New Zealand with lesser qualification is a significant concern and that past mistakes of other bodies should not be repeated.

However, there remains the option for the respective state regulators to require additional licensing criteria which may include confirmation of equivalency for an overseas acquired qualification. Ideally, no additional criteria would be imposed and it would be preferable for the respective regulators to come to some agreement on training standards.

Conclusion

As indicated above, MEA is in favour of the drivers licence/ external equivalence model of mutual recognition licensing arrangements. We are optimistic that the Council for the Australian Federation's consideration of this model will see its implementation throughout Australia. To assist the equivalency model, a single licensing law could be established to monitor and review all electrical worker and contractors licenses, with proceeds returned to the States after a deduction of costs. This is similar to the Australian Health Practitioners Regulation Agency which exists based on National uniform legislation enacted in each state. The Australian Consumer Law is another example of a nationally consistent law that achieves its purpose.

However, if the decision is made to continue with the existing mutual recognition system, we strongly recommend that all states and territories be compelled to be involved. Without the participation of all state and territory governments the primary goal of improving interjurisdictional movement of skilled workers would be defeated. If agreement cannot be made, this may necessitate the intervention of the Federal Government to require all states and territories to implement a mutual recognition system. Section 51 of the Constitution relevantly states that:

"The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:-

(i.) Trade and commerce with other countries, and among the States;

...

Given that contractors working across state lines are engaged in commerce, this provision may allow the Federal Government to legislate for all states and territories to participate in a mutual recognition system. Ideally this would not be necessary, however, should mutual recognition be the favoured model, this may be a means to achieve the required end of improving interjurisdictional movement of skilled workers.

MEA again appreciates the opportunity to contribute to the discussion on mutual recognition and would be eager to participate in any further consultations on this issue.

Yours faithfully,

Malcolm Richards
CEO