

QUEENSLAND COLLEGE OF TEACHERS

**SUBMISSION TO PRODUCTIVITY COMMISSION
REVIEW OF MUTUAL RECOGNITION SCHEMES
JANUARY 2015**

BACKGROUND

The Queensland College of Teachers ('the QCT') was established in January 2006 under the *Education (Queensland College of Teachers) Act 2005* ('the Act'). The QCT is the body responsible to the Queensland Minister for Education for a range of functions associated with the regulation of the teaching profession in Queensland. Its functions include registration and disciplining of teachers, approval of preservice teacher education programs, development and implementation of professional standards for teachers, development and implementation of a continuing professional development framework, and the promotion of the teaching profession to the public.

Under the Act, to be eligible for registration in Queensland, teachers are required to:

- have appropriate qualifications or be able to demonstrate that they meet the professional standards;
- be assessed as 'suitable to teach' (on the basis of criminal history and other relevant information as specified in the Act); and
- be able to communicate in English at a professional level.

Acceptable academic qualifications for registration include:

- a preservice teacher education program undertaken in Queensland which has been approved by the QCT; or
- a four-year preservice teacher education program including at least one year of professional studies in education from a recognised higher education institution in Australia; or
- a degree and a one-year postgraduate preservice teacher education program from a recognised higher education institution in Australia; or
- overseas qualifications deemed to be equivalent to any of the above.

There are currently approximately 102,000 teachers on the register in Queensland. The QCT receives about 6,500 applications for registration each year, including some 2,000 from interstate and overseas.

In 2014 the QCT granted registration under mutual recognition provisions to a total of 788 teachers from interstate and New Zealand. The number of teachers from each jurisdiction who were granted registration in Queensland under mutual recognition in 2014 is shown in the table below.

Numbers of teachers granted registration in Queensland under mutual recognition in 2014

JURISDICTION:	NO.
Australian Capital Territory	39
Northern Territory	121
South Australia	67
Tasmania	43
Victoria	268
Western Australia	98
New Zealand	152
Total	788

ISSUES

This submission does not attempt to respond to all questions posed in the Productivity Commission Issues Paper but comments only on issues particularly pertinent to the QCT.

Issues Paper Questions 27-28: Requirements for the ‘manner of carrying on’ an occupation

The QCT considers that the current scheme allows for teachers to move easily between states and territories and does not believe that teacher workforce mobility is hindered under the scheme. For that reason the QCT does not consider necessary the European Union model of registration. The QCT would also not support this model for other reasons, as outlined below.

One significant aspect of teacher registration is the requirement and need for a criminal record and character check of all applicants for registration as a teacher. The view of the QCT is that this check should continue to be required by each jurisdiction. The QCT would argue that the example of the architect given at page 13 of the Issues Paper is quite different from that of teachers and child safety considerations.

Because of the differences among jurisdictions in the legislative provisions applying to criminal history checks, registration authorities in some jurisdictions are able to obtain more information than others through police checks. Provisions differ regarding the type of offences revealed and whether and to what extent ‘spent’ convictions are revealed. For example, the QCT and some (but not all) interstate teacher registration authorities are parties to the inter-jurisdictional exchange of ‘expanded’ criminal history information for people working with children. That ‘expanded’ information includes details of interstate pardoned and spent convictions and is information used in determining an applicant’s suitability to work in a child-related field.

Under the *Education (Queensland College of Teachers) Act 2005*, the QCT is required to make the welfare and best interests of children its primary considerations when performing its functions. The QCT believes that the additional level of security provided by undertaking its own criminal record and character checks is necessary to enable it to fulfil this requirement regarding the protection of children.

The 2009 Productivity Commission Review into Mutual Recognition Schemes recommended (at recommendation 5.4) that mutual recognition Acts should be amended to allow criminal record checks if they are required of local applicants. While in practice these required and necessary checks are conducted, the QCT would support the recommendation being implemented. In addition, the QCT would support legislative amendment to provide for

refusal of registration under mutual recognition where the local registration authority determines an applicant unsuitable to be a teacher following criminal and character checks.

Unlike other jurisdictions, the QCT has in place with the Queensland Police Service (QPS) daily monitoring of any changes of criminal history of all teachers registered in Queensland. In the QCT's view this reinforces the need for each jurisdiction to undertake both initial and ongoing criminal records checks to ensure a high level of rigour to child safety considerations.

The QCT considers that the one month period within which (under section 21(1) of the *Mutual Recognition Act*) registration must be granted (unless postponed or refused) by the local registration authority is too short to allow adequate criminal and character checks to be undertaken in all cases. For example, more time is needed to allow the registration authority to confirm that the criminal history provided by the police service is in fact that of the applicant, and to allow natural justice considerations to be effected (e.g., adequate time for an applicant to make submissions in response to any criminal history or other relevant material).

The QCT believes that in relation to the registration of teachers, some jurisdictions are not implementing 'deemed registration' (as defined at section 25 of the *Mutual Recognition Act*) because of their concerns about potential implications for child safety.

Issues Paper Questions 37-40: Conditions

Nationally consistent approaches to the professional standards required of teachers and accreditation of initial teacher education programs have assisted in consistency of teacher registration under mutual recognition. In that regard, to the QCT's knowledge, the various teacher registration bodies in Australia and New Zealand are not interpreting the equivalence of occupations in markedly different ways.

To the QCT's knowledge, the imposition of conditions on people registering under mutual recognition is not widespread in teacher registration and occurs only in isolated individual cases. The QCT does not impose conditions on persons granted full registration under mutual recognition except for small numbers who are restricted to teaching certain subjects because this restriction pertained to them in their originating State.

The QCT is also not aware of teacher registration authorities applying prerequisites for initial registration to people seeking registration under mutual recognition.

However, there are differences among these jurisdictions as to whether early childhood teachers (in institutions catering for children below school age) and vocational educational teachers are required to be registered. For example, kindergarten teachers in Queensland are not required to be registered as teachers, while kindergarten teachers are required to be registered in other states (e.g. South Australia).

There has been some uncertainty among Australian jurisdictions as to the status of the 'accreditation' regime operating in New South Wales. This differs from the registration systems in other states in that (for example) accreditation is granted only **after** a teacher is employed, it is not mandatory for teachers who were employed before the accreditation scheme came into existence, and character checks are undertaken by the various employing authorities rather than by the accreditation authority. To date, other jurisdictions have not applied mutual recognition provisions to applicants who are 'accredited' in New South Wales. Exceptions are that the Victorian Institute of Teaching (VIT), Northern Territory Board of Teacher Registration and the Australian Capital Territory Teacher Quality Institute have developed a Memorandum of Understanding with the New South Wales Institute of Teachers (now the Board of Studies, Teaching and Educational Standards) under which these jurisdictions recognize teachers accredited in New South Wales. Legal advice obtained in

Victoria, however, indicates that mutual recognition legislation is applicable only to situations where licensing is universal, i.e. where it is mandatory for all those in the relevant occupation in a jurisdiction. The QCT would support the application of mutual recognition provisions to jurisdictions when only a proportion of people in the occupation are registered or accredited as in New South Wales circumstances.

Issues Paper Questions 41-42: Requirements for continued registration of occupations

The QCT believes that it is essential for reasons of quality teaching and protection of children that ongoing requirements for registration including matters such as continuing professional development and criminal record checks are applied equally to all registered teachers in Queensland.

The QCT would support any legislative amendments that would strengthen this position.

Issues Paper Questions 43-44: Differences in occupational standards across jurisdictions

As far as the QCT is concerned, 'shopping and hopping' has not been an issue. Shopping and hopping has not occurred to the extent that might have been feared at the time of previous reviews of mutual recognition arrangements.

However, there are risks in terms of jurisdiction shopping. In addition to the child safety and criminal records checking issues covered elsewhere in this submission, also significant is the risk around teacher quality. Examples of this latter risk include the acceptance by the New Zealand Teachers Council of three-year teaching qualifications. In addition the English language proficiency requirements for registration in New Zealand are lower than those that are applied by Australian teacher regulatory authorities. New Zealand continues to be the only jurisdiction (of those party to Australian mutual recognition arrangements) markedly out of line regarding qualifications for teacher registration.

There are other more minor differences among jurisdictions regarding requirements for teacher registration. For example, jurisdictions differ as to which overseas-trained applicants (in terms of the countries in which they completed their teacher education) are regarded as exempt from demonstrating English language proficiency, and as regards acceptable scores on the various tests of English language proficiency. An example includes applicants with teaching qualifications from countries such as India, China and South Africa being able to be registered as teachers in some jurisdictions without scrutiny of English language proficiency.

The QCT sees it as desirable for the different jurisdictions to agree on minimum requirements without preventing jurisdictions requiring higher levels where they see this as appropriate.

Issues Paper Questions 46-49: Automatic mutual recognition of occupations

As discussed above, the QCT is strongly of the view that the teacher registration should remain within the province of each state and territory jurisdiction.

Issues Paper Questions 51-55: Coordination, monitoring, awareness and expertise

The QCT is satisfied with the current operation of the existing mutual recognition scheme as it applies to teacher registration. A national body – the Australasian Teacher Regulatory Authorities (ATRA) – already exists that meets regularly and addresses any issues arising in regard to registration of teachers. ATRA reports under both the standing committees of Ministers and education officials.

The QCT has not had a mutual recognition related decision challenged. Expertise of QCT staff has been developed. Notwithstanding, the QCT has found the 'User's Guide' to be of limited assistance in the day to day application of the mutual recognition legislation and scheme as it lacks guidance on practical but important issues. Examples include the validity of a section 19 notice for the purpose of deemed registration when the notice lodged does not contain registration evidence required by section 19(3), whether the grounds for postponement and refusal are limited to the legislatively prescribed matters and in a related issue, whether refusal of registration is available where a material change of circumstances has occurred in the postponement period.

The QCT sees it as a problem that there is no central agency which can advise on interpreting and applying mutual recognition legislation and that it is therefore up to each jurisdiction to obtain its own legal advice on these matters. This can result in different practices being adopted by different registration authorities each acting on differing legal interpretations.

The QCT acknowledges that sometimes the only way to overcome the problem of the existence of differing policies is to adopt a 'lowest common denominator' approach. This can be undesirable in that it means some jurisdictions adopting lower standards than they would like.

The QCT sees it as a risk under the current arrangement that New Zealand could unilaterally (i.e. without the consent of Australian jurisdictions) recognise (through other mutual recognition arrangements) teachers from another country where requirements for practising as a teacher are less stringent than those applying in Australian states. Would Australian jurisdictions then be obliged to register, under mutual recognition, applicants from such a country who have gained registration in New Zealand?
