



Government of **Western Australia**
Department of the **Premier and Cabinet**
Economic and Deregulation

Our ref: D1504341

Mr Jonathon Coppel
Presiding Commissioner
Productivity Commission
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Collins Street East
MELBOURNE VIC 8003

mutualrecognition@pc.gov.au

Dear Mr Coppel

I refer to the Commission's recent draft report on Mutual Recognition (MR). The draft report raises a number of policy issues which Western Australia may wish to address through any joint Government response to a final report. However, at this stage, I wish to bring to your attention a concern that references in the draft report imply that a condition imposed by EnergySafety to require applicants for an electrical contractors licence to undertake further training (pages 10 and 126 of the draft report) is in breach of the MR legislation.

EnergySafety has advised that under the *Electrical (Licensing) Regulations 1991* (WA), local applicants have to undergo the "Electrical Contractor Training Program" before they are issued with an Electrical Contractor's Licence. The course comprises four training modules:

- Establishing a Contracting Business;
- General Legislative Requirements;
- Legislative requirements in WA; and
- WA Electrical requirements.

Applicants who apply under MR are exempted from completing the first two modules where they hold a current electrical contractor's licence in another state or territory of Australia. They are, however, requested to complete the other two modules which ensure they are familiar with local requirements, such as submission of Notices to network operators and issuing of Electrical Safety Certificates. Applicants are also trained on the WA Electrical Requirements which are a set of local technical safety requirements, that is, variations from Australian Standards.

Applicants can complete these modules by distance education or recognition of prior learning and can apply for an electrical contractor's licence in WA before they commence work in WA.

Under section 20(5) of the *Mutual Recognition Act 1992* (Cth), as adopted in Western Australia by the *Mutual Recognition (Western Australia) Act 2010* (WA) and section 19(5) of the *Trans-Tasman Mutual Recognition Act 1997* (Cth) as adopted by the *Trans-Tasman Mutual Recognition (Western Australia) Act 2007* (WA), a local registration authority may impose conditions on registration so long as they are not more onerous than those applied to local applicants. Our view is that the condition imposed by EnergySafety WA falls within this category.

In reaching this conclusion, we note the legal advice sought by the Productivity Commission for its 2009 review of the MR schemes which considered whether regulators could impose local knowledge requirements under the above provisions. The Australian Government Solicitor was unable to express a firm conclusion about whether the power to impose general conditions is subject to the MR principle or not and recommended that the legislation be amended to address the ambiguity.

If you require further information, please contact Lucy Halligan on (08) 6552 5943 or lucy.halligan@dpc.wa.gov.au.

Yours sincerely



David Smith
DEPUTY DIRECTOR GENERAL

10 AUG 2015