



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 1

# Mutual Recognition (New South Wales) Amendment Bill 2021

Report 55

June 2021

1



[www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au)



Portfolio Committee No. 1 - Premier and Finance

# **Mutual Recognition (New South Wales) Amendment Bill 2021**

Ordered to be printed 8 June 2021

New South Wales Parliamentary Library cataloguing-in-publication data:

**New South Wales. Parliament. Legislative Council. Portfolio Committee No. 1 – Premier and Finance.**

**Mutual Recognition (New South Wales) Amendment Bill 2021** / Portfolio Committee No. 1 – Premier and Finance [Sydney, N.S.W.]: the Committee, 2021.

[x, 50] pages ; 30 cm. (Report no. 55 / Portfolio Committee No. 1 – Premier and Finance)

“June 2021”

Chair: Hon. Tara Moriarty MLC.

ISBN: 9781922543240

1. Constitutional amendments -- Australia.
2. Occupations -- Workplaces -- Employment -- Interstate relations --Australia.
  - I. Moriarty, Tara.
  - II. Title.
  - III. Series: New South Wales. Parliament. Legislative Council. Portfolio Committee No. 1 – Premier and Finance. Report ; no. 55

354.3420294 (DDC22)

## Table of contents

	<b>Terms of reference</b>	<b>v</b>
	<b>Committee details</b>	<b>vi</b>
	<b>Chair's foreword</b>	<b>vii</b>
	<b>Recommendations</b>	<b>viii</b>
	<b>Conduct of inquiry</b>	<b>ix</b>
<b>Chapter 1</b>	<b>Overview</b>	<b>1</b>
	<b>Background to the bill</b>	<b>1</b>
	Current arrangements for the mutual recognition of equivalent occupations across Australia	1
	The agreement for automatic mutual recognition	2
	The Commonwealth Mutual Recognition Amendment Bill 2021	2
	The Mutual Recognition (New South Wales) Amendment Bill 2021	6
	<b>Referral of the bill</b>	<b>7</b>
<b>Chapter 2</b>	<b>Provisions of the bill</b>	<b>9</b>
	<b>Summary of participants to the inquiry supporting and opposing the bill</b>	<b>9</b>
	<b>Referral of power to the Commonwealth Parliament</b>	<b>11</b>
	<b>Development of the the AMR scheme</b>	<b>12</b>
	<b>Perceived benefits of the AMR scheme</b>	<b>13</b>
	<b>Rationale for the AMR scheme</b>	<b>16</b>
	<b>Safeguards to the operation of the AMR scheme</b>	<b>17</b>
	Safeguards under the present MR scheme	17
	Safeguards under the AMR scheme	18
	<b>The impact of AMR on the safety of workers, consumers and the community</b>	<b>19</b>
	Variations in requirements and prerequisites for occupational registration	19
	A race to the bottom?	21
	Safety risks	22
	Proposals for a way forward	26
	<b>The impact of AMR on regulatory oversight and enforcement</b>	<b>33</b>
	Additional safeguards to the AMR scheme	34
	<b>Committee comment</b>	<b>35</b>

<b>Appendix 1</b>	<b>Submissions</b>	<b>39</b>
<b>Appendix 2</b>	<b>Witnesses at hearing</b>	<b>40</b>
<b>Appendix 3</b>	<b>Minutes</b>	<b>41</b>

---

## Terms of reference

That:

- (a) the provisions of the Mutual Recognition (New South Wales) Amendment Bill 2021 be referred to Portfolio Committee No. 1 – Premier and Finance for inquiry and report,
- (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly,
- (c) the committee report by 11 May 2021, and
- (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill.

The terms of reference were referred to the committee by the Legislative Council on 23 March 2021.<sup>1</sup>

---

<sup>1</sup> *Minutes*, NSW Legislative Council, 23 March 2021, p 2059.

## Committee details

### Committee members

<b>Hon Tara Moriarty MLC</b>	Australian Labor Party	<i>Chair</i>
<b>Hon Robert Borsak MLC</b>	Shooters Fishers and Farmers Party	<i>Deputy Chair</i>
<b>Ms Abigail Boyd MLC</b>	The Greens	
<b>Hon Mark Buttigieg MLC *</b>	Australian Labor Party	
<b>Hon Ben Franklin MLC</b>	The Nationals	
<b>Hon Taylor Martin MLC</b>	Liberal Party	
<b>Hon Peter Poulos MLC ***</b>	Liberal Party	
<b>Hon Adam Searle MLC</b>	Australian Labor Party	
<b>Hon Walt Secord MLC **</b>	Australian Labor Party	

- \* The Hon Mark Buttigieg MLC is a participating member from 25 March 2021 for the duration of the inquiry and replaced the Hon Adam Searle MLC as a substantive member for the committee's meeting on 4 June 2021.
- \*\* The Hon Walt Secord MLC is a participating member from 25 March 2021 for the duration of the inquiry.
- \*\*\* The Hon Peter Poulos MLC replaced the Hon Natalie Ward MLC as a substantive member of the committee from 3 June 2021.

### Contact details

<b>Website</b>	<a href="http://www.parliament.nsw.gov.au">www.parliament.nsw.gov.au</a>
<b>Email</b>	<a href="mailto:PortfolioCommittee1@parliament.nsw.gov.au">PortfolioCommittee1@parliament.nsw.gov.au</a>
<b>Telephone</b>	(02) 9230 2553



## Chair's foreword

The Mutual Recognition (New South Wales) Amendment Bill 2021 (the bill) provides for the introduction in New South Wales of the national Automatic Mutual Recognition scheme (AMR scheme) for occupational registrations between states and territories in Australia.

While the committee's inquiry into the bill was underway, the national AMR scheme was legislated by the Commonwealth Parliament. This scheme gives effect to an Intergovernmental Agreement, signed by all Australian jurisdictions except the Australian Capital Territory, to implement a uniform AMR scheme whereby occupational registrations are automatically recognised across state and territory borders.

At the time the committee called for submissions and held its public hearing, there was uncertainty about the final form of the AMR scheme, as the federal legislation establishing the scheme was still before the Commonwealth Parliament. This concerned many stakeholders, who urged for certainty in the scheme and its safeguards to be reached prior to the passage of the bill through the NSW Parliament. Ultimately, the extension to the committee's reporting date for this inquiry afforded the committee the opportunity to examine the final AMR scheme as passed by the Commonwealth Parliament.

There are benefits which are likely to flow to individuals, businesses and the economy from the implementation of the AMR scheme as a result of labour mobility and decreased costs for workers, consumers and businesses. However, a common and serious concern expressed by stakeholders was that for occupations and trades where there are significant differences across jurisdictions in registrations and licensing, the application of the AMR scheme would create safety risks for workers, consumers and the community. In addition, there is a risk that its implementation would create a 'race to the bottom' in occupational registration requirements and standards.

Therefore, the committee takes the view that the application of the AMR scheme is suitable and useful for occupations that have harmonised or consistent occupational registration requirements and scopes of work. For this reason, the committee recommends that the bill proceed to debate in the Legislative Council and calls on members to consider the views of this committee and the stakeholders who provided evidence during this inquiry.

However, the committee further recommends that the Government immediately undertake proper and meaningful consultation with industry stakeholders for certain occupations and trades where there is a lack of harmonisation in registrations and licencing, including those who participated in this inquiry, with the objective of an opt-in mechanism for occupations to be available once industry stakeholders agree they should be included in the AMR framework.

On behalf of the committee, I would like to thank all those who participated in the inquiry. I would also like to thank the secretariat for their assistance, and committee members for their considered contributions to this process.



Hon Tara Moriarty MLC  
**Committee Chair**

## Recommendations

### **Recommendation 1**

**37**

That the Legislative Council proceed to debate the Mutual Recognition (New South Wales) Amendment Bill 2021 and the committee comments and stakeholders' views expressed in this report be addressed during debate in the House.

### **Recommendation 2**

**37**

That the Government conduct comprehensive, immediate and ongoing consultation with stakeholders across various trades and occupations which are not sufficiently harmonised, including electrical, teaching, mining, plumbing, medical gas, fire protection and building, maintenance and construction work, with the objective of an opt-in mechanism for occupations to be available once industry stakeholders agree they should be included in the AMR framework.

## Conduct of inquiry

The terms of reference were referred to the committee by the Legislative Council on 23 March 2021.

On 5 May 2021, the House extended the reporting date for the inquiry until 10 June 2021.

The committee received 13 submissions, including a submission from the Department of the Prime Minister and Cabinet after the closing date for submissions responding to developments in the Commonwealth Parliament.

The committee held one public hearing at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts and tabled documents.



## Chapter 1 Overview

This chapter provides background information on the Mutual Recognition (New South Wales) Amendment Bill 2021 (the bill). The bill, if enacted, will amend the *Mutual Recognition (New South Wales) Act 1992* and will introduce in New South Wales the uniform Commonwealth legislated Automatic Mutual Recognition scheme (AMR scheme) for occupational registrations between states and territories in Australia.

### Background to the bill

#### Current arrangements for the mutual recognition of equivalent occupations across Australia

- 1.1 Mutual recognition (MR), in the context of this report, is an entitlement for a person in one Australian jurisdiction to be registered for an equivalent occupation in another Australian jurisdiction on the basis of their existing registration, without further assessment of their qualifications.<sup>2</sup>
- 1.2 According to the submission from the Department of the Prime Minister and Cabinet, in 2019, almost one in five Australian workers, including electricians, plumbers, teachers, real estate agents and security officers, required a registration or a licence to perform their work.<sup>3</sup>
- 1.3 Mutual recognition of equivalent occupations across Australian jurisdictions has been in place since 1992. In that year, New South Wales and Queensland (the initial referring states) referred the power to enact uniform national mutual recognition law to the Commonwealth Parliament pursuant to section 51(xxxvii) of the Commonwealth Constitution. The relevant NSW Act was the *Mutual Recognition (New South Wales) Act 1992* (NSW MR Act).<sup>4</sup>
- 1.4 The Commonwealth subsequently enacted the *Mutual Recognition Act 1992* (Cth) (Federal MR Act) based on the references made by the initial referring States. South Australia, Tasmania, Victoria and Western Australia also subsequently adopted the Commonwealth Act pursuant to section 51(xxxvii) of the Commonwealth Constitution. In addition, the Commonwealth Act applies to the Australian Capital Territory and the Northern Territory by virtue of section 122 of the Commonwealth Constitution. As a result, all states and territories of Australia are currently covered by the Federal MR Act.<sup>5</sup>
- 1.5 Under the arrangements in place since 1992, people registered to practise an occupation in one jurisdiction are entitled to apply for recognition of their licences in another jurisdiction. Assessment is based on schedules that specify equivalent occupational registrations between jurisdictions. A fee is usually payable. Deemed registration is granted initially, pending verification of the person's registration in their origin jurisdiction.<sup>6</sup>

<sup>2</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 5.

<sup>3</sup> Submission 13, Department of the Prime Minister and Cabinet, p 2.

<sup>4</sup> Explanatory Note, Mutual Recognition (New South Wales) Amendment Bill 2021, p 1.

<sup>5</sup> Explanatory Note, Mutual Recognition (New South Wales) Amendment Bill 2021, p 1.

<sup>6</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 5.

- 1.6 Since 2006, Australian jurisdictions have produced Ministerial Declarations which are statutory instruments prescribing the equivalence of occupations across jurisdictions. Where there is a Ministerial Declaration for licence equivalency for an occupation, the process of MR is often streamlined as the need for a regulator to make a case-by-case assessment of a licence is reduced.<sup>7</sup>

### **The agreement for automatic mutual recognition**

- 1.7 In late 2020, National Cabinet agreed to introduce a uniform scheme for AMR of occupational registrations between jurisdictions. The Intergovernmental Agreement on Automatic Mutual Recognition of Occupational Registration, was signed by all jurisdictions, with the exception of the Australian Capital Territory at the National Cabinet meeting on 11 December 2020. The agreement included a commitment to implement AMR from 1 July 2021.<sup>8</sup>

### **The Commonwealth Mutual Recognition Amendment Bill 2021**

- 1.8 To implement the Intergovernmental Agreement on Automatic Mutual Recognition of Occupational Registration, the Commonwealth Government, in collaboration with the state and territory governments and in consultation with industry, trade unions and regulators, developed the Mutual Recognition Amendment Bill 2021 (Cth) (Federal MR Bill).
- 1.9 In December 2020, the Australian Government released an exposure draft of the Mutual Recognition Amendment Bill 2020 (Cth), as well as a consultation paper. The Department of the Prime Minister and Cabinet undertook public consultation from 17 December 2020 to 12 February 2021, receiving 168 submissions and publishing 138 of those on its website.<sup>9</sup> The Department of the Prime Minister and Cabinet's submission added that the Australian Government held nine virtual national roundtables with industry on the AMR scheme in January and February 2021, with more than 60 participants.<sup>10</sup> The Commonwealth and state and territory governments also held a range of meetings and lead consultations with industry, unions and regulator stakeholders.<sup>11</sup>
- 1.10 The Federal MR Bill was introduced in the House of Representatives on 18 March 2021 and passed that House on 25 March 2021.<sup>12</sup> An amended Federal MR Bill passed the Senate on

---

<sup>7</sup> Productivity Commission, *Mutual Recognition Schemes*, Research Report, 25 September 2015, pp 145-46.

<sup>8</sup> Department of the Prime Minister and Cabinet, Intergovernmental Agreement on Automatic Mutual Recognition of Occupational Registration, 11 December 2020.

<sup>9</sup> Submission 13, Department of the Prime Minister and Cabinet, p 5; Department of the Prime Minister and Cabinet, *Consultation on Automatic Mutual Recognition*, [Deregulation Taskforce], <https://www.pmc.gov.au/domestic-policy/deregulation-taskforce/consultation-automatic-mutual-recognition>.

<sup>10</sup> Submission 13, Department of the Prime Minister and Cabinet, p 5.

<sup>11</sup> Submission 13, Department of the Prime Minister and Cabinet, p 5.

<sup>12</sup> *Votes and Proceedings*, Australian House of Representatives, 18 March 2021, p 1743-4; *Votes and Proceedings*, Australian House of Representatives, 25 March 2021, p 1784-5.

12 May 2021.<sup>13</sup> The bill with amendments was returned to the House of Representatives the same day.<sup>14</sup>

- 1.11** The Federal MR Bill introduces a new scheme for AMR of occupations through the insertion of a new Part 3A into the Federal MR Act. Whilst implementing AMR of occupations through the insertion of a new Part 3A into the Federal MR Act, the existing MR arrangements in Parts 1-4 of the Federal MR Act are maintained and streamlined.<sup>15</sup>
- 1.12** In essence, Part 3A of the Federal MR Bill allows the automatic deeming of registration of occupations to the activities carried out by occupations. This means that, where applicable, a person 'registered' for an occupation in their home state does not need to register in second state to carry out the same work.<sup>16</sup>
- 1.13** The bill, as introduced to the House of Representatives and subsequently the Senate, provided that the *Mutual Recognition Amendment Act 2021* (Cth) (Federal MR Act 2021) would commence on 1 July 2021. However, a government amendment to the Federal MR Bill, agreed to by the Senate on 12 May 2021, altered the commencement of the Federal MR Act 2021 to a date to be fixed by proclamation, with provision for the amendments in the bill to commence in 12 months from Royal Assent should proclamation not be made.<sup>17</sup> When asked about the start date during the second reading debate in the Senate, the Hon Michaelia Cash, Attorney-General and Minister for Industrial Relations, indicated that states and territories are anticipated to implement the legislated AMR scheme from 1 July 2021.<sup>18</sup>
- 1.14** AMR is intended to apply to all occupations and registrations, as defined by the Federal MR Act, unless specifically exempted by a state Minister (see further detail below). The core elements of the scheme as set out in Part 3A include:
- a person who can carry on an activity under an occupation in their home state can carry on that activity in a second state if the activity is covered by an occupation in the second state, subject to obligations and limitations<sup>19</sup>
  - the application of the scheme only to those states and territories that have an occupational licence for a particular occupation in place<sup>20</sup>
  - the laws of each state/territory will apply to any work done within that jurisdiction, including public protection requirements, even if the worker is registered elsewhere<sup>21</sup>

<sup>13</sup> *Journals of the Senate*, Australian Senate, 12 May 2021, p 3399.

<sup>14</sup> *Votes and Proceedings*, Australian House of Representatives, 12 May 2021, p 1823.

<sup>15</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 6.

<sup>16</sup> Department of the Prime Minister and Cabinet, Intergovernmental Agreement on Automatic Mutual Recognition of Occupational Registration, 11 December 2020, p 6; Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 2.

<sup>17</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 2.

<sup>18</sup> *Hansard*, Australian Senate Debates, 12 May 2021, p 25 (Michaelia Cash).

<sup>19</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42B.

<sup>20</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42D.

<sup>21</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42B.

- the ability of state ministers to exempt registrations from the scheme if they believe there will be a significant risk to consumer protection or the health or safety of workers or the public<sup>22</sup>
- the exclusion from the scheme of an individual who is subject to disciplinary, civil or criminal action or who has conditions on their home state registration as a result of such actions, or who fail to meet a working with vulnerable people character test where required by state laws<sup>23</sup>
- a requirement for an interstate licensee to satisfy financial public protection requirements, such as holding insurance or paying into a fidelity fund<sup>24</sup>
- no application or renewal fee to work in another state under automatic deemed registration, with certain conditions<sup>25</sup>
- requiring second states to share information on cancelled or suspended registrations and disciplinary proceedings and to record cancellations and suspensions on registers (where they exist).<sup>26</sup>

**1.15** Consistent with these arrangements for AMR of occupations, the Federal MR Bill also inserts a new section 3A into the Federal MR Act, reproduced in part below:

**3A Simplified outline of this Act**

The purpose of this Act is to promote the goal of freedom of movement of goods and service providers in a national market in Australia.

...

Part 3A provides for individuals who are registered for an occupation in their home State to carry on activities covered by their home State occupation in a second State. The activities are carried on in the second State under automatic deemed registration. A State Minister may exempt registrations from automatic deemed registration because of a significant risk to consumer protection, the environment, animal welfare or the health or safety of workers or the public.<sup>27</sup>

**1.16** As noted above, the Federal MR Bill allows a minister of a state or territory to exempt (by non-disallowable instrument) a specified registration in their state from being subject to AMR for a period of up to five years on certain grounds. An exemption can only be made if the minister is satisfied that it is necessary because of a significant risk to one or more of the following matters:

- consumer protection
- the environment
- animal welfare

---

<sup>22</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42S.

<sup>23</sup> Mutual Recognition Amendment Bill 2021 (Cth), cls 42D(4)(a), 42D(4)(g).

<sup>24</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42D(4)(f).

<sup>25</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42K.

<sup>26</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42N.

<sup>27</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 3A.



- the health or safety of workers or the public.<sup>28</sup>
- 1.17** The Explanatory Memorandum to the Federal MR Bill notes that a minister must identify the circumstances or conditions creating the significant risk. These conditions are not required to be unique to the minister's state and, therefore, one or more states could make an exemption on the same grounds if the circumstances or conditions in each state pose the significant risk.<sup>29</sup> A statement explaining the risk must accompany a declaration of an exemption. A minister can extend the exemption by making a new declaration prior to the expiry of the existing exemption.<sup>30</sup>
- 1.18** A minister of a state or territory may also temporarily exempt (by non-disallowable legislative instrument) a specified registration in the minister's state (an occupation or an activity covered by an occupation) from AMR for a period of up to 12 months if declared within 6 months from the commencement of the Federal MR Bill.<sup>31</sup> Further, a minister may make this exemption on the basis of a specified registration in one or more other states.<sup>32</sup> The Explanatory Memorandum to the Federal MR Bill states that the temporary exemption provision is a transitional measure seeking to give states additional time from the commencement of the Federal MR Bill to identify and examine risks about certain registrations and approaches to resolve them.<sup>33</sup>
- 1.19** In addition, the Explanatory Memorandum notes that the AMR scheme does not impact existing national registration schemes, state model legislation or state-based AMR schemes, including:
- the national registration and accreditation scheme for the health professions administered by the Australian Health Practitioner Regulation Agency (covering certain health practitioners)
  - the legal practice scheme for legal practitioners (under Legal Profession Acts or Legal Profession Uniform Law as adopted in certain states)
  - licensing schemes prescribed under work health and safety laws (where there is an AMR scheme)
  - electrical trade work licences (where there is an AMR scheme in certain states for an equivalent registration)
  - the national recognition of veterinary Registration (where there is AMR in certain states).<sup>34</sup>
- 1.20** The Department of the Prime Minister and Cabinet's submission to the inquiry noted that the Australian Government committed \$11 million in the 2021-22 Federal Budget to support the AMR scheme's implementation.<sup>35</sup>

---

<sup>28</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42S.

<sup>29</sup> Supplementary Explanatory Memorandum, Mutual Recognition Amendment Bill (Cth), p 1.

<sup>30</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 35.

<sup>31</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42T.

<sup>32</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42T(1)(b).

<sup>33</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 36.

<sup>34</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 7.

<sup>35</sup> Submission 13, Department of the Prime Minister and Cabinet, p 6.

**The Mutual Recognition (New South Wales) Amendment Bill 2021**

- 1.21** In order for the amendments to the Federal MR Act in the Federal MR Bill outlined above to have legal effect upon their enactment, it is necessary for New South Wales, or another jurisdiction, to amend its referral of power to the Commonwealth Parliament in this area. This was confirmed by the Department of the Prime Minister and Cabinet's submission to the inquiry, adding that the passage of the bill is necessary for the introduction of the AMR scheme to meet National Cabinet's proposed commencement date of 1 July 2021.<sup>36</sup>
- 1.22** The initial referral of power to the Commonwealth Parliament via the NSW MR Act included a referral to the Commonwealth Parliament of certain powers to amend the Federal MR Act.<sup>37</sup>
- 1.23** The bill now seeks to amend the NSW MR Act to terminate the existing amendment reference and replace it with an extended power for the Commonwealth Parliament to make amendments to the Federal MR Act.<sup>38</sup>
- 1.24** The Treasurer expanded on the background to the bill in his second reading speech in the Legislative Assembly on Wednesday 17 March 2021:

.. in last year's budget we allocated funding to support the rollout of a new automatic mutual recognition framework to enable the automatic recognition of interstate occupational licences. With this bill, we are delivering on our commitment. This is a timely and important national economic reform and the result of several years' work in conjunction with other States and the Commonwealth. Although we have had a system in place for many years to recognize occupational licences from other jurisdictions under the Mutual Recognition Act 1992 (Cth), this new framework will provide a quicker and less expensive alternative.

Under the current scheme workers still need to apply for recognition of their home licence and pay another fee to work in another State or Territory. The existing mutual recognition scheme also relies on schedules to specify equivalent occupational registrations between jurisdictions. These schedules are complex and cumbersome and have not been updated fully since 2009, meaning they are not up to date with current qualifications and licences. The Commonwealth, States and the Northern Territory have all come together and agreed to the new automatic mutual recognition scheme for occupational registrations. In December 2020 the Premier and all First Ministers, except the Australian Capital Territory, signed an intergovernmental agreement which commits signatories to implementing a national automatic mutual recognition scheme by 1 July 2021.

The core principle of this new framework is that a person can automatically perform the same activities that they are licensed to perform in their home jurisdiction in a second jurisdiction without seeking permission or paying additional registration fees. Automatic mutual recognition will make it easier and less expensive for businesses and workers to operate across jurisdictions. You only pay a registration fee when you renew your licence in your home jurisdiction. If you move permanently to a new jurisdiction, you would register with your new home authority and pay a fee then. This reform is a great example of the States and the Commonwealth working together to achieve

---

<sup>36</sup> Submission 13, Department of the Prime Minister and Cabinet, p 5.

<sup>37</sup> Explanatory Note, Mutual Recognition (New South Wales) Amendment Bill 2021, p 1.

<sup>38</sup> Mutual Recognition (New South Wales) Amendment Bill 2021, cls 5A-5C.

commonsense regulatory reform with very tangible benefits for the people of Australia. It will reduce red tape associated with occupational licensees moving interstate, meaning more freedom to find work and more money in the pockets of workers.<sup>39</sup>

## Referral of the bill

- 1.25** The Mutual Recognition (New South Wales) Amendment Bill 2021 was introduced into the Legislative Assembly on Tuesday 16 March 2021 and passed that House on Wednesday 24 March 2021.
- 1.26** On Tuesday 23 March 2021, whilst the bill was still in the Legislative Assembly, the Legislative Council on the recommendation of the Selection of Bills Committee referred the provisions of the bill to this committee for inquiry and report by 11 May 2021.<sup>40</sup>
- 1.27** The bill itself was subsequently received by the Legislative Council from the Legislative Assembly on 24 March 2021, whereupon the bill was immediately sent to this committee for inquiry and report.<sup>41</sup>
- 1.28** On 5 May 2021, the Legislative Council resolved to extend the reporting date for the inquiry into the bill to 10 June 2021.<sup>42</sup>
- 1.29** Whilst it is important to recognise that the bill, as introduced in the Legislative Assembly, deals solely with the referral of State legislative power to the Commonwealth Parliament, inevitably consideration of that matter opens broader consideration of the merits of the AMR scheme legislated by the Commonwealth and proposed to be implemented by the states and territories. This is considered further in the following chapter.

---

<sup>39</sup> *Hansard*, NSW Legislative Assembly, 17 March 2021, pp 5530.

<sup>40</sup> *Minutes*, NSW Legislative Council, 23 March 2021, pp 2058-2059.

<sup>41</sup> *Minutes*, NSW Legislative Council, 24 March 2021, p 2076.

<sup>42</sup> *Minutes*, NSW Legislative Council, 5 May 2021, pp 2117-8.



## Chapter 2 Provisions of the bill

This chapter documents the key issues that the committee explored with inquiry participants in respect of the Mutual Recognition (New South Wales) Amendment Bill 2021 (the bill) and the Commonwealth legislated Automatic Mutual Recognition scheme (AMR scheme). First, it briefly summarises the key position of the inquiry participants in respect of the bill and the AMR scheme. Next, participants' views on the process to introduce the AMR scheme in New South Wales (NSW) are set out, as well as the perceived benefits and rationale of the scheme.

Following this, the chapter focuses in on a common view that a key barrier to implementing an AMR scheme that does not increase safety risks and lower accepted standards of work is the inconsistent registration requirements across states and territories for some high-risk occupations. The potential burdens placed on employers by the AMR scheme, and the possible oversight and enforcement challenges for state and territories regulators, are also discussed. Several suggestions proposed by inquiry participants on aspects of the AMR scheme, as well as views on whether the bill should progress, are detailed. The chapter concludes with the committee's comments and its recommendations.

### Summary of participants to the inquiry supporting and opposing the bill

- 2.1 The committee received 13 submissions to this inquiry and took evidence from 12 parties at one public hearing on 27 April 2021.
- 2.2 As detailed in Chapter 1, the bill amends the referral power to the Commonwealth Parliament in order to give legal effect to the amendments to the *Mutual Recognition Act 1992* (Cth) (Federal MR Act) in the Mutual Recognition Amendment Bill 2021 (Cth) (Federal MR Bill). As such, participants to the inquiry also examined the AMR scheme now legislated by the Commonwealth Parliament.
- 2.3 For this reason, this chapter sets out the evidence presented to the committee on the AMR scheme, encompassing both the bill and the Federal MR Bill. This section provides a snapshot of the key position of inquiry participants, each of which are discussed in greater detail throughout this chapter.
- 2.4 In support of the AMR scheme, and therefore the passage of the bill to enable its implementation in NSW, was the NSW Productivity Commissioner, the NSW Cross-Border Commissioner and the Department of the Prime Minister and Cabinet.<sup>43</sup>
- 2.5 The remainder of inquiry participants constituted trade unions and associations from various industries including building and construction, electrical, plumbing, industrial and commercial heating and cooling, fire protection and teaching. These parties expressed strong concern about the application of the AMR scheme to their respective occupations:
  - The CFMMEU (NSW Branch) Construction & General Division (CFMMEU NSW Branch) recommended that the AMR scheme be abandoned and National Cabinet revoke the Intergovernmental Agreement on Automatic Mutual Recognition of Occupational

<sup>43</sup> Submission 4, NSW Productivity Commissioner, p 1; Evidence, Mr James McTavish, NSW Cross-Border Commissioner, 27 April 2021, p 9; Submission 13, Department of the Prime Minister and Cabinet, p 1.

Registration.<sup>44</sup> Alternatively, if the bill proceeds, it recommended that the building and construction industry be carved out from the scope of the AMR scheme.<sup>45</sup>

- The Plumbing Trades Employee's Union NSW Branch (PTEU NSW Branch) stated that it cannot support the bill unless and until a comprehensive mapping exercise, in consultation with stakeholders and regulators, of licence and registration requirements in each jurisdiction is undertaken and underpins an AMR scheme.<sup>46</sup>
- The Air Conditioning and Mechanical Contractors Association of New South Wales (AMCA NSW) did not support the AMR scheme in its current form and made a number of recommendations to amend its scope, improve its safeguards and to undertake further analysis on jurisdictional anomalies in registration requirements.<sup>47</sup>
- The National Fire Industry Association (NFIA) urged the NSW Government to consider an AMR scheme which automatically recognises licences only if they have the same underpinning qualification. On this basis, it recommended that fire protection workers should be exempt from the AMR scheme for, at a minimum, five years.<sup>48</sup>
- The Australian Education Union New South Wales Teachers Federation Branch (AEU NSW Teachers Federation Branch) strongly opposed the bill and the AMR scheme, and recommended that teachers be permanently excluded from the AMR scheme.<sup>49</sup>

**2.6** In relation specifically to the electrical services industry, several stakeholders from industry participated in the inquiry and expressed different views on the AMR scheme:

- The Master Electricians Australia (MEA) supported the bill and the AMR scheme, making some recommendations on its scope and safeguards.<sup>50</sup>
- The Electrical Trades Union of Australia NSW Branch (ETU NSW Branch) opposed the AMR scheme and considered the current MR arrangements to be adequate. The ETU NSW Branch recommended that state and territory governments adopt the AMR scheme only if the electrical occupation and electrical licensing is permanently excluded from its application.<sup>51</sup>
- The NSW Utilities and Electrotechnology Industry Training Advisory Body (NSW EU ITAB) recommended that the NSW minister exempt electrical licensed persons from the AMR scheme for five years. It also suggested further work be undertaken to map

---

<sup>44</sup> Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 25.

<sup>45</sup> Evidence, Ms Rita Mallia, President, CFMMEU – Construction and General Division, NSW Branch, 27 April 2021, p 70.

<sup>46</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 1.

<sup>47</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 4.

<sup>48</sup> Submission 7, National Fire Industry Association, p 3.

<sup>49</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 1; Evidence, Ms Amber Flohm, Senior Vice President, Australian Education Union New South Wales Teachers Federation Branch, 27 April 2021, p 47.

<sup>50</sup> Submission 2, Master Electricians Australia, p 2.

<sup>51</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 3; Evidence, Mr Trevor Gauld, National Policy Officer, Electrical Trades Union of Australia, 27 April 2021, p 32.

jurisdictional registration variations and to work towards harmonisation of the occupation.<sup>52</sup>

- The National Electrical and Communications Association (NECA) contended that the AMR scheme should only apply to electrical workers with an unrestricted licence.<sup>53</sup>

2.7 In the instance of national trade unions, the Australian Council of Trade Union (ACTU) recommended that the AMR scheme be scrapped because it is not fit for purpose.<sup>54</sup> At a minimum, the ACTU urged the NSW Parliament to halt the passage of the bill until the Federal MR Bill passes the Commonwealth Parliament.<sup>55</sup> The Australian Workers' Union (AWU) recommended that NSW Parliament's acceptance of the AMR scheme be paused until two conditions are met. First, it should be demonstrated that there is no risk that work which is undertaken below NSW standards could avoid regulation and enforcement in NSW. Second, national standards for each relevant trade should be developed.<sup>56</sup>

## Referral of power to the Commonwealth Parliament

2.8 At the point when the committee received submissions and took evidence at the hearing, the exact shape of the AMR scheme was not settled because the Federal MR Bill was still before the Commonwealth Parliament.<sup>57</sup> As noted in Chapter 1, between the committee's public hearing and the tabling of this report, the Federal MR Bill with amendments passed the Senate and was returned to the House of Representatives.

2.9 In giving evidence to the committee, representatives from the ACTU, NSW EU ITAB and CFMMEU NSW Branch suggested that the NSW Parliament should wait to pass the bill until the Federal MR Bill passes the Commonwealth Parliament. In their view, waiting for the then proposed AMR scheme to become law would provide NSW with certainty about the terms and form of the scheme that it is enabling through the bill and introducing in NSW.<sup>58</sup> Mr Christopher Watts, Senior Policy Advisor of the ACTU, contended that, in proceeding this way, it would be clear which safeguards are present, despite that there would be an ongoing risk of change to the terms of the AMR scheme, including its safeguards, at the federal level.<sup>59</sup>

<sup>52</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 1.

<sup>53</sup> Submission 9, National Electrical and Communications Association, p 1.

<sup>54</sup> Submission 3, Australian Council of Trade Unions, p 5.

<sup>55</sup> Evidence, Mr Christopher Watts, Senior Policy Advisor, Australian Council of Trades Union, 27 April 2021, p 16.

<sup>56</sup> Submission 11, The Australian Workers' Union, p 2.

<sup>57</sup> Evidence, Mr Watts, 27 April 2021, p 16.

<sup>58</sup> See, for example, Evidence, Mr Watts, 27 April 2021, p 16; Evidence, Mr Tony Palladino, Executive Officer, NSW Utilities and Electrotechnology Industry Training Advisory Body, 27 April 2021, p 23; Evidence, Ms Mallia, 27 April 2021, p 71.

<sup>59</sup> Evidence, Mr Watts, 27 April 2021, pp 19-20.

- 2.10** Mr Trevor Gauld, National Policy Officer of the Electrical Trades Union (ETU), agreed and noted that at the time of the committee's hearing, NSW was the only state or territory proposing to pass enabling legislation prior to passage of the Federal MR Bill in the Commonwealth Parliament:

It is quite unusual that New South Wales is seeking to pass a bill of model national legislation when that national legislation does not exist yet. It is quite uncertain as to what its final format will be. It is the only State that seems to be pressing ahead with this.<sup>60</sup>

### Development of the the AMR scheme

- 2.11** As noted in Chapter 1, the Deregulation Taskforce in the Department of the Prime Minister and Cabinet received 138 public submissions on the exposure draft of the Federal MR Bill.<sup>61</sup> The Explanatory Memorandum to the Federal MR Bill states that 'extensive consultation and engagement with industry, trade unions [and] regulators' was undertaken in developing the AMR scheme.<sup>62</sup>
- 2.12** However, a common view expressed during the inquiry was that inadequate consultation with industry stakeholders and regulators was undertaken by government in the development of the AMR scheme. For example, the ACTU, CFMMEU NSW Branch and ETU NSW Branch argued that the AMR scheme was largely developed by the Australian Government without necessary consultation with industry and state-based regulators.<sup>63</sup> The ACTU claimed that as a result of limited stakeholder input, the AMR scheme is not tailored to the realities of the various industries to which it is intended to apply.<sup>64</sup>
- 2.13** In giving evidence to the committee, representatives from the ETU NSW Branch and CFMMEU NSW Branch remarked that while consultation at the federal level was limited and seemingly fruitless, there was no consultation at the state level with respect to the bill.<sup>65</sup> Evidence from representatives of the ACTU and the ETU NSW Branch was that their feedback on the AMR scheme, during the limited consultation that did take place at the federal level, was not accepted, or implemented in the Federal MR Bill.<sup>66</sup>
- 2.14** The AEU NSW Teachers Federation Branch advised consultation with all education sectors in NSW had occurred since November 2020, where there had been consistent and strong rejection

---

<sup>60</sup> Evidence, Mr Gauld, 27 April 2021, p 24.

<sup>61</sup> Department of the Prime Minister and Cabinet, *Consultation on Automatic Mutual Recognition, [Deregulation Taskforce]*, <https://www.pmc.gov.au/domestic-policy/deregulation-taskforce/consultation-automatic-mutual-recognition>.

<sup>62</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 5.

<sup>63</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 4; Submission 3, Australian Council of Trade Unions, p 3; Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 1.

<sup>64</sup> Submission 3, Australian Council of Trade Unions, p 3

<sup>65</sup> Evidence, Mr Gauld, 27 April 2021, p 24; Evidence, Mr Stuart Maxwell, Senior Industrial Officer, Federal CFMMEU, 27 April 2021, p 65.

<sup>66</sup> Evidence, Mr Watts, 27 April 2021, p 21; Evidence, Mr Gauld, 27 April 2021, p 24.



of the application of the scheme to teachers and calls for an exemption for the teaching profession.<sup>67</sup>

- 2.15** On a different yet related issue, the ETU NSW Branch argued that the process for developing the AMR scheme is inconsistent with the principles of best practice regulation as established by the Office of Best Practice Regulation.<sup>68</sup>
- 2.16** With respect to the passage of the Federal MR Bill in the Commonwealth Parliament, the Australian Labor Party (ALP) sought to refer the Federal MR Bill to the Senate Standing Legislation Committee on Education and Employment for inquiry into the then proposed AMR scheme, to report by 9 June 2021. This motion was not agreed to by the Senate.<sup>69</sup>

### Perceived benefits of the AMR scheme

- 2.17** This section presents the perceived benefits of the AMR scheme, primarily put forward by the Australian Government and in evidence from the NSW Productivity Commissioner and the NSW Cross-Border Commissioner, as well as evidence from this inquiry which responds to these apparent benefits.
- 2.18** The Explanatory Memorandum to the Federal MR Bill cited two studies in support of AMR of occupations.<sup>70</sup>
- In 2015, the Productivity Commission found that the existing MR arrangements generally worked well but that there would be cost savings from automating these processes. The Productivity Commission recommended governments expand the use of AMR for professionals providing services across borders on a temporary basis.<sup>71</sup>
  - In 2020, PricewaterhouseCoopers (PwC) estimated that AMR could lead to additional economic activity of around \$2.4 billion over 10 years as a result of savings to workers and businesses, productivity improvements and extra surge capacity in response to natural disasters.<sup>72</sup>
- 2.19** In his written submission to the inquiry, the NSW Productivity Commissioner argued that the AMR scheme would improve labour mobility across Australia, thus increasing output, investment, productivity and competition, and lowering costs for consumers, workers and businesses. Workers will have the flexibility to take up opportunities where they arise, and NSW will be better able to access skilled labour to address shortages, particularly following national emergencies and natural disasters, such as the catastrophic 2020 summer bushfires, when NSW faced shortages of tradespeople for rebuilding.<sup>73</sup>

<sup>67</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 1.

<sup>68</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 6.

<sup>69</sup> *Hansard*, Australian Senate Debates, 12 May 2021, p 22-3 (Jenny McAllister).

<sup>70</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 5.

<sup>71</sup> Australian Productivity Commission, *Mutual Recognition Schemes*, September 2015, p 2.

<sup>72</sup> PwC, 'Economic Impact Assessment of automatic mutual recognition of occupational licensing', December 2020.

<sup>73</sup> Submission 4, NSW Productivity Commissioner, p 2.

**2.20** The submission from the Department of the Prime Minister and Cabinet highlighted the ability to respond to labour shortages following natural disasters:

AMR will also enable jurisdictions to respond faster to critical and large-scale events, such as infrastructure outages. AMR will help communities respond to natural emergencies and disasters, including the bushfires and floods that recently devastated parts of NSW, as workers with particular skills can respond more quickly to help with immediate or longer-term recovery efforts in another jurisdiction. This will reduce the period taken for businesses, households and communities in affected regions to rebuild and recover.<sup>74</sup>

**2.21** The MEA agreed, observing that there is a present need to reduce costs and delays for workers to be able to efficiently respond to sudden fluctuations in workforce demand and growth.<sup>75</sup> The MEA illustrated the current unmet demand for electrical workers in Western Australia:

Large mining conglomerates have, due to covid19, made decisions to only employ WA residents. This has had an effect due to border closures resulting in a lack of electrical workers being able to enter WA. As such local contractors are reporting 20% loss of workers since October 2020 and long waits for consumers to have work completed is due to lower number of workers. Wages are rising and small electrical businesses are struggling to recruit and maintain employees. In a normal market this sort of need would result in an influx of workers who would be suitable to employ.<sup>76</sup>

**2.22** The NSW Productivity Commissioner also cited the PwC study and argued that many of the benefits cited by PwC would flow directly to NSW. He also cited particular examples where the scheme will reduce costs for individuals and small businesses working across state borders:

- A NSW plumber will save at least \$357 over three years in registration fees to work in a nearby border town in Victoria.
- An architectural firm based in NSW could save around \$600 per architect working in Victoria and South Australia.<sup>77</sup>

**2.23** In giving evidence to the committee, the NSW Productivity Commissioner maintained that the elimination of fees to work in a second state is one of the key benefits of the AMR scheme, with approximately 124,000 individuals who currently hold dual registrations or licences to benefit. Further advantages include individuals no longer needing to wait up to 28 days to receive a licence to work in a second state, thus providing greater certainty as to when they are permitted to work in that second state. Lastly, the AMR scheme would enable greater levels of information and data sharing between regulators.<sup>78</sup>

---

<sup>74</sup> Submission 13, Department of the Prime Minister and Cabinet, p 4.

<sup>75</sup> Submission 2, Master Electricians Australia, p 3.

<sup>76</sup> Submission 2, Master Electricians Australia, p 4.

<sup>77</sup> Submission 4, NSW Productivity Commissioner, pp 1-2.

<sup>78</sup> Evidence, Mr Peter Achterstraat AM, NSW Productivity Commissioner, 27 April 2021, p 2.

**2.24** The NSW Cross-Border Commissioner asserted that the requirement to hold dual registration when a business footprint reaches across state borders acts as a disincentive to relocating to border towns, therefore negatively impacting the economies of border towns.<sup>79</sup> He agreed with the benefits noted by the NSW Productivity Commissioner and specified the positive outcomes on NSW border towns:

... 2.1 million people live in border communities and a substantial proportion of them go to work in their neighbouring State. Of those, a substantial proportion hold occupational licences ... if we do not make life simpler for people in these border communities we are missing out on opportunity in regional New South Wales and in our neighbours.

... We have an obligation, I think, as Government to be making it easier for people to do business, easier for people to get work, easier for people to access training and easier for people to get the services and goods that they need from a skilled workforce.<sup>80</sup>

**2.25** The benefits to workers living in border regions was highlighted in the submission from the Department of the Prime Minister and Cabinet, which stated:

In 2016, for example, almost one in four people who worked in Wodonga, many of whom work in licensed occupations, lived in Albury.<sup>81</sup>

**2.26** By contrast, the ACTU questioned the veracity of the PwC figures being used to support the AMR scheme.<sup>82</sup> Similarly, the CFMMEU NSW Branch also critiqued the figures:

The CFMEU, in the short time available to prepare this submission, has not been able to find any other document that contains this claim or that explains how it has been calculated. The CFMEU believes the claim is illusionary, not based on reality and inconsistent with other research on AMR.<sup>83</sup>

**2.27** In support, the CFMMEU NSW Branch contended that the economic rationale for AMR is less apparent for permanent relocations to a new jurisdiction, the initial aggregate benefits of AMR would be relatively limited and that it is difficult to deduce the direct impact of AMR on labour mobility.<sup>84</sup>

**2.28** Mr Trevor Gauld, National Policy Officer of the ETU, disputed in evidence the argument that there is an apparent economic benefit of AMR:

It was an economic report prepared at the request of the Government. The entity that did it, [the] Productivity Commission, did not consult with any stakeholders about it ... we actually see it creating more regulatory burden for electrical occupations, not less.<sup>85</sup>

<sup>79</sup> Evidence, Mr McTavish, 27 April 2021, pp 14-15.

<sup>80</sup> Evidence, Mr McTavish, 27 April 2021, p 11.

<sup>81</sup> Submission 13, Department of the Prime Minister and Cabinet, p 3.

<sup>82</sup> Submission 3, Australian Council of Trade Unions, p 2.

<sup>83</sup> Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 20. See also Evidence, Mr Maxwell, 27 April 2021, p 71.

<sup>84</sup> Submission 8, CFMMEU (NSW Branch) Construction & General Division, pp 20-21.

<sup>85</sup> Evidence, Mr Gauld, 27 April 2021, p 35.

**2.29** Mr Peter McCabe, Director Policy and Government Relations of the NECA, in turn stated:

I think the potential is there to cut hard-dollar expenditure by businesses to get the necessary licences they need to do their work. But under the current format, it is not going to achieve that.<sup>86</sup>

## **Rationale for the AMR scheme**

**2.30** In this section, the differing views of inquiry participants with respect to the rationale for the AMR scheme are summarised.

**2.31** A number of parties opposed to the bill recognised the policy objective of AMR, with some expressing support for its intent.<sup>87</sup> Identified policy objectives included reducing costs and administrative burdens, improving worker mobility and facilitating economic growth.<sup>88</sup> For instance, in its submission the ACTU acknowledged that AMR for occupational registrations could assist to streamline the working lives of cross-border workers and may assist some workers to undertake work across borders they may not currently undertake. As such, the ACTU indicated that it was not in principle opposed to AMR.<sup>89</sup>

**2.32** However, some parties also questioned the rationale of the AMR scheme, contending that there is no evidence to suggest that the current MR system (under Part 3 of the Federal MR Act) is not working for submitters' respective occupations.<sup>90</sup> In particular, the ACTU argued that the existing MR scheme was 'considered to be relatively effective, with reports of MR processes taking place in mere days and with a minimum of administration requirements to ensure safety and consistency'.<sup>91</sup> As such, the ACTU claimed that the AMR scheme appeared to be a solution looking for a problem, a fact underlined by the maintenance of the current MR scheme alongside the AMR scheme.<sup>92</sup>

**2.33** The AEU NSW Teachers Federation Branch agreed, asserting that the required level of mobility for the occupation is already achieved through the current MR arrangements. In its view, the objective of the AMR scheme is to facilitate work across jurisdictions on a temporary or occasional basis, which is not common in the teaching profession. Furthermore, the AEU NSW Teachers Federation Branch claimed that the current MR system works well for educators who

---

<sup>86</sup> Evidence, Mr Peter McCabe, Director Policy and Government Relations, National Electrical and Communications Association, 27 April 2021, p 35.

<sup>87</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 4; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 15; Submission 7, National Fire Industry Association, p 3; Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 1.

<sup>88</sup> See, for example, Submission 9, National Electrical and Communications Association, p 1; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 1.

<sup>89</sup> Submission 3, Australian Council of Trade Unions, p 2.

<sup>90</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 6; Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 18.

<sup>91</sup> Submission 3, Australian Council of Trade Unions, p 2.

<sup>92</sup> Submission 3, Australian Council of Trade Unions, p 2; Evidence, Mr Watts, 27 April 2021, p 18. See also Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 2.

temporarily work in another jurisdiction to which they live, while there are memorandums of understanding for registration of teachers who work and live across border towns.<sup>93</sup>

- 2.34** Similarly, the ETU NSW Branch queried the necessity of the AMR scheme given that, in its view, the current MR system is 'adequate, robust and reliable' and there already exists a state-based AMR system for electricians with an unrestricted licence under the East Coast Electrician Scheme.<sup>94</sup>

## Safeguards to the operation of the AMR scheme

### Safeguards under the present MR scheme

- 2.35** Under the existing MR arrangement, if a person wishes to perform their registered occupation in a state other than in which they are registered, a process is undertaken whereby the individual applies to have their registration mutually recognised. As such, the regulator is aware that the person seeks to perform the activities of that occupation in that state and can vet the individual to ensure they are appropriately qualified.<sup>95</sup>
- 2.36** The NSW EU ITAB outlined the common practice for the mutual recognition of electrical licences under the current MR arrangements. In summary, a local regulator may require a licensed electrical worker to demonstrate knowledge of local rules. However, the licence is commonly recognised as equivalent in the second jurisdiction when the applicant holds the necessary national qualification and valid electrical licence from the applicant's original jurisdiction.<sup>96</sup>
- 2.37** The NSW EU ITAB and CFMMEU NSW Branch highlighted that this common practice is facilitated by documented comparisons of occupational requirements set out in the formal matrix of recognition in the Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009. The NSW EU ITAB noted that these MR arrangements were largely possible because of the work undertaken to progress national licensing through the Council of Australian Governments' (COAG) National Licensing Steering Committee.<sup>97</sup>
- 2.38** The committee notes that the COAG National Licensing Steering Committee was established as part of the Intergovernmental Agreement for National Licensing System for Specified Occupations in 2009,<sup>98</sup> when all state and territory governments and the Australian Government agreed to establish a National Occupational Licensing Scheme for 'air-conditioning and refrigeration mechanics, building-related occupations, electricians, drivers of passenger vehicles

<sup>93</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 2.

<sup>94</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 3.

<sup>95</sup> Evidence, Mr Con Tsiakoulas, Compliance Office, Plumbing Trades Employees Union, 27 April 2021, p 48.

<sup>96</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 6.

<sup>97</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 6. See also Submission 8, CFMMEU (NSW Branch) Construction & General Division, pp 1 and 20; Evidence, Mr Maxwell, 27 April 2021, p 66.

<sup>98</sup> Council of Australian Governments, *Intergovernmental Agreement for National Licensing System for Specified Occupations*, 30 April 2009.

and dangerous goods vehicles, maritime occupations, plumbing and gas-fitting roles, and property agents'.<sup>99</sup> Some parties to the inquiry noted that the national occupational licensing project was abandoned around 2012-13.<sup>100</sup> The NSW EU ITAB remarked that as this 'good work of the past has withered and waned', these equivalence matrices are now outdated and are 'in desperate need of maintenance'.<sup>101</sup>

### Safeguards under the AMR scheme

**2.39** The Explanatory Memorandum to the Federal MR Bill indicates that safeguards are central to the AMR scheme to maintain high standards of consumer and environmental protection, animal welfare, and the health or safety of workers or the public.<sup>102</sup> It cites the following safeguards in the bill:

- the ability of states (includes both Australian states and territories) to exempt a registration where there is a significant risk<sup>103</sup>
- the exclusion of an individual who is subject to disciplinary, civil or criminal action or who has conditions on their home state registration as a result of such actions<sup>104</sup>
- requiring an interstate licensee to satisfy a working with vulnerable people character test where required by state laws<sup>105</sup>
- requiring an interstate licensee to satisfy financial public protection requirements, such as holding insurance or paying into a fidelity fund<sup>106</sup>
- requiring an interstate licensee to comply with laws of the second state<sup>107</sup>
- enabling second states to pursue disciplinary action consistent with the laws of the second state<sup>108</sup>
- enabling a state to require notification of intent to work in the second state<sup>109</sup>

---

<sup>99</sup> Australian Productivity Commission, *Mutual Recognition Schemes*, Research Report, September 2015, p 35.

<sup>100</sup> See, for example, Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 6 and 8-10; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 5; Evidence, Mr Gauld, 27 April 2021, pp 29-30.

<sup>101</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 6.

<sup>102</sup> Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 6.

<sup>103</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42S.

<sup>104</sup> Mutual Recognition Amendment Bill 2021 (Cth), cls 42D(4)(a), 42D(4)(c).

<sup>105</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42D(4)(g).

<sup>106</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42D(4)(f).

<sup>107</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42B.

<sup>108</sup> Mutual Recognition Amendment Bill 2021 (Cth), cl 42M.

<sup>109</sup> Mutual Recognition Amendment Bill 2021 (Cth), cls 42J, 42N.

- requiring second states to share information on cancelled or suspended registrations and disciplinary proceedings and to record cancellations and suspensions on registers (where they exist).<sup>110</sup>
- 2.40 In his submission, the NSW Productivity Commissioner argued that as set out in the Federal MR Bill, standards and consumer protections will not be undermined by the AMR scheme.<sup>111</sup> However, various parties to the inquiry argued that AMR may lead to reduced standards of work and greater safety risks to worker and public safety.<sup>112</sup> These concerns are detailed in the following section.

### **The impact of AMR on the safety of workers, consumers and the community**

- 2.41 A common concern expressed during the inquiry was the potential adverse impact of AMR on the safety of workers, consumers and the community in relation to high-risk occupations where there are differences in licensing/registration, regulation and safety frameworks across jurisdictions. First, this section sets out of the evidence received by the committee with respect to these differences. Then it details participants' views on the adverse consequences of implementing an AMR scheme without jurisdictional consistency or harmonisation in those occupations. Lastly, it sets out some participants' proposals for a way forward.

#### **Variations in requirements and prerequisites for occupational registration**

- 2.42 The committee received evidence from numerous bodies, associations and unions that the AMR scheme would apply to a number of high-risk occupations, such as electrical, electrotechnology, fire protection, building and construction, plumbing, medical gas, mining, chemicals, air conditioning and mechanical services work.<sup>113</sup> These stakeholders highlighted that states and territories have not achieved harmonised occupational licensing/registration for the respective industries and trades.

<sup>110</sup> Mutual Recognition Amendment Bill 2021 (Cth), cls 42JN, 42P; Explanatory Memorandum, Mutual Recognition Amendment Bill 2021 (Cth), p 6.

<sup>111</sup> Submission 4, NSW Productivity Commissioner, pp 2-3.

<sup>112</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 4; Submission 3, Australian Council of Trade Unions, p 3; Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 2; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 4 and 13-14; Submission 7, National Fire Industry Association, p 5; Submission 10, Plumbing Trades Employee's Union NSW Branch, pp 3-4; Submission, The Australian Workers' Union, p 1.

<sup>113</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, pp 4-6; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 4, 10 and 14; Submission 7, National Fire Industry Association, p 3, 5; Submission 8, CFMMEU (NSW Branch) Construction & General Division, pp 4-17; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 3.; Submission 11, The Australian Workers' Union, p 1.

- There may not be equivalent occupational registrations or licences across jurisdictions.<sup>114</sup> For example, with respect to electrical work, there are different licences for electrical mechanics, electrical fitters and refrigeration mechanics across jurisdictions.<sup>115</sup>
  - In one state or territory, occupational registration may be achieved through private accreditation, whereas in another jurisdiction it may be granted by a state or territory regulatory body.<sup>116</sup> For example, in NSW an industry body accredits fire protection workers, whereas in Victoria fire protection workers obtain registration through the state regulator.<sup>117</sup>
  - The requirements and criteria for registered occupations, such as training, industry experience and competency, may differ across jurisdictions.<sup>118</sup> For example, electricians with an unrestricted licence have a nationally consistent qualification. However, the required competency standards to be licensed differ across jurisdictions as there are different local service and installation rules which supplement the national wiring standards.<sup>119</sup>
  - There are different requirements under state and territory legislation for supervision and compliance of works performed, such as whether work completed can be self-certified or must be certified by an independent party.<sup>120</sup> For example, for fire protection work, work performed in Victoria can be self-certified, whereas NSW requires certification from a licensed contractor.<sup>121</sup>
- 2.43** In relation to the electrical and fire protection industry, the NFIA informed the committee that in no instance are the licence requirements in the different streams of fire protection work the same across the states and territories.<sup>122</sup>
- 2.44** Beyond the electrical and fire protection industry, the committee notes that inquiry participants advised that jurisdictional inconsistencies exist in other trades and occupations, such as in the construction and building industry and in the education sector. For instance, the CFMMEU NSW Branch and the ACTU noted that the AMR scheme will cover licences for builders, contractors, supervisors and workplace health and safety workers, for which there are significant differences in licence type and scope of authorised work across jurisdictions.<sup>123</sup>

<sup>114</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 7; See, for example, Submission 3, Australian Council of Trade Unions, p 3.

<sup>115</sup> See, for example, Submission 3, Australian Council of Trade Unions, p 3; Submission 9, National Electrical and Communications Association, p 2.

<sup>116</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3.

<sup>117</sup> Submission 7, National Fire Industry Association, p 7.

<sup>118</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 7; Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 2; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 5.

<sup>119</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 5.

<sup>120</sup> See, for example, Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 3.

<sup>121</sup> Submission 7, National Fire Industry Association, p 7.

<sup>122</sup> Submission 7, National Fire Industry Association, p 6.

<sup>123</sup> Submission 3, Australian Council of Trade Unions, p 4; Submission 8, CFMMEU (NSW Branch) Construction & General Division, pp 4-17.



- 2.45 At the hearing, Mr Stuart Maxwell, Senior Industrial Officer of the Federal CFMMEU, summarised these different licence types:

In New South Wales there is only one building licence and that really relates to domestic/residential construction. There is not a separate builder's licence for commercial construction. But if you go to the other States, for example, in Victoria, they have different licences for a commercial builder, a domestic builder and a demolisher. They then have a whole series of different licences underneath those categories.<sup>124</sup>

- 2.46 In its submission, the ACTU argued that there are significant variations between jurisdictions in many licensed and registered occupations, partially due to differences in licensing/registration schemes between states and partly due to differences in VET course content and delivery.<sup>125</sup> The AWU pointed out that, for instance, variations in training packages and licensing requirements between the states and territories means that a mechanic in Queensland is likely not to have training in the relevant NSW standards.<sup>126</sup>

- 2.47 In relation to the teaching profession, the ACTU commented that differences in school curriculums across jurisdictions mean that teachers working across two or more jurisdictions would be delivering a substantially different curriculum depending on the state in which they are teaching.<sup>127</sup> Moreover, the AEU NSW Teachers Federation Branch informed advised that there are jurisdictional differences in:

... qualification requisites, annual registrations, curriculum knowledge and implementation, initial teacher education and their pathways, police and criminal checks, disciplinary processes and ATAR requirements, along with multiple other standards and processes.<sup>128</sup>

### **A race to the bottom?**

- 2.48 A key issue raised during the inquiry was whether the introduction of the AMR scheme would create a 'race to the bottom' between states and territories for some occupations where there are anomalies in registrations/licences.<sup>129</sup>
- 2.49 Jurisdictions with higher safety and compliance obligations, such as continuing professional development requirements, could see fewer registrations, and jurisdictions with minimum requirements and lower fees could see more registrations. That is, workers could potentially seek out the jurisdiction with the least onerous requirements to act as their 'base of operations' and work across borders under the AMR scheme.<sup>130</sup>

<sup>124</sup> Evidence, Mr Maxwell, 27 April 2021, pp 65-66.

<sup>125</sup> Submission 3, Australian Council of Trade Unions, p 3.

<sup>126</sup> Submission 11, The Australian Workers' Union, p 1.

<sup>127</sup> Submission 3, Australian Council of Trade Unions, pp 3-4.

<sup>128</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 3.

<sup>129</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 7; Submission 3, Australian Council of Trade Unions, p 4; Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 21; Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 3; Evidence, Ms Mallia, 27 April 2021, p 65; Evidence, Mr Gauld, 27 April 2021, p 30.

<sup>130</sup> Evidence, Mr Gauld, 27 April 2021, p 30.

- 2.50** In giving evidence, Mr Gauld, National Policy Officer of the ETU, exemplified how this issue could eventuate under the AMR scheme:

People will go to the jurisdiction to get an occupational licence that is the easiest one to get and the easiest one to keep. So they will register their brother's address in South Australia, let us say, and then be working in New South Wales.<sup>131</sup>

- 2.51** In recognition that jurisdiction shopping is an existing issue under the current MR arrangements, Mr Gauld continued by highlighting that current MR system provides a check and balance on the standards of each jurisdiction, as it 'allows for the licensing bodies, absent harmonisation, to act as a sort of peer-to-peer review and check mechanism'.<sup>132</sup> The ETU NSW Branch concluded that eroded standards would lead to increased safety risks to workers, consumers and the public.<sup>133</sup>

- 2.52** According to the Department of the Prime Minister and Cabinet submission, safeguards have been included in the AMR framework to prevent jurisdiction shopping:

Workers cannot pick a state in which they consider it to be 'easier' to gain a substantive licence and then seek automatic recognition in other states — a person's home State (and the licence they use for AMR) must be their principal place of residence or work.<sup>134</sup>

- 2.53** Ms Amber Flohm, Senior Vice President of the AEU NSW Teachers Federation Branch, expressed strong concern about a race to the bottom which could be instigated by the implementation of the AMR scheme:

The Mutual Recognition (New South Wales) Amendment Bill 2021 will have a profound effect on not only the teaching profession but on our students in public education. The deleterious nature of such provisions not only risks our students' safety but provides the context of a race to the bottom on teaching standards, curriculum and pedagogy, and ultimately educational and psychosocial outcomes for our students.<sup>135</sup>

### **Safety risks**

- 2.54** Inquiry participants expressed varied positions on the impact of the AMR scheme on the quality and safety of work and services.<sup>136</sup> A number of parties contended that the implementation of the AMR scheme, while there are jurisdictional differences in registration requirements such as

---

<sup>131</sup> Evidence, Mr Gauld, 27 April 2021, p 30.

<sup>132</sup> Evidence, Mr Gauld, 27 April 2021, p 30.

<sup>133</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 7.

<sup>134</sup> Submission 13, Department of the Prime Minister and Cabinet, p 4.

<sup>135</sup> Evidence, Ms Flohm, 27 April 2021, p 44.

<sup>136</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, pp 4 and 7; Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, pp 1-2; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 14; Submission 7, National Fire Industry Association, p 5; Submission 10, Plumbing Trades Employee's Union NSW Branch, pp 1 and 3-4; Submission 11, The Australian Workers' Union, p 1.

training, industry experience and competence for high-risk occupations, would increase safety risks to the community.<sup>137</sup>

**2.55** In general terms, the ACTU argued that jurisdictional differences would 'render workers unable to operate either safely or effectively without additional testing and training' in other jurisdictions.<sup>138</sup> The ACTU insisted that such concerns should be fatal to the implementation of AMR: '[i]t should never be possible for a worker with insufficient knowledge to work safely or properly in a jurisdiction'.<sup>139</sup>

**2.56** There were some common concerns across industries and trades with respect to the adverse consequences which could arise if the AMR scheme was implemented prior to addressing the jurisdictional discrepancies regarding licensing/registration and regulation, such as:

- sub-standard work being performed, potentially resulting in defaults and rectification costs for consumers<sup>140</sup>
- workers performing work, including high-risk work, outside of their experience or expertise<sup>141</sup>
- workers performing work which is outside the scope of permitted work in the second jurisdiction.<sup>142</sup>

**2.57** Regarding the third issue, Mr Adrian Shackleton, Executive Director of the AMCA NSW, provided an example of why this may eventuate as a result of the AMR scheme:

Some regulators will say you can do water supply piping up to a certain size. After that, you need to go off and do more advanced skills. The problem is this: If the person has just got a licence in WA that says "plumbing water supply" and they come to Queensland, how do you know where there is that differentiation around the scope of work.<sup>143</sup>

**2.58** In particular, the impact of the AMR scheme on the safety and standards of electrical work was raised during the inquiry. The ETU NSW Branch expressed the view that the AMR scheme has not critically analysed the jurisdictional differences and how those variations will negatively impact electrical safety and effective regulation of a high-risk industry.<sup>144</sup> It argued the AMR

<sup>137</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 4; Submission 3, Australian Council of Trade Unions, pp 3-4; Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, pp 3-4; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 7-9; Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 1; Submission 11, The Australian Workers' Union, p 1; Evidence, Mr Palladino, 27 April 2021, p 23.

<sup>138</sup> Submission 3, Australian Council of Trade Unions, p 3.

<sup>139</sup> Submission 3, Australian Council of Trade Unions, p 4.

<sup>140</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3.

<sup>141</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 9.

<sup>142</sup> Evidence, Mr Adrian Shackleton, Executive Director, Air Conditioning and Mechanical Contractors Association of NSW, 27 April 2021, p 57.

<sup>143</sup> Evidence, Mr Shackleton, 27 April 2021, p 57.

<sup>144</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 4.

scheme could have a deregulatory effect which could lead to unsatisfactory or dangerous electrical work.<sup>145</sup> The ETU NSW Branch submission stated:

If implemented as proposed AMR will lead to unsafe electrical work, increased electrical risks, electrical fires, electrical injuries, and electrical fatalities.<sup>146</sup>

**2.59** Similarly, according to the NSW EU ITAB, significant risks to the community would ensue if the AMR scheme covered electrical work:

... agreeing that the occupation of electricians falls within the category of 'automatic deemed registration to carry on activities' untethered, would be a travesty of the extreme. It would promote complete disregard for the wellbeing of the community or the public for the sake of other values.<sup>147</sup>

**2.60** The NSW EU ITAB also indicated that the AMR scheme may lead to fatalities:

Electricians ... without proper gap training may employ out of date or inappropriate practices to perform work that will lead to incidents or unfortunately accidents of a fatal nature.<sup>148</sup>

**2.61** Looking beyond the electrical industry, the NFIA argued that the benefits of AMR would outweigh the risks to community safety if there were consistent qualification standards in each jurisdiction, however, this is currently not the case.<sup>149</sup> At the hearing, Mr Glen Chatterton, Chief Executive Officer of the NFIA, set out that the scopes of work for fire protection vary to such a degree across jurisdictions that workers would be able to perform work for which they are not trained.<sup>150</sup>

**2.62** Given the anomalies in licensing/registration across states and territories for some occupations, inquiry participants identified aspects of the AMR scheme which, in their view, could create gaps in, or introduce barriers to, effective regulation of those occupations. For instance, if quality issues in licensing/registration standards exist in one state or territory, the AMR scheme could foster suboptimal work, enabled by lower standards, being performed in other jurisdictions.<sup>151</sup> When asked about this issue at the hearing, Mr Con Tsiakoulas, Compliance Officer of the PTEU, illustrated that the scope of a plumber's licence in NSW means they can perform fire protection work without having completed competencies in fire protection, which differs to Victoria and Western Australia (WA). As such, under the AMR scheme, NSW plumbers could work on fire protection systems in Victoria and WA without necessarily being trained in that work.<sup>152</sup>

---

<sup>145</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 5.

<sup>146</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 11.

<sup>147</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 8. See also Evidence, Mr Palladino, 27 April 2021, p 23.

<sup>148</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 7-8.

<sup>149</sup> Submission 7, National Fire Industry Association, p 8.

<sup>150</sup> Evidence, Mr Glen Chatterton, Chief Executive Officer, National Fire Industry Association, 27 April 2021, p 56.

<sup>151</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 13.

<sup>152</sup> Evidence, Mr Tsiakoulas, 27 April 2021, p 48.

**2.63** In addition, the AEU NSW Teachers Federation Branch indicated that one of the most significant concerns about the AMR scheme is the risk posed to child safety and wellbeing.

- There are already challenges for schools to check and monitor teachers' Working With Children Check Clearance due to jurisdictional differences in the processes for obtaining the clearance and the state-based maintenance of records. Therefore, the AMR scheme would place a heavy administrative burden on principals to check and track multiple record systems.
- The NSW Department of Education provides principals with a list of individuals deemed no longer registered in NSW. However, there is not an equivalent national system or list.
- In NSW, registration includes an assessment of teachers' suitability, which does not occur in all other jurisdictions.<sup>153</sup>

**2.64** Mr Trevor Gauld, National Policy Officer of the ETU, was critical that under the proposed AMR scheme, workers from other jurisdictions do not have to notify another jurisdiction's regulator if they have commenced working there and there is no responsibility for a worker's qualifications to be checked:

... if a worker moves from one State to another, there is no obligation for them to tell the regulator they are doing that and the legislation actually puts restrictions on the regulator asking if someone is moving around.<sup>154</sup>

**2.65** By contrast, while the MEA recognised that some stakeholders are concerned about the risks associated with work being performed with limited or no knowledge about local laws or practices, the MEA referred to the requirement in the AMR scheme that a worker of a registered occupation working in a 'second state' will need to comply with the local laws of that state.<sup>155</sup> Similarly, in giving his evidence, the NSW Cross-Border Commissioner pointed to the requirement in the legislation that if a person is to apply their trade in a jurisdiction other than their home state, that person is still bound by the home state licensing scope and requirements.<sup>156</sup>

**2.66** Further, the MEA indicated that under current practice in the MR system, in the instance of occupational electrical licences, there is no requirement to prove the attainment of knowledge of local state-based rules or regulations prior to commencing work in a second state in the East Coast Electrician Scheme.<sup>157</sup>

<sup>153</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, pp 2-3.

<sup>154</sup> Evidence, Mr Gauld, 27 April 2021, p 25.

<sup>155</sup> Submission 2, Master Electricians Australia, pp 5-6.

<sup>156</sup> Evidence, Mr McTavish, 27 April 2021, p 13.

<sup>157</sup> Submission 2, Master Electricians Australia, p 5.

### **Proposals for a way forward**

**2.67** This section outlines some recommendations put forward by inquiry participants which, in their view, would address some of the concerns documented above in relation to the safety of workers, consumers and the community. A variety of proposals were suggested, including:

- achieving harmonisation of occupational registration requirements prior to the introduction the AMR system
- the exemption or exclusion of certain occupations from the AMR scheme
- further work to be undertaken to examine jurisdictional anomalies prior to the implementation of the AMR scheme
- a narrower scope of the AMR scheme, such as only applying to
  - 'like for like' occupational registrations/licences
  - employees and not employers (contractors)
  - government-issued registrations/licences and not industry-issued accreditations.

### ***Harmonisation of occupational registrations***

**2.68** Stakeholders from the electrical, plumbing and fire protection industries called for harmonisation across states and territories to be achieved, for example in areas such as consistency in licence requirements, requisite qualifications and safety regimes, prior to the introduction of AMR. Most of these stakeholders would be supportive of an AMR scheme once harmonisation or national licencing is achieved.<sup>158</sup> In giving evidence to the committee, Mr Maxwell of the CFMMEU asserted that consistent occupational requirements across jurisdictions is necessary to avoid a 'race to the bottom' under the AMR scheme.<sup>159</sup>

**2.69** Inquiry participants from the electrical industry referred to the East Coast Electrical Scheme as an effective AMR system.<sup>160</sup> Mr Gauld, National Policy Officer of the ETU, informed the committee that this scheme broadly works well because it was established after extensive mapping of the jurisdictional differences in registrations was undertaken and an understanding of information sharing between the licensing bodies was achieved.<sup>161</sup>

**2.70** Some parties remarked that they did not consider the implementation of the AMR scheme to create any impetus to achieve harmonisation of occupational registration requirements.<sup>162</sup> To the contrary, Mr Gauld contended that implementing an AMR scheme removes any incentive to work towards achieving harmonisation of occupational registrations/licences. Rather, he argued that the introduction of the scheme would undermine the work that is

---

<sup>158</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, pp 5-6 and 9; Submission 3, Australian Council of Trade Unions, p 5; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 7; Submission 7, National Fire Industry Association, p 8; Submission 8, CFMMEU (NSW Branch) Construction & General Division, p 22; Submission 11, The Australian Workers' Union, p 2; Evidence, Mr Watts, 27 April 2021, p 21.

<sup>159</sup> Evidence, Mr Maxwell, 27 April 2021, p 68.

<sup>160</sup> See, for example, Submission 9, National Electrical and Communications Association, p 1; Evidence, Mr Gauld, 27 April 2021, pp 29-30.

<sup>161</sup> Evidence, Mr Gauld, 27 April 2021, pp 29-30.

<sup>162</sup> Evidence, Mr Maxwell, 27 April 2021, p 68.

required to achieve harmonisation.<sup>163</sup> The ACTU asserted that, in any case, if this 'cart before the horse' approach was to encourage harmonisation, people would be significantly impacted in the meantime.<sup>164</sup>

**2.71** Some submissions noted the work by the COAG National Licensing Steering Committee and suggested that it, or a similar body, should resume working towards the goal of harmonisation of occupational registration requirements.<sup>165</sup> The NSW EU ITAB urged the NSW Government to spearhead the re-establishment of such a committee.<sup>166</sup> The ETU NSW Branch similarly called for the NSW Government to advocate at National Cabinet for the establishment of a working group, with representatives from government, unions, employers and regulators, to undertake work to lift standards and to modernise and standardise Australia's safety, electrical and licencing legislation nation-wide.<sup>167</sup>

**2.72** The NECA supported further work to align occupational requirements, but asserted that this work should not delay the application of the AMR scheme to unrestricted electrical licences. This is because, notwithstanding some jurisdictional differences in competency assessment methods and continuous professional development obligations, the requirements for an unrestricted licence are nationally consistent.<sup>168</sup> Mr Peter McCabe, Director Policy and Government Relations of the NECA, stated in evidence:

... there should be a framework that is capable of including contracting licences as well as occupational licences and a harmonisation of all the subsets.<sup>169</sup>

**2.73** By contrast, Ms Amber Flohm, Senior Vice President of the AEU NSW Teachers Federation Branch, stated that harmonisation of teaching standards and curriculum is not preferred for the education sector, nor would it mitigate these risks:

given the differing requirements across the jurisdictions around police and criminal checks, which are quite different, I do not see how you could harmonise ... that in a way that is safe and protects our children.<sup>170</sup>

### ***Exemptions and exclusions for registered occupations***

**2.74** As noted in Chapter 1, a state or territory minister can declare a certain occupation temporarily exempt (section 42T of the Federal MR Bill) or exempt for a period of up to five years (section 42S of the Federal MR Bill). Several parties to the inquiry called for certain occupations to be declared exempt from the application of the AMR scheme. Those parties contended that this is

<sup>163</sup> Evidence, Mr Gauld, 27 April 2021, pp 23 and 30.

<sup>164</sup> Evidence, Mr Watts, 27 April 2021, p 20.

<sup>165</sup> See, for example, Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 6, 9-10 and 15; Submission 7, National Fire Industry Association, p 8.

<sup>166</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 10.

<sup>167</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 3.

<sup>168</sup> Submission 9, National Electrical and Communications Association, p 2.

<sup>169</sup> Evidence, Mr McCabe, 27 April 2021, p 29.

<sup>170</sup> Evidence, Ms Flohm, 27 April 2021, p 46.

necessary because of a significant risk to consumer protection and the health and/or safety of workers or the public, as summarised earlier in this chapter.<sup>171</sup>

- 2.75** For example, the NFIA called for fire protection workers to be granted a five year exemption from the AMR scheme,<sup>172</sup> as did the PTEU for plumbers.<sup>173</sup> Both stakeholders considered that a five-year timeframe would be sufficient to achieve uniformity across registration and licensing requirements for their respective occupations.<sup>174</sup> The CFMMEU also suggested a carve-out for the building and construction industry.<sup>175</sup>
- 2.76** The AEU NSW Teachers Federation Branch informed the committee that it received written confirmation from the NSW Education Minister, the Hon Sarah Mitchel MLC, that the Treasurer's support for a five year exemption from the AMR scheme has been sought for the teaching profession.<sup>176</sup> However, when asked about this at the committee's hearing, Ms Amber Flohm, Senior Vice President of the AEU NSW Teachers Federation Branch, informed the committee that the AEU NSW Teachers Federation Branch supports a permanent exclusion of the teaching profession from the AMR scheme, rather than an exemption under section 42S of the Federal MR Bill. According to the AEU NSW Teachers Federation Branch, the risks posed to children are too high for them to accept a five-year exemption which may lapse.<sup>177</sup>
- 2.77** Stakeholders from the electrical industry held different views on whether the Federal MR Bill should be amended to permanently exclude the electrical occupation, or whether or a five year exemption for electrical workers under section 42S of the Federal MR Bill is more appropriate. The ETU NSW Branch supported a permanent exclusion from the scope of the AMR scheme because a hard exclusion from the scheme would provide an impetus for states and territories to work towards harmonisation.<sup>178</sup> Alternatively, in giving evidence to the committee, Mr Gauld, National Policy Officer of the ETU remarked that the ETU is not opposed to an approach whereby the electrical occupation is exempt for five years if this was supplemented by some consequential amendments to give momentum to a harmonisation process.<sup>179</sup>

---

<sup>171</sup> See, for example, Submission 1, Electrical Trades Union of Australia NSW Branch, p 9; Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 1, 7 and 15; Submission 7, National Fire Industry Association, p 3; Submission 12, Australian Education Union New South Wales Teachers Federation Branch, pp 2-3.

<sup>172</sup> Submission 7, National Fire Industry Association, p 3.

<sup>173</sup> Evidence, Mr Tsiakoulas, 27 April 2021, p 49.

<sup>174</sup> Evidence, Mr Tsiakoulas, 27 April 2021, p 49; Evidence, Mr Chatterton, 27 April 2021, p 62.

<sup>175</sup> Evidence, Ms Mallia, 27 April 2021, p 70.

<sup>176</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 1; Tabled document, *Correspondence from the Hon Sarah Mitchell, Minister for Education and Early Childhood Learning to Mr John Dixon, General Secretary, NSW Teachers Federation, dated 1 March 2021, concerning the application of automatic mutual recognition to the teaching profession.*

<sup>177</sup> Submission 12, Australian Education Union New South Wales Teachers Federation Branch, p 1; Evidence, Ms Flohm, 27 April 2021, p 47.

<sup>178</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 3; Evidence, Mr Gauld, 27 April 2021, p 32.

<sup>179</sup> Evidence, Mr Gauld, 27 April 2021, p 32.



- 2.78** By contrast, the NSW EU ITAB called for the NSW minister to exempt electrical licences and the NECA supported the application of the AMR scheme to unrestricted electrical licences.<sup>180</sup> Representatives from the NSW EU ITAB and the NECA queried whether an impetus for harmonisation would be created if the electrical occupation was completely excluded from the scheme, viewing a five-year exemption instead as having the potential to create a deadline towards which states and territories would work to achieve uniformity.<sup>181</sup>
- 2.79** By contrast, other submissions expressed a degree of caution about the exemption powers. The MEA supported a reserved approach to state and territory exemptions where they occur on the basis that there is no equivalent licence in that jurisdiction, but cautioned that exemption declarations by state ministers could lead to 'a form of State or Territory sanctioned protectionism that will reduce the effectiveness of AMR'.<sup>182</sup> The MEA further suggested that declarations of exemptions should be subject to anti-competition laws and must not impede the free movement of trade or labour across jurisdictions.<sup>183</sup> Likewise, the NSW Productivity Commissioner suggested that in order to maximise the economic benefit of the AMR scheme, exemptions should be limited.<sup>184</sup> The NECA and the ETU NSW Branch cautioned that the AMR scheme could subject the electrotechnology industry 'to occupational veto by one or more of the states'.<sup>185</sup>
- 2.80** Some parties contended that if further analysis on certain occupations is required to avoid any unintended consequences of AMR, a temporary exclusion for six months from the scheme would be sufficient.<sup>186</sup> For instance, the NSW Productivity Commissioner observed that the AMR scheme will apply to occupations not currently covered by the current MR inquiry, such as teachers. In circumstances where there is no data in relation to that occupation from the current MR scheme, he pointed to the benefit of the temporary exemption power under section 42T of the Federal MR Bill to grant occupations a six-month 'hiatus', which can be extended to 12 months.<sup>187</sup>
- 2.81** Along similar lines, the NSW Cross-Border Commissioner contended that six months would be sufficient to allow state and territory departments and agencies to ensure their policies, processes and practices are appropriately designed so individuals can work in a second state under the AMR scheme efficiently, effectively and safely.<sup>188</sup>
- 2.82** A related issue is the process by which an exemption from the AMR scheme may be granted. Some inquiry participants noted that an exemption relies on state ministers' discretion.<sup>189</sup>

<sup>180</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, pp 1 and 13; Submission 9, National Electrical and Communications Association, p 2.

<sup>181</sup> Evidence, Mr McCabe, 27 April 2021, p 32; Evidence, Mr Palladino, 27 April 2021, p 32.

<sup>182</sup> Submission 2, Master Electricians Australia, p 6.

<sup>183</sup> Submission 2, Master Electricians Australia, p 6.

<sup>184</sup> Submission 4, NSW Productivity Commissioner, p 3.

<sup>185</sup> Submission 9, National Electrical and Communications Association, p 3; Evidence, Mr Gauld, 27 April 2021, p 33.

<sup>186</sup> Evidence, Mr Achterstraat AM, 27 April 2021, p 3; Evidence, Mr McTavish, 27 April 2021, p 9.

<sup>187</sup> Evidence, Mr Achterstraat AM, 27 April 2021, pp 3-4 and 6.

<sup>188</sup> Evidence, Mr McTavish, 27 April 2021, p 9.

<sup>189</sup> See, for example, Evidence, Mr Gauld, 27 April 2021, pp 24-25; Evidence, Mr Chatterton, 27 April 2021, p 61.

When asked about this point at the hearing, Mr Christopher Watts, Senior Policy Advisor of the ACTU, commented that the Federal MR Bill grants to state ministers 'wide unilateral powers' to declare exemptions.<sup>190</sup> He proposed that there be a formalised process for consultation with, and the involvement of, stakeholders such as state regulators, union and employer groups, in the decision-making process regarding the exemption of occupations from the AMR scheme.<sup>191</sup>

**2.83** The committee notes that during the passage of the Federal MR Bill through the Commonwealth Parliament, there were unsuccessful attempts to amend the Bill to permanently exclude certain occupations from the application of the AMR scheme:

- In the House of Representatives, the ALP moved amendments, which were negated, to exclude from the AMR scheme building, maintenance or construction industry activity and electrical occupation activity.<sup>192</sup>
- In the Senate, the Australian Greens moved amendments, which were negated, to also exclude those occupations listed in the above mentioned ALP amendment, as well as teaching activity.<sup>193</sup>

### *Further analysis required*

**2.84** A common suggestion made during the inquiry was that prior to the introduction of the AMR scheme, further analysis should be undertaken on the scope of work and criteria for occupational registration across jurisdictions. For example, the PTEU NSW Branch promoted the development of a document with a contemporary and detailed examination of the competencies, training, experience and scope for registration of different occupational classes across jurisdictions.<sup>194</sup> The AMCA NSW suggested this type of mapping exercise should assist in identifying the necessary limitations on the AMR scheme so as to ensure the health and safety of workers, consumers and the community.<sup>195</sup>

**2.85** The PTEU NSW Branch noted the practical use of this type of document by employers to understand the competencies of workers registered interstate:

This mapping document not only needs to be developed, it needs to be regularly reviewed and updated to ensure that, for example, a Victorian employer hiring plumbers from interstate has a clear understanding of exactly what training/competencies/experience sits behind a plumbing registration certificate from another jurisdiction.<sup>196</sup>

### *Occupational registrations that are 'like for like'*

**2.86** As noted in Chapter 1, the AMR scheme is intended to apply to all occupational registrations unless exempted by a state or territory minister. Given the jurisdictional differences in some occupational licensing/registration, some stakeholders raised the idea that the AMR scheme

---

<sup>190</sup> Evidence, Mr Watts, 27 April 2021, p 17.

<sup>191</sup> Evidence, Mr Watts, 27 April 2021, p 19.

<sup>192</sup> *Hansard*, Australian House of Representatives Debates, 25 March 2021, p 17-8 (Richard Marles).

<sup>193</sup> *Hansard*, Australian Senate Debates, 12 May 2021, p 26-8 (Mehreen Faruqi).

<sup>194</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 5.

<sup>195</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 4.

<sup>196</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 5.

apply only to occupations where there are equivalent licences. That is, AMR applies only to occupational registrations that have similar scopes of registered work and registration prerequisites across states and territories.<sup>197</sup>

- 2.87** For instance, the NECA expressed support for the AMR scheme to apply to electrical workers who have an unrestricted electrical licence, but considered the application of the AMR scheme to restricted electrical licences to be unsuitable due to the jurisdictional variations.<sup>198</sup>
- 2.88** Similarly, the PTEU NSW Branch advised that it supported the application of the AMR scheme to general plumbing work as there is sufficient equivalence levels of licensing/registration across jurisdictions for general plumbing work, comprising 50 to 80 per cent of all plumbing work. However, it argued that for the remainder of plumbing and fire protection work, the jurisdictional variances are too pronounced for AMR to apply without creating additional community safety risks.<sup>199</sup>
- 2.89** Alternatively, the NSW EU ITAB suggested in its submission that if the AMR scheme remains unchanged, there should be a requirement for an individual to demonstrate that they have acquired knowledge of the local laws and rules regulating the activity covered by the occupation before starting work in the second state.<sup>200</sup>

### ***Contractors***

- 2.90** There were differing views among inquiry participants as to whether the AMR scheme covers contractors. In the view of the AMCA NSW and the NFIA, the AMR scheme could apply to contractors and sole traders.<sup>201</sup> According to the PTEU NSW Branch, contractors' inclusion was ambiguous.<sup>202</sup> The MEA took a different view, contending that the AMR scheme does not apply to contractors.<sup>203</sup>
- 2.91** Contractors have higher legal obligations and compliance responsibilities as business operators.<sup>204</sup> For instance, the NECA explained that an electrical contractor licence permits a person to undertake electrical work for others as a sole trader or company. A contractors' licence ensures that electrotechnology businesses have the necessary technical expertise and hold the required indemnities and consumer insurance.<sup>205</sup>

<sup>197</sup> See, for example, Submission 7, National Fire Industry Association, p 3; Submission 10, Plumbing Trades Employee's Union NSW Branch, pp 1 and 5

<sup>198</sup> Submission 9, National Electrical and Communications Association, pp 1-2.

<sup>199</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, pp 2 and 5.

<sup>200</sup> Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 6.

<sup>201</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3; Submission 7, National Fire Industry Association, p 7.

<sup>202</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 3.

<sup>203</sup> Submission 2, Master Electricians Australia, pp 1 and 6.

<sup>204</sup> See, for example, Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3; Submission 7, National Fire Industry Association, p 7; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 3.

<sup>205</sup> Submission 9, National Electrical and Communications Association, p 2.

- 2.92** Notwithstanding the different views on the scope of the AMR scheme, all parties made the point that the implementation challenges due to jurisdictional discrepancies in occupational registration and the associated safety risks are reduced if the scheme is limited to employees (workers) and does not encompass employers and sole traders (contractors).
- 2.93** Parties cautioned against contractors registered in a jurisdiction which permits self-certification of work being able to self-certify work in a jurisdiction that requires third-party independent certification. The NFIA concluded that this presents unreasonable risk to public safety.<sup>206</sup> The AMCA NSW remarked that as the intent of the AMR scheme is to increase the occupational mobility of workers, it should apply only to employees and exclude contractors.<sup>207</sup>
- 2.94** The PTEU NSW Branch claimed that if the AMR scheme is limited to workers only, the complexities of implementation and safety risks are reduced because plumbing work will continue to be supervised by a contractor licensed with the regulator in the jurisdiction where the work is performed.<sup>208</sup>
- 2.95** While the MEA argued that contractors are not covered by the scheme, it nevertheless expressed a similar view to other submitters that the exclusion of contractors from the AMR scheme means that the current safety and regulatory safeguards would not be undermined by AMR. This is because workers across all jurisdictions in the electrical industry are supervised by an electrical contractor who must ensure their workers are competent in their duties and hold the appropriate licences. Therefore, the MEA asserted that the same level of safety and consumer protection will be provided under the AMR scheme.<sup>209</sup>
- 2.96** The NECA agreed that the AMR scheme does not apply to contractors but encouraged the harmonisation of contractor licensing/registration standards to facilitate the application of AMR to contractors in the future.<sup>210</sup> Mr Peter McCabe, Director Policy and Government Relations of the NECA, claimed that to maximise the productivity gains of AMR, contractors should be covered at some point in the future after harmonisation has been achieved:

if we want to go through this process and achieve the overall objectives of the legislation, which is to cut red tape and reduce costs for business, then there should be a framework that is capable of including contracting licences as well as occupational licences and a harmonisation of all the subsets.<sup>211</sup>

### ***Industry accreditation***

- 2.97** As noted above, skillsets can be recognised by industry accreditation schemes rather than by registration or a licence from a state or territory regulator.<sup>212</sup> The NFIA and the PTEU asserted

---

<sup>206</sup> See, for example, Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3; Submission 7, National Fire Industry Association, p 5; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 3.

<sup>207</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, p 3.

<sup>208</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 4.

<sup>209</sup> Submission 2, Master Electricians Australia, pp 5-6.

<sup>210</sup> Submission 9, National Electrical and Communications Association, pp 2-3.

<sup>211</sup> Evidence, Mr McCabe, 27 April 2021, p 29.

<sup>212</sup> Submission 7, National Fire Industry Association, p 7.

that industry accreditations are not comparable with registrations or licences granted by a regulator and are not recognised in the Australian Skills Framework.<sup>213</sup>

**2.98** The PTEU outlined the potential adverse outcomes of applying AMR to industry accreditations:

Someone from NSW who works on sprinkler systems and is accredited by an industry association or similar, should not be mutually recognised as registered fire protection professional in Victoria which is three-year qualification. In this example, the Victorian regulator, or a Victorian employer, could have no confidence that the skills accredited by a non-government body equate to those of the qualified Victorian worker who is registered as competence to work safely by the State regulator.<sup>214</sup>

**2.99** The AMCA similarly argued that the AMR scheme should not apply to registrations or licences issued by a non-government body, particularly if the private or industry accreditation is underpinned by revenue-generating purposes rather than consumer and community safety.<sup>215</sup>

### **The impact of AMR on regulatory oversight and enforcement**

**2.100** During the inquiry, some concerns arose about the impact of AMR on the enforcement capability of regulators and the consequential impact on employers.

**2.101** Regarding the latter issue, there were varied positions with respect to the impact of the AMR scheme on employers and business owners. On one hand, some stakeholders considered that the AMR scheme would place a burden on employers and business owners to understand the variances in registrations and licences and to vet the qualifications of employees registered or licenced in another state.<sup>216</sup> The ACTU asserted that without the oversight of a state regulator or body, the onus is placed on the employer to confirm the worker holds the required registration and qualifications to undertake the work—a function currently undertaken by state bodies under the MR scheme.<sup>217</sup>

**2.102** Mr Gauld, National Policy Officer of the ETU, told the committee the burden on employers under the AMR scheme is increased and misplaced:

The bill seeks to limit the licensing bodies' capacity to ask questions, to review people's qualifications and to validate people's qualifications. They are not allowed to ask those questions or do those things anymore. In the current system it is a shared responsibility.

...

<sup>213</sup> Submission 7, National Fire Industry Association, p 7; Submission 10, Plumbing Trades Employee's Union NSW Branch, p 6.

<sup>214</sup> Submission 10, Plumbing Trades Employee's Union NSW Branch, p 6.

<sup>215</sup> Submission 5, Air Conditioning and Mechanical Contractors Association of NSW, pp 3-4.

<sup>216</sup> See, for example, Evidence, Mr Gauld, 27 April 2021, p 30; Evidence, Mr Watts, 27 April 2021, pp 16-17.

<sup>217</sup> Evidence, Mr Watts, 27 April 2021, p 16. See also Evidence, Mr Palladino, 27 April 2021, p 27.

The employer is then somehow supposed to do a mapping exercise to understand what that person's actual skills are. All of the burden is being placed back on the individual worker and the employer. It is back-to-front; it is upside down.<sup>218</sup>

- 2.103** On the other hand, the NSW Cross-Border Commissioner and MEA remarked that there is already an onus on business owners under workplace health and safety laws to ensure that their employees are performing work to the required standard and are appropriately qualified to perform the work.<sup>219</sup> The NSW Cross-Border Commissioner contended that the AMR scheme will ease administrative burden for small business:

Enhanced AMR will reduce the regulatory burden for small businesses and licence holders and increase the pool of available labour and services. It is a necessary and important aspect of better regulation and improving economic and social outcomes for residents, businesses, organisations and communities in border regions.<sup>220</sup>

- 2.104** Another issue raised was the impact of the AMR scheme on the effectiveness of regulators' enforcement and prosecution capability. Different to the current MR scheme, there may not be a requirement for an individual to notify the local regulator when working in a second state under the AMR scheme.<sup>221</sup> The ACTU identified that a regulators' effectiveness could be hampered by less visibility over who is performing what work within their jurisdiction and with what level of training or experience.<sup>222</sup> Further, this model presents challenges for regulators to disseminate updates and alerts to workers in their state.<sup>223</sup>

- 2.105** Moreover, regulators may have a reduced ability to undertake cross-jurisdictional enforcement action.<sup>224</sup> For example, the NFIA told the committee it was informed by the Queensland regulator that it would not have the power to take enforcement action against a sole trader for work completed in Queensland if they hold a contactor licence granted by another state or territory.<sup>225</sup>

#### **Additional safeguards to the AMR scheme**

- 2.106** Inquiry participants suggested a number of safeguards to strengthen regulatory oversight and function in the AMR scheme:
- The development and provision of a single point of recording for all licence/registration application approvals, prosecutions, fines, sanctions, suspensions and conditions that are placed on a licence holder since acquiring the licence/registration.<sup>226</sup>

---

<sup>218</sup> Evidence, Mr Gauld, 27 April 2021, p 30.

<sup>219</sup> Evidence, Mr McTavish, 27 April 2021, p 10; Evidence, Mr Jason O'Dwyer, Manager Advocacy and Policy, Master Electricians Australia, 27 April 2021, p 39.

<sup>220</sup> Evidence, Mr McTavish, 27 April 2021, p 9.

<sup>221</sup> Evidence, Mr Gauld, 27 April 2021, p 25.

<sup>222</sup> Evidence, Mr Watts, 27 April 2021, pp 21-22.

<sup>223</sup> Submission 1, Electrical Trades Union of Australia NSW Branch, p 7.

<sup>224</sup> See, for example, Submission 11, 'The Australian Workers' Union, p 1; Evidence, Mr Palladino, 27 April 2021, p 29.

<sup>225</sup> Evidence, Mr Chatterton, 27 April 2021, p 58.

<sup>226</sup> Submission 2, Master Electricians Australia, p 9.

- A requirement for a worker to sign-in with the local regulator or licensing board when working in the second state may be more practical and contemporaneous than, for example, a national registry of workers in a second jurisdiction.<sup>227</sup>
- Similar to the national drivers' license model, the AMR scheme should allow individuals who are subject to an investigation, but who do not participate, to be sanctioned in absentia, whereby the decision is upheld by all other jurisdictions.<sup>228</sup>
- With respect to the requirement for a worker to apply for a new home state registration should their home state change, a timeframe for this registration should be included. That is, within three months from when an individual's residential address permanently changes, an application for registration with the new state regulator should occur.<sup>229</sup>
- Rather than leaving it open to states and territory regulators to reach agreements to share information, this information sharing should be mandated in the AMR scheme.<sup>230</sup>

## Committee comment

- 2.107** The committee was referred terms of reference to examine the Mutual Recognition (New South Wales) Amendment Bill 2021 (the bill) on 23 March 2021. It subsequently received submissions and took evidence at a hearing on 27 April 2021. Throughout this period, the Federal MR Bill implementing AMR was still before the House of Representatives. The comments of parties to this inquiry reflect that uncertainty as to the final form the proposed AMR scheme.
- 2.108** The Federal MR Bill subsequently progressed through the House of Representatives on 25 March 2021 without amendments. Labor amendments to exclude certain occupations from the application of the AMR scheme were defeated.
- 2.109** In the Senate, the Federal MR Bill was amended on the initiative of the Government to change the commencement date of the proposed Act from 1 July 2021 to a date to be fixed by proclamation, with commencement after 12 months should proclamation not be made. This change was presumably made in recognition that no state or territory, to this committee's knowledge, has passed the enabling legislation to enable the Federal MR Bill to come into force. Greens' amendments to again exclude certain occupations from the application of the scheme were again defeated. A Labor amendment to refer the Federal MR Bill to a Senate committee for inquiry and report was also defeated.
- 2.110** Accordingly, the committee now has before it the final terms of the Federal MR Bill as proposed to be enacted and hence the final form of the proposed AMR scheme, which was not available to parties making submissions and giving evidence to the committee earlier in the inquiry.
- 2.111** From this vantage point, the committee makes a number of comments.
- 2.112** The committee is concerned that the consultation on the Federal MR Bill does not appear to have been adequate. If proper and meaningful consultation had been undertaken at the federal

<sup>227</sup> Submission 7, National Electrical and Communications Association, p 2.

<sup>228</sup> Submission 2, Master Electricians Australia, p 9; Evidence, Mr O'Dwyer, 27 April 2021, p 38.

<sup>229</sup> Submission 2, Master Electricians Australia, p 6.

<sup>230</sup> Evidence, Mr O'Dwyer, 27 April 2021, p 39-40.

level so that the stakeholders' concerns and feedback informed the provisions of the Federal MR Bill, this could have eliminated the need for inquiry participants to raise these issues again with this committee of the NSW Parliament. The committee notes that the Explanatory Memorandum to the Federal MR Bill fails to detail to what extent the Australian Government, through the Deregulation Taskforce in the Department of the Prime Minister and Cabinet, engaged with stakeholder's comments on the exposure draft of the Federal MR Bill, a sentiment which was echoed in evidence to the committee. It would have been informative had there been a Senate inquiry into the provisions of the Federal MR Bill.

- 2.113** Given the desirability of harmonisation across jurisdictions, the committee notes with disappointment that the National Occupational Licensing Scheme was seemingly abandoned in 2012 or 2013 and that the Ministerial Declarations prescribing the equivalence of many occupations between jurisdictions under the current MR arrangements have become outdated, despite there still being significant jurisdictional differences in occupational registration requirements and prerequisites.
- 2.114** As a substitute to real progress in harmonisation of occupational registration requirements across jurisdictions, it appears to the committee that AMR is proposed as an alternative, to apply to all occupations except those declared exempt by a state or territory minister. As it currently stands, the decision to exempt an occupation relies entirely on ministerial discretion. There is no formal process for consultation with stakeholders, such as trade associations, unions and regulators, in the decision-making process on exemptions of occupations.
- 2.115** During the inquiry, it was argued that the introduction of AMR may give renewed impetus to harmonisation of occupational registration requirements across jurisdictions. The committee notes, however, that this is far from guaranteed. It may equally prompt a fall-back in registration requirements to the lowest standard across all Australian jurisdictions. The argument that AMR may give renewed impetus to national harmonisation is not a cogent rationale in and of itself for the introduction of the AMR scheme.
- 2.116** The committee acknowledges the benefits which could flow from having an AMR system across Australia for occupational registrations. However, the committee accepts the cautionary statements from parties regarding the estimated productivity gains by PricewaterhouseCoopers of the AMR scheme. Importantly, in order to achieve these potential benefits, it is crucial that the AMR model is fit for purpose and its implementation is tailored to the occupations it covers.
- 2.117** To the committee's knowledge, NSW is the first state to introduce enabling legislation amending its referral of power to the Commonwealth. As such, and as the most populous Australian jurisdiction, it is in a key position to examine the suitability of the application of the AMR scheme to certain occupations.
- 2.118** The committee heard evidence from stakeholders that while many licensed trades and occupations have been harmonised across jurisdictions to the degree where AMR is both viable and useful, there were a significant number where this has not occurred. For this reason, as noted above, inclusion within the AMR framework was not supported at this time, and not until that harmonisation work had been undertaken. These trades and occupations included electrical, plumbing, medical gas, fire protection and certain building trades, among others.
- 2.119** The committee notes these calls from inquiry participants for the exclusion or exemption of certain occupations from the application of the AMR scheme. Both the House of



Representatives and the Senate rejected amendments to the Federal MR Bill to exclude certain occupations from the application of the AMR scheme. Nevertheless, the evidence from this inquiry reveals that these are issues that need a great deal more consideration than appear to have been granted to them to date.

- 2.120** To this end, the committee recommends that the Legislative Council proceed to debate the bill, addressing the concerns expressed by stakeholders. Furthermore, the committee recommends that the Government conduct comprehensive, immediate and ongoing consultation with stakeholders across various trades and occupations which have not yet achieved sufficient jurisdiction harmonisation, including electrical, teaching, mining, plumbing, medical gas, fire protection and building, maintenance and construction work, with the objective of an opt-in mechanism for occupations to be available once industry stakeholders agree they should be included in the AMR framework.

---

**Recommendation 1**

That the Legislative Council proceed to debate the Mutual Recognition (New South Wales) Amendment Bill 2021 and the committee comments and stakeholders' views expressed in this report be addressed during debate in the House.

---

---

**Recommendation 2**

That the Government conduct comprehensive, immediate and ongoing consultation with stakeholders across various trades and occupations which are not sufficiently harmonised, including electrical, teaching, mining, plumbing, medical gas, fire protection and building, maintenance and construction work, with the objective of an opt-in mechanism for occupations to be available once industry stakeholders agree they should be included in the AMR framework.

---



## Appendix 1 Submissions

<b>No.</b>	<b>Author</b>
1	Electrical Trades Union of Australia, NSW Branch
2	Master Electricians Australia
3	Australian Council of Trade Unions
4	NSW Productivity Commissioner
5	Air Conditioning & Mechanical Contractors Association of NSW
6	NSW Utilities and Electrotechnology Industry Training Advisory Body
7	National Fire Industry Association
8	CFMMEU (NSW Branch) Construction & General Division
9	National Electrical and Communications Association (NECA)
10	Plumbing Trades Employee's Union (PTEU) NSW Branch
11	The Australian Workers' Union (AWU)
12	Australian Education Union New South Wales Teachers Federation Branch
13	Department of the Prime Minister and Cabinet

## Appendix 2 Witnesses at hearing

Date	Name	Position and Organisation
Tuesday, 27 April 2021 Macquarie Room Parliament House, Sydney	Mr Peter Achterstraat AM	NSW Productivity Commissioner
	Mr James McTavish	NSW Cross-Border Commissioner
	Mr Christopher Watts	Senior Policy Advisor, Australian Council of Trade Unions
	Mr Tony Palladino	Executive Officer, NSW Utilities and Electrotechnology Industry Training Advisory Body
	Mr Trevor Gauld	National Policy Officer, Electrical Trades Union
	Mr Peter McCabe	Director, Policy and Government Relations, National Electrical and Communications Association
	Mr Jason O'Dwyer	Manager, Advocacy and Policy, Master Electricians Australia
	Ms Amber Flohm	Senior Vice President, Australian Education Union NSW Teachers Federation
	Mr Sam Clay	Deputy Secretary (Research/Industrial and Professional Support), Australian Education Union NSW Teachers Federation
	Mr Con Tsiakoulas	Compliance Office, Plumbing Trades Employees Union
	Mr Glen Chatterton	Chief Executive Officer, National Fire Industry Association
	Mr Adrian Shackleton	Executive Director, Air Conditioning and Mechanical Contractors Association of NSW
	Ms Rita Mallia	President, CFMMEU – Construction and General Division, NSW Branch
Mr Stuart Maxwell	Senior Industrial Officer, Federal CFMMEU	

## Appendix 3 Minutes

### Minutes no. 33

Thursday 25 March 2021

Portfolio Committee No. 1 – Premier and Finance

Members' Lounge, Parliament House, Sydney at 1.31 pm

#### 1. Members present

Ms Moriarty, *Chair*

Mr Borsak, *Deputy Chair*

Ms Boyd

Mr Buttigieg (participating member for the duration of the inquiry into the Mutual Recognition Amendment (New South Wales) Bill 2021)

Mr Franklin

Mr Martin

Mr Searle

#### 2. Apologies

Mrs Ward

#### 3. Inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021

##### 3.1 Terms of reference

The committee noted the referral on 23 March 2021 of the following terms of reference:

That:

- (a) the Mutual Recognition (New South Wales) Amendment Bill 2021 be referred to Portfolio Committee No. 1 – Premier and Finance for inquiry and report
- (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly
- (c) the committee report by 11 May 2021
- (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill.

##### 3.2 Participating members

The committee noted that Mr Buttigieg and Mr Secord will be participating members for the duration of the inquiry.

Resolved, on the motion of Mr Searle: That any member who intends to participate for the duration of the inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021, be provided with copies of all inquiry related documents, including meeting papers, unpublished submissions and the Chair's draft report.

##### 3.3 Proposed timeline

Mr Buttigieg raised the inquiry timeline in light of the consideration of legislation in the Federal Parliament.

Resolved, on the motion of Ms Boyd: That the committee adopt the following timeline for the administration of the inquiry:

- Friday 9 April 2021 – closing date for submissions
- TBC – up to 2 hearings
- Monday 3 May 2021 – circulation of Chair's draft report
- Monday 10 May 2021 – report deliberative
- Tuesday 11 May 2021 – tabling of report in the House

### **3.4 Stakeholder list**

Resolved, on the motion of Mr Searle: That the following stakeholders be invited to make a submission:

- Australian Council of Trade Unions
- Construction Forestry Maritime Mining Energy Union (Construction Division)
- Construction Forestry Maritime Mining Energy Union (Mining Division)
- Electrical Trades Union
- Plumbing Trades Employees Union
- Unions NSW
- Business NSW
- NSW Productivity Commissioner
- NSW Cross-Border Commissioner
- NSW Resilience Commissioner
- Master Builders Association NSW
- United Services Union
- Professionals Australia
- Independent Education Union
- Communications Electrical and Plumbing Union
- Transport Workers Union
- Australian Workers Union
- Australian Manufacturing Workers Union
- NSW Utilities and Electrotechnology Industry Training Advisory Body

Resolved, on the motion of Mr Searle: That members forward any additional stakeholders to the secretariat by 5 pm, Friday 26 March 2021.

### **3.5 Submissions, online questionnaire and proformas**

Resolved, on the motion of Mr Franklin:

- That the committee accept submissions from nominated stakeholders and other interested parties, including individuals.
- That the committee not conduct an online questionnaire.
- That the committee not accept any proformas.

## **4. Adjournment**

The committee adjourned at 1.45 pm, *sine die*.

Stephen Frappell  
**Committee Clerk**

**Minutes no. 34**

Tuesday 27 April 2021

Portfolio Committee No. 1 - Premier and Finance

Macquarie Room, Parliament House, Sydney, at 9.17 am

**1. Members present**

Ms Moriarty, *Chair*  
 Ms Boyd (via video link)  
 Mr Buttigieg (participating)  
 Ms Cusack (substituting for Ms Ward until 10.35 am)  
 Mr Franklin  
 Mr Martin  
 Mr Searle  
 Mr Secord (participating)  
 Mrs Ward (from 10.35 am)

**2. Apologies**

Mr Borsak, *Deputy Chair*

**3. Draft minutes**

Resolved, on the motion of Mr Searle: That draft minutes no. 33 be confirmed.

**4. Correspondence**

The committee noted the following item of correspondence:

***Received:***

- 26 April 2021 - Email from Ms Debra Bushell, Personal Assistant to the National Secretary, The Australian Workers' Union (AWU), to the secretariat, advising that the AWU will not be represented at the hearing on 27 April 2021.

**5. Inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021****5.1 Public submissions**

The committee noted that submissions nos 1-12 were published by the committee clerk under the authorisation of the resolution appointing the committee.

**5.2 Allocation of question time**

Resolved, on the motion of Mr Searle: that the allocation of questions alternate between the opposition, crossbench and government members in that order, with the allocation of questions to be in the hands of the Chair.

**5.3 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Peter Achterstraat AM, NSW Productivity Commissioner

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr James McTavish, NSW Cross-Border Commissioner

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Christopher Watts, Senior Policy Advisor, ACTU (via video link)

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Tony Palladino, Executive Officer, NSW Utilities and Electrotechnology Industry Training Advisory Body
- Mr Trevor Gauld, National Policy Officer, Electrical Trades Union
- Mr Peter McCabe, Director Policy and Government Relations, National Electrical and Communications Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Jason O'Dwyer, Manager Advocacy and Policy, Master Electricians Australia

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Amber Flohm, Senior Vice President, NSW Teachers Federation
- Mr Sam Clay, Deputy Secretary (Research/Industrial and Professional Support), NSW Teachers Federation
- Mr Con Tsiakoulas, Compliance Office, Plumbing Trades Employees Union

Ms Flohm tabled the following document:

- Correspondence from the Hon Sarah Mitchell, Minister for Education and Early Childhood Learning to Mr John Dixon, General Secretary, NSW Teachers Federation, dated 1 March 2021, concerning the application of automatic mutual recognition to the teaching profession.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Glen Chatterton, Chief Executive Officer, National Fire Industry Association (via video link)
- Mr Adrian Shackleton, Executive Director, Air Conditioning and Mechanical Contractors Association of NSW

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Rita Mallia, President, CFMMEU – Construction and General Division, NSW Branch (via video link)
- Mr Stuart Maxwell, Senior Industrial Officer, Federal CFMMEU (via video link)

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

## **6. Deliberative meeting**

### **6.1 Tabled document**

Resolved, on the motion of Mr Searle: That the committee accept and publish the following document tendered during the public hearing:

- Correspondence from the Hon Sarah Mitchell, Minister for Education and Early Childhood Learning to Mr John Dixon, General Secretary, NSW Teachers Federation, dated 1 March 2021, concerning the application of Automatic Mutual Recognition to the teaching profession.

### **6.2 Circulation of Chair's draft report**

Resolved, on the motion of Mr Franklin: That the Chair's draft report be circulated on Thursday, 6 May 2021.



**6.3 Next meeting**

Resolved, on the motion of Mr Searle: That the committee meet to consider the Chair's draft report on Monday, 10 May 2021 at 1.00 pm.

**7. Adjournment**

The committee adjourned at 5.11 pm until Monday 10 May 2021 at 1.00 pm in Rm 814/815 for the report deliberative.

Stephen Frappell  
Committee Clerk

**Minutes no. 35**

Monday 10 May 2021

Portfolio Committee No. 1 – Premier and Finance

Room 814/815, Parliament House, 2.31 pm

**1. Members present**

Ms Moriarty, *Chair*  
Mr Borsak, *Deputy Chair*  
Ms Boyd (via Webex)  
Mr Franklin  
Mr Martin  
Mr Searle  
Mrs Ward

**2. Previous minutes**

Resolved, on the motion of Mr Searle: That draft minutes nos. 26, 27, 28, 29, 30, 31, 32 and 34 be confirmed.

**3. Inquiry into Budget Estimates 2020-2021****3.1 Correspondence**

The committee noted the following items of correspondence relating to the inquiry into Budget Estimates 2020-2021:

***Received***

- 7 April 2021 – Letter from Mr San Midha, Deputy Secretary, Policy and Budget NSW Treasury, clarifying evidence given during the hearing on 8 March 2021.

***Sent***

- 2 March 2021 - Email from the secretariat to the Hon Don Harwin MLC, Special Minister of State, Public Service and Employee Relations, Aboriginal Affairs and the Arts, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 4 March 2021 – Email from the secretariat to Hon John Ajaka MLC, President, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 9 March 2021 – Email from the secretariat to Hon Gladys Berejiklian MP, Premier, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 11 March 2021 – Email from the secretariat to Hon Dominic Perrottet MP, Treasurer, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 15 March 2021 – Email from the secretariat to Hon Stuart Ayres MP, Minister for Jobs, Investment, Tourism and Western Sydney, attaching transcript of evidence with questions on notice highlighted and supplementary questions

- 17 March 2021 - Email from the secretariat to Hon Damien Tudehope MLC, Minister for Finance and Small Business, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 6 April 2021 - Email from the secretariat to Ms Francesca McGinnity, Office of Minister Perrottet, seeking formal letter from Mr San Midha, Deputy Secretary, Policy and Budget NSW Treasury clarifying evidence given at the Treasury hearing on 8 March 2021.

### **3.2 Answers to questions on notice and supplementary questions**

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution establishing the Inquiry:

- answers to questions on notice and supplementary questions from the Hon John Ajaka MLC, President of the Legislative Council, received 19 March 2021
- answers to questions on notice and supplementary questions from Hon Don Harwin MLC, Special Minister of State, Public Service and Employee Relations, Aboriginal Affairs and Arts, received 23 March 2021
- answers to questions on notice from Ms Margaret Crawford, Auditor-General of NSW, Office of the Auditor-General, received 23 March 2021
- answers to questions on notice and supplementary questions from the Hon Gladys Berejiklian MP, Premier, received 30 March 2021
- answers to questions on notice from Mr John Schmidt, NSW Electoral Commissioner, NSW Electoral Commission, received 30 March 2021
- answers to questions on notice and supplementary questions from the Hon Dominic Perrottet MP, Treasurer, received 1 April 2021
- answers to questions on notice and supplementary questions from the Hon Stuart Ayres MP, Minister for Jobs, Investment, Tourism and Western Sydney, received 7 April 2021
- answers to questions on notice and supplementary questions from the Hon Damien Tudehope MLC, Minister for Finance and Small Business, received 7 April 2021.

### **3.3 Consideration of Chair's draft report**

The Chair submitted her draft report entitled *Budget Estimates 2020-2021*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Borsak: That:

- a) The draft report as amended be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- d) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- e) That the report be tabled on Wednesday 12 May 2021.

## **4. Inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021**

### **4.1 Extension of reporting date**

The committee noted that on 5 May 2021 the House resolved to extend the reporting date for the inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021 to 10 June 2021.

**4.2 Report deliberative**

Resolved, on the motion of Mr Searle: That the secretariat, in consultation with the Chair, canvass dates with members via email to consider the Chair's draft report.

**5. Adjournment**

The committee adjourned at 2.37 pm, *Sine die*.

Emma Rogerson  
Committee Clerk

**Draft minutes no. 38**

Friday 4 June 2021

Portfolio Committee No. 1 - Premier and Finance

Meeting Room 1043, Parliament House, Sydney, at 2.04 pm

**1. Members present**

Ms Moriarty, *Chair*

Ms Boyd

Mr Buttigieg (substituting for Mr Searle)

Mr Franklin

Mr Martin

Mr Poulos

Mr Searle (participating member)

Mr Secord (participating member)

**2. Apologies**

Mr Borsak, *Deputy Chair*

**3. Committee membership**

The Committee noted correspondence to the Clerk of the Parliaments from the Leader of the Government in the Legislative Council appointing Mr Poulos as a member of the committee in place of Ms Ward.

**4. Draft minutes**

Resolved, on the motion of Buttigieg: That draft minutes no. 35 be confirmed.

**5. Correspondence**

The committee noted the following item of correspondence:

***Received:***

- 27 May 2021 – Letter from the Hon Dominic Perrottet MP, Treasurer to Chair, Automatic Mutual Recognition Bill, attaching the *Mutual Recognition Amendment Bill 2021* (Cth) as passed by the Senate and a future law compilation of the *Mutual Recognition Act 1992* (Cth).
- 4 June 2021 – email from the Office of the Hon Mark Buttigieg advising that Mr Buttigieg will substituting for Mr Searle for the purposes of the meeting, but that Mr Searle will be a participating member.

**6. Inquiry into the Mutual Recognition (New South Wales) Amendment Bill 2021****6.1 Public submission**

Resolved, on the motion of Mr Martin: That the committee authorise the publication of submission 13 from Department of Prime Minister and Cabinet.

## 6.2 Consideration of Chair's draft report

The Chair submitted her draft report entitled Mutual Recognition (New South Wales) Amendment Bill 2021, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Martin: That the committee adopt the amendments to the Chair's draft report which reflect information from the Department of Prime Minister and Cabinet's submission.

Resolved, on the motion of Mr Martin: That the following new paragraph be inserted after paragraph 1.1:

'According to the submission from the Department of Prime Minister and Cabinet, in 2019, almost one in five Australian workers, including electricians, plumbers, teachers, real estate agents and security officers, required a registration or a licence to perform their work.' [FOOTNOTE: Submission 13, Department of Prime Minister and Cabinet, p 2.]

Resolved, on the motion of Mr Martin: That paragraph 1.8 be amended by inserting at the end: 'The Commonwealth and state and territory governments also held a range of meetings and lead consultations with industry, unions and regulator stakeholders.' [FOOTNOTE: Submission 13, Department of Prime Minister and Cabinet, p 5.]

Resolved, on the motion of Mr Martin: That the following new paragraphs be inserted after paragraph 2.23:

'The benefits to workers living in border regions was highlighted in the submission from the Department of Prime Minister and Cabinet which stated:

In 2016, for example, almost one in four people who worked in Wodonga, many of whom work in licensed occupations, lived in Albury.' [FOOTNOTE: Submission 13, Department of Prime Minister and Cabinet, p 3.]

Resolved, on the motion of Mr Martin: That the following new paragraphs be inserted after paragraph 2.19:

'The submission from the Department of Prime Minister and Cabinet highlighted the ability to respond to labour shortages following natural disasters:

AMR will also enable jurisdictions to respond faster to critical and large-scale events, such as infrastructure outages. AMR will help communities respond to natural emergencies and disasters, including the bushfires and floods that recently devastated parts of NSW, as workers with particular skills can respond more quickly to help with immediate or longer-term recovery efforts in another jurisdiction. This will reduce the period taken for businesses, households and communities in affected regions to rebuild and recover.' [FOOTNOTE: Submission 13, Department of Prime Minister and Cabinet, p 4.]

Resolved, on the motion of Mr Buttigieg: That the following new paragraphs be inserted after paragraph 2.25:

'Mr Trevor Gauld, National Policy Officer of the ETU, disputed in evidence the argument that there is an apparent economic benefit of AMR:

It was an economic report prepared at the request of the Government. The entity that did it, [the] Productivity Commission, did not consult with any stakeholders about it ... we actually see it creating more regulatory burden for electrical occupations, not less. [FOOTNOTE: Evidence, Mr Trevor Gauld, National Policy Officer, Electrical Trades Union of Australia, 27 April 2021, p 35.]

Mr Peter McCabe, Director Policy and Government Relations of the NECA, in turn stated:

I think the potential is there to cut hard-dollar expenditure by businesses to get the necessary licences they need to do their work. But under the current format, it is not going to achieve that. [FOOTNOTE: Evidence, Mr Peter McCabe, Director Policy and Government Relations, National Electrical and Communications Association, 27 April 2021, p 35.]

Resolved, on the motion of Mr Buttigieg: That paragraph 2.38 be amended by inserting 'medical gas' before 'mining'.

Resolved, on the motion of Mr Martin: That the following new paragraphs be inserted after paragraph 2.47:

'According to the Department of Prime Minister and Cabinet submission, safeguards have been included in the AMR framework to prevent jurisdiction shopping:

Workers cannot pick a state in which they consider it to be 'easier' to gain a substantive licence and then seek automatic recognition in other states — a person's home State (and the licence they use for AMR) must be their principal place of residence or work.' [FOOTNOTE: Submission 13, Department of Prime Minister and Cabinet, p 4.]

Resolved, on the motion of Mr Martin: That paragraph 2.48 be amended by omitting 'Similarly'.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.53 be amended by inserting at the end: 'The ETU NSW Branch submission stated:

If implemented as proposed AMR will lead to unsafe electrical work, increased electrical risks, electrical fires, electrical injuries, and electrical fatalities.' [FOOTNOTE: Submission 1, Electrical Trades Union of Australia NSW Branch, p 11.]

Resolved, on the motion of Mr Buttigieg: That the following new paragraphs be inserted after paragraph 2.54:

'The NSW EU ITAB also indicated that the AMR scheme may lead to fatalities:

Electricians ... without proper gap training may employ out of date or inappropriate practices to perform work that will lead to incidents or unfortunately accidents of a fatal nature.' [FOOTNOTE: Submission 6, NSW Utilities and Electrotechnology Industry Training Advisory Body, p 7-8.]

Resolved, on the motion of Mr Buttigieg: That the following new paragraphs be inserted after paragraph 2.57:

'Mr Trevor Gauld, National Policy Officer of the ETU, was critical that under the proposed AMR scheme, workers from other jurisdictions do not have to notify another jurisdiction's regulator if they have commenced working there and there is no responsibility for a worker's qualifications to be checked:

... if a worker moves from one State to another, there is no obligation for them to tell the regulator they are doing that and the legislation actually puts restrictions on the regulator asking if someone is moving around.' [FOOTNOTE: Evidence, Mr Trevor Gauld, National Policy Officer, Electrical Trades Union, 27 April 2021, p 25.]

Resolved, on the motion of Mr Buttigieg: That paragraph 2.59 be amended by inserting at the end 'in the East Coast Electrician Scheme'.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.65 be amended by inserting at the end: 'Mr Peter McCabe, Director Policy and Government Relations of the NECA, stated in evidence:

... there should be a framework that is capable of including contracting licences as well as occupational licences and a harmonisation of all the subsets.' [FOOTNOTE: Evidence, Mr Peter McCabe, Director Policy and Government Relations, National Electrical and Communications Association, 27 April 2021, p 29.]

Resolved, on the motion of Mr Buttigieg: That paragraph 2.72 be amended by inserting 'and the ETU NSW Branch' after 'NECA' [FOOTNOTE: Evidence, Mr Trevor Gauld, National Policy Officer, Electrical Trades Union of Australia, 27 April 2021, p 33.]

Mr Martin moved: That paragraph 2.105 be amended by omitting 'The committee is also disappointed that the Senate chose not to undertake an inquiry into the provisions of the Federal MR Bill'.

Mr Buttigieg moved: That the motion of Mr Martin be amended by omitting 'The committee is also disappointed that the Senate chose not to undertake an inquiry into the provisions of the Federal MR Bill' and inserting instead 'It would have been informative had there been a Senate inquiry into the provisions of the Federal MR Bill.'

Amendment of Mr Buttigieg put and passed.

Original question of Mr Martin, as amended, put and passed.

Mr Buttigieg moved: That paragraph 2.113 and Recommendation 2 be amended by omitting 'ministerial exemptions of occupations for a period of five years being declared where necessary' and inserting instead 'an opt-in mechanism for occupations to be available once industry stakeholders agree they should be included in the AMR framework'.

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Ms Moriarty.

Noes: Mr Franklin, Mr Martin, Mr Poulos.

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.113 and Recommendation 2 be amended by inserting 'teaching, mining' after 'electrical'.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.113 and Recommendation 2 be amended by omitting 'certain building trades' and inserting instead 'building, maintenance and construction work'.

Resolved, on the motion of Mr Martin: That:

- a) the draft report, as amended, be the report of the committee and that the committee present the report to the House;
- b) the transcripts of evidence, submissions, tabled documents, and correspondence relating to the inquiry be tabled in the House with the report;
- c) upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- d) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- e) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- f) dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- g) the report be tabled on 8 June 2021;
- h) the Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

## 7. Adjournment

The committee adjourned at 2.56 pm until *sine die*.

Stephen Frappell  
**Committee Clerk**



