



TRS19D3030

Hon Josh Frydenberg MP
Treasurer
Parliament House
CANBERRA ACT 2600

Josh

Dear Treasurer

PROPOSAL TO CONSIDER REFORMS TO THE SYSTEM FOR MUTUAL RECOGNITION OF OCCUPATIONAL LICENCES

I am writing on behalf of the Board of Treasurers (the Board) regarding an issue that has emerged relating to administration of the mutual recognition system, and to request that you raise this issue with the Prime Minister in his capacity under the *Agreement Relating to Mutual Recognition*. In addition, the Board would also like to request that the Deregulation Taskforce consider potential reforms to Australia's mechanism for the mutual recognition of occupational licences, to better support the movement of skilled labour between the states and territories (states).

The *Mutual Recognition Act 1992 (Cth)* (the MRA) establishes a national regime for interjurisdictional recognition of occupational licences. Under this arrangement, individuals are entitled, upon application, to carry on their occupation in another state where the occupation in that state is deemed equivalent to that in their home state. However, recent cases before the Administrative Appeals Tribunal and the High Court have exposed a gap in the scheme that has the potential to undermine public confidence in its integrity.

The MRA requires mutual recognition applicants to declare, among other things, that they are not the subject of disciplinary proceedings in any state in relation to their occupation. A state regulator considering an application for mutual recognition is only able to factor in any conduct warranting disciplinary action if this conduct has been investigated by the jurisdiction in which it occurred. Any actionable conduct that is discovered as part of the application process, but has not been previously investigated, cannot be used as grounds to reject that application.

To strengthen Australia's mutual recognition system and provide greater certainty to applicants, the Board proposes that the MRA be amended to allow a state regulatory authority to postpone registration for up to 6 months where that authority forms a belief, on reasonable grounds, that:

- the applicant has engaged in conduct that would be grounds for disciplinary action in another state; and
- the state in which the conduct occurred has not commenced an investigation into that conduct.



This would provide an opportunity for the state in which the conduct occurred to take appropriate disciplinary action before the application process proceeds.

The Board is also seeking a coordinated Commonwealth-state approach to further strengthen Australia's mutual recognition arrangements. A potential first step could involve the reinstatement of the Commonwealth's licence recognition website (licencerecognition.gov.au), to promote greater transparency on mutual recognition across jurisdictions. Similarly, the states would work together to develop a set of clear guidelines to assist regulators in applying the principles of mutual recognition.

I trust that you will give due consideration to the Board's proposal. Please do not hesitate to contact me or the Board of Treasurers Secretariat (BoardofTreasurers@sa.gov.au) should you wish to discuss this proposal.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rob Lucas', is located below the closing.

Hon Rob Lucas MLC
Treasurer of South Australia
Chair of the Board of Treasurers

7 December 2019

- cc. Hon Dominic Perrottet MP, Treasurer of New South Wales
Mr Tim Pallas MP, Treasurer of Victoria
Hon Jackie Trad MP, Treasurer of Queensland
Hon Ben Wyatt MLA, Treasurer of Western Australia
Hon Peter Gutwein MP, Treasurer of Tasmania
Mr Andrew Barr MLA, Chief Minister and Treasurer of the Australian Capital Territory
Hon Nicole Manison MLA, Treasurer of the Northern Territory