Law Council
OF AUSTRALIA

16 April 2026

Competition and Consumer Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: NationalCompetitionPolicy@treasury.gov.au

Dear Sir/Madam

Review of Australia's Mutual Recognition Schemes for Workers

The Law Council welcomes the opportunity to contribute to the National Competition Council's review of Australia's mutual recognition schemes for workers. We thank you for your patience in receiving this submission, which has been produced at a busy time.

The *Mutual Recognition Act 1992* (Cth) and complementary state and territory legislation enable a licensed worker to apply for another licence in a second jurisdiction for an equivalent occupation, without the need for further assessment of their qualifications, skills or experience. The National Competition Council is required to report on whether, and to what extent, mutual recognition schemes are enhancing productivity, supporting workforce flexibility and expanding consumer choice.

The Law Council takes this opportunity to provide brief reflections on how the legal profession operates under current mutual recognition arrangements. We also make additional remarks about the building and construction industry.

Mutual recognition and the legal profession

The mutual recognition principle for occupations in subsection 17(1) of Part 3 of the Mutual Recognition Act is that a person who is registered in one state for an occupation is entitled after notifying the local registration authority in another state for the equivalent occupation:

- to be registered in the second state for the equivalent occupation; and
- pending such registration, to carry on the equivalent occupation in the second state.

For the legal profession, the holder of a legal practising certificate granted in one jurisdiction is entitled under the legal profession laws to engage in legal practice in another jurisdiction, without the need for additional registration or deemed registration in that other jurisdiction.

In the Law Council's view, there are benefits for the legal profession in mutual recognition and national competition policy principles. Beyond the practical advantages of being able to operate relatively seamlessly between jurisdictions (noting that that physical location is less important for the profession of practising law than for many trades and occupations), there are less tangible benefits, including a sense of belonging to a 'national' legal profession while not losing connections among jurisdictional-based members of the profession through local professional bodies and regulatory authorities.

The mutual recognition scheme also enhances the ability of legal practitioners to transition between different sectors of the economy, such as moving from the private sector to public sector agencies including regulatory agencies or the legal assistance services sector; or moving from practice at the bar to inhouse counsel in the private sector or in public sector agencies. The capacity to readily transition between such roles, not only within a jurisdiction, but also between different sectors across jurisdictions because of the availability of the mutual recognition scheme, provides a significant benefit not only to the individual practitioner, but more importantly to the economy. Having a national legal profession where legal practitioners can move seamlessly between sectors of the profession to address legal needs promotes productivity in the legal sector and in the Australian economy. It also raises standards of legal practice, as the movement of legal practitioners between different legal sectors enables legal practitioners to enhance their legal knowledge and practice skills by developing a broader understanding of the different perspectives of the consumers of legal services and is likely to facilitate a higher level of dispute resolution and of legal services to the community.

There are also notable benefits for consumers of legal services. This comes from an enhanced expectation of common standards, and consistent consumer remedies and protections regardless of the state or territory in which they reside of obtain legal services.

The laws of the states and the territories regulating legal practice and the provision of legal services have been extensively harmonised to provide common and, in many cases, uniform standards relating to the attainment of qualifications for admission to the profession and the practice of law. A similar approach has been taken to the core public and consumer protections such as professional indemnity insurance, fidelity funds, trust moneys, legal costs and cost disclosure, professional conduct rules and complaints and discipline handling. These protection measures are supported by common provisions for interjurisdictional cooperation and information sharing, the progressive development of an interjurisdictional register of legal practitioners and mutual recognition of conditions, limitations, suspensions, and cancellation of practising entitlements.

However, the implementation of mutual recognition for the legal profession has not been without complexity and has required a significant amount of work to devise and obtain agreement to uniform or harmonised regulatory standards at both the principles level and the details level. This is illustrated by noting that agreement was required on:

- nationally agreed mandatory legal education requirements for admission;
- a nationally agreed approach to continuing professional development;
- minimum national standards for professional indemnity insurance;
- uniform professional conduct and practice rules;
- common rules about costs disclosure; and
- common approaches to complaints-handling and remedies.

Every aspect of legal professional regulation has been carefully and methodically worked through to create appropriate standards. When seeking to have a mutual recognition scheme, states and territories must be aligned. This requires commitment by state and territory governments and cannot be left to occupational bodies themselves.

The Law Council's 2024 publication *Lawyer Regulation in Australia* provides further details on the history and status of the regulatory framework for the legal profession, including progress towards uniform legal profession regulatory laws across jurisdictions.[1]

Importantly, there are well-established relationships of cooperation and collegiality between the various licensing bodies and regulators of the profession in the different Australian jurisdictions, reinforced by well-established and regular interjurisdictional consultation and information-sharing arrangements. We note that the relevant legislation in various jurisdictions contemplates and allows for the adoption of protocols between interstate/territory bodies, such as information sharing and referral of investigations. However even where the legislation is silent or there is no formal protocol in place, there is an ongoing relationship of cooperation which contributes to the efficiency of a mutual recognition model and mitigates against some of the difficulties that might otherwise arise in the absence of a national regulatory or licensing body.

Noting that the current review is considering the circumstances in which a national licence could complement or replace existing mutual recognition arrangements, the Law Council highlights the important distinction between a 'national licence' under a common set of regulatory standards, and a national or centralised licensing/regulatory body. We further note that, because of the primary duty that legal practitioners (unlike other professions) owe to the courts as officers of the court, there are elements of the regulation of the legal profession that are not within the legislative power of the Commonwealth, State or Territory parliaments.

Finally, we underline that mutual recognition schemes should not confer rights to practise a profession or occupation that is not permitted in certain jurisdictions: for example, in Queensland, conveyancing is only permitted by lawyers.[2]

Additional comments on building licences

In the context of the current review, feedback from the legal profession working in the building and construction sectors has highlighted that licensing for builders is different in each state and territory.

For example, in Victoria, companies can hold the licences with a nominee director sitting behind the company. Unfortunately, there is no process for mutual recognition of the company itself, only of the individual. By contrast, in New South Wales, the nominated supervisor does not need to be a director, so applying for a licence is comparatively simpler.

We understand that previous consideration has been given to a national system of registration of building companies, which may be worthy of consideration in solving issues like this (or, for example, streamlining the registration of building surveyor practices in each state and territory).

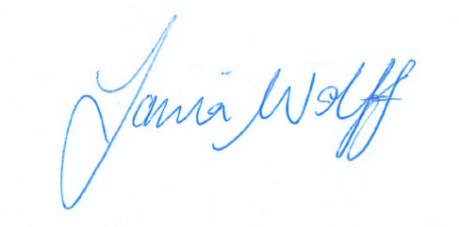
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1 Law Council of Australia, *Lawyer Regulation in Australia* (21 November 2024).
2 *Legal Profession Act 2007* (Qld), ss 24 and 25.

Contact

Should you wish to discuss this matter further, I invite you to contact Leonie Campbell, General Manager of Policy, [redacted]

Yours sincerely



Tania Wolff
President