



# Review of Mutual Recognition

Australian Council of Trade Unions submission to the National Competition Council Review of Australia's Mutual Recognition Schemes for Workers

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## Introduction

The Australian Council of Trade Unions (ACTU) is the peak trade union body in Australia, with 43 affiliated unions and states and regional trades and labour councils, representing approximately 2 million workers across the country who are engaged across a broad spectrum of industries and occupations in the public and private sectors. As custodians of the skills and training system and the representatives of skilled workers across the economy, we are pleased to have to the opportunity to provide input into the Councils' discussion paper.

The ACTU has, in the past year, made a number of submissions to various reviews regarding the importance of the current system for the licensing of occupations and the significant risks that are presented by moves to undermine that system or to move toward mutual recognition of licenses without sufficient care and consideration. We note that the information sought by this discussion paper is predominantly to do with the experience of employers and workers with the current suite of mutual recognition schemes. For these purposes, we would commend to the Council any submissions made by our affiliated unions, who are better placed to provide the Council with the day-to-day experiences of workers. This submission will instead focus primarily on questions of principle and the broader system questions raised by the discussion paper.

## Statement of ACTU principles

Occupation licensing, and registration, plays a key role in keeping workers and the public safe. These licences and registration schemes effectively codify minimum standards in an industry – standards that have been arrived at, often, after years of advocacy by workers and their representatives. Mutual recognition of licences can, when done properly, allow workers to be more mobile and create opportunities for cross-border commerce and more effective distribution of labour. Done incorrectly, it can threaten the sanctity of licensing schemes and act as an incentive for a race to the bottom on standards & worker and public safety. It is the ACTU's position that mutual recognition of licences should only occur when a series of criteria are met which ensure quality and safety will be maximised and not undermined.

The first criterion is that the recognition of licences is supported by the relevant industry stakeholders in all the jurisdictions included in the process. This should, of course, include the consent of the relevant unions and the workers they represent. Unions and the workers we represent are at the coal face of every industry and support licensing regimes out of a commitment to quality, safety and the long-term interests of their vocation. Without the support of workers and employers, a mutual recognition scheme lacks foundation and is definitionally flawed.

Secondly, where possible mutual recognition should occur only following a process to harmonise standards between jurisdictions. This harmonisation should occur with the aim of raising standards to those of the jurisdiction involved with the highest standards, rather than lowering standards to the lowest common denominator. Implementing mutual recognition without harmonisation creates a clear incentive for bad practices. Unscrupulous operators are likely to pursue licensing or registration in the jurisdiction with the laxest standards and then seek to operate in all other mutually recognised jurisdictions. This not only increases sharp practices but creates a logic for other jurisdictions to lower their standards as workers who choose to be licenced in the higher-standard jurisdiction may face competition from inter-state registered competitors with lower costs due to their lower licensing standards. These outcomes are clearly unacceptable and function to undermine the purpose of licensing schemes.

Finally, in situations where mutual recognition has already occurred without sufficient harmonisation, mutual recognition should not progress to automatic recognition. A robust mutual recognition process, in which capabilities and skills are verified, and licensing issues or censures are able to be confirmed prior to licensed work being undertaken are critical in partially

addressing situations in which mutual recognition has been advanced without sufficient prior harmonisation. These processes can curb some of their worst sharp practices that may occur in these situations. Automatic recognition significantly undermines these safeguards and risks exposing workers and the public to unsafe and low-quality licensed work which may have significant worker and public safety consequences. Automatic mutual recognition should only be pursued in situations where licensing requirements are already entirely harmonised and with the consent of the impacted workforces.

When mutual recognition is pursued under these principles, we believe that it can represent a positive, effective measure to increase opportunity for workers and enhance labour mobility. As we have in our previous submissions on this matter, we strongly warn against mutual recognition pursued without these protections – the risks created in terms of worker & public safety and quality of work would far outweigh any benefits gained.

## **Responses to (selected) questions in the discussion paper**

*In what circumstances could a national licence (broadly defined as a single licence recognised in all jurisdictions to a common set of regulatory standards) complement or replace existing mutual recognition arrangements? What would be the potential benefits and costs of moving to a national licensing scheme?*

As outlined in the principles above, it is our view that the aim of mutual recognition schemes should be to operate in an environment in which they are essentially creating a de facto national licence through the harmonisation of standards and the mutual recognition of essentially equivalent licenses with virtually identical standards. This means that, in situations where its pursuit is support by the impacted workers, we would generally welcome the replacement of mutual recognition schemes with national licensing structures. It must be acknowledged however that there are some costs associated with the establishment of a national license, as well as other factors which may, in some cases, make the existence of a de facto license more desirable than a de jure one. Firstly, while the majority of the time, and cost, involved in both a de facto national license and a de jure license is the painstaking work of harmonisation, de jure licenses also require significant legislative change. It can often involve the passing of legislation in each state and territory as well as federally. This requires not only time and money but also political capital. National licences also tend to be administered nationally, relegating state licensing bodies to a lower level of significance. This can sometimes be undesirable, particularly if state bodies are considered to be particularly effective versus the unknown quantity of a federal body.

These concerns should not be misconstrued as an opposition to national licensing schemes; they are often the natural end point of necessary harmonisation processes and are broadly seen as desirable by our affiliates – for example the AMWU has argued in recent years for a nationally consistent tradesperson certificate for their trades to deliver skills certainty and transportability. Our purpose in raising these issues is to demonstrate why our call is not for universal national licensing schemes, but for harmonisation and a process for recognition which best suits the needs and objectives of those in the affected industry whose goals are safety, quality and robust administrative process.

### **Feedback regarding specific mutual recognition processes.**

Unions affiliated with the ACTU have provided some specific feedback regarding the operation of some existing mutual recognition processes and gaps in the current system. This feedback can be found below.

[High Risk Licences](#) - Broadly speaking this works very well because overseen by SWA (tripartite body), training only delivered by accredited organisation who are regularly audited with proactive policing. Unions are broadly of the view that this model for mutual recognition is the most effective.

[Motor vehicle tradesperson certificate](#) – Both NSW and VIC are in the process of developing standards and licensing approaches for EV mechanics. The creation of a tripartite body to develop a harmonised system would be a significant improvement over the current fractured approach.

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