



New South Wales

Automatic Mutual Recognition Legislation Amendment Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend certain Acts for occupational licensing as a consequence of the introduction of the automatic mutual recognition scheme in the *Mutual Recognition Act 1992* of the Commonwealth (the *MR Act*).

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 **Amendment of Conveyancers Licensing Act 2003 No 3**

Schedule 1[1] inserts proposed sections 5A and 5B into the *Conveyancers Licensing Act 2003* (the *CL Act*).

Proposed section 5A provides that the CL Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

Proposed section 5B provides that—

- (a) because of the MR Act, the CL Act applies to an interstate conveyancer in the same way it applies to the holder of a licence under the CL Act, and
- (b) a reference to a licence includes a reference to the automatic deemed registration of an interstate conveyancer, and

- (c) the CL Act must be interpreted in a way compatible with the MR Act and the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth (the *mutual recognition Acts*).

Schedule 1[4] provides that an applicant for a licence under the CL Act must pay the application fee prescribed by the regulations. **Schedule 1[2] and [3]** make consequential amendments.

Schedule 1[7] provides that a holder of a licence, which includes an automatic deemed registration, must pay the contribution and any levy required to be paid from time to time under the *Property and Stock Agents Act 2002*, and provides that the Commissioner for Fair Trading (the *Secretary*) may suspend a licence when payment is outstanding. **Schedule 1[5], [6] and [8]** make consequential amendments.

Schedule 2 Amendment of Fair Trading Act 1987 No 68

Schedule 2 inserts proposed section 60AA into the *Fair Trading Act 1987* (the *FT Act*). The proposed section provides that—

- (a) because of the MR Act, the FT Act, Part 5 applies to an interstate commercial agent in the same way it applies to the holder of a licence under the FT Act, and
- (b) a reference to a licence includes a reference to the automatic deemed registration of an interstate commercial agent, and
- (c) the FT Act must be interpreted in a way compatible with the mutual recognition Acts.

Schedule 3 Amendment of Motor Dealers and Repairers Act 2013 No 107

Schedule 3[1] inserts proposed sections 9A and 9B into the *Motor Dealers and Repairers Act 2013* (the *MDR Act*).

Proposed section 9A provides that MDR Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

Proposed section 9B provides that—

- (a) because of the MR Act, the MDR Act applies to certain interstate occupations in the same way it applies to a holder of certain licences and certificates under the MDR Act, and
- (b) a reference to certain licences or certificates of registration includes the automatic deemed registration of certain interstate occupations, and
- (c) the MDR Act must be interpreted in a way compatible with the mutual recognition Acts.

Schedule 3[2] provides that a holder of a licence, which includes an automatic deemed registration, must pay the contribution required to be paid from time to time under the MDR Act, and provides that the Secretary may suspend a licence when payment is outstanding. **Schedule 3[3] and [4]** make consequential amendments.

Schedule 4 Amendment of Property and Stock Agents Act 2002 No 66

Schedule 4[1] inserts proposed sections 6 and 7 into the *Property and Stock Agents Act 2002* (the *PASA Act*). **Schedule 4[7]** makes a consequential amendment.

Proposed section 6 provides that the PASA Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

Proposed section 7 provides that—

- (a) because of the MR Act, the PASA Act applies to certain interstate occupations in the same way it applies to a holder of certain licences and certificates of registration under the PASA Act, and

- (b) a reference to certain licences or certificates of registration includes a reference to the automatic deemed registration of certain interstate occupations, and
- (c) the PASA Act must be interpreted in a way compatible with the mutual recognition Acts.

Schedule 4[2] provides that an applicant for a licence or certificate of registration under the PASA Act must pay the applicant fee prescribed by the regulations.

Schedule 4[4] provides that a holder of a licence, which includes an automatic deemed registration, must pay the contribution and any levy required to be paid from time to time under the PASA Act, Part 10, Division 2 and provides that the Secretary may suspend a licence when payment is outstanding. **Schedule 4[3], [5], [6] and [8]** make consequential amendments.

Schedule 5 Amendment of Tow Truck Industry Act 1998 No 111

Schedule 5 inserts proposed sections 7 and 8 into the *Tow Truck Industry Act 1998* (the *TTI Act*).

Proposed section 7 provides that TTI Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

Proposed section 8 provides that—

- (a) because of the MR Act, the TTI Act applies to interstate tow truck drivers and operators in the same way it applies to holders of tow truck operators licences and tow truck drivers certificates under the TTI Act, and
- (b) a reference to certain licences or certificates of registration includes automatic deemed registration of certain interstate occupations, and
- (c) the TTI Act must be interpreted in a way compatible with the mutual recognition Acts.



New South Wales

Automatic Mutual Recognition Legislation Amendment Bill 2024

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Automatic Mutual Recognition Legislation Amendment Bill 2024

No. _____, 2024

A Bill for

An Act to amend certain occupational licensing legislation to take account of amendments to the *Mutual Recognition Act 1992* of the Commonwealth.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Automatic Mutual Recognition Legislation Amendment Act 2024*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

5

Schedule 1	Amendment of Conveyancers Licensing Act 2003	1
	No 3	2
[1] Sections 5A and 5B		3
Insert after section 5—		4
5A Extraterritorial application		5
This Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.		6 7
5B Mutual recognition		8
(1) Because of the Mutual Recognition Act and subject to that Act—		9
(a) this Act applies to an interstate conveyancer in the same way it applies to the holder of a licence, and		10 11
(b) a reference to a licence includes a reference to the automatic deemed registration of an interstate conveyancer.		12 13
(2) This Act must, as far as practicable, be interpreted in a way that is compatible with—		14 15
(a) the Mutual Recognition Act, and		16
(b) the <i>Trans-Tasman Mutual Recognition Act 1997</i> of the Commonwealth.		17
(3) In this section—		18
<i>interstate conveyancer</i> means a person authorised to carry on the occupation of a conveyancer in New South Wales because of the Mutual Recognition Act.		19 20
<i>Mutual Recognition Act</i> means the <i>Mutual Recognition Act 1992</i> of the Commonwealth.		21 22
[2] Section 8 Eligibility for licence		23
Omit section 8(1)(f). Insert instead—		24
(f) has paid the application fee required by section 12.		25
[3] Section 8(2)(e)		26
Omit the paragraph. Insert instead—		27
(e) the corporation has paid the application fee required by section 12.		28
[4] Section 12		29
Omit the section. Insert instead—		30
12 Application fees		31
An applicant for a licence must pay the application fee prescribed by the regulations.		32 33
[5] Section 27 Partnerships		34
Omit “Division 2 of Part 5 (Trust money), Part 7 (Claims arising from failure to account) and Part 8 (Management and receivership)” from section 27(5)(e).		35 36
Insert instead “Part 5, Division 2 and Parts 7 and 8”.		37
[6] Part 7, heading		38
Omit the heading. Insert instead—		39

Part 7 Compensation Fund

[7] Section 89

Omit the section. Insert instead—

89 Contributions to Compensation Fund

- (1) A holder of a licence must pay the contribution and levy required to be paid from time to time under the PASA Act, Part 10, Division 2.
- (2) The payments must be made at the times and in the way required by the Secretary.
- (3) A payment may be required from a person in anticipation of the person becoming the holder of a licence.
Example— an applicant for a licence
- (4) The Secretary may suspend a licence if—
 - (a) a payment must be made by the holder of the licence under this section, and
 - (b) the payment is outstanding.

[8] Section 132 Grounds for disciplinary action

Omit “section 12” from section 132(1)(g). Insert instead “section 89”.

Schedule 2	Amendment of Fair Trading Act 1987 No 68	1
Section 60AA		2
Insert after section 60A—		3
60AA	Mutual recognition	4
(1)	Because of the Mutual Recognition Act and subject to that Act—	5
(a)	this part applies to an interstate commercial agent in the same way it applies to the holder of a licence, and	6 7
(b)	a reference to a licence includes a reference to the automatic deemed registration of an interstate commercial agent.	8 9
(2)	This part must, as far as practicable, be interpreted in a way that is compatible with—	10 11
(a)	the Mutual Recognition Act, and	12
(b)	the <i>Trans-Tasman Mutual Recognition Act 1997</i> of the Commonwealth.	13
(3)	In this section—	14
	<i>interstate commercial agent</i> means a person authorised to carry out commercial agent activities in New South Wales because of the Mutual Recognition Act.	15 16 17
	<i>Mutual Recognition Act</i> means the <i>Mutual Recognition Act 1992</i> of the Commonwealth.	18 19

Schedule 3 **Amendment of Motor Dealers and Repairers Act 2013 No 107**

[1] **Sections 9A and 9B**

Insert after section 9—

9A Extraterritorial application

This Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

9B Mutual recognition

(1) Because of the Mutual Recognition Act and subject to that Act—

(a) this Act applies to—

- (i) an interstate motor dealer in the same way it applies to the holder of a motor dealer's licence, and
- (ii) an interstate motor vehicle repairer in the same way it applies to the holder of a motor vehicle repairer's licence, and
- (iii) an interstate motor vehicle recycler in the same way it applies to the holder of a motor vehicle recycler's licence, and
- (iv) an interstate tradesperson in the same way it applies to the holder of a tradesperson's certificate, and

(b) a reference to a licence includes a reference to the automatic deemed registration of the following—

- (i) an interstate motor dealer,
- (ii) an interstate motor vehicle repairer,
- (iii) an interstate motor vehicle recycler,
- (iv) an interstate tradesperson.

(2) This Act must, as far as practicable, be interpreted in a way that is compatible with—

- (a) the Mutual Recognition Act, and
- (b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

(3) In this section—

interstate motor dealer means a person authorised to carry on the occupation of a motor dealer in New South Wales because of the Mutual Recognition Act.

interstate motor vehicle recycler means a person authorised to carry on the occupation of a motor vehicle recycler in New South Wales because of the Mutual Recognition Act.

interstate motor vehicle repairer means a person authorised to carry on the occupation of a motor vehicle repairer in New South Wales because of the Mutual Recognition Act.

interstate tradesperson means a person authorised to carry out repair work in the course of the person's employment in New South Wales because of the Mutual Recognition Act.

Mutual Recognition Act means the *Mutual Recognition Act 1992* of the Commonwealth.

[2] **Section 165A**

Insert after section 165—

165A Contributions to Compensation Fund	1
(1) The holder of a licence must pay the contribution required to be paid from time to time under this section.	2 3
(2) The amount of the contribution is the amount prescribed by the regulations.	4
(3) The regulations may prescribe different amounts of contributions for different kinds of licences.	5 6
(4) The payments must be made at the times and in the way required by the Secretary.	7 8
(5) A payment may be required from a person in anticipation of the person becoming the holder of a licence.	9 10
Example— an applicant for a licence	11
(6) The Secretary may suspend a licence if—	12
(a) a payment must be made by the holder of the licence under this section, and	13 14
(b) the payment is outstanding.	15
[3] Section 166 Money payable to Compensation Fund	16
Omit section 166(1)(a). Insert instead—	17
(a) contributions paid under section 165A,	18
[4] Section 166(2)	19
Omit the subsection.	20

Schedule 4	Amendment of Property and Stock Agents Act 2002 No 66	1
		2
[1] Sections 6 and 7		3
Insert after section 5—		4
6 Extraterritorial application		5
This Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.		6 7
7 Mutual recognition		8
(1) Because of the Mutual Recognition Act and subject to that Act—		9
(a) this Act applies to—		10
(i) an interstate real estate agent in the same way it applies to the holder of a real estate agent’s licence, and		11 12
(ii) an interstate stock and station agent in the same way it applies to the holder of a stock and station agent’s licence, and		13 14
(iii) an interstate strata managing agent in the same way it applies to the holder of a strata managing agent’s licence, and		15 16
(iv) an interstate auctioneer in the same way it applies to the holder of a licence who is accredited as an auctioneer, and		17 18
(v) an interstate assistant real estate agent in the same way it applies to the holder of a certificate of registration as an assistant real estate agent, and		19 20 21
(vi) an interstate assistant stock and station agent in the same way it applies to the holder of a certificate of registration as an assistant stock and station agent, and		22 23 24
(vii) an interstate assistant strata managing agent in the same way it applies to the holder of a certificate of registration as an assistant strata managing agent, and		25 26 27
(b) a reference to a licence includes a reference to the automatic deemed registration of the following—		28 29
(i) an interstate real estate agent,		30
(ii) an interstate stock and station agent,		31
(iii) an interstate strata managing agent, and		32
(c) a reference to a certificate of registration includes a reference to the automatic deemed registration of the following—		33 34
(i) an interstate assistant real estate agent,		35
(ii) an interstate assistant stock and station agent,		36
(iii) an interstate assistant strata managing agent.		37
(2) This Act must, as far as practicable, be interpreted in a way that is compatible with—		38 39
(a) the Mutual Recognition Act, and		40
(b) the <i>Trans-Tasman Mutual Recognition Act 1997</i> of the Commonwealth.		41
(3) In this section—		42
<i>interstate assistant real estate agent</i> means a person authorised to carry on the occupation of an assistant real estate agent in New South Wales because of the Mutual Recognition Act.		43 44 45

<i>interstate assistant stock and station agent</i> means a person authorised to carry on the occupation of an assistant stock and station agent in New South Wales because of the Mutual Recognition Act.	1 2 3
<i>interstate assistant strata managing agent</i> means a person authorised to carry on the occupation of an assistant strata managing agent in New South Wales because of the Mutual Recognition Act.	4 5 6
<i>interstate auctioneer</i> means a person authorised to carry on the occupation of an auctioneer in New South Wales because of the Mutual Recognition Act.	7 8
<i>interstate real estate agent</i> means a person authorised to carry on the occupation of a real estate agent in New South Wales because of the Mutual Recognition Act.	9 10 11
<i>interstate stock and station agent</i> means a person authorised to carry on the occupation of a stock and station agent in New South Wales because of the Mutual Recognition Act.	12 13 14
<i>interstate strata managing agent</i> means a person authorised to carry on the occupation of a strata managing agent in New South Wales because of the Mutual Recognition Act.	15 16 17
<i>Mutual Recognition Act</i> means the <i>Mutual Recognition Act 1992</i> of the Commonwealth.	18 19
[2] Section 17A	20
Omit the section. Insert instead—	21
17A Application fees	22
An applicant for a licence or certificate of registration must pay the application fee prescribed by the regulations.	23 24
[3] Section 166 Money payable to Compensation Fund	25
Omit “by way of levy under this Act” from section 166(a).	26
Insert instead “under this part”.	27
[4] Section 167A	28
Insert before section 168—	29
167A Payment of contributions and levies	30
(1) The holder of a licence must pay the contribution and levy required to be paid from time to time under this division.	31 32
(2) The payments must be made at the times and in the way required by the Secretary.	33 34
(3) A payment may be required from a person in anticipation of the person becoming the holder of a licence.	35 36
Example— an applicant for a licence	37
(4) The Secretary may suspend a licence if—	38
(a) a payment must be made by the holder of the licence under this section, and	39 40
(b) the payment is outstanding.	41
[5] Section 168, heading	42
Omit “Contributions”. Insert instead “Amount of contribution”.	43

- | | |
|--|---|
| [6] Section 168(1) | 1 |
| Omit the subsection. Insert instead— | 2 |
| (1) This section sets out the contribution payable by the holder of a licence. | 3 |
| [7] Section 168(3) | 4 |
| Omit “applies for”. Insert instead “carries on business under”. | 5 |
| [8] Section 169 Levies | 6 |
| Omit section 169(2) and (4). | 7 |

Schedule 5 Amendment of Tow Truck Industry Act 1998 No 111

Sections 7 and 8

Insert after section 6A—

7 Extraterritorial application

This Act is intended to have extraterritorial application to the extent the legislative powers of the State permit.

8 Mutual recognition

(1) Because of the Mutual Recognition Act and subject to that Act—

(a) this Act applies to—

(i) an interstate tow truck operator in the same way it applies to the holder of a tow truck operators licence, and

(ii) an interstate tow truck driver in the same way it applies to the holder of a tow truck drivers certificate, and

(b) a reference to a licence includes a reference to the automatic deemed registration of an interstate tow truck operator, and

(c) a reference to a drivers certificate includes a reference to the automatic deemed registration of an interstate tow truck driver.

(2) This Act must, as far as practicable, be interpreted in a way that is compatible with—

(a) the Mutual Recognition Act, and

(b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

(3) In this section—

interstate tow truck driver means a person authorised to carry on the occupation of a tow truck driver in New South Wales because of the Mutual Recognition Act.

interstate tow truck operator means a person authorised to carry on the occupation of a tow truck operator in New South Wales because of the Mutual Recognition Act.

Mutual Recognition Act means the *Mutual Recognition Act 1992* of the Commonwealth.