



New South Wales

# Mutual Recognition (Automatic Licensed Occupations Recognition) Bill 2014

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The Legislature of New South Wales enacts:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Mutual Recognition (Automatic Licensed Occupations Recognition) Act 2014*.

### 2 Commencement

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

### 3 Definitions

(1) In this Act:

***another jurisdiction*** means another State or a Territory or New Zealand.

***deemed local licence*** means a local licence that a person is deemed to hold under this Act as a result of being the holder in another jurisdiction of a recognised licence.

***interstate licensing authority*** means a person or body having the function of issuing a recognised licence under the law of another jurisdiction.

***licence*** means a licence, permit, certificate, registration or other authorisation.

***local law*** means the law of this jurisdiction under which a local licence is issued.

***local licence*** means a licence that is prescribed by the regulations as a local licence for the purposes of this Act.

***local licensing authority*** means the person or body having the function of issuing a local licence.

***person*** means an individual.

***recognised licence*** means a licence issued under a law of another jurisdiction that is prescribed by the regulations under this Act as a recognised licence.

(2) Notes included in this Act do not form part of this Act.

## Part 2 Mutual recognition of licences

### 4 Recognised licence to be a deemed local licence

- (1) A person who holds a recognised licence under the law of another jurisdiction is deemed to hold the local licence (a *deemed local licence*) that is prescribed by the regulations as equivalent to that recognised licence, but only if the person's principal place of residence is in that other jurisdiction.

**Note.** The person is deemed to hold a local licence only while the recognised licence in the other jurisdiction is in force.

- (2) For the purposes of this section, a person's principal place of residence includes any jurisdiction that was, within the last 3 months, the person's principal place of residence.
- (3) A person does not hold a deemed local licence in New South Wales if the person actually holds the local licence concerned.

### 5 Application of laws to deemed local licence holders

A person who holds a deemed local licence is taken to hold the local licence for the purposes of the laws of New South Wales except any provision of such a law that is prescribed by the regulations as not applying to a deemed local licence holder, either generally or in specified circumstances.

**Note.** Because a deemed local licence is treated as a local licence for all purposes, disciplinary and enforcement action can be taken against the holder of a deemed local licence in the same circumstances as that action can be taken against the holder of a local licence. The same rights of appeal and review will apply in respect of any such action as apply in respect of a local licence.

### 6 Effect of local licence disqualification

A person does not hold a deemed local licence under this Act if the person is disqualified in New South Wales from holding or applying for the local licence concerned.

### 7 Effect of suspension of recognised licence

The suspension in another jurisdiction of a recognised licence issued in that jurisdiction operates to suspend the deemed local licence that is equivalent to that recognised licence.

### 8 Conditions or limitations of deemed local licence

If a person's recognised licence in another jurisdiction is subject to a condition or limitation, the person's deemed local licence in New South Wales is taken to be subject to the same condition or limitation.

### 9 Arrangements between local and interstate licensing authorities

A local licensing authority may enter into arrangements with relevant interstate licensing authorities for the purposes of establishing a shared register of recognised licence holders and for other purposes related to the recognition of recognised licences issued in other jurisdictions.

## Part 3 Disciplinary and enforcement action

### 10 Definitions

In this Part:

**disciplinary action** in respect of a licence means:

- (a) the cancellation or suspension of the licence, or
- (b) the imposition of conditions on the licence, or
- (c) the imposition of any disqualification on the holder of the licence, or
- (d) the making of an adverse finding or determination against the holder of the licence, or
- (e) the issue of a reprimand or caution to the holder of the licence, or
- (f) the requiring of an undertaking from the holder of the licence, or
- (g) the imposition of a monetary penalty on the holder of the licence, or
- (h) any other action in respect of a licence that is prescribed by the regulations as disciplinary action for the purposes of this Part.

**enforcement action** in respect of a licence means:

- (a) the prosecution or conviction of, or the issue of a penalty notice to, the holder of the licence for an offence, or
- (b) any other action in respect of a licence that is prescribed by the regulations as enforcement action for the purposes of this Part.

### 11 Notification of disciplinary and enforcement action against deemed local licence holder to interstate licensing authorities

- (1) A local licensing authority must notify the appropriate interstate licensing authority of any disciplinary action or enforcement action taken by the local licensing authority against a person in respect of a deemed local licence held by the person. The **appropriate interstate licensing authority** is the interstate licensing authority that issued the recognised licence that results in the person holding the deemed local licence concerned.
- (2) A local licensing authority is authorised to act under this section despite any law relating to secrecy, privacy or confidentiality.
- (3) This section does not affect any obligation or power to provide information under the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

### 12 Recording of particulars about disciplinary and enforcement action in another jurisdiction

- (1) A local licensing authority may record in a relevant register kept by the local licensing authority particulars of any disciplinary action or enforcement action taken in another jurisdiction against a person in respect of a recognised licence that the person is deemed to hold in that jurisdiction as a result of holding a local licence issued by the local licensing authority.
- (2) An entry in a register pursuant to this section may be made in terms used to describe the action in information provided to the local licensing authority by the interstate licensing authority in the jurisdiction in which the action was taken.
- (3) A **relevant register** is a register kept under a local law in which particulars about disciplinary action or enforcement action concerning a local licence are authorised or required to be included.

## **Part 4 Miscellaneous**

### **13 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### **14 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## **Schedule 1 Savings, transitional and other provisions**

### **Part 1 General**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.