

Automatic Mutual Recognition of Occupational Registrations: Exposure Draft Legislation Submission

The National Catholic Education Commission (NCEC) welcomes the opportunity to make a submission to the Automatic Mutual Recognition of Occupational Registrations: Exposure Draft Legislation. This NCEC submission is based on input from state and territory Catholic Education Commissions from Queensland, New South Wales, Victoria, Australian Capital Territory, South Australia and Northern Territory.

The National Catholic Education Commission (NCEC) was established by the Australian Catholic Bishops Conference and represents 1,737 schools across Australia. Catholic schools support more than 765,000 students, including more than 20,000 Indigenous students and 35,000 students with disability.

Australia's Catholic schools employ more than 98,000 staff, including 55,000 teachers.

Introduction

A mutual recognition arrangement has been in place for occupational licenses since 1992. Commonwealth, State and Territory governments have worked together to improve the national framework and have agreed to develop a uniform scheme for the automatic mutual recognition (AMR) of occupational registrations as part of a broader set of red tape reduction reforms to assist Australia's economic recovery. The proposed scheme was announced on 17 August 2020. The Australian Government has released a four page [consultation paper](#) which sets out the key elements of the proposed AMR scheme.

The new scheme would potentially allow a teacher who is registered in one jurisdiction to be considered registered to perform teaching duties in another jurisdiction, without the need for further application processes or additional registration fees. This is complementary to the mutual recognition principle but different because it provides persons with an entitlement to automatic deemed registration which enables a person to commence work without obtaining a new or complementary registration or permit.

Independent reviews of cross-jurisdictional teacher registration have found that the current arrangements are not functioning as well as intended, are complex and costly and impose a regulatory burden on teachers that operate across states and territories.

Key Issues

Teacher registration is currently managed by teacher regulatory authorities in each state and territory. Local policy contexts and legislative and regulatory differences influence each jurisdiction's current approach to registration and drive operational and administrative arrangements. There is variation in practice and processes that contribute to professionalism,

teacher quality and safety of teachers across jurisdictions which has resulted in the review of national teacher registration. Despite teacher regulatory authorities implementing mutual recognition, some teachers, school leaders and employers have reported that they were dissatisfied with the process of being granted registration in a new jurisdiction. The Catholic Education Commission in Canberra and Goulburn has reported registration has presented an obstacle to teacher movement across the ACT and NSW in the past and believes that the new scheme would improve this experience for their teachers.

Working with Children Check (WWCC)

Under the new scheme, local laws will continue to apply for all working with children checks i.e., working with children check must be obtained within the state in which a teacher is teaching. NCEC acknowledges that working with children checks are not uniform across states and territories. The Royal Commission report into Institutional Responses to Child Sexual Abuse highlighted several issues including inadequate information sharing and monitoring of WWCCs across jurisdictions; the non-transferability of WWCCs across jurisdictions; and the inability of screening agencies to access WWCC decisions in other jurisdictions (Commonwealth of Australia, 2015).

In Victoria, child protection is completed as part of the teacher registration process. Since September 2019, teacher registration in Victoria has been closely aligned with the Working with Children Check scheme. The child protection element may need to be separated from teacher registration to allow teachers coming into Victoria from other states to obtain the necessary certification. Catholic Education South Australia report that the current quality assurance and rigour included in South Australia's teacher registration process is arguably at a higher threshold than some other jurisdictions, particularly in relation to the inclusion of the Working with Children Check as part of registration, processes and records around checks for fitness and propriety. While a national scheme to recognise and support the mobility of teacher registration may be desirable, the introduction of the draft bill, short consultation period and desire to pass the legislation by mid-2021 must not compromise the integrity and rigour of what is currently in place in jurisdictions such as South Australia.

A nationally consistent approach to pre-employment screenings was highlighted as a priority under the National Framework for Protecting Australia's Children 2009–2020. NCEC supports the implementation of a national working with children check which would provide consistency, standardisation and transferability across states and territories.

Registration fees

Under the new scheme, teachers will no longer need to apply for multiple state-based registrations. However, there is a requirement for a teacher to meet insurance, fidelity funds, and working with children checks. The current registration fee for most state and territory teacher regulatory authorities is approximately \$100. NCEC believes that there is potential for this fee to be reduced or even waived for multiple state registrations.

Potential information sharing and reporting issues

Under the proposed legislation, a teacher is not required to notify the teacher regulatory body in the second state in which they are teaching, unless the Minister of the second state expressly requires notification. Allowing teachers to work in a second state without advising the registration authority of their presence makes it difficult for the authority to monitor teacher registrations. Greater rigour beyond a teacher's self-disclosure is needed for the registration

authority to ensure any risk of missed information in the automatic mutual recognition process is kept to a minimum.

Catholic Commissions have also raised concerns about whether teacher registration authorities can monitor whether teachers have the appropriate qualifications, can demonstrate they meet the professional standards, are assessed as 'suitable to teach' and have the necessary working with children checks in place to teach in jurisdictions. Additionally, not all jurisdictions require provisionally registered teachers to complete the same number of days of classroom experience or provide the same level of evidence of experience to attain full registration. This may result in potentially less experienced teachers teaching a particular jurisdiction.

Catholic Education Commission Victoria (CECV) now has new requirements for teachers to maintain Religious Education (RE) accreditation to teach RE in Catholic schools in Victoria. This accreditation is not part of the Victorian Institute of Teaching registration as a teacher requirement. Under the current AMR rules, teachers from other states and territories could assume that they are eligible to teach in Victorian Catholic schools, without being aware of this expectation.

Jurisdictions have different criteria for registration and the Teaching Registration Authority (TRA) would not be able to ensure that teachers teaching in the jurisdiction meet their requirements. NCEC sees it as advantageous for the different jurisdictions to agree on minimum requirements without preventing jurisdictions to require higher levels where they see this as appropriate. The Australian Institute for Teaching and School Leadership (AITSL) One Teaching Profession: Teacher Registration in Australia sets out 17 recommendations which could herald an appropriate national approach to teacher registration.

There are differences among jurisdictions as to whether early childhood teachers (in institutions catering for children below school age) and vocational education teachers are required to be registered. For example, kindergarten teachers in Queensland are not required to be registered as teachers, while kindergarten teachers are required to be registered in other states (e.g. South Australia). All early childhood teachers, regardless of their employment setting should be required to be registered by a teacher registration authority, under a consistent national approach.

There are other more minor differences among jurisdictions regarding requirements for teacher registration. For example, jurisdictions differ as to which overseas-trained applicants (in terms of the countries in which they completed their teacher education) are regarded as exempt from demonstrating English language proficiency, and as regards acceptable scores on the various tests of English language proficiency.

Currently, a national registration database does not exist, which makes information sharing between states and territories challenging. If disciplinary proceedings against teachers occur within a state/territory, it poses an unnecessary burden on the registration authorities undertaking the investigation where they are not the jurisdiction in which the teacher is registered. NCEC supports more consistent collection and sharing of information between jurisdictions allowing more accurate decision making and enabling greater intelligence about risks and potential issues at a national level, supporting both children's safety and teacher mobility.

A mechanism or process for states and territories may need to be set up to allow teacher registration authorities to share the names of teachers under investigation. Because of the differences among jurisdictions in the legislative provisions applying to criminal history checks,

registration authorities in some jurisdictions can obtain more information than others through police checks. Provisions differ regarding the type of offences revealed and whether and to what extent 'spent' convictions are revealed. As the current Bill provides, it is important that the 'second State' regulator is able to take disciplinary action under existing laws in that State and is required to notify other local regulators of any resulting suspension or cancellation of registration.

Additionally, any disciplinary proceedings undertaken by an employer do not appear to be covered by this legislation. The disciplinary proceedings or actions in the legislation only refer to disciplinary actions undertaken by registration authorities (S42D). In the education sector, preliminary investigations or actions that might lead to disciplinary proceedings are often conducted by school employers. The current legislation is unclear on whether such proceedings are covered under s42D(3)(a), and if so, how information on preliminary investigations or actions that might lead to disciplinary proceedings would be notified to employers in other jurisdictions.

Conclusion

NCEC supports the intent of AMR in enabling easier occupational mobility for workers who need to work across state/territory borders. Most state and territory commissions have reported that existing mutual recognition arrangements are working well and allow for teachers to move easily between states and territories. Catholic Education Canberra Goulburn (CECG) however, does support the proposed legislation subject to specific matters being addressed and has made a separate submission.

Commissions have highlighted significant concerns relating to child safety and the potential to have unintended negative impacts on the quality standards across the teaching profession. NCEC believes that the potential savings to the individual teacher in registration fees do not outweigh the increased burden it would place on principals or school systems to check the individual teacher's suitability and increased potential risk to child safety. The proposed scheme would also shift considerable burden to employing authorities in investigating a teacher's criminal history, suitability and professional conduct prior to being in a position to confidently offer employment. NCEC does recommend that the issue with multiple teacher registration fees be explored further and that additional fees be reduced or removed.

NCEC would support a national system or database that allowed the teacher regulatory authorities to have immediate access to information about all registered teachers in Australia. This would significantly improve the exchange of information between teacher regulatory authorities.

NCEC would also support work towards achieving a national registration system, including a national working with children check, however not one that automatically deems registration to teachers across jurisdictions which have different teacher registration requirements. An automatic mutual recognition scheme will work best where all jurisdictions include agreed critical elements in the registration processes for all teachers, regardless of the state in which they live.