



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

31 March 2026

Mr Jason McDonald  
Competition and Consumer Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

via email: [nationalcompetitionpolicy@treasury.gov.au](mailto:nationalcompetitionpolicy@treasury.gov.au)

Dear Mr McDonald,

### **Review of Australia's mutual recognition schemes for workers**

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to make a submission to the National Competition Council's (NCC) review of Australia's mutual recognition schemes for workers.

As you are aware, small businesses account for 98% of all businesses in Australia, delivering over \$500 billion of economic value and employment for 5.9 million Australians.<sup>1</sup> They are an important source of skills development, employing 63% of Australia's apprentices and trainees, and are well represented in many of the sectors that require occupational licensing and benefit from mutual recognition arrangements.

National Competition Policy (NCP) reforms that remove barriers to a single national market for workers, including having effective mutual recognition arrangements, are critical to boosting productivity in Australia which the Productivity Commission estimates will generate economic benefit in the order of \$5-10 billion.<sup>2</sup>

#### **Mutual recognition benefits small businesses**

The ASBFEO supports mutual recognition schemes for workers.

They reduce barriers for small businesses seeking to operate across state and territory borders, fostering new opportunities for business entry, expansion and relocation. Mutual recognition schemes can reduce business costs by removing duplicative and inconsistent regulatory requirements, leading to lower compliance costs and greater certainty. They also give small businesses access to a wider pool of skilled labour at a time when sourcing labour is facing significant challenges.

---

<sup>1</sup> ASBFEO, *Small Business Data Portal: Number of small businesses in Australia; Contribution to Australian Gross Domestic Product; Contribution to Australian Employment*, ASBFEO, Australian Government, 2025, accessed 24 March 2026.

<sup>2</sup> Productivity Commission, *National Competition Policy: modelling proposed reforms*, Australian government, 2024, accessed 24 March 2026.



The Automatic Mutual Recognition (AMR) reforms introduced in 2021 were an important step forward in facilitating mutual recognition for workers, but progress towards a genuinely effective, nationally harmonised mutual recognition regime is incomplete. This can only be achieved through harmonised legislation, which could include the development of a national licensing scheme (NLS), which has rightly been recognised as a priority for boosting national economic productivity.

If a NLS is developed, the ASBFEO encourages governments to learn from the implementation of previous mutual recognition schemes, in particular, the AMR reforms and the lapsed initiative for the National Occupational Licensing Scheme of the early 2010s. From a small business perspective, a key consideration is to ensure that the regulatory settings and related compliance requirements are proportionate and risk-based, and informed by the practical realities of small business.

### **Poorly designed regulation can create barriers to effective implementation**

The AMR was intended to make it simpler, quicker and less expensive for people to work across jurisdictions, while maintaining high standards of consumer protection, and worker and public health and safety. However, what was intended as a national framework enabling friction-free labour mobility has instead become a fragmented patchwork of exemptions, carve-outs, and jurisdiction-specific requirements, creating confusion and real costs for workers and small businesses.

AMR requirements can vary across jurisdictions, are often opaque, and impose financial and administrative burdens, as well as compliance uncertainty, on workers and businesses seeking to take advantage of the arrangements.

A clear example of this regulatory fragmentation is where a state or territory has exempted recognition of a licenced occupation – with approximately 50 occupations exempted across all participating states and territories as of 2024.<sup>3</sup> These occupations include:

- architects
- gasfitters
- building surveyors
- real estate agents
- teachers.

In the ACT, a variety of essential construction-related trades and professions (including electricians, plumbers and gas fitters) have been exempted, making it difficult, if not prohibitive, for electricians, plumbers and gas fitters in the surrounding NSW region to work in the territory.

Even where an exemption does not apply, small businesses can still face additional, potentially prohibitive, jurisdiction-specific compliance burdens which can undermine the intended benefit of

---

<sup>3</sup> Department of Employment and Workplace Relations (DEWR), Number of requests made using the GovTEAMS communities, DEWR, Australian Government, accessed 26 March 2026.



AMR. For example, states and territories are permitted to impose a range of additional safeguards, or 'public protection requirements' under the *Mutual Recognition Act 1992* (the Act) as a condition of working under AMR. These include:

- insurance obligations
- trust account requirements
- minimum financial thresholds
- good character assurances.

While the legislative intent of these requirements is clear and legitimate, they tangibly add to the regulatory burden on small businesses seeking work interstate.

Some of these jurisdiction-specific requirements have come under challenge. For example, in 2019, a matter was brought before the High Court challenging a NSW Government decision to refuse occupational licensing for an applicant on the grounds of good character.<sup>4</sup> The High Court held that a host state cannot refuse recognition and registration on good character grounds, because character is itself a 'qualification' within the meaning of the Act, and therefore not open to review by the second jurisdiction .

A further dilution of the benefit of current mutual recognition arrangements is the ability of a jurisdiction to fully opt out of AMR. Queensland's decision to opt out of AMR has left a large gap in the scheme which, for the many small businesses operating in border regions, or taking on work across the east coast more generally, represents a major barrier to the free movement of licenced workers.

The impact of this will be particularly magnified as Queensland prepares to host the 2032 Olympics, presenting a range of unique, time based opportunities for small businesses and skilled workers if they are able to work in Queensland under AMR.

### **A NLS should target occupations where there is clear net benefit**

The Act does not apply to all occupations, which is appropriate, and where an occupation is brought within a NLS it is important there is demonstrated net benefit.

Determining which occupations should be brought within a NLS will be an important aspect of the scheme's development and the effectiveness of its implementation. Considerations should include the economic and productivity benefits derived from having labour mobility within that occupation, and the compliance and other costs associated with implementation, both for workers and business.

The ASBFEO supports the NCC's prioritisation of electrical trades and the engineering profession and considers that other occupations that support the construction sector — a sector in which 98% are small businesses — should be given careful consideration. Starting with occupations that would clearly benefit from a NLS, and then demonstrating these benefits through a well-designed

---

<sup>4</sup> *Victorian Building Authority v Andriotis* [2019] HCA 22.



scheme, will be important in building support for mutual recognition arrangements that can be expanded to other occupations over time.

**The regulatory requirements of a NLS must be proportionate and risk-based, and take into account the capacities of small businesses**

For a NLS to be effective, not only does it need to be designed in a way that achieves its policy objective, but the regulatory requirements it establishes need to be proportionate and risk-based, so that compliance can be met by participating workers and businesses.

Many small businesses have limited resources to devote to administrative tasks so the scheme's regulatory framework should be designed in way that does not impose unnecessary compliance burdens (for example, excessive or duplicative documentation, reporting and assurance requirements). To achieve this, the ASBFEO encourages policymakers to consult with small business stakeholders early and throughout the policy design process, and to consider whether co-design, pilot or trial-based approaches would be effective in informing and testing the scheme's design.

If the policy development process fails to be informed by, or take into account, the lived experience of the range of workers and businesses impacted by the reforms (including small businesses), it risks creating a scheme which is poorly designed and gives rise to unintended consequences which could undermine the scheme's objectives.

Well-designed reforms to Australia's mutual recognition arrangements, that could include a NLS, will go a long way towards fulfilling the longstanding aspiration of mutual recognition – that a worker or small business can 'register once, practice anywhere' – and further advance efforts towards achieving a single national market for workers.

Please note that the ASBFEO consulted with the following organisations to inform this submission:

- Australian Chamber of Commerce and Industry
- Housing Industry Association
- Master Builders Association.

This submission reflects the ASBFEO's views and we do not purport to represent the views of the above organisations. If you require any further information, please do not hesitate to contact the Advocacy team via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely

Australian Small Business and Family Enterprise Ombudsman