

Psychologists Registration Board of Western Australia

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INFORMATION ON THE OPERATION OF MUTUAL RECOGNITION (WESTERN AUSTRALIA) ACT 2001

Background

Under an agreement made between the Commonwealth Government and the States and Territories of Australia in May 1992, Mutual Recognition legislation was introduced that will eventually apply to the whole of Australia. Mutual Recognition applies to “goods” and to occupations. The legislation applies in Western Australia from 9 December 1995.

Occupations

Under the provisions (primarily Section 19) of the Mutual Recognition Act 2001 a person who has a current authority to practise in one State or Territory in an occupation recognised as equivalent to an occupation in another State or Territory, is eligible to be registered and carry on that occupation in that second State or Territory. This right to registration is exercised by lodging a notice (in the form of a Statutory Declaration), paying the appropriate fee and supplying evidence of current registration in another State or Territory.

The Notice must:

- (a) state that the person is registered for the occupation in the first State and specify the State; and
- (b) state the occupation for which registration is sought and that it is being sought in accordance with the mutual recognition principle; and
- (c) specify all the States in which the person has substantive registration for equivalent occupations; and
- (d) state that the person is not the subject of disciplinary proceedings in any State (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to those occupations; and
- (e) state that the person’s registration in any State is not cancelled or currently suspended as a result of disciplinary action; and
- (f) state that the person is not otherwise personally prohibited from carrying on any such occupation in any State, and is not subject to any special conditions in

carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any State; and

- (g) specify any special conditions to which the person is subject in carrying on any such occupation in any State; and
- (h) give consent to the making of inquiries of, and the exchange of information with, the authorities of any State regarding the person's activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

The notice must be accompanied by a document that is either the original or a copy of the instrument evidencing the person's existing registration (or, if there is no such instrument, by sufficient information to identify the person and the person's registration).

As regards the instrument evidencing the person's existing registration, the person must certify in the notice that the accompanying document is the original or a complete and accurate copy of the original.

The statements and other information in the notice must be verified by statutory declaration.

The local registration authority may permit the notice to be amended after it is lodged.

Psychologists

Mutual Recognition is a much simpler way of obtaining registration as a psychologist in Western Australia provided current registration is held in another State or Territory. The same fee is payable for registration under both systems, but under Mutual Recognition you do not need to wait until the next meeting of the Board to be registered. Under Mutual Recognition, provided the application form is in order, "deemed" registration is granted from the date the application is lodged with the Registration Board. Deemed registration entitles the psychologist to practise in accordance with the laws of Western Australia as if full (substantive) registration has been granted.

After the application has been lodged with the Board, and the appropriate fee paid, substantive registration must be granted by the Board within one month; unless the Board postpones or refuses registration. When substantive registration is granted, it takes effect from the date the application was lodged with the Board.

Once substantive registration is granted a registration certificate will be issued by the Board at its next meeting.

Once a person is registered under mutual recognition, the entitlement continues whether or not registration ceases in the first State.

Conditions and restrictions

Conditions can be applied to deemed or substantive registration. The Board may impose conditions or restrictions on an interstate registrant if the Board is of the view that this is necessary to achieve equivalence of occupation or if the State or Territory in which the psychologist is registered has conditions or restrictions on the registration in that State or Territory.

Postponement of Registration

The Board may postpone the grant of registration if:

- (a) any of the statements or information in the notice as required by Section 19 are materially false or misleading; or
- (b) any document or information has not been provided or is materially false or misleading; or
- (c) the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged; or
- (d) the Board decides that the occupation in which registration is sought is not an equivalent occupation.

If the grant of registration has been postponed, the Board may in due course grant or refuse the registration.

The Board may not postpone the grant of registration for longer than a period of 6 months, and the person is entitled to registration immediately at the end of that period, unless registration was refused at or before the end of that period.

Nothing in the Act prevents earlier registration from being granted on a review by the Tribunal.

Refusal of registration

The Board may refuse the grant of registration if:

- (a) any of the statements or information in the notice as required by Section 19 are materially false or misleading; or
- (b) any document or information has not been provided or is materially false or misleading; or
- (c) the Board decides that the occupation in which registration is sought is not an equivalent occupation and equivalence cannot be achieved by the imposition of conditions.

A decision to refuse to grant registration on the ground that the occupation in which registration is sought is not an equivalent occupation takes effect at the end of a specified period (not less than 2 weeks) after the person is notified of the decision, unless it has been previously revoked or there is an application for review to the Tribunal, in which case the Tribunal may make whatever orders it considers appropriate.

Notification of decision

The Board must give the person who lodges a notice in accordance with Section 19 a notice in writing of its decision to grant registration, or to postpone or refuse the grant of registration, or to impose conditions on registration.

Deemed Registration

A person who lodges a notice under Section 19 with the Board is, pending the grant or refusal or registration, provided with “deemed” registration.

Activities under deemed registration

A person who has deemed registration may carry on the occupation as if the deemed registration were substantive registration.

However, the person may do so only:

- (a) within the limits conferred by the person's substantive registration in the first State, and
- (b) within the limits conferred by the person's deemed registration in the second State; and
- (c) subject to any conditions or undertakings applying to the person's registration in the first State, unless waived by the Board of the second State; and
- (d) subject to any conditions applying to the person's deemed registration.

However:

- (a) the person may not carry on the occupation without complying with any requirements regarding insurance, fidelity funds, trust accounts and the like that are designed to protect the public, clients, customers or others; and
- (b) a person who has deemed registration in an occupation is subject to any disciplinary provisions and arrangements that are applicable to persons who are substantively registered in that State; and
- (c) references in the Act to persons registered in an occupation under the law of that State (however expressed) extend to persons who have deemed registration for the occupation under this Act.

However, the Board may waive any condition imposed under the law of the first State, or any undertaking given to the local registration authority of the first State, if it thinks it appropriate in the circumstances.

The Board may impose conditions as if deemed registration were substantive registration, but it must not impose conditions that are more onerous than would be imposed in similar circumstances (having regard to relevant qualifications and experience) if it were registration effected apart from this Part, unless they correspond to conditions or undertaking that apply to the person's registration in the first State or that are necessary to achieve equivalence of occupations.

Inquiries of the other State or Territory

After the psychologist has lodged an application with the Board, the Board makes inquiries of the State or Territory in which the psychologist is registered in order to ensure that the information supplied on the application form is correct and to establish whether or not there are any conditions or restrictions relating the psychologist's registration in that State or Territory.

False or misleading information

If the Board finds that the information supplied by the psychologist was not correct or any document or information that is required to be given has not been given or is

materially false or misleading, or that the circumstances of the psychologist have materially changed since the application was lodged, the Board may postpone or refuse registration. Deemed registrants will be notified of such a decision within one month. The Board's decision is subject to appeal.

All registrants

All registrants, whether they obtain registration through the Mutual Recognition process or by the "traditional" process under the Psychologists Act 2005, are subject to the disciplinary procedures and other arrangements which exist under the Psychologists Act 2005.

Application for Registration forms are available from the Board. A different form is used for registration under Mutual Recognition and under the Psychologists Act 2005.

Disciplinary Action

If a person's registration is cancelled or suspended or subject to a condition in another State as a result of disciplinary proceedings, then the registration in Western Australia is similarly affected unless the Board determines otherwise.

Documents

Documents have been prepared for:

- Registration Checklist and steps to follow
- Request for Mutual Recognition Information
- Application for Registration under Mutual Recognition
- Various standard advice letters