

TRANS-TASMAN MUTUAL RECOGNITION (QUEENSLAND) BILL 2003

EXPLANATORY NOTES

FOR

AMENDMENTS TO BE MOVED IN COMMITTEE BY THE HONOURABLE TOM BARTON MP

Title of the Bill

Trans-Tasman Mutual Recognition (Queensland) Bill 2003

Objectives of the Amendments

The amendments clarify the operation of the retrospective application of the Bill by specifically validating actions taken during the period between the expiry of the Trans-Tasman Mutual Recognition (Queensland) Act 1999 and the commencement of this proposed Act (the expiry period).

Achievement of the Objectives

The amendments achieve the objectives by validating the actions of occupational registration authorities in Queensland in relation to acts done during the expiry period and limiting the liability for loss or damage arising out of the actions of registration authorities during the expiry period. The amendments also provide for a transitional regulation-making power to facilitate the transition from the previous Act to this proposed Act. The transitional regulation-making provision and any transitional regulations made under this provision will expire one year after the commencement of this proposed Act.

Estimated Cost for Government Implementation

The amendments will not impose any additional costs on government.

Consistency with Fundamental Legislative Principles

The amendments are consistent with fundamental legislative principles. The amendments clarify the retrospective application of the Bill to preserve and safeguard the position of parties involved in occupational registration activities during the expiry period.

Consultation

Consultation with Government agencies has confirmed the desirability of clarifying the retrospective application of the Bill.

NOTES ON PROVISIONS

Amendment 1

The amendment amends clause 2 of the Bill to provide that new clauses 10A to 10C will commence on assent.

Amendment 2

The amendment amends clause 10 of the Bill by inserting a new clause 10(3) and new clauses 10A, 10B and 10C.

Clause 10 of the Bill provides retrospective validation to things done in the expiry period as if the previous Act had not expired. This validates actions taken by a registration body which continued to operate as if the previous Act had not expired.

New clause 10(3) provides that if things were done because of the expiry, clause 10 in the Bill is subject to clause 10A. Clause 10A further clarifies the application of the validation provisions of the Bill by addressing things done because of the expiry.

Clause 10A(1) clarifies the status of any action taken, including a refusal to take action during the expiry period, because of the expiry of the previous Act.

Clause 10A(2) deals specifically with the application of periods specified in the Commonwealth Act in the circumstance of the taking of action, or a refusal to take action, during the expiry period because of the fact that the previous Act had expired. The clause provides that the counting of any period does not apply during the expiry period. The clause provides two examples of how this would be applied, firstly, where an application for registration was lodged before the expiry of the previous Act but not dealt with and secondly, where an application was lodged in the expiry period but not dealt with because of the expiry.

Clause 10A(3) validates the actions of a local registration authority which, in any case, counted a period regardless of the expiry.

Clause 10A(4) provides that in clause 10A a reference to the doing of an act includes a reference to the making of an omission.

Clause 10A(5) defines expressions used in clause 10A.

Clause 10B sets out the conditions under which liability for any loss or damage arising out of things done during the expiry period is limited.

In clause 10B(1), liability is limited generally to the extent that there would have been liability if the previous Act had not expired in any case. This applies for things that, under clause 10(2), are taken to have the same effect as they would have had if the previous Act had not expired.

In clause 10B(2), liability is limited generally to the extent that an act of a local registration authority is done on the basis of the previous Act having expired, or on the basis of the previous Act not having expired or as if it had not expired, or on the basis that the Commonwealth Act would again be adopted for Queensland whether or not for the expiry period.

Clause 10C provides for a transitional regulation-making power for the purposes of facilitating the transition from the operation of the previous Act to the operation of this proposed Act. This clause and any transitional regulations made under it expire one year after the commencement of the clause.