

TEACHER REGISTRATION BOARD of the Northern Territory

Teacher Registration Board of the Northern Territory

SUBMISSION REGARDING THE MUTUAL RECOGNITION AMENDMENT BILL 2020 AND THE AUTOMATIC MUTUAL RECOGNITION SCHEME

1. Introduction

The Teacher Registration Board of the Northern Territory (the Board) welcomes the opportunity to make a submission to the Deregulation Taskforce in relation to the exposure draft Mutual Recognition Amendment Bill 2020 (the Bill), including the Automatic Mutual Recognition (AMR) scheme. The Board has a strong interest in ensuring the teaching profession the Northern Territory (NT) is able to work safely and appropriately with children and delivers quality teaching practice. The Board acknowledges the economic efficiencies that occupational mobility may provide, however has some concerns regarding the amendments within the Bill, particularly Part 3A relative to Automatic Mutual Recognition.

The Board is an independent statutory body established under the *Teacher Registration (Northern Territory) Act 2004* (the Act). The Act provides for the registration of all teachers in the NT by ensuring that only persons who are fit and proper, appropriately qualified and competent to teach, are employed as teachers.

The Board is established to administer the scheme for teacher registration and facilitate the continuing competence of teachers in the NT. The Board drives the quality, professionalism and status of the teaching profession in the NT. This includes supporting, promoting and embedding quality teaching and educational leadership in the teaching profession.

Members of the Board hold their responsibilities in high regard and are committed to affording the public every opportunity to understand the process by which the Board arrives at its decisions. The Board acts independently of political and bureaucratic influence to make decisions regarding the registration of teachers in the NT in the best interests of the community as a whole, including students, parents and the teaching profession.

1.1. The teaching profession in Australia

Education contributes to positive health and wellbeing outcomes for children in Australia, by enabling children to develop necessary life skills in learning and educational attainment, as well as social skills such as friendship building, teamwork, communication and healthy self-esteemⁱ. Educational attainment equips people to achieve stable and secure employment, live in adequate housing and to make informed health choices for themselves and their familyⁱⁱ and it remains one of the biggest social determinants of health for Aboriginal and Torres Strait Islander peopleⁱⁱⁱ.

In Australia, school education is mandatory for all children, however the commencement age for school education differs across jurisdictions. Mainstream schools can be broadly categorised into three sectors:

- Government schools, owned and managed by state and territory governments;
- Catholic schools; and
- Independent schools.

There are many factors that contribute to a student's success in completing school and contributing positively to society^{iv}. It is widely acknowledged that teachers are one of the most important contributors to a child's educational growth, progress and achievement, with positive educational outcomes achieved when teachers work in partnership with families and others in the community^v.

1.2. Teacher registration in Australia

Teacher registration is granted and managed by teacher regulatory authorities (TRAs) in each state and territory of Australia. TRAs make decisions about registration in accordance with the National

Framework for Teacher Registration (the Framework), which contains nationally consistent registration standards and processes for teachers to achieve full registration. This is part of the effort by TRAs to improve mobility of teachers within Australia in a consistent and safe way, and to ensure that teacher registration is part of a wider framework for career progression and professional learning guided by the Australian Professional Standards for Teachers (the Standards).

The Standards provide the foundation for achievement and improvement in practice at every stage in a teacher's career. There are seven standards which apply to teachers across four career stages (graduate, proficient, highly accomplished and lead teachers) and cover three domains of teaching (professional knowledge, professional practice and professional engagement).

The Framework underwent national review in 2018, with the findings and recommendations published in a report entitled *One Teaching Profession: Teacher Registration in Australia*vi. This review assessed the ongoing effectiveness of the current teacher regulatory system including the extent to which there is consistency within and between jurisdictions in the way that the Framework is applied. The review made recommendations to improve consistency within the teaching profession, however there is still some way to go for the recommendations to be realised.

2. Northern Territory context

2.1. Northern Territory context

The NT is a geographically, culturally and socially diverse jurisdiction of Australia, with NT schools located across a geographical spectrum ranging from urban to very remote locations. In 2019, the NT population was 245,929, with Aboriginal and Torres Strait Islanders making up approximately 30% of the total population^{vii}.

As at 30 June 2020, there were 5,503 registered teachers in the NT. Of the applications for registration received in 2019-20 year, 62% of teachers were registered under the mutual recognition principle, provided for in the *Mutual Recognition Act 1992* (Cth). On average across all registered teachers in the NT, approximately 75% are registered in accordance with the mutual registration principle.

Teacher registration in the NT

A teacher may be registered in the NT if they meet the eligibility criteria for registration under the Act; that is, that they are appropriately qualified, fit and proper and competent to teach. When a person makes an application to be registered as a teacher in the NT, the Board makes an assessment of that person against the eligibility criteria for registration in accordance with the Act. Registration may be granted as either provisional registration or full registration, determined by the person's professional experience and currency of practice; or alternatively, registration may be refused on the grounds that the person is not eligible for registration. A person applying for registration under the mutual recognition principle, for a category of registration that is equivalent to that held elsewhere, is taken to be eligible for registration in the NT.

TRAs across Australia have varying tests and thresholds for assessing a person's suitability to teach, known in the NT as a teacher's fitness and propriety. These tests include the requirement to undertake a criminal history check and to obtain a working with children clearance prior to being considered fit and proper to teach. The Board has a particularly broad remit in what it may consider when deciding a person's fitness and propriety to teach, and it is recognised that this discretion is not necessarily mirrored by other TRAs.

NT Aboriginal and Torres Strait Islander population

From an educational perspective, there is an identified need for the NT to better engage Aboriginal and Torres Strait Islander children in education. In 2016, 37.5% of Aboriginal and Torres Strait Islander people in the NT had attained a year 12 or equivalent level of education, compared to 52% of the general NT population^{viii}. In the same time period, less than half of the Aboriginal Torres Strait Islander people in the NT identified that they had excellent or very good health, and just under a third were fully engaged in education, employment or training activities^{ix}.

In 2014, the Australian Government committed to closing the gap in Aboriginal and Torres Strait Islander children's engagement in education. The policy underpinning the Closing the Gap National Agreement identifies that good quality education lays the foundation for success in life, with completion of year 12 or equivalent studies rendering a higher likelihood of obtaining employment*. Data obtained from measuring the success of the Closing the Gap initiative shows that in 2014-19, the NT had the lowest rate of school attendance for Aboriginal and Torres Strait Islander children compared to all other Australian jurisdictions and this rate has continued to decrease*i.

Education and engagement in school is one of the strongest protective factors against risk behaviours among Aboriginal and Torres Strait Islander young people, including substance abuse, violence and emotional distress^{xii}. For positive outcomes to be achieved for NT children, teachers in the NT must be able to successfully engage Aboriginal and Torres Strait Islander children in education. Maintaining connection to family, community and culture is fundamental to ensuring positive life outcomes^{xiii}, including positive educational outcomes. The concept of teachers working in partnership with the community surrounding a child is therefore highly relevant and important for Aboriginal and Torres Strait Islander children in the NT^{xiv}.

3. Position statement

The Board considers there is a significant risk to the educational outcomes of children in the NT should the AMR scheme proposed in the Bill apply to the occupation of teaching.

The risk identified by the Board relates to the effect of the AMR scheme on child safety in educational facilities, the stability of the teaching profession and the quality of teachers in the NT. While the Board can identify a potential benefit in creating economic efficiencies and reducing bureaucracy for some occupations, it is of the view that a scheme such as AMR is not suitable, appropriate or beneficial for the teaching profession, for reasons outlined in this submission.

3.1. Child safety

Part 3 Mutual Recognition

The Board notes that the Bill proposes the removal of the existing power under section 19(2)(h) of the *Mutual Recognition Act* 1992 (Cth) to remove the obligation for a person to consent for the second state to make inquiries about that person's registration in the home state. These enquiries are currently made in the interest of confirming the declarations made by an applicant for mutual recognition relative to their registration category, personal details and professional conduct. This removes the ability for the second state to confirm the personal and professional conduct details for those intending to teach under mutual recognition.

The Board is concerned that, in removing the ability for the second state to confirm a person's ability to apply under mutual recognition principle, or for the Board to confirm the validity of the person's declaration relative to their previous and current professional conduct, including disciplinary processes

in other jurisdictions, the safety of children in NT educational facilities will be compromised. This position is supported by the current national spotlight on information sharing between TRAs, and government agencies or bodies with related functions (for example, child safe organisations like the screening authority in the NT, SAFE NT) as well as the development of a national framework for child safety in the teaching profession. This would erode the work achieved to date by TRAs to prioritise child safety, and cloud when the Board can and must share or publish information.

Part 3A Automatic Mutual Recognition

The Bill acknowledges that a vulnerable person character test may be applied, such as a working with children clearance, however the Bill does not provide for the need for teachers to undergo criminal history checks. A criminal history check is a point-in-time report of a person's criminal behaviour. Registration periods vary across Australian jurisdictions, ranging from 1-5 years. For teachers registered in the NT, registration is granted for a period of five years for full registration and three years for provisional registration, however teachers are required to provide an updated criminal history check every two years to maintain their registration. This is part of the continuous monitoring adopted by the Board to ensure that child safety is prioritised and that teachers in the NT remain fit and proper to safely teach children.

The Board is therefore of the opinion that the AMR scheme in Part 3A and the amendment to section 19(2)(h) of the Bill do not accord with the national focus on child safety in the teaching profession, specifically the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, the *One Teaching Profession: Teacher Registration in Australia* report, and the newly established national framework for best practice principles for strengthening child safety and wellbeing through the regulation of the teaching profession (that being, the *Child Safety Framework*). The work undertaken in realising these recommendations, and striving for national consistency in embedding child safety as the primary consideration for TRAs, would be rendered futile.

3.2. Stability of the teaching profession in the NT

The Alice Springs (Mparntwe) Education declaration 2019 (the declaration) is a national agreement made by Australian education ministers establishing Australia's educational goals and actions for 2019-2029. The declaration commits that "learning is built on and includes local, regional and national cultural knowledge and experience of Aboriginal and Torres Strait Islander peoples and work in partnership with local communities"^{xv}.

The ability for teachers in the NT to work with the Aboriginal and Torres Strait Islander community to close the gap that exists in educational outcomes is compromised by the fundamental principle underpinning the AMR scheme. Engagement with Aboriginal communities, particularly those in a remote location, takes time and consistency on the part of teachers. In the NT, retention of teachers is a long identified issue, particularly in remote schools^{xvi}. Building and maintaining relationships is the core business of teaching^{xvii}, and the quality of relationships with colleagues^{xviii}, students^{xix}, and school leaders^{xx} were found to affect Australian teachers' decisions to commit to teaching roles.

The AMR scheme promotes short-term, temporary engagement which will neither benefit children or their community. The NT is particularly vulnerable to this negative effect because of its' high proportion of Aboriginal and Torres Strait Islander people and communities. The relationship between a teacher and the community is particularly important when the teacher is employed in an Aboriginal and Torres Strait Islander community. In order for the teaching profession in the NT to succeed in contributing positively to the educational outcomes of Aboriginal and Torres Strait Islander children, teachers must be dedicated to a place and its' people, culturally competent and able to build connections with Aboriginal and Torres Strait Islander children and their communities.

The NT is already subject to a significantly transient teaching population, with the teacher attrition in the NT reported to be the worst in Australia in 2016^{xxii}. Teacher attrition has negative consequences, including fewer effective teachers, disruptions to school operations, reduced teacher relationships and collegiality, poorer student performance and higher costs^{xxiii}. The Board considers that the AMR scheme promotes and encourages teachers from outside the NT to engage in short term, temporary teaching commitment, thereby increasing the existing issue of transience in the NT teaching profession due to the incentive the AMR scheme provides to temporarily relocate to the NT. This temporary workforce would, in line with the research outlined in this paper, significantly compromise all efforts made by the educational profession in the NT to engage teachers on a permanent basis to improve children's educational outcomes, increase the quality of the teaching profession, create optimal school functioning and create partnerships with the community.

In recognition of the geographical and cultural diversity of the NT, and some of the challenges this can pose for employers in finding suitably qualified and experienced teachers for certain teaching positions, the Board has provisions within its' Act that enable employers to seek the services of unregistered persons to work as classroom teachers. This need is often driven by difficulties experienced in securing registered teachers for certain teacher roles, particularly where the role is remotely located and/or requires specific skills or experience in an area of specialised curriculum, such as specialty subject areas or cultural curriculum. The Board requires that employers utilise registered teachers where possible, however in recognition of the need for all children in the NT have access to a quality education, the Board has implemented this mechanism for employers to engage unregistered persons as teachers in certain circumstances. These persons are typically already NT residents who work under an authorisation to teach, which is approved and monitored by the Board following a robust application and assessment process.

The Board is committed to ensuring that all people employed as a teacher in the NT are capable of working safely and appropriately with children and are able to deliver positive educational outcomes for children. The Board therefore only enables those who have the relevant skills and qualifications, and who are deemed to be fit and proper and competent, to be authorised to teach. These teachers are then subject to the provisions within the Act, and the Board may take action on their authorisation where there are professional conduct concerns. The Board considers this option for employers is just as effective as AMR in filling certain teaching vacancies, yet is more favourable due to the rigorous screening and assessment process the Board conducts in approving authorisations and in being able to progress disciplinary proceedings when required.

3.3. Quality teaching

The Board places considerable emphasis on quality teaching. Quality teachers achieve excellence in teaching by encouraging and motivating children and young people, achieve high educational outcomes, and modify their own professional practice based on continuous critical reflection. According to Hattie (2003), "The profession needs to be embracing the notions of what it is to be successful in teaching, helping all in a collaborative manner to attain this excellence, and recognizing major effects when they are evident^{xxiv}".

One example of the Board's commitment to improving and maintaining the quality of teaching in the NT regards the requirement for a teacher to comply with a Professional Development Framework. The Board is concerned that conditions on those with NT registration would not be met under the AMR scheme, where a teacher may be practicing in another jurisdiction, and that teachers teaching in the NT under the AMR scheme would not be required to maintain the equivalent professional development requirements, which raises quality and standards issues in addition to the child safety concerns.

The AMR scheme raises the risk of potential teachers seeking registration in the least demanding jurisdiction. By this, it is meant the jurisdiction that applies the most favourable suitability test, application and registration fees, eligibility requirements and duration of the term of registration. Currently, the incentive to do this is countered by the requirement for a fee to be paid to the second jurisdiction, and registration to be made out in that jurisdiction, when a teacher applies for registration under the mutual recognition principle and associated provisions in the *Mutual Recognition Act* 1992 (Cth).

The AMR scheme also raises questions as to when, and how, the Board could commence disciplinary action for matters of serious misconduct, fitness and propriety or competence, where the teacher is employed to teach in the NT, but where the teacher utilised the AMR scheme to obtain registration in the NT. The jurisdiction to initiate disciplinary investigations and make decisions on a teacher's conduct in the second state is unclear in the Bill.

While the Bill provides that the disciplinary processes in the second state apply to teachers working in that state under the AMR scheme, the Board is concerned that the provisions relating to disciplinary processes in the Board's Act do not consider how the Board may treat a person that holds registration outside of the NT. The disciplinary processes under the Board's Act allow the Board to take certain action on a person's registration in the NT, however it is unclear what the Board is able to effect when a teacher is working as a registered teacher in the NT, but their registration as a teacher is not held in the NT. This also increases the obligations placed on employers to ensure a teachers' conduct is appropriate for the profession at the outset and throughout, but may cause confusion when an employer seeks to notify the Board of a disciplinary or competence matter, where the Board may not have the jurisdiction to take any action on the person's registration under its' own Act.

3.4. Teaching role

The occupation of teaching does not align with intended outcomes and principles of the AMR scheme because of the distinct difference in the occupation of teaching compared to the other occupations subject to the AMR scheme. The purpose of the AMR scheme is to assist in Australia's economic recovery, with improvements anticipated in economic activity as a result of "savings to workers and businesses, productivity improvements and extra surge capacity in response to natural disasters"xxv. In the occupation of teaching, the "consumers" are children, however the definition of consumer also extends to include families and the rest of the school community.

Teachers do not provide goods or services in the same way that other occupations subject to the AMR scheme do. Teachers are also not contracted or chosen by the consumer, and consumers of teaching are not limited to the direct recipient (i.e. the child) but rather, include the whole school community and system. Teachers do not provide a one-off, short term service to consumers. Rather, to be effective, teachers need to make a long-term commitment to the role and develop an association and trust with a whole school community. There is no specified agreement that is formed between a teacher and consumers, and no single measure of good or poor performance. The performance of teachers and consumer satisfaction is therefore subjective, and TRAs are required to consider teacher practice against a range of measures and tests to determine whether it is safe, appropriate and to an accepted standard.

Unlike other recipients of services, children and their families do not have other accessible statutory avenues of consumer protection when there are concerns about teaching practice, such as warranties, guarantees, or avenues to pursue compensation, recourse and advocacy such as through consumer affairs bodies. Because of the high-level of responsibility associated with the teaching role for children's safety and learning, there needs to be a commensurate level of trust in the teaching profession by the community.

TRAs offer one of the only independent statutory avenues for recourse available to children, families and schools as consumers when a "service" provided by a teacher does not meet expectations, or compromises the safety and/or learning outcomes of children. Additionally, this recourse is not limited to resolving the matter experienced by a child, family or school that the teacher was directly involved with, but also acts as prevention for any issues for future children, families and school communities that the teacher may become involved with. Consumer complaints for the teaching profession are typically related to the teacher demonstrating professional conduct that the consumer finds unacceptable, or the consumer's belief that the teacher is unable to teach competently.

The AMR scheme will create great difficulty for TRAs to regulate the teaching profession and respond to complaints made by children, families and employers. This significantly undermines and devalues the main avenue for consumer protection available to students and their families, and diminishes the ability for TRAs to ensure trust is maintained in the profession by the community. The Board believes the AMR scheme and the challenges in the regulation of disciplinary and competence matters for teachers working under AMR will create a lack of trust by consumers in the profession and erode the role of the TRAs to date in providing consumer protection for children and their families.

It is the Board's position that the application of the AMR scheme for the teaching profession therefore neither supports the work of a teacher, nor benefits consumers, in that it promotes teacher engagement that is inconsistent with best practice and diminishes the Board's ability to monitor and take action where teacher practice is not to standard. These factors increase the risk for consumers and the likelihood of community mistrust in the profession.

3.5. Mobility challenges in the teaching profession

The findings of the *One Teaching Profession: Teacher Registration in Australia* review indicated that there are challenges to workforce mobility in the teaching profession, particularly for teachers moving from one state or territory to another under the *Mutual Recognition Act 1992* (Cth)^{xxvi}. These challenges are related to the variation in approaches by TRAs in assessing the suitability of teachers relative to the local laws that apply to teaching profession in each jurisdiction. The review also focused on the challenges associated with the different categories of registration, including early childhood teachers and casual/relief teachers, and the relationship that Vocational Education and Training trainers/assessors have with teacher registration. These challenges have been exacerbated recently due to the changing nature of the workforce and the increased diversity of modes of employment.

Nationally, there has been significant work invested by TRAs to ensure cohesion in registration processes and considerations, including the collaborative development of national standards of practice and a framework on child safety and wellbeing. However there remains certain differences in the way the teaching profession is regulated in Australia, including variation between the categories of registration utilised by individual jurisdictions. For example, the Framework is silent on its application to early childhood teachers and registered teachers who work in roles other than a teacher in a school (for example, in a corporate role). The Framework was applied to teachers in jurisdictions according to the registration arrangements that were already in place for the sector and as such, there is inconsistency across jurisdictions in how certain categories of teachers are registered, if at all. Similarly, some jurisdictions offer non-practicing registration, where other jurisdictions do not. Since the development of the Framework, a number of jurisdictions have extended teacher registration to include additional categories of teachers, such as early childhood categories, albeit with different models of registration.

The nuances of teacher registration are significant when considering the application of the AMR scheme for the teaching profession, as many teachers, such as some early childhood teachers, are not part of the registered profession of teaching, or are eligible to be registered in the profession in some

jurisdictions, but not others. The mobility of these teachers across jurisdictions is impacted by different jurisdictional approaches, meaning that many of the notifications currently received in the NT under the mutual recognition principle do not have an equivalent category of registration for that occupation in the NT. This is currently well-managed by the Board through screening checks conducted with the home state that occur prior to a teacher's notification of mutual recognition being accepted, however there is a risk that people may inappropriately practice in a category of registration they are not eligible to hold in the NT.

3.6. Economic considerations

Revenue

The NT generates approximately 75% of its revenue from teacher registration from registration fees paid by those registering under the mutual recognition principle in accordance with the *Mutual Recognition Act 1992* (Cth). While the AMR scheme does not preclude teachers from continuing to register in the NT under mutual recognition principle, the incentive of no fees associated with the AMR scheme will likely reduce the revenue raised by the NT through teacher registration. The Board notes that, whilst individual teachers may benefit economically by not being required to pay registration fees under the AMR scheme, it is the Board's opinion that this is far outweighed by the economic deficit that the NT will experience in applying the AMR scheme to the teaching profession.

Teacher retention

The AMR scheme is likely to increase turnover in the teaching profession in the NT, through its' promotion of temporary employment. Teacher attrition is costly, both financially, and for the social and educational outcomes of children^{xxvii} High rates of teacher turnover contribute to teacher shortages and in turn, increase human resource costs associated with recruitment, relocation and training of new staff. Costs are also associated with the registration and monitoring of teachers by the Board. Teacher attrition may also generate hidden costs, such as reducing the quality of education the school can offer, with resulting adverse impacts on outcomes for the school's students^{xxviii}. Such costs are associated with a staff composition with weaker than average experience and a cohort of teachers with limited experience working together toward the school's goals^{xxix}. Teacher attrition also affects teacher quality, which in turn, affects the level of engagement and learning opportunities for children. Poorer educational outcomes are already documented in this submission as contributing to lower employment rates, poorer health outcomes and increased social and emotional dysfunction which would negate any economic benefit that the AMR scheme might provide for individual teachers.

4. Conclusion

The Board is committed to ensuring NT children remain safe in schools, are engaged in positive educational environments and learn to their full potential. To achieve this, the Board regulates the teaching profession in the NT to ensure that only people who are appropriately qualified, competent and fit and proper are registered as teachers in the NT, and that registered teachers are supported to continuously develop their practice.

The Board appreciates the principles behind the AMR scheme and how this may create economic benefit across Australia for providers of goods and services, however the inherent nature of the role of teachers and the current national agenda focused on improving teacher registration to promote and ensure child safety, enhance the engagement of Aboriginal and Torres Strait Islander children in education and improve the quality of teaching, do not accord with the fundamental basis of the AMR scheme. The Board considers that, rather than enhancing these priority focus areas of the teaching profession, the

AMR scheme will undermine the significant effort invested by States and Territories to stabilise and develop the teaching profession in Australia.

The Board considers that there will be significant, long-term effects on educational, social and emotional outcomes for children and young people in the NT if the AMR scheme was to apply to the occupation of teaching, due to the correlation between increased teacher mobility and increased rates of teacher attrition, compromising school and community partnerships, reducing the quality of the teaching profession, disengaging children from school and creating overall lack of community trust in the teaching profession.

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