

TRANS-TASMAN MUTUAL RECOGNITION BILL

EXPLANATORY NOTE

GENERAL POLICY STATEMENT

INTRODUCTION

THIS Bill will implement the Trans-Tasman Mutual Recognition Arrangement ("TTMRA") signed by the Commonwealth and all States and Territories of Australia on 14 June 1996 and New Zealand on 9 July 1996.

The TTMRA is based on two key principles in relation to goods and occupations—

- (a) if goods may be legally sold in New Zealand they may be sold in an Australian jurisdiction, and vice versa; and
- (b) if a person is registered to practise an occupation in New Zealand he or she will be entitled to practise an equivalent occupation in an Australian jurisdiction, and vice versa.

This Bill provides that the mutual recognition principles will prevail over various regulatory requirements relating to standards for goods and registration procedures for occupations. In order to rely on the mutual recognition principles, the parties to the TTMRA will need to have complementary legislation in force. The effective implementation of the TTMRA is dependant on the adoption and operation of very similar legislative provisions in each participating jurisdiction. Otherwise, significant inconsistencies in practice are likely to develop between the parties. The Commonwealth and all States and Territories of Australia have also agreed to enact complementary legislation.

The TTMRA is modelled on an existing Mutual Recognition Agreement between the Commonwealth and the States and Territories of Australia which has been in force since May 1992. It was agreed that the framework for mutual recognition reflected in the Australian Mutual Recognition Act 1992 should be the basis for a scheme implementing mutual recognition principles across the Tasman, with necessary changes to reflect the trans-Tasman nature of the scheme.

ECONOMIC BENEFITS

The TTMRA represents a significant step in the development of an integrated trans-Tasman economy, allowing goods to be traded freely between New Zealand

and Australia, and enhancing the freedom of individuals to work in either country.

In developing the TTMRA the Government recognised that there remain, in some areas, regulatory impediments to trade between New Zealand and Australia, usually in the form of different standards, testing and certification requirements, and different requirements for those persons wishing to practise registered occupations. Until these barriers are reduced the full benefits of trade liberalisation under the Closer Economic Relations (CER) Agreement cannot be realised. The benefits are particularly significant where these differences mainly reflect national historical or institutional arrangements, rather than the objective assessment of risks to public health, safety or the environment.

In the area of goods, New Zealand and Australia have a long history of cooperation in the development of standards and recognition of each other's certification systems. Under Article 12 of the CER Agreement, the Government undertook to "examine the scope for taking action to harmonise requirements relating to such matters as standards, technical specifications and testing procedures, domestic labelling and restrictive trade practices". In 1988, as part of the review of the CER Agreement, Australia and New Zealand concluded a Memorandum of Understanding on Technical Barriers to Trade, which included a commitment to work towards the harmonisation of standards, technical specifications and testing procedures. The TTMRA is a significant step towards achieving these objectives.

The TTMRA is also consistent with and complements the objectives of other bilateral arrangements relating to conformance assessment such as the Agreement on Standards, Accreditation and Quality (ASAQ) and the Joint Accreditation System-Australia and New Zealand (JAS-ANZ), as well as the World Trade Organisation (WTO) Agreement on Technical Barriers to Trade and the Sanitary and Phytosanitary Agreement.

Similarly, in the area of occupations cooperation already exists between many professional associations, reflecting the similarities in education and training of people on both sides of the Tasman. In fact in some professions mutual recognition already exists. The TTMRA will provide an impetus for further movement towards consistency of registration requirements between New Zealand and Australia.

The TTMRA is a simple, low cost and low maintenance mechanism for overcoming unnecessary regulatory impediments to trade between New Zealand and Australia. By reducing or eliminating regulatory impediments to trade in goods and the movement of people between New Zealand and Australia, mutual recognition will result in a number of benefits for consumers, business, and skilled people. The TTMRA will also enhance regulatory practices in both countries.

Over time the potential benefits of the TTMRA are significant. These include—

- (a) lower costs to business and improved competitiveness, reflecting longer production runs and lower compliance costs from being able to manufacture to only one standard;
- (b) greater choice for consumers in the market place;
- (c) increased opportunities for New Zealanders to work in Australia;
- (d) an impetus for both countries to consider the appropriateness of existing regulation in light of the Government's objectives of removing unnecessary barriers to trade;
- (e) greater discipline on governments contemplating the introduction of new standards and regulations;
- (f) greater cooperation between regulatory authorities; and

- (g) greater opportunities for both countries to enhance their influence internationally through fora such as APEC.

GENERAL OUTLINE OF THE BILL

This section outlines the various provisions of the Bill. In some places reference is made to provisions in the TTMRA rather than the Bill, as this information will aid the understanding of decision making processes underpinning the regulation making powers.

The Trans-Tasman mutual recognition principle in relation to goods

The Bill sets out the conditions for mutual recognition in relation to goods. Mutual recognition will apply in the jurisdiction where the goods are intended for sale. This means that goods produced in or imported into an Australian jurisdiction, which can legally be sold in that jurisdiction, will be able to be legally sold in New Zealand, and vice versa.

Mutual recognition will override requirements relating to sale that are imposed by or under the law of New Zealand. These requirements are—

- (a) that goods satisfy standards relating to their composition, performance, production, or quality, or relating to any other aspect of the goods themselves;
- (b) that goods satisfy standards relating to their age, date stamping, labelling, or packaging, or relating to any other aspect of the way goods are presented;
- (c) that the goods be inspected, passed, or similarly dealt with in or for the purposes of New Zealand;
- (d) that any step in the production of the goods not occur outside New Zealand; and
- (e) any other requirement relating to sale that would prevent or restrict, or would have the effect of preventing or restricting, the sale of goods in New Zealand.

The mutual recognition principles will not, however, override any laws that relate to—

- (a) the contractual aspects of the sale of goods;
- (b) the persons to whom goods may or may not be sold;
- (c) franchise agreements or arrangements relating to the sale of goods;
- (d) registration of sellers or other persons carrying on occupations; or
- (e) any other law of New Zealand that regulates the manner of the sale of goods in New Zealand or the manner in which sellers conduct or are required to conduct their business in New Zealand—

as long as those laws apply equally to goods produced in or imported into New Zealand.

Mutual recognition will not override the laws relating to the handling, storage, or transportation of goods as long as they are applied equally to goods produced in or imported into New Zealand, and are directed at matters relating to public health, safety or the environment. Similarly, mutual recognition will not override laws relating to the inspection of goods in New Zealand as long as they are applied equally to goods produced in or imported into New Zealand, and are directed at matters relating to the public health, safety or the environment and inspection is not a prerequisite to sale of the goods.

The Bill provides that it is a defence to a prosecution for an offence against a law of New Zealand, being a prosecution in relation to the sale of goods, if it can be established that the mutual recognition principle in relation to the goods applies.

The Trans-Tasman mutual recognition principle in relation to occupations

The Bill sets out the conditions for mutual recognition in relation to occupations. The Bill confers responsibility for facilitating the mutual recognition principle in relation to occupations on local registration authorities, in relation to every occupation for which the authority is responsible.

If a person is registered to practise an occupation in an Australian jurisdiction, he or she will be entitled to carry on an equivalent occupation in New Zealand and vice versa. The mutual recognition principle will not, however, affect the operation of any laws of New Zealand that regulate the manner of carrying on an occupation, so long as those laws—

- (a) apply equally to all persons carrying on or seeking to carry on the occupation under the law of New Zealand; and
- (b) do not require a person carrying on or seeking to carry on that occupation under the law of New Zealand to have any particular qualifications before doing so.

Under the mutual recognition principle, a person who practises a registered occupation in Australia, and who wants to be registered in New Zealand, will be required to lodge with the relevant local registration authority in New Zealand a written notice containing certain basic information relating to his or her current registration.

A person who lodges a notice with a local registration authority will, pending the actual positive grant or refusal of registration by the relevant local registration authority, be deemed to be registered. Deemed registration will allow the person to carry on the occupation as if he or she had been granted substantive registration. Deemed registration will continue until cancelled or suspended. Cancellation or suspension will occur either if the local registration body refuses registration, agrees to formally register the applicant, the person ceases to be substantially registered in all other jurisdictions, or it is cancelled at the person's request.

Following the lodgment of a written notice, the local registration authority will be required to consider the application within one month (deemed registration will continue until they do so). During this time period the local registration authority is required to make a decision based on equivalence of the occupations. The Bill provides that two occupations are equivalent if the activities authorised to be carried out under registration are substantially the same (whether or not this is achieved by imposing conditions). Following consideration of that matter, the local registration authority may then grant, refuse or postpone registration. Deemed registration continues if substantive registration is postponed. Conditions may be imposed by a local registration authority to achieve equivalence between occupations.

Review of decisions of local registration authority

The Bill establishes a right of review of decisions made by local registration authorities in New Zealand. This right of review may be invoked by the person whose application is declined.

The Bill establishes the Trans-Tasman Occupations Tribunal (the Tribunal) to review decisions of local registration authorities in New Zealand. The Bill declares the Trans-Tasman Occupations Tribunal a statutory board within the meaning of the Fees and Travelling Allowances Act 1951. The Bill specifies that the Tribunal shall, wherever possible, conduct any review with as little formality and technicality as permitted. In Australia the Administrative Appeals Tribunal will hear appeals from decisions of Australian registration authorities.

The Tribunal will consist of a Chairperson plus two other persons appointed from a panel by the Chairperson. The Minister of Justice will maintain a panel of not more than 15 persons.

For the purposes of promoting consistency between decisions of the Trans-Tasman Occupations Tribunal and the Administrative Appeals Tribunal, the TTMRA makes provision for each Tribunal to have regard to decisions made by the other. In order to promote consistency the Bill also provides that members of the Administrative Appeals Tribunal can be appointed to the Tribunal. Similarly, members of the Tribunal may be appointed to the Administrative Appeals Tribunal for the purpose of reviewing decisions of Australian registration authorities.

The Trans-Tasman Occupations Tribunal can re-examine the issue of equivalence and, if it thinks appropriate, make an order that the appellant is entitled to be registered, and may specify or describe conditions to achieve equivalence. Equally, the Tribunal can make a declaration that the two occupations are not equivalent. It may make such a decision only if it is satisfied—

- (a) that the activities involved in the occupations under consideration are not substantially the same (even with the imposition of conditions); or
- (b) registration of the person could result in a real threat to public health or safety or to the environment and it is not practicable to protect the health or safety of such persons from that threat, or the environment from such adverse effects, by regulating the manner in which services in the occupation are provided.

A denial of registration based on a threat to public health or safety or the environment would be effective only for 12 months. In that 12 month period, the TTMRA specifies that the relevant Minister would be required to refer the declaration to the Ministerial Council responsible for the occupation. A Ministerial Council is a Council of Ministers made up of the Governments of New Zealand, the Commonwealth, and the States and Territories of Australia. The role of the Ministerial Council will be to decide whether agreed standards, including competency standards, should apply to the occupation and, if so, what those standards should be.

Declarations by Ministers

The Bill provides that Ministers from two or more jurisdictions may jointly make declarations that certain occupations are equivalent for the purposes of the TTMRA and may specify or describe in the notice any conditions that the appropriate local registration authority is to impose to achieve equivalence. Such declarations will prevail over any decision by the Trans-Tasman Occupations Tribunal to the contrary, although the declaration may be made without the issue having been considered by the Tribunal. The declaration has effect only in relation to the participating jurisdictions concerned. Local registration authorities would be required to give effect to such declarations.

The Bill provides that the Governor-General may make regulations prescribing fees in relation to deemed registration or renewal of registration for a particular occupation.

Exclusions

The Bill identifies in the *First Schedule* a number of areas which, to avoid having any unintended effects arising from the application of the mutual recognition principles, have been excluded. The exclusions are—

- (a) New Zealand's international obligations;
- (b) customs controls and tariffs;
- (c) intellectual property laws; and

(d) taxation laws.

The Bill does not affect the operation of any law relating to the areas specified in the *First Schedule*. The TTMRA allows for additions to the *First Schedule* on the unanimous agreement of Heads of Government.

Permanent exemptions

The Bill specifies in the *Second Schedule* permanent exemptions for laws relating to—

- (a) fireworks;
- (b) firearms;
- (c) gaming machines;
- (d) indecent or pornographic material;
- (e) ozone protection;
- (f) the registration of agricultural and veterinary chemicals; and
- (g) quarantine and endangered species.

The Bill does not affect the operation of any law relating to the areas specified. The TTMRA establishes that further permanent exemptions require the agreement of Heads of Government of all participating parties, where Heads of Government refers to the Prime Ministers or Premiers of New Zealand, the Commonwealth, and States and Territories.

Special exemptions

The Bill specifies a number of areas in the *Third Schedule* for which special exemptions (referred to as cooperation programmes in the TTMRA) will apply. Special exemptions are designed for certain sectors where there are significant differences in regulation (posing a risk to public health, safety or to the environment) and where a further time period is necessary to work through these differences. These special exemptions have been included because it was recognised that cooperation in these sectors is unlikely to be completed within the timeframe for the proposed commencement of the TTMRA, or within the extended timeframe obtainable through the temporary exemption provision. The alternative, which was to permanently exempt these areas, is undesirable given that the success of the TTMRA is dependant on broad coverage, with a minimum of exceptions.

The special exemptions provide a further period to consider areas where there are differences, and to determine whether mutual recognition or harmonisation is appropriate, or whether particular product classes should be permanently exempted. The special exemption will last for 12 months unless renewed. As arrangements are agreed for specific areas of regulation covered by each cooperation programme, the relevant areas will cease to be covered by the *Third Schedule*.

The TTMRA provides for further special exemptions of up to 12 months in duration to complete cooperation programmes. These will be applied for through joint annual cooperation reports to Heads of Government by the relevant Australian and New Zealand regulatory authorities. Further special exemptions would be granted on the agreement of not less than two-thirds of the Heads of Government. The annual cooperation report will outline progress made and the time lines for further work.

The TTMRA provides a framework within which the cooperation programmes are to be developed and this includes safeguards to ensure that any outcome is consistent with the underlying principle of removing regulatory impediments to trade. In particular any regulations or standards that might arise from a cooperation programme must be consistent with “The Principles and Guidelines

for Standard Setting and Regulatory Action by Ministerial Councils and Standards Setting Bodies". These guidelines set out the processes and principles which should be followed in determining whether to set mandatory standards and, if so, the form of those standards.

For the duration of the cooperation programmes, decisions to permanently exempt goods covered by the special exemption will require unanimous agreement by all Heads of Government. However, if the special exemption continues beyond 5 years after the commencement of the TTMRA, a decision to permanently exempt those goods which remain under the special exemption may be taken with the agreement of not less than two-thirds of Heads of Government.

Product categories covered by the special exemption include—

- (a) therapeutic goods;
- (b) hazardous substances, industrial chemicals and dangerous goods;
- (c) electromagnetic compatibility and radiocommunications equipment;
- (d) road vehicles; and
- (e) gas appliances.

The Bill does not affect the operation of any law specified in the *Third Schedule*.

Exempt occupations

The Bill identifies in the *Fourth Schedule* exempt occupations. The Bill currently contains one exemption, for medical practitioners. A general provision has been placed in the TTMRA enabling review of this exemption in the future. The Bill allows for further exemptions for occupations which will require unanimous agreement of Heads of Government.

Temporary exemptions

The Bill provides for temporary exemptions to be invoked for particular goods, for reasons of public health, safety and the environment, for a period not exceeding 12 months. During this time period the TTMRA requires that the relevant Ministerial Council attempt to determine whether mutual recognition, harmonisation, or permanent exemption should apply to the goods concerned.

The TTMRA specifies that decisions referred to Heads of Government by the Ministerial Councils are to be taken on a vote of not less than two-thirds. Unless such a recommendation is disapproved by one third or more of the Heads of Government within three months of its submission to Heads of Government, the parties will implement the recommendation. However, a decision to permanently exempt goods or a category of goods will require the unanimous agreement of Heads of Government.

OTHER EXPLANATORY NOTES

The footnotes to the clauses indicate the corresponding clauses in the Australian version of the Trans-Tasman Mutual Recognition Bill contained in attachment A to the TTMRA.

Clause 1 relates to the Short Title and commencement. The Act is to be brought into force by Order in Council.

Clause 2 is the interpretation provision.

Clause 3 defines the term "participating jurisdiction".

Clause 4 defines the term "registration".

PART I

PRELIMINARY PROVISIONS

Clause 5 provides that every law of New Zealand is to be read subject to this Act.

Clause 6 sets out the circumstances in which an Order in Council may be made declaring that the Act ceases to have effect.

Clause 7 provides that the Act binds the Crown.

Clause 8 sets out the means by which notices may be given for the purposes of *Parts II to IV* of the Act.

PART II

GOODS

Clause 9 sets out the rule to be applied in determining where goods are produced for the purposes of the Act.

Clause 10 sets out the Trans-Tasman mutual recognition principle in relation to goods. Goods that can lawfully be sold in Australia can lawfully be sold in New Zealand.

Clause 11 describes the laws that are unaffected by the operation of the Trans-Tasman mutual recognition principle in relation to goods.

Clause 12 sets out the circumstances in which the Trans-Tasman mutual recognition principle in relation to goods is a defence to a prosecution for an offence in relation to the sale of goods.

Clause 13 provides that nothing in *Part II* prevents goods complying with New Zealand law from being sold in New Zealand.

PART III

OCCUPATIONS

Clause 14 sets out the circumstances in which an occupation for which persons may be registered in Australia is to be taken as equivalent to an occupation for which persons may be registered in New Zealand.

Clause 15 sets out the Trans-Tasman mutual recognition principle in relation to occupations. A person registered in an Australian jurisdiction for an occupation is entitled, on giving notice to the relevant local registration authority in New Zealand, to be registered for the equivalent occupation here and to carry on that occupation here while awaiting registration.

Clause 16 describes the laws that are unaffected by the operation of the Trans-Tasman mutual recognition principle in relation to occupations.

Entitlement to Registration

Clause 17 states that every law of New Zealand dealing with registration is deemed to include, as a ground of entitlement to registration and renewal of registration, the ground that a person seeking registration or renewal is registered in an equivalent occupation in Australia.

Clause 18 provides that residence or domicile in any particular participating jurisdiction is irrelevant to entitlement to registration.

Procedure for Registration

Clause 19 deals with the requirements for the notice to be given to a local registration authority in New Zealand by an Australian-registered person seeking to carry on his or her occupation here.

Clause 20 provides that the local registration authority must, within one month of receiving a notice, decide to grant, postpone, or refuse registration.

Clause 21 deals with the postponement of the grant of registration.

Clause 22 deals with the refusal of registration.

Clause 23 requires the local registration authority to give written notice of its decision.

Interim Arrangements

Clause 24 provides for the entitlement to carry on an occupation here while awaiting registration to be known as deemed registration.

Clause 25 empowers the local registration authority to impose conditions on deemed registration.

Clause 26 sets out limits on the practice of an occupation by a person subject to deemed registration.

Clause 27 provides that the law applying to persons subject to registration applies also to persons subject to deemed registration.

Clause 28 sets out the circumstances in which deemed registration ceases.

Declarations as to Equivalent Occupations

Clause 29 deals with the scope of application of declarations made under *clauses 30 and 31*.

Clause 30 empowers the Trans-Tasman Occupations Tribunal to make, in any review, a declaration that occupations carried on in Australia and New Zealand are equivalent.

Clause 31 empowers the Minister of Commerce and a Minister from each of one or more Australian jurisdictions to make declarations that specified occupations are equivalent.

General Provisions

Clause 32 provides that disciplinary action taken in Australia affects a person's deemed registration or registration in New Zealand in the same way.

Clause 33 provides for a local registration authority to furnish information to a registration authority in Australia in the circumstances specified.

Clause 34 provides that information furnished to a local registration authority by a registration authority in Australia is protected by the Privacy Act 1993 or any other law relating to secrecy or confidentiality.

Clause 35 provides that a person who gives a notice to a local registration authority is entitled to information from the authority about the decision.

Clause 36 deals with the responsibilities of local registration authorities with respect to the facilitation of the operation of the Act.

Clause 37 precludes formalities requiring personal attendance in New Zealand from preventing registration here.

Clause 38 provides that the Act does not prevent registration under any other law.

Clause 39 provides that in the absence of fees regulations made under *clause 40*, existing prescribed fees are payable.

Clause 40 provides for the making of regulations prescribing fees for deemed registration and the renewal of registration.

PART IV

TRANS-TASMAN OCCUPATIONS TRIBUNAL

Clause 41 establishes the Trans-Tasman Occupations Tribunal.

Clause 42 provides that the function of the Tribunal is to review decisions of local registration authorities under this Act.

Clause 43 deals with the effect of a review, pending its determination, on a decision of a local registration authority.

Clause 44 sets out the orders that the Tribunal can make on a review.

Clause 45 provides for the Tribunal to have regard to decisions made by the equivalent Australian Tribunal for the purposes of the equivalent Australian Act.

Membership

Clauses 46 to 52 deal with the membership of the 3 person Tribunal and related matters. One of the members may, in accordance with arrangements made from time to time between the Chairperson of the New Zealand Tribunal and the President of the Australian Tribunal, be a member of the Australian Tribunal.

Parties to Review

Clause 53 describes the persons who may participate in a review.

Conferences

Clauses 54 to 57 deal with the holding of conferences for a purpose related to the conduct of the review or for the purpose of trying to obtain agreement between the parties.

Procedure

Clauses 58 to 72 deal with procedural matters.

Clause 73 provides for the making of regulations relating to fees or procedure.

Clause 74 provides for the payment of a person from New Zealand who serves as a member of the Australian Tribunal.

PART V

EXCLUSIONS AND EXEMPTIONS

Clause 75 defines the term “endorsed”.

Clause 76 explains the effect of changes made to laws referred to in the schedules.

Clause 77 provides that the laws specified or described in the *First Schedule* are excluded from the ambit of the Act.

Clause 78 sets out limitations on the amendment of the *First Schedule*.

Clause 79 provides that the laws specified or described in the *Second Schedule* are permanently exempted from the ambit of the Act.

Clause 80 sets out limitations on the amendment of the *Second Schedule*.

Clause 81 provides that the Act does not affect the laws specified or described in the *Third Schedule* until the expiry of the exemption period or an extended exemption period.

Clause 82 sets out limitations on the amendment of the *Third Schedule*.

Clause 83 sets out the circumstances in which the *Second and Third Schedules* may be amended to remove a law from the *Third Schedule* and insert it in the *Second Schedule*.

Clause 84 provides that the laws specified or described in the *Fourth Schedule*, being laws that relate to occupations, are excluded from the ambit of the Act.

Clause 85 sets out limitations on the amendment of the *Fourth Schedule*.

Clause 86 provides for the making of regulations temporarily exempting goods or laws relating to goods from the ambit of the Act.

Hon. John Luxton

TRANS-TASMAN MUTUAL RECOGNITION

ANALYSIS

Title	
1. Short Title and commencement	
2. Interpretation	
3. Meaning of "participating jurisdiction"	
4. Meaning of "registration"	
PART I	
PRELIMINARY PROVISIONS	
5. Application	
6. Operation of this Act in relation to Australia	
7. Act to bind the Crown	
8. Notices	
PART II	
GOODS	
9. Place of production	
10. Trans-Tasman mutual recognition principle in relation to goods	
11. Section 10 not to affect operation of certain laws	
12. Defences to offences regarding sale	
13. Goods that comply with local law	
PART III	
OCCUPATIONS	
14. Equivalent occupation	
15. Trans-Tasman mutual recognition principle in relation to occupations	
16. Section 15 not to affect operation of certain laws	
<i>Entitlement to Registration</i>	
17. Entitlement to registration and continued registration	
18. Residence or domicile irrelevant	
<i>Procedure for Registration</i>	
19. Notification to local registration authority	
20. Action following notice	
21. Postponement of registration	
22. Refusal of registration	
23. Notification	
<i>Interim Arrangements</i>	
24. Deemed registration	
25. Imposition of conditions on deemed registration	
26. Activities under deemed registration	
27. Application of relevant law to deemed registration	
28. Cessation of deemed registration	
<i>Declarations as to Equivalent Occupations</i>	
29. Declarations as to equivalence of occupations	
30. Declarations by Tribunal	
31. Declarations by Ministers	
<i>General Provisions</i>	
32. Disciplinary action	
33. Furnishing information	
34. Receiving information	
35. Applicant may obtain information from local registration authority	
36. General responsibilities of local registration authorities	
37. Formalities requiring personal attendance	
38. Saving	
39. Laws prescribing fees and conditions	
40. Regulations	
PART IV	
TRANS-TASMAN OCCUPATIONS TRIBUNAL	
41. Trans-Tasman Occupations Tribunal	
42. Functions of Tribunal	
43. Effect on decision	
44. Orders by Tribunal	
45. Co-operation with Australian Tribunal	
<i>Membership</i>	
46. Membership of Tribunal	
47. Appointment and term of office of Chairperson	
48. Panel	
49. Deputy Chairperson	
50. Vacation of office by Chairperson and Deputy Chairperson	
51. Remuneration and travelling allowances	

<p>52. Members of Tribunal not personally liable</p> <p style="text-align: center;"><i>Parties to Review</i></p> <p>53. Parties to review</p> <p style="text-align: center;"><i>Conferences</i></p> <p>54. Conferences</p> <p>55. Procedure at conferences</p> <p>56. Conference chairperson's participation in hearing</p> <p>57. Evidence not admissible</p> <p style="text-align: center;"><i>Procedure</i></p> <p>58. Power of Tribunal if parties reach agreement</p> <p>59. Hearing in absence of parties</p> <p>60. Avoidance of unnecessary formality</p> <p>61. Sittings of Tribunal</p> <p>62. Procedure of Tribunal</p> <p>63. Evidence</p> <p>64. Witness summons</p> <p>65. Service of summons</p> <p>66. Witnesses' allowances</p> <p>67. Privileges and immunities</p> <p>68. Non-attendance or refusal to co-operate</p>	<p>69. Contempt of Tribunal</p> <p>70. Costs</p> <p>71. Stating case for High Court</p> <p>72. Appeal on question of law</p> <p>73. Regulations</p> <p>74. New Zealand member of Australian Tribunal</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">EXCLUSIONS AND EXEMPTIONS</p> <p>75. Meaning of "endorsed"</p> <p>76. Interpretation of Schedules</p> <p>77. Exclusions</p> <p>78. Amendments to First Schedule</p> <p>79. Permanent exemptions</p> <p>80. Amendments to Second Schedule</p> <p>81. Special exemptions</p> <p>82. Amendments to Third Schedule</p> <p>83. Amendments to Second and Third Schedules</p> <p>84. Exempt occupations</p> <p>85. Amendments to Fourth Schedule</p> <p>86. Regulations relating to temporary exemptions Schedules</p>
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A BILL INTITULED

An Act to provide for the recognition in New Zealand of regulatory standards adopted in Australia regarding goods and occupations

BE IT ENACTED by the Parliament of New Zealand as follows: 5

1. Short Title and commencement—(1) This Act may be cited as the **Trans-Tasman Mutual Recognition Act 1996**.

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more orders may be made bringing different provisions into force on different dates. 10

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 1 and 2 (Aust.)

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 15

“Applicant” means a person who gives or, as the case requires, has given a notice under **section 19** of this Act:

“Australia” means Australia in a geographical sense, and does not include the external territories:

“Australian Act” means the **Trans-Tasman Mutual Recognition Act 1996** of the Commonwealth: 20

“Australian jurisdiction” means a participating jurisdiction, other than New Zealand:

- “Australian Tribunal” means the Administrative Appeals Tribunal established under the Administrative Appeals Tribunal Act 1975 of the Commonwealth:
- 5 “Chairperson” means the Chairperson of the Tribunal:
- “Commonwealth” means the Commonwealth of Australia:
- “Conditions”, in relation to an occupation, means conditions, limitations, or restrictions:
- 10 “Conference” means a conference to which **section 54 (1)** of this Act refers:
- “Conference chairperson” means the member of the Tribunal nominated under **section 54 (1)** of this Act:
- “Decision”, in relation to a local registration authority, means—
- 15 (a) The grant of registration; or
(b) The imposition of conditions on registration; or
(c) The postponement of the grant of registration;
- or
- 20 (d) The refusal to grant registration; or
(e) The revocation of a refusal to grant registration:
- “Deemed registration” has the meaning given to that term by **section 24 (2)** of this Act:
- “Equivalent occupation” has the meaning given to that term by **section 14** of this Act:
- 25 “Exemption period” means the period of 12 months from the date on which **section 81** of this Act comes into force:
- “Extended exemption period” means any period specified in regulations made under **section 82 (1) (a)** of this Act:
- 30 “Goods”—
- (a) Means goods of any kind; and
(b) Includes—
- 35 (i) Animals or plants; or
(ii) Material of microbial origin; or
(iii) A package containing goods; or
(iv) A label attached to goods:
- “Grant”, in relation to registration, means grant, issue, or otherwise confer:
- 40 “Labelling”, in relation to goods, includes any means by which, at the point of sale, information is attached to goods or is displayed in relation to goods without being attached to them:
- 45 “Law relating to quarantine” means any law enacted or made substantially for the purpose of eliminating the risk of entry into, or spread in, New Zealand of—

- (a) Any disease; or
 (b) Any genetic disorder; or
 (c) Any pest; or
 (d) Any organism (within the meaning of the Biosecurity Act 1993) that may— 5
- (i) Cause unwanted harm to natural resources (within the meaning of the Biosecurity Act 1993); or
 (ii) Interfere with measures to manage or eradicate any organism that causes unwanted harm to such natural resources; or 10
- (e) Any organism (including an entity the subject of an Order in Council made under **subsection (3)** of this section) that may— 15
- (i) Cause harm to human health; or
 (ii) Interfere with measures to manage or eradicate any organism that causes harm to human health:
- “Local registration authority”— 20
- (a) Means the person in New Zealand having the function conferred by law of registering persons in connection with their carrying on of a particular occupation in New Zealand; and
 (b) Includes, where more than one person has such a function in relation to a particular occupation, each such person: 25
- “The Minister” means the Minister of Commerce:
- “Occupation”— 30
- (a) Means a calling, occupation, profession, or trade of any kind that may be carried on only by persons subject to registration, where registration is wholly or partly dependent on the attainment or possession of some qualification; and
 (b) Includes a specialisation in any calling, occupation, profession, or trade of a kind described in **paragraph (a)** of this definition in which registration may be granted: 35
- “Panel” means the panel maintained under **section 48** of this Act: 40
- “Participating jurisdiction” has the meaning given to that term by **section 3** of this Act:
- “Produce” includes to manufacture, and also includes to harvest or otherwise produce in the course of any form of primary production: 45

“Qualification” means—

- (a) A specific course of education or training; or
- (b) A specific examination; or
- (c) A specific kind of experience; or
- 5 (d) A suitable character (including, without limitation, being a fit and proper person); or
- (e) A specific qualification, other than a qualification referred to in any of **paragraphs (a) to (d)** of this definition, relating to fitness to carry on an
- 10 occupation:

“Registration” has the meaning given to that term by **section 4** of this Act:

“Requirements”, in relation to goods, means conditions, prohibitions, requirements, or restrictions:

15 “Review” means a review by the Tribunal under **Part IV** of this Act:

“Sell” includes—

- (a) Have in possession for sale; or
- 20 (b) Distribute for sale; or
- (c) Expose or offer for sale; or
- (d) Agree to sell; or
- (e) Sell by wholesale or retail; or
- (f) Barter; or
- 25 (g) Supply by way of exchange, hire, hire purchase, or lease:

“State”—

- (a) Means a State of Australia in relation to which a law corresponding to this Act is in force; and
- 30 (b) Includes the Australian Capital Territory for so long as there is in force in that Territory a law corresponding to this Act; and
- (c) Includes the Northern Territory of Australia for so long as there is in force in that Territory a law corresponding to this Act:

35 “Substantive registration”—

- (a) Means registration under the law of a participating jurisdiction; but
- (b) Does not include deemed registration:

40 “Trans-Tasman mutual recognition principle in relation to goods” means the principle set out in **section 10** of this Act:

“Trans-Tasman mutual recognition principle in relation to occupations” means the principle set out in **section 15** of this Act:

“Tribunal” means the Trans-Tasman Occupations Tribunal established by **section 41** of this Act:

“Working day” means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and 5

(b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

(2) Notwithstanding anything in the Acts Interpretation Act 1924, but subject to **section 76 (1) and (2)** of this Act, a reference to or citation of any Act in this Act includes the citation of all subsequent enactments passed in amendment or substitution of the Act so referred to or cited, unless it is otherwise manifested by the context. 10 15

(3) The Governor-General may, from time to time, by Order in Council, declare an entity to be an organism for the purposes of **paragraph (e)** of the definition of the term “law relating to quarantine” in **subsection (1)** of this section.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cls 4(1), 6(1) and (2) (Aust.) 20

3. Meaning of “participating jurisdiction”—For the purposes of this Act, a participating jurisdiction is—

(a) New Zealand; or

(b) The Commonwealth, for so long as there is in force in the Commonwealth a law corresponding to this Act; or 25

(c) A State.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 49 (Aust.)

4. Meaning of “registration”—(1) In this Act, the term “registration” means the admission, approval, certification (including, without limitation, the issue of practising certificates), licensing, registration, or any other form of authorisation, of a person required by or under law for carrying on an occupation. 30 35

(2) Where a person is required by or under law to have more than one form of authorisation, as described in **subsection (1)** of this section, to carry on an occupation, the term “registration” includes each form of authorisation that any relevant local registration authority grants. 40

(3) References in this Act to registration mean substantive registration, unless the term “registration” is qualified in such

a way as to indicate another meaning; and “registered” has a corresponding meaning.

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 4 (1), 17 (2) (Aust.)

5

PART I

PRELIMINARY PROVISIONS

5. Application—(1) Every law of New Zealand shall, unless it or this Act otherwise expressly provides, be read subject to this Act.

10 (2) The Trans-Tasman mutual recognition principle in relation to goods, the Trans-Tasman mutual recognition principle in relation to occupations, and the provisions of this Act may be taken into consideration in proceedings of any kind and for any purpose.

15 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 5(1), 50(1) (Aust.)

6. Operation of this Act in relation to Australia—

(1) The Governor-General may, on the recommendation of the Minister, by Order in Council, declare that this Act will cease to have effect on a specified day, if satisfied that—

20 (a) No jurisdiction in Australia has passed a law corresponding to this Act and no jurisdiction in Australia is likely to pass a law corresponding to this Act in the near future; or

25 (b) Some or all of the jurisdictions in Australia have passed a law corresponding to this Act but all the jurisdictions in Australia are likely to repeal such laws in the near future.

(2) The Minister shall not make a recommendation under subsection (1) of this section without first giving notice in the *Gazette* of his or her intention to do so.

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 7(1) and (2) (Aust.)

7. Act to bind the Crown—This Act binds the Crown.

35 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 8 (Aust.)

8. Notices—(1) Where any provision of **Parts II to IV** of this Act requires or permits a notice to be given to any person, the notice may be given—

40 (a) To a natural person,—

- (i) By personal delivery; or
- (ii) By leaving it at, or posting it to, the address of the place of residence or business of the person last known to the person giving the notice; or
- (iii) By sending it by facsimile to the last known facsimile number of the person: 5
- (b) To a body corporate,—
- (i) By leaving it at, or posting it to, the principal office of the body corporate; or
- (ii) By sending it by facsimile to the last known facsimile number of the body corporate. 10
- (2) Where a notice is personally delivered to any person pursuant to **subsection (1)** of this section, it shall be deemed to have been given to the person at the time at which it was so delivered. 15
- (3) Where a notice is left at an address or a principal office pursuant to **subsection (1)** of this section, it shall be deemed to have been given to the person at the time at which it was so left.
- (4) Where a notice is posted to any person pursuant to **subsection (1)** of this section, it shall be deemed to have been given to the person at the time at which it would have been delivered in the ordinary course of post; and, in proving posting,— 20
- (a) It shall be sufficient to prove that the notice was properly addressed; and 25
- (b) It shall be presumed, in the absence of proof to the contrary, that the notice was posted on the day on which it was dated.
- (5) Where a notice is sent by facsimile to any person pursuant to **subsection (1)** of this section, it shall be deemed to have been given to the person on the day after the day on which it was sent; and, in proving sending, it shall be sufficient to prove that a facsimile machine generated a record of the transmission of the notice to such facsimile number. 30 35

PART II

GOODS

9. Place of production—(1) For the purpose of determining where goods are produced for the purposes of this Act, goods are taken to be produced in the place where the most recent step in the process of producing the goods, whether by way of harvesting, packaging, or processing the goods or otherwise, has occurred. 40

- (2) **Subsection (1)** of this section applies even though—
- (a) The process of production may be incomplete; or
 - (b) Some steps in the process have not yet been carried out;
or
 - 5 (c) Some steps in the process were carried out elsewhere; or
 - (d) The goods or a component of the goods were imported
into Australia.

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 52
(Aust.)

10 **10. Trans-Tasman mutual recognition principle in
relation to goods**—(1) The Trans-Tasman mutual recognition
principle in relation to goods is that, subject to this Act, goods
produced in or imported into an Australian jurisdiction, that
15 may be lawfully sold in the Australian jurisdiction either
generally or in particular circumstances may, by virtue of this
Act, be sold in New Zealand either generally or in particular
circumstances (as the case may be), without the necessity for
compliance with any of the requirements relating to sale that
20 are imposed by or under the law of New Zealand and are
described in **subsection (2)** of this section.

(2) The requirements referred to in **subsection (1)** of this section
are the following:

- 25 (a) A requirement that the goods satisfy standards relating to
their composition, performance, production, or
quality, or relating to any other aspect of the goods
themselves; or
- (b) A requirement that the goods satisfy standards relating
to their age, date stamping, labelling, or packaging,
or relating to any other aspect of the way the goods
30 are presented; or
- (c) A requirement that the goods be inspected, passed, or
similarly dealt with in or for the purposes of New
Zealand; or
- 35 (d) A requirement that any step in the production of the
goods not occur outside New Zealand; or
- (e) Any other requirement relating to sale that would
prevent or restrict, or would have the effect of
preventing or restricting, the sale of the goods in
New Zealand.

40 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 10
and 11 (Aust.)

11. Section 10 not to affect operation of certain laws—
(1) Nothing in **section 10** of this Act affects the operation of—

- (a) Any laws of New Zealand that relate to—
- (i) The contractual aspects of the sale of goods; or
 - (ii) The persons to whom goods may or may not be sold; or
 - (iii) The circumstances in which goods may or may not be sold; or 5
 - (iv) Franchise agreements or arrangements relating to the sale of goods; or
 - (v) The registration of sellers or other persons carrying on occupations; or 10
- (b) Any laws of New Zealand other than those described in **paragraph (a)** of this subsection that regulate the manner of the sale of goods in New Zealand or the manner in which sellers conduct or are required to conduct their business in New Zealand,— 15
- so long as those laws apply equally to goods produced in or imported into New Zealand.
- (2) Nothing in **section 10** of this Act affects the operation of any laws of New Zealand regarding the handling, storage, or transportation of goods within New Zealand, so long as those laws— 20
- (a) Apply equally to goods produced in or imported into New Zealand; and
 - (b) Are directed at matters affecting the health and safety of persons in New Zealand or at avoiding, remedying, or mitigating any adverse effects of activities on the environment in New Zealand. 25
- (3) Nothing in **section 10** of this Act affects the operation of any laws of New Zealand regarding the inspection of goods within New Zealand, so long as those laws— 30
- (a) Apply equally to goods produced in or imported into New Zealand; and
 - (b) Are directed at matters affecting the health and safety of persons in New Zealand or at avoiding, remedying, or mitigating any adverse effects of activities on the environment in New Zealand; and 35
 - (c) Do not require the inspection of goods as a prerequisite to the sale of the goods in New Zealand.
- Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 12 (2)–(4) (Aust.) 40

12. Defences to offences regarding sale—(1) It is a defence to a prosecution for an offence against a law of New Zealand, being a prosecution in relation to the sale of any goods, if the defendant expressly claims that the Trans-

Tasman mutual recognition principle in relation to goods applies and establishes that—

5 (a) The goods were labelled at the point of sale with a statement to the effect that they were produced in or imported into Australia or a State; and

(b) The defendant had no reasonable grounds for suspecting that they were not so produced or imported.

10 (2) The defence described in **subsection (1)** of this section is not available if the prosecution proves that the Trans-Tasman mutual recognition principle in relation to goods did not apply in the circumstances of the alleged offence.

15 (3) Without limiting **subsection (2)** of this section, the defence described in **subsection (1)** of this section is not available in relation to goods that were labelled at the point of sale with a statement to the effect that they were produced in or imported into Australia if the prosecution proves—

20 (a) That the goods were not, at the time they were labelled, subject to laws of the Commonwealth relating to the requirements described in **section 11** of the Australian Act; or

25 (b) That, where the goods were, at the time they were labelled, subject to laws of the Commonwealth relating to the requirements described in **section 11** of the Australian Act, the Commonwealth was not, at that time, a participating jurisdiction.

30 (4) Without limiting **subsection (2)** of this section, the defence described in **subsection (1)** of this section is not available in relation to goods that were labelled at the point of sale with a statement to the effect that they were produced in or imported into a State if the prosecution proves—

35 (a) That the goods were not, at the time they were labelled, subject to laws of the State relating to the requirements described in **section 11** of the Australian Act; or

(b) That, where the goods were, at the time they were labelled, subject to laws of the State relating to the requirements described in **section 11** of the Australian Act, the State was not, at that time, a participating jurisdiction.

40 (5) Where the goods were labelled at the point of sale with a statement to the effect that they were produced in or imported into Australia,—

45 (a) Any relevant presumptions or evidentiary procedures under the law of the Commonwealth are available to the prosecution or defendant in relation to matters

sought to be proved by the prosecution under **subsection (2) or subsection (3)** of this section; and

- (b) Any relevant defences under the law of the Commonwealth are available to the defendant in relation to matters sought to be proved by the prosecution under **subsection (2) or subsection (3)** of this section. 5

(6) Where the goods were labelled at the point of sale with a statement to the effect that they were produced in or imported into a State,— 10

- (a) Any relevant presumptions or evidentiary procedures under the law of the State are available to the prosecution or defendant in relation to matters sought to be proved by the prosecution under **subsection (2) or subsection (4)** of this section; and 15

- (b) Any relevant defences under the law of the State are available to the defendant in relation to matters sought to be proved by the prosecution under **subsection (2) or subsection (4)** of this section.

(7) This section does not affect any defence that is available apart from this section. 20

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 13 (Aust.)

13. Goods that comply with local law—Nothing in this Part of this Act prevents goods from being sold in New Zealand if (apart from this Act) they comply with the relevant requirements of the law in force in New Zealand. 25

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 14 (Aust.)

PART III 30

OCCUPATIONS

14. Equivalent occupation—(1) For the purposes of this Act, and subject to **subsection (2)** of this section, an occupation for which persons may be registered in an Australian jurisdiction shall be taken to be an equivalent occupation to an occupation for which persons may be registered in New Zealand if the activities authorised to be carried out under each registration are substantially the same. 35

(2) **Subsection (1)** of this section is subject to—

- (a) The fact that equivalence of occupations between New Zealand and an Australian jurisdiction may be 40

achieved by the imposition of conditions on deemed registration or registration; and

- (b) Any declaration made and in force under **section 30 or section 31** of this Act.

5 Cf. Trans-Tasman Mutual Recognition Bill 1996, cls 28, 29(1) (Aust.)

15. Trans-Tasman mutual recognition principle in relation to occupations—(1) The Trans-Tasman mutual recognition principle in relation to occupations is that, subject
10 to this Act, a person who is registered in an Australian jurisdiction for an occupation is entitled, after giving notice to the local registration authority for the equivalent occupation,—

- 15 (a) To be registered in New Zealand for the equivalent occupation; and
- (b) Pending such registration, to carry on the equivalent occupation in New Zealand.

20 (2) The entitlement described in **subsection (1)** of this section arises by virtue of this Act, and no law of New Zealand requiring a person seeking to carry on that occupation to have any particular qualification before doing so applies to any person who is registered in an Australian jurisdiction for an occupation and who gives notice to the local registration authority for the equivalent occupation in accordance with
25 **section 19** of this Act.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 16(1) (Aust.)

16. Section 15 not to affect operation of certain laws—Nothing in **section 15** of this Act affects the operation of any laws
30 of New Zealand that regulate the manner of carrying on an occupation in New Zealand, so long as those laws—

- (a) Apply equally to all persons carrying on or seeking to carry on the occupation under the law of New Zealand; and
- 35 (b) Do not require a person carrying on or seeking to carry on that occupation under the law of New Zealand to have any particular qualification before doing so.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl.16(2) (Aust.)

Entitlement to Registration

17. Entitlement to registration and continued registration—(1) For all the purposes of the law of New Zealand, every law of New Zealand dealing with registration shall be deemed to include as a ground of entitlement to registration and renewal of registration, subject to the provisions of this Act, the ground that a person seeking registration or renewal of registration is registered in an equivalent occupation in an Australian jurisdiction. 5

(2) A person to whom registration has been granted on the ground referred to in **subsection (1)** of this section shall— 10

- (a) Be entitled to renewal of registration in accordance with the law dealing with registration of that kind; and
- (b) Not be disentitled to registration or renewal of registration solely because the person ceases to be registered in an equivalent occupation in an Australian jurisdiction; and 15
- (c) Keep or lose his or her entitlement to registration or renewal of registration in accordance with any law dealing with registration of that kind, to the extent that any such law— 20
 - (i) Applies equally to all persons carrying on or seeking to carry on the occupation under the law of New Zealand; and
 - (ii) Does not require a person carrying on or seeking to carry on that occupation under the law of New Zealand to have any particular qualification before doing so. 25

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 19 (1)–(4) (Aust.) 30

18. Residence or domicile irrelevant—Residence or domicile in any particular participating jurisdiction shall not be a prerequisite to, or a factor in, entitlement to the grant, renewal, or continuation of registration.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 36 (Aust.) 35

Procedure for Registration

19. Notification to local registration authority—(1) A person who is registered in an Australian jurisdiction for an occupation may give a written notice to the local registration authority for the equivalent occupation seeking registration for the equivalent occupation on the ground referred to in 40

section 17 (1) of this Act, in accordance with the Trans-Tasman mutual recognition principle in relation to occupations.

(2) A notice referred to in **subsection (1)** of this section shall—

- (a) State the occupation for which registration is sought; and
- 5 (b) State that the applicant is registered for that occupation or an equivalent occupation in an Australian jurisdiction; and
- (c) State that registration is being sought in accordance with the Trans-Tasman mutual recognition principle in relation to occupations; and
- 10 (d) Specify all the participating jurisdictions in which the applicant has registration for equivalent occupations and specify the occupations; and
- (e) State that the applicant is not, in relation to any occupation referred to in **paragraph (b) or paragraph (d)** of this subsection,—
 - (i) The subject of any preliminary investigations or action that might lead to disciplinary proceedings in any participating jurisdiction; or
 - 20 (ii) The subject of any disciplinary proceedings in any participating jurisdiction; and
- (f) State that the applicant's registration for any occupation referred to in **paragraph (b) or paragraph (d)** of this subsection is neither cancelled nor suspended in any participating jurisdiction as a result of disciplinary action; and
- 25 (g) State that the applicant is not otherwise personally prohibited from carrying on any occupation referred to in **paragraph (b) or paragraph (d)** of this subsection in any participating jurisdiction, and is not subject to any special conditions in carrying on any such occupation, as a result of criminal, civil, or disciplinary proceedings in any participating jurisdiction; and
- 30 (h) Specify any special conditions to which the applicant is subject in carrying on any occupation referred to in **paragraph (b) or paragraph (d)** of this subsection in any participating jurisdiction; and
- (i) Give consent to the making of inquiries of, and the exchange of information with, the authorities of any participating jurisdiction regarding the applicant's activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

(3) The applicant shall, in relation to a notice referred to in **subsection (1)** of this section,—

45 **subsection (1)** of this section,—

- (a) Annex to it either—
- (i) A document that is either the original or a facsimile copy of the instrument evidencing the applicant's existing registration; or
 - (ii) Where no such instrument exists, sufficient information to identify the applicant and the applicant's existing registration; and
- (b) Where a document accompanies a notice pursuant to **subparagraph (i) of paragraph (a)** of this subsection, certify in the notice that the document is either the original or a facsimile copy of the instrument evidencing the applicant's existing registration; and
- (c) Verify the statements and other information in the notice by statutory declaration.
- (4) The local registration authority may, at its discretion, permit a notice referred to in **subsection (1)** of this section to be amended after it is given.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 18 (Aust.)

- 20. Action following notice**—(1) Within the period of one month after a notice is given under **section 19** of this Act the local registration authority shall—
- (a) Grant registration on the ground referred to in **section 17 (1)** of this Act; or
 - (b) Postpone, under **section 21** of this Act, the grant of registration; or
 - (c) Refuse, under **section 22** of this Act, to grant registration.
- (2) Where the local registration authority grants registration under **subsection (1) (a)** of this section, it shall decide whether or not to impose conditions on the grant.
- (3) A local registration authority may impose conditions under **subsection (2)** of this section—
- (a) For the purpose of achieving equivalence of occupations; or
 - (b) For the purpose of imposing on the applicant's registration in New Zealand a condition that applies to the applicant's registration in an Australian jurisdiction; or
 - (c) For any other purpose relating to the implementation of the Trans-Tasman mutual recognition principle in relation to occupations.
- (4) No condition imposed under **subsection (3) (c)** of this section shall be more onerous than a condition that the local registration authority would impose in similar circumstances,

having regard to relevant qualifications, if the registration were effected apart from this Act.

5 (5) Where the local registration authority does not grant, postpone, or refuse registration within the period of one month after a notice is given under **section 19** of this Act, the applicant is entitled, subject to **subsection (6)** of this section, to registration immediately at the end of that period.

10 (6) Where an applicant who is entitled to registration under **subsection (5)** of this section seeks a grant of registration from the local registration authority, the local registration authority may refuse to grant registration only if—

- (a) Any ground set out in **section 22 (1)** of this Act applies; and
- (b) There are reasonable grounds to believe that there has been an attempt to obtain the applicant's registration by fraud, whether that fraud was committed by the applicant or any other person.

(7) Registration granted under this section has effect as if it had been granted immediately on the giving of the notice.

20 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 19(2) and (5), 20 (Aust.)

21. Postponement of registration—(1) A local registration authority may postpone the grant of registration if—

- (a) Any of the statements or information in the notice required by **section 19** of this Act are materially false or misleading; or
- (b) Any document or information required by **section 19** of this Act is materially false or misleading; or
- (c) Any document or information required by **section 19** of this Act has not been provided; or
- (d) The circumstances of the applicant have materially changed since the date of the notice or the date it was given; or
- (e) The authority determines that the occupation in which registration is sought is not an equivalent occupation.

35 (2) The local registration authority shall not postpone the grant of registration pursuant to **subsection (1)** of this section for longer than a period of 6 months commencing at the conclusion of the period of one month referred to in **section 20 (1)** of this Act.

40 (3) Within the period of 6 months referred to in **subsection (2)** of this section the local registration authority shall—

- (a) Grant registration on the ground referred to in **section 17 (1)** of this Act; or
- (b) Refuse, under **section 22** of this Act, to grant registration.

(4) Where the local registration authority does not grant or refuse registration within the period of 6 months referred to in **subsection (2)** of this section, the applicant is entitled to registration immediately at the end of that period.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 21 5
(1)–(3) (Aust.)

22. Refusal of registration—(1) A local registration authority may refuse to grant registration if—

- (a) Any of the statements or information in the notice required by **section 19** of this Act are materially false or misleading; or 10
- (b) Any document or information required by **section 19** of this Act is materially false or misleading; or
- (c) Any document or information required by **section 19** of this Act has not been provided; or 15
- (d) The authority determines—
 - (i) That the occupation in which registration is sought is not an equivalent occupation; and
 - (ii) That equivalence cannot be achieved by the imposition of conditions. 20

(2) In making a determination under **subsection (1) (d)** of this section, the local registration authority shall have no regard to the power of the Tribunal to make a declaration on the ground referred to in **section 30 (1) (b)** of this Act.

(3) A refusal to grant registration on the ground referred to in **subsection (1) (d)** of this section takes effect at the end of a period that— 25

- (a) Is specified in the notice given under **section 23 (1)** of this Act; and
- (b) Is no less than 2 weeks; and 30
- (c) Commences on the day on which the notice is deemed to have been given to the applicant.

(4) A local registration authority may revoke a refusal to grant registration at any time before it takes effect.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 22 35
(Aust.)

23. Notification—(1) A local registration authority shall give to the applicant written notice of the following decisions:

- (a) The grant of registration; or
- (b) The imposition of conditions on registration; or 40
- (c) The postponement of the grant of registration; or
- (d) The refusal to grant registration; or
- (e) The revocation of a refusal to grant registration.

(2) A notice given under **subsection (1)** of this section shall, in relation to a decision referred to in any of **paragraphs (b) to (d) of subsection (1)** of this section,—

- (a) Include a statement of the reasons for the decision; and
 - 5 (b) Include a statement to the effect that the applicant may apply for a review of the decision; and
 - (c) Refer to **section 35** of this Act.
 - (3) Failure to comply with any requirement of **subsection (2)** of this section does not affect the validity of the decision.
- 10 Cf. Trans-Tasman Mutual Recognition Bill 1996, cls 23, 33(3) and (4) (Aust.)

Interim Arrangements

24. Deemed registration—(1) Subject to **section 26** of this Act, an applicant is, pending the grant or refusal of registration, entitled to carry on his or her occupation in New Zealand as if the applicant were subject to registration in New Zealand.

- (2) References in this Act to deemed registration mean the entitlement referred to in **subsection (1)** of this section.
- 20 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 24(1) and (2) (Aust.)

25. Imposition of conditions on deemed registration—(1) The local registration authority shall decide whether or not to impose conditions on an applicant's deemed registration.

- 25 (2) A local registration authority may impose conditions under **subsection (1)** of this section—
- (a) For the purpose of achieving equivalence of occupations; or
 - 30 (b) For the purpose of imposing on the applicant's deemed registration in New Zealand a condition that applies to the applicant's registration in an Australian jurisdiction; or
 - (c) For any other purpose relating to the implementation of the Trans-Tasman mutual recognition principle in relation to occupations.
- 35 (3) No condition imposed under **subsection (2) (c)** of this section shall be more onerous than a condition that the local registration authority would impose in similar circumstances, having regard to relevant qualifications, if the registration were effected apart from this Act.

40 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 26(5) (Aust.)

- 26. Activities under deemed registration**—(1) An applicant who is subject to deemed registration may carry on his or her occupation as if the applicant were subject to registration, but may do so only—
- (a) Within the limits conferred by the deemed registration; and 5
 - (b) Subject to any conditions applying to the deemed registration imposed under **section 25** of this Act; and
 - (c) Within the limits conferred by the applicant's registration in all the Australian jurisdictions in which the applicant is registered; and 10
 - (d) Subject to any conditions or undertakings applying to the applicant's registration in all the Australian jurisdictions in which the applicant is registered, unless waived by the local registration authority under **subsection (2)** of this section; and 15
 - (e) So long as the applicant complies with any requirement regarding fidelity funds, insurance, or trust accounts, or any other such protection for the public, clients, customers, or others. 20
- (2) The local registration authority may waive any condition or undertaking applying to the applicant's registration in an Australian jurisdiction if it thinks it appropriate to do so in the circumstances.
- (3) Any condition or undertaking applying to an applicant's registration in an Australian jurisdiction, when applied to the applicant's deemed registration, is to be construed with any necessary modifications, including the following (where appropriate and so far as practicable): 25
- (a) References to the Australian jurisdiction are to be read as references to New Zealand: 30
 - (b) References to officers or authorities of the Australian jurisdiction are to be read as references to the corresponding officers or authorities of New Zealand.
- Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cls 26(1), (2), (3)(a), (4), 51 (Aust.) 35

27. Application of relevant law to deemed registration—(1) An applicant who is subject to deemed registration is subject to any disciplinary provisions and arrangements that are applicable to persons who are subject to registration. 40

(2) References in the law of New Zealand to persons registered for an occupation in New Zealand (however

expressed) extend to applicants who are subject to deemed registration.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 26(3)(b), (c) (Aust.)

5 **28. Cessation of deemed registration**—(1) Deemed registration ceases if—

- (a) It is cancelled or suspended in accordance with any law of New Zealand applied by **section 27** of this Act; or
- 10 (b) The local registration authority grants registration to an applicant subject to it; or
- (c) The local registration authority refuses to grant registration to an applicant subject to it; or
- (d) The local registration authority cancels it at the request of an applicant subject to it; or
- 15 (e) An applicant subject to it ceases to be subject to registration in every other participating jurisdiction referred to in the notice pursuant to **paragraph (b) or (d) of section 19 (2)** of this Act.

(2) Deemed registration is not affected by postponement of the grant of registration.

20 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 25 (Aust.)

Declarations as to Equivalent Occupations

29. Declarations as to equivalence of occupations—

25 (1) If a declaration made by the Tribunal under **section 30** of this Act and a declaration made by Ministers under **section 31** of this Act are inconsistent, the declaration made by Ministers prevails.

30 (2) A declaration made by the Tribunal under **section 30** of this Act does not affect the registration of any person already registered, other than the person to whom the declaration relates.

35 (3) A declaration made by Ministers under **section 31** of this Act does not affect the registration of any person already registered.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 29(2) and (3) (Aust.)

30. Declarations by Tribunal—(1) The Tribunal may, in any review, make a declaration that occupations carried on in an Australian jurisdiction and New Zealand are not equivalent, but only if the Tribunal is satisfied—

40

- (a) That the activities involved in the occupations are not substantially the same and that no conditions can be imposed that would have the effect of making the activities substantially the same; or
- (b) That registration in an Australian jurisdiction should not entitle persons subject to registration to carry on a particular activity or class of activity in New Zealand, where—
- (i) The activity or class of activity is a material part of the practice of a person subject to registration in an Australian jurisdiction for the occupation; and
- (ii) The activity or class of activity, if carried on by a person not conforming to the appropriate standards, could reasonably be expected to expose persons in New Zealand to a real threat to their health or safety or could reasonably be expected to cause significant adverse effects on the environment in New Zealand; and
- (iii) It is not practicable to protect the health or safety of such persons from that threat or the environment from such adverse effects by regulating the manner in which services in the occupation are provided.
- (2) The proper officer of the Tribunal shall cause a notice setting out the terms of a declaration under this section to be published promptly in the *Gazette*.
- (3) A declaration made on the basis of **subsection (1) (b)** of this section has effect for no longer than 12 months.
- (4) The local registration authority shall promptly give written notice to equivalent authorities in each other participating jurisdiction of a declaration made on the basis of **subsection (1) (b)** of this section.
- (5) The local registration authority shall give effect to a declaration made under **subsection (1)** of this section, and shall thereafter act in conformity with the declaration in relation to other persons seeking registration.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 30 (2)–(5) (Aust.)

31. Declarations by Ministers—(1) The Minister and a Minister from each of one or more Australian jurisdictions may jointly declare, by notice in the *Gazette*,—

- (a) That specified occupations are equivalent, and may specify or describe in the notice any conditions that

the appropriate local registration authority is to impose to achieve equivalence; or

(b) That a notice published under **paragraph (a)** of this subsection is amended or revoked.

5 (2) A declaration made under **subsection (1)** of this section has effect only in relation to the participating jurisdictions concerned.

(3) The appropriate local registration authority shall give effect to any declaration made under **subsection (1)** of this section.

10 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 31 (Aust.)

General Provisions

15 **32. Disciplinary action**—(1) If a person's deemed registration or registration for an occupation in an Australian jurisdiction—

(a) Is cancelled or suspended; or

(b) Is subject to a condition—
on disciplinary grounds, or as a result of or in anticipation of
20 criminal, civil, or disciplinary proceedings, then the person's deemed registration or registration for the equivalent occupation in New Zealand is affected in the same way.

(2) Notwithstanding **subsection (1)** of this section, the local registration authority may reinstate any cancelled or
25 suspended deemed registration or registration or waive any such condition if it thinks it appropriate to do so in the circumstances.

(3) This section extends to registration effected apart from this Act.

30 (4) This section has effect notwithstanding any other provisions of this Act.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 32 (Aust.)

35 **33. Furnishing information**—(1) A local registration authority shall furnish without delay any information reasonably required by the equivalent authority of any other participating jurisdiction about a person subject to registration in New Zealand if—

40 (a) The equivalent authority of the other participating jurisdiction notifies the local registration authority that the information is required in connection with—

- (i) A notice given by a person seeking registration;
 - or
 - (ii) A person's deemed registration; or
 - (iii) Actual or possible disciplinary action against the person; and 5
- (b) Either—
- (i) Where the requirement relates to a notice given by a person seeking registration, the equivalent authority of the other participating jurisdiction notifies the local registration authority that the person seeking registration has, in the notice, authorised the furnishing of the information; or 10
 - (ii) Where the requirement relates to a person's deemed registration or actual or possible disciplinary action against the person, the furnishing of the information does not contravene the Privacy Act 1993. 15

(2) This section applies notwithstanding any law of New Zealand relating to secrecy or confidentiality.

(3) Nothing in this section affects any obligation or power of a local registration authority to provide information apart from this section. 20

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 37 (Aust.)

34. Receiving information—If a local registration authority receives information pursuant to a provision of a law of an Australian jurisdiction corresponding to **section 33** of this Act, the information is subject to the Privacy Act 1993 or any other law relating to secrecy or confidentiality to the same extent as it would be if the information had been provided under the law of New Zealand. 25 30

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 38 (Aust.)

35. Applicant may obtain information from local registration authority—(1) Where a local registration authority makes a decision in respect of which an applicant may apply for a review, the applicant may, by notice in writing to the local registration authority, request it to furnish to the applicant a statement in writing setting out the findings on material questions of fact and referring to the evidence or other material on which those findings were based. 35 40

(2) Where a local registration authority receives a request made under **subsection (1)** of this section it shall, within 20

working days after receiving the request, prepare, and furnish to the applicant, such a statement.

5 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 33(3) (Aust.); Administrative Appeals Tribunal Act 1975, s. 28(1) (Aust.)

36. General responsibilities of local registration authorities—(1) It is the duty of each local registration authority to facilitate the operation of this Part of this Act in relation to every occupation for which the authority is responsible and, in particular, to make use of its powers to impose conditions in such a way as to promote the Trans-Tasman mutual recognition principle in relation to occupations.

10 (2) It is the duty of each local registration authority from time to time to prepare and make available guidelines and information regarding the operation of this Part of this Act in relation to every occupation for which the authority is responsible.

15 (3) The first guidelines and information required by subsection (2) of this section shall be available within 6 months from the date on which this section comes into force.

20 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 39 (Aust.)

37. Formalities requiring personal attendance—(1) Compliance with any statutory or other formalities requiring personal attendance in New Zealand shall not be a prerequisite to entitlement to registration or deemed registration or registration under this Act.

25 (2) This section applies to formalities that would otherwise have to be complied with before, at, or after registration.

30 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 41 (Aust.)

38. Saving—Nothing in this Act prevents a person from seeking registration or being registered for an occupation under a law other than this Act.

35 Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 42 (Aust.)

39. Laws prescribing fees and conditions—(1) In the absence of regulations made under section 40 (1) (a) of this Act,—

40 (a) The fee prescribed for registration, in any law dealing with registration for a particular occupation, shall be

read as the fee for deemed registration for that occupation under this Act; and

- (b) The fee prescribed for the renewal of registration, in any law dealing with registration for a particular occupation, shall be read as the fee for the renewal of registration for that occupation under this Act;— 5

and, where any law dealing with registration for a particular occupation prescribes more than one fee for registration or the renewal of registration, as the case requires, the applicant shall pay the lower or the lowest of the fees prescribed. 10

(2) Where an applicant has paid a fee for deemed registration pursuant to a law referred to in **subsection (1) (a)** of this section, that applicant is not, notwithstanding anything in that law, required to pay a fee for registration under this Act.

(3) In the absence of regulations made under **section 40 (1) (b)** of this Act, any condition in any law dealing with registration for a particular occupation, to the effect that a person may not carry on the occupation unless a fee has been paid, shall, subject to **subsection (2)** of this section, be read as applying to deemed registration or registration or the renewal of registration under this Act. 20

40. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing fees in relation to deemed registration or the renewal of registration for a particular occupation under this Act: 25
- (b) Providing, as a condition of deemed registration or the renewal of registration for a particular occupation under this Act, that a person may not carry on the occupation unless a fee has been paid. 30

(2) No fee prescribed under **subsection (1)** of this section for deemed registration under this Act shall be greater than the fee prescribed for registration (or, where more than one fee is so prescribed, the higher or highest of those fees) under the law dealing with registration for the particular occupation. 35

(3) No fee prescribed under **subsection (1)** of this section for the renewal of registration under this Act shall be greater than the fee prescribed for the renewal of registration (or, where more than one fee is so prescribed, the higher or highest of those fees) under the law dealing with registration for the particular occupation. 40

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 40 (Aust.)

PART IV

TRANS-TASMAN OCCUPATIONS TRIBUNAL

5 **41. Trans-Tasman Occupations Tribunal**—There is hereby established a Tribunal to be called the Trans-Tasman Occupations Tribunal.

42. Functions of Tribunal—An applicant may apply to the Tribunal for the review of a decision of a local registration authority to—

- 10 (a) Impose conditions on registration; or
(b) Postpone the grant of registration; or
(c) Refuse to grant registration.

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 33(1) (Aust.)

15 **43. Effect on decision**—(1) Subject to **subsection (2)** of this section, every decision of a local registration authority that is the subject of a review shall continue in force and have effect pending the determination of the review.

(2) The Tribunal may, at the request of an applicant who is a party to a review, make an interim order,—

- 20 (a) In relation to a decision to impose conditions on registration, permitting the applicant to carry on the occupation without complying with the conditions; or
(b) In relation to a decision to refuse to grant registration, extending the applicant's deemed registration for a period specified by the Tribunal.

25 (3) The Tribunal shall not make an order under **subsection (2)** of this section unless the local registration authority whose decision is the subject of the review has been given a reasonable opportunity to make a submission to the Tribunal in relation to the interim order proposed to be made.

30 (4) The Tribunal may revoke at any time an interim order made under **subsection (2)** of this section.

35 **44. Orders by Tribunal**—(1) The Tribunal may make any order that it thinks fit in relation to the conduct of any review.

(2) The Tribunal may, in any review, make an order—

- 40 (a) That a person who is registered in a particular occupation in an Australian jurisdiction is entitled to registration in a particular occupation in New Zealand; or
(b) That a person who is registered in a particular occupation in an Australian jurisdiction is entitled to registration in a particular occupation in New Zealand, subject to

conditions specified by the Tribunal for the purpose of achieving equivalence of occupations; or

- (c) That a person who is registered in a particular occupation in an Australian jurisdiction is not entitled to registration in a particular occupation in New Zealand. 5

(3) The local registration authority shall give effect to an order made under **subsection (2)** of this section, and shall thereafter act in conformity with the order in relation to other persons seeking registration. 10

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 30(1) and (5) (Aust.)

45. Co-operation with Australian Tribunal—For the purpose of promoting consistency between decisions made by the Tribunal for the purposes of this Act and the Australian Tribunal for the purposes of the Australian Act, the Tribunal shall have regard to decisions made by the Australian Tribunal for the purposes of the Australian Act. 15

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 35(1) and (2) (Aust.) 20

Membership

46. Membership of Tribunal—(1) The members of the Tribunal shall be—

- (a) The Chairperson; and
(b) Subject to **subsection (2)** of this section, 2 other persons appointed from the panel by the Chairperson for the purposes of each review. 25

(2) Instead of making 2 appointments under **subsection (1) (b)** of this section, the Chairperson may, if the Chairperson considers it desirable,— 30

- (a) Appoint one member of the Tribunal under **subsection (1) (b)** of this section; and
(b) Appoint, as another member of the Tribunal, a member of the Australian Tribunal, in accordance with arrangements made from time to time between the Chairperson and the President of the Australian Tribunal. 35

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 35(3) (Aust.)

47. Appointment and term of office of Chairperson— 40
(1) Every person appointed as the Chairperson shall be a

barrister or solicitor of the High Court of not less than 7 years' practice or a District Court Judge.

5 (2) Any person appointed as the Chairperson may hold that office concurrently with any other office held by him or her and may from time to time be reappointed.

(3) The Chairperson shall be appointed by the Governor-General on the recommendation of the Minister of Justice.

10 (4) Except as otherwise provided in **section 50** of this Act, every person appointed as the Chairperson shall hold office for such term, not exceeding 5 years, as the Governor-General on the recommendation of the Minister of Justice shall specify in the instrument appointing the Chairperson.

15 (5) The Minister of Justice shall consult the Minister before making any recommendation under **subsection (3) or subsection (4)** of this section.

(6) Where the term for which the Chairperson has been appointed expires, the Chairperson, unless sooner vacating or removed from office under **section 50** of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

20 (a) Any review has concluded; and

(b) Either—

25 (i) The Chairperson is reappointed; or
(ii) A successor to the Chairperson is appointed; or
(iii) The Chairperson is informed in writing by the Minister of Justice that the Chairperson is not to be reappointed and that a successor to the Chairperson is not to be appointed.

30 (7) The expiry of the term of office of the Chairperson shall not affect any service being performed by the Chairperson on the Australian Tribunal.

48. Panel—(1) The Minister of Justice shall maintain a panel of not more than 15 persons who may be appointed pursuant to **section 46 (1) (b)** of this Act.

35 (2) The Minister of Justice shall consult the Minister before including any person on the panel.

(3) In considering the suitability of any person for inclusion on the panel, the Minister of Justice and the Minister shall have regard not only to his or her personal attributes but also to his or her knowledge of and experience in the different aspects of matters likely to come before the Tribunal.

40 (4) The name of a person shall be removed from the panel if—

- (a) The person dies or is, under the Insolvency Act 1967, adjudged bankrupt; or
- (b) The Minister of Justice directs that the name of the person be removed from the panel for disability affecting performance of duty, neglect of duty, or misconduct, proved to the satisfaction of the Minister of Justice; or 5
- (c) A period of 5 years has elapsed since the date on which the Minister of Justice last approved the entry of the person's name; or 10
- (d) The person requests by writing addressed to the Minister of Justice that his or her name be removed.
- (5) Where **paragraph (c) or paragraph (d) of subsection (4)** of this section applies, the name of the person shall not be removed from the panel until any review in respect of which that person was appointed to the Tribunal has concluded and until any service being performed by the person on the Australian Tribunal has concluded. 15

49. Deputy Chairperson—(1) In any case in which the Chairperson becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the Chairperson deems it not proper or desirable that he or she should adjudicate on any specified matter, the Governor-General, on the recommendation of the Minister of Justice, may appoint a suitable person to be the Deputy Chairperson and to act for the Chairperson for the period or purpose stated in the appointment. 20 25

(2) The Minister of Justice shall consult the Minister before making a recommendation under **subsection (1)** of this section.

(3) No person shall be appointed as the Deputy Chairperson unless he or she is eligible for appointment as the Chairperson. 30

(4) Every Deputy Chairperson appointed under this section shall, while acting for the Chairperson, be deemed to be the Chairperson.

(5) No appointment of a Deputy Chairperson, and no act done by a Deputy Chairperson as such, and no act done by the Tribunal while he or she is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased. 35

50. Vacation of office by Chairperson and Deputy Chairperson—(1) The Chairperson and any Deputy Chairperson may at any time resign his or her office by 40

delivering a notice in writing to that effect to the Minister of Justice.

5 (2) The Chairperson and any Deputy Chairperson shall be deemed to have vacated his or her office if he or she dies or is, under the Insolvency Act 1967, adjudged bankrupt.

(3) The Chairperson and any Deputy Chairperson may at any time be removed from office by the Governor-General for disability affecting performance of duty, neglect of duty, or misconduct, proved to the satisfaction of the Governor-
10 General.

51. Remuneration and travelling allowances—(1) The Tribunal is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

15 (2) Subject to **subsection (3)** of this section, there shall be paid to members of the Tribunal remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

20 (3) **Subsection (2)** of this section does not apply to a District Court Judge who is a member of the Tribunal or to any member appointed under **section 46 (2) (b)** of this Act.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 35 (4)
(Aust.)

25 **52. Members of Tribunal not personally liable**—No member of the Tribunal shall be personally liable for any act done or omitted to be done by the Tribunal or any member thereof in good faith in pursuance or intended pursuance of the functions, duties, powers, or authorities of the Tribunal.

Parties to Review

30 **53. Parties to review**—(1) The parties to a review shall be the applicant and the local registration authority.

(2) The Tribunal may direct that an organisation or person be added as a party to any review where the Tribunal is satisfied that the organisation or person has a substantial
35 interest in the review and either—

(a) The organisation or person applies to be made a party to the review; or

(b) The Tribunal of its own motion considers it desirable.

40 (3) The Attorney-General, if in his or her opinion the public interest is or may be involved, may, on giving such notice to other parties as the Tribunal may direct, appear and be heard, or present submissions in writing, on any review.

Conferences

- 54. Conferences**—(1) Where the Tribunal is of the opinion that it would be appropriate for the parties to a review to attend a conference—
- (a) For any purpose relating to the conduct of the review; or 5
 - (b) For the purpose of—
 - (i) Identifying the matters in issue between the parties; and
 - (ii) Trying to obtain agreement between the parties on the resolution of those matters,— 10
- the Chairperson may nominate a member of the Tribunal appointed under **section 46 (1) (b) or section 46 (2) (b)** of this Act to chair the conference.
- (2) The conference chairperson shall give written notice to the parties— 15
- (a) Inviting them to attend the conference; and
 - (b) Notifying them of the purpose of the conference; and
 - (c) Notifying them of the date, time, and place of the conference; and
 - (d) Notifying them that their representatives may, if the parties so wish, attend the conference. 20
- 55. Procedure at conferences**—(1) The conference chairperson may, with the parties' consent, invite to attend a conference any person whose attendance would in the opinion of the conference chairperson be likely to assist in achieving any purpose for which the conference was called. 25
- (2) There may be paid to any person attending any conference pursuant to **subsection (1)** of this section fees, allowances, and expenses as if that person were a witness attending before the Tribunal to give evidence pursuant to a summons issued on the motion of the Tribunal. 30
- (3) The conference chairperson may allow the parties or their representatives or any other person invited to attend a conference to participate in the conference by—
- (a) Telephone; or 35
 - (b) Closed-circuit television, where such a facility is available; or
 - (c) Any other means of communication for which facilities are available.
- (4) Any conference may be adjourned from time to time and from place to place. 40
- (5) Where the parties reach an agreement in relation to the conduct of the review, and the Tribunal is satisfied that an order recording the terms of the agreement is within its

powers under **section 44 (1)** of this Act, the Tribunal may, if it thinks fit, make such an order.

5 (6) Where the parties reach agreement on the matters in issue, and the Tribunal is satisfied that an order recording the terms of the agreement is within its powers under **section 44 (2)** of this Act, the Tribunal may, if it thinks fit, make such an order.

56. Conference chairperson's participation in hearing—Where—

(a) A conference is held; and

10 (b) Either—

(i) The Tribunal makes an order under **section 44 (1)** of this Act; or

(ii) The Tribunal makes no order under **section 44** of this Act; and

15 (c) A party objects to the conference chairperson participating in the hearing of the review,—

the Chairperson shall appoint another person under **section 46 (1) (b)** or **section 46 (2) (b)** of this Act to replace the conference chairperson on the Tribunal for the purposes of the hearing of the review.

20 **57. Evidence not admissible**—No evidence shall be admissible in any court, or before any person acting judicially, of any information, statement, or admission disclosed or made to any person in the course of a conference, except, with the parties' consent, at the hearing of the review.

Procedure

58. Power of Tribunal if parties reach agreement—

30 (1) If, at any stage of a review, the parties reach an agreement in relation to the conduct of the review, and the Tribunal is satisfied that an order recording the terms of the agreement is within its powers under **section 44 (1)** of this Act, the Tribunal may, if it thinks fit, make such an order.

35 (2) If, at any stage of a review, the parties reach agreement on the matters in issue, and the Tribunal is satisfied that an order recording the terms of the agreement is within its powers under **section 44 (2)** of this Act, the Tribunal may, if it thinks fit, make such an order.

59. Hearing in absence of parties—Where—

40 (a) It appears to the Tribunal that a review can be adequately determined in the absence of the parties, their representatives, and witnesses; and

(b) The parties consent to the review being determined in the absence of the parties, their representatives, and witnesses,—
the Tribunal may conduct the review by considering the documents or other material lodged with or provided to the Tribunal. 5

60. Avoidance of unnecessary formality—The Tribunal shall conduct any review with as little formality and technicality, and as much expedition, as is permitted by—

- (a) The requirements of this Act; and 10
- (b) A proper consideration of the review; and
- (c) The principles of natural justice.

61. Sittings of Tribunal—(1) The Tribunal shall fix a time and place for each sitting and shall cause notice to be given to the parties of the time and place so fixed. 15

(2) The Chairperson shall preside at every sitting of the Tribunal.

(3) No sitting of the Tribunal shall take place, except for the purposes of interlocutory or other ancillary matters, unless all members are present. 20

(4) Every sitting of the Tribunal shall be held in such place as the Tribunal deems convenient.

(5) Every sitting of the Tribunal shall be held in public unless the Tribunal in any particular case, having regard to the interests of the parties and of all other persons concerned, considers that the sitting or any part of it should be held in private. 25

(6) The Tribunal may make an order prohibiting the publication of any report or description of a review or of any part of a review. 30

(7) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who, without reasonable excuse, acts in contravention of any order made by the Tribunal under **subsection (6)** of this section.

(8) Any sitting of the Tribunal may be adjourned from time to time and from place to place. 35

62. Procedure of Tribunal—(1) Any party to a review may appear personally or by the party's barrister, solicitor, or agent.

(2) The Tribunal may appoint a barrister or solicitor to appear and be heard in a review as counsel assisting the Tribunal. 40

(3) The decision of the majority of members shall be the decision of the Tribunal.

(4) Every decision of the Tribunal shall be in writing and shall state the reasons for the decision.

5 (5) Except as otherwise provided in this Part of this Act, the Tribunal shall determine its own procedure.

63. Evidence—(1) The Tribunal may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the review, whether
10 or not the same would be admissible in a court of law.

(2) The Tribunal may take evidence on oath, and for that purpose any member or officer of the Tribunal may administer an oath.

15 (3) The Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Tribunal thinks fit, verifying it by oath.

(4) Subject to **subsections (1) to (3)** of this section, the Evidence Act 1908 applies to the Tribunal in the same manner as if the Tribunal were a court within the meaning of that Act.

20 **64. Witness summons**—(1) The Tribunal may of its own motion, or on the application of any party to the review, issue a witness summons to any person requiring that person to attend before the Tribunal to give evidence in the review.

(2) The witness summons shall state—

- 25 (a) The place where the person is to attend; and
(b) The date and time when the person is to attend; and
(c) The papers, documents, records, or things that that person is required to bring and produce to the Tribunal; and
30 (d) The entitlement to be tendered or paid a sum in respect of allowances and travelling expenses; and
(e) The penalty for failing to attend.

35 (3) The power to issue a witness summons may be exercised by the Tribunal or the Chairperson, or by any officer of the Tribunal purporting to act by the direction or with the authority of the Tribunal or the Chairperson.

65. Service of summons—(1) A witness summons may be served—

- 40 (a) By delivering it personally to the person summoned; or
(b) By posting it by registered letter addressed to the person summoned at that person's usual place of residence.
(2) The summons shall,—

- (a) Where it is served under **subsection (1) (a)** of this section, be served at least 24 hours before the attendance of the witness is required; or
- (b) Where it is served under **subsection (1) (b)** of this section, be served at least 10 working days before the date on which the attendance of the witness is required. 5
- (3) If the summons is posted by registered letter, it shall be deemed for the purposes of **subsection (2) (b)** of this section to have been served at the time when the letter would be delivered in the ordinary course of post. 10

66. Witnesses' allowances—(1) Every witness attending before the Tribunal to give evidence pursuant to a summons shall be entitled to be paid witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957, and those regulations shall apply accordingly. 15

(2) On each occasion on which the Tribunal issues a summons under **section 64** of this Act, the Tribunal, or the person exercising the power of the Tribunal under **subsection (3)** of that section, shall fix an amount that, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, shall be paid or tendered to the witness. 20

(3) The amount fixed under **subsection (2)** of this section shall be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Tribunal or person, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons. 25 30

(4) Where a party to the review has requested the issue of the witness summons, the fees, allowances, and travelling expenses payable to the witness shall be paid by that party.

(5) Where the Tribunal has of its own motion issued the witness summons, the fees, allowances, and travelling expenses payable to the witness shall be paid by the Crown. 35

67. Privileges and immunities—(1) Witnesses appearing before the Tribunal shall have the same privileges and immunities as witnesses have in proceedings in a District Court. 40

(2) Counsel and agents appearing before the Tribunal shall have the same privileges and immunities as counsel have in proceedings in a District Court.

5 **68. Non-attendance or refusal to co-operate**—(1) Every person commits an offence who, after being summoned to attend to give evidence before the Tribunal or to produce to the Tribunal any papers, documents, records, or things, without reasonable excuse,—

- (a) Fails to attend in accordance with the summons; or
- (b) Refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer concerning the review; or
- 10 (c) Fails to produce any such paper, document, record, or thing.

(2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction to a fine not exceeding \$1,500.

15 (3) No person summoned to attend before the Tribunal shall be convicted of an offence against **subsection (1)** of this section unless there was tendered or paid to that person travelling expenses in accordance with **section 66** of this Act.

20 **69. Contempt of Tribunal**—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who—

- 25 (a) Assaults, threatens, or intimidates, or intentionally insults, the Tribunal or any member of it or any special adviser to or officer of the Tribunal, during a sitting of the Tribunal, or in going to, or returning from, any sitting; or
- (b) Intentionally interrupts the proceedings of the Tribunal or otherwise misbehaves while the Tribunal is sitting;
- 30 (c) Intentionally and without lawful excuse disobeys an order or direction of a member of the Tribunal in the course of any sitting.

35 (2) A member of the Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in that member's opinion, constitutes an offence against **subsection (1)** of this section, whether or not such person is charged with the offence; and any member of the Police may take such steps as are reasonably necessary to enforce such an exclusion.

40 **70. Costs**—(1) The Tribunal may order any party to pay to any other party such costs and expenses (including witness expenses) incurred by that other party as the Tribunal considers reasonable.

(2) Any such order as to costs may be filed in a District Court and may be enforced as a judgment of that court.

71. Stating case for High Court—(1) The Tribunal may, at any time, before or during the hearing or before delivering its decision, on the application of any party to the review or of its own motion, state a case for the opinion of the High Court on any question of law arising in the review. 5

(2) The Tribunal shall give notice to the parties to the review of the Tribunal's intention to state a case under this section, specifying the registry of the High Court in which the case is to be filed. 10

(3) Except where the Tribunal intends to state the case of its own motion, the question shall be in the form of a special case to be drawn up by the parties to the review, and, if the parties do not agree, to be settled by the Tribunal. 15

(4) Where the Tribunal intends to state a case of its own motion, it shall itself state and sign a case setting forth the facts and questions of law arising for the determination of the High Court.

(5) Every case stated for the High Court under this section shall be dealt with in accordance with rules of court. 20

(6) The High Court shall hear and determine any question submitted to it under this section, and shall remit the case with its opinion to the Tribunal.

72. Appeal on question of law—(1) Where the Tribunal does not give a direction under **section 53 (2)** of this Act in relation to an application by an organisation or person to be made a party to a review, the organisation or person concerned may appeal to the High Court. 25

(2) Where any party to any review is dissatisfied with any decision of the Tribunal as being erroneous in point of law, that party may appeal to the High Court on that question of law. 30

(3) Every appeal under this section shall be dealt with in accordance with rules of court. 35

(4) Subject to any order of the High Court, every decision of the Tribunal against which an appeal is lodged shall continue in force or have effect pending the determination of the appeal.

73. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 40

- (a) Prescribing a fee to be paid by an applicant making an application under **section 42** of this Act:
- (b) Prescribing the procedure to be followed under this Act in respect of reviews.

5 **74. New Zealand member of Australian Tribunal—**
 Where the Chairperson or a person whose name is entered on the panel serves as a member of the Australian Tribunal for the purposes of a review under **section 33** of the Australian Act,—

- 10 (a) The Australian Tribunal shall be deemed to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951; and
- (b) The Chairperson or person shall be paid—
 - 15 (i) Remuneration by way of fees, salary, or otherwise in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly; and
 - (ii) Travelling allowances and travelling expenses in respect of time spent in travelling in the service of the Australian Tribunal, at such rate as the Minister of State Services from time to time approves; and
 - 20 (iii) Such other allowances at such rate as the Minister of State Services from time to time approves.

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PART V

EXCLUSIONS AND EXEMPTIONS

75. Meaning of “endorsed”—For the purposes of **sections 78 (2), 80 (2), 82 (2), 83 (2), and 85 (2)** of this Act, terms of proposed regulations are endorsed—

- 30 (a) By New Zealand, when the Minister has given notice in the *Gazette* of his or her intention to make a recommendation to the Governor-General to make the regulations; and
- 35 (b) By the Commonwealth, when regulations to the same effect as the proposed regulations have been made by the Commonwealth; and
- (c) By a State, when a notice setting out and endorsing regulations to the same effect as the proposed regulations has been published in the official gazette of—
 - 40 (i) Each State (other than the Australian Capital Territory or the Northern Territory), by the

Governor of the State or a Minister of the Crown for the State:

(ii) The Australian Capital Territory, by the Chief Minister of the Territory:

(iii) The Northern Territory, by the Administrator of the Territory. 5

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 43 (Aust.)

76. Interpretation of Schedules—(1) A reference to a law, in the **First Schedule** to this Act, includes— 10

(a) Any amendment to any provision of that law made after **section 77** of this Act comes into force; or

(b) Any provision inserted in that law after **section 77** of this Act comes into force; or

(c) Any provision substituted for another provision in that law after **section 77** of this Act comes into force,— 15

if the subject matter of that amendment or provision is described by one of the categories in the **First Schedule** to this Act.

(2) A reference to a law, in the **Second Schedule or the Third Schedule** to this Act, includes— 20

(a) Any amendment to any provision of that law made after **section 79 or section 81** of this Act, as the case requires, comes into force; or

(b) Any provision inserted in that law after **section 79 or section 81** of this Act, as the case requires, comes into force; or 25

(c) Any provision substituted for another provision in that law after **section 79 or section 81** of this Act, as the case requires, comes into force; or

(d) Any law passed in substitution for that law,— 30

if that amendment or provision or law does not increase the scope of the exemption effected by the **Second Schedule or the Third Schedule** to this Act, as the case requires, at the date on which **section 79 or section 81** of this Act, as the case requires, comes into force. 35

(3) Notwithstanding anything in the Acts Interpretation Act 1924, a reference to an Act in any Schedule to this Act includes, unless the reference to the Act indicates otherwise,—

(a) Any rules and regulations made under the Act; and

(b) Any order, proclamation, notice, or other statutory instrument made or given under the Act. 40

(4) In **subsection (3)** of this section, the term “regulations”—

(a) Has the same meaning as it has in section 2 of the Acts and Regulations Publication Act 1989; and

5 (b) Includes any instruments that have, pursuant to section 6A of the Regulations Act 1936 or section 14 of the Acts and Regulations Publication Act 1989 or any other Act, been printed or published as if they were regulations.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 4(2) and (3) (Aust.)

10 **77. Exclusions**—This Act does not affect the operation of any law, or any provision of any law, specified or described in a category in the **First Schedule** to this Act.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 44(1) (Aust.)

15 **78. Amendments to First Schedule**—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **First Schedule** to this Act by adding another category.

20 (2) The Minister shall not make a recommendation under **subsection (1)** of this section unless the Minister is satisfied that all of the then participating jurisdictions have endorsed the terms of the proposed regulations.

(3) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **First Schedule** to this Act by—

25 (a) Adding another law, or another provision of a law, to any of the categories:

(b) Omitting a law from any of the categories and substituting another law, or omitting a provision of a law from any of the categories and substituting another provision of that law:

30 (c) Omitting a category.

(4) The Minister shall not make a recommendation under **subsection (3)** of this section unless the Minister has given notice in the *Gazette* of his or her intention to do so.

35 (5) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **First Schedule** to this Act by omitting a law or a provision of a law.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 44 (2)–(4) (Aust.)

79. Permanent exemptions—This Act does not affect the operation of any law, or any provision of any law, specified or described in the **Second Schedule** to this Act.

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 45 (1)
(Aust.)

5

80. Amendments to Second Schedule—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **Second Schedule** to this Act by—

- (a) Adding another law or another provision of a law: 10
(b) Omitting a law and substituting another law, or omitting a provision of a law and substituting another provision of that law.

(2) The Minister shall not make a recommendation under **subsection (1)** of this section unless the Minister is satisfied that all of the then participating jurisdictions have endorsed the terms of the proposed regulations. 15

(3) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **Second Schedule** to this Act by omitting a law or a provision of a law. 20

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 45(3),
(4), (5)(b) (Aust.)

81. Special exemptions—This Act does not affect the operation of any law, or any provision of any law, specified or described in the **Third Schedule** to this Act until the expiry of the exemption period or, as the case requires, the extended exemption period relating to that law or that provision. 25

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 47(1)
and (2) (Aust.)

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82. Amendments to Third Schedule—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations—

- (a) Extending the exemption period by a period specified in the regulations, being a period of no longer than 12 months at any one time, in relation to any law or any provision of any law specified or described in the **Third Schedule** to this Act; or 35

- (b) Amending the **Third Schedule** to this Act by omitting any law, or any provision of any law, in relation to which the exemption period or, as the case may be, the 40

extended exemption period, has expired or has otherwise ceased to be of effect.

5 (2) The Minister shall not make a recommendation under **subsection (1)** of this section unless the Minister is satisfied that no fewer than two-thirds of the then participating jurisdictions have endorsed the terms of the proposed regulations.

(3) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **Third Schedule** to this Act by omitting a law or a provision of a law.

10 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 47 (2)–(5) (Aust.)

83. Amendments to Second and Third Schedules—

15 (1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations that amend the **Second Schedule** to this Act by adding to it a law or a provision of a law specified or described in the **Third Schedule** to this Act and amend the **Third Schedule** to this Act by omitting from it that law or that provision of a law.

20 (2) The Minister shall not make a recommendation under **subsection (1)** of this section unless the Minister is satisfied either—

(a) That all of the then participating jurisdictions have endorsed the terms of the proposed regulations; or

25 (b) That—

(i) No fewer than two-thirds of the then participating jurisdictions have endorsed the terms of the proposed regulations; and

30 (ii) A period of not less than 5 years has elapsed since **section 81** of this Act came into force.

Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 45 (5)(a) (Aust.)

84. Exempt occupations—This Act does not apply to any law, or any provision of any law, that relates to any occupation and is specified or described in the **Fourth Schedule** to this Act.

35 Cf. *Trans-Tasman Mutual Recognition Bill 1996*, cl. 48(1) (Aust.)

85. Amendments to Fourth Schedule—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **Fourth Schedule** to this Act by—

40 (a) Adding another law or another provision of a law:

(b) Omitting a law and substituting another law, or omitting a provision of a law and substituting another provision of that law.

(2) The Minister shall not make a recommendation under **subsection (1)** of this section unless the Minister is satisfied that all of the then participating jurisdictions have endorsed the terms of the proposed regulations. 5

(3) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations amending the **Fourth Schedule** to this Act by omitting a law or a provision of a law. 10

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 48(2) to (4) (Aust.)

86. Regulations relating to temporary exemptions—

(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations exempting a particular kind of goods or any law, or any provision of any law, relating to a particular kind of goods from the provisions of this Act. 15

(2) No exemption under regulations made under **subsection (1)** of this section shall exceed the period of 12 months in total, whether the exemption is made in one set of regulations or in more than one set of regulations. 20

(3) The Minister shall not make a recommendation under **subsection (1)** of this section unless he or she is satisfied that every exemption effected by the regulations is substantially for the purpose of protecting the health and safety of persons in New Zealand or avoiding, remedying, or mitigating any adverse effects of activities on the environment in New Zealand. 25

Cf. Trans-Tasman Mutual Recognition Bill 1996, cl. 46 (Aust.) 30

SCHEDULES

FIRST SCHEDULE

Section 77

EXCLUSIONS

Category 1

Laws relating to customs controls and tariffs, to the extent that those laws provide for—

- (a) The imposition of tariffs or the taking of related measures; or*
- (b) The imposition of anti-dumping duties or countervailing duties or the taking of related measures; or*
- (c) The prohibition or restriction of imports—*
and deal with any requirement described in section 10 (2) of this Act relating to the sale of goods

Customs Act 1966

—Section 48

—Any Order in Council made or deemed to have been made under section 48 and in force

—First Schedule

Temporary Safeguard Authorities Act 1987

Dumping and Countervailing Duties Act 1988

Tariff Act 1988

Any other provision of the law by or under which goods are prohibited from importation into New Zealand, or the importation of goods into New Zealand is restricted

Category 2

Laws relating to intellectual property, to the extent that those laws—

- (a) Provide for the protection of intellectual property rights; and*
- (b) Deal with any requirement described in section 10 (2) of this Act relating to the sale of goods*

Designs Act 1953

Patents Act 1953

Trade Marks Act 1953

Geneva Conventions Act 1958

Commonwealth Games Symbol Protection Act 1974

Flags, Emblems, and Names Protection Act 1981

Plant Variety Rights Act 1981

Copyright Act 1994

Geographical Indications Act 1994

Layout Designs Act 1994

Category 3

Laws relating to international obligations, to the extent that those laws deal with any requirement described in section 10 (2) of this Act relating to the sale of goods

United Nations Act 1946

Trade in Endangered Species Act 1989

Ozone Layer Protection Act 1990

FIRST SCHEDULE—*continued*EXCLUSIONS—*continued***Category 4**

Laws relating to taxation, to the extent that those laws provide for the imposition of taxes on the sale of locally produced and imported goods in a non-discriminatory way and deal with any requirement described in section 10 (2) of this Act relating to the sale of goods

Estate and Gift Duties Act 1968

Gaming Duties Act 1971

Stamp and Cheque Duties Act 1971

Goods and Services Tax Act 1985

SECOND SCHEDULE

Section 79

PERMANENT EXEMPTIONS

- Wildlife Act 1953, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any wildlife (within the meaning of the Wildlife Act 1953)
- Explosives Act 1957, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any explosive of the sixth (ammunition) class of the Schedule to the Explosives Act 1957 or the seventh (firework) class of the Schedule to the Explosives Act 1957
- Crimes Act 1961, section 124, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any indecent model or object
- Radiation Protection Act 1965, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any radioactive material (within the meaning of the Radiation Protection Act 1965)
- Animal Remedies Act 1967, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any animal remedy (within the meaning of the Animal Remedies Act 1967)
- Antiquities Act 1975, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any antiquity (within the meaning of the Antiquities Act 1975)
- Gaming and Lotteries Act 1977, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any gaming machine (within the meaning of the Gaming and Lotteries Act 1977)
- Arms Act 1983, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any item for which a dealer's licence, firearms licence, or permit is required under the Arms Act 1983
- Films, Videos, and Publications Classification Act 1993, to the extent that it deals with any requirement described in **section 10 (2)** of this Act applicable to the sale of any publication that is objectionable within the meaning of the Films, Videos, and Publications Classification Act 1993 in the hands of all persons and for all purposes
- Any law relating to quarantine, to the extent that it deals with any requirement described in **section 10 (2)** of this Act relating to the sale of goods
- Any law that—
- (a) Is enacted or made substantially for the purpose of preserving a class of animals or plants from extinction in New Zealand; and
 - (b) Prohibits or restricts the capture, killing, possession, or sale of animals of that class in New Zealand or the killing, possession, or sale of plants of that class in New Zealand,—
- to the extent that it deals with any requirement described in **section 10 (2)** of this Act relating to the sale of goods
-

Section 81

THIRD SCHEDULE

SPECIAL EXEMPTIONS

Laws Relating to Dangerous Goods, Hazardous Substances, and Industrial Chemicals

Until the coming into force of section 150 of the Hazardous Substances and New Organisms Act 1996, laws that will be repealed or revoked on the coming into force of that section, to the extent that those laws deal with any requirement described in **section 10 (2)** of this Act relating to the sale of goods

On the coming into force of section 150 of the Hazardous Substances and New Organisms Act 1996, that Act

Laws Relating to Electromagnetic Compatibility and Radiocommunications Equipment

Radiocommunications (Radio) Regulations 1993, Part V

Laws Relating to Gas Appliance Standards

Gas Act 1992

Laws Relating to Road Vehicles

Transport Act 1962

Road User Charges Act 1977

Transport Services Licensing Act 1989

Land Transport Act 1993

Laws Relating to Therapeutic Goods

Misuse of Drugs Act 1975

Medicines Act 1981

Dietary Supplements Regulations 1985

Trans-Tasman Mutual Recognition

49

FOURTH SCHEDULE

Section 84

EXEMPT LAWS RELATING TO OCCUPATIONS

Medical Practitioners Act 1995, to the extent that it deals with registered
medical practitioners