

## Mutual Recognition Policy

### 1. Purpose

This policy outlines the Teacher Registration Board of Western Australia's (TRBWA) requirements for recognising registration under a mutual recognition arrangement with all Australian states, territories and New Zealand.

### 2. Scope

This policy applies to notices lodged with the TRBWA for registration using the Mutual Recognition Principle from teachers currently registered in an Australian jurisdiction or in New Zealand.

The policy applies to all TRBWA staff and Board members involved in the registration and regulation of teachers in Western Australia.

### 3. Background

*The Mutual Recognition Act 1992 (Cth) (MR Act) and the Trans-Tasman Mutual Recognition Act 1997 (Cth) (TTMR Act) (Mutual Recognition Legislation) enable a person who is registered in connection with an occupation in an Australian State or Territory or New Zealand (First Jurisdiction) to carry on the equivalent occupation in another Australian State or Territory or New Zealand (Second Jurisdiction).*

Under the Mutual Recognition Legislation, a person is considered to be 'registered' if they are licensed, approved, admitted, certified or in any other way authorised to teach by or under legislation in the First Jurisdiction.

An occupation is deemed to be equivalent if the activities authorised to be carried out under each registration are substantially the same and can only be carried out by 'registered' persons. Equivalency of occupations from another jurisdiction may be achieved through the imposition of appropriate conditions on a person's registration in Western Australia.

### 4. Definitions

Jurisdiction	An Australian State or Territory or New Zealand.
Substantive Registration	As defined by Section 4 of the Mutual Recognition Legislation: registration under a law of a participating jurisdiction, but does not include deemed registration.

### 5. Policy

#### 5.1 Person to be registered

To be eligible for registration as a teacher in Western Australia under the Mutual Recognition Principle, a person must be 'registered' as a teacher under the legislation of another Jurisdiction.

There are generally no restrictions on holders of teacher registration in another Jurisdiction applying for registration in Western Australia through the Mutual Recognition Principle. That said, however, registration is dependent on consideration of whether the holder's teaching is limited

either by the nature of the registration or through conditions imposed on the registration by the First Jurisdiction.

Holders of Non-Practising Registration or equivalent categories may be registered in Western Australia under the Mutual Recognition Principle, however, the TRBWA may impose conditions on the registration to ensure that activities authorised in Western Australia reflect and equate to activities authorised in the First Jurisdiction.

Where registration is sought by a teacher holding an alternate authorisation to teach equivalent to Limited Registration, registration will only be granted by the TRBWA where it is possible to achieve equivalency of occupation. Where a person, registered in a First Jurisdiction, is limited to teaching at a *particular school or venue*, the TRBWA will generally not grant registration pursuant to the Mutual Recognition Principle as it would not be possible to reflect the limitation imposed by the First Jurisdiction in Western Australia. That is, it would not be possible for the person to teach only at the particular school or venue which is in another Jurisdiction.

Those persons who are not able to apply for registration with the TRBWA pursuant to the Mutual Recognition Legislation may apply directly to the TRBWA for registration.

## **5.2 Notice to the TRBWA for registration under the Mutual Recognition Principle**

To apply for registration as a teacher in Western Australia under the Mutual Recognition Principle, a person must apply to the TRBWA by lodging a written notice on the approved TRBWA form accompanied by the applicable fee. The form and required documentation must also be verified by way of a Statutory Declaration. The form will set out the requirements for a valid notice, pursuant to the Mutual Recognition Legislation.

## **5.3 Requirements of a Valid Notice**

The notice must:

- state that the person is registered for the occupation in the First Jurisdiction and name that Jurisdiction; and
- state the occupation for which registration is sought and that it is being sought in accordance with the Mutual Recognition Principle; and
- specify all the Jurisdictions in which the person has substantive registration for equivalent occupations; and
- state that the person is not the subject of disciplinary proceedings in any Jurisdiction (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to those occupations; and
- state that the person's registration in any Jurisdiction is not cancelled or currently suspended as a result of disciplinary action; and
- state that the person is not otherwise personally prohibited from carrying on any such occupation in any Jurisdiction, and is not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any Jurisdiction; and
- specify any special conditions to which the person is subject in carrying on any such occupation in any Jurisdiction; and
- give consent to the making of inquiries of, and the exchange of information with, the authorities of any Jurisdiction regarding the person's activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

The TRBWA may seek to verify any declarations made by the applicant.

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

The person must certify that the document or evidence demonstrating registration in the First Jurisdiction is either the original or a complete and accurate copy of the original.

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

The applicant must maintain current registration with the First Jurisdiction until the TRBWA grants substantive registration. If an applicant allows registration in the First Jurisdiction to lapse or it ceases for any other reason before they are granted substantive registration with the TRBWA, they will not be able to obtain registration with the TRBWA pursuant to the Mutual Recognition Principle.

#### 5.4 Deemed Registration

A person who lodges a notice with the TRBWA will be granted 'deemed' registration from the day that the notice is lodged. Once a notice is identified as having been correctly lodged, the TRBWA will provide a 'deemed registration' letter to the applicant.

A person who is deemed to be registered can commence teaching in Western Australia pending the granting or refusal of substantive registration.

A person carrying on the occupation of teaching in Western Australia must comply with any requirements of the *Teacher Registration Act 2012* (TR Act), from the time they commence teaching.

Deemed registration cannot be used as the basis for registration in any other jurisdiction. Therefore, a person holding *only* deemed registration in the First Jurisdiction is not eligible to obtain registration in Western Australia under the Mutual Recognition Principle.

#### 5.5 Decision of the TRBWA

The Mutual Recognition Legislation requires substantive registration to be granted within one month after a notice is correctly lodged with the TRBWA. The TRBWA may, however, within that month, postpone the grant of substantive registration (in which case deemed registration will continue pending a decision on substantive registration) or refuse to grant registration.

The TRBWA may postpone the grant of registration for any of the following reasons:

- if any of the statements or information in the notice are materially false or misleading;
- if the original or a copy of the instrument evidencing the person's existing registration or information to identify the person and the person's registration has not been provided or is materially false or misleading;
- if the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged;
- if the TRBWA decides that the occupation undertaken in the First Jurisdiction is not equivalent

The TRBWA may refuse the grant of registration for any of the following reasons:

- if any of the statements or information in the notice are materially false or misleading;
- if the original or a copy of the instrument evidencing the person's existing registration or information to identify the person and the person's registration has not been provided or is materially false or misleading;
- if the TRBWA decides that the occupation undertaken in the First Jurisdiction is not equivalent and equivalence cannot be achieved by the imposition of conditions.

If the grant of registration has been postponed, the TRBWA may, in due course, either grant or refuse the registration. The TRBWA may not postpone the grant of registration for longer than six months. The person remains deemed until the decision is finalised.

If the TRBWA does not grant, refuse or postpone registration within one month after the notice was lodged, the person is entitled to be immediately registered by the TRBWA.

If granted, substantive registration will normally be granted on similar terms and conditions as the applicant's registration in the First Jurisdiction. The duration of the registration granted in Western Australia will align with the duration of registration in the First Jurisdiction. Continuance of registration thereafter will be subject to the TR Act and subsidiary regulations.

Once substantive registration is granted by the TRBWA, registration in the First Jurisdiction may lapse without affecting registration with the TRBWA.

Notification of the TRBWA's decision to grant, postpone or refuse registration, or to impose conditions on registration will be provided to the person in writing. A written notice of decisions to *refuse or impose conditions* will contain a statement to the effect that:

- a person whose interests are affected by the decision may apply to the Administrative Appeals Tribunal for review of the decision and;
- a person may apply for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision.

(This statement is not required if the findings, evidence and reasons for decision are already included in the notice provided by the TRBWA)

If the grant of registration is refused on the basis that documents provided are either missing or materially false or misleading, the decision to refuse takes effect immediately, and deemed registration will cease. The person will be immediately advised in writing.

A decision to refuse registration on the grounds that that the occupation undertaken in the First Jurisdiction is not equivalent will take effect at the end of a period specified in the notice of the decision. This period must not be less than two weeks after the person is notified.

## 5.6 Imposition of Conditions

Conditions may be imposed by the TRBWA on both a deemed registration or on a substantive registration of a teacher. Conditions imposed by the TRBWA on an applicant whose registration was granted pursuant to the Mutual Recognition Principle are imposed pursuant to the Mutual Recognition Legislation, not the TR Act.

A teacher's deemed registration may be subject to any conditions applying to the registration in the First Jurisdiction, although the TRBWA has the authority to waive such conditions.

Conditions imposed by the TRBWA will not be more onerous than those imposed in relation to similar situations in Western Australia, where the registration is not of Mutual Recognition origin. A condition may be imposed on the deemed or substantive registration which corresponds to and reflects conditions on the teacher's registration in the First Jurisdiction. In addition, conditions may be imposed which are determined to be necessary to ensure that the activities authorised to be undertaken by the teacher in Western Australia reflect and equate to the authorised activities in the First Jurisdiction.

## 5.7 Implications of disciplinary action in any Jurisdiction

If a person's teacher registration in a Jurisdiction is:

- a) cancelled or suspended; or
- b) subject to a condition;

on disciplinary grounds, or as a result of or in anticipation of criminal, civil or disciplinary proceedings, then the person's registration in the equivalent occupation in another Jurisdiction will be affected in the same way, except that the local registration authority of another

Jurisdiction may reinstate any cancelled or suspended registration or waive any such condition if it thinks it appropriate in the circumstances.

The TRBWA advises other Jurisdictions when it cancels or suspends registration, or when it imposes a condition on registration on disciplinary grounds. Subject to the seriousness of the matter, other jurisdictions may be advised prior to the completion of disciplinary proceedings.

If the TRBWA is advised by another Jurisdiction that a teacher’s registration has been cancelled, suspended or has had a condition imposed on disciplinary grounds, or as a result of or in anticipation of criminal, civil or disciplinary proceedings, it will normally take similar action, although such action is always given individual consideration by the Board.

## 5.8 Exchange of information between Jurisdictions

A teacher regulatory authority may seek an exchange of information with a counterpart authority in a First Jurisdiction in relation to any information reasonably required about a person substantively registered under the law of the First Jurisdiction. There is an obligation, under the Mutual Recognition Legislation, to provide such information without delay.

This obligation only applies when the teacher regulatory authority notifies the authority of the First Jurisdiction that the information is required in connection with:

- a) a notice lodged by a person seeking registration; or
- b) a person’s deemed registration; or
- c) actual or possible disciplinary action against the person.

If the TRBWA receives information under section 37 of the Mutual Recognition Legislation, the information is subject to laws relating to secrecy or confidentiality that would apply if the information were provided under laws in Western Australia, under which the TRBWA is constituted or exercises its functions.

## 6. Supporting information

- *Teacher Registration Act 2012*
- *Mutual Recognition Act 1992*
- *Trans-Tasman Mutual Recognition Act 1997*
- *Conditions of Registration Policy*
- *Making of an Application for Registration Policy*

## 7. Change History

Approved	Version	Details	Approved By
19/06/2013	1	New Policy Issued	Board
16/07/2013	2	Amendment	Board
26/06/2014	2.1	Amendment relating to NSW	Director
08/12/2015	3	Amendment relating to NSW	Board
11/04/2018	3.1	Amendment to include teachers from NSW under the MR principle	Board
16/05/2018	4	Scheduled review – amendments including new sections 5.7 and 5.8	Board
Next Review Date		30/06/2020	