

**MUTUAL RECOGNITION (WESTERN AUSTRALIA) BILL 2001**

*Second Reading*

Resumed from 2 May.

**MRS EDWARDES** (Kingsley) [4.33 pm]: I support the Bill. This legislation was introduced in 1995. The termination day in the Mutual Recognition (Western Australia) Act 1995 was extended twice. The 1998 amendment Act expired on 28 February this year. The Bill differs in three ways from the Act. First, it does not contain a sunset clause. As the 1995 legislation was new, to allay the State's concerns the Government decided to review it after 20 months. It was happy to extend the review period on two further occasions until a national review was carried out. This extension is important because, although I have not heard of any issues concerning trading of goods and services across the State's borders, some issues have arisen about occupations.

The Act is based on two principles: that goods can be sold lawfully in another Australian State or Territory if all the conditions of sale in the State or Territory are met, and people who are registered to practise an occupation in any one State or Territory are entitled to do so in another State or Territory. As everyone knows, there is a shortage of registered nurses in Western Australia. The Nurses Board of Western Australia has been unable to register nurses who would like to work in Western Australia between 28 February and today. Some other occupations and professions have been accredited.

Secondly, this Bill will be retrospective from 1 March this year. Thirdly, it will validate anything that is purported to have been done between the expiration of the 1995 Act and the commencement of this Bill. If persons with certain occupations have been registered, their registration will be recognised under the provisions of this Bill.

During the term of the Labor Government, the Corporations Law was dealt with in 1992. Concerns were expressed about whether the State should refer its powers to the Commonwealth or adopt its legislation. That leaves it open to the State in the future to being required to consider every single amendment to its legislation.

The State adopted this legislation rather than refer its powers. Amendments, therefore, in this case providing for continuation of participation in the scheme, must be passed by the State Parliament. However, amendments to regulations can be implemented automatically.

It is significant that the exemptions attached to the Act cannot be changed without the unanimous consent of the heads of government of participating States.

It is very important legislation. As I indicated, Western Australia carried out a public review. Public submissions were received and letters were written to interested organisations representing manufacturers of goods and services and occupations, trades and practices.

The report on the review of the Mutual Recognition (Western Australia) Act, carried out by the federal affairs branch of the Ministry of the Premier and Cabinet, was tabled, I believe, in 1997. It took into account the report of the Legislative Assembly parliamentary Standing Committee on Uniform Legislation and Intergovernmental Agreements after it had heard public submissions for four months. In July 1997 the review committee sought public comment from various organisations such as the Western Australian Chamber of Commerce and Industry and other government departments and/or agencies. That was important; for instance, the Health Department and Agriculture Western Australia had major concerns.

At that stage it was agreed to extend the mutual recognition scheme annually until a national review, begun in 1998, was completed. That has now been done and the "Mutual Recognition Agreement Legislation Review" is available on the web site of the Department of the Prime Minister and Cabinet. It contains some important issues, which I will bring to the attention of members later. One area that has not been addressed is the trans-Tasman mutual recognition arrangement by this Parliament. The legislation was introduced last year, went through the Legislative Assembly and was held up in the Legislative Council, based on the concerns of the fruit production industry. The issue of apples was of major concern. I know that the federal affairs branch is currently looking at the impact of that.

The responses from each of the occupational groups have shown that, in the main, the Mutual Recognition (Western Australia) Act has been working. Until the report was tabled, 1 375 people had achieved mutual recognition, with in excess of 1 000 nurses registering under the mutual recognition principle. I take it that once this legislation is passed, it will assist Western Australia in obtaining the services of more nurses. There was some concern by members of the industry in some areas - including the Psychologists Board of Western Australia and the Real Estate and Business Agents Supervisory Board - that standards in Western Australia may be lowered. However, the review determined from all the submissions that there was no evidence of that occurring. The national review makes a strong recommendation about that issue, and I will go through it.

There were some concerns in the nursing profession, primarily with the competency of enrolled nurses from Victoria. Again, that issue has been addressed by some of the recommendations in the national review. Most of the submissions indicated that there was no concern over goods and services, that mutual recognition has been working well and that the standards have not been lowered. The Health Department had some concerns about small-scale domestic waste water treatment plants, and the Office of Energy had some concerns with portable gas appliances and barbecues being offered for sale. In New South Wales a concern arose from the national review about not only the sale of a product but also its use. The use of a particular product in a particular State may be restricted by the laws of that State. Should it be covered under the Mutual Recognition Act? At the moment the use of a product, goods or services is not covered under the Act and one of the recommendations in the national review examined whether it should be incorporated.

One of the concerns about goods and services was to do with the level of awareness in the food industry. The level of awareness was particularly high in some areas, such as the poultry and meat industries, but was low in other areas, such as the seafood industry. There was a concern in the profession that some people coming from the eastern States thought that mutual recognition meant they could practise in another State. They presumed it was automatic and they did not have to submit an application for accreditation by virtue of mutual recognition. One of the recommendations is that education and awareness be improved, particularly in this State. The main aim of mutual recognition as referred to in the report was to remove the barriers to the movement of goods and the mobility of people in registered occupations, which were created by different regulations in different jurisdictions. Some of the concerns expressed in those early days have proved to be unfounded. The recommendations of the national review will ensure that some of those issues are brought to the attention of the respective ministerial councils and/or heads of government. It was recommended that the adoption of the commonwealth Mutual Recognition Act by Western Australia be continued.

I will also mention some of the concerns and recommendations in the national review. As I indicated, the recommendations suggested that it was working well. I mentioned the use of a product and whether it should be covered by mutual recognition. An example was given of the sale of a particular fishing net occurring between Queensland and New South Wales. Although the transaction of the item would not be prohibited, New South Wales had laws covering the use of that fishing net. That is one issue that needed to be addressed.

I have not mentioned some of the exemptions. The exemptions basically deal with laws relating to quarantine provisions, endangered species, firearms, fireworks, pornographic and indecent material and ozone protection. For example, Tasmania has a law relating to the sale of specific fish, and South Australia has a law relating to beverage containers. It was recommended that those exemptions be continued. As I mentioned earlier, any change to those exemptions needs the unanimous support of the heads of the participating States.

Interestingly, when I read the national review, I found that the report of the Western Australian review was referred to extensively. The comments made by individual departments, agencies and organisations were taken on board and dealt with. Recommendation 1 dealt with the issue of use. Recommendation 2 dealt with the fact that the Mutual Recognition Act should not be extended to cover regulatory requirements relating to the use of goods, but that the Council of Australian Governments continue to monitor it. Recommendation 3 referred to some of the standards and suggested that the Ministerial Council on Consumer Affairs develop national arrangements for product recalls and safety bans. There seemed to be a lack of a national approach by all jurisdictions in banning or recalling dangerous products, and the Minister for Consumer Affairs recalled a toy just last week. Recommendation 4 dealt with variations in each State's standards or other regulatory requirements for goods and suggested that those issues be resolved by the respective ministerial councils. There were some concerns about lowering the standards. For instance, the citrus council, which has concerns about the trans-Tasman agreement, believed the scheme could be improved by ensuring that when a State has no grade or quality standards of its own, the standards of the importing State apply and not the minimum standard. It was concerned about the quality of some of the citrus produce being imported from the eastern States, particularly from those States with no grade standards. That issue has been referred to the respective ministerial councils. Recommendation 5 carries on from the comment I made earlier about education and awareness. An awareness campaign aimed at raising awareness of mutual recognition among manufacturers and retailers must be put in place. Some of the States had concerns about whether they were generally achieving their objectives. They said overall that it was working well for occupations, but some qualifications needed to be discussed. For example, the real estate industry was concerned that anyone entering the Western Australian industry should know the law of the land, as is a requirement for those already in the industry. Those issues were to be referred to the appropriate ministerial council. The development of a national practising certificate based on mutually agreed registration requirements was also to be referred to the ministerial council. Some concerns were raised by registration authorities about some of the registration requirements of other jurisdictions. It was recommended that greater use be made of the referral mechanism contained in the commonwealth Mutual Recognition Act; that is, the referral to the respective ministerial council. Those are some of the issues in the national review that ministers might like to consider and bring to the table for discussion. That should be done when an issue has

been raised by a Western Australian government department, agency or registration board. Essentially, the national review confirms the findings of the Western Australian review: that mutual recognition was, by and large, working well and that there did not seem to be the lowering of standards about which people were initially concerned. The review also confirmed that considerable numbers of nurses are taking up the opportunity of coming to Western Australia. The number of nurses coming into Western Australia is higher than any other registered occupation. Some issues identified in the national review are in the main based on some of the Western Australian experiences. We have obviously been quite vocal, perhaps because we are the only State to have carried out an independent review. Each minister should take up and address those issues in their ministerial councils. We support Western Australia's continued participation in the mutual recognition scheme.

The trans-Tasman issue must be addressed and, obviously, more work needs to be done with the fruit produce community, particularly to address the concerns of last year with respect to apples. That still remains the main issue of concern. I understand Western Australia is the only State that has not adopted the trans-Tasman mutual recognition legislation. That may mean that it is not a big issue for Western Australia. I do not know. I would have thought that we would want some of our products on tables in New Zealand. Of course, some of the other States have probably jumped at it quicker than Western Australia because they are closer to New Zealand. It is an issue that we still need to address.

**MR TRENORDEN** (Avon - Leader of the National Party) [4.52 pm]: I will not go through the purpose of the Bill, as we all know what it is. I note that the Standing Committee on Uniform Legislation and Intergovernmental Agreements looked at the mutual recognition legislation in 1995 and gave it the tick, and that the Ministry of the Premier and Cabinet reviewed it in 1998 and also gave it the tick. Mutual recognition is useful in light of some of the debates we have had about nurses and other issues. The National Party supports the legislation. I note that the sunset clause has been removed from the Bill; on the other hand, a national review of the Bill will take place in 2003. With those comments, the National Party supports the Bill.

**DR GALLOP** (Victoria Park - Premier) [4.54 pm]: I thank the members of the Opposition for their support of this Bill. It is important that we move this along as the Mutual Recognition (Western Australia) Act expired on 28 February. This Bill will continue Western Australia's participation in the scheme which, as the evidence shows, has been to the benefit of Western Australians, particularly those who provide goods and services.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Council.