

TRANS-TASMAN MUTUAL RECOGNITION (WESTERN AUSTRALIA) AMENDMENT BILL 2012

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Norman Moore (Leader of the House)**, read a first time.

Second Reading

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [5.19 pm]: I move —

That the bill be now read a second time.

The purpose of this bill is to continue Western Australia's participation in the trans-Tasman mutual recognition scheme by adopting for 10 years the commonwealth Trans-Tasman Mutual Recognition Act 1997 under section 51(xxxvii) of the commonwealth Constitution. The trans-Tasman mutual recognition scheme is an extension of the national mutual recognition scheme, and seeks to facilitate trade between Australia and New Zealand by removing regulatory barriers to the movement of goods and the mobility of persons in registered occupations. The scheme is based on two principles. In relation to goods, the general principle is that a good produced in or imported into New Zealand that may be sold legally in New Zealand may be sold legally in an Australian jurisdiction without meeting further regulatory requirements, and vice versa. For occupations, the general principle is that a person registered to practise an occupation in a state or territory is entitled to practise an equivalent occupation in New Zealand, and vice versa. These principles are subject to exceptions and exemptions.

Western Australia is a party to the Intergovernmental Arrangement on Trans-Tasman Mutual Recognition 1996, and has been participating in the scheme since 1 February 2008. The scheme is established in Australia by commonwealth legislation that was subsequently adopted by states and territories following a referral of power by the New South Wales Parliament. Western Australia was the last jurisdiction to join when the Western Australian Parliament passed the Trans-Tasman Mutual Recognition (Western Australia) Act 2007, which commenced operation on 1 February 2008 for five years. The Trans-Tasman Mutual Recognition (Western Australia) Act 2007 will expire on 1 February 2013 unless this bill is passed to continue Western Australia's participation in the scheme.

To assist Parliament's consideration of whether to continue the adoption of the commonwealth legislation, a review of the operation of and the effect on Western Australia of the commonwealth act has been undertaken in accordance with section 6 of the Trans-Tasman Mutual Recognition (Western Australia) Act 2007. The review involved a public consultation process, which included advertising for public submissions and seeking submissions and data directly from a range of stakeholders. Very few submissions were received in relation to the operation of the goods principle in Western Australia. For occupations, the data showed that registrations under the trans-Tasman scheme represent a very small percentage of overall registrations in this state. However, and importantly, none of the submissions identified any significant issues with the operation of or effect on Western Australia of the commonwealth act, or recommended that Western Australia withdraw from the scheme. The review report was tabled recently in both houses of Parliament and recommends that Western Australia continue participating in the scheme.

This bill seeks to continue Western Australia's participation in the scheme for 10 years by changing the termination day in the Trans-Tasman Mutual Recognition (Western Australia) Act 2007 to 31 January 2023. The ability of the Governor to determine an earlier date remains in the act.

The bill also proposes to remove the review clause. The review report recommended that the review clause be removed on the basis that the Productivity Commission undertakes a comprehensive review of the national and trans-Tasman schemes every five years. Also, based on the findings of this government's review, there does not appear to be sufficient cause to warrant additional and separate reviews being undertaken by the state. The removal of the review clause would make the Trans-Tasman Mutual Recognition (Western Australia) Act 2007 consistent with the Mutual Recognition (Western Australia) Act 2010.

The bill seeks to amend the date on which the Western Australian Parliament adopts the commonwealth act. The Trans-Tasman Mutual Recognition (Western Australia) Act 2007 adopts the commonwealth act as originally enacted and any amendments made to it before 25 October 2007. Since this date, the only amendments have been to the schedules of the commonwealth act. The schedules list the commonwealth and state laws that are excluded from the operation of the scheme and can be added to or removed by commonwealth regulations following a jurisdictional endorsement process. Commonwealth regulations made since 25 October 2007 have been tabled in this Parliament in accordance with section 4(5) of the Trans-

Tasman Mutual Recognition (Western Australia) Act 2007, and the amendments form part of the commonwealth act, as adopted.

Schedule 2 to the commonwealth act, which lists the permanent exemptions to the scheme, is likely to be amended while Parliament is considering this bill. At the request of the Western Australian government, a permanent exemption is being created for the Weapons Act 1999 (WA), the Weapons Regulations 1999 (WA) and the Firearms Regulations 1974 (WA). Commonwealth regulations have been prepared and will be submitted to the Governor-General for approval following jurisdictional endorsement.

There are no proposed amendments to the principal provisions of the commonwealth act. Therefore, the bill seeks to remove the 25 October 2007 date and instead adopt the commonwealth act as originally enacted and any amendments made to it before this bill receives royal assent. Any future amendments to the principal provisions of the commonwealth act will be able to be scrutinised by this Parliament. This will make the act consistent with the Mutual Recognition (Western Australia) Act 2010.

The ability to exempt state laws from the operation of the scheme is an important element of the national and trans-Tasman schemes. While the schemes reflect the high degree of confidence that jurisdictions have for each other's regulatory regimes, state laws can be exempted on public health and safety, and environmental grounds. The Western Australian government will be seeking an exemption for section 7B of the Misuse of Drugs Act 1981 (WA) which, when proclaimed, will prohibit the sale or display for sale of drug paraphernalia. Equivalent South Australian legislation has been exempted from both the national and trans-Tasman schemes. State regulations will be required to temporarily exempt the provision from the schemes for 12 months before a permanent exemption can be progressed.

While the findings of the review show that use of the scheme in Western Australia appears to be limited, it is an important element of a number of national and trans-Tasman mechanisms to encourage trade, labour mobility and the competitiveness of business. Therefore, consistent with the findings of the review, the government recommends that Western Australia continues participating in the scheme.

As this bill is an extension of an existing uniform scheme, it is not a uniform legislation bill for the purposes of Legislative Council standing order 126(1).

I commend the bill to the house and I table the explanatory memorandum.

[See paper 5215.]

Debate adjourned, pursuant to standing orders.