

Australian Council of Trade Unions



Submission

Joint Standing Committee on Migration

Inquiry into Overseas Skills Recognition, Upgrading and  
Licensing

July 2005

## Background

1. The ACTU is acutely aware of the current skills shortage effecting Australian industry. The ACTU Executive, at its meeting in March of this year considered that any attempts to address the current skill shortage and future shortages would only be successfully addressed *in circumstances where unions and employers work co-operatively and with a shared objective.*

2. In addition the Executive noted

*that there is now widespread recognition of a major skills shortage in the traditional trade areas (including construction, metal manufacturing, electrical and vehicle trades). Executive notes that this skills shortage has been recognised by the union movement as critical for some time but, until recently was largely ignored by federal government and employers.*

3. The ACTU Executive

*recognises that the existing skill shortage requires immediate action and sustained longer term strategies. In doing so Executive endorses the role of Industry Skills Councils as a primary source of relevant and timely information on emerging skill needs for Australian industry.*

*With increased government and employer investment and some policy adjustment a skills crisis can be averted.*

*...opposes any attempts by employers and governments to use skills shortages to implement short-term knee jerk strategies that do nothing to address the long term need to develop a sound*

*skill base in Australia. In particular the Executive reaffirms our commitment to VET and school based apprenticeships...*

*...rejects any attempts to “solve” the skills shortage by the use of guest labour or implementation of narrow and/or enterprise based apprenticeships where this is not in accordance with the principles underlying the national training framework of developing nationally recognised portable skills that are appropriately remunerated. Executive notes our international obligations in this debate and is concerned about the impact of depleting the skills base in developing countries.*

4. Australia has a well developed and strongly supported national vocational education and training system. The ACTU and affiliates have long championed the development and maintenance of the national training framework. This training framework is designed to ensure the emerging skill needs of industry are met and that workers, through skill development, develop relevant skills through nationally recognised and portable qualifications.
5. The national training framework enables the mutual recognition of training providers and the portability of outcomes between jurisdictions – an important component of the system.
6. Our national training framework will not survive however if it is starved of appropriate resourcing to enable it to respond to short term skill needs and identify and plan effectively for longer term needs.
7. The ACTU is acutely aware of the effect of the current shortage of skilled workers in Australia. This has an impact on investment, industry development and, in the longer term, on the Australian economy.
8. The ACTU does not believe that skilled migration is an adequate or effective response in the short or long term to a skills shortage. Whilst

skilled migration may provide a short term solution it is our view that a more strategic response needs to be undertaken to solve the skills issue. This must include:

- A joint consideration by unions and employers on an industry basis of changes that may be appropriate to the structure of additional apprenticeships where such changes maintain the integrity and quality of the apprenticeship outcomes;
- Creation of additional TAFE places directed at increasing the capacity for the training system to train more workers in areas of skill shortage;
- A consideration of changes to the current employer incentive system so that additional incentives are paid in circumstances where training is longer; where the industry is integral and critical to the economy and where there is an identified skill shortage;

9. Further, it is the view of the ACTU that skilled migrant labour should only be allowed to be used where the purpose is to alleviate problems in production caused by the recognised skill shortage in circumstances where:

- The employer can demonstrate that there is no locally skilled workers available;
- That the skilled migrant workers are paid at the appropriate site rate (that is agreement rates are not undermined by the payment of award rates of pay);
- Such workers are not exploited through the recruitment, skills recognition, travel or accommodation arrangements;
- That agreement is reached between the employer and relevant union on the number and duration of employment of such workers;

10. The ACTU recognises that there are, in some occupations, licensing requirements that impose additional requirements on workers to

operate in particular industries in particular jurisdictions. Licensing requirements are established by State regulatory authorities taking into account risk issues and are determined on a state basis.

11. The skills shortage being experienced in Australia today will not be solved by the use of skilled migrant labour alone. Whilst it is an option for dealing with short term needs such labour must be fully integrated into the Australian workforce. To develop 'special' arrangements for skill recognition for migrant labour that varies from the standards expected of Australian workers will create a dual system that will ultimately undermine the role of the national training system.

**Achieving greater consistency in recognition of qualifications for occupational licensing by state and territory regulators:**

12. On the specific issue of licensing the ACTU makes the following submissions.
13. Industry regulators and ministers who impose license requirements are accountable to the parliament and must mitigate the risk and liability associated with the carrying out of their statutory duties. Industry regulators tend to be risk averse.<sup>1</sup>
14. The regulatory model adopted in any state will depend on the nature of the industry and the nature of the public risk the regulatory regime is mitigating.<sup>2</sup>
15. For example, the National Electrical and Communications Association (NECA) website says the following of licensing electricians:

*In Victoria (as in all other States and Territories) the Government has legislated to regulate who can undertake electrical*

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<sup>1</sup> ANTA, *A License to Skill* October 2002

<sup>2</sup> *ibid*

*installation work. This is due to the inherent danger of electricity and the potentially fatal consequences when unskilled and unlicensed persons undertake electrical work.*

*The Electricity Safety Act 1998 and regulations under the Act require that only registered electrical contractors can contract to the general public to undertake electrical installation work. Similarly the legislation requires that electrical installation work can only be undertaken by licensed electricians.*

*The Office of the Chief Electrical Inspector (OCEI) is the electrical safety and technical regulator for the electricity industry in Victoria and they can be contacted at [www.ocei.vic.gov.au](http://www.ocei.vic.gov.au) or (03) 9203 9700.*

*It is illegal for an unlicensed person to undertake electrical installation work in Victoria. Persons who do undertake such work can be prosecuted in the courts and subject to substantial financial penalties. In addition, home owners with illegal wiring may find that they are not covered by the Home Building insurance policy in the event of a fire which can be traced to the illegal wiring as the cause of the fire.<sup>3</sup>*

16. The Office of the Chief Electrical Inspector states that

*According to section 17 of the Mutual Recognition Act 1992, a person who is registered for an occupation in a state may be entitled to be registered for the equivalent occupation in another state.*

*Therefore, a person who is registered for an occupation in an Australian State may apply to the Office of the Chief Electrical*

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<sup>3</sup> [www.neca.asn.au/index.php?option=content&task=view&id=77](http://www.neca.asn.au/index.php?option=content&task=view&id=77)

*Inspector to qualify for recognition in Victoria as a Registered Electrical Contractor or an Electrical Worker.*

*An equivalent occupation is deemed to be an equivalent occupation if the activities authorised to be carried out under each registration are substantially the same.<sup>4</sup>*

17. In the building and construction industry there is a requirement that those operating in the industry in Victoria for example are registered. Failure by the operator to be registered may result in the consumer assuming a range of liabilities and not having protection should the builder fail:

*If a consumer uses a builder who is not registered, they potentially accept all the legal risks for the unregistered builder and the sub-contractors. The consumer will have no protection if the builder fails to complete the work, and lose the right to claim against defective or non-complying work.<sup>5</sup>*

18. Mutual recognition again applies in the building industry.<sup>6</sup>
19. The issue therefore is not about mutual recognition (as both of these examples demonstrate) but rather about the requirements for registration, as once this requirement is met mutual recognition would seem to be readily accessible.
20. If there are matters a of concern with respect to the occupational licensing requirements of state and territory regulators (and we do not say that this has been demonstrated), then, in our submission, that goes well beyond the question of skilled migration but rather to issues associated with the operation of licensing systems themselves. A

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<sup>4</sup> [www.ocei.vic.gov.au](http://www.ocei.vic.gov.au)

<sup>5</sup> [www.buildingcommission.com.au/asset/1/upload/BCRoleBPB1.pdf](http://www.buildingcommission.com.au/asset/1/upload/BCRoleBPB1.pdf)

<sup>6</sup> [www.buildingcommission.com.au/asset/1/upload/RBP\\_Mutual\\_Recognition.pdf](http://www.buildingcommission.com.au/asset/1/upload/RBP_Mutual_Recognition.pdf)

consideration of this matter will therefore raise issues well beyond skilled migration.

21. Any consideration of such a matter through this committee would hence be of limited value and any outcomes of limited application. Such outcomes could, in our submission, lead to a fracturing of the national training system, the national qualifications framework with potentially disastrous flow on effects to the licensing and mutual recognition area – creating a greater problem than that perceived (incorrectly in our view) to require remediation now.
22. In addition the Australian National Training Authority has had an process in place to investigate a number of matters associated with training and licensing.

### **Alternative approach to skill assessment and recognition of overseas qualifications**

23. The ACTU is opposed to any changes to skill assessment or recognition that will undermine the quality and of the current national training system and qualification.
24. The critical aspect of any system is the need to protect the integrity of the system. Attempts to undermine the current qualifications framework and required competency along with experience necessary to do a job must be resisted if a public guarantee of quality and confidence in the qualifications framework is to be maintained
25. Critical is the capacity of a person to do the job required. A standard must be set for this or the concept of skills loses its value. Progress must be made on the development and implementation of an effective and consistent system of recognition of prior learning that assists all workers.



26. If there is a necessity to review the structure and form of qualification requirements for particular occupations this is a matter that should be considered through the relevant industry partners – that is employers and unions. The national training system and national qualifications framework, including the Industry Skills Council, are the appropriate bodies for such matters to be debated.
27. It would be an incorrect response to the long or short term skills shortage to assume that the solution is to allow workers to undertake work without the training and skills deemed necessary.
28. Short term immigration may be necessary in some cases with appropriate regulation to ensure that local workers are not denied employment opportunities, conditions and skill levels are not compromised. However short or long term solution to the endemic skills crises now undermining growth in the Australian economy.
29. Any alternative approach to skills assessment and recognition of overseas qualifications should not result in a reduction in the skill requirements to undertake the work or a reduction in rates of pay applicable for the work being undertaken.
30. If the identified problem relates to the capacity to access appropriate programs for the purpose of assessing the allocation of resourcing is an appropriate response - not the downgrading of the level of assessment.