

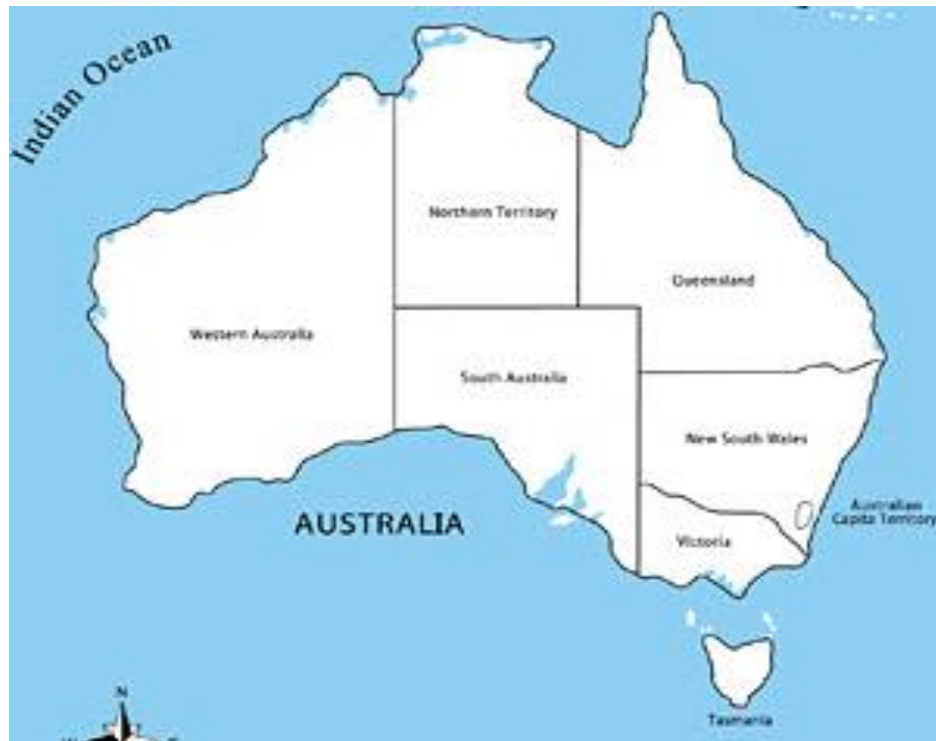


THE VALUE OF A MUTUAL RECOGNITION AGREEMENT BETWEEN AUSTRALIA AND NEW ZEALAND

DR MARGOT SKINNER
VICE PRESIDENT WCPT/UNIVERSITY OF OTAGO SCHOOL OF PHYSIOTHERAPY

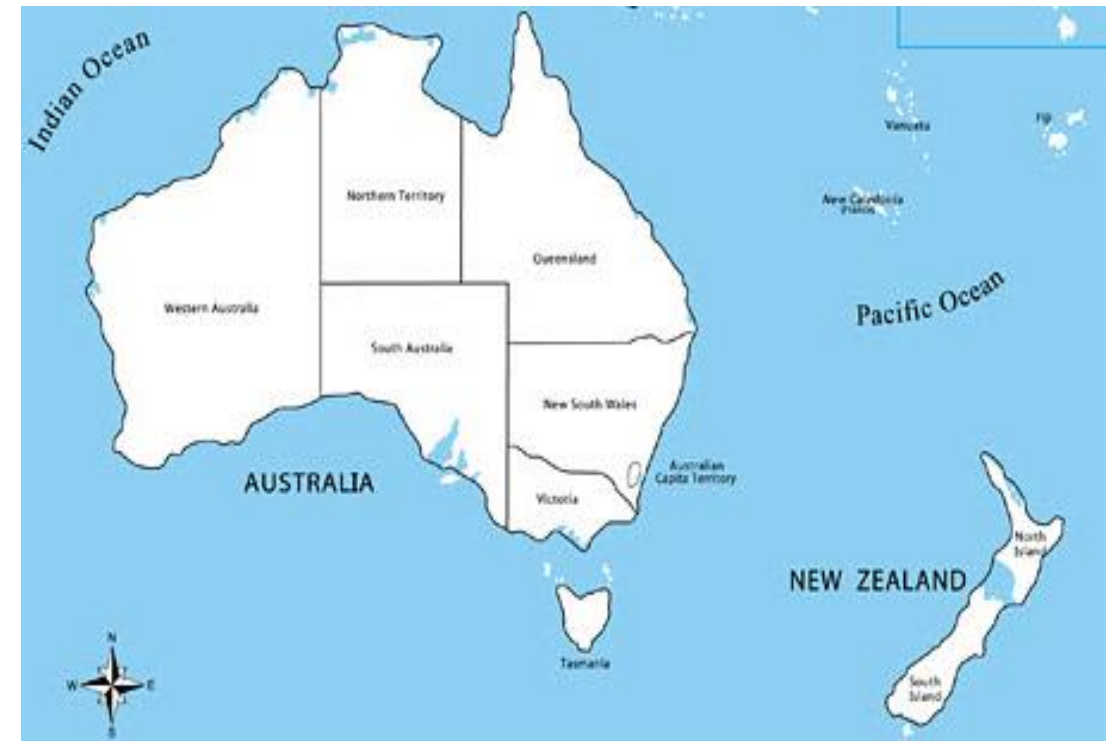
MUTUAL RECOGNITION AGREEMENT (MR Act)

Arrangement instigated for all Commonwealth, State, and Territory Governments in Australia in 1993



TRANS TASMAN MUTUAL RECOGNITION ARRANGEMENT (TTMR Act)

Non-treaty agreement between governments of New Zealand and Australia – Act enforced in 1997



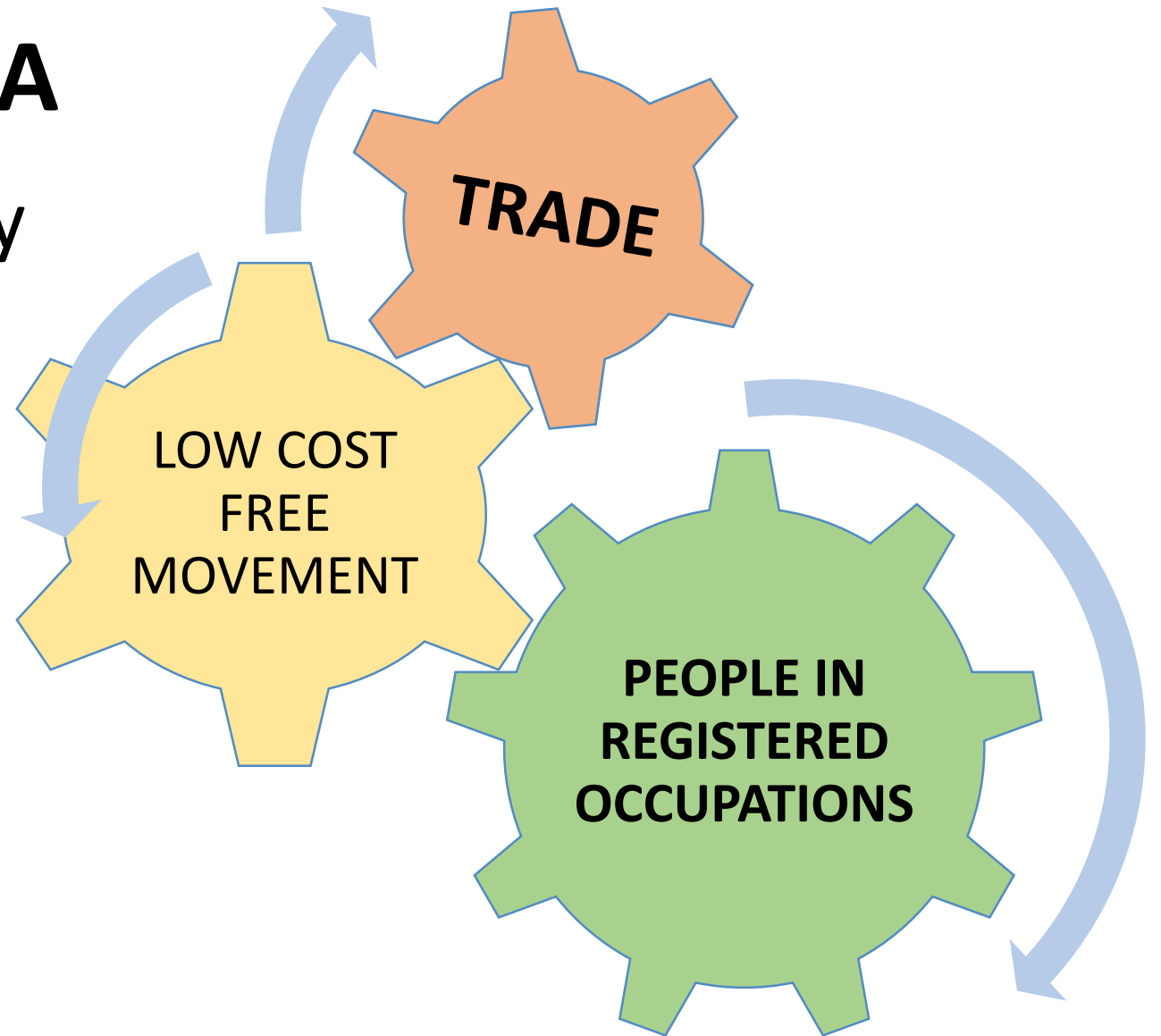
TTMR Act in New Zealand is administered by the Ministry of Business, Innovation, and Employment and in Australia by the Department of Education and Training; Industry, Innovation and Science

IMPETUS FOR TTMRA

- Recognition of regulatory impediments to trade

OUTCOME

- Facilitation of low cost, trans-Tasman free movement of goods AND people in registered occupations



Purpose of the TTMRA

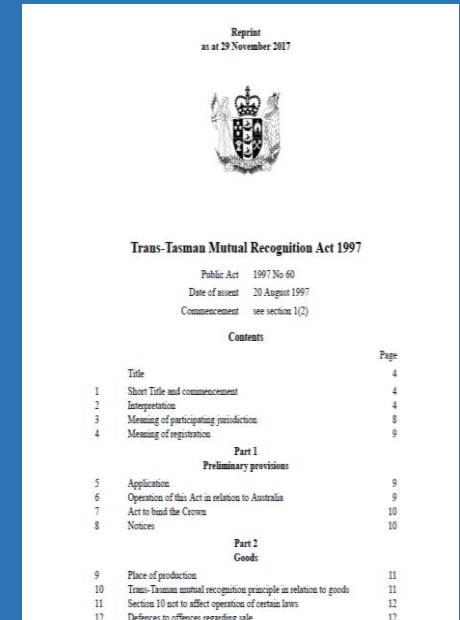
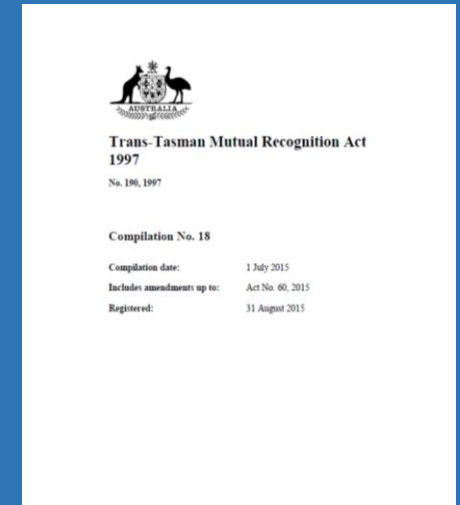
- Initially recognition of regulatory impediments to trade
- Currently facilitation of low cost, trans-Tasman free movement of goods AND people in registered occupations
- Two Occupations are taken to be Equivalent if the activities authorised to be carried out under Registration are substantially the same

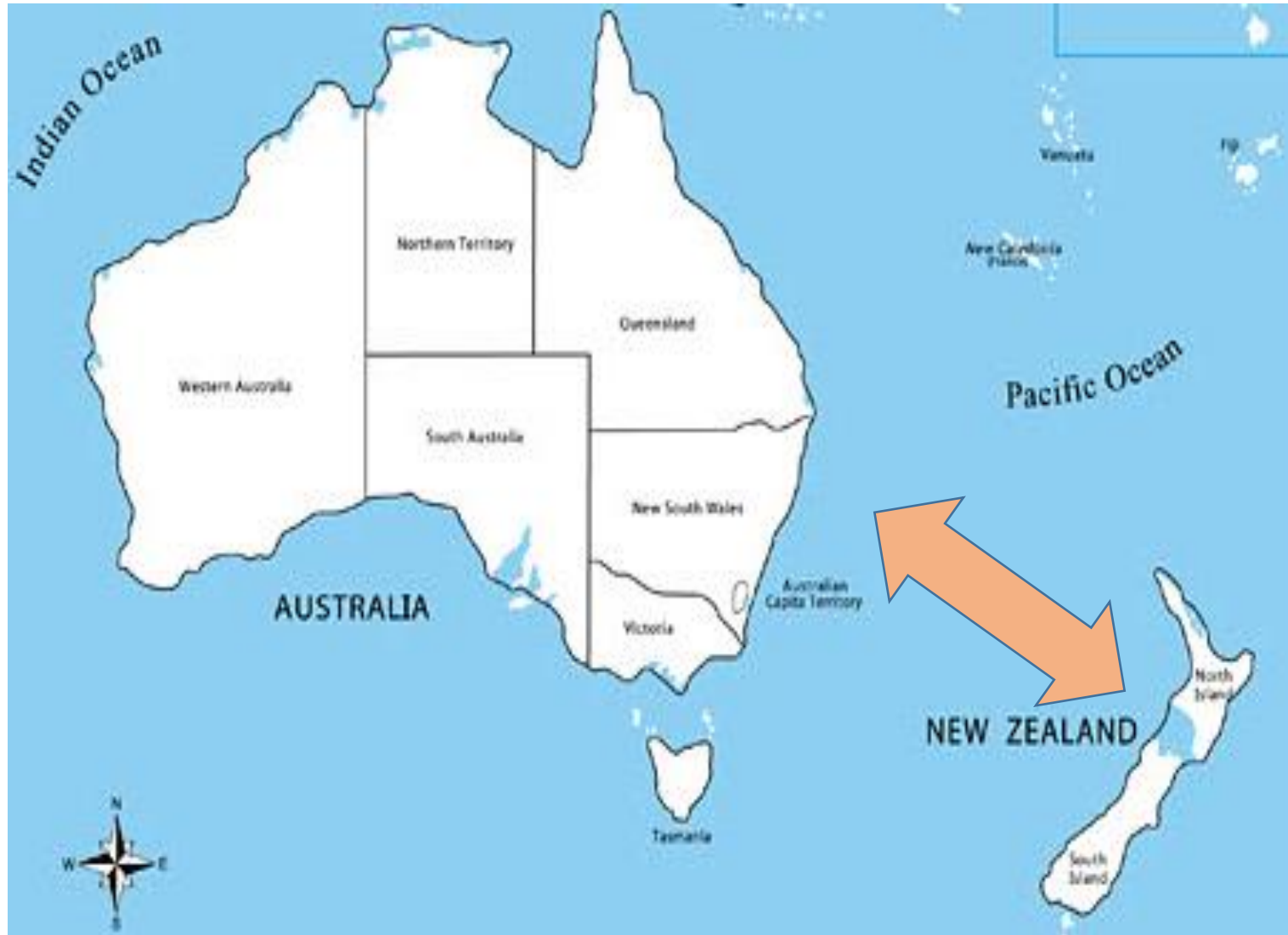
On a global basis the TTMRA is unique in breadth and scope



TTMR **does not** seek to affect regulation by the Parties of initial requirements for the registration of Occupations, such as requirements relating to qualifications, conduct or the practice of Occupations.

TTMR **does** entitle someone registered to practise an Occupation in one country, to practise an equivalent Occupation in the other country, without further testing or examination.



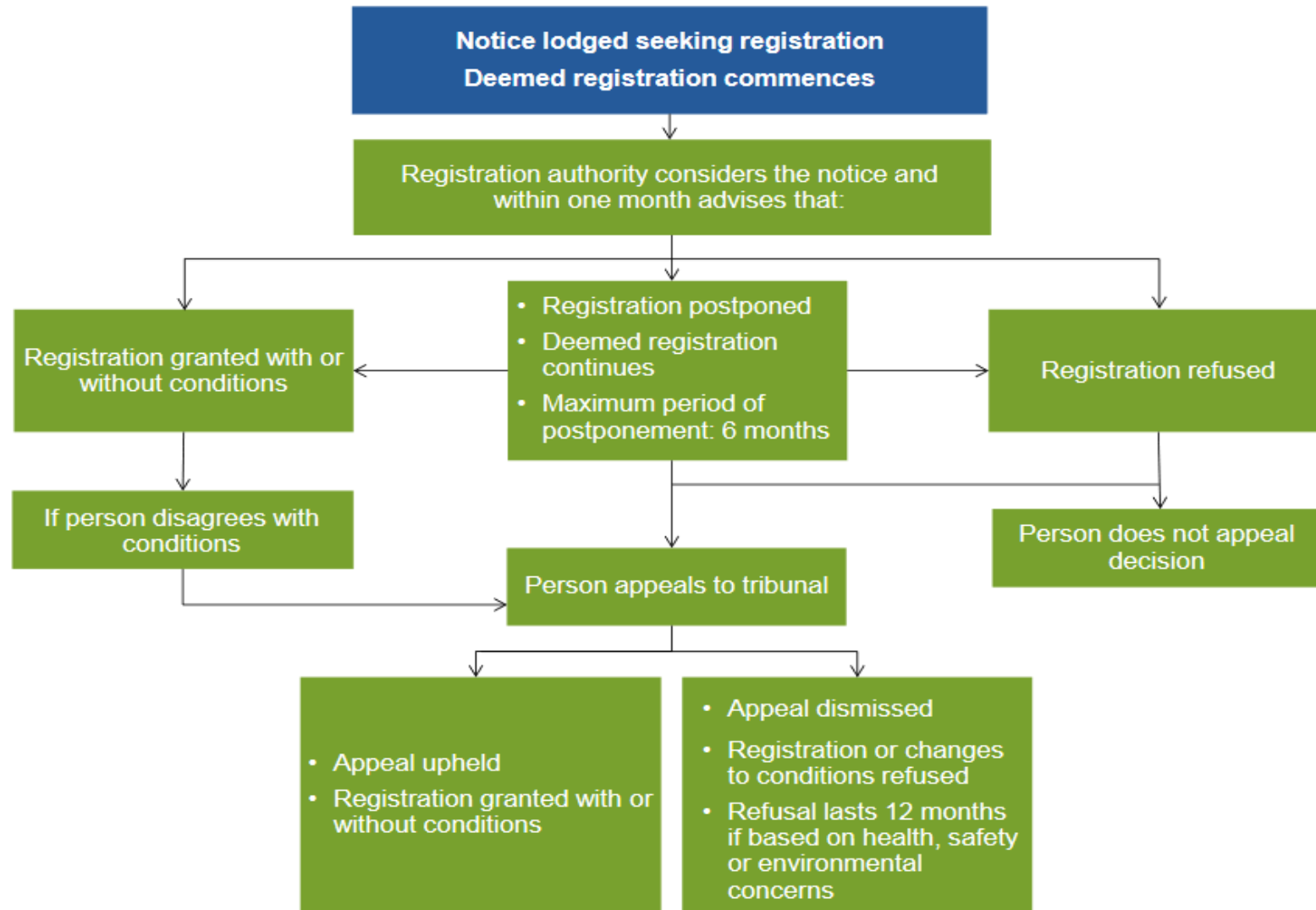


Increased mobility of health professionals between the countries.

An applicant applies for evidence of “good standing” from their existing regulatory authority.

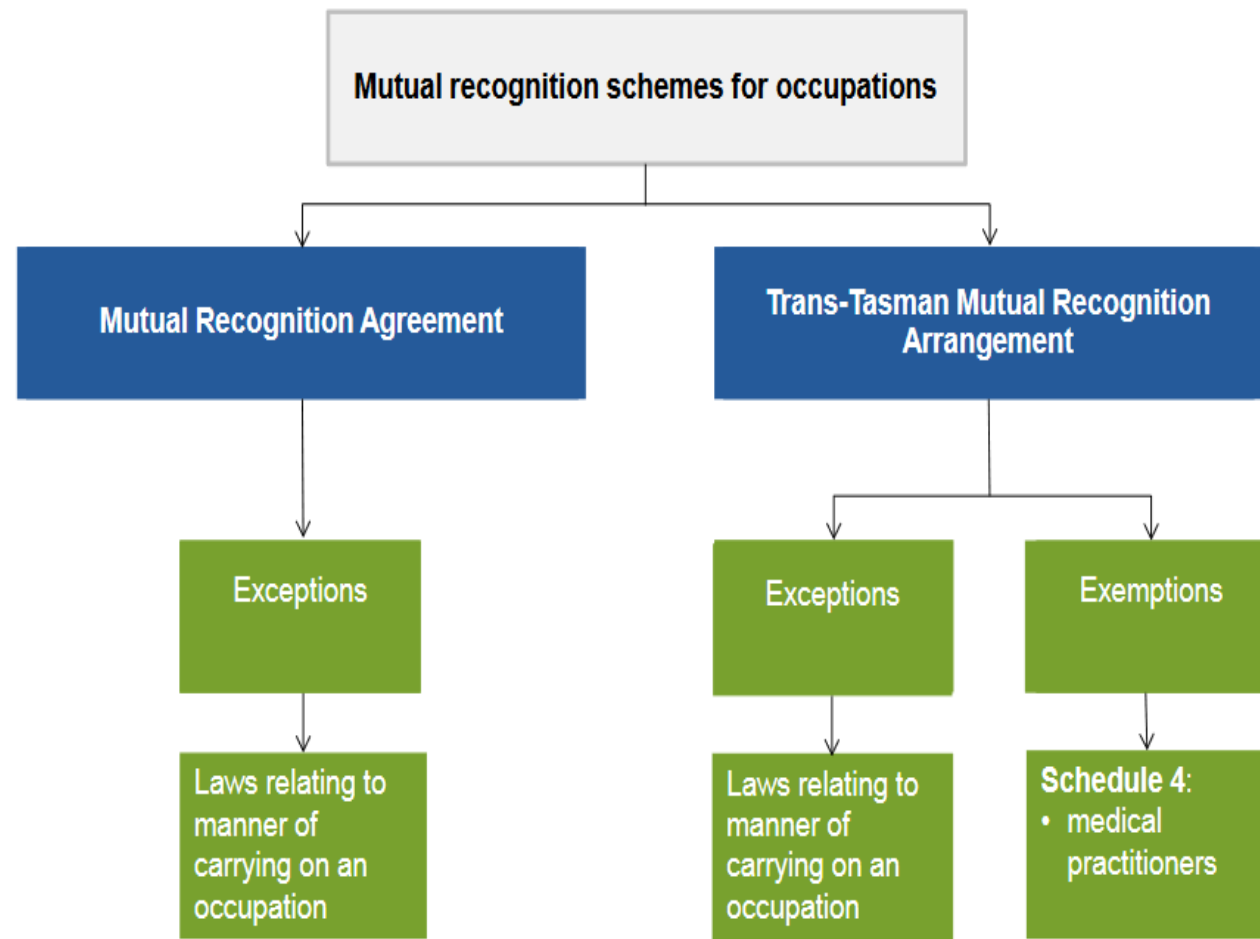
Regulation authority receiving the application must formally grant, postpone or refuse registration within one month of the date of lodgement.

Figure 3.1 Occupation-registration process under the MRA and TTMRA



Source: Australian Government (2014b).

Figure 3.4 Coverage of occupations under the MRA and TTMRA^a

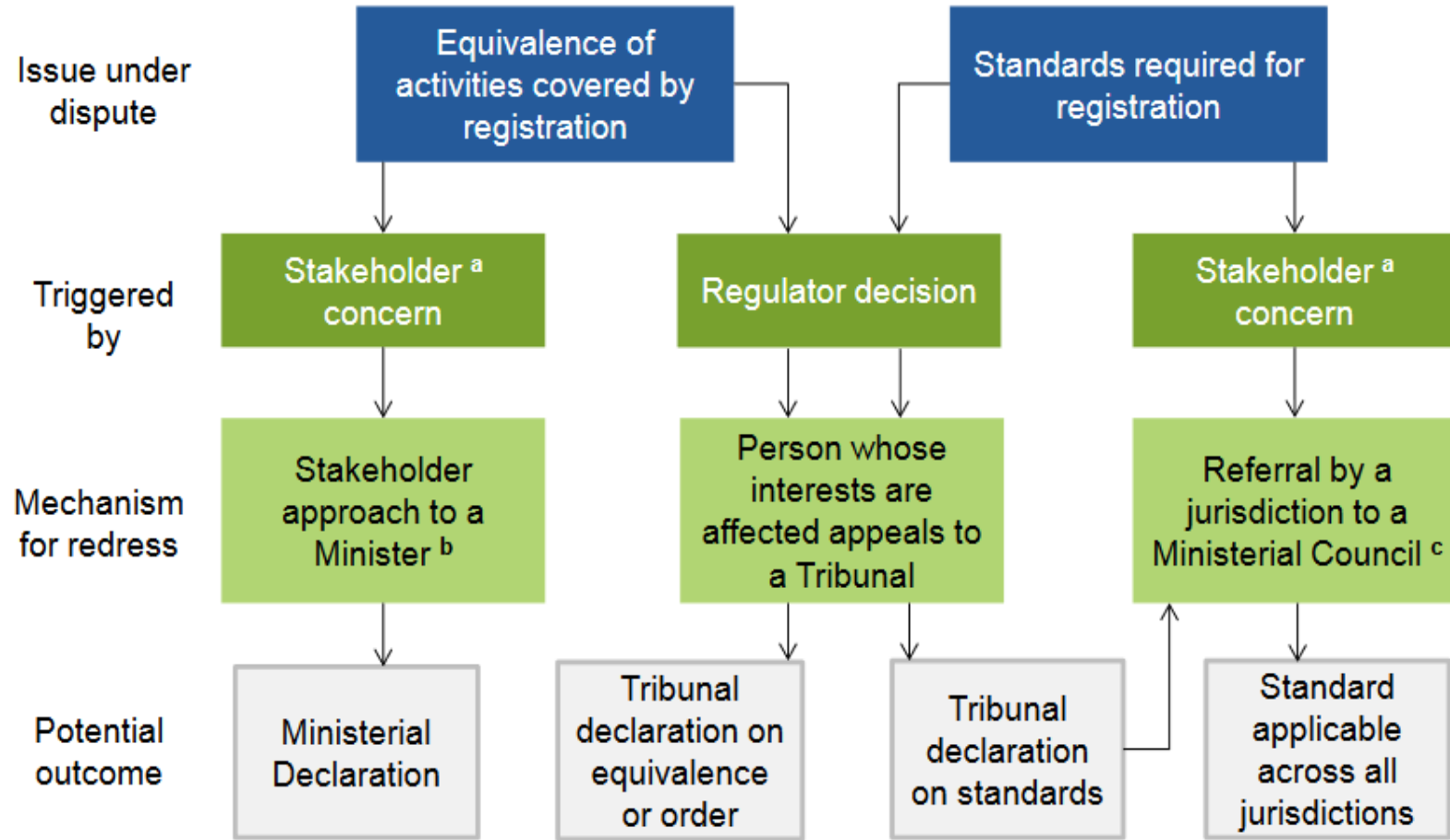


^a These only cover occupations where some form of legislation-based registration, certification, licensing, approval, admission or other form of authorisation is required in order to legally practise the occupation.

Sources: *Mutual Recognition Act 1992* (Cwth); *Trans-Tasman Mutual Recognition Act 1997* (Cwth); *Trans-Tasman Mutual Recognition Act 1997* (NZ).

*Medical practitioners – the only occupation exempt from TTMRA but those with primary qualifications from each other’s countries are registered and mutually recognised under a separate arrangement.

Figure 3.5 Summary of review mechanisms for registered occupations



^a Stakeholders might include regulators, individuals or any other interested party. ^b Stakeholders could approach any Minister and, in theory, any Minister could negotiate a declaration with a Minister in another jurisdiction. ^c Referrals are made to the Ministerial Council responsible for the occupation in question.

Review of MRA and TTMRA

- Both Acts are reviewed regularly
- 2005 review found there was increased trans Tasman mobility of goods and labour however outcomes for occupations were less than for goods
- A key recommendation: **regulatory authorities must be in early and regular communication with the other jurisdictional counterparts to co-ordinate registration policies and ensure standards for registration are not divergent as to 'shopping and hopping'**
 - i.e. where individuals 'shop around' to find the jurisdiction with the most favourable or cheapest requirements for registration and then use MRA or TTMR to move to their preferred jurisdiction
- Most recent review was undertaken in 2015

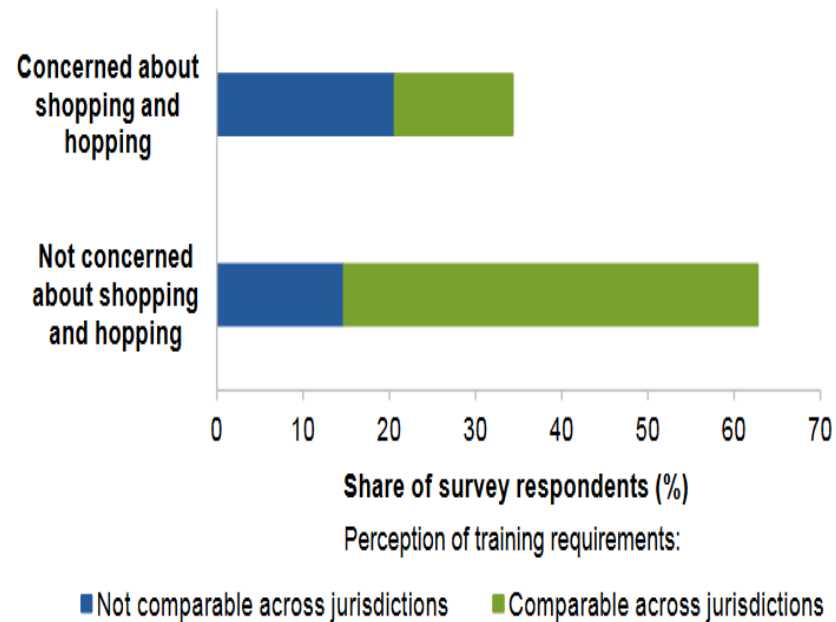
TTMRA: Two Occupations are taken to be Equivalent if the activities authorised to be carried out under Registration are substantially the same

“Differences in occupational standards across jurisdictions can create the potential for ‘shopping and hopping’ — the practice of registering in the jurisdiction with the least stringent requirements and then using the MRA or TTMRA to move to a preferred jurisdiction, either within Australia or between Australia and New Zealand.

‘Shopping and hopping’ was a key concern for many study participants and industries”.

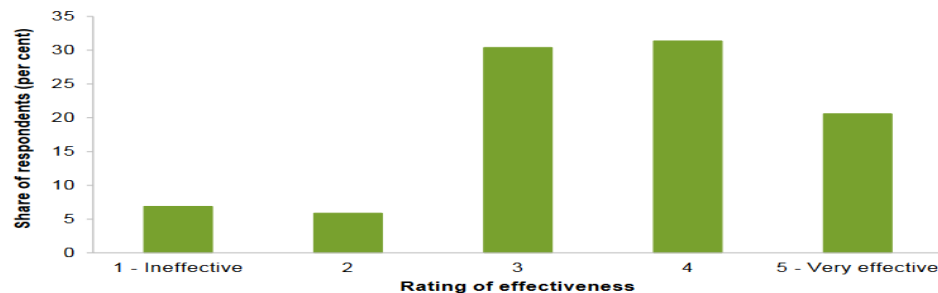
- *Ref:* Australian Government. Productivity Commission 2015, Mutual Recognition Schemes, Research Report, Canberra

Figure 5.4 Shopping and hopping concerns and training comparability



Data source: Productivity Commission survey of occupation-registration bodies.

Figure C.5 Perceived effectiveness of the mutual recognition schemes



Data source: Productivity Commission survey of occupation-registration authorities.

Shopping and Hopping

- Responses to the survey indicated that shopping and hopping is not a widespread concern among occupation-registration bodies. Over 60% of authorities reported shopping and hopping is not a problem for the occupation(s) that they register.
- Differences in standards and training were reported as the main reason for concerns
- TTMR scheme - 82% responded “somewhat effective-effective”

Other Concerns

- *Mutual recognition of continuing professional development (CPD)*
RECOMMENDATION 5.4: ...the intent [of the Act] is to allow CPD requirements to be applied equally to all persons when renewing their registration
- *Background checks e.g. police*
RECOMMENDATION 5.5 Governments in Australia and New Zealand should amend the Act to allow background checks, if they are required of local applicants
- *Past discipline matters* Any matters relevant to an applicant's registration can be disclosed in response to such inquiries.

- There is not a strong case for extending the scope of the mutual recognition schemes to cover laws on the manner of carrying on an occupation. There are more effective ways of dealing with the few cases where these laws restrict trade and labour mobility.
- Since the exemption of medical practitioners from the TTMRA has no practical effect on practitioners trained in Australia or New Zealand, there is little rationale for removing the exemption.
- No case for altering the schemes to include recent graduates and practitioners with lapsed registration. They should seek to obtain or regain registration in the jurisdiction of their choice.

Benefits of TTMR for the Health Professions

- Increased opportunities for health professionals to work in each other's countries
- Greater co-operation between regulatory authorities
 - Regulatory authorities are required to facilitate the operation of TTMR, consider ways to improve the sharing of information, and assist those who want to practise temporarily/avoid unnecessary barriers to registration
- Greater discipline on regulators contemplating introduction of new standards, regulations and registration requirements

Physiotherapy practice thresholds in Australia & Aotearoa New Zealand

1 May 2015

The Physiotherapy practice thresholds describe the threshold competence required for initial and continuing registration as a physiotherapist in both Australia and Aotearoa New Zealand.

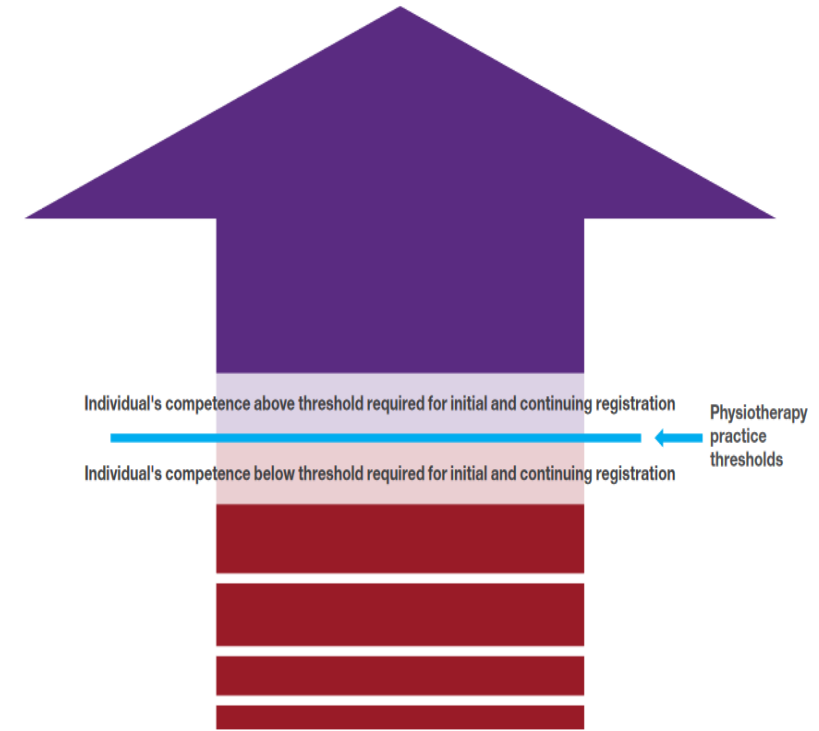


Figure 1: Continuum of threshold competence

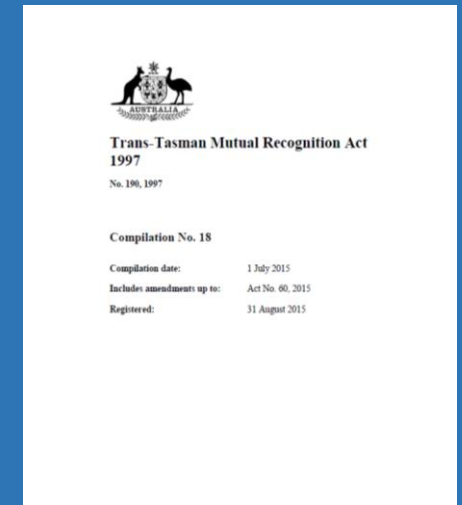


EXAMPLE OF GREATER CO-OPERATION BETWEEN AUSTRALIA AND NEW ZEALAND


REF: [HTTPS://WWW.PHYSIOBOARD.ORG.NZ/SITES/DEFAULT/FILES/PHYSIOTHERAPYPRACTICE%20THRESHOLDS3.5.16.PDF](https://www.physioboard.org.nz/sites/default/files/physiotherapypractice%20thresholds3.5.16.pdf)

Summary

- *The schemes aim to reduce regulatory red tape and barriers to cross-border movements of goods and labour, lifting economic activity and the wellbeing of citizens.
- *Exclusions are provided for laws which are related to the sovereign rights of nations, such as customs controls and taxation.
- *The schemes provide for the review of standards and occupation-registration decisions.
- *Decisions made by occupational regulators can be reviewed by the Administrative Appeals Tribunals
- *The schemes are inherently decentralised, with implementation, monitoring and compliance systems largely delegated to individual regulators and jurisdictions.



Reprint
as at 29 November 2017



Trans-Tasman Mutual Recognition Act 1997

Public Act 1997 No 60
Date of assent 20 August 1997
Commencement see section 1(2)

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References

- Australian Government. Productivity Commission 2015. Mutual Recognition Schemes, Research Report, Canberra
- HPRA (Australian Health Practitioner Regulation Agency) 2015. Criminal History Checks, <http://www.ahpra.gov.au/Registration/Registration-Process/Criminal-history-checks.aspx> (2 May 2018)
- Australian Government 2014b. A Users' Guide to the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA), Canberra
- New Zealand Government 1997. Trans Tasman Mutual Recognition Act, Wellington
- Physiotherapy Board of New Zealand 2015. Physiotherapy Practice thresholds in Australia and Aotearoa New Zealand. <https://www.physioboard.org.nz/sites/default/files/PhysiotherapyPractice%20Thresholds3.5.16.pdf> (2 May 2018)