

# MUTUAL RECOGNITION

- *Mutual Recognition (New South Wales) Act 1992*
- *Trans Tasman Mutual Recognition (New South Wales) Act 1996*



Fair  
Trading

## REGISTRATION - EXPLANATORY NOTES

13 32 20 [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

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### INTRODUCTION

It is important that all applicants read the following information carefully. This will assist in lodging notification to Fair Trading for registration under the Mutual Recognition (New South Wales) Act 1992 (mutual recognition legislation).

All New South Wales licences/certificates issued for residential building and building trade work and for all Plumbing, Draining, Gasfitting, LP Gasfitting, Advanced LP Gasfitting, Electrical, Air Conditioning and Refrigeration work are subject to the provisions of the Home Building Act 1989 and, in the case of 'Mutual Recognition Registration' applications, subject also to the provisions of Mutual Recognition legislation. Once issued, even under Mutual Recognition legislation, a licence/certificate becomes subject to the provisions of the Home Building Act 1989.

### WHAT IS MUTUAL RECOGNITION?

In general terms mutual recognition means that any individual person holding an occupational licence or registration in one state/territory is entitled to a comparable licence or registration in another state/territory, where available, on lodgement of the proper notification and payment of the required fee.

### COMPANIES/PARTNERSHIPS EXCLUDED

Mutual recognition legislation applies only to individuals and occupations carried on by them. If it is intended to contract or operate in New South Wales as a **partnership** or **company** a Contractor Licence must be obtained by completing the application form for a Contractor Licence – Company/Partnership available from Fair Trading. An application **cannot** be made under mutual recognition for issue of a Contractor Licence in the name of a company or partnership.

However, an employee, member of the partnership or director of the company may, if the appropriate interstate registration is personally held by that individual, make application under the mutual recognition legislation for issue of a Qualified Supervisor Certificate or qualified individual Contractor Licence in order to be proposed as the nominated supervisor of the company/partnership.

### ADDRESS

Your business or residential address must be provided. Post office box addresses may only be given as a postal address.

### REGISTERED BUSINESS NAME

Under the provisions of the Business Names Act, 1962 if you intend to trade in New South Wales using a business name, it must be registered in New South Wales. It is not possible to trade under a business name in New South Wales where the name is registered interstate. Enquiries concerning the registration of business names in New South Wales should be directed to Fair Trading on telephone number 13 32 20.

If available, a copy of your Certificate of Registration of Business Name in New South Wales should accompany the notification for registration under the mutual recognition legislation.

## TYPES OF NEW SOUTH WALES REGISTRATION

### ***Contractor Licence***

A Contractor Licence is required to contract/sub-contract and carry out or advertise for all:

- residential building work (including trade work) where the labour and material cost is more than \$1,000 (inclusive of GST)
- plumbing, draining and gasfitting work (including residential, commercial or industrial)
- electrical wiring work (including residential, commercial or industrial)
- air conditioning/refrigeration work (including residential, commercial or industrial)

### ***Qualified Supervisor Certificate***

A Qualified Supervisor Certificate is required to supervise and /or carry out without supervision:

- All residential building work (including trade work) contracted by the holder of a Contractor Licence as an employee of that licence holder (or as a member of a partnership or director of a company holding a Contractor Licence).
- All electrical wiring, plumbing, draining, gasfitting, air conditioning & refrigeration work as an employee generally (eg. for licensed contractors, hospitals, Government agencies, factories etc.) or as a member of a partnership or director of a company holding a Contractor Licence. This work may also be performed by the Certificate holder in connection with property in which they own or reside.

**A Qualified Supervisor Certificate DOES NOT permit the holder to contract, sub contract or advertise. In order to do so, a Contractor Licence MUST be held.**

### ***Tradesperson Certificate***

A Tradesperson Certificate (formerly known as a Certificate of Registration) is required to carry out plumbing, draining & gasfitting work as an employee (or as a member of a partnership or director of a company holding a Contractor Licence) under **the general supervision of a qualified holder of a Contractor Licence or Qualified Supervisor Certificate.**

*A Tradesperson Certificate **DOES NOT** permit the holder to contract, sub contract, advertise or carry out work in their own right. In order to do so, a Contractor Licence **MUST** be held. However, Qualified Supervisor Certificate holders may carry out work in connection with property in which they own or reside.*

## **OCCUPATIONS – WORK COVERED IN NEW SOUTH WALES**

Licences/certificates issued by Fair Trading have the occupation for which the registration has been granted endorsed on the licence/certificate card.

The work covered by the occupation category is in most instances clearly evident from the name of the category.

The work covered by the following categories is described more fully for the benefit of holders of interstate registration where there may be differences in the work covered in New South Wales and other states/territories.

**Builder** – includes all **residential** building and **residential** building trade work including cottages, multi story home units, villas, town houses and swimming pools. Specialist trade works of electrical wiring, plumbing, draining, gasfitting, LP gasfitting, air conditioning & refrigeration require separate endorsements unless such works are integral to a residential 'building' contract and are subcontracted to appropriately licensed specialist subcontractors.

**Plumber** – includes all sanitary plumbing and water plumbing work but excludes draining work which is a separate category. A licence/certificate as a plumber covers residential roof plumbing. In NSW roof plumbing is considered to fall under the term 'residential building work'.

**Gasfitter** – includes work on all gas installations involving combustible gas connected to a meter of a gas company or to a compressed natural gas container but excludes LP Gasfitting and Advanced LP Gasfitting work which are separate categories and autogas installation work which is also licensed by the Motor Vehicle Repair Industry Authority (ph 13 32 20).

**LP Gasfitter** – includes liquefied petroleum gasfitting work on a gas installation designed to carry LPG in vapour phase only at pressures not exceeding 150 kilopascals but excluding autogas installation work which is also licensed by the Motor Vehicle Repair Industry Authority (ph 13 32 20).

**Advanced LP Gasfitter** – includes all liquefied petroleum gasfitting work on a gas installation or on pipes or fittings attached to any LPG container, without any restriction as to pressure and whether or not the gas will be conveyed in liquid or vapour phase but excluding autogas installation work which is also licensed by the Motor Vehicle Repair Industry Authority (ph 13 32 20).

## FEES

The required fee must accompany the notification for registration under the mutual recognition legislation. Cheques should be made payable to 'Fair Trading'

This application is GST exempt (ABN 81 913 830 179). The fees for registration under mutual recognition are the same as the normal application fees for issue of a Contractor Licence, Qualified Supervisor Certificate or Tradesperson Certificate as shown in the Home Building schedule of fees and charges.

**Please note:** under certain provisions of NSW legislation, holders of a current plumbing trade 'Licence' issued by the Victorian Plumbing Industry Commission who have their principal place of business or residence in Victoria are exempt from any fee to obtain an equivalent registration in plumbing trade work **only** from Fair Trading provided they have already paid appropriate fees to the Victorian Plumbing Industry Commission. Evidence of payment must be submitted with applications.

## CURRENT REGISTRATION DETAILS

The notification for registration under the mutual recognition legislation must be accompanied by a document that is either the original or a clear copy of the instrument evidencing your existing registration. If there is no such instrument, sufficient information should be provided to identify yourself and the registration held by you.

The declaration should be signed by the person seeking registration under the mutual recognition legislation and witnessed and signed by a Justice of the Peace, or other appropriately authorised person.

If the declaration **CANNOT** be made in full then registration under the mutual recognition legislation **CANNOT BE GRANTED** and 'deemed' registration **WILL NOT** apply. In such instances application should be made on the normal application form available from Fair Trading. Each application is treated on its individual merits.

Please note in particular that Item iii) of the declaration refers to disciplinary proceedings including any preliminary investigations or actions that might lead to disciplinary proceedings. This means that if you are the subject of a complaint investigation in any state/territory in respect of work contracted, supervised and/or carried out by you which has not been finalised then the declaration **CANNOT** be made and registration under mutual recognition **CANNOT BE GRANTED**.

## PROCESSING OF NOTIFICATION UNDER MUTUAL RECOGNITION

The following notes detail the procedures for the processing of a notification for registration under the mutual recognition legislation.

### Deemed Registration

- A person who lodges a notice for registration under the mutual recognition legislation with the required fee is, pending the grant or refusal of 'substantive registration', taken to be registered. Such registration is called 'deemed registration'. Deemed registration in one State does not of itself provide a basis for registration in another State.
- A person's deemed registration continues until it is cancelled or suspended or otherwise ceases by way of the Department granting or refusing to grant substantive registration, subject to any final or interim determination as the result of an appeal. Deemed registration is not affected by any decision to postpone the granting of substantive registration.
- It is essential that persons deemed to be registered are familiar with the provisions of the licensing legislation (eg. contracts, advertising, maximum deposits, insurance etc.) and local NSW regulations and codes as well as the requirements of Local Government Authorities, Water Boards etc.

### Substantive Registration

- 'Substantive Registration' must, except in the situation of postponement or refusal, be granted within one month after the notice is lodged with Fair Trading.
- When granted, substantive registration takes effect as from the date the notice was lodged.
- However, the Department may, within one month after the notice was lodged, postpone or refuse the granting of substantive registration. Grounds for refusal or postponement include:
  - any of the statements in the notification lodged with the Department being materially false or misleading
  - any documentation or information evidencing the existing registration is not provided or is materially false or misleading
  - failure to obtain Home Warranty Insurance or seek exemption from Home Warranty Insurance requirements (Building work categories only)
  - the circumstances of the person lodging the application have materially changed since the date of the notice or the date it was lodged (grounds for postponement only)
  - the occupation in which registration is sought is not an equivalent occupation.
- If Fair Trading neither grants, postpones or refuses the substantive registration within the period of one month after the notice is lodged, the person is entitled to substantive registration immediately at the end of that period and no objection may be taken to the notice on any of the grounds on which refusal or postponement may be affected except where fraud is involved.

Fair Trading will give written notice of its decision to grant, postpone or refuse substantive registration. In the case of postponement or refusal the Department will advise of its findings on any material questions of fact, refer to the material on which the findings were based and state the reasons for its decisions

## **INSURANCE REQUIREMENTS (Contractors only)**

All licence applicants for the various 'building' work categories (does not include trade and specialist trade work\*) are required to provide evidence of either:

- a)** holding current Home Warranty Insurance or
- b)** a current certificate of eligibility to obtain Home Warranty Insurance from an **approved** insurer.

Home Warranty Insurance certificates and certificates of eligibility must be **originals** given in the **exact** names(s) corresponding with that of the licence applicant(s). Alternatively, applicants may seek an exemption from the requirement to hold Home Warranty Insurance. In the case of a licence being issued to an applicant that has been granted such an exemption the licence will be endorsed with the condition 'only for contracts not requiring home warranty insurance'.

*\* Specialist work is all electrical, plumbing, draining, gasfitting, air conditioning and refrigeration work.*

## **LODGING COMPLETED NOTIFICATION**

The completed notification form and required fee should be forwarded to the Department, or lodged at any of the Fair Trading Centres.

## **NSW FAIR TRADING**

**Home Building Service**

**Office: PO Box 261, Parramatta NSW 2124**

**Telephone Number: 13 32 20**



## 5. Current Registration Details

Do you hold a current licence, certificate, registration for residential building work in another State or Territory? Please complete the information below.

**Note: You must attach** an original or certified copy of the instrument evidencing your existing registration (Copy both sides of the licence card. A certificate is only acceptable where the licensing authority does not issue a licence card).

<input type="checkbox"/> Yes >	Licence/Registration (Certificate) Number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<input type="checkbox"/> No – You are unable to make an Application under Mutual Recognition. Refer to our website for information on making an application under the Home Building Act 1989.	Date of Expiry	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>
	Issuing Authority incl State/Territory	<input type="text"/>
	Class of Work	<input type="text"/>
	Special Conditions (eg, financial limits, No. of contracts, nominated supervisors)	<input type="text"/>
	Name in which Authority is issued	<input type="text"/>

## 6. Home Warranty Insurance (Individual Contractor - Building Work Class Only)

It is recognised that applicants for building work class licences may not hold current home warranty insurance or a certificate of eligibility to obtain such insurance from an approved home warranty insurer.

Consequently, in the absence of information on insurance eligibility, licences will be conditioned "ONLY FOR CONTRACTS NOT REQUIRING HOME WARRANTY INSURANCE". This condition will be displayed on the public register. Licence holders with this condition can only contract for work up to \$12,000.

The condition will be removed once Fair Trading is advised by the licensee or an insurer that insurance or eligibility for insurance has been granted.

If however, you already hold home warranty insurance or eligibility for insurance, please attach evidence of your insurance status.

## 7. Financial and Criminal History

In addition to holding appropriate qualifications, all applicants must demonstrate they are a fit and proper person. Please respond to all questions below by placing an 'X' in the appropriate box. If you respond "Yes" to any question, please provide additional written information to assist in the prompt assessment of your application.

- (i) Have you ever been known by any other name/alias? No  Yes  > Attach Details
- (ii) Have you, or any partnership or company of which you were a member or director, ever been refused or disqualified from holding a licence, authority, certificate or registration or had any such instrument cancelled or suspended? (Note: this does not include your driver's licence.) No  Yes  > Attach Details
- (iii) Have you, in the last 10 years, had a conviction for a criminal offence recorded, or are you now subject to a bond, or have a criminal charge pending? No  Yes  > Attach Details
- (iv) Have you been declared bankrupt, been discharged from bankruptcy, entered into arrangements with creditors or assigned your property to pay debts within the last 3 years? No  Yes  > Attach Details
- (v) Have you ever been a director or manager of a company which was subject to a winding up order, placed in receivership or administration, or under official management, had a controller appointed, or entered into other arrangements with creditors due to insolvency? No  Yes  > Attach Details
- (vi) Have you, or any partnership or company of which you were/are a member or director, been subject to any order of a Tribunal/Court that has not been complied with? No  Yes  > Attach Details
- (vii) Have you, or any partnership or company of which you were/are a member or director, had any insurance claims paid or lodged against contracts entered into for residential work? No  Yes  > Attach Details
- (viii) Have you, or any partnership or company of which you were/are a member or director, had any complaints lodged or compliance action commenced arising from your activities in relation to the conduct of residential work? No  Yes  > Attach Details



## Receipting Panel – for Fair Trading Centre and Government Access Centre use only

	1 year	3 years	
Amount paid:	\$ <input type="text"/>	\$ <input type="text"/>	Method of payment: <input type="text"/>
Receipt number:	<input type="text"/>		Date of receipt: <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/>
Location of FTC/GAC:	<input type="text"/>		Officer's initial: <input type="text"/>

## Lodging Your Application

Applications may be lodged by:



Mail to Fair Trading, PO Box 261, Parramatta NSW 2124 or



In Person at a Fair Trading Centre or Government Access Centre.

For information on your nearest Government Access Centre please check the 'Contact Us' page on our website or telephone 13 32 20.

Please ensure that you also take:

- Original or certified copies of registration in any other State or Territory
- Additional Details Form and attachments if you answered 'Yes' to any question in Section 7 Financial and Criminal History
- Certificate of Home Warranty Insurance or Letter of Eligibility, if applicable as outlined in Section 6 Home Warranty Insurance.
- Please note application through fax is not acceptable.