

# Mutual Recognition Policy

## Purpose

This policy outlines the Teachers Registration Board of Tasmania's (Board) requirements for recognising registration under a mutual recognition arrangement with all Australian states, territories, and New Zealand.

## Legislation

- *Teachers Registration Act 2000*
- *Mutual Recognition Act 1992*
- *Trans-Tasman Mutual Recognition Act 1997*

*The Mutual Recognition Act 1992* (Commonwealth) (MR Act) and the *Trans-Tasman Mutual Recognition Act 1997* (Commonwealth) (TTMR Act) (Mutual Recognition Legislation) enable a person who is registered in connection with an occupation in any Australian State or Territory or New Zealand (First Jurisdiction) to carry on the equivalent occupation in another Australian State or Territory or New Zealand (Second Jurisdiction).

Under the Mutual Recognition Legislation, a person is considered to be 'registered' if they are licensed, approved, admitted, certified or in any other way authorised to teach by or under legislation in the First Jurisdiction.

An occupation is deemed to be equivalent if the activities authorised to be carried out under each registration are substantially the same and can only be carried out by 'registered' persons. Equivalency of occupations from another jurisdiction may be achieved through the imposition of appropriate conditions on a person's registration in Tasmania.

## Policy Statement

This policy applies to notices lodged by teachers currently registered in an Australian jurisdiction<sup>i</sup> or New Zealand. Where such notices are lodged with the Board for teacher registration using the Mutual Recognition Principle.

The policy applies to all staff of the Office of the Board, and Board members involved in the registration and regulation of teachers in Tasmania.

## Procedures

### Person to be registered

To be eligible for registration as a teacher in Tasmania under the Mutual Recognition Principle, a person must be 'registered' as a teacher under the legislation of another Jurisdiction.

There are generally no restrictions on holders of teacher registration in another Jurisdiction applying for registration in Tasmania through the Mutual Recognition Principle. However, registration is dependent on consideration of whether the holder's teaching is limited either by the nature of the registration or through conditions imposed on the registration by the First Jurisdiction.

Holders of categories of registration other than those that equate with Provisional and Full registration in Tasmania may not be able to be registered in Tasmania under the Mutual Recognition Principle, given it may not be possible (even via the imposition of conditions) for the Board to reflect the limitation/s imposed by the First Jurisdiction and thus the achievement of equivalency of occupation is generally not possible in these circumstances. However, where registration is sought by a teacher holding an alternate authorisation to teach equivalent to a Tasmanian Limited Authority to Teach (LAT), the Board may be able to grant a LAT, but only where it is possible to achieve equivalency of occupation.

Where a person, registered in a First Jurisdiction, is limited to teaching at a particular school or venue, the Board will generally not grant registration pursuant to the Mutual Recognition Principle as it would not be possible to reflect the limitation imposed by the First Jurisdiction in Tasmania. That is, it would not be possible for the person to teach only at the particular school or venue which is in another Jurisdiction.

Those persons who are not able to apply for registration with the Board pursuant to the Mutual Recognition Legislation may apply directly to the Board for registration.

### **Notice to the Board for registration under the Mutual Recognition Principle**

To apply for registration as a teacher in Tasmania under the Mutual Recognition Principle, a person must apply to the Board by lodging a written notice on the approved Board form accompanied by the applicable fee. The form and required documentation must also be verified by way of a Statutory Declaration. The form will set out the requirements for a valid notice, pursuant to the Mutual Recognition Legislation.

### **Requirements of a Valid Notice**

The notice must:

- state that the person is registered for the occupation in the First Jurisdiction and name that Jurisdiction; and
- state the occupation for which registration is sought and that it is being sought in accordance with the Mutual Recognition Principle; and
- specify all the Jurisdictions in which the person has substantive registration<sup>ii</sup> for equivalent occupations; and
- state that the person is not the subject of disciplinary proceedings in any Jurisdiction (including any preliminary investigations or action that might lead to disciplinary proceedings) about those occupations; and
- state that the person's registration in any Jurisdiction is not cancelled or currently suspended as a result of disciplinary action; and
- state that the person is not otherwise personally prohibited from carrying on any such occupation in any Jurisdiction, and is not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any Jurisdiction; and
- specify any special conditions to which the person is subject in carrying on any such occupation in any Jurisdiction; and

## Mutual Recognition Policy

---

- give consent to the making of inquiries of, and the exchange of information with, the authorities of any Jurisdiction regarding the person's activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

The Board may seek to verify any declarations made by the applicant.

The notice must be accompanied by a document that is either the original or a copy of the instrument evidencing the person's existing registration. If there is no such instrument, the notice must be accompanied by sufficient information to identify the person and the person's registration in the First Jurisdiction.

The person must certify that the document or evidence demonstrating registration in the First Jurisdiction is either the original or a complete and accurate copy of the original.

The statements and other information in the notice must be verified by statutory declaration.

The applicant must maintain current registration with the First Jurisdiction until the Board grants substantive registration. If an applicant allows registration in the First Jurisdiction to lapse or it ceases for any other reason before they are granted substantive registration with the Board, they will not be able to obtain registration with the Board pursuant to the Mutual Recognition Principle.

### Deemed Registration

A person who lodges a notice with the Board will be granted 'deemed' registration from the day that the notice is lodged. Once a notice is identified as having been correctly lodged, the Board will provide a 'deemed registration' notification to the applicant.

A person who is deemed to be registered can commence teaching in Tasmania pending the granting or refusal of substantive registration.

A person carrying on the occupation of teaching in Tasmania must comply with any requirements of the *Teachers Registration Act 2000* (the Act), from the time they commence teaching.

Deemed registration cannot be used as the basis for registration in any other jurisdiction. Therefore, a person holding only deemed registration in the First Jurisdiction is not eligible to obtain registration in Tasmania under the Mutual Recognition Principle.

### The decision of the Board

The Mutual Recognition Legislation requires substantive registration to be granted within one month after the notice is correctly lodged with the Board. However, the Board may, within that month, postpone the grant of substantive registration (in which case deemed registration will continue pending a decision on substantive registration) or refuse to grant registration.

The Board may postpone the grant of registration for any of the following reasons:

- if any of the statements or information in the notice are materially false or misleading;
- if the original or a copy of the instrument evidencing the person's existing registration or information to identify the person and the person's registration has not been provided or is materially false or misleading;
- if the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged;
- if the Board decides that the occupation undertaken in the First Jurisdiction is not equivalent

## Mutual Recognition Policy

---

The Board may refuse the grant of registration for any of the following reasons:

- if any of the statements or information in the notice are materially false or misleading;
- if the original or a copy of the instrument evidencing the person's existing registration or information to identify the person and the person's registration has not been provided or is materially false or misleading;
- if the Board decides that the occupation undertaken in the First Jurisdiction is not equivalent and equivalence cannot be achieved by the imposition of conditions.

If the grant of registration has been postponed, the Board may ultimately either grant or refuse the registration. The Board may not postpone the grant of registration for longer than six (6) months.

The person remains deemed until the decision is finalised.

If the Board does not grant, refuse or postpone registration within one month after the notice was lodged, the person is entitled to be immediately registered by the Board.

If granted, substantive registration will normally be granted on similar terms and conditions as the applicant's registration in the First Jurisdiction. The duration of the registration granted in Tasmania will align with the duration of registration in the First Jurisdiction. Continuance of registration thereafter will be subject to the Act and subsidiary regulations.

Once substantive registration is granted by the Board, registration in the First Jurisdiction may lapse without affecting registration with the Board.

Notification of the Board's decision to grant, postpone or refuse registration, or to impose conditions on registration will be provided to the person in writing. A written notice of decisions to *refuse* or to *impose conditions* will contain a statement to the effect that:

- a person whose interests are affected by a decision made by the Office of the Board under limited delegations in line with currently prevailing Board Policy may apply to the Board for a review of the decision within 28 days of receiving notification of the decision; and
- a person whose interests are affected by a decision of the Board itself may apply within 28 days to the Tasmanian Magistrate's Court Administrative Division for a review of the Board's decision; and
- a person may apply for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision. (NOTE: This statement is not required if the findings, evidence, and reasons for the decision are already included in the notice provided by the Office of the Board, or by the Board)

If the grant of registration is refused on the basis that documents provided are either missing or materially false or misleading, the decision to refuse takes effect immediately, and deemed registration will cease.

The person will be immediately advised in writing.

A decision to refuse registration on the grounds that the occupation undertaken in the First Jurisdiction is not equivalent will take effect at the end of a period specified in the notice of the decision.

### **Imposition of Conditions**

Conditions may be imposed by the Board on both a deemed registration or on a substantive registration of a teacher. Conditions imposed by the Board on an applicant whose registration was granted pursuant to the Mutual Recognition Principle are imposed pursuant to the Mutual Recognition Legislation, not the Act.

A teacher's deemed registration may be subject to any conditions applying to the registration in the First Jurisdiction, although the Board has the authority to waive such conditions.

## Mutual Recognition Policy

---

Conditions imposed by the Board will not be more onerous than those imposed concerning similar situations in Tasmania, where the registration is not of Mutual Recognition origin. A condition may be imposed on the deemed or substantive registration which corresponds to and reflects conditions on the teacher's registration in the First Jurisdiction. In addition, conditions may be imposed which are determined to be necessary to ensure that the activities authorised to be undertaken by the teacher in Tasmania reflect and equate to the authorised activities in the First Jurisdiction.

### **Implications of disciplinary action in any Jurisdiction**

If a person's 'registration' in a Jurisdiction is:

- a) cancelled or suspended; or
- b) subject to a condition;

on disciplinary grounds, or as a result of or in anticipation of criminal, civil, or disciplinary proceedings, then the person's registration in the equivalent occupation in another Jurisdiction will be affected in the same way, except that the local registration authority of another Jurisdiction may reinstate any cancelled or suspended registration or waive any such condition if it thinks it appropriate in the circumstances.

The Board advises other Jurisdictions when it cancels or suspends registration, or when it imposes a condition on registration on disciplinary grounds. Subject to the seriousness of the matter, other jurisdictions may be advised before the completion of disciplinary proceedings.

If the Board is advised by another Jurisdiction that a teacher's registration has been cancelled, suspended, or has had a condition imposed on disciplinary grounds, or as a result of or in anticipation of criminal, civil, or disciplinary proceedings, it will normally take similar action, although such action is always given individual consideration by the Board.

### **Exchange of information between Jurisdictions**

A teacher regulatory authority may seek an exchange of information with a counterpart authority in a First Jurisdiction concerning any information reasonably required about a person substantively registered under the law of the First Jurisdiction. There is an obligation, under the Mutual Recognition Legislation, to provide such information without delay.

This obligation only applies when the teacher regulatory authority notifies the authority of the First Jurisdiction that the information is required in connection with:

- a) a notice lodged by a person seeking registration; or
- b) a person's deemed registration; or
- c) actual or possible disciplinary action against the person.

If the Board receives information under section 37 of the Mutual Recognition Legislation, the information is subject to laws relating to secrecy or confidentiality that would apply if the information were provided under laws in Tasmania, under which the Board is constituted or exercises its functions and powers.

## Related Documents

Registration Application Guides

## Related Policies

Applying for Registration Policy

Determining Category of Registration Policy

## Mutual Recognition Policy

Limited Authority to Teach Policy

Personal Information Protection Policy

Determining Good Character and Fitness to Teach

Fees and Payments Policy

Complaints against Teachers and Limited Authority to Teach Holders Policy

(see all [Board Policies on our website](#))

## Version Control

Version 1.2 – 21 October 2022 – hyperlinks updated

Version 1 – 15 February 2022 – presented to the Audit & Risk Committee

Reviewed – 9 March 2022 by Teachers Registration Board of Tasmania

Policy Established: 9 March 2022

Approved	Version	Details	Approved By
9/03/2022	1	New Policy Approved with minor editing	Board
23/06/22	1.1	Finalised and issued	Board
Next Review Date		8/03/2024 (or earlier dependent on need)	Board

**Note:** Once implemented, this policy should be reviewed within 12 months. Stakeholder engagement should be conducted regarding this policy.

<sup>i</sup> Jurisdiction for the purposes of this policy, denotes an Australian State or Territory or New Zealand

<sup>ii</sup> Substantive Registration As defined by Section 4 of the Mutual Recognition Legislation: registration under a law of a participating jurisdiction but does not include deemed registration.

Note: the term “Board” applies to both the Office of the Board and the Board itself except where a distinction is made to clarify rights of review of decisions