

Politics and Economics:
Who's Driving Regulation?



2013
Annual
Educational
Conference
Hyatt Regency at the Arch | St. Louis
Oct. 3-5, 2013



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The Politics + Economics of Profession-Based
Regulation: Who's Driving Regulation in Australia?
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**Key Political + Economic Challenges:
To Regulatory Bodies**

1. To what extent are regulatory systems designed in the 19th century fit for purpose in the 21st century?
2. To what extent can/ should regulatory systems accommodate contemporary global flows?
 - > Outbound (mobile domestic workforce)
 - > Inbound (skilled migrants)
3. To what extent will temporary workers invest in securing full registration?
4. What are the political, economic and public safety consequences of trends to conditional or partial registration?



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**The Transforming Regulatory Context:
Australia 2013**

National economic goals:

- Nation-building
- Skill enhancement for the knowledge economy
- Economic growth

Globalisation's impact - 1/ Australians living overseas:

- 1 million (out of 23+ million population)
- Disproportionately young and tertiary educated

Globalisation's impact - 2/ Scale of skilled migration:

- Permanent intake: Around 226,000 people (2012-13)
- Skilled permanent category: 68% (128,000)
- Skilled temporary workers: Around 130,000 people (no limits)

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**Demand for More Flexible Global Recognition:
First Context - The Scale of Australian Expatriates**

Scale:

- 1 million Australians overseas in any year
- Length of stay - unknown!

Characteristics:

- Disproportionately young + skilled

Destinations:

- Global - in particular UK, USA, China

Demand:

- Bilateral/ multilateral agreements to facilitate global work
- Region-specific - eg ASEAN
- Field-specific - eg Engineering Washington and Sydney Accords), Accounting (Ireland, HK, Canada, Malaysia, India), Architecture (eg APEC Architect Project), Dentistry (eg Australia and Canada)

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**Facilitating Global Recognition:
Temporary Flows**

Engineering + Architecture:

- Facilitate flows for project work (multiple global sites)
- Expatriate professionals (conditional recognition/)
- Local 'sign-off' (full recognition)

Transnational Corporations:

- Case study - Deloitte China
- 8,000+ staff members - Shanghai, Beijing, Hangzhou
- At higher levels - Often corporate transients working in multiple Deloitte sites

Will NOT invest in:

- Full recognition or host country language
- Require qualifications employers recognize internationally - eg accounting for tax, audit, and advisory services

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**Case Study - Growing Pressure:
To Facilitate Partial or Conditional Licensure**

Limited scope of practice:

- Restricting workers to defined functions that exclude areas of practice in which they have limited experience and/or more senior, unsupervised areas of responsibility

Conditional registration

- Allowing limited or conditional licensure, plus additional training (for example through completion of host country bridging programs, internships, or examinations)

Restricted practice time frames

- Giving defined periods of licensure - eg catering to transnational corporation employees engaged in a temporary transfer abroad

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**Case Study - Emerging Industry-Driven Regulation Modes:
Mineral Professionals Regulation (CRIRSCO)**

Global umbrella body formed 1994:

- Committee for Mineral Reserves International Reporting Standards (CRIRSCO), based on an Australian initiative

CRIRSCO status:

- Key international organization representing the mining industry on issues related to the classification and reporting of mineral assets

Endorsed by a wide range of global bodies:

- Including the United Nations, the International Accounting Standards Board, and the International Council on Mining and Metals

Based on globally recognised 'Competent Persons':

- Nationally accredited by member institutes, then empowered to assess minerals for listing for investment in global stock exchanges

Power:


- Mineral discoveries to be listed for investment on member stock exchanges must be signed-off from a recognized Competent Person

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**Case Study - Pressure for Global MRAs:
Accounting Regulation (CPA Australia)**

'We're on a continuous improvement process. We're not locked into what we used to do. ... Years ago we would have said to anybody, from any country, you need to undertake Australian taxation and Australian law studies. Not so now. We have mutual recognition agreements with other professional accounting bodies. It may be two organizations in a country, or it may be one... There are different terms under specific MRA's, (supported by) a wide range of contacts with different professional bodies. They're being influenced by our desire to build alliances.

 **As our members are increasingly mobile**, the first question they will have once they decide to work in the US, for instance, is how can CPA Australia help me to work there legally and effectively? We give advice on the MRA's in each location. But in terms of MRA's we recognize each other's autonomy...

All professional accounting bodies around the world need to keep on top of each other's expectations and requirements, and when the issues that arise from the fact that some members of the particular accounting body are acceptable, and others aren't, you need to work out how you communicate that effectively...'

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**Second Context - Pressure from Australian Immigration:
Growth in Sponsored Temporary Migration**

By 2009:

- 70% of all permanent and temporary labour migrants sponsored

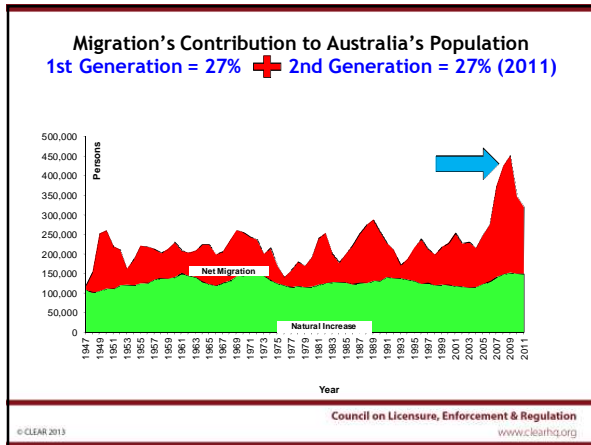
By 2011-12:

- 42% annual growth (all fields)

Political and economic attraction of temporary labour migration!

- Demand-driven (tap-on tap-off)
- Employer power to select
- Speed of processing
- 99% employment outcomes/ immediate earnings
- Constrained location (up to 4 years)
- 6 years ago: Around 34,000
- 2011-12: 125,000 (no limit to growth)

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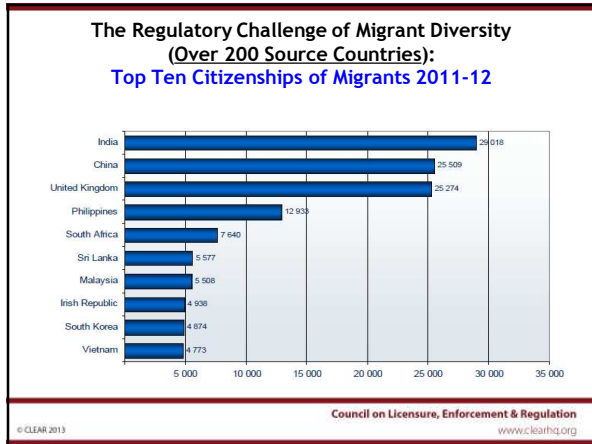


**Australia's Level of Reliance on Migrant Professionals:
By Field 2006 Compared to 2001**

Occupation	2006 % Overseas-Born	2001 % Overseas-Born
Engineering	52%	48%
Computing	57%	48%
Medicine	45%	46%
Science	40%	37%
Commerce/ business	40%	36%
Architecture	44%	36%
Accountancy	44%	36%
Arts/ humanities	35%	31%
Nursing	35%	24%
Teaching	35%	20%

Source: 2001 and 2006 Census data analysis, Australia and Canada; *The Impact of Economic Selection Policy on Labour Market Outcomes for Degree-Qualified Migrants in Canada and Australia*, L. Hawthorne, Institute for Research on Public Policy, Vol 14 No 5, 2008, Ottawa

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**Impact of Transforming Migration Mode on Regulation:
 Medical and Engineering Case Studies**

Medical migration (2006-06 to 2010-11):

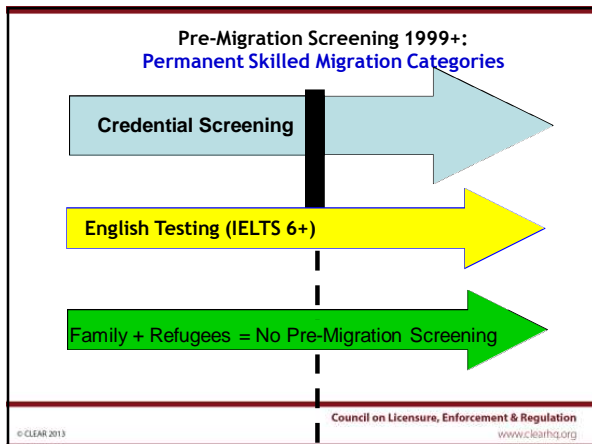
- Temporary skilled migrants: 17,910
- 4/5 selected on a temporary basis to go to 'area of need'
- Permanent skilled migrants: 2,910

→ Growing trend for multiple pathways + conditional registration

Engineering migration (past decade):

- Mineral boom: Remote sites
- Full recognition on arrival: Around 80% of professional engineering qualifications (since the 1990s)
- Full suite of workers: Eg 5,000 within a year to be functioning in remote site (including trades)

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**Case Study 1 -
 Assessing Skilled Migrants in Regulated Fields:
 2005-06 to 2009-10 Permanent + Temporary Intakes**

<p>PERMANENT SKILLED 66% of intake = professionals</p> <p>Top professions -</p> <ul style="list-style-type: none"> - Accounting (32%) - Computing (23%) - Architect/ Building (9%) - Engineering (9%) - Nursing (5%) <p>Top trades -</p> <ul style="list-style-type: none"> - Chef/baker (30%) - Engineering (14%) - Building (14%) - Electrical (12%) - Hairdressing (12%) 	<p>TEMPORARY SKILLED: 58% of total intake = professionals</p> <p>Top professions (457 visa) -</p> <ul style="list-style-type: none"> - Nursing (25%) - Computing (13%) - Business (10%) - Engineering (10%) - Sales/ Marketing (8%) - Medicine - Scientist - Teachers/ Lecturers <p>Top trades -</p> <ul style="list-style-type: none"> - Mechanical/ fabrication trades (34%)
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**Case Study 2:
 Development of Multiple Registration Pathways (Medicine 2008+)**

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**Using the Empirical Data:
 Australian Medical Council Examination Pass Rates**

Competent Authority Pathway 2008+:

- Jurisdictions of past registration - 6
- Countries of training - 55 (by 2010)
- Global attractiveness - dramatic jump in UK/ Ireland medical migration (c3,000 arrivals)

Compared to Australian Medical Council examination pass rates:

- MCQ exam: 82% (most pass within 2 attempts)
- Clinical exam: 85% (most pass within 2 attempts)
- BUT Only 61% proceed from passing the MCQ to attempt the Clinical exam

RESULT - Just 43% of IMGs who commence the MCQ complete and secure full registration

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Case Study 3:
VETAssess - Assessment, Recognition and Training Upgrades Pre-Migration

Model:

- Fee for service assessment body
- Operating in 20+ countries
- Provision of 'gap training' trade modules offshore pre-migration (recognised by Federal employment department and trades bodies)
- Facilitates skilled migrant selection (full recognition)
- Select trades - arrive with Australian qualification

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Case Study 4:
Mandating English Language Standards Set by Regulators

Variability (with IELTS 6 minimum for skilled migration):

- Law: IELTS Band 8 (writing), 7.5 (speaking) and 7 (reading and listening)
- Teaching: IELTS Band 7.5 required across all 4 English sub-tests (or equivalent)
- Medicine and allied health professions: IELTS Band 7 or Occupational English Test (OET) B (with 7.5 mandated for pharmacy)
- Engineering: IELTS Band 6 (with additional measures taken into account, for example candidate interview performance)
- Architecture: Interview required
- ➔ Accounting: No formal stated requirement (but IELTS 7 essential for migration)
- Information Technology: No formal stated requirement

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Impact of Assessing English Skills:
Health Professionals' Pass Rates by Field (2005-2011)

Standard required: Set by relevant regulatory bodies
 Nurses (17%) Pharmacists (38%), Doctors (52%), Dentists (62%)

Field	2005 (%)	2010 (%)	2011 (%)
Medicine	53%	43%	52%
Nursing	20%	19%	17%
Dentistry	40%	47%	62%
Physiotherapy	38%	34%	32%
Pharmacy	39%	28%	38%
Other Allied Health	46%	32%	40%
Total	37%	34%	41%

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Growing Pressure on Regulatory Bodies: To Improve Australian Qualification Recognition

- 1. Developing the Australian Qualifications Framework:**
 Definition of 10 level framework to map all qualifications against (Federal Government and education sector providers)
- 2. Providing competence-based assessment courses:**
 - To assess level of knowledge/ experience rather than place qualification was gained (Federal Government and regulatory bodies, education sector providers)
 - Case study - CBA courses for migrant nurses
- 3. Investing in English training and field-specific bridging course provision:**
 - Exam and employment preparation courses
 - Industry internships (Federal Immigration Department and State Governments, with courses delivered by state providers)
 - Case study - 10 bridging course models for migrant engineers by 1994

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Growing Political Pressure on Regulatory Bodies: To Improve Australian Qualification Recognition

- 4. Expanding in the knowledge base:**
 NOOSR Country Education Profiles x 119 (Federal Government: Employment and Education Department)
- 5. Global collaborative assessment partnerships**
 - Pooling joint examination items for global administration (Canadian and Australian Medical Councils 2007+, based on 7,000 MCQ items)
- 6. Committing to bilateral/ multilateral agreements:**
 Region-specific (eg Trans-Tasman, ASEAN initiatives) and Field-specific (Federal Government and regulatory body stakeholders, eg:
 - Engineering: Washington and Sydney Accords (including capacity-building focus)
 - Accounting: Ireland, HK, Canada, Malaysia, India
 - Architecture: APEC Architect Project
 - Dentistry: Australia and Canada - Etc!...

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Economic Outcomes of Improved Recognition + English: Employment for Permanent Skilled Migrants by Category (2009-2011)

Visa Reporting Category	Skilled Job	Other Job	Not Working	Working Full-time	Particip. Rate	Unemploy. Rate	Median Full-time Earnings (\$'000)
6 Months							
Employer Sponsored	90	7	3	92	98	0.5	71.3
Family/State Sponsored	60	31	9	72	98	7	50.0
Offshore Independent	75	12	12	76	97	10	74.6
Onshore Independent	55	37	8	69	98	6	44.4
Skilled Graduates	58	36	5	65	98	3	40.0
Other Skilled	47	33	20	61	86	7	43.0
All Skilled	68	24	8	75	96	5	52.0

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Conclusion:
The Political + Economic Challenges to Regulation in Australia

The growing political + economic imperative:

- To match regulation policy and strategies to 21st century mobility patterns:

Increasing pressure on regulatory bodies from:

- **National + state governments:** To maximise economic benefits from skilled migration
- **Employers:** To secure and integrate temporary + permanent foreign workers at speed (supported by agile systems)
- **Globally mobile workers:** To work in multiple sites, with minimal delay or obstruction

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Risks -
Associated with Changing Regulatory Systems

1. **May introduce more regulatory complexity:**
 - > By increasing the number of steps that migrants must take to secure full registration
2. **May leave migrants marooned in conditional status for years:**
 - > An invidious professional situation that may be associated with lower wages and the under-use of skills
3. **May involve elevated public risk:**
 - > Associated with atypical registration pathways

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Politics and Economics: Who's Driving Regulation

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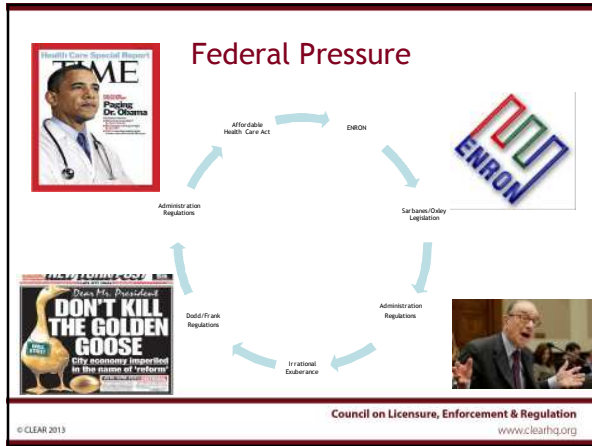
Politics & Economics: Who's Driving

- American Exceptionalism?... “The US emerged from a revolution based on liberty, egalitarianism, individualism, republicanism, populism and laissez-faire...” [Wikipedia](#)
- All politics is local. 

- Entrepreneur
- Innovation
- Obama Care
- Tea Party

Associations

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State Pressure

- Self-regulating industry
- Association's influence is organization & Turnout. Who is your 800lb. Guerrilla?

Barbers & Real Estate Agents have been around for thousands of years and now we see a need to regulate?

- Public input is muted...at best

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Public Safety = Quality

- Access to care
- Education...Is it "Competence" or "Eliminating Competition"
- It's is great if it is...Affordable

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Affordability


- Regulations are OK as long as it is cheap. Who pays for your programs?
- What has funding gets implemented
- Is there an App for that?



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“It’s the Economy Stupid...”and it still is

- Jobs, Jobs, Jobs!
- Transient Population
- International & state boarders
- Education - In class vs. On line
- Veteran employment - Troops to Trucks



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Fraud


- There is no problem...until my spouse had a bad experience.
- Cheating is OK...because everyone does it.
- Do we have the resources to make an impact?



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The Future...Functional Fixedness


- Iceberg strait ahead...
- Need to manage up
- Ethics still matter...a lot.
- Balance between integrity vs. speed vs. cost



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Politics and Economics - Who's Driving Regulation

Aidan Horan, Director, Institute of Public Administration, Dublin



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Overview

- Preparation and research for today
- Drivers of change
 - European dimension - single market
 - Regulatory / systems failures
 - Globalisation of standards / governance and accountability norms
- Key Stakeholder relationships and perspectives
 - Politicians, policy makers, public, professions
- The future?

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Directive 2005/36/EC

- Fundamental rights within European Treaties
- Remove obstacles to free movement
- Mutual recognition of professional qualifications
- Guidance and case law
- Agreed changes

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**Professional Qualifications
Directive**

Key changes

- Professional card
- Language assessment
- Alert mechanisms
- European Parliament - 7th October
- Subsequent transposition into domestic law

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Francis Report findings

- Culture of tolerating poor standards
- Professional disengagement
- Patients not heard
- Poor Governance
- Lack of focus on standards of service
- Inadequate risk assessment of staff reduction
- Nursing standards and performance

• System wide issues also identified

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Light touch v right touch

Right-touch regulation is based on a proper evaluation of risk, is proportionate and outcome focussed; it creates a framework in which professionalism can flourish and organisations can be excellent.

Underlying principles

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Relationships

- Impacted by institutional arrangements, culture and norms
- Evolving - adversarial - challenging - professional - respectful - cosy
- Nature, tone and extent of interactions, reporting and communications
- Need to manage expectations (Trust and Respect considerations)

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Public perspective

- Perceptions
 - Profession centred not public centred
 - Role of media
- Wants and needs
 - Robust and effective holding to account
 - Setting, monitoring and policing standards
 - Fair and equitable systems
- Nature and extent of communications
 - User friendly and understandable

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Economic perspective

- Freedom
 - Markets
 - Movement of professionals
 - Competition
(free from government intervention?)
- Regulatory costs
 - Downward pressure but recognition that “ regulation cannot be cost free”
 - Benchmarking
 - Transparency

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The Future - regulatory system

- Restore and rebuild trust and confidence
- Recognise the accountability failures
- Acknowledge the governance deficits
- Deliver and demonstrate cost efficient and effective regulatory systems
- Coalition of advocacy groups and state agencies
- Reform and modernisation across the system - supreme oversight body, formal reporting and evaluation systems, consolidation
- Revisiting of managerial accountability arrangements
- Impact of globalisation

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The Future - individual regulator

- Clarifying and meeting expectations of stakeholders
- Proactively addressing the regulatory cost question
- Communications and media strategy
- Balancing different aspects of role
- Refresh key regulatory principles
- Rebuild trust and confidence by actions
- Provide necessary assurance and re-assurance

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