

Painters National Licensing Discussion Paper

What are the current arrangements for licensing for Australian painters?

In New South Wales a painter must be licensed if he/she contracts, sub-contracts or advertises to do residential painting where the reasonable market cost of the labour and building materials is more than \$1000. Licenses are issued by the Department of Fair Trading NSW.

In Queensland, the Building Services Authority (BSA) is a government body set up to license contractors and protect consumers against defective work. The BSA has the power to direct a contractor to rectify defects and can prosecute, fine and/or remove a contractor's license banning the contractor from the building industry for a set period or for life. A license is required if the painting work is valued at over \$3300 including labor and materials. The contractor must also complete a Business Management Course for Trade Contractors. This course is a recognised qualification, but does not align to any training package.

To obtain these licenses, the painter must hold a recognised qualification, such as Certificate III Painting and Decorating. Painters can obtain this qualification by completing a painting apprenticeship, or by having their existing skills assessed to this qualification.

In Western Australia registration of painters is carried out by the Building Commission. Having the Certificate III Painting and Decorating qualification can help painters get registered, but if they don't have any qualifications they can complete the Painters Registration Course.

The course consists of:

- Establish Legal & Risk Management Requirements of Small Business
- Identify & Produce Estimated Costs for Building & Construction Projects
- Prepare Surfaces for Painting (including colour & wallpapering)
- Painter's Practical Trade Test

In South Australia, the licensing system is administered by the Office of Business and Consumer Affairs. Painters need to either have Certificate III Painting and Decorating or prove recent work experience; and complete a business management course

No licensing requirements currently apply for painters in Tasmania, ACT, NT or Victoria.

In summary, no licensing currently exists in four states and territories. Business Management qualifications are currently required for painters licenses in QLD, SA and WA. In addition, trade qualifications are required in QLD, NSW and WA.

Why is a national occupational licensing system being considered?

The purpose of the national occupational licensing system is to improve productivity by increasing business opportunities and efficiency and the mobility of labour.

Under existing mutual recognition arrangements painters need to apply for and pay for a licence in every jurisdiction they work in. Sometimes this means satisfying different qualifications and eligibility requirements or sitting additional tests. This is a cost for licensees who choose to take advantage of mutual recognition arrangements and discourages licensees from working in a different State or Territory.

Under the proposed national system a licensee will be able to work anywhere in the country without the need to make a further licence application when moving to any other state or territory. Once national licensing commences, licences will be issued by the National Occupational Licensing Authority in all States and Territories according to the same eligibility requirements set out in the Occupational Licensing National Law Act 2010 (the National Law). Existing licensing bodies in the States and Territories will act as 'delegates' of the NOLA, meaning they will carry out a number of functions such as issuing licences, undertaking compliance activities and initiating disciplinary action on NOLA's behalf. The functions of the Licensing Authority, including those that can be delegated to jurisdictions will be set out in the National Law.

Who is responsible for a national system of licensing?

The National Occupational Licensing Authority (the Licensing Authority) is the body responsible for administering the new system for occupations included in the national occupational licensing scheme under the National Law. The Licensing Authority is governed by a Board comprised of nine members including a Chair and two regulators. The Board was appointed by the Standing Council on Federal Financial Relations in December 2011. In making appointments, the Standing Council, as required by the Law, ensured the Board had a balance of people with appropriate skills or experience in unions, representing employers, consumer advocacy or training.

There is a single head office for the Licensing Authority, based in Sydney. However, painters will be able to apply for national licences through their usual licensing body who will act as a delegate of the Licensing Authority under the National Law to issue licences, undertake compliance activities and initiate disciplinary action.

What does the National Occupational Licensing Authority do?

The Licensing Authority has been established under the National Law to administer the national occupational licensing system. To do this, its key responsibilities will include:

- Issuing licences, undertaking compliance and enforcement activities under the National Law, commencing and taking disciplinary action. These day-to-day functions will be delegated to the existing occupational jurisdictional regulators in each State and Territory;
- Developing national licensing policy for the specified occupations;
- Establishing Occupational Licensing Advisory Committees to provide advice on the development, maintenance and performance of licensing policy for each of the specified occupations;
- Developing, establishing and maintaining a National Public Register of licensees; and
- Establishing effective working relationships with the existing jurisdictional regulators - that will act as delegates of the Licensing Authority in issuing licences, undertaking compliance activities and initiating disciplinary action.

What will happen to the current regulators?

Existing State and Territory licensing regulators (jurisdictional regulators) will be delegated functions of the Licensing Authority under the National Law in their jurisdiction, including considering licence applications, renewing licences, commencing or taking disciplinary action against licensees, and monitoring and enforcing the National Law. When undertaking compliance activities and initiating disciplinary action, they will also be undertaking these activities on behalf the Licensing Authority and will be bound by the National Law.

However, State and Territory legislation relating to conduct matters such as insurance requirements and codes of conduct and practice will continue to apply.

The jurisdictional regulators will continue to enforce these conduct requirements under State and Territory legislation, so national licensees carrying out their occupation in a State or Territory should familiarise themselves with the relevant conduct requirements before commencing work in another State or Territory.

When would national licensing commence?

There will be a staggered roll out of the new system from 2013 for the following occupations:

- Property-related (excluding conveyancers and valuers),

- Electrical,
- Plumbing and gasfitting,
- Refrigeration and air-conditioning.

The painting industry will not transition to national licensing until at least 2014. Affected businesses will receive a letter letting them know how their existing licence will transition to a national licence and the date on which national licensing will commence.

In the meantime, please check the Licensing Authority website at www.nola.gov.au for regular updates.

What would it mean for painters as licensees?

The majority of licensees who don't have any restrictions or conditions on their current licence will simply be transitioned to an equivalent national licence. The draft regulations include a table for each jurisdiction showing those current licences that are expected to be directly transitioned across.

Conditions or restrictions on existing licences will be transitioned to the equivalent national licence.

In working out the equivalent national licence for individual licence holders the jurisdictional regulators are working on a "no disadvantage" principle. This means that if a painter is licensed to perform a particular scope of work, their new national licence/s will entitle them to carry out this work anywhere in Australia without needing to satisfy any further licence eligibility or training requirements. Painters will be notified of how the changes to licensing arrangements will affect them when the new system commences. They do not need to do anything for this to happen.

8. Don't current licences allow painters to work anywhere in Australia?

No. Current licence only allows the holder to work within the borders of the state or territory from which it was obtained. If the painter currently wants to work in multiple locations across the country, they might need to apply for a licence, pay another licence fee and meet different eligibility requirements in each state or territory.

Mutual Recognition legislation currently exists to allow current licensees to apply for an identical licence in another state or territory of Australia or New Zealand; however fees apply in relation to applying for each licence and the renewal of each licence.

If a painter doesn't work across the border, will there be a restricted licence available that is cheaper?

No. The purpose of national licensing is to allow licensees to work across borders anywhere in Australia so there will not be a state restricted licence.

10. Will Certificate III Painting and Decorating meet the course requirement for the issue of a national licence?

If the completion of Certificate III Painting and Decorating was required in the State or Territory before the commencement of national licensing to obtain a licence, in transitioning to the national licensing scheme this course will be accepted as a valid qualification for an equivalent national licence under the National Law. Therefore, painters in NSW and QLD will continue to be required to have Certificate III Painting and Decorating to obtain a new license.

11. Will painters have to pay a fee to be transitioned into the new system?

Painters won't have to pay a fee to have their existing licence transitioned to the new national licensing arrangements.

They will be notified about which national licence their current licence will be transitioned to. They will not have to do anything to make this happen.

12. Where will painters be able to find information about licence fees? When will the information be available?

All licence fees will be set by the States and Territories. These may be different depending on where their principal place of residence or principal place of business is and will be paid to their usual licensing body. There are penalties for not paying your fee in your principal place of residence or principal place of business.

Industry Consultation

The National Institute of Painting and Decorating has conducted a voluntary survey of painters over the last six weeks and the following are the results:

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1. Do you think national Licensing for Australian Painting contractors is a good idea?

Yes	94.4%	51
No	5.6%	3

2. Do you think licensing should be limited to qualified painters?

Yes	88.7%	47
No	11.3%	6

3. I think licensed painters should be required to have:

Certificate III Painting and Decorating	79.2%	42
Have completed an apprenticeship	41.5%	22
Have completed a business management course	35.8%	19
Just pay a licensing fee	11.3%	6

3. I think licensed painters should be required to have:

4. I think licensing for painters is:

	not important	important	very important	Rating Average	Response Count
	5.8% (3)	15.4% (8)	78.8% (41)	2.73	52

5. I am a:

Licensed painter				40.4%	21
Unlicensed painter				19.2%	10
Registered painter (WA)				5.8%	3
Qualified painter				46.2%	24
Other (please specify) Show Responses				19.2%	10

6. I think licensing should be required by:

Painters who have contracts with home owners				34.6%	18
Painters who contract to builders				34.6%	18

5. I am a:

Painters who work on any project	69.2%	36
Painters whose contracts are worth over \$1000	48.1%	25

7. I am a:

Employer	60.8%	31
Sub-contractor	33.3%	17
Employee	17.6%	9
Apprentice	0.0%	0

8. National painters licenses should be

renewed annually	59.6%	31
for life	26.9%	14
Other (please specify) Show Responses	19.2%	10

9. Painters who already have a license should

be automatically be given a national license	54.7%	29
be required to meet the new licensing requirements	35.8%	19

9. Painters who already have a license should

be required to be reassessed

9.4%

5

Recommendations:

National Licensing is supported by the majority of the industry, and generally viewed as very important.

Based on the information supplied by the National Occupational Licensing Authority, and the results of industry consultation so far, the National Institute of Painting and Decorating recommends the following as a model for the implementation of national licensing for the painting industry:

- 1.) Certificate III Painting and Decorating should be the minimum qualification for *new* licensees
- 2.) Existing licensees would not be required to be reassessed, but may have conditions imposed. For example, painters with NSW 'Painters' licenses would not be licensed to perform wallpaper hanging unless specified otherwise.

Business Management Courses would be mandatory for all new licenses. This course would consist of the following two units of competency:

- BSBSMB401A Establish Legal & Risk Management Requirements of Small Business
- CPCCBC4004A Identify & Produce Estimated Costs for Building & Construction Projects

The above qualifications are currently used as a basis for licensing in WA and SA.

- 3.) Unqualified painters in states and territories where no licensing currently exists would be required to be assessed through Recognition of Prior Learning, and offered opportunities to complete Certificate III Painting and Decorating and the above Business Management units before being issued a national license.
- 4.) This assessment and training would be funded by the Federal Government's proposed Skills for All program, imposing minimal cost on the industry and individuals.
- 5.) Licensing would be required by contractors engaging in contracts with home owners where the market value of the work exceeds \$1000. The legislation exists to protect the consumer against poor quality workmanship.



The benefits to the industry would include the standardisation of accepted processes, standards and legislation, a more mobile workforce, and an improvement in the professionalism and safety of the industry.

Further Information: www.nola.gov.au www.painters.edu.au

This report has been prepared by Mr. Daniel Wurm for the National Institute of Painting and Decorating and the Construction and Property Services Industry Skills Council Painting and Decorating RTO Co-Operative. The views expressed are not necessarily those of NIPD or CPSISC.