

Tradespersons' Rights (Cost Recovery) Amendment Regulation 2013 (No. 1)

FRLI: F2013L00704

Portfolio: Industry, Innovation, Science, Research and Tertiary Education

Summary of committee view

2.28 The committee seeks further information as to whether the substantial fee increases (of up to 270%) for applications for trade certificates are consistent with the right to work.

Overview

2.29 This instrument updates the prescribed fees for making an application for a trade certificate, the reissuing or replacement of a certificate and trade test applications and to remove circumstances where no fee will be payable.

2.30 The fees in question are increased as follows:

- for a trade certificate application, an increase of 210% (\$300 to \$930);
- for the carrying out of a test for a trade certificate, an increase of 270% (\$270 to \$1,000);
- for a replacement trade certificate, an increase of 31% (\$130 to \$170);
- if an application is refused, for a new application, an increase of 210% (\$300 to \$930).

2.31 It also removes an exemption for fee payment by persons with permanent visas who have been assessed as having equivalent international skills or experiences.

Compatibility with human rights

2.32 The instrument is accompanied by a self-contained statement of compatibility that states that it is compatible with human rights as it does not raise any human rights issues. It specifically notes that the instrument does not engage the right to work or rights in work or the right to education under the International Covenant on Economic, Social and Cultural Rights (ICESCR), stating that the fees are collected for assessing an individual's existing trade skills to ensure they possess the necessary skills to work or be licensed and so:

the fees do not relate to the provision of employment, nor for the provision of education which leads to the award of an educational certificate. Thus, this Regulation does not impact on the cost or accessibility of education, nor does it impact on the quality of, or accessibility to, an individual's employment.

2.33 The committee considers that the substantial increase in fees for a trade certificate that is necessary for someone to work as a tradesperson in particular fields, does engage the right to work. If the fee for a trade certificate (or the necessary tests to be undertaken to get that certificate) are cost prohibitive, it may affect a person's ability to carry out work in a particular trade. The right to work is not absolute and may be limited, provided that the limitation is (i) aimed at achieving a purpose which is legitimate; (ii) based on reasonable and objective criteria, and (iii) proportionate to the aim to be achieved.

2.34 The committee intends to write to the Minister for Tertiary Education, Skills, Science and Research to seek further clarification as to whether the substantial fee increases (of up to 270%) are consistent with the right to work.

