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Employment Policy Department

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Working Paper No. 248

2019

Preliminary review
of country studies on
occupational licensing
Benefits and Shortcomings in
Limiting Entry on the Labour Market

Anne Richmond

Employment
and Labour
Market Policies
Branch



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Foreword

The Ministry of Labour of the Palestinian Authority, the Palestinian General Federation of Trade Unions and the Palestinian Chamber of Commerce, Industry and Agriculture, jointly formed in a tripartite committee, requested ILO support in 2014 to design and implement a pilot on occupational licensing. Part of the design process is a review of practices in selected countries, presented here. This review looks into why many countries limit entry to the labour market, how they organize this restriction, and for what impact.

The paper is the first attempt of the ILO to review existing occupational license systems. It is constrained by the lack of data on their functioning, and by insufficient documentation on their impact. The paper is therefore not a sufficient analysis of this complex subject, but we still want to share tentative lessons learnt that emerge from the exercise as they can prove useful to our constituents. More remains to be done, including through detailed impact research that identify counterfactual scenarios.

In a context of high unemployment, occupational licensing seems a counter-intuitive project, as it limits entry on the labour market, and constrains its ability to adapt to a limited demand. The review of five country studies in Jordan, Egypt Tunisia, Germany and USA looks at declared purposes and documented impact evidence of occupational licensing systems. It also underlines the core questions that support the establishment, and the running of an occupational licensing system.

It is hoped the review paper will provide helpful insights on the various models of occupational licensing and trigger beneficial tripartite discussions in Palestine for the implementation of this pilot, but also in other countries of the region for the reform of existing licensing systems.

I thank Anne Richmond to put this review together but also Maysoon Al-Remawi, Mary Chapin, Andreas Haupt, Nagwa Ibrahim and Néjib Talmoudi who produced the country studies that form the basis for this paper. Last, this exercise is a good example of the collaboration between the Regional Office for Arab States and the ILO Decent Work Team for North Africa, to identify possible answers to employment challenges that spread across the Middle East and North African region.

Ruba Jaradat
Director, Regional Office for Arab States
Assistant to the Director General

Srinivas Reddy
Chief
Skills and Employability
Branch

Contents

Foreword	iii
Introduction – Occupational licensing: a tool for labour market regulation	1
1. Incidence, scope and trends of occupational licensing.....	1
1.1 Occupational licenses are a common occurrence in the formal economies of the countries reviewed	1
1.2 Even an imperfect comparison of the scope of occupational licensing between countries reveals important differences	1
1.3 The overall growing trend in occupational licensing is based on country specific contexts	2
1.4 Occupational licensing is an element of universalist / exceptionalist approaches to labour market regulations.....	4
1.5 Occupational licensing is also contingent of the status of national skills development systems	4
2. Governance and enforcement	5
2.1 The authority for occupational licensing may be kept by the State or delegated.....	5
2.2 Implementation relies on a mix of incentives and coercive enforcement methods.....	6
3. Intended purposes documented impact of occupational licensing	11
3.1 Occupational licensing is described as a strategy for achieving multiple (and potentially conflicting) objectives.....	11
3.2 Impact of occupational licensing is mixed in developed economies and poorly documented in developing ones	13
Tentative Conclusions	19
Additional References and Resources	23

List of Tables:

Table 1: Overview of country study information on occupational licensing	1
Table 2: Key features of occupational licensing systems in the countries reviewed.....	5
Table 3: Additional features of occupational licensing systems in the countries reviewed	7
Table 4: Information management in occupational licensing systems in countries reviewed	8
Table 5: Financing of occupational licensing systems in countries reviewed.....	9
Table 6: Financing of occupational licensing systems in the UK	9
Table 7: Stated objectives of occupational licensing systems in the countries reviewed.....	12

List of Figures:

Figure 1: Distribution of types of occupations licensed	2
Figure 2: Proportion of licenses in the workforce	3
Figure 3: Comparison in the time-trends of two Labor Market Institutions: Licensing and Unionization in the USA	16

Introduction – Occupational licensing: a tool for labour market regulation

Occupations may be regulated in a number of ways. The state may require an individual to register with an appropriate national or sector based agency, and may include a fee or bond – this enables some general oversight of who is practicing in a specific area. The second level is certification, which also requires an individual to pass some form of examination to ensure s/he has reached a required level of competency. The most restrictive is the licensing, which includes all of the former requirements for those practicing an occupation, and specifically excludes anyone not licensed from performing the occupation.¹

- For the purpose of this review, occupational licensing is the process of compulsory registration of certain categories of workers for them to access and practise their occupations (or certain tasks of their occupations), based on a required level of competencies.

Article 23.1 of the Universal Declaration of Human Rights states that “(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.”² However, the right of free choice of employment, and free exercise of different occupations, is in fact limited by most states for some occupations through regulation and the establishment of occupational licenses, “for a greater public good”.

From an economic point of view, the labour market should be in a position to clear itself i.e. the demand and supply of work on any given market should define an optimal price for work for a given occupation. However, for specific technical work, there are information asymmetries where the employer does not have the required knowledge for recruitment. In these cases, an occupational license will provide a certitude that the recruited worker has the required competencies for the work. Further, it will prevent non-competent workers from undertaking the assigned tasks, “for a greater public good”.

This paper explores how Egypt, Germany, Jordan, Tunisia and the USA implement an occupational licensing system, the reasons for it, and, to the extent possible in a limited review, the impact of such a system. The countries were selected based on a mix of countries from the region, and prominent examples of occupational licensing systems in OECD countries. The selection was also based on the availability of at least some documented evidence for desk review. Skilled and technical level occupations are the main focus of the review.

The review is based on five country studies commissioned between 2013 and 2015 on these countries’ occupational licensing systems.

- Al-Remawi, Maysoun S., “Occupational Licensing System in Jordan” (2014);
- Chapin, Mary, “Occupational Licensure in the United States: A case study of Massachusetts” (2014);
- Haupt, Andreas, “Occupational Licensing in Germany: Background paper for the ILO” (2015);

¹ Many sources use these three definitions, a core source is: Kleiner, Morris M., *Stages of Occupational Regulation: Analysis of Case Studies* (W.E. Upjohn Institute for Employment Research, 2013).

² Universal Declaration of Human Rights, United Nations General Assembly <http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>.

-
- Ibrahim, Nagwa, “The Work Licensing Systems in Egypt” (2013);
 - Talmoudi, Néjib, “La certification des personnes en Tunisie” (2013).

The process was an iterative one, as new questions and issues came to light during the research. The final document significantly went beyond the original set of questions agreed at the start. At the same time, the authors of the five papers and of the review faced some challenges. While there has been considerable study of occupational licensing in the USA, there is relatively little analysis about occupational licensing in the EU³ and in developing countries, exacerbated in the latter by limited availability of data. Also, occupations may be defined at higher level of classification (often in US and Germany), or for highly specified occupations within a sector (e.g. operation of a specific type of machine), especially in Jordan or Egypt, which makes comparison difficult. The final document as it stands provides preliminary guidance for the design of the pilot in Palestine, but further research on the subject will be needed at regional and global levels.

³“Brief – Government Regulation of Occupations”, Summary of the CEP symposium, http://cep.lse.ac.uk/_new/events/event.asp?id=66.

1. Incidence, scope and trends of occupational licensing

1.1 Occupational licenses are a common occurrence in the formal economies of the countries reviewed

Occupational licensing affects a significant proportion of the workforce in the studied countries, anywhere from 1/6 to almost 1/3 of all those in the formal sector. Researchers have found for instance that up to 35 per cent of all those employed in the US had some form of government-issued certification for some aspects of their job.⁴ Professional level occupations including lawyers, physicians etc., account for up to ¼ of all licensed occupations in the countries under review.

Table 1: Overview of country study information on occupational licensing

	Estimated total number of licensed occupations (by title)	Top two most common types of occupational groups licensed (other than profession)	Proportion of Education, Health and Governance within licensed occupations	Estimated proportion of the total (formal) workforce in licensed occupations
Egypt	415	<ul style="list-style-type: none">• Construction, Maintenance and Industry• Commerce and trade	2%	No data*
Germany	56	<ul style="list-style-type: none">• Health• Education	55%	14%
Jordan	590	<ul style="list-style-type: none">• Construction, Maintenance and Industry	6%	24%**
Tunisia	41	<ul style="list-style-type: none">• Commerce and Trade• Health	17%	No data
USA (MA)	221	<ul style="list-style-type: none">• Health• Transport	33%	28%

1.2 Even an imperfect comparison of the scope of occupational licensing between countries reveals important differences

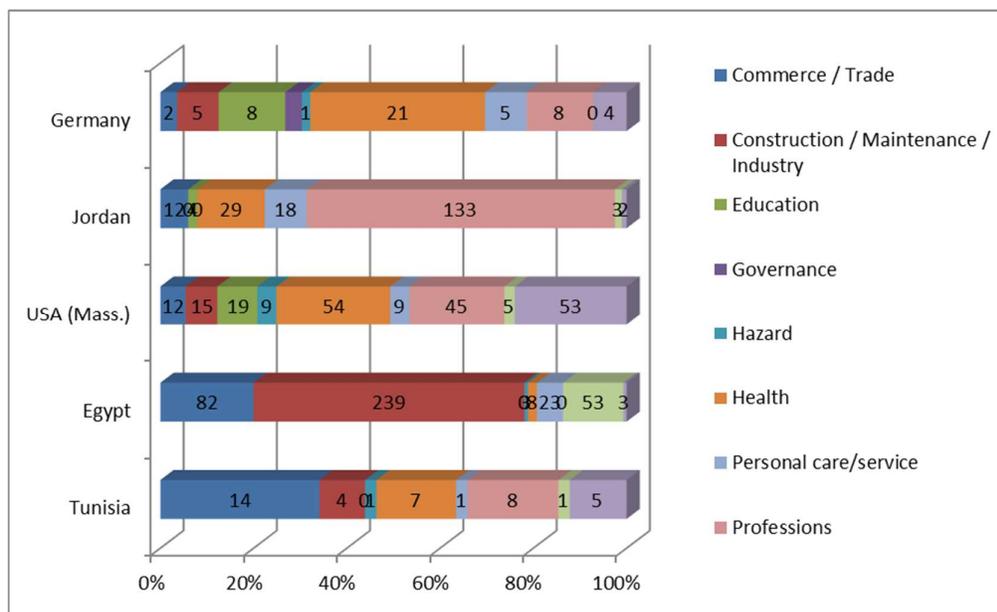
With over 1,300 different occupational titles used in the five countries, little correspondence with ISCO titles, and profound differences in scale (with only 50-some licensed occupations in some countries, and many hundreds in others) occupations were grouped into broad types to allow for comparison.

⁴ Kleiner, Morris M., and Krueger, Alan B., “Analyzing the Extent and Influence of Occupational Licensing on the Labor Market”, *Journal of Labor Economics*, 31.2 (2013).

*NB that all formal sector employment in Egypt requires a “Work Permit” specifying occupation.

**Figures on the proportion of the active Jordanian labour force in licensed occupations as compared to non-licensed are difficult to obtain, partly because the numbers of licensed individuals are maintained separately by the various licensing authorities; and because the overall labour force statistics are available only at a very high level of occupational definition. This figure of almost 24% should not be considered definitive, as there is no way to tell which of the graduates went on to work in the occupation, and how many previously qualified individuals are still working, etc.

Figure 1: Distribution of types of occupations licensed



Even at this level of aggregation there are some significant differences between the distribution of types of occupations licensed for each country. Germany and the USA (Massachusetts only plus all federal-level regulated occupations) both have the largest percentage of regulated occupations in the area of health (38 per cent and 24 per cent respectively), with Germany having a further 14 per cent in Education, and Massachusetts 24 per cent in transport – largely required by Federal level regulations.

In Tunisia, by contrast, the largest percentage of regulated occupations fall into the areas of trade and commerce, with a range of sales, finance and IT occupations. Nearly 60 per cent of Egypt and 66 per cent of Jordan’s licensed occupations are in the fields of Construction, Maintenance and Industry, with many very highly detailed and specific occupations regulated individually, and tested at different levels of competence. Egypt also regulates occupations in the Commerce and Trade areas and in resource management (chiefly agricultural and related processing occupations). The actual share of professional level occupations is also larger than it appears in Egypt, as all higher education qualifications (lawyers, doctors, pharmacists, engineers etc.) do require a license, but available data did not include the list of all these occupations.

Another point to consider is that regulation and occupational licensing for professionals seems to have more similarities and common interests across countries than licensing for lower skilled occupations. Professional associations are also usually able to play a dominant role in determining if and how they will be regulated, and in many cases to have the licensing process delegated to them. Technical occupations, by contrast, may not benefit from such a power, partly because of the erosion of the influence of unions and sometimes their limited interest in the subject.

1.3 The overall growing trend in occupational licensing is based on country specific contexts

According to a January 2014 report by the US Bureau of Labor Statistics, “occupational licensing is among the fastest growing institutions in the U.S. economy. In the 1950s, about 4.5 per cent of the workforce was licensed by state governments. By 2008, approximately 29 per cent of the U.S. workforce was licensed by any level of government, and more than

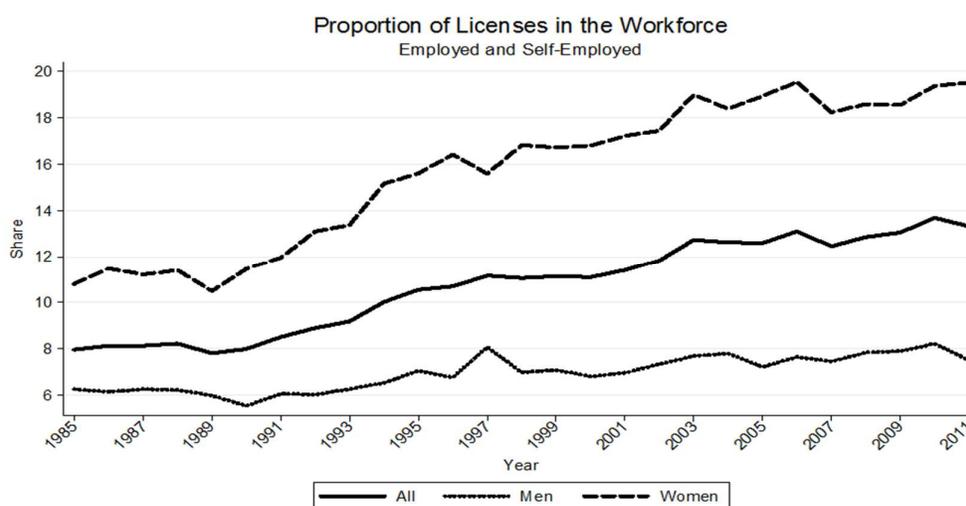
800 occupations were licensed by at least one state in the 1990s. The latter statistic compared with about 12.4 percent of the workforce who said they were union members in the Current Population Survey (CPS) for the same year”.

The proportion of workers who were required to hold a license to do their job was about 22 per cent of the Massachusetts workforce in 1999 and 28 per cent of the workforce in 2013. There were three main drivers for increased numbers of licensed occupations and individuals with licenses:

- Relative growth in jobs where licensing has typically been required (particularly health and personal care occupations) at the expense of occupations in manufacturing or other areas which were not licensed.
- Within that, particularly in health, an interest in defining specific occupations so that services can be directly billed to insurers rather than under the authority of a medical professional.
- The growth in new occupations where licensing is seen as appropriate, specifically child- and elder-care occupations (replacing unpaid work done mainly by women); and hazardous waste handling and hazardous site remediation.

In Germany,⁵ the share of the employed and self-employed workers holding licenses has grown from 8 per cent to 14 per cent. The increase was driven largely by occupations dominated by women and by the number and share of women in the workforce. In 2011, 25 per cent of self-employed women hold a license, over half of all licensed self-employed were women and almost 75 per cent of all employees with a license were women. In Germany, occupational licensing is strongly associated with the public sector, and in the USA the public sector accounts for the largest growth in both occupational titles licensed and individuals with those licenses. By contrast, in Egypt and Jordan, the largest numbers of licensed occupation are for the private sector construction, maintenance and industry.

Figure 2: Proportion of licenses in the workforce



⁵ GSOEP v. 27 data, compiled by Dr. Andreas Haupt for the ILO Background paper on Germany.

In contrast to nationally established licensed occupations, there is also a growing number of internationally recognized industry-specific or brand-specific certifications⁶ in areas such as IT systems, which may be used by employers as a prerequisite for employment. Employers may also require certificates in areas such as health and safety or communications as a condition of employment.

While these certificates are voluntary, in practical terms they are required by employers for some occupations. This approach offers many of the benefits of licensing: defined set of competencies, objective assessment, pre-qualification for employment, without the costs falling directly on governments. And because the training and certification is issued by a company, it is in their interests to ensure that certificate-holders are up-to-date in their skills. A major disadvantage is that certification may also be specific to a particular company / product and may limit labour mobility.

1.4 Occupational licensing is an element of universalist / exceptionalist approaches to labour market regulations

Occupational licensing does not exist in a vacuum. Each country's approach to regulating their labour market will inform its approach to licensing. At one extreme is a "quasi universalist" approach to occupational licensing, within highly regulated labour markets (such as in Egypt). At the other end of the spectrum are countries that apply an 'exceptionalist' approach to occupational licensing, where all citizens have the right to practice any occupation, with specific, limited exemptions made on the basis of public interest (such as in Germany).

1.5 Occupational licensing is also contingent of the status of national skills development systems

Occupational licenses are generally granted on the basis that an individual has demonstrated knowledge and skills meeting the requirements of a specific occupation (especially for skilled / technical level occupations). There is a strong emphasis in Jordan, Egypt and Tunisia on training and certification to ensure that licensed individuals are qualified to carry out the work of some occupations. However, in Egypt, while there are a wide variety of occupational licenses for many different occupations, the general assessment has been that training systems and resulting licenses do not meet the technical needs of employers and industry, using "outdated or obsolete techniques that are not adapted to meet current workplace needs".⁷

⁶ Carter, Shani D., "The Growth of Supply and Demand of Occupational-Based Training and Certification in the United States, 1990-2003", *Human Resource Development Quarterly*, 16.1 (2005).

⁷ *Egypt@Work: A Labour Market Assessment of Post-Revolution Egypt* (International Youth Foundation, 2013).

2. Governance and enforcement

Licensed occupations are established through laws or decrees that may be more or less specific in terms of defining the scope, tasks, criteria, and governance / enforcement system. By governance we mean here the process and responsibility to set standards and rules for entering an occupation, practising it, being sanctioned or excluded from it in case of non-compliance.⁸

2.1 The authority for occupational licensing may be kept by the State or delegated

Some occupations may be self-regulated - especially at professional levels - meaning that members of the profession are organized in a professional association, college or council with delegated authority from government for governance. Examples of professional self-regulatory bodies include the General Medical Council (Physicians, UK) The Law Society of Upper Canada (Lawyers, Canada). However, for licensed occupations which are not self-regulated, governance is carried out by regulatory bodies established for the purpose, either as part of a line Ministry or Ministry of Labour, or as a publically mandated organization (College, Board, Commission, etc.). Engineers in the USA for instance are governed by a State Board and their codes of practice are established in state law.

The following table summarizes some of the key features in the countries under review. However, it should be noted that most countries will have a number of different approaches – for example, in Jordan all Health occupations are licensed by the Ministry, while other occupations are licensed by CAQA; and in Tunisia, it is the responsible Ministry that determines the ‘schedule’ for a specific occupation and issues licenses other than those for professionals.

Table 2: Key features of occupational licensing systems in the countries reviewed

	How Licensed occupations are established	Administrative bodies	Licensure based on	Duration of license	Role of Industry/ Employers
Egypt	All occupations (except health ones) are regulated by the Ministry of Manpower and Migration	Ministry of Manpower and Migration,	Skill test administered by Ministry	License valid for 5 years, fee for renewal	Industry involved in developing skills standards as the basis for testing.
Germany	Laws relating to specific occupations at Federal or State level	Ministry and professional associations	Education and examination	Proof of ongoing education required for medical professions.	Professional Chambers lead in developing training criteria.

⁸ Adapted from Balthazard, Claude (Director HR Excellence and Registrar), “What Does It Mean to Be Regulated?”, *Human Resources Professionals Association*, 2008.

<http://webcache.googleusercontent.com/search?q=cache:coMZbCsKis0J: www.hrpa.ca/Regulation andHRDesignationDocuments/ProfessionalSelfRegulationandtheHumanResourcesManagement ProfessioninOntarioAugust2008.pdf+&cd=7&hl=en&ct=clnk&gl=ca>, accessed January 2015.

	How Licensed occupations are established	Administrative bodies	Licensure based on	Duration of license	Role of Industry/ Employers
Jordan	Cabinet Decree establishing Regulated Occupations	Centre of Accreditation and Quality Assurance (CAQA) Under MoL, Vocational Training Corporations, Al-Balqa'a Applied University	Education and skill testing	Fees are required to renew CAQA and Traffic Department issued licenses. Licenses issued by educational institutions do not need renewal	Industry involved in developing skills standards as the basis for testing.
Tunisia	Specifications for Regulated Occupations published in Official Gazette of the Government	Ministries; delegated Professional Associations	Education and examination	-	
USA	Laws relating to specific occupations at Federal or State level	Boards of Licensure established under legislation	Education and examination	Renewals based on meeting required continuing education and other requirements+ fee. Terms vary.	Industry/ Employers have important role in Boards.

2.2 Implementation relies on a mix of incentives and coercive enforcement methods

Among the five countries studies it is interesting to observe that labour inspectors do not commonly appear to have lead responsibility for inspecting licenses. In the USA and Jordan license inspection is a specialized task for license inspectors (although in Jordan this function is under resourced and little used) and Germany's approach relies more on employer supervision. Ministry of Manpower and Migration inspectors in Egypt appear to focus on employers' responsibility to hire licensed employees.

Enforcement of occupational licenses may be mainstreamed as part of inspections of various regulations

Where occupational licenses are also associated with the right to operate a business, business and commercial inspection may address licensing, or licensing inspection (as in the USA) will include inspection of the business premises and operations.⁹ License inspection and enforcement may also occur through the enforcement of related laws, such as traffic laws in Jordan. Traffic police will examine driving licenses of all types as part of their traffic duties.

⁹ For example, barber license investigations consider issues such as size, cleanliness and health and safety practices of the shop as well as the practice of the licensees.

Enforcement can be pro-active and/or reactive

Inspections may also be pro-active, such as regular monitoring, spot checks and audits; and/or reactive, based on complaints. Licensing Boards in the USA do both pro- and reactive inspections, for example, using their administrative records to identify individuals who have not met continuing education requirements, as well as following up on complaints. For most occupations in Germany the regime appears to be more reactive, although professional Chambers do maintain records on the activities of their members. The large numbers of licensed occupations in Jordan and Egypt and the relatively small number of inspectors (at least in Jordan) seriously impacts the amount of inspection that can be done, whether pro- or re- active

Table 3: Additional features of occupational licensing systems in the countries reviewed

	Inspection Authority	Focus of Inspection or enforcement	Sanctions	Complaints system	Inspection Authority
Egypt	MoMM – Ministry Inspectors	Workplaces – correct licenses for employees	Fines on employers on unlicensed employees	Complaints against MoMM for failing to issue licenses in a timely way or for demanding additional fees are accepted by higher authorities in the Ministry.	MoMM – Ministry Inspectors
Germany		Appropriate use of occupational title	Individuals may be 'banned' from practice through a court order if they do not meet requirements for license.	Professional associations (Chambers) receive and investigate complaints regarding practice of their members.	
Jordan	VTC Occupational Inspectors, Ministry of Health, Traffic police.	Workplaces – correct licenses for employees. Correct driving license.	Fines, business closure and/or imprisonment for employers of unlicensed workers		VTC Occupational Inspectors, Ministry of Health, Traffic police.
Tunisia					
USA	Board Inspectors	Appropriate use of occupational title. Quality of practice	Fines, license suspensions, stop work orders	Boards receive and investigate complaints for all licensed occupations	Board Inspectors

Information management plays an important role in the occupational licensing system of developed countries reviewed

Licensing is an information-rich process, requiring extensive records to be kept on individuals and maintained over time. Effective systems require high quality information

management, with adequate resources, whether these are clerical staff and records management processes for paper-based systems, or well designed and resourced electronic information management systems.

One type of incentive for implementation of occupational licenses is the degree to which the system's operations are visible, with the benefits of compliance and disadvantages of non-compliance highly visible. Countries take different paths in terms of the accessibility of information on licensing. Where licensing is a condition of employment or practice, the ability of an employer or client to verify that an individual has the appropriate license is a bare minimum requirement for information management. More broadly, ensuring that licensing does support quality of practice means making more licensing information available to consumers, including information about the behaviour of the licensee such as past complaints, up-to-date continuing education status, and any disciplinary actions.

Finally, the information in licensing records may offer useful data to inform labour market planning: such as the imminent retirement of a significant proportion of practitioners in a particular field, or the lack of practitioners in a geographic area, or lack of employment among licensees suggesting mismatch of licensing requirements with market demand or other factors.

Table 4: Information management in occupational licensing systems in countries reviewed

	Information on licensees maintained by	Employers can check status of individual license	General public can view licensee information	Information maintained on internet	Information used for LM research purposes
Egypt	Civil Status Department	Yes	no	no	
Germany	Licensing body (ministry)	Yes	Limited information for some professions	Some	
Jordan	Licensing body	Yes	no	No	
Tunisia	Licensing body (ministry)				
USA	Licensing body (government administration unit)	Yes	Yes	Yes	Yes

In the USA, it is a matter of public interest and concern to know the status of an individual's licence and how complaints and inspections are handled. Licensing boards are publically appointed and may include non-specialist members of the public; their operations are reported, and the license status of individual licensees is in the public domain.

German enforcement through the court system is public and documented, and professional associations maintain lists of their members. In the case of state medical chambers, they may include a list of practicing members on their websites. However, information about the names and status of licensees who are employed in the public sector may not be available due to privacy concerns.

The country studies show a particularly wide gulf between the practices in the USA in particular, and those of less developed countries (Jordan, Tunisia and Egypt) all of which have acknowledged weaknesses in their labour market information systems and record

keeping generally, which extends to the licensing system. The USA is looking to move even farther into internet-based ‘self-service’ information management, allowing for online registration and information updating processes, to meet goals of greater transparency, efficiency and reduced cost.

The financing scheme adopted depends very much from the level of delegation

Licensing systems that rely primarily on state institutions for administration are likely included in state budgets, but revenues from their operations would also flow into their operations. The US system of Licensing Boards aims to have the Boards be self-sufficient, using the income from licensing, training, fines etc. to fully support their operations, including that of the state’s administrative support. German professional Chambers are member-funded corporations.

Table 5: Financing of occupational licensing systems in countries reviewed

	Financing
Egypt	Fees are charged for all tests, licensing is by the state from state budget
Germany	Licensing is at the State’s expense
Jordan	Fees are charged for some tests but overall the State funds the system
Tunisia	State funded (?)
USA	Fully or partially funded by income from fees, levies on regulated industries and fines, plus state funding.

Another example (outside the five countries reviewed) is the system adopted in the UK, as reviewed by the UK Department for Education and Skills¹⁰, which have fees charged for licensing and renewals at a level sufficient to support the operation of the licensing authority:

Table 6: Financing of occupational licensing systems in the UK

Authority	Annual budget	Number of licensees	Budget per licensee	License and renewal fees
CORGI (Plumbing, Gas)	£11 million	95,000	£113	£195 for first registration, £176 annually + £53 per year per licensed employee
Hackney Carriage (Taxis)	£6 million	20,500	£240	£240 for three years (London) £561 initial and £361 annually (Birmingham)

¹⁰ Frontier Economics, *An economic review and analysis of the implications of occupational licensing*, UK Department for Education and Skills, Report No. 467 (2003).

3. Intended purposes documented impact of occupational licensing

The recent « Macron Law » in France, of the name of the Minister of Economy, tackles among other things 37 regulated occupations with high profit margins that are seen as “not justified other than by existing regulations” (a) on activities that require to be a member of a profession, (b) on regulated fees, (c) on minimum requirements of qualifications, (d) on restrictions on setting a business and access investment.

The report prepared for the new law acknowledges that existing regulations contribute to public good and economic efficiency, because of the lack of expertise of the consumers on the quality and relevance of the proposed services, possible wrong pricing of the services and possible conflict of interests.

However, it also analysed that in some cases these regulations prevented competition to happen and the optimum match of supply and demand of services.

3.1 Occupational licensing is described as a strategy for achieving multiple (and potentially conflicting) objectives

These objectives include:

- A. Protecting the public where individual consumers have limited ability to judge the quality of a product/service and where the consequences of poor quality are severe;¹¹
- B. Enhancing the consistency and predictability of the production outcomes in a context of greater focus on accountability mechanisms in the world of work;¹²
- C. As an element of skills recognition, within a country and for labour migration – especially in the context of promotion of the free movement of workers, like in the EU;¹³
- D. Improving the attractiveness of some occupations that are affected by “prestige reservations” – like it is often the case for semi-skilled / skilled levels occupations;¹⁴
- E. Legitimising national or sector organizations that manage licenses and serve as a basis for collective bargaining, which should lead to increased wages and earnings for workers of the occupation;¹⁵
- F. Limiting the supply of workers in an occupation in order to improve workers’ earnings and sometimes in order to protect the environment – for instance in the fishery sector;
- G. Contributing to increase fiscal revenue.

¹¹ Balthazard, C., “What Does It Mean to Be Regulated?”, *Human Resources Professionals Association*, 2008.

¹² Kleiner, Morris M., “Regulating Occupations: Quality or Monopoly?”, *W.E. Upjohn Institute For Employment Research*, Employment Research Newsletter, 13.1 (2006).

¹³ US and Canadian literature on this subject emphasize the degree to which licensing creates barriers to recognition of migrants’ qualifications, include state-to-state movement within a country. For example Peterson, et al., “Doctors With Borders: Occupational Licensing as an Implicit Barrier to High Skill Migration” (2013), but the EU has explicitly ruled that professional licenses should be recognized across member States.

¹⁴ See Groh, Matthew; McKenzie, David; Shammout, Nour; Vishwanath, Tara (2014).

¹⁵ Ibid, also Weeden (2002), Timmons and Thornton (2008).

The countries reviewed had some explicit or implicit references to using occupational licensing as a means to improve the quality of services or products. In Germany and the USA the focus appears to be more on eliminating poor quality practice, whereas the Jordan National Agenda of 2005 and the National Employment Strategy 2012 both emphasized the need for better and more relevant technical skills for Jordanian workers and included the development of occupational licenses as part of the approach. In Germany, occupations may only be licensed if they produce a public good, defined as: public health; public security; education; and state functioning. There is an obvious advantage to have Medical Doctors, Heavy Equipment operators and fishermen licensed. Where the general test of public good is not met (for example, in the case of motor vehicle technicians, cleaners, optometrists and cooks), the occupation may not be licensed.¹⁶

Stated objectives in the reviewed countries can be categorized as follows:

Table 7: Stated objectives of occupational licensing systems in the countries reviewed

	Improving the quality of services/products	Improving status, wages and earnings for those in the occupation	Protecting individual consumers	Supporting skills recognition, mobility
Egypt	Yes, in that minimum skill standards are established in many occupations.	No direct link to earnings.	Not directly linked	Licensing is based on training and/or assessment. Licenses are a requirement for migration to some countries
Germany	Yes, minimum standards established.	Reduced male-female wage gaps within licensed occupations compared to non-licensed	Explicit state focus on ensuring /protecting the public interest	German professional licenses are accepted for practice within the EU
Jordan	Yes, explicit goal is to reduce poor practice and reinforce up to date practice.	No direct link to earnings.	Not directly linked	Explicit goal to ensure new entrants to labour market are job-ready. Licensing is linked to training.
Tunisia	Yes.	No	No	Government encourages the use of internationally recognized certifications.
USA	Yes, minimum standards established	Wide variation, but generally accepted that licensing does lead to higher wages, but factors other than licensing also at play	Yes, strong focus with emphasis on effective complaints mechanism.	Limited inter-state recognition of licenses, do not support mobility.

¹⁶ Judgement of the First Senate of the German Constitutional Court from June 11th 1958.

3.2 Impact of occupational licensing is mixed in developed economies and poorly documented in developing ones

Opponents of occupational licensing are numerous. They include those who see licenses as an element of corporatism that prevents markets to function in an optimal way, as it limits the number of new entrants. At the other end of the spectrum opponents also include those who see licenses as part of standardisation trends that may jeopardize the professional autonomy of workers – especially for professions that are client centered and require a great deal of adaptation (in the health sector for instance).¹⁷

In practice, attacks are often against the ways the occupational licenses are implemented rather than the principles that support their enactment.¹⁸ Artificial limits on the numbers of workers in an occupation or restrictions on the recognition of licenses from other states may benefit individuals in an occupation but not the public. Certification requirements which are outdated may not lead to quality products or services. High costs for licensing and weak enforcement may contribute to growth of unlicensed/informal providers. Systems which do not include adequate resources for monitoring or a robust complaints system may not lead to quality of practice. In addition, most licensing system provides ample opportunities for corruption.

There are inconclusive results linking licensing and product quality

Studies in the USA have addressed the question of whether licensing an occupation leads to improved quality, with some discerning no difference between the products of an occupation licensed in one state and not another;¹⁹ and others associating positive outcomes from a social service with the use of licensed staff, although many other factors also contribute to those outcomes including funding, programme design, etc.²⁰ A medical review found no evidence documenting the impact of accreditation, licensure or certification on clinical performance or health outcomes.²¹ A recent US Bureau of Labor statistics study of electricians found no statistically valid relationship between occupational regulation and injury or death rates for those in the occupation.²²

Occupational licensing may have a negative impact on employment

Studies in the USA suggest that the growth rate of occupations is negatively affected by licensing. Because most occupations are licensed at the state level, comparisons between states which do and do not license a particular occupation are possible, and show that

¹⁷ Monika Nerland and Berit Karseth (2015).

¹⁸ See on next page the box on the new “Macron law” in France.

¹⁹ Carpenter, Dick M., “Testing the Utility of Licensing: Evidence from a Field Experiment on Occupational Regulation”, *Journal of Applied Business and Economics*, 13.2 (2012).

²⁰ “Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs” (American Academy of Pediatrics, 2011).

²¹ Institute of Medicine (US) Committee on the Health Professions Education Summit, *Health Professions Education: A Bridge to Quality* (National Academies Press (US), 2003).

²² U.S. Bureau of Labor Statistics, *Life, Limbs, and Licensing: Occupational Regulation, Wages, and Workplace Safety of Electricians, 1992–2007*, Monthly Labor Review, January 2014.

employment in occupations grows 20 per cent faster in states without licensing.²³ However, where licensing is a requirement for employment in growing sectors, as in licensed occupations in health and education in Germany and the USA, there may be very high growth in the numbers employed in a licensed occupation – for reasons that may not be related to licensing per se.

There are positive wage impact of licenses in developed economies

Professional licensed occupations (Physicians, Lawyers, etc.) have achieved high earnings and high status in part by possessing a highly specialized (and valued) body of knowledge and practice, and securing sole rights to deliver their services through licenses. They are among the earliest licensed occupations in the USA and Germany, and continue to be licensed in most countries. Earnings for professionals may include fees charged for service and wages where they are employees. As an example for physicians working for public hospitals²⁴ the professional association may serve as the bargaining agent.

In addition, in many countries physicians may be contracted by a hospital or healthcare provider on a fee-for-service basis, with fees established through negotiations between the professional association and the payers (which may include insurers).²⁵ Professional fees may be established at “market rates” and based on the agreement of the professional and client, or may be regulated to some extent. In Germany a specific law establishes fees for legal services. Fees lower than the statutory levels may not be charged, and there are conditions attached to negotiating higher fees.

US research focuses on the differences in earnings between individuals in the same occupation working in states that do and do not require licenses, and on the changes in earning when licensing requirements are introduced. Such studies suggest that there are positive wage impacts, for example on radiologists where an increase of 3-6 per cent was experienced in states where licensing was introduced compared to those where it was not.²⁶

Kim Weeden,²⁷ an American researcher, has explored the ways that “social closure” – creating legal and social barriers around occupations – raise the rewards of workers by restricting labor supply, enhancing and/or channeling demand, and signaling quality. In a study of almost 500 occupations in the USA, she found a 9 per cent premium on wages from licensing.

²³ Kleiner, Morris M., “Occupational Licensing: Protecting the Public interest of Protectionism?”, *W.E. Upjohn Institute For Employment Research*, Policy Paper No. 009 (2011).

²⁴ Buchan, James, Ankit Kumar, and Michael Schoenstein, *Wage-setting in the hospital sector*, Health Working Papers, OECD Health Working Paper No. 77 (OECD, 2014).

²⁵ Rodwin, et al. (Wagner School of Public Service, New York University), “Updating the Fee Schedule for Physician Reimbursement: A Comparative Analysis of France, Germany, Canada, and the United States”, in *Updating the Fee Schedule for Physician Reimbursement: Comparative Analysis of Selected Experience Abroad and of Policy Options for the United States* (Physician Payment Review Commission (PPRC), 1989), <http://www.nyu.edu/projects/rodwin/update.html>.

²⁶ Timmons, Edward, and Thornton, Robert, “The Effects of Licensing on the Wages of Radiologic Technologists”, *Journal of Labor Research*, 29.4 (2008).

²⁷ Weeden, Kim, “Why do some occupations pay more than others?”, *American Journal of Sociology*, 108.1 (2002).

German data²⁸ show that there has been a net positive impact on wages of about 10-16 per cent independent of the qualification level of the occupation. It also shows that the gender wage gap in licensed occupations is smaller than for other occupations. However, it should also be noted that the majority of German licensed occupations are in the public sector, where earnings for men are generally lower than in the private sector; and where there is a centralized wage setting mechanism²⁹. German judges for instance have recently raised concerns about inequality of wage rates between different states through their professional association,³⁰ but do not have direct negotiating power.

In Jordan, Egypt and Tunisia, occupational licenses are a requirement for practice in many occupations and there is no counter-factual evidence of its impact on income.

Occupational licensing may prevent workers in informal sector from accessing formal jobs

In this respect, it is also interesting to note the complex relation between the importance given to labour market regulation, enforcement capacity, and the size of the informal economy. While occupational licensing is intended to bring standards in the labour market, over-regulation beyond enforcement capacity may actually be counterproductive in terms of formalization of the labour market, by restricting the access of poor and qualified informal workers to formal jobs.

Yet it can also be argued that licenses provide a means for recognition of prior learning. In particular, when they are not based on a certificate following formal training but only on a performance assessment, as is the case for several occupations in Egypt. A license may then improve chances to obtain a formal job.

Further, where licensing requirements include requirements such as “good character”, age or citizenship they may be operating more to exclude entrants than in the interest of the public good or quality of service.³¹ Studies in the USA also suggest that occupational licensing requirements may operate as a barrier to participation by minority or disadvantaged groups, due to the costs involved and requirements not connected to the tasks of the occupation.³²

²⁸ Longitudinal analysis by Dr. Andreas Haupt, who states: “My longitudinal analysis shows an increased gap between licensed and not licensed occupations from 1985 to 2011. The mechanism behind that is NOT an increase in occupational power of licensed occupations but the increase of low paid work in Germany since the middle of the 90s.”

²⁹ Dickson, et al., *The Lifetime Earnings Premium in the Public Sector: The View from Europe*, Discussion Paper Series, IZA DP No. 8159 (Institute for the Study of Labor, April 2014).

³⁰ For example: the German Association of Judges (Deutscher Richterbund (DRB)) supports legal education, advocates for the interests of its members including pay and working conditions. <http://www.drb.de/cms/index.php>

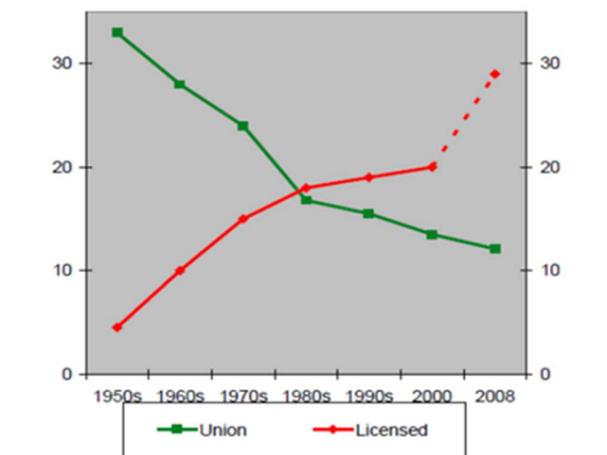
³¹ Moore, Thomas G., “The Purpose of Licensing”, *Journal of Law and Economics*, 4.93–117 (1961).

³² Dorsey, Stuart, “Occupational Licensing and Minorities”, *Law and Human Behavior*, 7(2/3).171–81 (1983); and Hazlett, Thomas W. and Fearing, Jennifer L., “Occupational licensing and the transition from welfare to work”, *Journal of Labor research*, 19.277-294 (1998).

There may be an inverse relationship between occupational licensing and unionization

Some authors³³ have suggested an inverse relationship between licensing and unionization³⁴, with unionization declining and licensing rising in the USA. In practise, some occupations – in particular public sector ones in education and in health - may be both licensed and highly unionized, but professional associations rather than unions have taken the lead in occupational licensing.

Figure 3: Comparison in the time-trends of two Labor Market Institutions: Licensing and Unionization³⁵ in the USA



Licensing can contribute to improved migration – but there are many hurdles along the way

In the USA, because most licensing is at the sub national (state) level, licensing frequently operates as a barrier to mobility where one state’s licensing board does not recognize the qualifications of a licensed individual from another state.³⁶

The European Community has established rules regarding recognition of professional qualifications between member states in Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications. This is aimed at licensed occupations within member states and specifically notes:

- (18) There is a need to simplify the rules allowing access to a number of industrial, commercial and craft activities, in Member States where those professions are regulated.

³³ 2011 research quoted in: Kleiner, Morris M., *Stages of Occupational Regulation: Analysis of Case Studies*, *ibid*.

³⁴ Meaning: organizing as a union to establish wages and working conditions through collective bargaining.

³⁵ Kleiner, Morris M., and Krueger, Alan B., “Analyzing the Extent and Influence of Occupational Licensing on the Labor Market”, *ibid*.

³⁶ Peterson, et al., “Doctors With Borders: Occupational Licensing as an Implicit Barrier to High Skill Migration” (2013).

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- (19) Freedom of movement and the mutual recognition of the evidence of formal qualifications of doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects should be based on the fundamental principle of automatic recognition of the evidence of formal qualifications on the basis of coordinated minimum conditions for training.³⁷

Germany has recently (2012) passed a new “Recognition Act” intended to simplify and standardize procedures for evaluating foreign professional and vocational qualifications governed by federal law, with the intent of securing skilled workers and enabling them to integrate into the German labour market.³⁸ German sub-national authorities (Lander) are also amending legislation in line with the federal act and the EU Directive (noted above).

A recent review of professional organizations observes that professions operate within a context of increasing international regulation. In Europe this has led to the development of professional federations at a European level, focused on aligning educational requirements and standards of practice within a Europe-wide market for professional services.³⁹

There are no frameworks for mutual recognition of certificates among Arab States. Beyond the regulatory framework established by the EU, a general mistrust and/or fear of “social dumping” have hindered the recognition of foreign occupational licenses / certificates in the member states.

³⁷ http://ec.europa.eu/internal_market/qualifications/policy_developments/legislation/index_en.htm#maincontentSec1.

³⁸ http://www.anerkennung-in-deutschland.de/html/en/federal_recognition_act.php

³⁹ Nerland, Monika and Karseth, Berit, “The knowledge work of professional associations: approaches to standardisation and forms of legitimization”, *Journal of Education and Work*, 28:1. 1-23 (2015).

Tentative Conclusions

As indicated, the goal of the review was to identify the right questions to be asked to help MENA countries design and review occupational licensing systems. Conclusions and recommendations are summarized in the 10 questions and answers presented below.

1. What tasks / occupations to be licensed?

The purpose of occupational licensing is to benefit public good either by increased quality of services, improved public safety etc. It is important to define by law the exact criteria for this “public good” in order to focus exclusively on the occupations that actually matter for licensing, and avoid over-regulating the labour market.

Occupational licensing may also focus as a matter of priority on occupations for which the relevant education and training is available, with sufficient quality. Otherwise certification cannot be used as a way to screen competent graduates that fit job requirements.

It is also important to keep the definition of occupations / tasks sufficiently general to avoid the shift of non-licensed workers to adjacent occupations that are not licensed - and therefore easier to access.

2. What skills standards to be enforced? With what levels?

Skills standards can be found at national, sectoral, regional or increasingly at international level. Standards should be sufficient to ensure workers have required competencies to produce quality work. They may at the same time remain attainable in order not to reduce the labour supply too abruptly for a certain occupation, when the licensing starts. Performance criteria should also be objectively verifiable and unambiguous to avoid interpretation errors that may support discriminatory practices limiting entry on the labour market for certain groups.

3. Will experienced workers have the obligation to go through the licensing process or only the new ones?

If new license requirements are introduced, grace periods / mentoring arrangements may be put in place to avoid a brutal skills shortage. Recognition of prior learning mechanisms may allow workers who learnt their skills on the jobs to be certified as competent.

4. Will the regulation focus on skills levels only? What about the number of licensed workers? Fees? Wages?

A cap on the number of licensed workers may be used when the market is defined and limited – for instance in the fishery sector. At the same time, regulations may also cap the revenues generated by the proposed licensing system, in order to limit inflation implications for consumers. Occupational license systems may also serve as a basis for negotiations on wages between representatives of employers and workers.

5. What will be the frequency and conditions of renewal?

Renewal may be contingent on (a) actual practice of licensee, (b) compliance with product or service quality standards, (c) pace of change in skill requirements due to technological change.

6. What will be the linkages with other types of licenses, benefits and processes?

Linkages of occupational licenses with other licenses and processes may contribute to the effective enforcement of the occupational licenses, but should remain simple enough in order not to constitute a burden for practitioners.

For instance, an occupational license may be required for a business license. Third party payment from insurance companies may also be linked to occupational licenses. Linkages may be established with the education system, as occupational licenses can be organized in various levels linked to education pathways.

Skills recognition agreements between countries can be reached in order for occupational

7. What organization / board in charge of the governance of the scheme, with what exact responsibilities, and what oversight?

Licensing has an impact on employers and workers. The involvement of social partners in the design and the management of occupational licenses is a cost effective way to ensure the system will on one hand remain relevant to the market and also impact the working conditions of the workers. Consumers may also be affected by price changes. All parties may be represented on the licensing board / committee that is empowered to issue and enforce occupational licenses.

8. Will the obligation be for workers to be licensed and/or for employers to employ exclusively licensed workers

Legal obligation may be on both, and fines may target both in case of non-compliance. In case of self-employment, the obligation may also be on the company hiring the services of the sub-contracted individual / company.

9. What are enforcement processes that will be put in place especially to ensure there is no informal lower skills market that is forming for the same occupations?

Enforcement should rely on a mix of methods including (a) mainstreaming of occupational licenses in the scope of various inspections, (b) a user friendly complaint system for all consumers and possible court recourse, (c) campaigns promoting the licenses, (d) maximum disclosure of the available information, (e) fines and potentially revocation of licenses.

10. What is the optimal financing model supporting licensing?

The financial means required to support the testing and certification costs / the costs of issuing licenses / the costs related to monitoring and enforcement should come from various sources to ensure the sustainability of the system. The cost for the user (employer / worker) should be sufficiently low in order to support a wide outreach of the system. Occupational licensing should therefore be subsidized to a level that allows for the system to become sustainable, and for workers of the informal economy to have their skills recognized at a discounted price. Otherwise, occupational licensing may be counterproductive in terms of formalization of the labour market.

Additional References and Resources

The **Council on Licensure, Enforcement and Regulation (CLEAR)** is an international resource for professional regulation stakeholders. It has international membership (USA, Canada, Australia, New Zealand, Ireland, UK) and offers training, resources and reference materials, and national and international conferences and learning events. www.clearhq.org/

The London School of Economics and Political Science Centre for Economic Performance held a BJIR **International Symposium on Government Regulation of Occupations** in March 2009. Numerous papers at the conference provide a range of contemporary perspectives. <http://cep.lse.ac.uk/new/events/event.asp?id=66>

From 2008-2013 the Council of Australian Governments collaborated on the development of a National Occupational Licensing System, including the establishment of a **National Occupational Licensing authority**. The system was intended to remove inconsistencies across State borders to allow for a more mobile workforce. However, when the first set of proposed occupational regulations were released for consultation in 2013, the governments decided not to pursue the National System approach and to explore other means for support mobility. Useful information and research from the initiative remains online at sites such as Licensing Line <http://www.licensinglinenews.com/stakeholder-information/occupational-licensing-overview.aspx>

The European Union maintains a Regulated Professions Database, listing all regulated professions and the respective competent authorities. http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=regProf.listCountry

Economic Review and Analysis of the Implications of Occupational Licensing. UK Department for Education and Skills, Research Report No. 467, “The study concludes that whether occupational licensing would be an effective policy tool in reducing skills deficiencies depends on a number of characteristics of the occupation. The study has highlighted the issues that need to be considered when appraising whether a licensing policy would be effective for a particular occupation. This study has the following high-level findings:

- Occupational licensing can be beneficial in reducing the skill deficiencies for certain occupations. However, this list of potential occupations is relatively limited.
- The types of occupations that can benefit from licensing are those:
 - where there is a clear skill deficiency caused by market failures. The existence of market failures is an important first signal of the need for Government to intervene;
 - for which the skills requirements for an occupation are easily assessable – the types of skills that are required to do a good job within an occupation need to be identifiable;
 - for which the skills requirements can be quantified and framed in the licence requirement – the skills required to do a good job in an occupation need to be able to be specified in a licence; and
 - for which the appropriate level of skills can be tested before the award of a licence – there is a need for the skills of an individual to be assessable. Skills that can be assessed objectively are more amenable to assessment and use in a licence.

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- There are a number of risk factors for the Government involved in introducing an occupational licensing regime. These include:
 - exchequer costs due to potentially having to subsidise the cost of licences and the costs of additional courses to meet the requirements for those entering the occupation;
 - setting the level of skills required to obtain a licence too low, causing the costs of the licensing regime outweigh the benefits; and
 - setting the level of skills required to obtain a licence to high, causing the costs of the licensing regime outweigh the benefits.

The size of the benefits and costs of occupational licensing will vary by type of occupation and will vary within occupation for different groups. Thus, any assessment of whether to introduce an occupational licence ought to be carried out on an occupation-by-occupation basis. The criteria for assessing the rationale for Government intervention and the methods for assessing costs and benefits in this report can provide a useful basis for such occupational level appraisals.”

Useful literature review from **the USA from Carpenter, D.M., “Testing the Utility of Licensing: Evidence from a Field Experiment on Occupational Regulation”**.

- “Occupational licensing is the monopolization or control of opportunities for income and of status and work privileges in a market of services or labor (Brain, 1991; Johnson, 1972; Larson, 1977; Weisz, 1983). According to Abbott (1988) and others (Abel, 1979; Brain, 1991; Larson, 1977), such control often results from an assertion and/or recognition of a body of abstract or specialized knowledge held by the practitioners of a particular occupation. Commonly, such assertions by those working in an occupation are accompanied by calls for regulation on behalf of the public interest (Peterson, 2001). Sometimes licenses are described as a way to protect public welfare by ensuring those working in a regulated occupation possess a minimum facility with the abstract or specialized knowledge (Carpenter, 2008). Others justify licensing because it governs a special knowledge that society values enough to want advanced and applied in socially useful ways. According to proponents, the carriers of that special knowledge therefore deserve to be sheltered from market laws (Freidson, 2001).
- In general, there are two divergent views on the effects of occupational licensing. One view, commonly attributed to Milton Friedman (1962), argues that licensing is primarily a means for professionals to keep wages high by restricting entry into the profession. Adherents to this view believe licensure reduces consumer welfare (Potts, 2009). A second view concedes that occupational licensing increases the wages of professionals, but argues that licensing serves as a means of solving an asymmetric information problem. Consumers have less information than practitioners, and licensing protects consumers from poor service (Leland, 1979; Shapiro, 1986).
- Such effects have been studied in different countries across a variety of occupations, such as nurses (Elzinga, 1990), veterinarians (Hellberg, 1990), lawyers (Karpik, 1990), architects, psychologists (Svensson, 1990), and interior designers (Harrington & Treber, 2009). One prominent strand of research focuses on licensing as a barrier to entry. Studies on occupations such as cosmetologists (Adams, Jackson, & Ekelund, 2002), manicurists (Federman, Harrington, & Krynski, 2006), accountants (Carpenter & Stephenson, 2006; Jackson, 2006; Jacob & Murray, 2006), and mortgage brokers (Kleiner & Todd, 2007) conclude that licensing reduces the supply of practitioners, which proponents of regulation support, as it supposedly prevents entry by low-quality producers. A subset of this research finds that licenses often disproportionately exclude those who are less

educated, racial/ethnic minorities, or older (Angrist & Guryan, 2008; Dorsey, 1983; Federman, et al., 2006; Harrington & Treber, 2009; Kleiner & Krueger, 2008).

- A second line of research examines the relationship between licensure and wages. In general, results from studies of occupations such as radiologic technologists (Timmons & Thornton, 2008), school teachers (Angrist & Guryan, 2008), clinical lab personnel (White, 1978), nurses (White, 1980), dentists (Kleiner & Kudrle, 2000) and cosmetologists (Adams, et al., 2002) indicate licensing increases the wages of practitioners. Others, however, find no evidence of such a relationship between licensing and wages (Lueck, Olsen, & Ransom, 1995).
- To the extent that licenses result in greater costs to consumers as reflected in higher wages or extracted rents (Chevalier & Morton, 2008; Harrington & Krynski, 2002; Kleiner & Kudrle, 2000), a third line of research considers whether such costs are offset by greater benefits in the form of increased quality of product, service, or producer. Many studies find little evidence of the purported benefits. Such conclusions come from research on a diversity of occupations, such as school teachers (Angrist & Guryan, 2008; Buddin & Zamarro, 2008; Kleiner & Petree, 1988), interior designers (Carpenter, 2008), construction trades (Skarbek, 2008), mortgage brokers (Kleiner & Todd, 2007), dentists (Kleiner & Kudrle, 2000), physicians (Paul, 1984), and others (Carroll & Gaston, 1981).”