

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Ministerial declaration made pursuant to section 32

Authority for making the instrument

Section 32 of the *Mutual Recognition Act 1992* (the Act) provides that Ministers from two or more States and Territories may jointly declare occupations registered by jurisdictions to be equivalent, and may specify or describe any conditions necessary to achieve equivalence.

Purpose of the instrument

The Act provides for mutual recognition of regulatory standards across the States and Territories of Australia relating to goods and occupations. In relation to occupations (section 32 of the Act), the Act provides that people who are registered to work in an occupation in one jurisdiction are entitled to be registered to carry on work in an equivalent occupation in other jurisdictions.

The purpose of the instrument is to declare a range of equivalent occupations across States and Territories. Under existing mutual recognition arrangements, a person registered in an occupation in one State or Territory is entitled to registration in another jurisdiction where the registered occupation is substantially the same. The person makes an application to the registration authority, which then decides on the equivalent licence on a case-by-case basis. The effect of the declaration will be to improve arrangements so that an application for mutual recognition of a licence will be treated on a consistent and pre-determined basis. The schedules to the declaration indicate the equivalent licence in a second jurisdiction to which an applicant is entitled. This will provide certainty for both applicants and registration authorities.

The declaration stems from a decision of the Council of Australian Governments (COAG) in February 2006 requesting the implementation of full and effective mutual recognition of occupational licences for vocationally-trained occupations. The declaration covers a number of occupations identified as priority occupations. It is intended that other vocationally-trained occupations will be included in later declarations.

Schedules to the declaration

There are 28 schedules attached to the declaration, each covering a different occupational group, as follows:

Schedules to the Declaration

Schedule number	Occupations
1	Maritime Master Class/Skipper Occupations
2	Maritime Engineering Occupations
3	Maritime Coxswains
4	Gaming
5	Shotfirers
6	Pyrotechnicians
7	Pest and Weed Controllers
8	Asbestos Removal
9	Demolition

10	Earthworks/Excavations
11	Fencing
12	Flooring
13	Foundation Work
14	General Concreting
15	Glazing - Windows and Doors
16	Kitchens, Bathrooms and Laundries
17	Metal Fabrication
18	Painting and Decorating
19	Pools and Spas
20	Retaining Walls
21	Roof Tiling and Roof Slating
22	Shopfitting
23	Sign and Shade Structures
24	Solid (wet) Plastering and Dry Plastering
25	Stonemasonry
26	Wall and Floor Tiling
27	Waterproofing
28	Builders – (2006 matrix update)

In using any of the schedules, a person holding a licence issued in one state or territory may find their licence in Column A, and look across the corresponding row of the table to find the equivalent licence to which he or she is entitled in a second state or territory. Registration shall be granted by the second jurisdiction in the terms specified provided the applicant is already registered in the equivalent occupation in the first jurisdiction. For example, in Schedule 1 – Driving Instructors – Row 1, a person holding the NSW ‘Master Class 3’ shown in Column A is entitled in Victoria (Column C) to the licence titled ‘Master Class 3’, in Queensland (Column D) to the licence titled ‘Master Class 3’, in Western Australia (Column E) to the licence titled ‘Master Class III Trading, and so on.

In some cases, conditions have been specified to achieve equivalence. Where coding is used to indicate these conditions, the key to the codes is displayed at the end of each Schedule.

Not all occupations are regulated in all jurisdictions: in such cases this is indicated in schedules as ‘Not licensed in this jurisdiction’. Where, for various reasons, an equivalent licence has not been identified, the statement ‘No equivalent declared’ is indicated in a schedule. In these cases, the Notes to the declaration indicate that a decision on licence recognition will be made by the relevant registration authority in accordance with the other provisions of the Act.

It is intended that the declaration will be updated as required.

Consultation

Extensive consultation has occurred in the preparation of the declaration. Action Groups comprising State and Territory registration authorities, employer and employee bodies, and training authorities have been involved in a comprehensive process of development of the schedules for each occupation that accompany the declaration. A COAG Steering Committee comprising representatives of the Commonwealth and all State and Territory governments has overseen this process.

Parliamentary scrutiny

Declarations made pursuant to section 32 of the Act are not subject to disallowance (see item 27 to the table at subsection 44(2) of the *Legislative Instruments Act 2003*) or to sunseting (see item 25 to the table at subsection 54(2) of the *Legislative Instruments Act 2003*).

Commencement

The instrument commences on the day after the day on which the instrument is registered on the Federal Register of Legislative Instruments.

August 2009