

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Subject: *Mutual Recognition Act 1992*
Mutual Recognition (Maritime and Other Occupations) Declaration 2009
(F2009L03219)
Mutual Recognition (Equivalence of Gaming and Other Occupations) Amendment Declaration 2015

Background

The mutual recognition schemes were established by the 1992 Mutual Recognition Agreement (**MRA**) between the Commonwealth and state and territory Governments; and the 1996 Trans-Tasman Mutual Recognition Arrangement between parties to the MRA and New Zealand. Cooperative legislative schemes were subsequently established in all participating jurisdictions. The key pieces of legislation are the *Mutual Recognition Act 1992* (Cth) (**Act**) and the *Trans-Tasman Mutual Recognition Act 1997* (Cth and New Zealand).

In October 2006, the Council of Australian Governments (**COAG**) senior officials agreed to an update process for Ministerial Declarations to ensure they remain current. The Cross Jurisdictional Review Forum (**the Forum**), which has members from each jurisdiction, serves to oversee mutual recognition arrangements which include the maintenance of the ministerial declarations. The Commonwealth chairs the Forum and provides secretariat support for the Forum.

State and territory registration authorities have conducted a comprehensive examination and update of the schedules accompanying the *Mutual Recognition (Maritime and Other Occupations) Declaration 2009* (F2009L03219) (**principal declaration**). A list of the registration authorities for the affected occupations is available at <http://www.licencerecognition.gov.au/Pages/Authorities.aspx>.

Authority

Subsection 32(1) of the Act provides that Ministers from two or more states and territories may jointly declare that specified occupations are equivalent, and may specify or describe any conditions necessary to achieve equivalence.

Subsection 32(2) of the Act also provides that a declaration may be amended or rescinded in the same way. In accordance with subsection 32(3) the declaration has effect only in relation to the States concerned.

Purpose and Operation

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, 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 where the occupation is regulated.

The purpose of this instrument is to make the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Amendment Declaration 2015* (**the Declaration**) to remove maritime licences and amend the equivalent gaming, shotfirer, pyrotechnician and pest and weed controller licences across the states and territories.

This instrument is made as a result of a review of a series of declarations for a range of occupations. The review has been undertaken to maintain the accuracy of licence equivalence information contained in the principal declaration.

Consultation

In 2014, the Commonwealth Department of Industry (the then responsible department for the administration of the Act) wrote to each state and territory government representative on the Forum requesting that they liaise with their relevant licensing authority to update the schedules to the principal declaration. The relevant licensing authorities then consulted with their state and territory counterparts on any proposed changes and advised their Forum member when agreement was reached. The information provided by the licensing authorities is reflected in the Schedules to the Declaration.

Individual licence holders will not be adversely affected by the changes and therefore were not consulted.

Regulatory Impact

The Office of Best Practice Regulation (**OBPR**) has advised that a Regulatory Impact Statement is not required for this instrument (decision ID 18861).

Parliamentary scrutiny

Amendments to 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.

Explanation of provisions

Section 1

Section 1 provides the title of the Declaration which is the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Amendment Declaration 2015* (Declaration).

Section 2

Section 2 provides the Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3

Section 3 provides that the Declaration is made pursuant to section 32 of the Act.

Section 4

Section 4 provides that the principal declaration is amended as detailed in Schedule 1 to the Declaration.

Schedule 1

Item 1: Name of declaration

Item 1 amends the title of the principal declaration by omitting the current title and substituting with the following title: *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009*. The name of the principal declaration is being amended to more accurately reflect the content of the Declaration which no longer covers maritime occupations.

Item 2: Part 2 – Maritime Occupations

Item 2 removes Part 2 of the principal declaration. Part 2 interprets Schedule 2 of the principal declaration. Part 2 is no longer needed as Schedule 2 is being removed (see item 7 below).

Item 3: Part 3 – Casino and Gaming Occupations

Item 3 removes and replaces “Part 3 – Casino and Gaming Occupations”. In doing so, item 3 amends the title and paragraph numbering in Part 3; and amends references to rows in Schedule 4 of the principal declaration.

Item 4: Part 4 - Shotfirers and Pyrotechnicians, Pest and Weed Controllers, Building Occupations, Builders (2006 Update)

Item 4 amends the title and paragraph numbering in Part 4 of the principal declaration.

Item 5: Notes - Schedules to the Declaration

Item 5 amends the schedule numbering in the contents table to the schedules of the principal declaration.

Items 6 - 8: Schedules 1 to 3

Schedules 1 to 3 of the principal declaration are omitted as they are no longer required. The *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* contains one set of national rules governing seafarer certification and applies to the exclusion of a law of a state or territory that relates to marine safety insofar as it would otherwise apply in relation to domestic commercial safety. As such, these provisions are no longer required and are being removed.

Item 9: Schedules 4 to 7

Item 9 removes and replaces Schedules 4 to 7 of the principal declaration. The key changes to each of these schedules are outlined below.

Schedule 4

The key changes to Schedule 4 are:

- The removal of the following rows in the table as these licences are no longer issued:
 - Row 2 – Approval as a Junket Operator/Representative.
 - Row 8 – Gaming Employees Licence.
 - Row 12 – Approval as a Junket Operator or Junket Operator’s Representative.
 - Row 15 – Approved Gaming Machine Employee.
 - Row 16 – Approved Gaming Machine Manager.
 - Row 23 – Approved Attendant’s Certificate.
- The amendment of row 5 to reflect the new licence classification issued under the *Gambling Regulation Act 2003* or *Casino Control Act 1991* (VIC).
- The amendment of row 29 to reflect the new licence classification issued under the *Gaming Machine Act 1995* or *Gaming Control Act* (NT).
- The amendment of rows 3, 4, 7, 9, 10, 13, 14, 18, 20, 21, 24 and 26 to 29 to reflect new equivalent licence classifications issued under the *Gambling Regulation Act 2003* or *Casino Control Act 1991* (VIC), *Gaming Machine Act 1991* or *Casino Control Act 1982* (QLD), *Gaming Machines Act 1992* or *Casino Act 1997* (SA) and *Gaming Machine Act 2004* or *Casino Control Act 2006* (ACT).

Mutual Recognition (Equivalence of Gaming and Other Occupations) Amendment Declaration 2015

- The amendment of the Codes for statutes to reflect the TAS statute under which licences for gaming occupations are issued.

Schedule 5

The key changes to Schedule 5 are:

- The addition of rows 23 to 30 to reflect the new licence categories authorised under the *Explosives Act 1999* (QLD).
- The addition of rows 32 to 34 to reflect the new licence categories authorised under the *Dangerous Goods Safety Act 2004* (WA).
- The amendment of rows 23 and 24 to reflect new licence classifications issued under the *Dangerous Goods Safety Act 2004* (WA).
- The amendment of rows 29 to 34 to reflect new licence classifications authorised under the *Explosives Act 2012* (TAS) and which are additional to existing licence classifications issued under the repealed *Dangerous Goods Act 1998* (TAS).
- The amendment of rows 1 to 23, 24 (WA first jurisdiction), 24 (SA first jurisdiction) and 25 to 36 to reflect new equivalent licence classifications issued under the *Explosives Act 2003* (NSW), *Dangerous Goods Act 1985* (VIC), *Explosives Act 1999* (QLD), *Dangerous Goods Safety Act 2004* (WA), *Explosives Act 1936* (SA), *Explosives Act 2012* (TAS) and *Dangerous Goods Act 1998* (NT).
- The amendment of the Codes for statutes to reflect the SA and TAS statutes under which shotfirer licences are issued, and the repeal of the *Dangerous Goods Act 1998* (TAS).

Schedule 6

The key changes to Schedule 6 are:

- The amendment of rows 18 to 23 to reflect new licence classifications issued under the *Dangerous Goods Safety Act 2004* (WA).
- The amendment of row 25 to reflect the new licence classification issued under the *Explosives Act 2012* (TAS).
- The amendment of rows 1, 2, 4 to 14 and 20 to 28 to reflect new equivalent licence classifications issued under the *Dangerous Goods Safety Act 2004* (WA) and *Explosives Act 2012* (TAS).
- The amendment of the Codes for statutes to reflect the QLD, SA and TAS statutes under which pyrotechnician licences are issued.

Schedule 7

The key changes to Schedule 7 are:

- The amendment of rows 8 to 10 to reflect new licence classifications issued under the *Public Health and Wellbeing Act 2008* or *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (VIC).
- The amendment of rows 19 to 24 to reflect new licence classifications issued under the *Health Act 1911* or *Aerial Spraying Control Act 1966* (WA).
- The amendment of rows 28, 29 and 33 to reflect new licence classifications issued under the *Controlled Substances Act 1984* (SA).
- The amendment of rows 47 to 49 to reflect new licence classifications issued under the *Medicines, Poisons and Therapeutics Goods Act 2012* or *Agricultural and Veterinary Chemicals (Control of Use) Act 2004* (NT).

- The amendment of rows 1, 2, 4 to 6, 8 to 12, 14 to 19, 21 to 24, 26 to 29, 31 to 37, 39 to 44 and 46 to 52 to reflect new equivalent licence classifications issued under the *Public Health and Wellbeing Act 2008* or *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (VIC), *Pest Management Act 2001* or *Agricultural Chemicals Distribution Control Act 1966* (QLD), *Health Act 1911* or *Aerial Spraying Control Act 1966* (WA), *Controlled Substances Act 1984* (SA) and *Medicines, Poisons and Therapeutics Goods Act 2012* or *Agricultural and Veterinary Chemicals (Control of Use) Act 2004* (NT).
- The amendment of the Codes for statutes to reflect the VIC and NT statutes under which licences for pest and weed controllers are issued.

Item 10: References to Schedules 8 to 28

Item 10 amends the schedule numbering throughout the principal declaration consequential upon the amendments being made in this declaration.