

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement – Commercial Pesticide Operators) Determination 2021

This explanatory statement provides notes on the operation of the Notification Requirement-Commercial Pesticide Operators) Determination 2021 (the Determination). The specific provisions in the Determination are outlined in Attachment A. The information in the explanatory statement is an aid to understanding the Determination and should not be substituted for the Determination.

Context and purpose

Part 3A of the *Mutual Recognition Act 1992* of the Commonwealth (the MRA) provides for the automatic mutual recognition of occupational registrations (AMR). AMR will provide an entitlement for an individual to carry on an activity in a second State, under the registration covering the activity in their home State through Automatic Deemed Registration (ADR).

Part 3A of the MRA provides for the making of a determination that requires a person who intends to carry on an activity in reliance of ADR to notify the local registration authority for the occupation before the person begins to carry on the activity. The *Legislation Act 2003* of the Commonwealth provides for the making of legislative instruments.

Summary

Through this Determination, the Minister for the Environment of the Australian Capital Territory (the Minister) requires a person to notify a local registration authority – the Environment Protection Authority – before the person begins to rely on automatic deemed registration to carry out the activity under the occupation in the Australian Capital Territory. The Determination commences when the *Mutual Recognition Amendment Act 2021* commences. It will be repealed on or before 1 April or 1 October falling on or after the tenth anniversary of its registration.

Consultation

Under section 42 of the *Environment Protection Act 1997* (the Act), a person requires an environmental authorisation to undertake an activity in Schedule 1, Table 1.2, Item 29 of the Environment Protection Authority (EPA) for the purposes of pest control. The Australian Capital Territory consulted with the EPA who administers the environmental authorisations. This is the appropriate consultation to have undertaken regarding whether a notification requirement for interstate workers is appropriate in order to meet the government's obligations to protect consumers and to provide targeted compliance and enforcement activities to minimise risk. Requiring notification of intention to work is also a mechanism that can be utilised to provide appropriate information to those interstate workers about the ACT's legislative requirements.

The Minister is satisfied that the consultation undertaken is appropriate and practical for the purposes of making the Determination. The consultation drew on the knowledge of relevant subject matter experts.

Attachment A

Details of the Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement – Commercial Pesticide Operators) Determination 2021

Part 1 – Preliminary

Section 1 – Name

This section provides that this Determination is to be cited as the Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement – Commercial Pesticide Operators) Determination 2021 (the Determination).

Section 2 – Commencement

This section provides the date on which the Determination comes into operation.

The Determination comes into operation on the day the *Mutual Recognition Amendment Act 2021* commences.

Section 3 – Authority

This section outlines the authority through which the Determination is made. The Determination is made under section 42J of the *Mutual Recognition Act 1992* (Commonwealth).

Section 4 – Simplified outline of the instrument

This section explains that the purpose of this instrument is to require a person to notify a local registration authority before the person begins to rely on automatic deemed registration under the *Mutual Recognition Act 1992* of the Commonwealth to carry on an activity in the Australian Capital Territory. This section outlines the application of the notification and the period of the Determination.

Section 5 – Definitions

This section provides, for the purposes of this Determination, self-explanatory definitions of the following terms:

- The **Act** is defined in this section as meaning the *Mutual Recognition Act 1992*;
- A **covered activity** is defined as meaning an activity mentioned in Schedule 1, Table 1.2, Item 29 of the *Environment Protection Act 1997* (ACT) that is authorised to be carried on under an environmental authorisation under that Act.;
- The **local registration authority** is defined as meaning the Environment Protection Authority established under the *Environment Protection Act 1997* (ACT).

Section 6 – Notification requirement

This section lists the specific paragraph of the MRA relied on to make the Determination, the activity under the occupation where a person must notify a local registration authority before the person begins to rely on automatic deemed registration.

The Determination is made in accordance with paragraph 42J(4) of the MRA. A person intending to carry on mentioned in Schedule 1, Table 1.2, Item 29 of the *Environment Protection Act 1997* (ACT) in reliance on ADR must notify the EPA. This means that an individual cannot carry on the activity authorised under the environmental authorisations in the Australian Capital Territory without first providing notification. An individual may obtain the notification requirements from the EPA.

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Minister for the Environment