

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Automatic Mutual Recognition (Victoria) (Temporary Exemption – Teachers and Early Childhood Teachers) Declaration 2022

This explanatory statement provides notes on the operation of the Automatic Mutual Recognition (Victoria) (Significant Risk Exemption—Teacher and Early Childhood Teacher Registration) Declaration 2022 (Declaration). The specific provisions in the Declaration are outlined in Attachment A. The information in the explanatory statement is an aid to understanding the Declaration and should not be substituted for the Declaration.

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).

Section 42S of the MRA provides that a Minister of a State may declare, by legislative instrument, that a specified registration, whether for an occupation or for an activity covered by an occupation, in the declaration State is excluded from the operation of ADR if the Minister is satisfied that the declaration is necessary because of a significant risk, arising from particular circumstances or conditions in the declaration State, to the health or safety of the public.

The Automatic Mutual Recognition (Victoria) (Temporary Exemption—Various) Declaration 2021 temporarily exempted certain registrations for occupations, or for activities covered by occupations, from ADR provisions of the MRA until 1 July 2021. Teacher and early childhood teacher registration was included in the temporary exemption declaration on the basis that information sharing powers among state and territory teacher regulatory authorities were inadequate, inconsistent and created potential risks to the health and safety of children attending Victorian schools or early childhood services.

Whilst relevant jurisdictions have been participating in actions to reduce current information sharing limitations and improve information sharing between teacher regulatory authorities, the temporary delay has not provided sufficient time for information sharing issues between regulatory authorities to be adequately resolved to reduce or remove any risks to child safety caused by the AMR scheme.

A 3-year exemption will allow more time to establish the necessary information sharing arrangements and frameworks to support implementation of AMR for the teacher and early childhood teacher profession.

The *Legislation Act 2003* of the Commonwealth provides for the making of legislative instruments.

Summary

Through this Declaration, the Minister for Education in Victoria is excluding all registrations for teachers and early childhood teachers under Part 2.6 of the *Education and Training Reform Act 2006* from the operation of ADR for the period 1 July 2022 to 30 June 2025.

Consultation

Targeted consultation was completed with Victorian education stakeholders. The majority of stakeholder responses support the 3-year exemption for teachers and early childhood teachers. Comprehensive consultation with Victorian education stakeholders was undertaken in 2021 as part of the development of the Mutual Recognition Amendment Bill 2021 and issues of concern raised as part of that consultation continue to be relevant and critical to the decision to seek a further delay to the commencement of the AMR Scheme for teachers and early childhood teachers.

Attachment A

Details of the Automatic Mutual Recognition (Victoria) (Significant Risk Exemption—Teacher and Early Childhood Teacher Registration) Declaration 2022

Part 1 – Preliminary

Section 1 – Name

This section provides that this Declaration is to be cited as the Automatic Mutual Recognition (Victoria) (Significant Risk Exemption—Teacher and Early Childhood Teacher Registration) Declaration 2022 (the Declaration).

Section 2 – Commencement

This section provides the date on which the Declaration comes into operation. The Declaration commences on 1 July 2022.

Section 3 – Authority

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

Section 4 – Simplified outline of the instrument

This section explains that the purpose of this instrument to exempt the teaching and early childhood teaching occupations, and activities covered by those occupations, from the ADR provisions of the MRA until 1 July 2025 due to the significant risk to the health or safety of children attending Victorian schools and early childhood services as members of the public.

Section 5 – Definitions

This section provides, for the purposes of this Declaration, self-explanatory definitions of the following term:

- *Act* is defined in this section as meaning the *Mutual Recognition Act 1992*

Section 6 – Significant risk exemption

This section lists the specific paragraph of the MRA relied on to make the Declaration and the specific registrations excluded from ADR.

For the purposes of paragraph 42S(1)(a) of the MRA, the following registrations are excluded from the operation of ADR in Victoria:

- (a) registrations under Part 2.6 of the *Education and Training Reform Act 2006* of Victoria including:
 - i. registration as a teacher under Division 3 of that Part;
 - ii. registration as an early childhood teacher under Division 3A of that Part.

This section also contains a statement explaining the risk that the declaration is seeking to protect against, for the purposes of section 42S(2) of the Act, namely, potential risks to child health and safety if automatic deemed registration were to become operational in Victoria.

The Hon. James Merlino
Minister for Education