

Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Teachers) Declaration 2022

I, Andrew Barr, Chief Minister for the Australian Capital Territory, make the following declaration.

Dated 27 June 2022

Andrew Barr

Chief Minister

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1 Name

This instrument is the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Teachers) Declaration 2022.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 July 2022. | 1 July 2022. |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 42S of the *Mutual Recognition Act 1992* of the Commonwealth.

4 Simplified outline of this instrument

The purpose of this instrument is to exempt registrations for teaching occupations, or for activities covered by teaching occupations, from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* of the Commonwealth until 1 July 2027 because of a significant risk to the health and safety of workers or the public, in particular, child safety.

This instrument has effect only in relation to the Australian Capital Territory.

5 Definitions

In this instrument:

***Act*** means the *Mutual Recognition Act 1992* of the Commonwealth.

6 Exemption

For section 42S(1)(a) of the Act, a registration under the *ACT Teacher Quality Institute Act 2010* of the Australian Capital Territory is excluded from the operation of automatic deemed registration in the Australian Capital Territory until 1 July 2027 because of the significant risks set out in section 7.

7 Significant risk statement

For section 42S(2) of the Act, the exclusion in section 6 is necessary because of the significant risk in the ACT to the health and safety of workers or the public, in particular, to children. *The Royal Commission into Institutional Responses to Child Sexual Abuse* released its final report on 15 December 2017. The Royal Commission identified risks to children that arise when information about sexual abuse by teachers is not shared across jurisdictions. A lack of information sharing between employers or registration authorities can enable perpetrators to continue to pose a risk to children by moving between schools or jurisdictions. A number of recommendations were made in relation to improving information sharing across sectors, including a nationally consistent information exchange scheme.

Under existing licensing arrangements (including mutual recognition), a teacher is issued with an ACT registration or permit to teach, creating a regular regime of assessment of eligibility and fitness. Under automatic mutual recognition, the ACT Teacher Quality Institute (TQI), must obtain and share information on eligibility of teachers for automatic deemed registration through information exchange between TQI and its jurisdictional counterparts.

The ACT is participating in a National Information Sharing Project to address the recommendations from the Royal Commission. The Project is recognised as a key enabler to support the effective implementation of automatic mutual recognition for teaching registrations, without further exacerbating the risks to child safety through the current, inadequate information sharing arrangements, highlighted by the Royal Commission. However, the Project is likely to be delivered over a number of years and will not be completed by 1 July 2022, when the automatic mutual recognition scheme is fully implemented in the Territory.

An exemption for five years will enable the ACT to continue to engage with other jurisdictions to implement a nationally consistent information exchange scheme with safeguards to protect children.

8 Human Rights Act statement

Section 40B(1) of the *Human Rights Act 2004* (ACT) provides that it is unlawful for public authorities to act in a way that is incompatible with a human right or, in making a decision, fail to give proper consideration to a relevant human right. Accordingly, in making this exclusion in section 6, I have considered any relevant human rights that may be impacted as required by s 40B. Section 27B(1) of the *Human Rights Act 2004* provides that everyone has the right to work, including the right to choose their occupation or profession freely. I am satisfied that the making of the exclusion in section 6 would not be incompatible with the right to work and the right to choose an occupation or profession freely.

While the exclusion may limit the right to work, it is important to note that the making of the exclusion does not prevent an individual from carrying on an activity covered by the occupation of teaching in the ACT. Rather, the making of the exclusion will mean that all individuals who wish to carry on an activity covered by the occupation of teaching in the ACT must meet particular registration requirements set out in ACT law. Upon meeting the relevant registration requirements, individuals would be able to carry on an activity covered by the occupation of teaching in the ACT. The registration requirements are a necessary, proportionate and reasonable measure through which safeguards are provided to protect children. Any limitation on the right to work is reasonable and justified because the exclusion will allow the ACT to address risks associated with the transitioning to AMR while ensuring there is no diminution in current levels of safeguards in relation to child safety. The exclusion will enable the risks to child safety to be addressed through the development of the National Information Sharing Project to address the recommendations from the Royal Commission.