

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

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

This explanatory statement provides notes on the operation of the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Dangerous Substances) Declaration 2022 (the 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 MR Act) provides for the automatic mutual recognition of occupational registrations (AMR). AMR allows 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 MR Act also provides for the making of a Declaration to exempt registrations for occupations, or for activities covered by occupations, from the automatic deemed registrations provisions of the MR Act. The *Legislation Act 2003* of the Commonwealth provides for the making of legislative instruments.

Summary

Through this Declaration, the Chief Minister for the Australian Capital Territory (the Chief Minister) exempts registrations for dangerous substances occupations from another State or Territory from operating in the Territory under AMR until 1 July 2025 because of the significant risk to the health and safety of workers or the public. The Declaration commences on 1 July 2022.

Consultation

The Australian Capital Territory consulted with WorkSafe ACT who register individuals under the *Dangerous Substances (Explosives) Regulation 2004* and the *Dangerous Substances (General) Regulation 2004*.

Public consultation was held through ACT Government and WorkSafe ACT websites.

This is the appropriate consultation to have undertaken regarding whether a Significant Risk Exemption Declaration for interstate workers is appropriate.

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

Attachment A

Details of the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Dangerous Substances) Declaration 2022

Part 1 – Preliminary

Section 1 – Name

This section provides that this Declaration is to be cited as the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Dangerous Substances) Declaration 2022 (the Declaration).

Section 2 – Commencement

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

The Declaration comes into operation on 1 July 2022 when the AMR scheme becomes fully operational in the Territory.

Section 3 – Authority

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

Section 4 – Simplified outline of the instrument

This section explains that the purpose of this instrument is to exempt dangerous substances registrations for occupations, or for dangerous substances activities covered by occupations, from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* of the Commonwealth for a period of three years because of a significant risk to the health and safety of workers or the public.

Section 5 – Definitions

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

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

Section 6 – Exemption

This section lists the specific paragraph of the MR Act relied on to make the Declaration excluding a registration mentioned from the operation of automatic deemed registration in the Australian Capital Territory.

The Declaration is made in accordance with paragraph 42S of the MR Act. This means that an individual cannot rely on automatic deemed registration in the Australian Capital Territory because of the significant risk to the health and safety of workers of the public.

Section 7 – Significant risk statement

This section explains the specific significant risks arising from circumstances to the health and safety of workers or the public in the Territory.

Section 8 – Human Rights Act statement

This section outlines that the exclusion of occupations and activities under section 6 is not considered incompatible with the provisions under the *Human Rights Act 2004* (ACT).

Andrew Barr

Chief Minister