

## **EXPLANATORY STATEMENT**

### ***Mutual Recognition Act 1992***

### **Automatic Mutual Recognition (New South Wales) (Notification Requirement—Various) Determination 2022**

This explanatory statement provides notes on the operation of the Automatic Mutual Recognition (New South Wales) (Notification Requirement—Various) Determination 2022 (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 on 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 Treasurer of New South Wales requires a person to notify a local registration authority before the person begins to rely on ADR to carry out the activity under the occupation in New South Wales. The Determination is for the period 1 December 2022 to 1 April 2033, being the first 1 April falling on or after the tenth anniversary from registration of the instrument on the Federal Register of Legislation (consistent with Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003*).

#### **Consultation**

New South Wales consulted with the relevant New South Wales regulators which registers individuals for registration as described in section 6. This is appropriate consultation to have undertaken regarding whether a notification requirement for interstate workers is appropriate to meet the governments obligation to protect consumers, workers and the environment, and to ensure compliance and enforcement activities by regulators.

## **Attachment A**

### **Details of the Mutual Recognition (New South Wales) (Notification Requirement–Various) Determination 2022**

#### **Part 1 – Preliminary**

##### **Section 1 – Name**

This section provides that this Determination is to be cited as the Automatic Mutual Recognition (New South Wales) (Notification Requirement–Various) Determination 2022 (the Determination).

##### **Section 2 – Commencement**

This section provides the date on which the Determination comes into operation. The Determination comes into operation on 1 December 2022.

##### **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* of the 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 New South Wales. 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*

##### **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 any of the activities covered by the registrations listed in reliance on ADR must notify the local registration authority. This means that an individual cannot carry on the activity in New South Wales without first providing notification. An individual may obtain the notification requirements through the local registration authority for the following activities.

Notification under 42J(4) of the Act is required for the following registrations in NSW:

- a) Architect under the *Architects Act 2003* (NSW);

- b) Registration or accreditation under the *Building and Development Certifiers Act 2018* (NSW) except;
  - i. registered certifiers – fire safety
  - ii. accredited practitioner – fire safety
- c) Registration or recognition within the meaning of the *Design and Building Practitioners Act 2020* (NSW) except;
  - i. Design practitioner – fire systems (all classes)
  - ii. Design practitioner – fire safety engineering
  - iii. Professional engineer – fire safety
- d) Driving instructor licences under the *Driving Instructors Act 1992* (NSW);
- e) Licence for commercial agents under the *Fair Trading Act 1987* (NSW);
- f) Licence or certificate within the meaning of the *Home Building Act 1989* (NSW) except the following categories of work:
  - i. general building work
  - ii. erection of prefabricated metal-framed home additions and structures
  - iii. water plumbing – fire protection and fire sprinkler systems
  - iv. mechanical services and medical gas work, medical gas technician work, medical gas fitting work
  - v. electrical wiring, air-conditioning and refrigeration work
- g) Driver authority under the *Passenger Transport Act 1990* (NSW);
- h) Licences under the *Pawnbrokers and Second-hand Dealers Act 1996* (NSW);
- i) Licences within the meaning of the *Pesticides Act 1999* (NSW);
- j) Radiation security assessor accreditation and radiation user licence under the *Radiation Control Act 1990* (NSW);
- k) Registration under the *Surveying and Spatial Information Act 2002* (NSW) except Surveyor – Mining;
- l) Licence or certificate under the *Tow Truck Industry Act 1998* (NSW);
- m) Driller’s licence under the *Water Act 1912* (NSW);
- n) Licence or authorisation under the *Work Health and Safety Act 2011* (NSW).
- o) Demolition licences under the *Occupational Health and Safety Regulations 2001* (NSW)

The Hon. Matt Kean MP

NSW Treasurer