

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Automatic Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying Industries) Amendment Determination 2023

This explanatory statement provides notes on the operation of the Automatic Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying Industries) Amendment Determination 2023 (the ‘Amending Determination’). This Determination amends the Automatic Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying Industries) Determination 2021 (the ‘Principal Determination’), as amended by the Automatic Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying Industries) Amendment Determination 2022.

The specific provisions in the Amending Determination are outlined in Attachment A. The information in the explanatory statement is an aid to understanding the Amending Determination and should not be substituted for the Amending Determination.

Context and purpose

Part 3A of the *Mutual Recognition Act 1992* of the Commonwealth (‘the MRA’) provides for the automatic mutual recognition (‘AMR’) of occupational registrations. AMR provides 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

The Amending Determination amends the Principal Determination to reflect changes in the commencement dates for notification requirements in relation to certain occupations before work can be undertaken by people registered to perform that work in other jurisdictions. The Amending Determination is necessary owing to a decision of the Victorian government to continue to exclude certain occupations from the operation of ADR under section 42S of the MRA because of significant risk to consumer protection and the health or safety of the public. The Amending Determination makes the following changes:

- That building practitioners registered under Part 11 of the *Building Act 1993*, with the exception of building surveyors, must provide the relevant regulator with a notification prior to commencing work in Victoria. Building surveyors are excluded from the operation of ADR in Victoria by the Mutual Recognition (Victoria) (Exemptions—Building Surveyor and Plumbing Occupations) Declaration 2022 made under section 42S of the MRA.
- That all registered plumbers, with the exception of plumbers registered in certain classes that are specified in the Amending Determination, must provide the relevant regulator with a notification prior to commencing work under ADR. The registered plumbers specified in the Amending Determination, as well as licensed plumbers, are excluded from the operation of ADR in Victoria by the Ministerial Declaration referred to above.

Through the Principal Determination, as amended by the Amending Determination, the Minister for Planning, Victoria requires a person to notify the relevant local registration authority before the person commences to carry on an activity in reliance on ADR in Victoria.

Consultation

Relevant regulators and industry stakeholders support the adoption of a notification requirement for building practitioners and plumbing practitioners to ensure Victorian regulators have appropriate visibility of persons working in Victoria under automatic deemed registration.

The Minister for Planning, Victoria is satisfied that the consultation undertaken is appropriate and practical for the purposes of making the Amending Determination.

Attachment A

Details of the Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying industries) Amendment Determination 2023

Section 1 – Name

This section provides that this Determination is to be cited as the Mutual Recognition (Victoria) (Notification Requirement—Building, Plumbing, Architecture and Land Surveying Industries) Amendment Determination 2023.

Section 2 – Commencement

This section provides the date on which the Amending Determination comes into operation, which is the day after the instrument is registered.

Section 3 – Authority

This section outlines the authority through which the Amending Determination is made, which is section 42J of the *Mutual Recognition Act 1992* of the Commonwealth.

Section 4 – Schedules

This section explains that each instrument that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule concerned. Any other item in a Schedule to the Amending Determination has effect according to its terms.

Schedule 1, Clause 1 – Title

This clause corrects a typographical error in the title of the Principal Determination.

Schedule 1, Clause 2 – Clause 6 Notification Requirement

This clause substitutes clause 6 of the Principal Determination with a new clause 6. The purpose of the new clause 6 is to provide that registered architects, certain building practitioners, certain registered plumbers and licensed land surveyors must provide the relevant regulator with a notification under section 42J of the MRA prior to commencing work in Victoria under ADR.

The clause excludes certain occupations from this notification requirement. These occupations are excluded from the notification requirement before commencing work in Victoria under ADR because they are not entitled to automatic deemed registration by reason of a Ministerial Declaration made under section 42S of the *Mutual Recognition Act 1992* of the Commonwealth. The occupations specified in the clause as being exempt from the notification requirement are:

- All building practitioners who are registered as a building surveyor; and
- All plumbers who are registered in any of the following classes of plumbing work:
 - gasfitting
 - Type A appliance conversion
 - Type A appliance servicing
 - Type B gasfitting
 - Type B gasfitting advanced
 - Fire protection
 - Roofing (stormwater)
 - Mechanical services.

The Amending Determination is made in accordance with paragraph 42J(4) of the *Mutual Recognition Act 1992* of the Commonwealth. A person intending to carry on at least one of the activities covered by the registrations listed in reliance on automatic deemed recognition must notify the local registration authority. This means that an individual cannot carry on the activity in Victoria without first providing notification. An individual may obtain the notification requirements through the local registration authority for the activity.

Schedule 2, Clause 1—Clause 7 Notification Requirement

This clause repeals clause 7 of the Principal Determination. The repeal of clause 7, in tandem with the substitution of clause 6, ensure notification arrangements specified in the Principal Determination are consistent with occupations excluded from the operation of automatic deemed registration by way of a Ministerial Declaration made under section 42S of the *Mutual Recognition Act 1992* of the Commonwealth.

It is intended that these changes clarify that only certain occupations are entitled to participate in automatic deemed registration and that notification arrangements can only apply to participating occupations.

Sonya Kilkenny
Minister for Planning, Victoria