# Trans-Tasman Mutual Recognition Act 1997

**No. 190, 1997**

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**This compilation includes a commenced amendment made by Act No. 164, 2018 (as amended by Act No. 17, 2022)**

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# About this compilation

### This compilation

This is a compilation of the *Trans-Tasman Mutual Recognition Act 1997* that shows the text of the law as amended and in force on 1 July 2023 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to provide for the recognition within Australia of regulatory standards adopted in New Zealand regarding goods and occupations

# Part 1—Preliminary

## 1 Short title

This Act may be cited as the *Trans-Tasman Mutual Recognition Act 1997*.

## 2 Commencement

(1) This Part commences on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

## 3 Principal purpose

(1) The principal purpose of this Act is to enact legislation authorised by the Parliaments of States under paragraph (xxxvii) of section 51 of the Commonwealth Constitution, and requested by the legislatures of the Australian Capital Territory and the Northern Territory, for the purpose of recognising within Australia regulatory standards adopted in New Zealand regarding goods and occupations.

(2) The legislation is as contemplated by the Trans-Tasman Mutual Recognition Arrangement entered into on 9 July 1996 between the Commonwealth of Australia, New Zealand, the States of New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania, the Australian Capital Territory and the Northern Territory.



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## 4 Interpretation

(1) In this Act, unless the contrary intention appears:

***Australia*** means Australia in a geographical sense, and does not include the external territories.

***Australian jurisdiction*** means a participating jurisdiction, other than New Zealand.

***Australian Tribunal*** means the Administrative Appeals Tribunal or a successor to that body.

***conditions***, when used in relation to occupations, means conditions, limitations or restrictions.

***deemed registration*** means deemed registration as defined in section 24.

***designated person*** means:

(a) for New Zealand—a Minister of the Crown for New Zealand; or

(b) for the Commonwealth—the Governor-General of Australia; or

(c) for a State (other than a Territory)—the Governor of the State or a Minister of the Crown for the State; or

(d) for the Australian Capital Territory—the Chief Minister for the Territory; or

(e) for the Northern Territory—the Administrator of the Territory.

***equivalent***, when used in relation to occupations, has a meaning affected by Division 4 of Part 3.

***goods*** means goods of any kind, and includes:

(a) animals or plants; or

(b) material of microbial origin; or

(c) a package containing goods; or

(d) a label attached to goods.



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***grant***, when used in relation to registration, means grant, issue or otherwise confer registration.

***import*** into an Australian jurisdiction means import from outside Australia.

***labelling*** of goods includes any means by which, at the point of sale, information is attached to goods or is displayed in relation to goods without being attached to them.

***local registration authority*** of a participating jurisdiction for an occupation means the person or authority in the jurisdiction having the function conferred by legislation of registering persons in connection with their carrying on that occupation in the jurisdiction.

***New Zealand*** has the meaning given by the *Acts Interpretation Act 1924* of New Zealand, as in force from time to time.

***New Zealand Act*** means the Act of the Parliament of New Zealand (as amended and in force from time to time) that deals with Trans-Tasman mutual recognition and corresponds to this Act, and includes any Act replacing that Act (as amended and in force from time to time).

***New Zealand Tribunal*** means the Trans-Tasman Occupations Tribunal of New Zealand or a successor to that body.

***occupation*** means an occupation, trade, profession or calling of any kind that may be carried on only by registered persons, where registration is wholly or partly dependent on the attainment or possession of some qualification (for example, training, education, examination, experience, character or being fit or proper), and includes a specialisation in any of the above in which registration may be granted.

***participating jurisdiction*** has the meaning given by section 50.

***produce*** includes to manufacture, and also includes to harvest or otherwise produce in the course of any form of primary production.



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***registration*** includes the licensing, approval, admission, certification (including by way of practising certificates), or any other form of authorisation, of a person required by or under legislation for carrying on an occupation.

***requirements***, when used in relation to goods, means requirements, prohibitions, restrictions or conditions.

***sell*** includes sell by wholesale or retail, and includes distribute for sale, expose or offer for sale or have in possession for sale or agree to sell, and includes barter, and includes supply by way of exchange, lease, hire or hire-purchase.

***State*** includes the Australian Capital Territory or the Northern Territory.

***substantive registration*** means registration under a law of a participating jurisdiction, but does not include deemed registration.

(2) A law specified or described in a Schedule to this Act includes (unless otherwise stated in the Schedule) any relevant regulations or other statutory instruments under that law.

(3) A law specified or described in a Schedule to this Act, including any relevant regulations or other statutory instruments under that law, includes (unless otherwise stated in the Schedule) any amendment or replacement of that law, but only to the extent that the effect of the amendment or replacement does not restrict the scope of this Act.

(4) A reference in this Act to the designated person is, in relation to a participating jurisdiction for which there is or can be more than one designated person, a reference to any one of them.

(5) This Act is to be interpreted in accordance with the *Acts Interpretation Act 1901* as in force at the date on which this Act receives the Royal Assent.



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## 5 Operation of this Act in relation to the Commonwealth

(1) Subject to this section:

(a) this Act has effect despite anything in any other law of the Commonwealth enacted or made before the commencement of this section; and

(b) any law of the Commonwealth enacted or made after the commencement of this section is to be construed as having effect subject to this Act, except where that law expressly overrides this Act.

(2) Subject to subsection 51(2), nothing in this Act affects the operation of the *Mutual Recognition Act 1992*.

## 6 Operation of this Act in relation to the States

(1) This Act applies to a State, but only while it is a participating jurisdiction.

(2) Accordingly, a reference in this Act to a State is a reference to a State that is a participating jurisdiction, and this Act does not affect the operation of the laws of a State that is not a participating jurisdiction.

(3) This Act does not affect the operation of a law of a State so far as it can operate concurrently with this Act.

## 7 Operation of this Act in relation to New Zealand

(1) The Governor-General may declare by Proclamation that this Act will cease to have effect on a specified day, if satisfied that:

(a) New Zealand is not a participating jurisdiction and is not likely to become a participating jurisdiction in the near future; or

(b) New Zealand is a participating jurisdiction but is likely to cease to be a participating jurisdiction in the near future.

(2) Such a Proclamation cannot be made unless the designated person for each of the participating jurisdictions (other than New Zealand



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and the Commonwealth) has published a notice in the official gazette of the jurisdiction requesting the making of the Proclamation.

(3) Such a Proclamation is effective according to its terms.

## 8 Crown bound

Subject to section 6, this Act binds the Crown in right of the Commonwealth and of each of the States.



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# Part 2—Goods

## 9 Trans-Tasman mutual recognition principle

(1) The Trans-Tasman mutual recognition principle as applying to goods is as set out in this Part.

(2) This Part deals with goods produced in or imported into New Zealand and their sale in Australia.

## 10 Entitlement to sell goods

The Trans-Tasman mutual recognition principle is that, subject to this Part, goods produced in or imported into New Zealand, that may lawfully be sold in New Zealand, either generally or in particular circumstances, may, by virtue of this Act, be sold in an Australian jurisdiction either generally or in particular circumstances (as the case may be), without the necessity for compliance with further requirements imposed by or under the law of that jurisdiction as described in section 11.

## 11 Requirements that do not need to be complied with

The further requirements referred to in section 10 are any one or more of the following requirements relating to sale that are imposed by or under the law of the Australian jurisdiction concerned:

(a) a requirement that the goods satisfy standards of the jurisdiction relating to the goods themselves, including for example requirements relating to their production, composition, quality or performance;

(b) a requirement that the goods satisfy standards of the jurisdiction relating to the way the goods are presented, including for example requirements relating to their packaging, labelling, date stamping or age;



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(c) a requirement that the goods be inspected, passed or similarly dealt with in or for the purposes of the jurisdiction;

(d) a requirement that any step in the production of the goods not occur outside the jurisdiction;

(e) any other requirement relating to sale that would prevent or restrict, or would have the effect of preventing or restricting, the sale of the goods in the jurisdiction.

## 12 Requirements that do need to be complied with

(1) The Trans-Tasman mutual recognition principle is subject to the exceptions specified in this section.

(2) The first exception is that the principle does not affect the operation of any laws of an Australian jurisdiction that regulate the manner of the sale of goods in the jurisdiction or the manner in which sellers conduct or are required to conduct their business in the jurisdiction (including laws set out in the examples below), so long as those laws apply equally to goods produced in or imported into the jurisdiction.

Examples: Laws relating to the following:

(a) the contractual aspects of the sale of goods;

(b) the registration of sellers or other persons carrying on occupations;

(c) the requirement for business franchise licences;

(d) the persons to whom goods may or may not be sold;

(e) the circumstances in which goods may or may not be sold.

(3) The second exception is that the principle does not affect the operation of any laws of an Australian jurisdiction regarding the transportation, storage or handling of goods within the jurisdiction, so long as:

(a) those laws apply equally to goods produced in or imported into the jurisdiction; and

(b) those laws are directed at matters affecting health and safety of persons in the jurisdiction or at preventing, minimising or regulating environmental pollution (including air, water, noise or soil pollution) in the jurisdiction.



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(4) The third exception is that the principle does not affect the operation of any laws of an Australian jurisdiction regarding the inspection of goods within the jurisdiction, so long as:

(a) inspection or the requirement for inspection is not a prerequisite to the sale of the goods in the jurisdiction; and

(b) those laws apply equally to goods produced in or imported into the jurisdiction; and

(c) those laws are directed at matters affecting the health and safety of persons in the jurisdiction or at preventing, minimising or regulating environmental pollution (including air, water, noise or soil pollution) in the jurisdiction.

## 13 Defences to offences regarding sale

(1) It is a defence to a prosecution for an offence against a law of an Australian jurisdiction in relation to the sale of any goods if the defendant expressly claims that the Trans-Tasman mutual recognition principle applies and establishes that:

(a) the goods were labelled at the point of sale with a statement to the effect that the goods were produced in or imported into New Zealand; and

(b) the defendant had no reasonable grounds for suspecting that they were not so produced or imported.

(2) The defence is not available if the prosecution proves that the Trans-Tasman mutual recognition principle did not apply in the circumstances of the alleged offence (because for example the goods did not comply with requirements imposed by the law of New Zealand).

(3) Any relevant presumptions or evidentiary procedures under the law of New Zealand are available to the prosecution or defendant in relation to matters sought to be proved by the prosecution under subsection (2).

(4) Any relevant defences under the law of New Zealand are available to the defendant in relation to matters sought to be proved by the prosecution under subsection (2).



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(5) This section does not affect any defence that is available apart from this section.

## 14 Goods that comply with local law

Nothing in this Part prevents goods from being sold in an Australian jurisdiction if (apart from this Act) they comply with the relevant requirements of the law in force in the jurisdiction.



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# Part 3—Occupations

## Division 1—Preliminary

### 15 Trans-Tasman mutual recognition principle

(1) The Trans-Tasman mutual recognition principle as applying to occupations is as set out in this Part.

(2) This Part deals with the ability of a person who is registered in connection with an occupation in New Zealand to carry on an equivalent occupation in Australia.

### 16 Entitlement to carry on occupation

(1) The Trans-Tasman mutual recognition principle is that, subject to this Part, a person who is registered in New Zealand for an occupation is, by virtue of this Act, entitled after notifying the local registration authority of an Australian jurisdiction for the equivalent occupation:

(a) to be registered in the jurisdiction for the equivalent occupation; and

(b) pending such registration, to carry on the equivalent occupation in the jurisdiction.

(2) However, the Trans-Tasman mutual recognition principle is subject to the exception that it does not affect the operation of laws that regulate the manner of carrying on an occupation in an Australian jurisdiction, so long as those laws:

(a) apply equally to all persons carrying on or seeking to carry on the occupation under the law of the jurisdiction; and

(b) are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.



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## 17 Application of this Part

(1) This Part applies to individuals and occupations carried on by them.

(2) This Part extends to an occupation carried on by an individual, where the individual is subject to more than one system of registration or more than one local registration authority in a participating jurisdiction, and accordingly this Part applies in relation to each such system of registration and each such authority.

(3) Without limiting subsection (2), an example of such an occupation is that of a legal practitioner, which involves both the admission as a legal practitioner by a court and the issue of a practising certificate by another body.



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## Division 2—Entitlement to registration

### 18 Notification to local registration authority

(1) A person who is registered in New Zealand for an occupation may lodge a written notice with the local registration authority of an Australian jurisdiction for the equivalent occupation, seeking registration for the equivalent occupation in accordance with the Trans-Tasman mutual recognition principle.

(2) The notice must:

(a) state that the person is registered for the occupation in New Zealand; and

(b) state the occupation for which registration is sought and that it is being sought in accordance with the Trans-Tasman mutual recognition principle; and

(c) specify all the participating jurisdictions in which the person has substantive registration for equivalent occupations; and

(d) state that the person is not the subject of disciplinary proceedings in any participating jurisdiction (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to those occupations; and

(e) state that the person's registration in any participating jurisdiction is not cancelled or currently suspended as a result of disciplinary action; and

(f) state that the person is not otherwise personally prohibited from carrying on any such occupation in any participating jurisdiction, and is not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any participating jurisdiction; and

(g) specify any special conditions to which the person is subject in carrying on any such occupation in any participating jurisdiction; and

(h) give consent to the making of inquiries of, and the exchange of information with, the authorities of any participating



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jurisdiction regarding the person's activities in the relevant occupation or occupations or otherwise regarding matters relevant to the notice.

(3) The notice must be accompanied by a document that is either the original or a copy of the instrument evidencing the person's existing registration (or, if there is no such instrument, by sufficient information to identify the person and the person's registration).

(4) As regards the instrument evidencing the person's existing registration, the person must certify in the notice that the accompanying document is the original or a complete and accurate copy of the original.

(5) The statements and other information in the notice must be verified by statutory declaration.

(6) The local registration authority may permit the notice to be amended after it is lodged.

## 19 Entitlement to registration and continued registration

(1) A person who lodges a notice under section 18 with a local registration authority of an Australian jurisdiction is entitled to be registered in the equivalent occupation, as if the law of the jurisdiction that deals with registration expressly provided that registration in New Zealand is a sufficient ground of entitlement to registration.

(2) The local registration authority may grant registration on that ground and may grant renewals of such registration.

(3) Once a person is registered on that ground, the entitlement to registration continues, whether or not registration (including any renewal of registration) ceases in New Zealand.

(4) Continuance of registration is otherwise subject to the laws of the jurisdiction, to the extent to which those laws:

(a) apply equally to all persons carrying on or seeking to carry on the occupation under the law of the jurisdiction; and



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(b) are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

(5) The local registration authority may impose conditions on registration, but may not impose conditions that are more onerous than would be imposed in similar circumstances (having regard to relevant qualifications and experience) if it were registration effected apart from this Part, unless they are conditions that apply to the person's registration in New Zealand or that are necessary to achieve equivalence of occupations.

(6) This section has effect subject to this Part.

## 20 Action following notice

(1) Registration must be granted within one month after the notice is lodged with the local registration authority under section 18.

(2) When granted, registration takes effect as from the date the notice was lodged.

(3) However, the local registration authority may, subject to this Part and within one month after the notice was lodged, postpone or refuse the grant of registration.

(4) If the local registration authority neither grants the registration nor takes action under subsection (3) within the period of one month after the notice is lodged, the person is entitled to registration immediately at the end of that period and no objection may be taken to the notice on any of the grounds on which refusal or postponement may be effected, except where fraud is involved.

## 21 Postponement of registration

(1) A local registration authority may postpone the grant of registration, if:

(a) any of the statements or information in the notice as required by section 18 are materially false or misleading; or



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(b) any document or information as required by section 18(3) has not been provided or is materially false or misleading; or

(c) the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged; or

(d) the authority decides that the occupation in which registration is sought is not an equivalent occupation.

(2) If the grant of registration has been postponed, the local registration authority may in due course grant or refuse the registration.

(3) The local registration authority may not postpone the grant of registration for longer than a period of 6 months, and the person is entitled to registration immediately, at the end of that period, unless registration was refused at or before the end of that period.

(4) Nothing in subsection (3) prevents earlier registration from being granted on a review by the Australian Tribunal.

## 22 Refusal of registration

(1) A local registration authority may refuse the grant of registration, if:

(a) any of the statements or information in the notice as required by section 18 are materially false or misleading; or

(b) any document or information as required by section 18(3) has not been provided or is materially false or misleading; or

(c) the authority decides that the occupation in which registration is sought is not an equivalent occupation and equivalence cannot be achieved by the imposition of conditions.

(2) A decision to refuse to grant registration on the ground that the occupation in which registration is sought is not an equivalent occupation takes effect at the end of a specified period (not less than 2 weeks) after the person is notified of the decision, unless it has been previously revoked or there is an application for review to



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the Australian Tribunal, in which case the Tribunal may make whatever orders it considers appropriate.

## 23 Notification of decision

A local registration authority must give the person who lodges a notice in accordance with section 18 a notice in writing of its decision to grant registration, or to postpone or refuse the grant of registration, or to impose conditions on registration.



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## Division 3—Interim arrangements

### 24 Deemed registration

(1) A person who lodges a notice under section 18 with a local registration authority of an Australian jurisdiction is, pending the grant or refusal of registration, taken to be registered as provided in section 19.

(2) Such registration is called ***deemed registration*** in this Act.

(3) Deemed registration in one Australian jurisdiction does not of itself provide a basis for registration in another Australian jurisdiction.

### 25 Duration of deemed registration

(1) A person's deemed registration in an Australian jurisdiction continues until it is cancelled or suspended or otherwise ceases in accordance with this Part.

(2) A person's deemed registration in an Australian jurisdiction ceases if the person becomes substantively registered in the jurisdiction in connection with the occupation concerned.

(3) A person's deemed registration in an Australian jurisdiction ceases if the local registration authority of the jurisdiction refuses to grant registration, subject to any determination of the Australian Tribunal.

(4) A person's deemed registration in an Australian jurisdiction ceases if the person ceases to be substantively registered in every other participating jurisdiction mentioned in the notice as required by section 18(2)(c).

(5) A local registration authority of an Australian jurisdiction may cancel a person's deemed registration in the jurisdiction if the person requests cancellation.



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(6) Deemed registration is not affected by postponement of the grant of substantive registration.

## 26 Activities under deemed registration

(1) A person who has deemed registration in an Australian jurisdiction may carry on the occupation in the jurisdiction as if the deemed registration were substantive registration in the jurisdiction.

(2) However, the person may do so only:
  (a) within the limits conferred by the person's substantive registration in New Zealand; and
  (b) within the limits conferred by the person's deemed registration in the Australian jurisdiction; and
  (c) subject to any conditions or undertakings applying to the person's registration in New Zealand, unless waived by the local registration authority of the Australian jurisdiction under this section; and
  (d) subject to any conditions applying to the person's deemed registration.

(3) Without limiting anything in this Division:
  (a) the person may not carry on the occupation in the Australian jurisdiction without complying with any requirements regarding insurance, fidelity funds, trust accounts and the like that are designed to protect the public, clients, customers or others; and
  (b) a person who has deemed registration in an occupation in the Australian jurisdiction is subject to any disciplinary provisions and arrangements that are applicable to persons who are substantively registered in the jurisdiction; and
  (c) references in the law of the Australian jurisdiction to persons registered in an occupation under the law of the jurisdiction (however expressed) extend to persons who have deemed registration for the occupation under this Act.

(4) However, the local registration authority of the Australian jurisdiction may waive any condition imposed under the law of



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New Zealand, or any undertaking given to the local registration authority of New Zealand, if it thinks it appropriate in the circumstances.

(5) The local registration authority of the Australian jurisdiction may impose conditions as if deemed registration were substantive registration, but it must not impose conditions that are more onerous than would be imposed in similar circumstances (having regard to relevant qualifications and experience) if it were registration effected apart from this Part, unless they correspond to conditions or undertakings that apply to the person's registration in New Zealand or that are necessary to achieve equivalence of occupations.



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## Division 4—Equivalent occupations

### 27 Equivalent occupations

The equivalence of occupations carried on in different participating jurisdictions is, for the purposes of this Act, to be determined in accordance with this Part.

### 28 General principle

(1) An occupation for which persons may be registered in New Zealand is taken to be equivalent to an occupation for which persons may be registered in an Australian jurisdiction if the activities authorised to be carried out under each registration are substantially the same (whether or not this result is achieved by means of the imposition of conditions).

(2) Conditions may be imposed on registration under this Part so as to achieve equivalence between occupations in different participating jurisdictions.

(3) This section has effect subject to any relevant declarations in force under this Division.

### 29 Declarations as to equivalent occupations

(1) This Part is to be given effect in accordance with relevant declarations (if any) made under this Division regarding equivalent occupations.

(2) If a declaration made by the Australian Tribunal under section 30 and a declaration made by Ministers under section 31 are inconsistent, the ministerial declaration prevails.

(3) A declaration under this Part does not affect the registration of any person already registered (except in the case of a declaration made by the Australian Tribunal in relation to that person specifically).



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## 30 Declarations by Australian Tribunal

(1) On a review, the Australian Tribunal may make an order that a person who is registered in a particular occupation in New Zealand is or is not entitled to registration in an Australian jurisdiction in a particular occupation, and may specify or describe conditions that will achieve equivalence.

(2) On a review, the Australian Tribunal may make a declaration that occupations carried on in New Zealand and an Australian jurisdiction are not equivalent, but only if the Australian Tribunal is satisfied that:

(a) the activities involved in the occupations are not substantially the same (even with the imposition of conditions); or

(b) registration in New Zealand should not entitle registered persons to carry on a particular activity or class of activity in an Australian jurisdiction, where:

(i) the activity or class of activity is a material part of the practice of a person registered in New Zealand for the occupation; and

(ii) the activity or class of activity, if carried out by a person not conforming to the appropriate standards, could reasonably be expected to expose persons in the Australian jurisdiction to a real threat to their health or safety or could reasonably be expected to cause significant environmental pollution (including air, water, noise or soil pollution); and

(iii) it is not practicable to protect the health or safety of such persons from that threat or the environment from such pollution by regulating the manner in which services in the occupation are provided.

(3) The Registrar or other proper officer of the Australian Tribunal must cause a notice setting out the terms of a declaration under this section to be promptly published in the *Commonwealth of Australia Gazette*.



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(4) A declaration made on the basis of paragraph (2)(b) has effect for no longer than 12 months, and the local registration authority must promptly notify appropriate authorities in each other participating jurisdiction of the declaration.

(5) The local registration authority is to give effect to the decision on the review, and must thereafter act in conformity with the decision in relation to other persons seeking registration.

## 31 Declarations by Ministers

(1) A Minister from New Zealand and a Minister from each of one or more Australian jurisdictions may jointly declare, by notice in the *Commonwealth of Australia Gazette*, that specified occupations are equivalent, and may specify or describe conditions that will achieve equivalence.

(2) The declaration may be amended or rescinded in the same way.

(3) The declaration has effect only in relation to the participating jurisdictions concerned.

(4) The appropriate local registration authority is to give effect to the declaration.



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## Division 5—General provisions

### 32 Disciplinary action

(1) If a person's registration in an occupation in New Zealand:

(a) is cancelled or suspended; or

(b) is subject to a condition;

on disciplinary grounds, or as a result of or in anticipation of criminal, civil or disciplinary proceedings, then the person's registration in the equivalent occupation in an Australian jurisdiction is affected in the same way.

(2) However, the local registration authority of the Australian jurisdiction may reinstate any cancelled or suspended registration or waive any such condition if it thinks it appropriate in the circumstances.

(3) This section extends to registration effected apart from this Act.

(4) This section has effect despite any other provisions of this Part.

### 33 Review of decisions

(1) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Australian Tribunal for review of a decision of a local registration authority of an Australian jurisdiction in relation to its functions under this Act.

(2) In subsection (1):

***decision*** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

(3) If a local registration authority gives a person written notice of the making of a decision referred to in subsection (1), the notice must include a statement to the effect that:

(a) subject to the *Administrative Appeals Tribunal Act 1975*, application for review of the decision may be made to the



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Australian Tribunal by a person whose interests are affected by the decision; and

(b) except where subsection 28(4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision.

(4) Any failure to comply with a requirement of subsection (3) does not affect the validity of the decision.

## 34 Costs

The Australian Tribunal may order a party in proceedings before it to pay costs if the party has acted unreasonably.

## 35 Co-operation with and membership of Trans-Tasman Occupations Tribunal (NZ)

(1) The purpose of this section is to promote consistency between decisions made by the Australian Tribunal for the purposes of this Act and decisions made by the New Zealand Tribunal for the purposes of the New Zealand Act.

(2) In making decisions for the purposes of this Act, the Australian Tribunal is to have regard to decisions of the New Zealand Tribunal.

(3) For the purposes of a review of a decision referred to in subsection 33(1) of this Act, the President of the Australian Tribunal may, in the exercise of the power under paragraph 19A(1)(a) of the *Administrative Appeals Tribunal Act 1975*, direct that the persons who are to constitute the Australian Tribunal for the purposes of that review include:

(a) the Chairperson of the New Zealand Tribunal; or

(b) a person included on the panel maintained under the New Zealand Act who is nominated by the Chairperson of the New Zealand Tribunal for the purposes of that review.



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(4) The President of the Australian Tribunal must exercise the power given by subsection (3) in accordance with arrangements made from time to time between the President and the Chairperson of the New Zealand Tribunal.

(5) A reference in any of the following provisions to a member includes a reference to a person included in a direction under subsection (3) of this section:

(a) the definition of ***authorised member*** in subsection 3(1) of the *Administrative Appeals Tribunal Act 1975*;

(b) Part III, IIIA, IV or VI of the *Administrative Appeals Tribunal Act 1975*.

(6) In spite of anything in any other Act, the Chairperson of the New Zealand Tribunal, or a person included on the panel maintained under the New Zealand Act, is not entitled to remuneration or allowances in respect of service as a member of the Australian Tribunal as permitted by this Act.

(7) Service by a member of the Australian Tribunal on the New Zealand Tribunal under the New Zealand Act is taken for all purposes of Australian law to be service as a member of the Australian Tribunal.

## 36 Residence or domicile

Residence or domicile in a particular participating jurisdiction is not to be a prerequisite for or a factor in entitlement to the grant, renewal or continuation of registration arising under this Part.

## 37 Furnishing information

(1) A local registration authority of an Australian jurisdiction must furnish without delay any information reasonably required by a local registration authority of another participating jurisdiction about a person substantively registered under a law of the Australian jurisdiction.



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(2) The obligation imposed under this section does not apply unless the authority of the other participating jurisdiction notifies the authority of the firstmentioned jurisdiction that the information is required in connection with:

(a) a notice lodged by a person seeking registration; or

(b) a person's deemed registration; or

(c) actual or possible disciplinary action against the person.

(3) The authority of the firstmentioned jurisdiction is empowered to provide the information, despite any law relating to secrecy, confidentiality or privacy.

(4) Nothing in this section affects any obligation or power to provide information apart from this section.

## 38 Receiving information

If a local registration authority of an Australian jurisdiction receives information under section 37 of this Act or the corresponding provision of the New Zealand Act, the information is subject to any law relating to secrecy, confidentiality or privacy that would apply if the information were provided under the law of the jurisdiction under which the authority is constituted or exercises its functions.

## 39 General responsibilities of local registration authorities

(1) It is the duty of each local registration authority of an Australian jurisdiction to facilitate the operation of this Part in relation to the occupations for which the authority is responsible, and in particular to make use of the power to impose conditions in such a way as to promote the Trans-Tasman mutual recognition principle.

(2) It is the duty of each local registration authority of an Australian jurisdiction to prepare and make available guidelines and information regarding the operation of this Part in relation to the occupations for which the authority is responsible.



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(3) The first such guidelines and information are to be available within 6 months after the commencement of this section.

(4) In dealing with information obtained or to be obtained under this Act, a local registration authority of an Australian jurisdiction must have regard to the principles relating to information privacy set out in Schedule 5.

(5) Nothing in subsection (4) or in Schedule 5:

(a) affects the operation or validity of any decision or other action taken under this Act; or

(b) gives rise to, or can be taken into account in, any civil cause of action; or

(c) creates rights or duties that are enforceable in judicial or other proceedings.

## 40 Fees

(1) A local registration authority of an Australian jurisdiction has power to impose fees in relation to substantive or deemed registration or the continuance of registration arising under this Part, but any such fees may not be greater than are applicable for registration apart from this Part.

(2) Nothing in this section prevents the fixing or prescribing of fees referred to in this section under any other law of an Australian jurisdiction, but the fees may not be greater than can be imposed under this section.

(3) The local registration authority may impose a condition on substantive or deemed registration arising under this Part to the effect that a person may not carry out activities under registration unless a fee or other payment has been paid, but such a condition may not be imposed unless it corresponds to a requirement attaching to registration apart from this Part.

(4) This section does not authorise the imposition of a tax.



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## 41 Formalities requiring personal attendance

(1) Neither substantive or deemed registration, nor entitlement to registration, under this Part requires compliance with any statutory or other formalities requiring personal attendance in the Australian jurisdiction concerned.

(2) This section applies to formalities that would otherwise have to be complied with before, at or after registration.

## 42 Saving

Nothing in this Part prevents a person from seeking registration or being registered for an occupation under a law apart from this Part.



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# Part 4—Exclusions and exemptions

## 43 References to endorsing a proposed regulation

(1) For the purposes of this Part, a jurisdiction endorses a regulation if the designated person for the jurisdiction publishes a notice in the official gazette of the jurisdiction setting out and endorsing the terms of the regulation before it is made.

(2) However, the making of a recommendation by a Minister to the Governor-General for the making of a regulation amounts to endorsement of the regulation by the Commonwealth, and the Commonwealth is taken to have endorsed the regulation for the purposes of this Part if the regulation is in fact made.

## 44 Exclusions

(1) This Act does not affect laws of an Australian jurisdiction specified or described in Schedule 1, to the extent that Schedule 1 indicates that they are excluded from the operation of this Act.

(2) The Governor-General may make regulations amending Schedule 1.

(3) A regulation may not be made for the purposes of this section unless all of the then participating jurisdictions have endorsed the regulation.

(4) However:

(a) if such a regulation merely omits or reduces the extent of an exclusion of a law of a State from Schedule 1, the regulation may be made if the State has endorsed the regulation; or

(b) if such a regulation amends Part 2 of Schedule 1 by substituting or adding a law of a State that relates to a matter referred to in paragraph (a), (b), (c) or (d) of subclause 1(1) of Part 1 of that Schedule, the regulation may be made if the State has endorsed the regulation.



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## 45 Permanent exemptions

(1) This Act does not affect the operation of laws of an Australian jurisdiction specified or described in Schedule 2, to the extent that Schedule 2 indicates that they are exempt from the operation of this Act.

(2) Such an exemption may be limited or unlimited in its application. If a law is specified or described in Schedule 2 without any limitation, it is taken to be wholly exempt from the operation of this Act.

(3) The Governor-General may make regulations amending Schedule 2.

(4) A regulation may not be made for the purposes of this section unless all of the then participating jurisdictions have endorsed the regulation.

(5) However:

(a) if such a regulation relates solely to one or more laws specified or described in Schedule 3 and will not take effect within 5 years after the commencement of section 48, the regulation may be made if at least two-thirds of the then participating jurisdictions have endorsed the regulation; or

(b) if such a regulation merely omits or reduces the extent of an exemption of a law of a State from Schedule 2, the regulation may be made if the State has endorsed the regulation.

## 46 Temporary exemptions

(1) This Act does not:

(a) apply to the sale in an Australian jurisdiction of exempt goods; or

(b) affect the operation of exempt laws of an Australian jurisdiction relating to a particular kind of goods.

(2) For the purposes of this section, goods or laws are exempt if the goods are of a kind, or the laws are, for the time being declared by



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or under an Act or regulation of the jurisdiction to be exempt from the operation of this Act.

(3) Any such exemptions have effect only if they are substantially for the purpose of protecting the health and safety of persons in the jurisdiction or preventing, minimising or regulating environmental pollution (including air, water, noise or soil pollution) in the jurisdiction.

(4) No such exemption operates (together with the period of any previous exemption) for longer than a period of 12 months or an aggregate period of 12 months.

## 47 Continuation of temporary exemptions to enable implementation of ministerial agreements

(1) The purpose of this section is to create a mechanism to provide an additional period not exceeding 12 months for legislative or other action to be taken to implement a ministerial agreement arising out of consideration of an exemption under section 46. However, this subsection does not provide grounds for invalidating any regulations made for the purposes of this section.

(2) This Act does not:
  (a) apply to the sale in an Australian jurisdiction of exempt goods; or
  (b) affect the operation of exempt laws of an Australian jurisdiction relating to a particular kind of goods.

(3) For the purposes of this section, goods or laws are exempt if the goods are of a kind, or the laws are, for the time being declared by regulations under this Act to be exempt from the operation of this Act.

(4) The Governor-General may make regulations for the purposes of this section, but any such regulations may be made only if they have the effect of continuing or reviving, wholly or partly, and with or without modification, the effect of an exemption under section 46.



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(5) Such a modification may only:

(a) in the case of an exemption relating to goods:

(i) limit the circumstances in which the goods are exempt; or

(ii) provide that the exemption does not apply if certain standards or conditions are complied with in relation to the goods; or

(b) in the case of an exemption relating to a law:

(i) modify the operation of the law while the exemption operates; or

(ii) provide that the exemption does not apply in relation to particular goods if certain standards or conditions are complied with in relation to the goods.

(6) The regulations may discontinue any exemption under this section.

(7) A regulation may not be made for the purposes of this section unless at least two-thirds of the then participating jurisdictions have endorsed the regulation.

(8) No exemption under this section operates (together with the period of any previous such exemption) for longer than a period of 12 months or an aggregate period of 12 months after the corresponding exemption under section 46 ceases to operate.

(9) In this section:

***ministerial agreement*** means an agreement of Ministers of participating jurisdictions made in relation to goods or laws that are the subject of an exemption under section 46.

## 48 Special exemptions

(1) This Act does not affect the operation of laws of an Australian jurisdiction that relate to goods and that are specified or described in Schedule 3, to the extent that Schedule 3 indicates that they are exempt from the operation of this Act.



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(2) Such an exemption operates for no longer than a period of 12 months after the commencement of this section, but may be extended in whole or in part by the regulations from time to time by one or more further periods each not exceeding 12 months.

(3) A regulation may not be made for the purposes of subsection (2) if the exemption has expired or has otherwise ceased to be in force.

(4) The Governor-General may make regulations amending Schedule 3 for the purposes of subsection (2) or (6).

(5) A regulation may not be made for the purposes of this section unless at least two-thirds of the then participating jurisdictions have endorsed the regulation.

(6) However, if such a regulation merely omits any matter relating to an exemption that has expired or has otherwise ceased to be in force, the regulation may be made if the Commonwealth has endorsed the regulation.

## 49 Exemptions relating to occupations

(1) This Act does not affect the operation of laws of an Australian jurisdiction that relate to occupations and that are specified or described in Schedule 4, to the extent that Schedule 4 indicates that they are exempt from the operation of this Act.

(2) The Governor-General may make regulations amending Schedule 4.

(3) A regulation may not be made for the purposes of this section unless all of the then participating jurisdictions have endorsed the regulation.

(4) However, if such a regulation amends Schedule 4 by omitting a law of a State, the regulation may be made if the State has endorsed the regulation.



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# Part 5—General

## 50 References to participating jurisdictions

For the purposes of this Act, a participating jurisdiction is:

(a) New Zealand, while there is in force an Act of its Parliament that corresponds to this Act; or

(b) the Commonwealth; or

(c) a State (other than a Territory) for which there is in force an Act of its Parliament that refers to the Parliament of the Commonwealth the power to enact this Act, or that adopts this Act, under paragraph (xxxvii) of section 51 of the Commonwealth Constitution; or

(d) a Territory (being the Australian Capital Territory or the Northern Territory) for which there is in force an Act of its legislature that requests the Parliament of the Commonwealth to enact this Act or that enables this Act to apply in relation to it.

## 51 Application of Trans-Tasman mutual recognition principle

(1) The Trans-Tasman mutual recognition principle and the provisions of this Act may be taken into consideration in proceedings of any kind and for any purpose.

(2) Nothing in this Act or the *Mutual Recognition Act 1992* prevents a person from relying on the Trans-Tasman mutual recognition principle in relation to more than one Australian jurisdiction.

## 52 Machinery provisions regarding limitations etc.

In cases where Part 3 provides that conditions or undertakings that apply or are relevant to registration in New Zealand also apply or are relevant to registration in an Australian jurisdiction, they are to be construed with any necessary adaptations, including the following (where appropriate and so far as practicable):



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(a) references to New Zealand are to be read as references to the Australian jurisdiction;

(b) references to officers or authorities of New Zealand are to be read as references to the corresponding officers or authorities of the Australian jurisdiction.

## 53 Determining place of production

(1) For the purpose of determining where goods are produced for the purposes of this Act, goods are taken to be produced in New Zealand if the most recent step in the process of producing the goods (including for example processing, harvesting or packaging the goods) has occurred there.

(2) Subsection (1) applies even though:

(a) the process of production may be incomplete; or

(b) some steps in the process have not yet been carried out; or

(c) some steps in the process were carried out elsewhere; or

(d) the goods or a component of the goods were imported into New Zealand.

## 54 Commonwealth regulations for temporary exemptions

Without limiting any other power under any other Act, the Governor-General may make regulations for the purposes mentioned in section 46.



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# Schedule 1—Exclusions

Note: See section 44.

# Part 1—Introduction

## 1 Excluded laws

(1) The laws specified or described in this Schedule are excluded from the operation of this Act, so far as they relate to:

(a) customs controls and tariffs—but only to the extent that the laws provide for the imposition of tariffs and related measures (for example, anti-dumping and countervailing duties) and the prohibition or restriction of imports; and

(b) intellectual property—but only to the extent that the laws provide for the protection of intellectual rights and relate to requirements for the sale of goods set out in section 11; and

(c) taxation and business franchises—but only to the extent that the laws relate to taxes imposed on the sale of locally produced and imported goods in a non-discriminatory way, including, for example, business franchise and stamp duties (States); and

(d) the implementation of international obligations—but only to the extent that the laws implementing those obligations deal with the requirements relating to the sale of goods set out in section 11.

(2) The laws specified or described in this Schedule are excluded only to the extent that those laws would be affected by the Trans-Tasman mutual recognition principle as applying to goods.



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# Part 2—Laws

## 2 Customs controls and tariffs (including laws relating to international obligations)

**Prohibited imports**

*Customs (Prohibited Imports) Regulations* of the Commonwealth

*Commerce (Trade Descriptions) Act 1905* of the Commonwealth

Any other laws of the Commonwealth, to the extent that they provide for the prohibition or restriction of imports and would be affected by the Trans-Tasman mutual recognition principle as applying to goods.

**Tariffs**

*Customs Tariff Act 1995* of the Commonwealth

*Customs Act 1901* of the Commonwealth, Part XVB

*Customs Tariff (Anti-Dumping) Act 1975* of the Commonwealth

## 3 Intellectual property (including laws relating to the Paris Convention of 20 March 1983 for the Protection of Industrial Property)

*Patents Act 1990* of the Commonwealth

*Trade Marks Act 1995* of the Commonwealth

*Designs Act 1906* of the Commonwealth

*Olympic Insignia Protection Act 1987* of the Commonwealth

*Scout Association Act 1924* of the Commonwealth

*Plant Breeder's Rights Act 1994* of the Commonwealth

*Copyright Act 1968* of the Commonwealth

*Circuit Layouts Act 1989* of the Commonwealth

*Unauthorised Documents Act 1922* of New South Wales

*Unauthorized Documents Act 1958* of Victoria



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*Badge, Arms, Floral and other Emblems of Queensland Act 1959* of Queensland

*Armorial Bearings Protection Act 1979* of Western Australia

*Unauthorised Documents Act 1916* of South Australia

*Unauthorized Documents Act 1986* of Tasmania

*City of Canberra Arms Act 1932* of the Australian Capital Territory

*Flag and Emblem Act 1985* of the Northern Territory

## 4 Other international obligations

*Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth, sections 21 and 22, to the extent that they implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora

*Hazardous Waste (Regulation of Exports and Imports) Act 1989* of the Commonwealth, sections 12, 14, 15, 17, 18B, 20, 24-31, 34 and 39, to the extent that they implement the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal 1989

The following laws, to the extent that they implement the Charter of the United Nations (as it relates to the imposition of United Nations sanctions):

*Charter of the United Nations Act 1945* of the Commonwealth, section 6

*Air Navigation Act 1920* of the Commonwealth, section 26

*Banking Act 1959* of the Commonwealth, section 71

*Migration Act 1958* of the Commonwealth, subsection 31(3), paragraph 116(1)(g) and section 504

*Customs Act 1901* of the Commonwealth, section 50

*Protection of Movable Cultural Heritage Act 1986* of the Commonwealth, to the extent that it implements the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention Regulating the International Trade in Cultural Property 1970

The following laws, to the extent that they implement the European Union-Australia Wine Agreement—Protection of Certain Names and



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Expressions:

*Australian Wine and Brandy Corporation Act 1980* of the Commonwealth, Part VIB and Part VIA (Label Integrity Program)

*Australian Wine and Brandy Corporation (Exports) Regulations* of the Commonwealth, Parts 3 and 4

## 5 Taxation and business franchises

Laws of a State imposing or providing for the imposition, assessment or collection of taxation, including stamp duties, and providing for business licences.



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# Schedule 2—Permanent exemptions

Note: See section 45.

The laws specified or described in this Schedule are exempt from the operation of this Act.

## Part 1—Laws relating to goods: general

### 1 Quarantine

A law of an Australian jurisdiction, including a law relating to quarantine, to the extent that:

(a) the law is enacted or made substantially for the purpose of preventing the entry or spread of any pest, disease, organism, variety, genetic disorder or any other similar thing; and

(b) the law authorises the application of quarantine measures that do not amount to an arbitrary or unjustifiable discrimination or to a disguised restriction on trade between Australia and New Zealand and are not inconsistent with the requirements of the Agreement establishing the World Trade Organisation.

### 2 Endangered species

A law of an Australian jurisdiction, to the extent that it is enacted or made substantially for the purpose of protecting a species or other class of animals or plants from extinction in the jurisdiction and that it prohibits or restricts the possession, sale, killing or capture of animals or plants of that species or other class in the jurisdiction.



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# Part 2—Laws relating to goods: specific

## 3 Commonwealth

**Firearms and other prohibited or offensive weapons**
*Customs (Prohibited Imports) Regulations*

**Fireworks**
*Customs (Prohibited Imports) Regulations*

**Hazardous substances, industrial chemicals and dangerous goods**
*Industrial Chemicals Act 2019*
*Occupational Health and Safety (Commonwealth Employment) Act 1991*
*Road Transport Reform (Dangerous Goods) Act 1995*
*Trade Practices Act 1974*, Division 1A of Part V, to the extent that it deals with child restraints for motor vehicles

**Indecent material**
*Classification (Publications, Films and Computer Games) Act 1995*

**Ozone protection**
*Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (to the extent that it deals with ozone depleting substances)

**Agricultural and veterinary chemicals**
*Agricultural and Veterinary Chemicals Act 1994*
*Agricultural and Veterinary Chemicals Code Act 1994*

**Other**
*Imported Food Control Act 1992* (to the extent that it deals with risk categorised food commodities)



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**Radiocommunications**

*Radiocommunications Act 1992* and rules made under that Act, except to the extent to which that Act, or those rules, deal with applying labels (within the meaning of that Act) to equipment (within the meaning of that Act)

**Road vehicles**

*Road Vehicle Standards Act 2018*

**Therapeutic goods**

*Therapeutic Goods Act 1989*

*Therapeutic Goods (Charges) Act 1989*

**Tobacco**

*Competition and Consumer Act 2010*, section 134 of Schedule 2 to that Act, to the extent that it relates to the *Competition and Consumer (Tobacco) Information Standard 2011*

*Tobacco Plain Packaging Act 2011*

**Emissions-controlled products**

*Product Emissions Standards Rules 2017*, to the extent that they deal with emissions-controlled products that are propulsion marine engines or non-road engines

## 4 New South Wales

**Container deposit scheme**

The following laws:

(a) Part 5 of the *Waste Avoidance and Resource Recovery Act 2001*;

(b) all other provisions of that Act, to the extent that they relate to the container deposit scheme established by that Part;

(c) regulations made under that Act to the extent that they relate to that scheme

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1996*



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*Prohibited Weapons Act 1989*

**Fireworks**

*Dangerous Goods Act 1975* (to the extent that it deals with fireworks)

**Gaming machines**

*Registered Clubs Act 1976*, Parts 10 and 11
*Liquor Act 1982*, Part 11

**Gas appliances**

*Gas Supply Act 1996*, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons and Therapeutic Goods Act 1966*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Occupational Health and Safety Act 1983*

*Dangerous Goods Act 1975*

*Factories, Shops and Industries Act 1962*

*Fair Trading Act 1987*, sections 26, 30, 31 and 38, to the extent that those sections deal with the regulation of child restraints for motor vehicles

**Indecent material**

*Classification (Publications, Films and Computer Games) Enforcement Act 1995*

**Ozone protection**

*Ozone Protection Act 1989*

**Therapeutic goods**

*Poisons and Therapeutic Goods Act 1966*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act



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## 5 Victoria

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1958*

*Firearms Regulations 1995*

*Control of Weapons Act 1990*

*Control of Weapons Regulations 1990*

**Fireworks**

*Dangerous Goods Act 1985* (to the extent that it deals with fireworks)

*Dangerous Goods (Explosives) Regulations 1988*, Part 8, Division 5

**Gaming machines**

*Gaming Machine Control Act 1991*

**Gas appliances**

**Gas Safety Act 1997**, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**

**Drugs, Poisons and Controlled Substances Act 1981**, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

**Dangerous Goods Act 1985**

**Occupational Health and Safety Act 1985**

**Indecent material**

*Classification (Publications, Films and Computer Games) (Enforcement) Act 1995*

**Ozone protection**

*Environment Protection Act 1970*, sections 16 and 41 (to the extent that they deal with ozone depleting substances) and paragraph 71(1)(gba)



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**Therapeutic goods**

**Drugs, Poisons and Controlled Substances Act 1981**, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

**Therapeutic Goods (Victoria) Act 1994**, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 6 Queensland

**Firearms and other prohibited or offensive weapons**

*Weapons Act 1990*

**Fireworks**

*Explosives Act 1952* (to the extent that it deals with fireworks)

**Gaming machines**

*Gaming Machine Act 1991*

**Gas appliances**

*Petroleum and Gas (Production and Safety) Act 2004*, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons Regulation 1973* under the *Health Act 1937*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Workplace Health and Safety Act 1995*

*Fair Trading Act 1989*, sections 81, 83, 85 and 85A, to the extent that those sections deal with the regulation of child restraints for motor vehicles

**Indecent material**

*Classification of Films Act 1991*



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*Classification of Publications Act 1991*

**Ozone protection**

*Environmental Protection (Interim) Regulation 1995* under the *Environmental Protection Act 1994* (to the extent that it deals with ozone depleting substances)

**Therapeutic goods**

*Poisons Regulation 1973* under the *Health Act 1937*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 7 Western Australia

**Container deposit scheme**

The following laws:

(a) Part 5A of the *Waste Avoidance and Resource Recovery Act 2007*;

(b) all other provisions of that Act, to the extent that they relate to the container deposit scheme established by that Part;

(c) regulations or other instruments made under that Act, to the extent that they relate to that scheme

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1973*

*Firearms Regulations 1974*

*Weapons Act 1999*

*Weapons Regulations 1999*

**Fireworks**

*Explosives and Dangerous Goods Act 1961* (to the extent that it deals with fireworks)

**Gaming machines**

*Gaming Commission Act 1987*



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**Gas appliances**

*Gas Standards Act 1972*, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons Act 1964*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Occupational Safety and Health Act 1984*

*Explosives and Dangerous Goods Act 1961*

*Consumer Affairs Act 1971*, sections 23Q, 23R and 23U, to the extent that those sections deal with the regulation of child restraints for motor vehicles

*Fair Trading Act 1987*, sections 50 and 59, to the extent that those sections deal with the regulation of child restraints for motor vehicles

**Indecent material**

*Censorship of Films Act 1947*

*Indecent Publications and Articles Act 1902*

*Video Tapes Classification and Control Act 1987*

*Censorship Act 1996*

**Ozone protection**

*Environmental Protection Act 1986* (to the extent that it deals with ozone protection)

**Therapeutic goods**

*Poisons Act 1964*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 8 South Australia

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1977*

*Firearms Regulations 1993*



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*Summary Offences Act 1953*, sections 15 and 15A
*Criminal Law Consolidation Act 1935*, sections 32, 47A and 299A

**Fireworks**
*Explosives Act 1936* (to the extent that it deals with fireworks)

**Gaming machines**
*Gaming Machines Act 1992*
*Gaming Machines Regulations 1993*

**Gas appliances**
*Gas Act 1997*, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**
*Controlled Substances Act 1984*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act
*Dangerous Substances Act 1979*
*Occupational Health, Safety and Welfare Act 1986*

**Indecent material**
*Classification (Publications, Films and Computer Games) Act 1995*
*Summary Offences Act 1953*, sections 33 and 35

**Ozone protection**
*Environment Protection Act 1993*, Part 8, Division 3

**Other**
*Environment Protection Act 1993*, Part 8, Division 2 (dealing with beverage containers)
*Summary Offences Act 1953*, Section 9B



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**Therapeutic goods**

*Controlled Substances Act 1984*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 9 Tasmania

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1996*

**Fireworks**

*Dangerous Goods Act 1976* (to the extent that it deals with fireworks)

**Gaming machines**

*Gaming Control Act 1993* (to the extent that it deals with gaming machines)

**Gas appliances**

*Gas Act 2000*, to the extent that it deals with the regulation of gas appliances

**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons Act 1971*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Dangerous Goods Act 1976*

*Workplace Health and Safety Act 1995*

**Indecent material**

*Classification (Publications, Films and Computer Games) Enforcement Act 1995*

**Ozone protection**

*Environmental Management and Pollution Control Act 1994* (to the extent that it deals with ozone protection)



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**Other**

*Living Marine Resources Management Act 1995* (to the extent that it relates to the possession, sale or capture of abalone, crayfish or scallops of a certain minimum size)

**Therapeutic goods**

*Poisons Act 1971*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 10 Australian Capital Territory

**Container deposit scheme**

The following laws:

(a) Part 10A of the *Waste Management and Resource Recovery Act 2016*;

(b) all other provisions of that Act, to the extent that they relate to the container deposit scheme established by that Part;

(c) regulations made under that Act, to the extent that they relate to that scheme

**Firearms and other prohibited or offensive weapons**

*Weapons Act 1991*

**Fireworks**

*Dangerous Goods Act 1975* of New South Wales in its application to the Australian Capital Territory (to the extent that it deals with fireworks)

**Gaming machines**

*Gaming Machine Act 1987*

**Gas appliances**

*Gas Safety Act 2000*, to the extent that it deals with the regulation of gas appliances



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**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons and Drugs Act 1978*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Occupational Health and Safety Act 1989*

**Indecent material**

*Business Franchise ("X" Videos) Act 1990*

*Classification (Publications, Films and Computer Games) (Enforcement) Act 1995*

**Ozone protection**

*Ozone Protection Act 1991*

**Therapeutic goods**

*Poisons and Drugs Act 1978*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act

## 11 Northern Territory

**Firearms and other prohibited or offensive weapons**

*Firearms Act 1992*

**Fireworks**

*Dangerous Goods Act 1980* (to the extent that it deals with fireworks)

**Gaming machines**

*Gaming Control Act 1993*

**Gas appliances**

*Dangerous Goods Act*, to the extent that it deals with the regulation of gas appliances



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**Hazardous substances, industrial chemicals and dangerous goods**

*Poisons and Dangerous Drugs Act*, to the extent that it deals with packaging and labelling of hazardous substances, industrial chemicals and dangerous goods and would be affected by Part 2 of this Act

*Dangerous Goods Act*

*Work Health Act*

**Indecent material**

*Classification of Publications and Films Act 1985*

**Ozone protection**

*Ozone Protection Act 1990*

**Therapeutic goods**

*Poisons and Dangerous Drugs Act*, to the extent that it deals with packaging and labelling of pharmaceutical drugs and would be affected by Part 2 of this Act



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# Schedule 3—Special exemptions

Note: See section 48.

The laws specified or described in this Schedule are exempt from the operation of this Act.



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# Schedule 4—Exempt laws relating to occupations

Note: See section 49.

## 1 Exempt laws

The laws specified or described in this Schedule are exempt from the operation of this Act to the extent indicated.

## 2 Medical practitioners

The following laws, to the extent that they deal with the occupation of medical practitioners as referred to in them:

*Medical Practice Act 1992* of New South Wales;
*Medical Practice Act 1994* of Victoria;
*Medical Act 1939* of Queensland;
*Medical Act 1894* of Western Australia;
*Medical Practitioners Act 1983* of South Australia;
*Medical Practitioners Registration Act 1996* of Tasmania;
*Medical Practitioners Act 1930* of the Australian Capital Territory;
*Medical Act 1995* of the Northern Territory.



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# Schedule 5—Privacy of information collected under the Act

Note: See section 39.

# Part 1—Interpretation

## 1 Interpretation

In this Schedule:

***consent*** means express consent or implied consent.

***individual*** means a natural person.

***individual concerned***, in relation to personal information or a record of personal information, means the individual to whom the information relates.

***personal information*** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

***record*** means:

(a) a document; or

(b) a database (however kept); or

(c) a photograph or other pictorial representation of a person;

but does not include:

(d) a generally available publication; or

(e) anything kept in a library, art gallery or museum for the purposes of reference, study or exhibition; or

(f) letters or other articles in the course of transmission by post.



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***solicit***, in relation to personal information, means request a person to provide that information, or a kind of information in which that information is included.

***use***, in relation to information, does not include mere disclosure of the information, but does include the inclusion of the information in a publication.



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# Part 2—Principles

## 2 Solicitation of personal information from individual concerned

Where:

(a) a local registration authority collects personal information under this Act; and

(b) the information is solicited by the authority from the individuals concerned;

the authority must ensure that the forms issued to individuals in connection with collecting the information specify:

(c) the purpose for which the information is being collected; and

(d) any person to whom, or any body or agency to which, it is the authority's usual practice to disclose personal information of the kind so collected, and (if known by the authority) any person to whom, or any body or agency to which, it is the usual practice of that first-mentioned person, body or agency to pass on that information.

## 3 Storage and security of personal information

A local registration authority who has possession or control of a record that contains personal information must ensure:

(a) that the record is protected, by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse; and

(b) that if it is necessary for the record to be given to a person in connection with the provision of a service to the local registration authority, everything reasonably within the power of the authority is done to prevent unauthorised use or disclosure of information contained in the record.



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## 4 Limits on use of personal information

(1) A local registration authority who has possession or control of a record that contains personal information that was obtained under this Act for a particular purpose must not use the information for any other purpose unless:

(a) the individual concerned has consented to use of the information for that other purpose; or

(b) use of the information for that other purpose is required or authorised by or under law; or

(c) use of the information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.

(2) Where personal information is used for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue, the local registration authority must include in the record containing that information a note of that use.

## 5 Limits on disclosure for personal information

(1) A local registration authority who has possession or control of a record that contains personal information must not disclose the information to a person, body or agency (other than the individual concerned) unless:

(a) the individual concerned is reasonably likely to have been aware, or made aware under the principle set out in clause 2, that information of that kind is usually passed to that person, body or agency; or

(b) the individual concerned has consented to the disclosure; or

(c) the disclosure is required or authorised by or under law; or

(d) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.



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Clause 5

(2) Where personal information is disclosed for the purposes of enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the purpose of the protection of the public revenue, the local registration authority must include in the record containing that information a note of the disclosure.

(3) A person, body or agency to whom personal information is disclosed under subclause (1) must not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency.



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# Endnotes

## Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

**Abbreviation key—Endnote 2**
The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment



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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.



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## Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced



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# Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Trans-Tasman Mutual Recognition Act 1997 | 190, 1997 | 7 Dec 1997 | s 1–8: 7 Dec 1997 (s 2(1))<br>Remainder: 1 May 1998 (s 2(2) and gaz 1998, No S187) | |
| Statute Stocktake Act 1999 | 118, 1999 | 22 Sept 1999 | Sch 2 (item 14): 22 Sept 1999 (s 2(1)) | — |
| Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Act 2003 | 126, 2003 | 5 Dec 2003 | Sch 1 (item 85): 5 Dec 2003 (s 2) | — |
| Administrative Appeals Tribunal Amendment Act 2005 | 38, 2005 | 1 Apr 2005 | Sch 1 (items 235, 236): 16 May 2005 (s 2(1) item 6) | — |
| Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006 | 101, 2006 | 14 Sept 2006 | Sch 5 (items 166–168) and Sch 6 (items 5–11): 14 Sept 2006 (s 2(1) item 4) | Sch 6 (items 5–11) |
| Statute Law Revision Act 2007 | 8, 2007 | 15 Mar 2007 | Sch 3 (item 25): 15 Mar 2007 (s 2(1) item 44) | — |
| Tribunals Amalgamation Act 2015 | 60, 2015 | 26 May 2015 | Sch 8 (item 53) and Sch 9: 1 July 2015 (s 2(1) items 19, 22) | Sch 9 |
| Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018 | 164, 2018 | 10 Dec 2018 | Sch 4 (item 15): 1 July 2021 (s 2(1) item 5)<br>Sch 4 (item 18): 1 July 2023 (s 2(1) item 6) | — |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| **as amended by** | | | | |
| Road Vehicle Standards (Consequential and Transitional Provisions) Amendment Act 2022 | 17, 2022 | 1 Apr 2022 | Sch 1 (item 1): 1 Apr 2022 (s 2(1) item 1) | — |
| Industrial Chemicals (Consequential Amendments and Transitional Provisions) Act 2019 | 13, 2019 | 12 Mar 2019 | Sch 1 (item 7): 1 July 2020 (s 2(1) item 2) | — |
| Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020 | 151, 2020 | 17 Dec 2020 | Sch 4 (items 40–52): 17 June 2021 (s 2(1) item 6) | Sch 4 (items 42–52) |

| Number and year | FRLI registration or gazettal | Commencement | Application, saving and transitional provisions |
|---|---|---|---|
| 60, 1999 | 16 Apr 1999 | 1 May 1999 (r 2) | — |
| 51, 2000 | 19 Apr 2000 | Sch 2: 19 Apr 2000 (r 2) | — |
| 75, 2001 | 20 Apr 2001 | Sch 2: 20 Apr 2001 (r 2) | — |
| 221, 2001 | 23 Aug 2001 | 23 Aug 2001 (r 2) | — |
| 78, 2002 | 18 Apr 2002 | Sch 2: 18 Apr 2002 (r 2) | — |
| 72, 2003 | 28 Apr 2003 | Sch 2: 28 Apr 2003 (r 2) | — |
| 65, 2009 | 17 Apr 2009 (F2009L01291) | Sch 2: 18 Apr 2009 (r 2) | — |
| 42, 2010 | 15 Mar 2010 (F2010L00653) | 16 Mar 2010 (r 2) | — |



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## Endnote 3—Legislation history

| Number and year | FRLI registration or gazettal | Commencement | Application, saving and transitional provisions |
|---|---|---|---|
| 72, 2010 | 19 Apr 2010 (F2010L00858) | 20 Apr 2010 (r 2) | — |
| 303, 2012 | 11 Dec 2012 (F2012L02422) | s 3: 12 Dec 2012 (s 2) | — |
| 225, 2013 | 7 Aug 2013 (F2013L01527) | Sch 1 (item 2): 8 Aug 2013 (s 2) | — |

| Name | Registration | Commencement | Application, saving and transitional provisions |
|---|---|---|---|
| Trans-Tasman Mutual Recognition Amendment (ACT Container Deposit Scheme) Regulations 2018 | 6 Dec 2018 (F2018L01675) | 7 Dec 2018 (s 2(1) item 1) | — |
| Trans-Tasman Mutual Recognition Amendment (NSW Container Deposit Scheme) Regulations 2018 | 7 Dec 2018 (F2018L01692) | 8 Dec 2018 (s 2(1) item 1) | — |
| Trans-Tasman Mutual Recognition Amendment (Permanent Exemption for Emissions-controlled Products) Regulations 2019 | 19 Mar 2019 (F2019L00314) | 20 Mar 2019 (s 2(1) item 1) | — |



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## Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
|---|---|---|---|
| Trans-Tasman Mutual Recognition Amendment (WA Container Deposit Scheme) Regulations 2020 | 17 Sept 2020 (F2020L01175) | 18 Sept 2020 (s 2(1) item 1) | — |



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# Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Part 3** | |
| **Division 5** | |
| s 35 | am No 38, 2005; No 60, 2015 |
| **Schedule 1** | |
| Schedule 1 | am No 118, 1999; No 101, 2006; No 8, 2007 |
| **Schedule 2** | |
| Schedule 2 | am SR No 51, 2000; SR No 221, 2001; No 126, 2003; SLI No 65, 2009; SLI No 42, 2010; SLI No 72, 2010; SLI No 303, 2012; SLI No 225, 2013; F2018L01675; F2018L01692; No 164, 2018; No 13, 2019; F2019L00314; F2020L01175; No 151, 2020 |
| **Schedule 3** | |
| Schedule 3 | am SR No 60, 1999; SR No 51, 2000; SR No 75, 2001; SR No 78, 2002; SR No 72, 2003; SLI No 65, 2009; SLI No 72, 2010 |



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