



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

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

Dated 27 June 2022

Andrew Barr
Chief Minister

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1 Name

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

2 Commencement

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

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

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

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

4 Simplified outline of this instrument

The purpose of this instrument is to exempt registrations for casino employee occupations, or for activities covered by casino employee occupations, from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* of the Commonwealth until 1 July 2023 because of a significant risk to public safety.

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

5 Definitions

In this instrument:

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

6 Exemption

For section 42S(1)(a) of the Act, a registration under the *Casino Control Act 2006* of the Australian Capital Territory is excluded from the operation of automatic deemed registration in the Australian Capital Territory until 1 July 2023 because of the significant risk to public safety.

7 Significant risk statement

For section 42S(2) of the Act, the exclusion in section 6 is necessary because of the significant risk in the ACT to public safety. The potential for criminal infiltration of casino operations is well understood. Employee complicity is a recognised method which third parties may use to achieve this.

Compared to existing licensing pathways for casino employees in the ACT, and notwithstanding arrangements that can be put in place under the automatic mutual recognition (AMR) framework for notification of an intent to work and information transfer between regulators, AMR will lessen oversight by the regulator, the ACT Gambling and Racing Commission.

Under existing licensing pathways, a casino employee is issued with an ACT licence, creating a regular regime of assessment of eligibility and fitness. In the ACT, this occurs every three years as a risk mitigation strategy. This will not occur under automatic mutual recognition. Under AMR, interstate casino employees will renew their substantive licences according to the timeframes under their home State frameworks. Typically, the renewal periods in other jurisdictions are much longer than those in the ACT, including up to ten years. Compared to the ACT's current approach for a three-yearly assessment eligibility and fitness as a casino employee, AMR will lessen the frequency of assessment of an individual's eligibility and fitness by a local registration authority.

This poses a significant risk for public safety in the ACT as casino employees with organised crime affiliations may be able to work in the Canberra Casino undetected.

The exclusion for one year is necessary as alternative arrangements to address this risk are not present and could not be developed or implemented during the temporary exemption period due to their complexity. These include the development and implementation of procedures and protocols to effectively monitor individuals working in the ACT under AMR. It would also include an examination of existing regulatory frameworks to understand how this risk might be addressed through other mechanisms including working with other jurisdictions on greater uniformity in the licensing of casino employees.

8 Human Rights Act statement

Section 40B(1) of the *Human Rights Act 2004* (ACT) provides that it is unlawful for public authorities to act in a way that is incompatible with a human right or, in making a decision, fail to give proper consideration to a relevant human right. Accordingly, in making this exclusion in section 6, I have considered any

relevant human rights that may be impacted as required by s40B. Section 27B(1) of the *Human Rights Act 2004* provides that everyone has the right to work, including the right to choose their occupation or profession freely. I am satisfied that the making of the exclusion in section 6 would not be incompatible with the right to work and the right to choose an occupation or profession freely.

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