

## **EXPLANATORY STATEMENT**

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

#### **Automatic Mutual Recognition (Australian Capital Territory) (Exemption—Conveyancers) Declaration 2022**

This explanatory statement provides notes on the operation of the Automatic Mutual Recognition (Australian Capital Territory) (Exemption—Conveyancers) Declaration 2022 (the Declaration). The specific provisions in the Declaration are outlined in Attachment A. The information in the explanatory statement is an aid to understanding the Declaration and should not be substituted for the Declaration.

#### **Context and purpose**

Part 3A of the *Mutual Recognition Act 1992* of the Commonwealth (the MR Act) provides for the automatic mutual recognition of occupational registrations (AMR). AMR allows an individual to carry on an activity in a second State, under the registration covering the activity in their home State through Automatic Deemed Registration (ADR).

Part 3A of the MR Act also provides for the making of a Declaration to exempt registrations for occupations, or for activities covered by occupations, from the automatic deemed registrations provisions of the MR Act. The *Legislation Act 2003* of the Commonwealth provides for the making of legislative instruments.

#### **Summary**

Through this Declaration, the Chief Minister for the Australian Capital Territory (the Chief Minister) exempts registration in the ACT as an Australian legal practitioner, to the extent that the registration covers conveyancing work, from the operation of automatic deemed registration in the Territory until 1 July 2027 because of a significant risk to consumer protection under any of the following laws:

- a) the *Conveyancers Licensing Act 2003* of New South Wales;
- b) the *Agents Licensing Act 1979* of the Northern Territory;
- c) the *Conveyancers Act 1994* of South Australia;
- d) the *Conveyancing Act 2004* of Tasmania;
- e) the *Conveyancers Act 2006* of Victoria; and
- f) the *Settlement Agents Act 1981* of Western Australia.

The Declaration commences on 1 July 2022.

#### **Consultation**

The Australian Capital Territory consulted with the ACT Law Society.

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

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

## **Attachment A**

### **Details of the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Conveyancers) Declaration 2022**

#### **Part 1 – Preliminary**

##### **Section 1 – Name**

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

##### **Section 2 – Commencement**

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

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

##### **Section 3 – Authority**

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

##### **Section 4 – Simplified outline of the instrument**

This section explains that the purpose of this instrument is to exempt registrations for occupations, or for activities covered by occupation, from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* of the Commonwealth for a period of five years because of a risk to consumer protection.

##### **Section 5 – Definitions**

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

- *Act* means the *Mutual Recognition Act 1992* of the Commonwealth.
- *Australian legal practitioner* has the same meaning as in the *Legal Profession Act 2006* of the Australian Capital Territory.

##### **Section 6 – Exemption**

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

The Declaration is made in accordance with paragraph 42S of the MR Act. This means that an individual cannot rely on automatic deemed registration to carry on conveyancing work in the Australian Capital Territory if the individual is authorised to carry on the work under any of the registrations listed in this section. The Declaration is made because of the significant risk to consumer protection.

**Section 7 – Significant risk statement**

This section explains the specific significant risks arising from circumstances to consumer protection in the Territory.

**Section 8 – Human Rights Act statement**

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

Andrew Barr

Chief Minister