

## EXPLANATORY STATEMENT

### *Mutual Recognition Act 1992*

**Subject:** *Mutual Recognition Act 1992*  
*Mutual Recognition (Equivalence of Driving and Property Occupations) Declaration 2015*

#### Background

The mutual recognition schemes were established by the 1992 Mutual Recognition Agreement (**MRA**) between the Commonwealth and the state and territory governments; and the 1996 Trans-Tasman Mutual Recognition Arrangement between parties to the MRA and New Zealand. Cooperative legislative schemes were subsequently established in all participating jurisdictions. The key pieces of legislation are the *Mutual Recognition Act 1992* (Cth) (**Act**) and the *Trans-Tasman Mutual Recognition Act 1997* (Cth and New Zealand).

In October 2006, the Council of Australian Governments (**COAG**) senior officials agreed to an update process for Ministerial Declarations to ensure they remain current. The Cross Jurisdictional Review Forum (**the Forum**), which has members from each jurisdiction, serves to oversee mutual recognition arrangements, which include the maintenance of the ministerial declarations. The Commonwealth chairs the Forum and provides secretariat support for the Forum.

State and territory registration authorities have conducted a comprehensive examination and update of the schedules accompanying the Ministerial declaration in relation to driving and property occupations (F2009L01133). A list of the registration authorities for the affected occupations is currently available at <http://www.licencerecognition.gov.au/Pages/Authorities.aspx>.

#### Authority

Subsection 32(1) of the Act provides that Ministers from two or more states and territories may jointly declare that specified occupations are equivalent, and may specify or describe any conditions necessary to achieve equivalence.

Subsection 32(2) of the Act also provides that a declaration may be amended or rescinded in the same way. In accordance with subsection 32(3) the declaration has effect only in relation to the States concerned.

#### Purpose and Operation

The Act provides for mutual recognition of regulatory standards across the states and territories of Australia relating to goods and occupations. In relation to occupations, the Act provides that people who are registered to work in an occupation in one jurisdiction are entitled to be registered to carry on work in an equivalent occupation in other jurisdictions where the occupation is regulated.

The purpose of this instrument is to make the *Mutual Recognition (Equivalence of Driving and Property Occupations) Declaration 2015* (**the Declaration**) to revise the equivalent driving and property licences across the states and territories. This instrument rescinds the Ministerial declaration in relation to driving and property occupations made on 4 February 2009 (F2009L01133) (**the 2009 Declaration**).

This instrument is made as a result of a review of a series of declarations for a range of occupations. The review has been undertaken to maintain the accuracy of licence equivalence information contained in the 2009 Declaration.

#### Consultation

In 2014, the Commonwealth Department of Industry (the then responsible department for the administration of the Act) wrote to each state and territory government representative on the Forum requesting that they liaise with their relevant licensing authority to update the schedules

to the 2009 Declaration. The relevant licensing authorities then consulted with their state and territory counterparts on any proposed changes and advised their Forum member when agreement was reached. The information provided by the licensing authorities is reflected in Schedule A to the Declaration.

Individual licence holders will not be adversely affected by the changes and therefore were not consulted.

### **Regulatory Impact**

The Office of Best Practice Regulation (**OBPR**) has advised that a Regulatory Impact Statement is not required for this instrument (decision ID 18861).

### **Parliamentary scrutiny**

Amendments to declarations made pursuant to section 32 of the Act are not subject to disallowance (see item 27 to the table at subsection 44(2) of the *Legislative Instruments Act 2003*) or to sunseting (see item 25 to the table at subsection 54(2) of the *Legislative Instruments Act 2003*).

### **Commencement**

The instrument commences on the day after the day on which the instrument is registered on the Federal Register of Legislative Instruments.

### **Explanation of provisions**

#### Section 1

Section 1 provides the title of the Declaration is the *Mutual Recognition (Equivalence of Driving and Property Occupations) Declaration 2015*.

#### Section 2

Section 2 provides that the Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

#### Section 3

Section 3 provides that the Declaration is made pursuant to section 32 of the Act.

#### Section 4

Section 4 provides that the 2009 Declaration is rescinded.

#### Section 5

Section 5 explains the tables in Schedule A in regards to the declaration of occupations that are equivalent.

#### Schedule A

#### Notes

The notes explain the operation and application of the tables in Schedule A, the consequence of a licence not being included in the tables and the frequency of review of declarations.

#### [1] Schedule 1 – Driving instructors

The key changes in the Declaration are:

- The amendment of rows 19 and 22 to 30 (which appeared in the 2009 Declaration) to reflect new licence classifications issued under the *Motor Vehicle Act 1959* (SA).
- The amendment of rows 2 to 4, 7 to 9, 11, 12, 15 to 17, 32 to 38 and 40 to 42 (which appeared in the 2009 Declaration) to reflect new equivalent licence classifications issued under the *Motor Vehicle Act 1959* (SA) and *Road Transport (Driver Licensing) Act 1999* (ACT).

## [2] Schedule 2 - Drivers Transporting Dangerous Goods and Explosives

The key changes in the Declaration are:

- The removal of row 2 (which appeared in the 2009 Declaration) as approval as an Unsupervised Handling Licence is no longer issued.
- The amendment of row 1 (which appeared in the 2009 Declaration) to reflect the new licence classification issued under the *Road and Rail Transport (Dangerous Goods) Act 1997* and *Explosives Act 2013* (NSW).
- The amendment of row 4 (which appeared in the 2009 Declaration) to reflect the new licence classification issued under the *Dangerous Goods Act 1985* (VIC).
- The amendment of row 6 (which appeared in the 2009 Declaration) to reflect the new licence classification issued under the *Transport Operations (Road Use Management) Act 1995* and *Explosives Act 1999* (QLD).
- The amendment of row 9 (which appeared in the 2009 Declaration) to reflect the new licence classification issued under the *Dangerous Substances Act 1979* (SA).
- The amendment of rows 10 and 11 (which appeared in the 2009 Declaration) to reflect new licence classifications issued under the *Explosives Act 2012* and which are additional to existing licence classifications issued under the repealed *Dangerous Goods Act 1998* (TAS).
- The amendment of rows 14 and 15 (which appeared in the 2009 Declaration) to reflect new licence classifications issued under the *Dangerous Goods Act* and *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act* (NT).
- The amendment of rows 1 and 3 to 15 (which appeared in the 2009 Declaration) to reflect new equivalent licence classifications issued under the *Road and Rail Transport (Dangerous Goods) Act 1997* and *Explosives Act 2013* (NSW), *Dangerous Goods Act 1985* (VIC), *Transport Operations (Road Use Management) Act 1995* and *Explosives Act 1999* (QLD), *Dangerous Goods Safety Act 2004* (WA), *Dangerous Substances Act 1979* (SA), *Dangerous Goods (Road and Rail Transport) Act 2010* and *Security-sensitive Dangerous Substances Act 2005* (TAS) and *Dangerous Goods Act* and *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act* (NT).
- The amendment of the Codes for statutes to reflect the NSW, VIC, TAS and NT statutes under which dangerous goods and explosives transportation licences are issued.
- The amendment of the Codes for scopes of work Dangerous Goods and Explosives Transportation licences to reflect nomenclature as per the Australian Dangerous Goods Code Version 7.

## [3] Schedule 3 - Miscellaneous Licences (Pilot and Escort Vehicle Drivers)

The key changes in the Declaration are:

- The removal of row 6 (which appeared in the 2009 Declaration) as no equivalent licence has been declared in the second jurisdictions for the Accredited Oversize Load Escort licence.
- The amendment of the Codes for statutes to reflect the NT statute under which Pilot and Escort Vehicle Driver licences are issued.

## [4] Schedule 4 - Passenger Vehicle Drivers

The key changes in the Declaration are:

- The amendment of row 10 (which appeared in the 2009 Declaration) to reflect the new licence classification issued under the *Transport (Compliance and Miscellaneous) Act 1983* (VIC).

- The amendment of rows 1 to 8 and 12 to 32 (which appeared in the 2009 Declaration) to reflect new equivalent licence classifications issued under the *Transport (Compliance and Miscellaneous) Act 1983* (VIC) and *Vehicle and Traffic Act 1999* (TAS).
- The amendment of the Codes for statutes to reflect the VIC statute under which Passenger Vehicle Driver licences are issued.
- The amendment of the Codes for scopes of work to reflect the addition of 'MH' Metropolitan Hire Car Zone (Victoria)

#### [5] Schedule 5 – Property Agents

The key changes in the Declaration are:

- The addition of row 15 to reflect the new licence category authorised under the *Property Occupations Act 2014* and the *Motor Dealers and Chattel Auctioneers Act 2014* (QLD).
- The addition of rows 22, 23 and 24 to reflect the new licence categories authorised under the *Land Agents Act 1994* (SA).
- The addition of row 34 to reflect the new licence category authorised under the *Agents Act 2003* (ACT).
- The removal of the row 11 (which appeared in the 2009 Declaration) as the Certificate of Registration as a Registered Strata Manager or Registered Community Manager is no longer issued in NSW.
- The removal of the following rows (which appeared in the 2009 Declaration) as these licences are no longer issued in QLD:
  - Row 16 – Property Agents and Motor Dealers Licence (Resident Letting Agent).
  - Row 17 – Property Agents and Motor Dealers Licence (Pastoral House Director).
  - Row 18 – Property Agents and Motor Dealers Licence (Pastoral House Manager).
  - Row 19 – Property Agents and Motor Dealers Licence (Pastoral House Auctioneer).
  - Row 21 – Pastoral House Salesperson Registration Certificate.
  - Row 22 – Property Developer Salesperson Registration Certificate.
- The amendment of rows 14 and 15 (which appeared in the 2009 Declaration) to reflect new licence classifications issued under the the *Property Occupations Act 2014* and the *Motor Dealers and Chattel Auctioneers Act 2014* (QLD).
- The amendment of row 26 (which appeared in the 2009 Declaration) to reflect a new licence classification issued under the the *Land Agents Act 1994* (SA).
- The amendment of rows 1 to 10, 13 to 17, 20 and 23 to 43 (which appeared in the 2009 Declaration) to reflect new equivalent licence classifications issued under the *Property, Stock and Business Agents Act 2002* (NSW), *Property Occupations Act 2014* and the *Motor Dealers and Chattel Auctioneers Act 2014* (QLD), *Real Estate and Business Agents Act 1978* and the *Auction Sales Act 1973* (WA), *Land Agents Act 1994* (SA), *Property Agents and Land Transactions Act 2005* (TAS), *Agents Act 2003* (ACT) and *Agents Licensing Act 2008* and the *Auctioneers Act 1996* (NT).
- The amendment of the Codes for statutes to reflect the QLD statutes under which Property Agents' licences are issued.

#### [6] Schedule 6 – Valuers

There are no changes made to Schedule 6.

#### [7] Schedule 7 – Conveyancers

The key changes in the Declaration are:

Mutual Recognition (Equivalence of Driving and Property Occupations) Declaration 2015

- The addition of rows 2 and 3 to reflect new licence categories authorised under the *Conveyancers Act 2006* (VIC).
- The amendment of rows 1 to 6 (which appeared in the 2009 Declaration) to reflect new equivalent licence classifications issued under the *Conveyancers Act 2006* (VIC) and corrected equivalent licence classifications under the *Conveyancers Act 1994* (SA).
- The amendment of the Codes for statutes to reflect the VIC statute under which conveyancer licences are issued.