

EXPLANATORY STATEMENT

Mutual Recognition Act 1992

Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement— Agents) Determination 2022

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

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 determination that requires a person who intends to carry on an activity covered by an occupation in reliance of ADR to notify the local registration authority for the occupation before the person begins to carry on the activity. The *Legislation Act 2003* of the Commonwealth provides for the making of legislative instruments.

Summary

Through this Determination, the Minister for Consumer Affairs of the Australian Capital Territory (the Minister) requires a person to notify the local registration authority for licences and registrations under the *Agents Act 2003*—the Commissioner for Fair Trading—before the person begins to rely on automatic deemed registration to carry out the activity covered by the occupation in the Australian Capital Territory. The Determination commences on 1 July 2022. It will be repealed on the first 1 April or 1 October falling on or after the tenth anniversary of its registration.

Consultation

The Australian Capital Territory consulted with the Commissioner for Fair Trading who registers individuals under the *Agents Act 2003*. This is the appropriate consultation to have undertaken regarding whether a notification requirement for interstate workers is appropriate in order to meet the government's obligations to protect consumers and to provide targeted compliance and enforcement activities to minimise risk. Requiring notification of intention to work is also a mechanism that can be utilised to provide appropriate information to those interstate workers about the ACT's legislative requirements.

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

Attachment A

Details of the Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement— Agents) Determination 2022

Part 1 – Preliminary

Section 1 – Name

This section provides that this Determination is to be cited as the Automatic Mutual Recognition (Australian Capital Territory) (Notification Requirement— Agents) Determination 2022 (the Determination).

Section 2 – Commencement

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

The Determination 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 Determination is made. The Determination is made under section 42J(4) 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 require a person to notify a local registration authority before the person begins to carry on an activity covered by an occupation in reliance on automatic deemed registration under the *Mutual Recognition Act 1992* of the Commonwealth. This section outlines the application of the notification and the period of the Determination.

Section 5 – Definitions

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

- The **Act** is defined in this section as meaning the *Mutual Recognition Act 1992* of the Commonwealth;
- A **covered activity** is defined as an activity authorised to be carried on under a licence or registration under the *Agents Act 2003* of the Australian Capital Territory.
- The **local registration authority** is defined as meaning the Commissioner for Fair Trading established under the *Fair Trading (Australian Consumer Law) Act 1992* of the Australian Capital Territory.

Section 6 – Notification requirement

This section lists the specific paragraph of the MR Act relied on to make the Determination, the registration for an activity covered by an occupation where a person must notify a local registration authority before the person begins to rely on automatic deemed registration.

The Determination is made in accordance with paragraph 42J(4) of the MR Act. A person intending to rely on ADR to carry on an activity for which a licence or registration under the

Agents Act 2003 is required, must notify the Commissioner for Fair Trading. This means that an individual cannot rely on ADR in carrying on the activity authorised under this registration in the Australian Capital Territory without first providing the notification. An individual may obtain the notification requirements from the Commissioner for Fair Trading.

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