

Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Construction Occupations) Declaration 2025

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

Dated 17 June 2025

Andrew Barr

Chief Minister

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1 Name

This instrument is the Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Construction Occupations) Declaration 2025.

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 2025. | 1 July 2025. |

Note: This table relates only to the provisions of this instrument as originally made.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 construction occupations, or for activities covered by construction occupations, from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* of the Commonwealth until 30 June 2027 due to a significant risk to the health and safety of workers or the public, and consumer protection.

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 *Construction Occupations (Licensing) Act 2004* of the Australian Capital Territory is excluded from the operation of automatic deemed registration in the Australian Capital Territory until 30 June 2027 due to the significant risks set out in section 7.

Occupations registered under the *Construction Occupations (Licensing) Act 2004* that are excluded for the operation of automatic deemed registration include:

a. Builder;

b. Building assessor;

c. Building Surveyor;

d. Drainer;

e. Electrician;

f. Gasfitter;

g. Gas appliance Worker;

h. Plumber;

i. Plumbing Plan certifier; and

j. Works Assessor.

7 Significant risk statement

For section 42S(2) of the Act, the exemption in section 6 is necessary due to the significant risk in the ACT to the health and safety of workers or the public, and consumer protection. There is a gradated disciplinary framework for all construction occupations in the Territory, provided for under the *Construction Occupations (Licensing) Act 2004*. The disciplinary framework includes a demerit point sanction. This demerit point sanction is used uniquely in the Territory as an educational opportunity, as well as a non-compliance penalty. The *Mutual Recognition Act 1992* (Cth) provides for a number of circumstances in which a person’s automatic deemed registration is taken to have ended, including where the individual:

1. is the subject of criminal, civil or disciplinary proceedings in any State, including any preliminary investigations or action that might lead to criminal, civil or disciplinary proceedings, in relation to an occupation that covers the activity; and
2. the individual has been informed or is otherwise aware of those proceedings.

The *Mutual Recognition Act 1992* (Cth) further provides that when an individual’s automatic deemed registration ends as a result of, or in anticipation of, criminal, civil or disciplinary proceedings, then any home State substantive registration is affected in the same way.

As the issuing of a demerit under the *Construction Occupations (Licensing) Act 2004* constitutes disciplinary proceedings, there is a significant risk of individuals relying on automatic deemed registration losing the right to rely on that registration. Additionally, there is a significant risk of their home State substantive registration being affected in the same way for a minor non-compliance issue. This would have significant impacts on consumer protection for individuals and businesses in the Territory who are commencing, or have commenced, construction work, as well as having the potential for creating a disproportionate, two-tier regulatory framework for compliance, based on whether a licensee is registered in the Territory for construction occupations or is registered in another jurisdiction. The ACT is a jurisdiction with a high proportion of interstate workers and the demerit system is used to a substantial degree by the regulator to educate interstate workers on their legislative obligations. This is critical in a sector that has a known issue with workplace safety incidents. A two-year exemption will allow for alternative arrangements to address these risks to be developed and implemented.

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 the exclusion in section 6, I have considered any relevant human rights that may be impacted as required by section 40B. 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 exemption may limit the right to work, it is important to note that the making of the exemption does not prevent an individual from carrying on an activity covered by construction occupations in the ACT. Rather, the making of the exemption will mean that all individuals who wish to carry on an activity covered by construction occupations in the ACT must meet particular registration requirements set out in ACT law or meet eligibility requirements under section 19 of the *Mutual Recognition Act 1992* (Cth). Upon meeting the relevant registration requirements, individuals would be able to carry on an activity covered by construction occupations in the ACT. The registration requirements are a necessary, proportionate and reasonable measure through safeguards which are provided to protect workers and the public. Any limitation on the right to work is reasonable and justified because the exclusion will allow the ACT to address risks associated with transitioning to AMR while ensuring there is no diminution in current levels of safeguards in relation to the health and safety of workers and the public, and consumer protection. The exemption will enable the risks to be addressed through the development and implementation of alternative arrangements.

9 Sunset

Unless revoked earlier, this instrument will sunset under section 50 of the *Legislation Act 2003* of the Commonwealth, subject to subsection 42S(6) of the *Mutual Recognition Act 1992* of the Commonwealth.

The whole of this instrument will be repealed on 30 June 2027.

10 Repeals

Each instrument that is specified in Schedule 1 is repealed as set out in the applicable items in that Schedule.

Schedule 1 – Repeals

1. Automatic Mutual Recognition (Australian Capital Territory) (Exemptions—Construction Occupations) Declaration 2022

Repeal the whole of this instrument.