

MUTUAL RECOGNITION (NEW SOUTH WALES) AMENDMENT BILL 2021

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Schedule of the amendment referred to in the Legislative Council's message of 10 June 2021.

No. 1 **OPP No. 1 [c2021-071E]**

Page 5, Schedule 1. Insert after line 15—

**5D Minister required to seek exclusions for certain occupations**

- (1) The Minister must, before or no later than 1 month after section 42T of the amended Commonwealth Act commences, make a declaration using section 42T (a *temporary exclusion declaration*) to exclude each relevant occupation from the operation of automatic deemed registration.
- (2) If a temporary exclusion declaration for a relevant occupation is not revoked before the end of the initial exclusion period, the Minister must make a declaration using section 42S of the amended Commonwealth Act (a *significant risk exclusion declaration*) to continue its exclusion from the operation of automatic deemed registration.
- (3) The Minister must make further significant risk exclusion declarations for an occupation mentioned in subsection (2) each time a previous significant risk exclusion declaration for the occupation ends for a reason other than revocation.
- (4) The Minister must comply with subsections (2) and (3) before the previous declaration ends.
- (5) The Minister must consult with relevant trade unions and industry groups at least once during each 12-month period during which a significant risk exclusion declaration for a relevant occupation is in force about whether the continued exclusion of the occupation is appropriate having regard to the purpose of the amended Commonwealth Act specified by section 3 of that Act.
- (6) The Minister must not revoke a temporary exclusion declaration or significant risk exclusion declaration for a relevant occupation before it is due to end unless the Minister—
  - (a) has tabled a revocation proposal in each House of Parliament, and
  - (b) the disallowance period for the proposal has ended or all motions to disallow the proposal have been defeated.
- (7) A revocation proposal for a relevant occupation must state—
  - (a) the trade unions and industry groups the Minister has consulted about the proposal, and
  - (b) the reasons why the Minister is satisfied the end of the exclusion of the occupation from the operation of automatic deemed registration would not—
    - (i) place the public at risk of harm, or
    - (ii) compromise the effective regulation of the occupation in the State.
- (8) The *Interpretation Act 1987*, sections 40 and 41 apply to a revocation proposal in the same way as they apply to a statutory rule.
- (9) This section does not limit or prevent the Minister making or revoking temporary exclusion declarations or significant risk exclusion declarations for occupations other than relevant occupations.
- (10) In this section—

*amended Commonwealth Act* means the Commonwealth Act as amended by the *Mutual Recognition Amendment Act 2021* of the Commonwealth, as in force from time to time.

***automatic deemed registration*** has the same meaning as in the amended Commonwealth Act.

***initial exclusion period*** means the period of 12 months beginning when section 42T of the amended Commonwealth Act commences.

***relevant occupation*** means any occupation for which an individual must be lawfully authorised under a law of the State to carry on activities involving—

- (a) teaching work, or
- (b) electrical work, or
- (c) mining work, or
- (d) the work of a diesel mechanic, or
- (e) building, maintenance or construction work, including the following—
  - (i) engineering work,
  - (ii) gasfitting work, including medical gasfitting work and medical gas technician work,
  - (iii) mechanical services and medical gas work,
  - (iv) air-conditioning work,
  - (v) the work of a refrigeration mechanic,
  - (vi) plumbing work,
  - (vii) tunnelling work,
  - (viii) welding work,
  - (ix) drilling work,
  - (x) the work of a fitter and turner,
  - (xi) the work of a shotfirer,
  - (xii) the work of a rigger or dogger,
  - (xiii) the work of a machine and heavy plant operator,
  - (xiv) fire protection work.