

MUTUAL RECOGNITION (NEW SOUTH WALES) AMENDMENT BILL 2021

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.