

I certify that this is a copy of the authorised version of this Act as at 14 December 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 14 December 2022.

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Dated 12 January 2023



## TASMANIA

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# MUTUAL RECOGNITION (TASMANIA) ACT 1993

**No. 33 of 1993**

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## MUTUAL RECOGNITION (TASMANIA) ACT 1993

No. 33 of 1993

**An Act to adopt the *Mutual Recognition Act 1992* of the Commonwealth (and any amendments made to it before this Act commences), and to refer power to the Parliament of the Commonwealth to amend that Act, so as to enable the enactment of legislation applying uniformly throughout Australia for the recognition of regulatory standards adopted in Australia regarding goods and occupations**

[Royal Assent 25 June 1993]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **1. Short title**

This Act may be cited as the *Mutual Recognition (Tasmania) Act 1993*.

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**2. Commencement**

This Act commences on a day to be proclaimed.

**3. Interpretation**

(1) In this Act, unless the contrary intention appears

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*the Commonwealth Act* means the *Mutual Recognition Act 1992* of the Commonwealth;

*participating jurisdiction* means —

- (a) a State for which there is in force an Act of its Parliament that refers to the Parliament of the Commonwealth the power to enact an Act in the terms, or substantially in the terms, of the Commonwealth Act or that adopts the Commonwealth Act, under paragraph (xxxvii) of section 51 of the Commonwealth Constitution; or
- (b) a Territory (being the Australian Capital Territory or the Northern Territory) for which there is in force an Act of its legislature that requests the Parliament of the Commonwealth to enact the Commonwealth Act or that enables the Commonwealth Act to apply in relation to it.

(2) . . . . .

**4. Adoption of Commonwealth Act**

- (1) The Commonwealth Act as originally enacted, together with any amendments made to that Act before the enactment of this Act, is adopted under paragraph (xxxvii) of section 51 of the Commonwealth Constitution.
- (2) The adoption of the Commonwealth Act has effect for a period commencing on the day on which this Act commences (but not so as to give effect to any adopted provision before that provision commences under section 2 of the Commonwealth Act) and ending on a day fixed under section 4A as the day on which the adoption terminates, but not longer.
- (3) Without limiting subsection (1), the amendments made to the Commonwealth Act by the *Mutual Recognition Amendment Act 2021* of the Commonwealth, as originally enacted, are adopted under paragraph (xxxvii) of section 51 of the Commonwealth Constitution.
- (4) The adoption of the amendments to the Commonwealth Act under subsection (3) has effect for a period commencing on the day on which the *Mutual Recognition (Tasmania) Amendment Act 2021* commences and ending on whichever of the following first occurs:
  - (a) a day fixed under section 4A as the day on which the adoption of the

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amendments under subsection (3) terminates;

- (b) the day fixed under section 4A as the day on which the adoption of the Commonwealth Act under subsection (1) terminates.

**4A. Termination of adoptions**

- (1) The Governor may fix, by proclamation, a day as the day on which –
- (a) the adoption of the Commonwealth Act, under section 4(1), terminates; or
- (b) the adoption of the amendments to the Commonwealth Act, under section 4(3), terminates.
- (2) For the avoidance of doubt, if a proclamation is made under subsection (1) to terminate the adoption of the amendments to the Commonwealth Act under section 4(3), the termination of the adoption of those amendments does not affect the continued operation in the State of the Commonwealth Act as adopted under section 4(1).

**5. Reference of power to amend the Commonwealth Act**

- (1) Subject to this section, the following matters, to the extent to which they are not otherwise included in the legislative powers of that Parliament, are referred to the Parliament of the

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Commonwealth, namely, the matters to which the Commonwealth Act, as amended by the *Mutual Recognition Amendment Act 2021* of the Commonwealth, relates.

- (2) The reference has effect for a period commencing on the day on which this Act commences and ending on a day fixed under subsection (3) as the day on which the reference terminates, but not longer.
- (3) The Governor may, at any time, fix by proclamation a day as the day on which the reference under this Act terminates.
- (4) For the avoidance of doubt, the amendment of subsection (1) by the *Mutual Recognition (Tasmania) Amendment Act 2021* terminates such part of the reference that required the approval of terms by all participating jurisdictions.

**6. Parliamentary approval required for certain draft proclamations**

- (1) A proclamation is not to be made under section 4A(1) or 5(3) unless a draft of the proclamation is first approved by each House of Parliament.
- (2) For the purposes of subsection (1), a House of Parliament is taken to have approved a draft of a proclamation, as required under this section, if a copy of the draft has been laid on the table of the House and –

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- (a) it is approved by the House; or
- (b) at the expiration of 5 sitting-days after it was laid on the table of the House –
  - (i) there has been no notice given of a motion to disallow it; or
  - (ii) any notice of such a motion has been withdrawn or the motion has been negated; or
- (c) if a notice of a motion to disallow has been made during that period of 5 sitting-days and not determined at the expiration of the period –
  - (i) the notice is withdrawn; or
  - (ii) the motion has been negated.

**6A. Disclosure of information to registration authorities in participating jurisdictions**

- (1) In this section –

*activity* has the meaning it has in section 4(1) of the Commonwealth Act;

*covers* has the meaning it has in section 4(1) of the Commonwealth Act;

*event* means an event referred to in subsection (2);

*occupation* has the meaning it has in section 4(1) of the Commonwealth Act;

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***participating jurisdiction*** has the meaning it has in section 5(4) of the Commonwealth Act;

***registration***, of an individual for an occupation, means a registration, licence, approval or other authorisation given under law that authorises the individual to carry on the occupation or undertake an activity covered by the occupation;

***registration authority***, for an occupation in a participating jurisdiction, means a person who gives individual registrations for the occupation in the participating jurisdiction.

- (2) This section applies if a registration authority for an occupation in this State gives a registration for the occupation to an individual and any of the following events occurs:
- (a) the individual's registration is suspended or cancelled;
  - (b) the registration authority refuses to renew the individual's registration;
  - (c) a condition is imposed on the individual's registration;
  - (d) an action is taken against the individual on disciplinary grounds in connection with –
    - (i) the individual's registration; or

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- (ii) carrying on the occupation or undertaking an activity covered by the occupation;
- (e) civil or criminal proceedings are commenced against the individual that are relevant to –
  - (i) the individual's registration; or
  - (ii) carrying on the occupation or undertaking an activity covered by the occupation.
- (3) Despite any written law relating to confidentiality, privacy or secrecy, a registration authority for the occupation in this State may give the following information to a registration authority for the occupation in another participating jurisdiction:
  - (a) the individual's name, address and any other information necessary to identify the individual;
  - (b) information about the individual's registration, including conditions imposed;
  - (c) information about the event that occurred, including the outcome of the event.

**6B. Protection from liability for giving information**

- (1) If information is given in good faith under section 6A of this Act or sections 33, 37, 42M, 42N, 42P or 42V of the Commonwealth Act –
  - (a) no civil or criminal liability is incurred in respect of giving the information; and
  - (b) giving the information is not to be regarded as a breach of any duty of confidentiality, privacy or secrecy imposed by law; and
  - (c) giving the information is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (2) This State is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).

**7. Regulations for temporary exemptions for goods**

Without limiting any other power to make regulations under any other Act, the Governor may make regulations for the purposes mentioned in section 15 of the Commonwealth Act.

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**8. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Treasurer; and
- (b) the Department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.

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**NOTES**

The foregoing text of the *Mutual Recognition (Tasmania) Act 1993* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 14 December 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Mutual Recognition (Tasmania) Act 1993</i>	No. 33 of 1993	1.9.1993
<i>Mutual Recognition (Tasmania) Amendment Act 2021</i>	No. 20 of 2021	22.12.2021
<i>Occupational Licensing (Automatic Mutual Recognition Consequential Amendments) Act 2022</i>	No. 29 of 2022	14.12.2022

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 3	Amended by No. 20 of 2021, s. 4
Section 4	Amended by No. 20 of 2021, s. 5
Section 4A	Inserted by No. 20 of 2021, s. 6
Section 5	Amended by No. 20 of 2021, s. 7
Section 6	Substituted by No. 20 of 2021, s. 8
Section 6A	Inserted by No. 29 of 2022, s. 38
Section 6B	Inserted by No. 29 of 2022, s. 38