



Western Australia

Mutual Recognition (Western Australia) Act 2020

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Mutual Recognition (Western Australia) Act 2020

An Act —

- **to adopt the *Mutual Recognition Act 1992 (Commonwealth)* as originally enacted and any amendments made to it before this Act receives the Royal Assent, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and**
- **to adopt the amendments made to the *Mutual Recognition Act 1992 (Commonwealth)* by the *Mutual Recognition Amendment Act 2021 (Commonwealth)*, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and**
- **for related purposes.**

[Long title inserted: No. 7 of 2022 s. 4.]

1. Short title

This is the *Mutual Recognition (Western Australia) Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on 1 March 2021.

3. Terms used

In this Act —

adopt has the same meaning as in the Constitution of the Commonwealth section 51(xxxvii);

Commonwealth Act means the *Mutual Recognition Act 1992* (Commonwealth).

4. Adoption of Commonwealth Act

- (1) The State of Western Australia adopts the Commonwealth Act as originally enacted and any amendments made to it before this Act receives the Royal Assent.
- (1A) Without limiting subsection (1), the State adopts the amendments made to the Commonwealth Act by the *Mutual Recognition Amendment Act 2021* (Commonwealth).
- (2) The adoption under subsection (1) does not operate so as to give effect to any adopted provision before that provision commences as a law of the Commonwealth.
- (3) To avoid doubt, it is the intention of the Parliament of the State that a Schedule to the Commonwealth Act as adopted under this Act may be amended from time to time by regulations made under the Commonwealth Act.

- (4) The Minister is to cause a copy of any regulations referred to in subsection (3) to be laid before each House of Parliament within 14 sitting days of that House after the registration of the regulations in the Federal Register of Legislation maintained under the *Legislation Act 2003* (Commonwealth).
- (5) The adoptions under subsections (1) and (1A) terminate in accordance with section 9.

[Section 4 amended: No. 7 of 2022 s. 5.]

5. Regulations for temporary exemption for goods or laws

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

6. Disclosure to registration authorities in participating jurisdictions

- (1) In this section —
 - activity* has the meaning given in section 4(1) of the Commonwealth Act;
 - covers* has the meaning given in section 4(1) of the Commonwealth Act;
 - occupation* has the meaning given in section 4(1) of the Commonwealth Act;
 - participating jurisdiction* has the meaning given in section 5(4) of the Commonwealth Act;
 - registration*, of an individual for an occupation, means a registration, licence, approval, admission, certification (including a practising certificate) or other authorisation given under law that authorises the individual to carry on the occupation or an activity covered by the occupation;

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

- (2) This section applies if a registration authority for an occupation in the State gives a registration for the occupation to an individual and any of the following events occur —
- (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
 - (ii) carrying on the occupation or 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 an activity covered by the occupation.
- (3) Despite any written law relating to confidentiality, privacy or secrecy, a registration authority for the occupation in the 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 any conditions imposed;
 - (c) information about the event, including the outcome of the event.

[Section 6 inserted: No. 7 of 2022 s. 6.]

7. Protection from liability for giving information

- (1) If information is given in good faith under section 6 of this Act or section 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) The State is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).

[Section 7 inserted: No. 7 of 2022 s. 6.]

8. Tabling documents relating to scheme reviews

- (1) In this section —
- intergovernmental agreement*** means the Intergovernmental Agreement on the Automatic Mutual Recognition of Occupational Registration entered into by the Commonwealth, the States and the Northern Territory on 11 December 2020, as in force from time to time;
- scheme review*** means a review of the operation and effectiveness of the intergovernmental agreement and the Commonwealth Act carried out under clause 12 of the intergovernmental agreement.
- (2) Subsection (3) applies if —
- (a) a scheme review is carried out; and
 - (b) a report is prepared by the person carrying out the review; and

- (c) the Minister receives the report.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after the Minister receives the report.
- (4) If a report to which subsection (3) applies contains sensitive, confidential or personal information, the Minister may comply with subsection (3) by removing the sensitive, confidential or personal information from the report before causing the document to be laid before each House.

[Section 8 inserted: No. 7 of 2022 s. 6.]

9. Termination of adoptions

- (1) The Governor may by proclamation fix a day as the day on which —
 - (a) the adoptions under both section 4(1) and (1A) are to terminate; or
 - (b) the adoption under section 4(1) is to terminate; or
 - (c) the adoption under section 4(1A) is to terminate.
- (2) However, the Governor cannot fix a day under subsection (1)(b) that is before a day fixed under subsection (1)(c).
- (3) If the adoption under section 4(1A) terminates before the adoption under section 4(1), the termination of the adoption under section 4(1A) does not affect the continued operation in the State of the Commonwealth Act as adopted under section 4(1).

[Section 9 inserted: No. 7 of 2022 s. 6.]

10. Revoking termination proclamations

- (1) The Governor may by proclamation (a ***revoking proclamation***) revoke a proclamation made under section 9(1).

- (2) A revoking proclamation has effect only if published in the *Gazette* before the day fixed in the proclamation made under section 9(1).
- (3) If a revoking proclamation has effect, the revoked proclamation is taken never to have been made.
- (4) A revoking proclamation does not prevent the further making of a proclamation under section 9(1).

[Section 10 inserted: No. 7 of 2022 s. 6.]

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Notes

This is a compilation of the *Mutual Recognition (Western Australia) Act 2020* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Mutual Recognition (Western Australia) Act 2020</i>	44 of 2020	30 Nov 2020	s. 1 and 2: 30 Nov 2020 (see s. 2(a)); Act other than s. 1 and 2: 1 Mar 2021 (see s. 2(b))
<i>Mutual Recognition (Western Australia) Amendment Act 2022 Pt. 2</i>	7 of 2022	29 Mar 2022	1 Jul 2022 (see s. 2(b) and SL 2022/80 cl. 2)

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
activity	6(1)
adopt	3
Commonwealth Act	3
covers	6(1)
intergovernmental agreement	8(1)
occupation	6(1)
participating jurisdiction	6(1)
registration	6(1)
registration authority	6(1)
revoking proclamation	10(1)
scheme review	8(1)