



User Guide for Mutual Recognition, Automatic Mutual Recognition and Trans-Tasman Mutual Recognition of Occupational Registrations

The material in this Guide is provided as general information and guidance only. It is not comprehensive, and it is not legal advice. Users should refer to the relevant legislation, and should consider seeking their own legal advice in relation to their own interests and circumstances.

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1. About this Guide

1.1 Who is this guide for?

This guide is designed for state and territory regulators of occupational **registrations** within scope of the *Mutual Recognition Act 1992* of the Commonwealth (MRA) and the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth (TTMRA). The guide may also be of value to:

- individuals who are registered in these **occupations** looking to provide services (authorised under these registrations) in:
 - a second Australian state or territory (Australian Capital Territory and Northern Territory) (for those registered with an Australian state or territory) or New Zealand; or
 - an Australian state or territory (Australian Capital Territory and Northern Territory) (for those registered by the New Zealand Government); or
- employers looking to hire an individual who is making use of one of the mutual recognition schemes.

Guidance and information on the operation of these schemes for particular occupations are available from the relevant **local registration authorities** (LRA) in each participating state and territory of Australia and New Zealand.

This guide relates to occupational registration. It does not cover the application of this legislation as it applies to goods produced in, or imported into, an Australian state or territory or New Zealand and their sale in another state or New Zealand that is also prescribed in the MRA and TTMRA.

The MRA and TTMRA apply to Australian states and continental territories. These schemes do not extend to non-self-governing territories like Christmas Island, Cocos (Keeling) Island and Norfolk Island.

1.2 What does this guide do?

This guide will support consistent administration of mutual recognition and automatic mutual recognition under the MRA and the mutual recognition arrangements between Australia and New Zealand under the TTMRA.

Through this legislation there are three mutual recognition schemes:

- Australian **mutual recognition** arrangements (MR) under the MRA
- Australian **automatic mutual recognition** (AMR) under the MRA
- **Trans-Tasman mutual recognition** arrangements (TTMR) under the TTMRA

This guide explains how these schemes are intended to operate in practice, from the point of view of both a regulator administering the scheme and a person looking to use the schemes.

Guidance on specific occupational registrations is provided by the relevant LRA in each state and territory of Australia and New Zealand. The [Federal Register of Legislation](#) also instructs on **equivalent** registrations for the MR scheme and registrations excluded or requiring notification for the AMR scheme.

2. Overview of mutual recognition schemes

2.1 What is mutual recognition?

The purpose of the mutual recognition principle is to make it easier for persons registered to perform an occupation in one Australian state or territory and New Zealand to find work beyond their home jurisdiction, thereby creating a more flexible and mobile workforce, supporting improved employment outcomes, establishing a single labour market enabling businesses to employ the skilled workers they need, and for consumers to receive benefits through greater availability of registered workers.

Mutual recognition schemes covered by this guide only apply to natural persons and not companies or other bodies corporate.

The principle as it applies to occupational registrations under the MR and TTMR schemes means that a person registered to practice an occupation in one Australian state or territory or New Zealand is entitled to an equivalent registration to carry out that occupation in a second Australian state or territory or New Zealand, without the need to meet additional registration criteria.

Under AMR, a person may carry out an **activity** they are registered to carry out in their home Australian state or territory in a second Australian state or territory without further assessment of qualifications or experience. There are exceptions to this, namely where:

- all persons in an occupation are required to undergo further testing and examination regardless of their state or territory of registration, and
- these requirements are not based on qualifications or experience relating to a person's fitness to carry on the occupation or (in respect to AMR only) the activity.

These exceptions are discussed further below.

The principle is also subject to important safeguards designed to protect the health and safety of workers and the broader public and the environment and, in the case of AMR, animal welfare and consumer protection. These are outlined further in sections 3.4 and 5.6.

2.2 Legal authority

The mutual recognition principle is given effect by the MRA and the TTMRA, and state, territory, and New Zealand mutual recognition legislation.¹ Within Australia, the Commonwealth and all states and territories have legislated for MR and TTMR.

All states, except Queensland, have passed legislation enabling their participation in the AMR scheme. AMR takes effect in the territories by virtue of the Territories power under section 122 of the Constitution. AMR is not available in **pre-adoption states** (i.e. states that are not participating in the AMR scheme) and persons entering a pre-adoption state for work cannot use AMR. For persons whose **home state or territory** is a pre-adoption state, they will also not be able to rely on AMR in another state or territory.

This legislative framework is supported by three agreements:

- The [Agreement relating to Mutual Recognition](#).
- The [Intergovernmental Agreement on the Automatic Mutual Recognition of Occupational Registration](#)².
- The [Trans-Tasman Mutual Recognition Agreement](#).

For more background to the development of this legislation and the three mutual recognition schemes, see section 7.

3. Common elements of these three mutual recognition schemes

The mutual recognition schemes outlined in this guide are designed to enable persons to perform similar activities, carried out under a registration for an occupation in one state or territory, in other Australian state, territory or New Zealand. The MR and TTMR schemes implement this model in a similar way, while the AMR scheme has differences outlined in this guide and is not available in New Zealand. However, there are common elements that are central to all schemes. These common elements are outlined below.

¹ *Mutual Recognition (Australian Capital Territory) Act 1992 (ACT), Mutual Recognition (New South Wales) Act 1992 (NSW), Mutual Recognition (Northern Territory) Act 1992 (NT), Mutual Recognition (Queensland) Act 1992 (Qld), Mutual Recognition (South Australia) Act 1983 (SA), Mutual Recognition (Tasmania) Act 1993 (Tas), Mutual Recognition (Victoria) Act 1998 (Vic), Mutual Recognition (Western Australia) Act 2020 (WA), Trans-Tasman Mutual Recognition Act 1997 (ACT), Trans-Tasman Mutual Recognition Act 1997 (Cth), Trans-Tasman Mutual Recognition (New South Wales) Act 1996 (NSW), Trans-Tasman Mutual Recognition Act 1997 (NT), Trans-Tasman Mutual Recognition Act 1997 (NZ), Trans-Tasman Mutual Recognition (Queensland) Act 2003 (Qld), Trans-Tasman Mutual Recognition (South Australia) Act 1999 (SA), Trans-Tasman Mutual Recognition (Tasmania) Act 2003 (Tas), Trans-Tasman Mutual Recognition (Victoria) Act 1998 (Vic), Trans-Tasman Mutual Recognition (Western Australia) Act 2007 (WA).*

² The ACT is not a signatory to this intergovernmental agreement but is a participant in the AMR scheme.

3.1 Occupations, activities and registration

In all mutual recognition schemes described in this guide, the terms: **occupation**; **activity**; and **registration** are central. An occupation is defined as an occupation, trade, profession or calling of any kind that may be carried on by registered persons only, where registration is wholly or partly dependent on the attainment or possession of a qualification. A qualification might include training, education, examination, experience, or a test of character or being fit or proper to perform an occupation or activity.

Registration includes the licensing, approval, admission, certification (including by way of practising certificates), or any other form of authorisation, of a person required by, or under legislation, for carrying on an occupation. Activity means an activity authorised to be carried on under an occupation that requires registration.

The mutual recognition schemes considered in this guide are concerned with the similarities between the occupation or activities a person is registered to carry out and the occupation or activities they hope to undertake in a **second state or territory**. However, there is some distinction in how similar activities and occupations must be in each of these schemes. The MR and TTMR schemes entitle a person to *registration for an equivalent occupation* in a second state or territory where the activities covered by the first or **substantive registration** are substantially the same. **Interim deemed registration** (IDR) and **deemed registration** (DR) also provide authority for the person to only carry out activities that are substantially the same, i.e., where the essential elements of the occupation are the same. The AMR scheme provides an entitlement to **automatic deemed registration** (ADR) to carry out the same activities (covered by an occupation) that a person is registered to carry out in their home state or territory in a second state or territory.

3.2 Application of state or territory laws

In all mutual recognition schemes described in this guide, a person must comply with the laws of the jurisdiction in which they are carrying out the occupation or activities covered by the occupation. The laws of the second state or territory will apply to a person operating under a mutual recognition scheme, as long as those laws:

- apply equally to all persons carrying on or seeking to carry on the occupation under the law of the second state or territory; and
- are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

Registered persons have a responsibility to be aware of, and understand and comply with, laws where they are working or where they are providing a service. A person who does not comply with the laws where they are working may be subject to disciplinary measures prescribed in those laws. For example, an architect based in Melbourne remotely providing services for a construction company in the Australian Capital Territory must comply with the laws of that territory or potentially face disciplinary

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measures, including suspension or cancellation of their registration. The application of second state and territory laws is discussed at sections 4.4 for MR, 5.7 for AMR and 6.3 for TTMR.

3.3 Eligibility

In order to provide important safeguards, the mutual recognition schemes are not available to people who:

- are subject to disciplinary proceedings (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to the occupation and, in respect to the AMR scheme, activities covered by that occupation. In the case of AMR, disciplinary proceedings also includes preliminary investigations or action that might lead to criminal, civil or disciplinary proceedings;
 - preliminary investigations or action would reach the relevant threshold when there is a realistic possibility (not necessarily likelihood) the investigations or action will lead to criminal, civil or disciplinary proceedings.
- have conditions on their registration as a result of disciplinary, civil or criminal proceedings;
- are personally prohibited from carrying on the occupation and (in respect to the AMR scheme) activities;
- have a suspended or cancelled registration (including IDR or ADR); and
- have not met the relevant **public protection requirements (PPR)** or **working with vulnerable people character test (VPCT)**.

Under both the MRA and TTMRA, registered persons must ensure that they are not subject to the above circumstances. For example, a person registered as a builder in New Zealand is not eligible for *registration in an equivalent occupation* in an Australian state or territory if they are subject to disciplinary proceedings as a result of building work in New Zealand.

3.4 Impact of disciplinary measures

Further safeguards are provided once a person obtains registration (or DR) through one of the three mutual recognition schemes and becomes subject to disciplinary measures. In addition to affecting their capacity to work in the second Australian state or territory or (in the case of the TTMR scheme) in New Zealand, disciplinary measures have consequences for the person's substantive registration or (in the case of the AMR scheme) home state or territory registration. For example, if a person obtained a *registration for an equivalent occupation* and it is suspended as a result of disciplinary action, their registration in the home state or territory is also suspended. While, in the AMR scheme, if a person's ADR is suspended all other registrations related to the occupation or activity covered by the occupation are also suspended. This is explored in more detail at sections 4.4 for MR, 5.9 for AMR and 6.4 for TTMR.

3.5 Information sharing

The three mutual recognition schemes require Australian state and territory and (where relevant) New Zealand regulators to share information with one another to ensure the efficient administration of the schemes and to protect the health or safety of workers or the public, animals and the environment. These information sharing arrangements are designed to ensure that LRAs are able to verify the credentials of an individual and their eligibility for the scheme.

Across all three schemes, an LRA in the first or home jurisdiction is required (when requested by another LRA) to share any information reasonably required by an LRA in the second jurisdiction to enable the LRA in the second jurisdiction to verify registration and eligibility.

Some examples of information that may be reasonably required are:

- a person's name and address;
- information identifying the person's home state or territory/substantive registration;
- information relating to any civil, criminal or disciplinary action taken against the person in respect to the occupation, or (in the case of AMR) activities covered by an occupation;
- information relating to conditions on the person's substantive / home state or territory registration;
- information relating to actual or possible disciplinary action against the person in respect to the occupation, or (in the case of AMR) activities covered by an occupation;
- information identifying a person's ADR;
- information about activities that may be carried out under substantive / home state or territory registration and/or ADR;
- any conditions on a person's substantive registration in a state or territory that is not their home state or territory;
- where a substantive registration has been suspended or cancelled – the period of suspension or cancellation, and whether it would be subject to an appeal;
- start date/expiry date of a registration; or
- any change to a substantive or IDR (i.e. cancelled, suspended, reinstated, change in conditions) that makes a person ineligible for MR registration or ADR.

Each of these types of information, or any other type of information, may only be requested by, and from, an LRA where it is *reasonably required in the circumstance*.

Under all three mutual recognition schemes, if a person becomes the subject of disciplinary measures, information about these measures will be shared with other LRAs. In the MR and TTMR schemes, this information is shared with other LRAs where an equivalent registration is held (where that is known) by an LRA in the state or territory in which the disciplinary measure is being taken. Under the AMR scheme, where a person's ADR is suspended or cancelled, or the person is the subject of disciplinary action in any state or territory (excluding the home state or territory), the LRA in the jurisdiction in which the person is

subject to such action must share information about the action with all other LRAs from participating states and territories.

Under all three mutual recognition schemes, states and territories are able to share this information despite any requirements relating to secrecy, privacy or confidentiality. This is not the case if the LRA is in a state or territory that has not legislated to participate in AMR. Those LRAs are not obliged to comply with information-sharing arrangements associated with AMR.

Once received by an LRA, the information must be maintained in accordance with relevant privacy laws and/or arrangements. There are slight nuances across the three schemes about the precise information to be shared and the urgency of sharing the information which is discussed further at sections 4.8 for MR, 5.10 for AMR and 6.7 for TTMR.

Information-sharing requirements for LRAs are also set out in Appendix A.

For MR and AMR, the MRA specifies two different timeframes for the sharing of information. First *as soon as practical / reasonably practicable* when a second state or territory LRA is sharing information about a person's substantive registration or ADR. The goal (not requirement) is for LRAs to share this information within 10 business days. The second timeframe is *without delay* when a person working in a second state or territory is subject to disciplinary action. The goal (not requirement) is for LRAs to share this information within three working days. The prompt sharing of this information is necessary so that authorities in other states or territories may take action to limit the risk of the non-compliance behaviour being repeated in other states or territories.

3.6 Scope

Occupations defined by an Australian state or territory or New Zealand as an occupational registration within the meaning of the MRA and TTMR are within scope of the three schemes. However, differences in Australian state and territory laws mean that an occupation in one state or territory may be considered an occupational registration for the purposes of the MRA, while that same occupation is not defined in the same way in another state or territory. For example, the occupation of bartender and the Responsible Service of Alcohol registration is defined in some states and territories to be within scope of the schemes and not in others because of the way the registration is established in local laws.

In respect to the AMR scheme, certain occupational registrations may be excluded from the scheme by particular Australian states and territories. These exclusions are discussed at sections 5.6 for AMR.

3.7 Schemes operating in parallel

The three mutual recognition schemes generally operate independently and in parallel with one another. The exception is that the cancellation or ending of ADR may impact upon a person's substantive or IDR. Recognising this connection between AMR and MR, nothing prevents a person who holds a substantive

registration in their home state or territory from gaining both IDR in a second state or territory (as part of applying for a *registration in an equivalent occupation*) as well as ADR in a third state or territory.

4. Mutual Recognition (MR) scheme

The MR scheme has been operating since 1993 under the MRA. The MR scheme can be used where an equivalent occupational registration exists in a second Australian state or territory (see section 4.1).

In this scheme, if a person holds a registration in a **first state or territory**, known as their substantive registration, they are entitled to *registration in an equivalent occupation* in a second state or territory. This entitlement is subject to a requirement to notify the LRA responsible for that occupation in the second state or territory. There may be application fees for MR and the registration and renewal fees and requirements will apply (as for other registration holders operating in the second state or territory).

A person is also entitled to carry on the equivalent occupation in the second state or territory while they wait to be granted *registration in an equivalent occupation*. A person is authorised to carry out the equivalent occupation via IDR.

IDR is available where persons registered in an Australian state or territory have sent notification to an LRA in a second state or territory seeking a *registration for an equivalent occupation*. On notification, a person can carry out the equivalent occupation in the second state or territory. The authority to carry out that occupation in the second state or territory is temporary and generally, the person is not issued with a physical certificate of registration but may receive advice that their notification has been received. The IDR precedes the issuing of a *registration for an equivalent occupation* or advice from an LRA that *registration for an equivalent occupation* is not available. The person must maintain their substantive registration in the first state or territory until they have obtained *registration for an equivalent occupation* in the second state or territory.

A person with IDR may carry on the occupation in the second state or territory as if the IDR was a substantive registration in the second state or territory. However, they may do so only within the limits of their home state or territory substantive registration. This means that any conditions or undertakings applying to the person's home state or territory registration also apply to their IDR, unless they are waived by the second state or territory. Imposing conditions is discussed further at section 4.5. The person must also comply with any public protection requirements of the second state or territory as well as the laws of the second state or territory. The operation of second state and territory laws is discussed further at section 4.4.

A person's IDR in the second state or territory continues until it is cancelled or suspended or otherwise ceases. IDR ceases if the person becomes substantively registered in the second state or territory, the second state or territory LRA refuses to grant registration or the person fails to maintain their substantive home state or territory registration.

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A *registration in an equivalent occupation* is issued via a second state or territory registration which may be provided by an LRA with a physical certificate of registration or an electronic notice and is subject to renewal. The registration may have conditions limiting the activities the person can conduct in the second state or territory to ensure the authority covers activities that are substantially the same to the authority issued for the first state or territory.

Eligibility for *registration in an equivalent occupation* is subject to factors discussed below. There is no requirement with respect to which Australian state or territory the person holds their substantive registration. For example, a person may have a substantive registration in a state or territory that is not where they primarily reside and can use that registration to apply for a *registration in an equivalent occupation*.

4.1 Equivalent occupations

Under the MR scheme, a person registered to perform an occupation in one Australian state or territory is entitled to be registered in another state or territory for an occupation that is *equivalent*. An occupation is *equivalent* if the activities carried out under the registration in the first state or territory are *substantially the same* as the activities under the registration available in the second state or territory.

A person seeking *registration in an equivalent occupation* is required to identify the registered occupation in the second state or territory they consider to be equivalent to their registration in the first state or territory. Questions about *equivalence* may be determined by the following processes:

- a state or territory Minister may declare certain occupations to be equivalent through a ministerial declaration. These declarations are legislative instruments published on the Commonwealth's Federal Register of Legislation [website](#);
- an LRA may determine whether an occupation in its state or territory is equivalent to another occupation in another state or territory. These assessments are made on a case by case basis following notification from the person seeking the registration; and
- the Administrative Appeals Tribunal (AAT) may determine equivalency, if a person challenges a decision by an LRA by applying to the AAT. This is discussed further at section 4.7.

Example

Bryn is a builder in Sydney who wants to work in Melbourne. Bryn's substantive registration is with NSW Fair Trading under the *Home Building Act 1989* (NSW).

Bryn looks on the Victorian Building Authority's website and completes a Mutual Recognition Application Form. As part of the application, Bryn provides personal and business information, as well as proof of registration and insurance. Bryn also pays an application fee.

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A [ministerial declaration of equivalence](#) is in place establishing that a building registration in NSW is equivalent to a building registration in Victoria.

Subject to an appropriate notification, Bryn may be issued the equivalent registration in Victoria.

4.2 Process of obtaining registration in an equivalent occupation

To gain *registration in an equivalent occupation*, a person must notify the LRA for that occupation in the Australian state or territory in which they are seeking registration. As the process of registration is not automatic, a person must complete a form to be recognised in the equivalent occupation and pay any applicable fees.

Guidance on how to notify the LRA and the applicable fees is available from the relevant LRA. The notice must include the following information:

- the occupation for which the person is seeking registration;
- each Australian state or territory in which the person is registered for an equivalent occupation (including IDR);
- each Australian state or territory in which the person has ADR for an activity covered by this occupation;
- confirmation the person's registration (including substantive, IDR and ADR) in any Australian state or territory is not cancelled or suspended due to disciplinary action and that the person is not the subject of any such action, or in any other way prohibited or restricted from practising the occupation; and
- if applicable, specify any conditions the person is subject to in carrying on the occupation in any Australian state or territory.

The form must be accompanied by:

- evidence of the person's registration for the occupation together with verification of the true nature of the evidence; and
- any applicable fees (not applicable for AMR).

After a person provides a completed notice with the relevant LRA and pays any necessary fees, they are taken to be registered in that second state or territory. This is known as IDR.

An LRA may then grant, postpone or refuse a person's registration for an equivalent occupation.

Example

Bryn is entitled to work as a builder in Victoria following completion of the notification and payment of the application fee. Upon review of the notification, the Victorian LRA issues Bryn an equivalent registration under mutual recognition.

4.3 Postponement or refusal of registration

An LRA may postpone or refuse to grant registration under the following circumstances:

- any of the statements, information or documents have not been provided or are materially false or misleading;
- the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged; or
- the authority decides that the occupation in which registration is sought is not an equivalent occupation.

An LRA must make a determination within one month after the notice is lodged (unless postponed), and if an LRA takes no action, then the person becomes registered in that state or territory after that period and the LRA has no grounds to further postpone or refuse the grant of registration, except where fraud is involved. An LRA may postpone the decision for no longer than six months. If no action is taken within that period, then the person becomes registered in that state or territory after that period and the LRA has no grounds to refuse or further postpone the registration, except where fraud is involved.

Once granted, a person's registration in the second state or territory will continue so long as an LRA does not cancel, suspend, or otherwise cease a person's registration. The registration is subject to renewal and may have conditions imposed, which is discussed further at section 4.5. A person may appeal to the AAT for an earlier registration to be granted before the six month period ends.

If the LRA decides not to grant registration, they must inform the person of their entitlement to appeal the decision to the AAT.

Where an LRA has postponed the granting of registration, a person can continue to operate under their IDR. A person's IDR will end when they become registered in the second state or territory or are refused issue of a *registration for an equivalent occupation*.

4.4 Operation of second state and territory laws

A person working under the MR scheme must abide by the laws of the second state or territory as long as those laws:

- apply equally to all persons carrying on or seeking to carry on the occupation under the law of the second state or territory; and

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- are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

As a consequence, a person operating under IDR or a *registration in an equivalent occupation* must comply with applicable laws of the second state or territory and is subject to disciplinary measures under the law of that second state or territory.

A qualification or experience relates to 'fitness' to carry on an occupation if it relates to the technical qualifications or propriety of a person performing that occupation. Whether a qualification or experience meets this threshold depends on the qualification or experience in question and the nature of the relevant occupation.

Example

A person registered in New South Wales as a waterproofer who applies for registration in an equivalent occupation in Victoria, is found to have misrepresented his qualifications to become registered for that occupation in NSW. The Victorian LRA cannot refuse to grant the registration on the basis that the person does not meet the "good character" requirements of a Victorian registration as this would be a qualification related to the fitness of the person to carry on the occupation. In this case, the Victorian LRA will instead examine its options to bring the misrepresentation to the attention of the NSW LRA.

4.5 Imposing conditions on a registration for an equivalent occupation

In the MR scheme, an LRA in a second Australian state or territory may impose conditions on a person's *registration for an equivalent occupation*. Those conditions cannot be more onerous than would be imposed in similar circumstances if the person had not received their registration through the MR scheme, unless those conditions are imposed on a registration to achieve *equivalence*. A person can appeal the decision to impose conditions to the AAT. The AAT may also impose conditions in order to make two occupations equivalent (see section 4.7).

Example

One example of imposing conditions to achieve equivalence is pest controllers. States in cooler climates do not suffer from termite problems. Pest controllers from those states, therefore, are not required to have training in, or experience with, the use of chemicals for the control of termites. To achieve equivalence between occupations, conditions have been imposed on persons without that training seeking registration in states that have termites such that they are not allowed to use termite control chemicals unless they have fulfilled the requirements of the states where they intend to work.

4.6 Reinstatement of registration

Under MR, where a registration has been cancelled, suspended or subjected to a condition and the relevant LRA knows that the person is registered for an equivalent occupation in another state or territory, the LRA must inform the other LRA of the cancellation, suspension or condition.

If a person's registration in the second state or territory is cancelled or suspended, or is otherwise subject to a condition, as a result of disciplinary action, the substantive registration is affected in the same way. However, an LRA in another state or territory may reinstate the registration or waive any conditions placed on it, if it thinks it is appropriate in the circumstances.

A person can appeal an LRA's decision to apply a condition, suspend or cancel the substantive registration to the AAT (see section 4.7).

4.7 Appeals

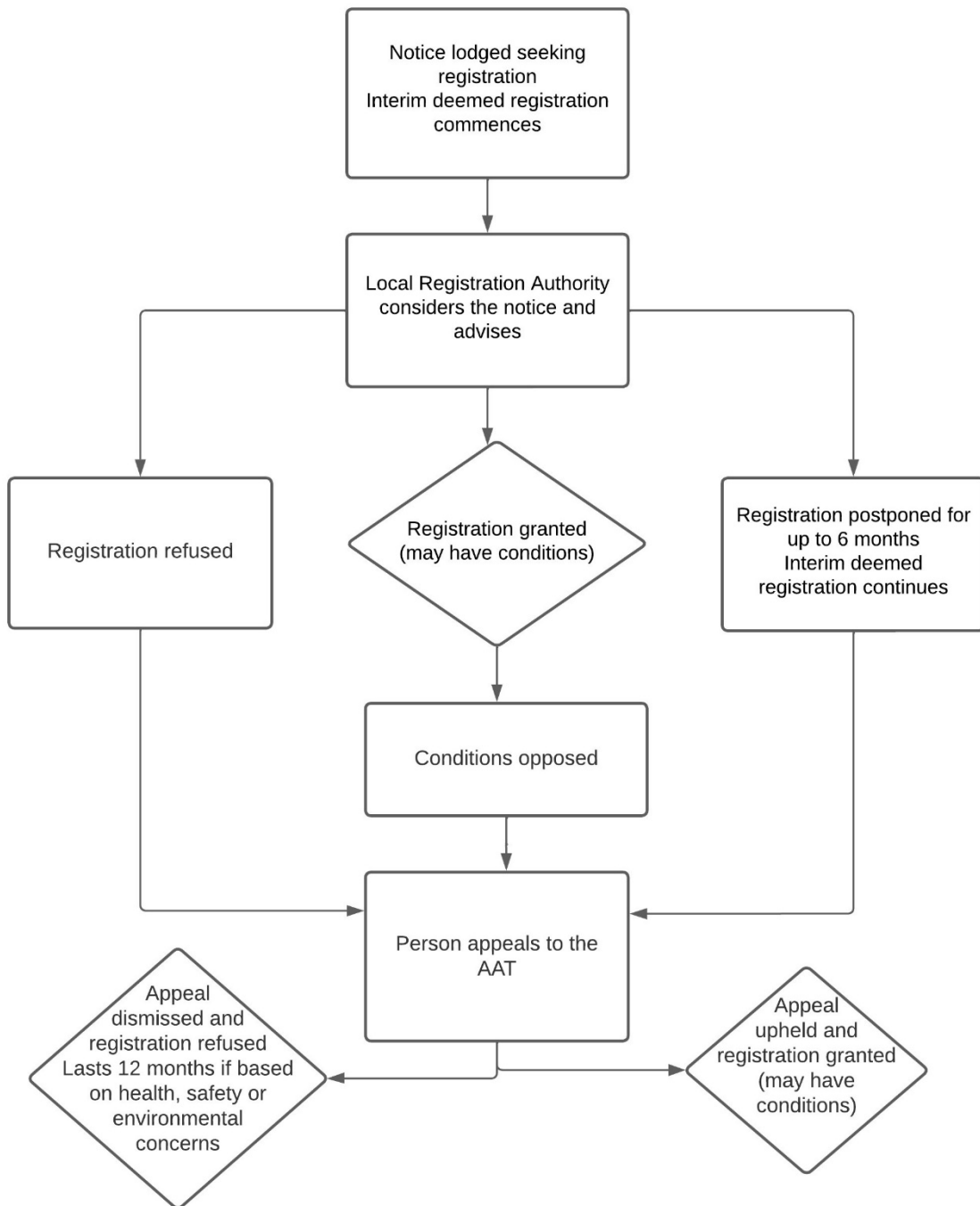
A person can appeal to the AAT any decision made by an LRA under the MRA, such as:

- the process to obtain a registration in an equivalent occupation; or
- the application of conditions to a registration; or
- the suspension or cancellation of a registration in an equivalent occupation.

Information on the process for applying is available on the AAT [website](#).

After reviewing a decision of an LRA, the AAT may decide that the person is entitled to registration and, if relevant, specify or describe conditions on the registration to achieve *equivalence*. Alternatively, the AAT may decide that the two occupations are not equivalent and the person is not entitled to registration.

Figure 1: The process for a registration in an equivalent occupation through the MR scheme



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4.8 Information sharing

States and territories share information with one another to ensure the efficient operation of the MR scheme. In particular, LRAs are obliged to share certain information about persons operating or seeking to operate under the scheme, including information about the registration a person currently hold and whether they are the subject of any disciplinary action.

A first state or territory LRA is obliged to provide information reasonably required by a second state or territory LRA regarding MR, following a request from the second state or territory LRA. A first state or territory LRA must also provide any information reasonably required by an LRA about a person's substantive registration that relates to:

- a notice lodged for mutual recognition;
- IDR; or
- actual or possible disciplinary action against the person.

This information may be provided despite secrecy, privacy or confidentiality laws and requirements. On receipt of the requested information the LRA must manage it in accordance with any applicable secrecy, privacy or confidentiality requirements that apply in their state or territory.

5. Automatic Mutual Recognition (AMR) scheme

The AMR scheme builds on, but is separate to, the long-standing MR and TTMR schemes. As outlined above, the AMR scheme shares common themes to enable the three schemes to work in parallel. AMR is designed to make it easier for workers and businesses to provide services in more than one Australian state and territory, but in contrast to MR, no fees are payable for the second state or territory registration.

The AMR scheme could be used where:

- a person holds a registration for an occupation, or an activity covered by an occupation, in an Australian state or territory where they principally live or work; and
- a person holds a registration and is seeking to work in a state or territory that is participating in the scheme (see section 5.1); and
- that activity may only be performed by a person registered in an occupation in the second Australian state or territory; and
- the registration in the second Australian state or territory is not exempted from the scheme (see section 5.6).

To be eligible for AMR, a person must not be the subject of criminal, civil or disciplinary proceedings in any state or territory (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 the person has been

advised of these proceedings. The person must also not have had any registration required to carry on the activity, or an occupation that covers the activity, cancelled or currently suspended as a result of disciplinary action. For more information on eligibility, see section 5.1. Further, where required, a person must notify the second state or territory regulator and fulfill any PPR and VPCT requirements (see section 5.1 and 5.4).

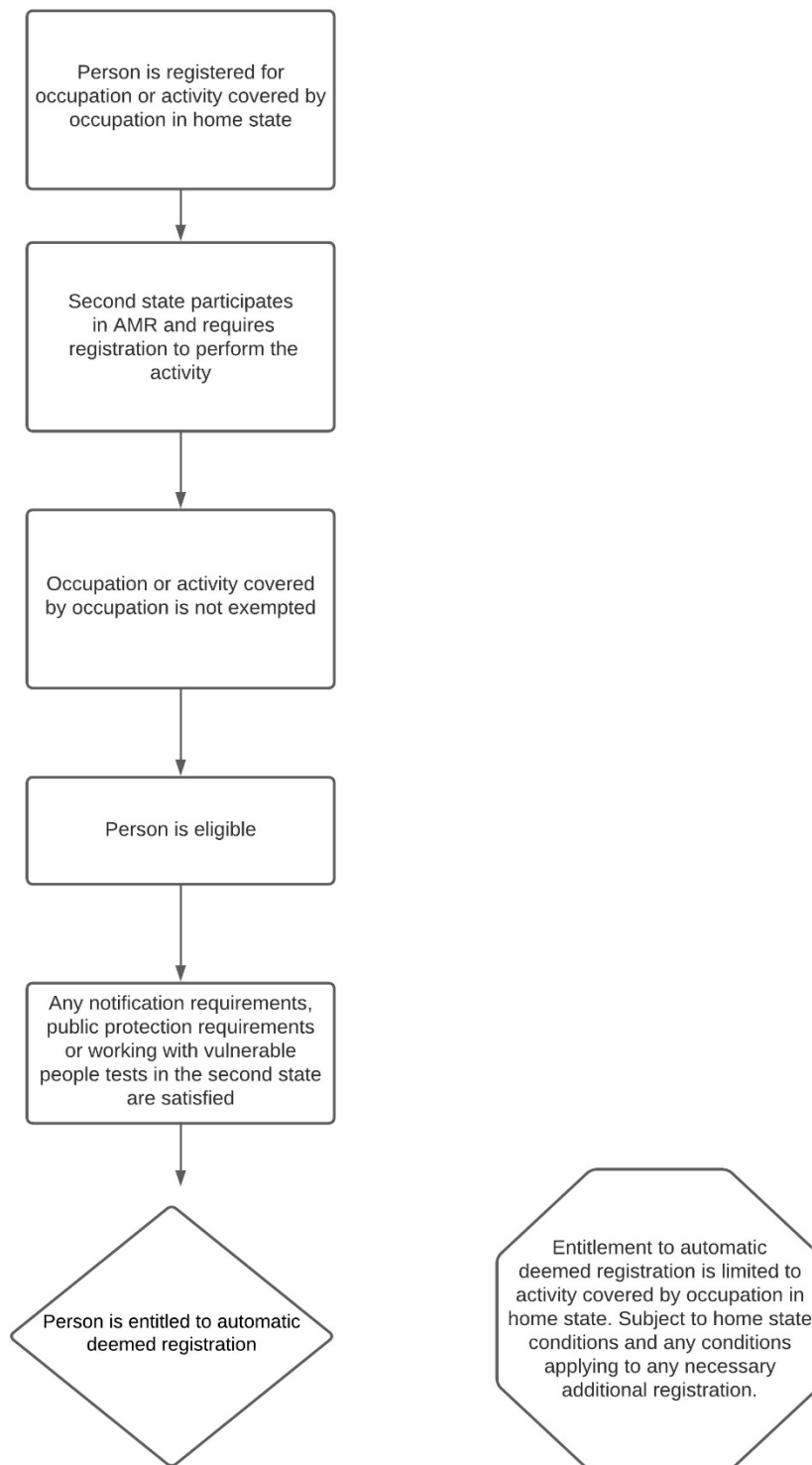
The principle is operationalised through ADR, whereby a person who is registered to undertake activities covered by an occupation in their home state or territory is entitled to ADR to carry out the same activities in a second state or territory.

Generally, a person is not issued with a physical certification of registration or electronic notice to represent ADR but the LRA retains the discretion to do this. The ADR is not subject to renewal. However, the person must maintain their home state or territory registration and any conditions on that registration are applicable to the carrying out of activities in the second state or territory.

Registration fees are not payable to obtain ADR. The broad requirements of obtaining ADR are outlined below. Further details on the requirements in each state and territory are outlined in state and territory legislation and public communications materials produced by those states and territories. It is incumbent on persons relying on AMR to work in a second state or territory to understand their obligations under the laws of that state or territory.

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Figure 2: The process for obtaining ADR



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5.1 Entitlement to ADR

In order to be entitled to ADR, a person must have a registration in their home state or territory that covers the same activity they are intending to carry out in the second state or territory and that second state or territory requires the person to be registered for an occupation to undertake that activity. For the purposes of carrying on the activity in a second state or territory the person is taken:

- to be registered in the second state or territory for the relevant occupation that covers that activity; and
- to have any additional registration required to carry on the activity in the second state or territory.

ADR in one state or territory does not provide a basis for registration in another state or territory. AMR (subject to any applicable exemptions or conditions) is only available to persons working in states or territories that have implemented AMR, and those persons' home state or territory has implemented AMR. As of 1 July 2022, Queensland has not passed legislation to implement AMR. This means, for example, if a person in a licenced occupation from Queensland wants to work in New South Wales, or vice versa, they would need to pursue the MR pathway, as AMR is not available.

AMR focuses on activities undertaken within an occupation, rather than simply occupations. This approach enables the AMR scheme to also provide an entitlement to a person to be taken to be registered for any additional registrations (in addition to the occupational registration) needed for a person to undertake the activity in a second state or territory. For example, in some states and territories, a plumber's licence may authorise a person to perform general plumbing work as well as incidental electrical work, while in another state or territory, a plumber must have a plumber's licence and a separate restricted electrical licence in order to perform the same range of activities as the first state or territory. Under AMR, a plumber from the state or territory A could carry on the full range of activities in state or territory B that they can carry on under their state or territory A plumbing licence. This is because the plumber is automatically taken to be registered for a plumbing licence *and* a restricted electrical licence in the state or territory B. This does not apply if the additional registration is subject to an exemption in the state or territory B.

If the registration in the second state or territory has a broader scope of activities to that in the person's home state or territory, ADR does not authorise a person to carry on every activity covered by the second state or territory registration. Rather the activities a person relying on ADR can perform in a second state or territory are only those for which they have been authorised to carry out in their home state or territory. This is an essential safeguard for workers and the public.

Example

After working in Melbourne, Bryn returns to NSW to continue work as a builder. Bryn then decides that it would be great to work temporarily in Adelaide.

Bryn learns that a NSW building registration can be used to obtain ADR in SA. Bryn notifies (if required) the SA Consumer and Business Services regulator of the intention to work in the state as a builder and provides evidence of a current NSW registration and (if required) having satisfied the PPRs.

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Bryn is then entitled to work in Adelaide as a builder. This entitlement is known as Bryn's ADR. Bryn does not have to pay any additional fees.

Bryn is subject to the laws of SA, including any disciplinary provisions, but only those that apply equally to all builders operating in the state. Moreover, SA cannot require Bryn to obtain any further qualifications or experience to work in the state.

5.2 Exceptions to entitlement

There are exceptions to the entitlement for ADR. Persons who fail to meet certain criteria are not entitled to ADR irrespective of their registration. At the same time, states and territories may exempt (for a prescribed period) certain registrations from AMR within their jurisdiction.

A person is not entitled to undertake activities in a second state or territory under ADR if they:

- are the subject of criminal, civil or disciplinary proceedings in any state or territory³ (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 the person has been advised of these proceedings;
 - preliminary investigations or action would have reached the relevant threshold when there is a realistic possibility (not necessarily likelihood) the investigations or action will lead to relevant criminal, civil or disciplinary proceedings
- have had any registration required to carry on the activity, or an occupation that covers the activity cancelled or currently suspended as a result of disciplinary action;
- are personally prohibited from carrying on the activity, or an occupation that covers the activity;
- are subject to any conditions in carrying on the activity covered by an occupation, as a result of criminal, civil or disciplinary proceedings in any state or territory;
- have been refused registration in any state or territory for an occupation that covers the activity;
- have not met any PPR, where required in the second state or territory or fails to provide evidence that PPRs are met;
- have not satisfied any applicable VPCT, where required in the second state or territory, or if they have satisfied the test, not provided evidence of the same; or
- have not notified the second state or territory, if such a requirement exists.

If a second state or territory does not require a person to meet a PPR, or VPCT or notify their intent to carry out the activity, a person's ADR is taken to commence when they begin to carry out the activity in the second state or territory.

³ This includes a third **state or territory**, not just a person's home **state or territory** or the **state or territory** in which they are seeking automatic deemed registration.

If a person is not eligible for AMR, they would need to apply for a registration either through MR or in the usual way in any other state or territory and meet all of that state or territories normal criteria.

5.3 Scope

Similar to the MR and TTMR schemes, the AMR scheme applies to all occupational registrations and activities covered by occupations unless specifically exempted by a state or territory Minister (discussed below at section 5.6).

Pre-existing national registration schemes or state-based automatic mutual recognition-like schemes operate independently from AMR. The AMR scheme does not disrupt these schemes. These existing schemes include certain health practitioners,⁴ legal practitioners,⁵ electrical trade work licences,⁶ and veterinarians⁷ and high risk work registrations, operating under work, health and safety arrangements.⁸

The AMR scheme does not extend beyond Australian states and territories and, as noted above, only applies in participating jurisdictions (see section 2.2).

5.4 Notification obligations for persons relying on ADR

State or territory Ministers may determine that, for a particular activity covered by an occupation, a person who intends to carry on the activity in reliance on ADR must notify the LRA for the occupation in the second state or territory before the person begins to carry on the activity in the second state or territory.

If a Minister determines notification is required, the notification form should be simple and must not contain any more information than is required under the MR notification form, other than evidence of meeting a PPR or a VPCT requirement. As part of a notification under AMR, a worker must not be required to pay any fees other than for a PPR or a VPCT. The simplicity of the notification form is required to support the objective of AMR and promote the freedom of movement of service providers across jurisdictions by reducing unnecessary regulatory burden. See section 4.2 for what is required under a MR notification form.

Whether a notification is required for a particular activity covered by an occupation is at the Minister's discretion. To establish the notification requirement, the Minister must set out the requirement in a

⁴ National Registration and Accreditation Scheme for the health professions administered by the Australian Health Practitioner Regulation Agency (covering certain health practitioners).

⁵ Legal practice scheme for legal practitioners (under Legal Profession Acts or Legal Profession Uniform Law as adopted in certain states).

⁶ Electrical trade work licences (where there is an AMR scheme between VIC, NSW and QLD for an equivalent registration).

⁷ National Recognition of Veterinary Registration for veterinarians (where there is AMR-like arrangement in all states and the Australian Capital Territory).

⁸ [Model WHS laws | Safe Work Australia](#).

legislative instrument. Notification requirements are published on the Federal Register of Legislation [website](#).

5.5 Requesting information of a person working under AMR

While a person has ADR, a second state or territory LRA may require that person to provide evidence of one or more of the following:

- the person's current place of residence;
- the person's principal place of residence;
- the person's current place of work; and
- the person's principal place of work.

If a person fails to provide this evidence, their ADR will come to an end. This does not impact the validity of the ADR before the person failed to provide that evidence. For more information on the ending of ADR see section 5.9.

5.6 Exemptions

There are two types of AMR exemptions available. During the implementation of the AMR scheme, a state or territory Minister could exempt a specified registration, whether for an occupation or for an activity covered by an occupation. Temporary exemptions were established before 31 December 2021, and existed until 30 June 2022 unless revoked earlier. Temporary exemptions were published on the Federal Register of Legislation [website](#). As of 1 July 2022, temporary exemptions are no longer available.

A second type of exemption is where a state or territory Minister can exclude a specific registration, whether for an occupation or an activity covered by an occupation, in their state or territory from the operation of ADR for five years (on a renewable basis) unless earlier revoked. In order to declare the exemption, a Minister must be satisfied that the exemption is necessary because of a significant risk arising from circumstances or conditions in the declaring state or territory to:

- consumer protection;
- the environment;
- animal welfare; or
- the health or safety of workers or the public.

A Minister may exclude a specific registration for all states and territories, or, a specific state or territory registration. Ministers will seek to limit the use of exemptions to circumstances that are necessary to reduce a significant risk to one of the four criteria listed above, and will not use exemptions for the purpose of limiting trade and commerce with, or competition from, other jurisdictions.

Before these significant risk exemptions are made, Ministers must be satisfied that any consultation the Minister considers appropriate and reasonably practicable to undertake, has been carried out. The

declaration containing the exemption must include a statement explaining the significant risk to one of the four criteria outlined above. Once a declaration is made, LRAs in the declaration state or territory must give effect to it.

An exemption declared by a state or territory Minister only has effect in the state or territory in which it is declared. To be valid, a declaration cannot give preference to one state or territory or part of a state or territory over another. A declaration would not be giving a preference simply because it differentiated between states and territories. A state or territory may make distinctions that are appropriate and adapted to a proper objective and a declaration that made this distinction would not be giving an invalid preference to one state or territory over another.

An exemption of a registration does not remove the requirement for the declaring state or territory to share information with others for the purpose of the AMR scheme. For more information, see section 5.10.

These exemptions automatically expire on the first 1 April or 1 October falling on or after the fifth anniversary of registration of the exemption instrument, if not specified to be revoked earlier. These exemptions can be extended for a further five years by a Minister following a review and appropriate consultation process confirming that the significant risk remains. The exemptions are published on the Federal Register of Legislation [website](#). LRAs should also publish information on the exemptions established and the reasons for these longer-term exemptions.

In developing the exemption instruments, a state or territory Minister may have regard to Commonwealth Office of Parliamentary Counsel's drafting templates, which can be found on their [website](#).

Where a registration is exempted, a person seeking to undertake the activity or occupation in the second state or territory may apply under the MR scheme to the relevant LRA for the authority to carry out the occupation.

5.7 Operation of second state or territory laws

As with the MR and TTMR schemes, laws of a second state or territory that regulate the manner of carrying on an activity are not displaced by AMR, as long as those laws:

- apply equally to all persons carrying on or seeking to carry on the occupation under the law of the second state or territory; and
- are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

There are exclusions to this provision in the AMR scheme. The following are not laws relating to fitness to carry on activities:

- laws imposing PPRs; or

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- laws requiring a VPCT.

5.8 Inability to impose conditions on ADR

Any conditions imposed on a person's substantive registration by a home state or territory LRA will apply to a person's ADR in the second state or territory unless waived by the LRA in the second state or territory. However, under AMR, a second state or territory cannot impose additional conditions on a person's ADR. For example, a second state or territory cannot impose conditions limiting the activities a person can carry out under that person's ADR in that state or territory. A second state or territory may regulate the use of ADR through mechanisms outlined in this guide, e.g. exempting registrations, notification requirements or legislating rules that apply to all workers.

5.9 The ending of AMR

A person's ADR comes to an end when:

- a person is no longer authorised to work in the relevant occupation in their home state or territory;
- the person becomes substantively registered in the second state or territory for the occupation or the activity covered by the occupation;
- the person fails to provide information to an LRA as required by state or territory law;
- the person requests the cancellation;
- the person's ADR is cancelled or suspended by an LRA in a second state or territory because the person provided false or misleading information to a LRA in any state or territory;
- the person is the subject of criminal, civil or disciplinary proceedings in any state or territory in relation to an occupation that covers the activity. This includes any preliminary investigations or action that might lead to criminal, civil or disciplinary proceedings. (Note that the person needs to have been informed of such proceedings before ADR is ended);
 - preliminary investigations or action would have reached the relevant threshold when there is a realistic possibility (not necessarily likelihood) that the investigations or action will lead to relevant criminal, civil or disciplinary proceedings
- the person's registration is cancelled or currently suspended as a result of disciplinary action in any state or territory;
- the person is prohibited in any state or territory from carrying on the activity covered by an occupation or is subject to any conditions in carrying on the activity covered by an occupation, as a result of criminal, civil or disciplinary proceedings;
- the person is refused registration in any state or territory for an occupation that covers the activity;
- the person is already authorised otherwise to carry on the activity in the second state or territory;

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- the person fails to meet any PPR required by the law of the second state or territory before carrying on the activity, or while they are carrying on the activity, or fails to provide evidence of meeting those requirements;
- the person fails to hold and provide evidence of a valid VPCT if required by a second state or territory;
- the person fails to notify an LRA of their intention to work in the second state or territory if required by a second state or territory;
- the person fails to provide evidence of their current place of residence, principal place of residence, current place of work, the person's principal place of work, if required by a second state or territory.

Once a person's ADR is cancelled or suspended on disciplinary grounds or ends as a result of or in anticipation of criminal, civil or disciplinary proceedings then the substantive registration or IDR the person has in another state or territory for an occupation that covers the activity is affected in the same way. The decision by an LRA to apply this affect may be reviewed by the AAT. For more information on appeals, see section 5.12.

There is a difference in impact when ADR is ended as a result of disciplinary action that is a preliminary investigation. This is a circumstance in which there is a *reasonable possibility* of criminal, civil or disciplinary action proceeding. In this context, ADR ends while that circumstance of reasonable possibility is in effect. If proceedings are not possible, and ADR is not ended on another ground set out above, ADR is no longer 'ended'. The effect that this could have on a substantive registration or IDR is that it would effectively be suspended until the proceedings are resolved or some other circumstance arises that would 'end' ADR.

The ending of ADR in these circumstances will prompt the cancellation or suspension of a person's substantive registration or IDR to perform the same activity. The home state or territory may reinstate a cancelled or suspended registration. This decision may be reviewed by the AAT. For more information on appeals, see section 5.12.

Example

While working under ADR in Adelaide, Bryn is promoted to supervisor of a number of building sites. However, Bryn does not properly manage and supervise the building work as required by SA's building registration laws.

Bryn receives an email from the LRA asking for an interview regarding a complaint that has been made about Bryn. After conducting an investigation, the SA regulator compiles a brief of evidence against Bryn and notifies Bryn of their intention to bring disciplinary action.

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At this point, Bryn's ADR comes to an end, and Bryn is no longer able to operate as a builder in SA while disciplinary actions are anticipated. Bryn's IDR in Victoria and substantive registration in NSW may be suspended until the disciplinary action is resolved.

5.10 Information sharing

Information sharing under AMR is similar to both MR and TTMR, in that verification of a person's credentials is required on request from another state or territory. An LRA in a second state or territory can request any information reasonably required from an LRA in another state or territory in connection with a person's ADR or actual or possible disciplinary action against the person. The LRA from which this information has been requested must provide it as soon as reasonably practicable. The goal (not requirement) is for LRAs to share this information within 10 business days. The information that may be requested includes:

- the person's name and address;
- information identifying the person's home state or territory registration;
- information relating to any civil, criminal or disciplinary action taken against the person;
- information relating to conditions on the person's home state or territory registration; and
- information relating to actual or possible disciplinary action against the person.

When criminal, civil or disciplinary action (including potential proceedings) is being taken against a person's ADR, and that person has been informed, the LRA in the second state or territory is required to promptly inform all other LRAs for occupations that cover the activity. The goal (not requirement) is for LRAs to share this information within three working days.

Notification of potential criminal, civil or disciplinary proceedings occurs when the second state or territory LRA becomes aware of an investigation process that might result in such proceedings. A second state or territory LRA would have reached this point when there is a realistic possibility (not necessarily likelihood) the investigations or action will lead to relevant proceedings. This could be when the relevant authority:

- has identified alleged conduct relating to a person which, if proved, would provide grounds for 'criminal, civil or disciplinary proceedings'; and
- has decided to take further action to consider or investigate the alleged conduct.

At this point the relevant second state or territory LRA must notify all other LRAs for occupations that cover the activity in all other states or territories without delay, once the person has become aware that they are being investigated. The goal (not requirement) is for LRAs to share this information within three working days. If criminal, civil or disciplinary action results in the cancellation or suspension of a person's ADR, the second state or territory LRA is required to:

- provide information about the suspension or cancellation to all other LRAs;

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- record the suspension or cancellation in any relevant register; and
- publish notice of the suspension or cancellation in accordance with any applicable law.

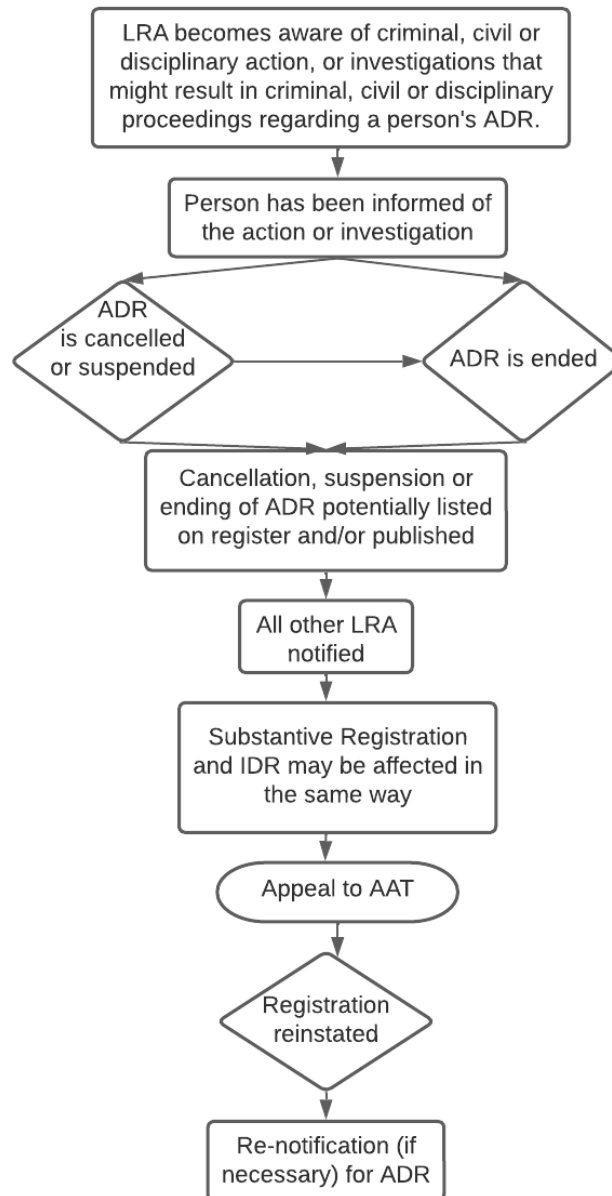
Information related to a disciplinary action, whether a cancellation, suspension or otherwise, must be provided without delay to all other LRAs for occupations that cover the activity after the registered person has been notified. Such a notification is to include:

- the person's name and address;
- information identifying the person's home state or territory registration;
- the fact that disciplinary action was taken against the person;
- the outcome of that disciplinary action, including any period of suspension;
- information relating to the reason for taking the action;
- whether the outcome is subject to appeal;
- any information requested by another LRA to determine whether the person's registration for an occupation should be reinstated or to ensure completeness of its registers; and
- any information reasonably required, as requested by another LRA.

This information may be provided despite any secrecy, privacy or confidentiality laws and requirements. In addition, once received the information must be maintained by the LRA in accordance with any applicable secrecy, privacy or confidentiality laws and requirements.

If a state or territory has not passed legislation to participate in the AMR scheme, they are not required to share information in line with the process outlined above. There is also no scope under the MRA to share information with non-participating states or territories about a person relying on AMR.

Figure 3: Sharing of information about ADR disciplinary proceedings



Example

During Bryn's disciplinary action, the SA LRA is obligated to share certain information with all other state and territory LRAs. For example, SA would be obliged to notify all other LRAs for the activity, of the action being taken when:

- there was a reasonable possibility that disciplinary action would be taken, and
- Bryn was notified of that fact.

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5.11 Reinstatement of substantive or IDR

If a person's substantive registration or IDR is cancelled or suspended following the cancellation or suspension of ADR, or the ADR is ending due to disciplinary action, the LRA of a state or territory in which the person has a substantive registration may reinstate the substantive registration or IDR if it thinks it appropriate in the circumstances. An LRA overseeing substantive registration or IDR may make these decisions at its own discretion. The decision may be reviewed by the AAT. For more information on appeals, see section 5.12.

An LRA reinstating a substantive or IDR may be obliged to notify other LRAs of the reinstatement of this licence. This obligation arises if the other LRAs have asked to be advised of reinstatements in order to complete their records.

While a person's substantive registration or IDR may be reinstated, a person will not be able to regain ADR in any state or territory if they have a substantive or IDR in another state or territory that covers the relevant activities is cancelled or currently suspended. A substantive or IDR may be reinstated and, in that event, the person would be eligible for ADR, assuming they satisfied any applicable criteria (e.g. notification requirements). If a home state or territory reinstates a substantive or IDR then they are eligible for ADR again but must re-notify if notification is required by the second state or territory.

5.12 Appeals

Appeals against disciplinary action taken by a state or territory regulator are generally reviewable by state or territory tribunals under the relevant state or territory legislation, but this may differ by jurisdiction and occupation. Information produced by the LRA regarding the registration for the activity should indicate the process to challenge the disciplinary action.

The following decisions by an LRA are reviewable by the AAT:

- cancellation or suspension of a person's ADR if the person provides false or misleading information to an LRA in any state or territory; and
- cancellation or suspension of a person's IDR or a substantive registration following the cancellation, suspension or ending of a person's ADR.

The AAT may also review a decision by a second state or territory LRA not to waive any conditions imposed on a person's registration by their home state or territory LRA.

Information on the process for applying is available on the AAT [website](#).

6. Trans-Tasman Mutual Recognition (TTMR) scheme

TTMR is governed by the *Trans-Tasman Mutual Recognition Act 1997* (TTMRA). The TTMRA extends the mutual recognition principle to persons seeking to temporarily work between Australian states and territories and New Zealand.

TTMR and MR for Australian states and territories are broadly similar. Under TTMR, a person who is registered to practise an occupation in Australia is entitled to practise an equivalent occupation in New Zealand after notifying the LRA and vice-versa.

Under the TTMR scheme, a person registered for one occupation in one Australian state or territory or New Zealand is entitled to be registered in another state or territory or New Zealand for an occupation that is *equivalent*. An occupation is *equivalent* if the activities carried out under one registration are *substantially the same* as under another registration.

A person seeking *registration in an equivalent occupation* is required to identify the registered occupation in the second jurisdiction they consider to be equivalent to their registration in the first jurisdiction. Questions about *equivalence* may be determined by the following processes:

- an LRA may determine whether an occupation in its jurisdiction is equivalent to another occupation in another jurisdiction. These assessments are made on a case by case basis following notification from the person seeking the registration.
- persons registered for an occupation can challenge a decision by an LRA by applying to the AAT or New Zealand Trans-Tasman Occupations Tribunal.
- to avoid doubt, a state or territory Minister may declare certain occupations to be *equivalent* through a ministerial declaration. Australian declarations are published on the Federal Register of Legislation [website](#). New Zealand declarations are published on the New Zealand Legislation [website](#). At this stage there are no joint ministerial declarations for TTMR.

Medical practitioners are exempt from the TTMRA. However, doctors with primary medical qualifications obtained in New Zealand are automatically granted general registration in Australia and vice-versa under separate arrangements.

6.1 Process of obtaining registration in an equivalent occupation

The process of applying for TTMR is the broadly similar to MR. A person seeking to gain *registration in an equivalent occupation* must notify the Australian state or territory or New Zealand LRA in which they are seeking registration. As the mutual recognition of a Trans-Tasman registration or licence is not automatic, individuals must apply for recognition of their substantive registration or licence and pay any applicable fees.

To gain *registration in an equivalent occupation* under TTMR, a person must notify the LRA for that occupation in the Australian state or territory or New Zealand in which they are seeking registration.

Guidance on how to notify the LRA and the applicable fees is available from the relevant LRA. The notice must include the following information:

- the occupation for which the person is seeking registration;

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- each Australian state or territory or New Zealand in which the person has registration for an equivalent occupation;
- confirmation that the person's registration in any Australian state or territory or New Zealand is not cancelled or suspended due to disciplinary action and that the person is not the subject of any such action, or in any other way prohibited or restricted from practising the occupation;
- if applicable, specify any conditions the person is subject to in carrying on the occupation in any Australian state or territory or New Zealand; and
- giving consent to the making of inquiries of, and the exchange of information with, any LRA.

The form must be accompanied by:

- the substantive registration for the occupation (or a copy of same) together with certification that the document is an original or a complete and accurate copy of the original;
- a statutory declaration verifying the statement and other information in the notice; and
- any applicable fees.

After a person provides a completed notice with the relevant LRA and pays any necessary fees, they are taken to be registered in that second jurisdiction. This is known as *deemed registration* (DR). DR is temporary and generally, the person is not issued with a physical certification of registration but may receive advice that their notification has been received. The person may not carry on the under DR without complying with any public protection requirements such as insurance, fidelity funds, trust accounts or the like.

An LRA may then grant, postpone or refuse a person's *registration for an equivalent occupation*.

6.2 Postponement or refusal of registration

An LRA in either an Australian state or territory or New Zealand may postpone or refuse to grant registration under the following circumstances:

- any of the statements, information or documents are materially false or misleading;
- the circumstances of the person lodging the notice have materially changed since the date of the notice or the date it was lodged; or
- the LRA decides that the occupation in which registration is sought is not an equivalent occupation.

An LRA must make a determination within one month after the notice is lodged, and if an LRA takes no action, then the person becomes registered in that state or territory after that period and the LRA has no grounds to further postpone or refuse the grant of registration, except where fraud is involved. An LRA may postpone for no longer than six months and, if no action is taken within that period, then the person becomes registered and the LRA has no grounds to refuse or further postpone the registration, except where fraud is involved.

Once granted, a person's registration in the second Australian state or territory or New Zealand will continue so long as an LRA does not cancel, suspend, or otherwise cease a person's registration. The registration is subject to renewal and may have conditions imposed.

If the LRA decides not to grant registration, they must inform the person of their entitlement to appeal the decision to the AAT or Trans-Tasman Occupations Tribunal. This process is discussed further below at section 6.6.

Where an LRA has postponed the grant of registration, a person can continue to operate under their DR. A person's DR will end when they become registered in the second jurisdiction or are refused issue of a *registration for an equivalent occupation*.

6.3 Operation of second jurisdiction laws

A person working under the TTMR scheme must abide by the laws of the second jurisdiction. Laws of a second jurisdiction are not to be displaced by TTMR, as long as those laws:

- apply equally to all persons carrying on or seeking to carry on the occupation under the law of the second jurisdiction; and
- are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

As a consequence, a person operating under DR or a registration in an equivalent occupation must comply with applicable laws of the second jurisdiction and is subject to disciplinary measures under the law of that second jurisdiction.

A qualification or experience relates to 'fitness' to carry on an occupation if it relates to the propriety of a person performing that occupation. Whether a qualification or experience meets this threshold depends on the qualification or experience in question and the nature of the relevant occupation.

Example

A person registered in New Zealand as a waterproofer that applies for registration in an equivalent occupation in Victoria is found to have misrepresented his qualifications to become registered for that occupation. The Victorian LRA cannot refuse to grant the registration on the basis that the person does not meet the "good character" requirements of a Victorian registration as this would be a qualification related to the fitness of the person to carry on the occupation. In this case, the Victorian LRA will instead examine its options to bring the misrepresentation to the attention of the NZ LRA.

6.4 Imposing conditions on a registration for an equivalent occupation

Under the TTMR scheme, an LRA may impose conditions on a person's *registration for an equivalent occupation*. However, those conditions cannot be more onerous than would be imposed in similar circumstances if the person had not received their registration through the TTMR scheme, unless they are conditions that apply to the person's substantive registration or that are necessary to achieve *equivalence* of occupations.

If an LRA considers that an applicant's qualifications, skills and competencies are deficient in an area, an LRA may impose conditions on registration to enable equivalence.

6.5 Reinstatement of registration

If a person's registration in an occupation in New Zealand is cancelled or suspended or is subject to a condition:

- on disciplinary grounds, or
- as a result of, or in anticipation of criminal, civil or disciplinary proceedings,

the person's registration in the equivalent occupation in an Australian jurisdiction is affected in the same way. However, an LRA in an Australian jurisdiction may reinstate any cancelled or suspended registration or waive any such condition if it thinks it appropriate in the circumstances.

6.6 Appeals

A person can appeal any decision made by an Australian LRA as part of the process to obtain a *registration in an equivalent occupation* under the TTMR scheme to the AAT. Information on the process for applying is available on the AAT [website](#).

A person can also appeal any decision made by a New Zealand LRA as part of the same process under the TTMR scheme to the Trans-Tasman Occupations Tribunal. Information on the process for applying to the Trans-Tasman Occupation Tribunal is available on the New Zealand Department of Justice [website](#).

For the purpose of promoting consistency between decisions of the Australian AAT and the New Zealand Trans-Tasman Occupations Tribunal, each tribunal has regard to decisions made by the other.

After reviewing a decision of an LRA, either the Australian or New Zealand tribunal may decide that the person is entitled to registration and, if relevant, specify or describe conditions to achieve *equivalence*.

Alternatively, a tribunal may decide that the two occupations are not equivalent and the person is not entitled to registration. Such a declaration may only be made where a tribunal is satisfied that:

- the activities involved in the occupations are not substantially the same;

- a material part of the occupation or activity to be carried out by a person not conforming to an appropriate standard could reasonably be expected to expose persons in the second jurisdiction to a real threat to their health or safety; or
- a material part of the occupation or activity to be carried out by a person not conforming to an appropriate standard could reasonably be expected to cause significant environmental pollution.

Where a declaration made by an Australian or New Zealand tribunal and a declaration made by a Minister are inconsistent, the ministerial declaration prevails.

Appeals against disciplinary action taken by an Australian state or territory regulator are generally reviewable by state or territory tribunals under the relevant state or territory legislation, but this may differ by jurisdiction and occupation.

6.7 Information sharing

As under MR, an LRA must provide, without delay, any information reasonably required by another registration authority about a person seeking registration under the TTMRA.

An LRA in the first jurisdiction is obliged to provide information reasonably required by an LRA in a second jurisdiction regarding TTMR, following a request from the second jurisdiction LRA. A first jurisdiction LRA must also provide any information reasonably required by an LRA about a person's substantive registration that relates to:

- a notice lodged for mutual recognition;
- IDR; or
- actual or possible disciplinary action against the person.

This information may be provided despite any secrecy, privacy or confidentiality laws or requirements. The receipt of the requested information by an LRA is subject to any applicable secrecy, privacy or confidentiality laws or requirements.

7. Background

Mutual Recognition between all Australian Governments commenced operation in 1993. It was introduced in response to concerns about the level of regulatory differences across Australia and the impact this was having on business and industry operating in more than one state or territory, and on the ability of the nation to compete in the international economy. The aim of the mutual recognition legislation was to create a national market for goods and services, establishing a regulatory environment that would encourage enterprise, enable business and industry to maximise their efficiency, and promote international competitiveness.

The TTMRA is an arrangement between the Commonwealth, state and territory governments of Australia and the government of New Zealand and came into effect in 1998.⁹ The TTMRA built on, and was a natural extension of, the MRA. It represented a deepening of the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA).¹⁰ The impetus for the TTMRA came from government recognition that there were regulatory impediments to trade between New Zealand and Australia. These were often in the form of:

- different standards for goods;
- duplicative testing and certification requirements; and
- different regulatory requirements for those wishing to practise in registered occupations.

In 2021, the MRA was amended by the *Mutual Recognition Amendment Act 2021*. The amendment introduced a new national scheme of AMR. Based on scheme design and when fully implemented, it was estimated that AMR could lead to an additional \$2.4 billion in economic activity over ten years as a result of savings to workers and businesses, productivity improvements and extra surge capacity in response to natural disasters.¹¹ Over 168,000 people are estimated to benefit each year from these changes, including 44,000 workers who would work interstate that would not otherwise have done so.

8. Definitions

Activity – an activity authorised to be carried on under an occupation that requires registration.

Automatic Deemed Registration (ADR)– the status of a person who is registered to perform activities under an occupation in their home state or territory and taken to have the necessary registrations in a second or territory to perform the same activities under the law of the second or territory.

Automatic Mutual Recognition (AMR) – a scheme allowing a person who is licenced or registered for an occupation in a participating Australian state or territory to be considered registered to perform the

⁹ The TTMRA was signed by the Prime Minister of Australia, State Premiers and Territory Chief Ministers at the meeting of the Council of Australian Governments (COAG) on 14 June 1996 and by the Prime Minister of New Zealand on 9 July 1996. The scheme commenced operation on 1 May 1998 on the coming into force of the Trans-Tasman Mutual Recognition (TTMR) legislation in Australia and in New Zealand. In the case of an Australian state or territory, the scheme commenced operation on the date of proclamation of relevant state or territory TTMR legislation.

¹⁰ ANZCERTA came into effect on 1 January 1983 and covers almost all aspects of the Australia-New Zealand trade and economic relationship. As well as underpinning bilateral trade in goods and services, ANZCERTA is the umbrella for close collaboration across quarantine, customs, transport, regulatory and product standards and business law issues. For further information on ANZCERTA go to www.fta.gov.au.

¹¹ For more information, see: <https://deregulation.pmc.gov.au/priorities/improving-occupational-mobility/analysis-of-the-potential-costs-and-benefits>.

same activities in another jurisdiction, without the need for further application processes or additional registration fees.

Deemed Registration (DR) – a circumstance in which a person who has applied with a LRA in Australia for registration in an equivalent occupation under the TTMR scheme is taken to be registered in that occupation, pending the grant or refusal of that registration.

Equivalent – substantially the same.

First State or Territory – the state or territory in which a person is registered for an occupation.

Home State or Territory – either the state or territory in which the person has their **principal place of residence**, or the state or territory in which the person has their **principal place of work** for the occupation.

Interim Deemed Registration (IDR) – a circumstance in which a person who has applied with a LRA for registration in an equivalent occupation is taken to be registered in that occupation, pending the grant or refusal of that registration.

Local Registration Authority (LRA) – the person or authority in the state or territory or New Zealand having the function conferred by legislation of registering persons in connection with their carrying on that occupation, or the activity covered by an occupation, in that jurisdiction.

Mutual Recognition (MR) – the principle that registration in an occupation in one jurisdiction is sufficient grounds for registration in the equivalent occupation in another jurisdiction.

Occupation – an occupation, trade, profession or calling of any kind that may be carried on only by registered persons, where registration is wholly or partly dependent on the attainment or possession of some qualification (for example, training, education, examination, experience, character test or being fit or proper), and includes a specialisation in any of the above in which registration may be granted.

Participating State – a state or territory that has legislated to recognise the *Mutual Recognition Act 1992* within its jurisdiction.

Pre-adoption State – a state or territory that has not legislated to recognise the *Mutual Recognition Amendment Act 2021* within its jurisdiction.

Principal place of residence – a state or territory in which a person resides either on a permanent basis or for an extended period of time. This could be proved through material accepted in the state or territory as evidence of residential address, including:

- an Australian driver's licence or equivalent photo identification card;
- copies of two recent bills issued to the person at their address; or
- current residential tenancy agreement (up to 1 year old).

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Principal place of work – a state or territory in which a person does the majority of work associated with an occupational registration. This could be proved through material accepted in the state or territory as evidence of this occupation, including:

- evidence of business registered in the state or territory (ABN, ACN);
- evidence of employer’s business registered in the state or territory, including the business registration number (ABN, ACN), together with one of the following:
 - statement of service from the person’s employer, or
 - employment contract issued by employer.

Public Protection Requirements – a requirement regarding insurance, fidelity funds, trust accounts, minimum financial requirements or the like that is designed to protect the public, clients, customers or others.

Registration – includes the licensing, approval, admission, certification (including by way of practising certificates), or any other form of authorisation, of a person required by or under legislation for carrying on an occupation.

Second State or Territory – the state or territory in which a person is seeking IDR (in the case of MR), deemed registration (in the case of TTMR) or ADR (in the case of AMR) (i.e. not a Home State or Territory or First State or Territory).

Substantive Registration – a registration to conduct an occupation a person holds in a First State or Territory (in the case of MR and TTMR) or their Home State or Territory (in the case of AMR).

Vulnerable person character test (VPCT) – a character test or a fit or proper person test conducted for the purposes of determining whether a person may carry on an activity in relation to children, young people or vulnerable people.

Appendix A

Information sharing between Local Registration Authorities

		Mutual Recognition		Automatic Mutual Recognition		
Requirements	Type of information	LRA requires information about a person substantively registered in another state (s37 of the Act)	LRA required to provide information to an LRA for an equivalent occupation in another state when a person's registration is cancelled, suspended or is subject to a condition (s33 of the Act)	LRA requires information in connection with the person's ADR (s42V of the Act)	LRA required to provide information to all other LRAs – disciplinary action (s42P of the Act)	LRA required to provide information to all other LRAs - suspension or cancellation (s42N of the Act)
	Information that must be shared					
	Information about a person's substantive registration in an occupation in a state or territory that is cancelled, suspended or subject to a condition on disciplinary grounds, or as a result of, or in anticipation of criminal, civil or disciplinary proceedings.	If reasonably required	Yes (if known they are registered for an equivalent occupation in another state)	If reasonably required, it must be shared with requesting state only	No (slight differences may apply in WA)	No (slight differences may apply in WA)
	the person's name and address	If reasonably required	Yes	If reasonably required, it must be shared with the requesting state only	Yes, but only those LRAs that licence occupations that cover the activity	Yes, but only those LRAs that licence occupations that cover the activity
	information about the person's ADR	No	No	If reasonably required, it must be shared with the requesting state only	Yes, but only those LRAs that licence occupations that cover the activity	Yes, but only those LRAs that licence occupations that cover the activity
state the disciplinary action/suspension/cancellation of ADR	If it is necessary to disclose the action to seek information reasonably required in	No	No	If reasonably required, it must be shared with the requesting state only	Yes, but only those LRAs that licence occupations that cover the activity	Yes, but only those LRAs that licence occupations that cover the activity

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		connection with actual or possible disciplinary action				
	options to appeal disciplinary action/suspension/cancellation	if reasonably required	No	If reasonably required, it must be shared with the requesting state only	Yes, but only those LRAs that licence occupations that cover the activity	Yes, but only those LRAs that licence occupations that cover the activity
	the duration of suspension	if reasonably required	Yes	If reasonably required, it must be shared with the requesting state only	No	Yes, but only those LRAs that licence occupations that cover the activity
	why disciplinary action was taken	if reasonably required	No	If reasonably required, it must be shared with the requesting state only	Yes, but only those LRAs that licence occupations that cover the activity	Yes, but only those LRAs that licence occupations that cover the activity
Information that may be required to be shared						
	information to determine: <ul style="list-style-type: none"> whether a person's registration for an occupation should be reinstated; or ensure completeness of its registers 	if reasonably required	No	If reasonably required, it must be shared with the requesting state only	No	Yes, but only those LRAs that licence occupations that cover the activity
	information <i>reasonably required</i> in relation to the suspension or cancellation	if reasonably required	No	Yes	No	Yes, but only those LRAs that licence occupations that cover the activity
	information <i>reasonably required</i> in relation to ADR or a disciplinary action regarding ADR	if reasonably required	No	Yes	No	No
Home state LRA to request information		No	No	No	No	No
Second state to request information		Yes, must advise it is in relation to MR, IDR or disciplinary action.	No	Yes	No	Not for information that must be provided. Yes, for information that may be required.

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	As soon as reasonably practicable	Without delay	As soon as practicable	Without delay	Without delay
Timeframes for sharing					
Receiving state to maintain information in accordance with privacy laws or arrangements	Yes	Yes	Yes	Yes	Yes
Other requirements		LRA must know the person is registered in an equivalent occupation in another state or territory.		Individual must be informed of the disciplinary action. Disciplinary action includes any preliminary investigations or action that might lead to criminal, civil or disciplinary proceedings.	Individual must be informed of the suspension/cancellation. LRA shares with all other LRAs for occupations covering that activity (in participating states or territories)

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