



Queensland

Trans-Tasman Mutual Recognition (Endorsement) Notice 2012

Explanatory Notes for SL 2012 No. 206

made under the

Trans-Tasman Mutual Recognition (Queensland) Act 2003

General outline

Short title

Trans-Tasman Mutual Recognition (Endorsement) Notice 2012.

Authorising law

Trans-Tasman Mutual Recognition (Queensland) Act 2003, section 7.

Policy objectives and the reasons for them

The objective of the gazette notice is to set out and endorse a regulation to be made by the Governor-General under section 45(3) of the *Trans-Tasman Mutual Recognition Act 1997 (Cth)* (“Commonwealth Act”). The regulation under the Commonwealth Act amends schedule 2 of the Commonwealth Act in order to provide that certain legislation of Western Australia relating to the sale of weapons is permanently exempted from the mutual recognition arrangements under the Commonwealth Act (“Commonwealth Regulation”). This legislation is the *Weapons Act 1999 (WA)*, the *Weapons Regulations 1999 (WA)* and the *Firearms Regulations 1974 (WA)* (“WA Weapons Acts”).

The Commonwealth Act provides for the recognition within Australia of regulatory standards adopted in New Zealand regarding certain goods and occupations. The *Trans-Tasman Mutual Recognition (Queensland) Act 2003* (“Queensland Act”) has adopted the Commonwealth Act as a law of Queensland.

On 17 May 2011 Western Australia enacted a 12 month temporary exemption for the WA Weapons Acts from the Trans-Tasman mutual recognition legislation. At the expiry of the temporary exemption the principles of mutual recognition that apply under the Commonwealth Act permit the sale of weapons which may be lawfully sold in New Zealand in Western Australia, overriding the provisions of the WA Weapons Acts. This temporary exemption expired on 17 May 2012.

Under Schedule 2 of the Commonwealth Act, the weapons legislation of the Australian (other than Western Australia) and New Zealand jurisdictions have all been permanently exempted from the mutual recognition arrangements under this Act. Western Australia's weapons legislation has not been permanently exempted because Western Australia was not a signatory to the Commonwealth Act at the time the participating jurisdictions reached an agreement regarding the existing permanent exemptions.

The Commonwealth has proposed that the Governor-General make the necessary regulation to permanently exempt the WA Weapons Acts from the application of the Commonwealth Act. This is done by a regulation amending schedule 2 of the Commonwealth Act to list the WA Weapons Acts. A regulation cannot be made under section 45(3) of the Commonwealth Act unless all of the participating jurisdictions have endorsed the regulation in accordance with section 45(4) of the Commonwealth Act.

Under section 43(1) of the Commonwealth Act, a jurisdiction endorses a regulation if the designated person for the jurisdiction publishes a gazette notice setting out and endorsing the terms of the regulation before it is made. For Queensland, the Queensland Governor is the designated person under section 7(1) of the Queensland Act.

Section 7(2) of the Queensland Act provides that the gazette notice made by the Governor endorsing the regulation is subordinate legislation. The Office of Queensland Parliamentary Counsel has prepared the gazette notice, setting out and endorsing the proposed regulation to be made by the Governor-General.

Achievement of policy objectives

The policy objectives are achieved by the gazette notice setting out and endorsing the Commonwealth Regulation, as required under section 7 of the Queensland Act and section 43(1) of the Commonwealth Act.

Consistency with policy objectives of authorising law

The gazette notice is consistent with the main objectives of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

Inconsistency with policy objectives of other legislation

The gazette notice is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

Not applicable.

Consistency with fundamental legislative principles

The gazette notice would not conflict with fundamental legislative principles.

Consultation

As the gazette notice has no impact on business and individuals in Queensland, no consultation has been carried out on the gazette notice.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Treasury and Trade.