

## TASMANIA

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# MUTUAL RECOGNITION (TASMANIA) AMENDMENT BILL 2021

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# **MUTUAL RECOGNITION (TASMANIA) AMENDMENT BILL 2021**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
12 October 2021

*(Brought in by the Minister for Finance, the Honourable  
Michael Darrel Joseph Ferguson)*

## **A BILL FOR**

**An Act to amend the *Mutual Recognition (Tasmania) Act 1993***

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

### **1. Short title**

This Act may be cited as the *Mutual Recognition (Tasmania) Amendment Act 2021*.

### **2. Commencement**

This Act commences on a day to be proclaimed.

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**3. Principal Act**

In this Act, the *Mutual Recognition (Tasmania) Act 1993*\* is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by omitting subsection (2).

**5. Section 4 amended (Adoption of Commonwealth Act)**

Section 4 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “subsection (3)” and substituting “section 4A”;
- (b) by omitting subsections (3) and (4) and substituting the following subsections:
  - (3) Without limiting subsection (1), the amendments made to the Commonwealth Act by the *Mutual Recognition Amendment Act 2021* of the Commonwealth, as originally enacted, are adopted under paragraph (xxxvii) of section 51 of the Commonwealth Constitution.

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- (4) The adoption of the amendments to the Commonwealth Act under subsection (3) has effect for a period commencing on the day on which the *Mutual Recognition (Tasmania) Amendment Act 2021* commences and ending on whichever of the following first occurs:
  - (a) a day fixed under section 4A as the day on which the adoption of the amendments under subsection (3) terminates;
  - (b) the day fixed under section 4A as the day on which the adoption of the Commonwealth Act under subsection (1) terminates.

**6. Section 4A inserted**

After section 4 of the Principal Act, the following section is inserted:

**4A. Termination of adoptions**

- (1) The Governor may fix, by proclamation, a day as the day on which –
  - (a) the adoption of the Commonwealth Act, under section 4(1), terminates; or

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- (b) the adoption of the amendments to the Commonwealth Act, under section 4(3), terminates.
- (2) For the avoidance of doubt, if a proclamation is made under subsection (1) to terminate the adoption of the amendments to the Commonwealth Act under section 4(3), the termination of the adoption of those amendments does not affect the continued operation in the State of the Commonwealth Act as adopted under section 4(1).

**7. Section 5 amended (Reference of power to amend the Commonwealth Act)**

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commonwealth Act as originally enacted relates but only to the extent of the amendment of that Act (other than the Schedules) in terms which are approved by the designated person for each of the then participating jurisdictions” and substituting “Commonwealth Act, as amended by the *Mutual Recognition Amendment Act 2021* of the Commonwealth, relates”;
- (b) by omitting subsection (4) and substituting the following subsection:

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- (4) For the avoidance of doubt, the amendment of subsection (1) by the *Mutual Recognition (Tasmania) Amendment Act 2021* terminates such part of the reference that required the approval of terms by all participating jurisdictions.

**8. Section 6 substituted**

Section 6 of the Principal Act is repealed and the following section is substituted:

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

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

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

**9. Repeal of Act**

This Act is repealed on the first anniversary of the day on which it commenced.