



Queensland

Health Practitioner Regulation National Law Bill 2009



Queensland

Health Practitioner Regulation National Law Bill 2009

Contents

		Page
Part 1	Preliminary	
1	Short title	20
2	Commencement	20
3	Definitions	20
Part 2	Adoption of Health Practitioner Regulation National Law	
4	Application of Health Practitioner Regulation National Law	21
5	Meaning of generic terms in Health Practitioner Regulation National Law for purposes of this jurisdiction	21
6	Responsible tribunal for Health Practitioner Regulation National Law (Queensland)	21
7	Exclusion of legislation of this jurisdiction	21
Part 3	Provisions specific to this jurisdiction	
8	Police commissioner may give criminal history information	22
9	Review of decision by QCAT as responsible tribunal	23
10	Repeal	23
Part 4	Amendment of Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008	
11	Act amended	23
12	Amendment of schedule (Health Practitioner Regulation (Administrative Arrangements) National Law)	23
Schedule	Health Practitioner Regulation National Law	26
Part 1	Preliminary	
1	Short title	26
2	Commencement	26
3	Objectives and guiding principles	26
4	How functions to be exercised	27
5	Definitions	28

Contents

6	Interpretation generally	40
7	Single national entity	40
8	Extraterritorial operation of Law	40
9	Trans-Tasman mutual recognition principle	41
10	Law binds the State	41
Part 2	Ministerial Council	
11	Policy directions	42
12	Approval of registration standards	43
13	Approvals in relation to specialist registration	43
14	Approval of endorsement in relation to scheduled medicines	44
15	Approval of areas of practice for purposes of endorsement.	45
16	How Ministerial Council exercises functions.	45
17	Notification and publication of directions and approvals.	46
Part 3	Australian Health Workforce Advisory Council	
18	Establishment of Advisory Council	46
19	Function of Advisory Council	47
20	Publication of advice	47
21	Powers of Advisory Council	47
22	Membership of Advisory Council	48
Part 4	Australian Health Practitioner Regulation Agency	
Division 1	National Agency	
23	National Agency	48
24	General powers of National Agency.	49
25	Functions of National Agency.	49
26	Health profession agreements	50
27	Co-operation with participating jurisdictions and Commonwealth	51
28	Office of National Agency.	52
Division 2	Agency Management Committee	
29	Agency Management Committee	52
30	Functions of Agency Management Committee	53
Part 5	National Boards	
Division 1	National Boards	
31	Establishment of National Boards	53
32	Powers of National Board.	54
33	Membership of National Boards	55
34	Eligibility for appointment	57

Division 2	Functions of National Boards	
35	Functions of National Boards	57
36	State and Territory Boards	60
37	Delegation of functions	61
Division 3	Registration standards and codes and guidelines	
38	National board must develop registration standards	62
39	Codes and guidelines	63
40	Consultation about registration standards, codes and guidelines	64
41	Use of registration standards, codes or guidelines in disciplinary proceedings	64
Part 6	Accreditation	
Division 1	Preliminary	
42	Definition	65
Division 2	Accreditation authorities	
43	Accreditation authority to be decided	66
44	National Agency may enter into contracts with external accreditation entities	66
45	Accreditation processes to be published	66
Division 3	Accreditation functions	
46	Development of accreditation standards	67
47	Approval of accreditation standards	67
48	Accreditation of programs of study	68
49	Approval of accredited programs of study	69
50	Accreditation authority to monitor approved programs of study . .	70
51	Changes to approval of program of study	71
Part 7	Registration of health practitioners	
Division 1	General registration	
52	Eligibility for general registration	72
53	Qualifications for general registration	73
54	Examination or assessment for general registration	73
55	Unsuitability to hold general registration	74
56	Period of general registration	75
Division 2	Specialist registration	
57	Eligibility for specialist registration	75
58	Qualifications for specialist registration	76
59	Examination or assessment for specialist registration	77

Contents

60	Unsuitability to hold specialist registration	77
61	Period of specialist registration.	78
Division 3	Provisional registration	
62	Eligibility for provisional registration	78
63	Unsuitability to hold provisional registration	79
64	Period of provisional registration	79
Division 4	Limited registration	
65	Eligibility for limited registration	80
66	Limited registration for postgraduate training or supervised practice	80
67	Limited registration for area of need.	81
68	Limited registration in public interest	82
69	Limited registration for teaching or research	82
70	Unsuitability to hold limited registration	82
71	Limited registration not to be held for more than one purpose	83
72	Period of limited registration.	83
Division 5	Non-practising registration	
73	Eligibility for non-practising registration	83
74	Unsuitability to hold non-practising registration	84
75	Registered health practitioner who holds non-practising registration must not practise the profession	84
76	Period of non-practising registration.	85
Division 6	Application for registration	
77	Application for registration	85
78	Power to check applicant's proof of identity	86
79	Power to check applicant's criminal history	86
80	Boards' other powers before deciding application for registration	87
81	Applicant may make submissions about proposed refusal of application or imposition of condition	89
82	Decision about application	89
83	Conditions of registration	90
84	Notice to be given to applicant	91
85	Failure to decide application.	91
Division 7	Student registration	
Subdivision 1	Persons undertaking approved programs of study	
86	Definitions.	92

87	National Board must register persons undertaking approved program of study	92
88	National Board may ask education provider for list of persons undertaking approved program of study	93
89	Registration of students	94
90	Period of student registration	95
Subdivision 2	Other persons to be registered as students	
91	Education provider to provide lists of persons	95
Subdivision 3	General provisions applicable to students	
92	Notice to be given if student registration suspended or condition imposed	96
93	Report to National Board of cessation of status as student	97
Division 8	Endorsement of registration	
Subdivision 1	Endorsement in relation to scheduled medicines	
94	Endorsement for scheduled medicines	98
Subdivision 2	Endorsement in relation to nurse practitioners	
95	Endorsement as nurse practitioner	99
Subdivision 3	Endorsement in relation to midwife practitioners	
96	Endorsement as midwife practitioner	100
Subdivision 4	Endorsement in relation to acupuncture	
97	Endorsement for acupuncture	100
Subdivision 5	Endorsements in relation to approved areas of practice	
98	Endorsement for approved area of practice	101
Subdivision 6	Application for endorsement	
99	Application for endorsement	102
100	Boards' other powers before deciding application for endorsement	102
101	Applicant may make submissions about proposed refusal of application or imposition of condition	103
102	Decision about application	104
103	Conditions of endorsement	104
104	Notice of decision to be given to applicant	105
105	Period of endorsement	105
106	Failure to decide application for endorsement	105
Division 9	Renewal of registration	
107	Application for renewal of registration or endorsement	106
108	Registration taken to continue in force	106

Contents

109	Annual statement	107
110	National Board's powers before making decision.	109
111	Applicant may make submissions about proposed refusal of application for renewal or imposition of condition.	109
112	Decision about application for renewal.	109
Division 10	Title and practice protections	
Subdivision 1	Title protections	
113	Restriction on use of protected titles	111
114	Use of title "acupuncturist"	113
115	Restriction on use of specialist titles	113
116	Claims by persons as to registration as health practitioner	114
117	Claims by persons as to registration in particular profession or division	116
118	Claims by persons as to specialist registration.	117
119	Claims about type of registration or registration in recognised specialty	119
120	Registered health practitioner registered on conditions	120
Subdivision 2	Practice protections	
121	Restricted dental acts.	120
122	Restriction on prescription of optical appliances	122
123	Restriction on spinal manipulation	123
Division 11	Miscellaneous	
Subdivision 1	Certificates of registration	
124	Issue of certificate of registration	124
Subdivision 2	Review of conditions and undertakings	
125	Changing or removing conditions or undertaking on application by registered health practitioner or student	125
126	Changing conditions on Board's initiative.	126
127	Removal of condition or revocation of undertaking	127
Subdivision 3	Obligations of registered health practitioners and students	
128	Continuing professional development.	128
129	Professional indemnity insurance arrangements	129
130	Registered health practitioner or student to give National Board notice of certain events	129
131	Change in principal place of practice, address or name	131
132	National Board may ask registered health practitioner for employer's details.	132

Subdivision 4	Advertising	
133	Advertising	132
Subdivision 5	Board's powers to check identity and criminal history	
134	Evidence of identity	133
135	Criminal history check	134
Subdivision 6	General	
136	Directing or inciting unprofessional conduct or professional misconduct	135
137	Surrender of registration.	135
Part 8	Health, performance and conduct	
Division 1	Preliminary	
138	Part applicable to persons formerly registered under this Law. . .	136
139	Part applicable to persons formerly registered under corresponding prior Act in certain circumstances	136
Division 2	Mandatory notifications	
140	Definition of notifiable conduct	137
141	Mandatory notifications by health practitioners	137
142	Mandatory notifications by employers	139
143	Mandatory notifications by education providers	140
Division 3	Voluntary notifications	
144	Grounds for voluntary notification.	141
145	Who may make voluntary notification.	142
Division 4	Making a notification	
146	How notification is made	142
147	National Agency to provide reasonable assistance to notifier . . .	143
Division 5	Preliminary assessment	
148	Referral of notification to National Board or co-regulatory authority	143
149	Preliminary assessment.	144
150	Relationship with health complaints entity	145
151	When National Board may decide to take no further action.	147
152	National Board to give notice of receipt of notification	148
Division 6	Other matters	
153	National Board may deal with notifications about same person together	148
154	National Boards may deal with notifications collaboratively	148

Contents

Division 7	Immediate action	
155	Definition	149
156	Power to take immediate action	149
157	Show cause process	151
158	Notice to be given to registered health practitioner or student about immediate action	151
159	Period of immediate action	152
Division 8	Investigations	
Subdivision 1	Preliminary	
160	When investigation may be conducted	153
161	Registered health practitioner or student to be given notice of investigation	153
162	Investigation to be conducted in timely way	154
Subdivision 2	Investigators	
163	Appointment of investigators	154
164	Identity card	155
165	Display of identity card	155
Subdivision 3	Procedure after investigation	
166	Investigator’s report about investigation	156
167	Decision by National Board	156
Division 9	Health and performance assessments	
168	Definition	157
169	Requirement for health assessment.	157
170	Requirement for performance assessment	157
171	Appointment of assessor to carry out assessment.	157
172	Notice to be given to registered health practitioner or student about assessment	158
173	Assessor may require information or attendance	158
174	Inspection of documents	159
175	Report from assessor.	159
176	Copy of report to be given to health practitioner or student	159
177	Decision by National Board	160
Division 10	Action by National Board	
178	National Board may take action	160
179	Show cause process	162
180	Notice to be given to health practitioner or student and notifier	163

Division 11	Panels	
181	Establishment of health panel	163
182	Establishment of performance and professional standards panel	165
183	List of approved persons for appointment to panels.	165
184	Notice to be given to registered health practitioner or student . . .	166
185	Procedure of panel.	166
186	Legal representation.	167
187	Submission by notifier	167
188	Panel may proceed in absence of registered health practitioner or student	167
189	Hearing not open to the public	168
190	Referral to responsible tribunal.	168
191	Decision of panel	168
192	Notice to be given about panel's decision	170
Division 12	Referring matter to responsible tribunals	
193	Matters to be referred to responsible tribunal.	171
194	Parties to the proceedings	172
195	Costs	172
196	Decision by responsible tribunal about registered health practitioner	172
197	Decision by responsible tribunal about student	174
198	Relationship with Act establishing responsible tribunal	174
Division 13	Appeals	
199	Appellable decisions.	174
200	Parties to the proceedings	176
201	Costs	177
202	Decision	177
203	Relationship with Act establishing responsible tribunal	177
Division 14	Miscellaneous	
204	Notice from adjudication body	177
205	Implementation of decisions.	178
206	National Board to give notice to registered health practitioner's employer	178
207	Effect of suspension.	179
Part 9	Finance	
208	Australian Health Practitioner Regulation Agency Fund.	179
209	Payments into Agency Fund.	180

Contents

210	Payments out of Agency Fund	180
211	Investment of money in Agency Fund	181
212	Financial management duties of National Agency and National Boards	182
Part 10	Information and privacy	
Division 1	Privacy	
213	Application of Commonwealth Privacy Act	183
Division 2	Disclosure of information and confidentiality	
214	Definition	184
215	Application of Commonwealth FOI Act	184
216	Duty of confidentiality	185
217	Disclosure of information for workforce planning	186
218	Disclosure of information for information management and communication purposes	186
219	Disclosure of information to other Commonwealth, State and Territory entities	187
220	Disclosure to protect health or safety of patients or other persons	188
221	Disclosure to registration authorities	188
Division 3	Registers in relation to registered health practitioner	
222	National Registers	189
223	Specialists Registers	190
224	Way registers are to be kept.	191
225	Information to be recorded in National Register.	191
226	National Board may decide not to include or to remove certain information in register.	192
227	Register about former registered health practitioners	193
228	Inspection of registers	194
Division 4	Student registers	
229	Student registers	194
230	Information to be recorded in student register	194
Division 5	Other records	
231	Other records to be kept by National Boards	195
232	Record of adjudication decisions to be kept and made publicly available	196
Division 6	Unique identifier	
233	Unique identifier to be given to each registered health practitioner	197

Part 11	Miscellaneous	
Division 1	Provisions relating to persons exercising functions under Law	
234	General duties of persons exercising functions under this Law . . .	197
235	Application of Commonwealth Ombudsman Act	198
236	Protection from personal liability for persons exercising functions	199
237	Protection from liability for persons making notification or otherwise providing information	199
Division 2	Inspectors	
238	Functions and powers of inspectors	200
239	Appointment of inspectors	201
240	Identity card	201
241	Display of identity card	202
Division 3	Legal proceedings	
242	Proceedings for offences	202
243	Conduct may constitute offence and be subject of disciplinary proceedings	202
244	Evidentiary certificates	203
Division 4	Regulations	
245	National regulations	204
246	Parliamentary scrutiny of national regulations	205
247	Effect of disallowance of national regulation	205
Division 5	Miscellaneous	
248	Combined notice may be given	206
249	Fees	206
Part 12	Transitional provisions	
Division 1	Preliminary	
250	Definitions	206
251	References to registered health practitioners	207
Division 2	Ministerial Council	
252	Directions given by Ministerial council	208
253	Accreditation functions exercised by existing accreditation entities	208
254	Health profession standards approved by Ministerial Council . . .	209
255	Accreditation standards approved by National Board	209
Division 3	Advisory Council	
256	Members of Advisory Council	209

Contents

Division 4	National Agency	
257	Health profession agreements	210
258	Service agreement	210
Division 5	Agency Management Committee	
259	Members of Agency Management Committee	211
Division 6	Staff, consultants and contractors of National Agency	
260	Chief executive officer	211
261	Staff	212
262	Consultants and contractors.	212
Division 7	Reports	
263	Annual report	212
Division 8	National Boards	
264	Members of National Boards	213
265	Committees	213
266	Delegation	213
Division 9	Agency Fund	
267	Agency Fund	214
Division 10	Offences	
268	Offences	214
Division 11	Registration	
269	General registration	214
270	Specialist registration	215
271	Provisional registration	216
272	Limited registration	216
273	Limited registration (public interest-occasional practice)	216
274	Non-practising registration	217
275	Registration for existing registered students	217
276	Registration for new students.	218
277	Other registrations	218
278	Endorsements	219
279	Conditions imposed on registration or endorsement	220
280	Expiry of registration and endorsement	220
281	Protected titles for certain specialist health practitioners	221
282	First renewal of registration or endorsement	222
283	Programs of study	222

284	Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery	222
Division 12	Applications for registration and endorsement	
285	Applications for registration	224
286	Applications for endorsement.	225
287	Disqualifications and conditions relevant to applications for registration	225
Division 13	Complaints, notifications and disciplinary proceedings	
288	Complaints and notifications made but not being dealt with on participation day	226
289	Complaints and notifications being dealt with on participation day	226
290	Effect of suspension.	227
291	Undertakings and other agreements	227
292	Orders	228
293	List of approved persons	228
Division 14	Local registration authority	
294	Definition	228
295	Assets and liabilities.	229
296	Records relating to registration and accreditation	230
297	Financial and administrative records	230
298	Pharmacy businesses and premises	230
299	Members of local registration authority	230
Division 15	Staged commencement for certain health professions	
300	Application of Law to relevant health profession between commencement and 1 July 2012	231
301	Ministerial Council may appoint external accreditation entity . . .	232
302	Application of Law to appointment of first National Board for relevant professions	232
303	Qualifications for general registration in relevant profession	233
304	Relationship with other provisions of Law	233
Division 16	Savings and transitional regulations	
305	Savings and transitional regulations.	234
Schedule 1	Constitution and procedure of Advisory Council	235
Part 1	General	
1	Definitions	235
Part 2	Constitution	
2	Terms of office of members	235

Contents

3	Remuneration	235
4	Vacancy in office of member	235
5	Extension of term of office during vacancy in membership	236
6	Disclosure of conflict of interest	237
Part 3	Procedure	
7	General procedure	238
8	Quorum	238
9	Presiding member	238
10	Transaction of business outside meetings or by telecommunication	238
11	First meeting	239
Schedule 2	Agency Management Committee	240
Part 1	General	
1	Definitions	240
Part 2	Constitution	
2	Terms of office of members	240
3	Remuneration	240
4	Vacancy in office of member	240
5	Vacancies to be advertised	242
6	Extension of term of office during vacancy in membership	242
7	Members to act in public interest	242
8	Disclosure of conflict of interest	243
Part 3	Procedure	
9	General procedure	244
10	Quorum	244
11	Chief executive officer may attend meetings	244
12	Presiding member	244
13	Voting	244
14	Transaction of business outside meetings or by telecommunication	244
15	First meeting	245
16	Defects in appointment of members	245
Schedule 3	National Agency	246
Part 1	Chief executive officer	
1	Chief executive officer	246
2	Functions of chief executive officer	246

3	Delegation and subdelegation by chief executive officer	246
4	Vacancy in office	247
Part 2	Staff, consultants and contractors	
5	Staff of National Agency	247
6	Staff seconded to National Agency	248
7	Consultants and contractors	248
Part 3	Reporting obligations	
8	Annual report	248
9	Reporting by National Boards	249
Schedule 4	National Boards	250
Part 1	General	
1	Definitions	250
Part 2	Constitution	
2	Terms of office of members	250
3	Remuneration	250
4	Vacancy in office of member	250
5	Vacancies to be advertised	252
6	Extension of term of office during vacancy in membership	252
7	Members to act in public interest	252
8	Disclosure of conflict of interest	253
Part 3	Functions and powers	
9	Requirement to consult other National Boards	254
10	Boards may obtain assistance	254
11	Committees	254
Part 4	Procedure	
12	General procedure	255
13	Quorum	255
14	Presiding member	255
15	Voting	255
16	Transaction of business outside meetings or by telecommunication	256
17	First meeting	256
18	Defects in appointment of members	256
Schedule 5	Investigators	257
Part 1	Power to obtain information	
1	Powers of investigators	257

Contents

2	Offence for failing to produce information or attend before investigator	257
3	Inspection of documents	258
Part 2	Power to enter places	
4	Entering places	258
5	Application for warrant	259
6	Issue of warrant	259
7	Application by electronic communication	260
8	Procedure before entry under warrant	261
9	Powers after entering places	262
10	Offences for failing to comply with requirement under clause 9 ..	263
11	Seizure of evidence	263
12	Securing seized things	264
13	Receipt for seized things	264
14	Forfeiture of seized thing	264
15	Dealing with forfeited things	265
16	Return of seized things	265
17	Access to seized things	266
Part 3	General matters	
18	Damage to property	266
19	Compensation	267
20	False or misleading information	267
21	False or misleading documents	267
22	Obstructing investigators	268
23	Impersonation of investigators	268
Schedule 6	Inspectors	269
Part 1	Power to obtain information	
1	Powers of inspectors	269
2	Offence for failing to produce information or attend before inspector	269
3	Inspection of documents	270
Part 2	Power to enter places	
4	Entering places	270
5	Application for warrant	271
6	Issue of warrant	271
7	Application by electronic communication	272

8	Procedure before entry under warrant	273
9	Powers after entering places	274
10	Offences for failing to comply with requirement under clause 9	275
11	Seizure of evidence	275
12	Securing seized things	276
13	Receipt for seized things	276
14	Forfeiture of seized thing	276
15	Dealing with forfeited things	277
16	Return of seized things	277
17	Access to seized things	278
Part 3	General matters	
18	Damage to property	278
19	Compensation	279
20	False or misleading information	279
21	False or misleading documents	279
22	Obstructing inspectors	280
23	Impersonation of inspectors	280
Schedule 7	Miscellaneous provisions relating to interpretation	281
Part 1	Preliminary	
1	Displacement of Schedule by contrary intention	281
Part 2	General	
2	Law to be construed not to exceed legislative power of Legislature	281
3	Every section to be a substantive enactment.	282
4	Material that is, and is not, part of this Law	282
5	References to particular Acts and to enactments.	282
6	References taken to be included in Act or Law citation etc	283
7	Interpretation best achieving Law's purpose	283
8	Use of extrinsic material in interpretation.	283
9	Effect of change of drafting practice and use of examples.	285
10	Use of examples.	285
11	Compliance with forms	286
Part 3	Terms and references	
12	Definitions.	286
13	Provisions relating to defined terms and gender and number	291
14	Meaning of "may" and "must" etc	292

Contents

15	Words and expressions used in statutory instruments	292
16	Effect of express references to bodies corporate and individuals	292
17	Production of records kept in computers etc	293
18	References to this jurisdiction to be implied	293
19	References to officers and holders of offices	293
20	Reference to certain provisions of Law	294
21	Reference to provisions of this Law or an Act is inclusive	295
Part 4	Functions and powers	
22	Performance of statutory functions	295
23	Power to make instrument or decision includes power to amend or repeal	296
24	Matters for which statutory instruments may make provision	296
25	Presumption of validity and power to make	298
26	Appointments may be made by name or office	298
27	Acting appointments	298
28	Powers of appointment imply certain incidental powers	300
29	Delegation of functions	301
30	Exercise of powers between enactment and commencement	303
Part 5	Distance, time and age	
31	Matters relating to distance, time and age	305
Part 6	Effect of repeal, amendment or expiration	
32	Time of Law ceasing to have effect	306
33	Repealed Law provisions not revived	307
34	Saving of operation of repealed Law provisions	307
35	Continuance of repealed provisions	307
36	Law and amending Acts to be read as one	308
Part 7	Instruments under Law	
37	Schedule applies to statutory instruments	308
Part 8	Application to coastal sea	
38	Application	308

2009

A Bill

for

**An Act providing for the adoption of a national law to establish
a national registration and accreditation scheme for health
practitioners**

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

1 Short title 3

This Act may be cited as the *Health Practitioner Regulation National Law Act 2009*. 4
5

2 Commencement 6

This Act, other than part 4, commences on 1 July 2010. 7

3 Definitions 8

(1) For the purposes of this Act, the *local application provisions of this Act* are the provisions of this Act other than the Health Practitioner Regulation National Law set out in the schedule. 9
10
11

(2) In the local application provisions of this Act— 12
Health Practitioner Regulation National Law (Queensland) 13
means the provisions applying in this jurisdiction because of 14
section 4. 15

(3) Terms used in the local application provisions of this Act and 16
also in the Health Practitioner Regulation National Law set 17
out in the schedule have the same meanings in those 18
provisions as they have in that Law. 19

Part 2	Adoption of Health Practitioner Regulation National Law	1 2
4	Application of Health Practitioner Regulation National Law	3 4
	The Health Practitioner Regulation National Law set out in the schedule—	5 6
	(a) applies as a law of this jurisdiction; and	7
	(b) as so applying, may be referred to as the Health Practitioner Regulation National Law (Queensland); and	8 9
	(c) as so applying, is a part of this Act.	10
5	Meaning of generic terms in Health Practitioner Regulation National Law for purposes of this jurisdiction	11 12
	In the Health Practitioner Regulation National Law (Queensland)—	13 14
	<i>magistrate</i> means a magistrate appointed under the <i>Magistrates Act 1991</i> .	15 16
	<i>Magistrates Court</i> means a Magistrates Court established under the <i>Justices Act 1886</i> .	17 18
	<i>this jurisdiction</i> means Queensland.	19
6	Responsible tribunal for Health Practitioner Regulation National Law (Queensland)	20 21
	QCAT is declared to be the responsible tribunal for this jurisdiction for the purposes of the Health Practitioner Regulation National Law (Queensland).	22 23 24
7	Exclusion of legislation of this jurisdiction	25
	The following Acts of this jurisdiction do not apply to the Health Practitioner Regulation National Law (Queensland) or to the instruments made under that law—	26 27 28

-
- (a) the *Acts Interpretation Act 1954*; 1
 - (b) the *Auditor-General Act 2009*; 2
 - (c) the *Financial Accountability Act 2009*; 3
 - (d) the *Information Privacy Act 2009*; 4
 - (e) the *Ombudsman Act 2001*; 5
 - (f) the *Public Service Act 2008*; 6
 - (g) the *Right to Information Act 2009*; 7
 - (h) the *Statutory Bodies Financial Arrangements Act 1982*; 8
 - (i) the *Statutory Instruments Act 1992*. 9

Part 3 **Provisions specific to this jurisdiction** 10
 11

8 **Police commissioner may give criminal history information** 12
 13

- (1) The police commissioner may give criminal history information to— 14
 15
 - (a) a National Board; or 16
 - (b) CrimTrac, or a police force or service of the Commonwealth or another State, for the purpose of 17
 18
 CrimTrac or the police force or service giving the 19
 criminal history information to a National Board. 20
- (2) In this section— 21
criminal history information means information about a 22
 person’s criminal history that may be included in a written 23
 report under the Health Practitioner Regulation National Law 24
 (Queensland), section 79 or 135. 25

9	Review of decision by QCAT as responsible tribunal	1
	A reference in the Health Practitioner Regulation National Law (Queensland) to an appeal against a decision is, for an appeal to QCAT as the responsible tribunal, a reference to a review of the decision as provided under the QCAT Act.	2 3 4 5
10	Repeal	6
	The Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008, No. 62 is repealed.	7 8
Part 4	Amendment of Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008	9 10 11 12
11	Act amended	13
	This part amends the <i>Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008</i> .	14 15
12	Amendment of schedule (Health Practitioner Regulation (Administrative Arrangements) National Law)	16 17
	(1) Schedule, section 4(3), after ‘staff of’— <i>insert—</i> ‘, or consultant or contractor engaged by,’	18 19 20
	(2) Schedule, section 7— <i>omit, insert—</i>	21 22
‘7	Policy directions	23
	‘(1) The Ministerial Council may give directions to the National Agency about the policies to be applied by the National Agency in exercising its functions under this Law.	24 25 26

[s 12]

- ‘(2) The Ministerial Council may give directions to a National Board about the policies to be applied by the National Board in exercising its functions under this Law. 1
2
3
- ‘(3) Without limiting subsections (1) and (2), a direction under this section may relate to— 4
5
- (a) a matter relevant to the policies of the National Agency or a National Board; or 6
7
- (b) an administrative process of the National Agency or a National Board; or 8
9
- (c) a procedure of the National Agency or a National Board; or 10
11
- (d) a particular proposed accreditation standard, or a particular proposed amendment of an accreditation standard, for a health profession. 12
13
14
- ‘(4) However, the Ministerial Council may give a National Board a direction under subsection (3)(d) only if— 15
16
- (a) in the Council’s opinion, the proposed accreditation standard or amendment will have a substantive and negative impact on the recruitment or supply of health practitioners; and 17
18
19
20
- (b) the Council has first given consideration to the potential impact of the Council’s direction on the quality and safety of health care. 21
22
23
- ‘(5) A direction under this section can not be about— 24
- (a) a particular person; or 25
- (b) a particular qualification; or 26
- (c) a particular application, notification or proceeding. 27
- ‘(6) The National Agency or a National Board must comply with a direction given to it by the Ministerial Council under this section.’. 28
29
30
- (3) Schedule, section 8(2), ‘, accreditation’— 31
omit. 32

-
- | | | |
|-------|---|----|
| (4) | Schedule, section 9(3), ‘consideration’— | 1 |
| | <i>omit, insert—</i> | 2 |
| | ‘approval’. | 3 |
| (5) | Schedule, sections 29(3) and 46(2), after ‘staff of’— | 4 |
| | <i>insert—</i> | 5 |
| | ‘, or contractor engaged by,’. | 6 |
| (6) | Schedule, section 33(1) and (2), after ‘consultants’— | 7 |
| | <i>insert—</i> | 8 |
| | ‘or contractors’. | 9 |
| (7) | Schedule, section 45(1)— | 10 |
| | <i>insert—</i> | 11 |
| | ‘(ab) to develop standards relating to accreditation | 12 |
| | (accreditation standards) with respect to a particular | 13 |
| | health profession;’. | 14 |
| (8) | Schedule, section 45— | 15 |
| | <i>insert—</i> | 16 |
| ‘(2A) | An accreditation standard that is developed by a committee of | 17 |
| | a National Board is to be submitted to the National Board for | 18 |
| | its approval.’. | 19 |
| (9) | Schedule, section 54(3), definition <i>protected person</i> — | 20 |
| | <i>insert—</i> | 21 |
| | ‘(d) a consultant or contractor engaged by the National | 22 |
| | Agency.’. | 23 |

[s 1]

Schedule	Health Practitioner Regulation National Law	1 2
	section 4	3
Part 1	Preliminary	4
1	Short title	5
	This Law may be cited as the Health Practitioner Regulation National Law.	6 7
2	Commencement	8
	This Law commences in a participating jurisdiction as provided by the Act of that jurisdiction that applies this Law as a law of that jurisdiction.	9 10 11
3	Objectives and guiding principles	12
	(1) The object of this Law is to establish a national registration and accreditation scheme for—	13 14
	(a) the regulation of health practitioners; and	15
	(b) the registration of students undertaking—	16
	(i) programs of study that provide a qualification for registration in a health profession; or	17 18
	(ii) clinical training in a health profession.	19
	(2) The objectives of the national registration and accreditation scheme are—	20 21
	(a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and	22 23 24 25

-
- (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and
 - (c) to facilitate the provision of high quality education and training of health practitioners; and
 - (d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and
 - (e) to facilitate access to services provided by health practitioners in accordance with the public interest; and
 - (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.
- (3) The guiding principles of the national registration and accreditation scheme are as follows—
- (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
 - (b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;
 - (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

4 How functions to be exercised

An entity that has functions under this Law is to exercise its functions having regard to the objectives and guiding principles of the national registration and accreditation scheme set out in section 3.

[s 5]

5 Definitions

In this Law—

accreditation authority means—

- (a) an external accreditation entity; or
- (b) an accreditation committee.

accreditation committee means a committee established by a National Board to exercise an accreditation function for the health profession for which the Board is established.

accreditation standard, for a health profession, means a standard used to assess whether a program of study, and the education provider that provides the program of study, provide persons who complete the program with the knowledge, skills and professional attributes necessary to practise the profession in Australia.

accredited program of study means a program of study accredited under section 48 by an accreditation authority.

adjudication body means—

- (a) a panel; or
- (b) a responsible tribunal; or
- (c) a Court; or
- (d) an entity of a co-regulatory jurisdiction that is declared in the Act applying this Law to be an adjudication body for the purposes of this Law.

Advisory Council means the Australian Health Workforce Advisory Council established by section 18.

Agency Fund means the Australian Health Practitioner Regulation Agency Fund established by section 208.

Agency Management Committee means the Australian Health Practitioner Regulation Agency Management Committee established by section 29.

appropriate professional indemnity insurance arrangements, in relation to a registered health practitioner,

-
- means professional indemnity insurance arrangements that
comply with an approved registration standard for the health
profession in which the practitioner is registered.
- approved accreditation standard*** means an accreditation
standard—
- (a) approved by a National Board under section 47(3); and
 - (b) published on the Board’s website under section 47(6).
- approved area of practice***, for a health profession, means an
area of practice approved under section 15 for the profession.
- approved program of study***, for a health profession or for
endorsement of registration in a health profession, means an
accredited program of study—
- (a) approved under section 49(1) by the National Board
established for the health profession; and
 - (b) included in the list published by the National Agency
under section 49(5).
- approved qualification***—
- (a) for a health profession, means a qualification obtained
by completing an approved program of study for the
profession; and
 - (b) for endorsement of registration in a health profession,
means a qualification obtained by completing an
approved program of study relevant to the endorsement.
- approved registration standard*** means a registration
standard—
- (a) approved by the Ministerial Council under section 12;
and
 - (b) published on the website of the National Board that
developed the standard.
- Australian legal practitioner*** means a person who—
- (a) is admitted to the legal profession under the law of a
State or Territory; and

[s 5]

- (b) holds a current practising certificate under a law of a State or Territory authorising the person to practise the legal profession. 1
2
3
- COAG Agreement** means the agreement for a national registration and accreditation scheme for health professions, made on 26 March 2008 between the Commonwealth, the States, the Australian Capital Territory and the Northern Territory. 4
5
6
7
8
- Note.** A copy of the COAG Agreement is available on the Council of Australian Governments' website. 9
10
- co-regulatory authority**, for a co-regulatory jurisdiction, means an entity that is declared by the Act applying this Law in the co-regulatory jurisdiction to be a co-regulatory authority for the purposes of this Law. 11
12
13
14
- co-regulatory jurisdiction** means a participating jurisdiction in which the Act applying this Law declares that the jurisdiction is not participating in the health, performance and conduct process provided by Divisions 3 to 12 of Part 8. 15
16
17
18
- corresponding prior Act** means a law of a participating jurisdiction that— 19
20
- (a) was in force before the day on which the jurisdiction became a participating jurisdiction; and 21
22
- (b) established an entity having functions that included— 23
- (i) the registration of persons as health practitioners; 24
or 25
- (ii) health, conduct or performance action. 26
- criminal history**, of a person, means the following— 27
- (a) every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law; 28
29
30
- (b) every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence; 31
32
33
34
35

-
- (c) every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.
- criminal history law*** means a law of a participating jurisdiction that provides that spent or other convictions do not form part of a person’s criminal history and prevents or does not require the disclosure of those convictions.
- CrimTrac*** means the CrimTrac agency established under section 65 of the *Public Service Act 1999* of the Commonwealth.
- division***, of a health profession, means a part of a health profession for which a Division is included in the National Register kept for the profession.
- education provider*** means—
- (a) a university; or
- (b) a tertiary education institution, or another institution or organisation, that provides vocational training; or
- (c) a specialist medical college or other health profession college.
- entity*** includes a person and an unincorporated body.
- exercise*** a function includes perform a duty.
- external accreditation entity*** means an entity, other than a committee established by a National Board, that exercises an accreditation function.
- health assessment*** means an assessment of a person to determine whether the person has an impairment and includes a medical, physical, psychiatric or psychological examination or test of the person.
- health complaints entity*** means an entity—
- (a) that is established by or under an Act of a participating jurisdiction; and
- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

[s 5]

- (b) whose functions include conciliating, investigating and resolving complaints made against health service providers and investigating failures in the health system. 1
2
3
- health, conduct or performance action*** means action that— 4
- (a) a National Board or an adjudication body may take in relation to a registered health practitioner or student at the end of a proceeding under Part 8; or 5
6
7
- (b) a co-regulatory authority or an adjudication body may take in relation to a registered health practitioner or student at the end of a proceeding that, under the law of a co-regulatory jurisdiction, substantially corresponds to a proceeding under Part 8. 8
9
10
11
12
- health panel*** means a panel established under section 181. 13
- health practitioner*** means an individual who practises a health profession. 14
15
- health profession*** means the following professions, and includes a recognised specialty in any of the following professions— 16
17
18
- (a) Aboriginal and Torres Strait Islander health practice; 19
- (b) Chinese medicine; 20
- (c) chiropractic; 21
- (d) dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist); 22
23
24
- (e) medical; 25
- (f) medical radiation practice; 26
- (g) nursing and midwifery; 27
- (h) occupational therapy; 28
- (i) optometry; 29
- (j) osteopathy; 30
- (k) pharmacy; 31

-
- (l) physiotherapy; 1
- (m) podiatry; 2
- (n) psychology. 3
- Note.** See Division 15 of Part 12 which provides for a staged 4
commencement of the application of this Law to the Aboriginal and Torres 5
Strait Islander health practice, Chinese medicine, medical radiation 6
practice and occupational therapy professions. 7
- health profession agreement** has the meaning given by 8
section 26. 9
- health program** means a program providing education, 10
prevention, early intervention, treatment or rehabilitation 11
services relating to physical or mental impairments, 12
disabilities, conditions or disorders, including substance abuse 13
or dependence. 14
- health service** includes the following services, whether 15
provided as public or private services— 16
- (a) services provided by registered health practitioners; 17
- (b) hospital services; 18
- (c) mental health services; 19
- (d) pharmaceutical services; 20
- (e) ambulance services; 21
- (f) community health services; 22
- (g) health education services; 23
- (h) welfare services necessary to implement any services 24
referred to in paragraphs (a) to (g); 25
- (i) services provided by dietitians, masseurs, naturopaths, 26
social workers, speech pathologists, audiologists or 27
audiometrists; 28
- (j) pathology services. 29
- health service provider** means a person who provides a health 30
service. 31

[s 5]

- impairment***, in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—
- (a) for a registered health practitioner or an applicant for registration in a health profession, the person’s capacity to practise the profession; or
 - (b) for a student, the student’s capacity to undertake clinical training—
 - (i) as part of the approved program of study in which the student is enrolled; or
 - (ii) arranged by an education provider.
- local registration authority*** means an entity having functions under a law of a State or Territory that include the registration of persons as health practitioners.
- mandatory notification*** means a notification an entity is required to make to the National Agency under Division 2 of Part 8.
- medical practitioner*** means a person who is registered under this Law in the medical profession.
- Ministerial Council*** means the Australian Health Workforce Ministerial Council comprising Ministers of the governments of the participating jurisdictions and the Commonwealth with portfolio responsibility for health.
- National Agency*** means the Australian Health Practitioner Regulation Agency established by section 23.
- National Board*** means a National Health Practitioner Board established by section 31.
- National Register*** means the Register kept by a National Board under section 222.
- national registration and accreditation scheme*** means the scheme—
- (a) referred to in the COAG Agreement; and

-
- (b) established by this Law. 1
- notification** means— 2
- (a) a mandatory notification; or 3
- (b) a voluntary notification. 4
- notifier** means a person who makes a notification. 5
- panel** means— 6
- (a) a health panel; or 7
- (b) a performance and professional standards panel. 8
- participating jurisdiction** means a State or Territory— 9
- (a) that is a party to the COAG Agreement; and 10
- (b) in which— 11
- (i) this Law applies as a law of the State or Territory; 12
or 13
- (ii) a law that substantially corresponds to the 14
provisions of this Law has been enacted. 15
- performance and professional standards panel** means a 16
panel established under section 182. 17
- performance assessment** means an assessment of the 18
knowledge, skill or judgment possessed, or care exercised by, 19
a registered health practitioner in the practice of the health 20
profession in which the practitioner is registered. 21
- police commissioner** means the commissioner of the police 22
force or police service of a participating jurisdiction or the 23
Commonwealth. 24
- principal place of practice**, for a registered health 25
practitioner, means the address declared by the practitioner to 26
be the address— 27
- (a) at which the practitioner is predominantly practising the 28
profession; or 29
- (b) if the practitioner is not practising the profession or is 30
not practising the profession predominantly at one 31

[s 5]

address, that is the practitioner's principal place of residence. 1
2

professional misconduct, of a registered health practitioner, includes— 3
4

- (a) unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and 5
6
7
8
- (b) more than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and 9
10
11
12
13
- (c) conduct of the practitioner, whether occurring in connection with the practice of the health practitioner's profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession. 14
15
16
17
18

program of study means a program of study provided by an education provider. 19
20

psychologist means a person registered under this Law in the psychology profession. 21
22

public health facility includes— 23

- (a) a public hospital; and 24
- (b) a public health, teaching or research facility. 25

recognised specialty means a specialty in a health profession that has been approved by the Ministerial Council under section 13(2). 26
27
28

registered health practitioner means an individual who— 29

- (a) is registered under this Law to practise a health profession, other than as a student; or 30
31
- (b) holds non-practising registration under this Law in a health profession. 32
33

-
- registration authority** means— 1
- (a) a local registration authority; or 2
 - (b) an entity of a jurisdiction outside Australia that has 3
responsibility for registering health practitioners in that 4
jurisdiction. 5
- registration standard** means a registration standard developed 6
by a National Board under section 38. 7
- registration status**, in relation to an applicant for registration, 8
includes— 9
- (a) any undertakings given by the applicant to a registration 10
authority, whether before or after the commencement of 11
this Law; and 12
 - (b) any conditions previously imposed on the applicant’s 13
registration by a registration authority, whether before or 14
after the commencement of this Law; and 15
 - (c) any decisions made by a registration authority, a 16
tribunal, a court or another entity having functions 17
relating to the regulation of health practitioners about 18
the applicant’s practice of the profession, whether 19
before or after the commencement of this Law; and 20
 - (d) any investigation commenced by a registration authority 21
or a health complaints entity into the applicant’s 22
conduct, performance or possible impairment but not 23
finalised at the time of the application. 24
- relevant action**, for Division 10 of Part 8, see section 178. 25
- relevant fee**, for a service provided by a National Board, 26
means the fee— 27
- (a) set under a health profession agreement between the 28
Board and the National Agency for the service; and 29
 - (b) published on the Board’s website under section 26(3). 30
- responsible Minister** means a Minister responsible for the 31
administration of this Law in a participating jurisdiction. 32
- responsible tribunal** means a tribunal or court that— 33
-

[s 5]

- (a) is declared, by the Act applying this Law in a participating jurisdiction, to be the responsible tribunal for that jurisdiction for the purposes of this Law as applied in that jurisdiction, or
- (b) is declared, by a law that substantially corresponds to this Law enacted in a participating jurisdiction, to be the responsible tribunal for that jurisdiction for the purposes of the law of that jurisdiction.
- review period**, for a condition or undertaking, means the period during which the condition may not be changed or removed, or the undertaking may not be changed or revoked, under section 125, 126 or 127.
- scheduled medicine** means a substance included in a Schedule to the current Poisons Standard within the meaning of the *Therapeutic Goods Act 1989* of the Commonwealth.
- specialist health practitioner** means a person registered under this Law in a recognised specialty.
- Specialists Register** means a register kept by a National Board under section 223.
- specialist title**, in relation to a recognised specialty, means a title that is approved by the Ministerial Council under section 13 as being a specialist title for that recognised specialty.
- State or Territory Board** has the meaning given by section 36.
- student** means a person whose name is entered in a student register as being currently registered under this Law.
- student register**, for a health profession, means a register kept under section 229 by the National Board established for the profession.
- unprofessional conduct**, of a registered health practitioner, means professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers, and includes—
- (a) a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted for, or

-
- convicted of, an offence in relation to the contravention; 1
and 2
- (b) a contravention by the practitioner of— 3
- (i) a condition to which the practitioner’s registration 4
was subject; or 5
- (ii) an undertaking given by the practitioner to the 6
National Board that registers the practitioner; and 7
- (c) the conviction of the practitioner for an offence under 8
another Act, the nature of which may affect the 9
practitioner’s suitability to continue to practise the 10
profession; and 11
- (d) providing a person with health services of a kind that are 12
excessive, unnecessary or otherwise not reasonably 13
required for the person’s well-being; and 14
- (e) influencing, or attempting to influence, the conduct of 15
another registered health practitioner in a way that may 16
compromise patient care; and 17
- (f) accepting a benefit as inducement, consideration or 18
reward for referring another person to a health service 19
provider or recommending another person use or consult 20
with a health service provider; and 21
- (g) offering or giving a person a benefit, consideration or 22
reward in return for the person referring another person 23
to the practitioner or recommending to another person 24
that the person use a health service provided by the 25
practitioner; and 26
- (h) referring a person to, or recommending that a person use 27
or consult, another health service provider, health 28
service or health product if the practitioner has a 29
pecuniary interest in giving that referral or 30
recommendation, unless the practitioner discloses the 31
nature of that interest to the person before or at the time 32
of giving the referral or recommendation. 33
- unsatisfactory professional performance***, of a registered 34
health practitioner, means the knowledge, skill or judgment 35
-

[s 6]

possessed, or care exercised by, the practitioner in the practice 1
of the health profession in which the practitioner is registered 2
is below the standard reasonably expected of a health 3
practitioner of an equivalent level of training or experience. 4
voluntary notification means a notification made under 5
Division 3 of Part 8. 6

6 Interpretation generally 7
Schedule 7 applies in relation to this Law. 8

7 Single national entity 9

- (1) It is the intention of the Parliament of this jurisdiction that this 10
Law as applied by an Act of this jurisdiction, together with 11
this Law as applied by Acts of the other participating 12
jurisdictions, has the effect that an entity established by this 13
Law is one single national entity, with functions conferred by 14
this Law as so applied. 15
- (2) An entity established by this Law has power to do acts in or in 16
relation to this jurisdiction in the exercise of a function 17
expressed to be conferred on it by this Law as applied by Acts 18
of each participating jurisdiction. 19
- (3) An entity established by this Law may exercise its functions in 20
relation to— 21
- (a) one participating jurisdiction; or 22
- (b) 2 or more or all participating jurisdictions collectively. 23
- (4) In this section, a reference to this Law as applied by an Act of 24
a jurisdiction includes a reference to a law that substantially 25
corresponds to this Law enacted in a jurisdiction. 26

8 Extraterritorial operation of Law 27
It is the intention of the Parliament of this jurisdiction that the 28
operation of this Law is to, as far as possible, include 29
operation in relation to the following— 30

(a)	things situated in or outside the territorial limits of this jurisdiction;	1 2
(b)	acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this jurisdiction;	3 4 5
(c)	things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Law, be governed or otherwise affected by the law of another jurisdiction.	6 7 8 9
9	Trans-Tasman mutual recognition principle	10
	This Law does not affect the operation of an Act of a participating jurisdiction providing for the application of the Trans-Tasman mutual recognition principle to occupations.	11 12 13
10	Law binds the State	14
(1)	This Law binds the State.	15
(2)	In this section—	16
	<i>State</i> means the Crown in right of this jurisdiction, and includes—	17 18
(a)	the Government of this jurisdiction; and	19
(b)	a Minister of the Crown in right of this jurisdiction; and	20
(c)	a statutory corporation, or other entity, representing the Crown in right of this jurisdiction.	21 22

[s 11]

Part 2	Ministerial Council	1
11	Policy directions	2
(1)	The Ministerial Council may give directions to the National Agency about the policies to be applied by the National Agency in exercising its functions under this Law.	3 4 5
(2)	The Ministerial Council may give directions to a National Board about the policies to be applied by the National Board in exercising its functions under this Law.	6 7 8
(3)	Without limiting subsections (1) and (2), a direction under this section may relate to—	9 10
(a)	a matter relevant to the policies of the National Agency or a National Board; or	11 12
(b)	an administrative process of the National Agency or a National Board; or	13 14
(c)	a procedure of the National Agency or a National Board; or	15 16
(d)	a particular proposed accreditation standard, or a particular proposed amendment of an accreditation standard, for a health profession.	17 18 19
(4)	However, the Ministerial Council may give a National Board a direction under subsection (3)(d) only if—	20 21
(a)	in the Council’s opinion, the proposed accreditation standard or amendment will have a substantive and negative impact on the recruitment or supply of health practitioners; and	22 23 24 25
(b)	the Council has first given consideration to the potential impact of the Council’s direction on the quality and safety of health care.	26 27 28
(5)	A direction under this section cannot be about—	29
(a)	a particular person; or	30
(b)	a particular qualification; or	31

(c)	a particular application, notification or proceeding.	1
(6)	The National Agency or a National Board must comply with a direction given to it by the Ministerial Council under this section.	2 3 4
12	Approval of registration standards	5
(1)	The Ministerial Council may approve a registration standard about—	6 7
(a)	the registration, or renewal of registration, of persons in a health profession; or	8 9
(b)	the endorsement, or renewal of the endorsement, of the registration of registered health practitioners.	10 11
(2)	The Ministerial Council may approve a registration standard for a health profession only if—	12 13
(a)	its approval is recommended by the National Board established for the health profession; and	14 15
(b)	it does not provide for a matter about which an accreditation standard may provide.	16 17
	Note. An accreditation standard for a health profession is a standard used to assess whether a program of study, and the education provider that provides the program, provide persons who complete the program with the knowledge, skills and professional attributes to practise the profession in Australia. Accreditation standards are developed and approved under Division 3 of Part 6.	18 19 20 21 22 23
(3)	The Ministerial Council may, at any time, ask a National Board to review an approved or proposed registration standard for the health profession for which the National Board is established.	24 25 26 27
13	Approvals in relation to specialist registration	28
(1)	The following health professions, or divisions of health professions, are health professions for which specialist recognition operates under this Law—	29 30 31
(a)	the medical profession;	32

[s 14]

- (b) the dentists division of the dental profession; 1
 - (c) any other health profession approved by the Ministerial Council, on the recommendation of the National Board established for the profession. 2
3
4
 - (2) If a health profession is a profession for which specialist recognition operates, the Ministerial Council may, on the recommendation of the National Board established for the profession— 5
6
7
8
 - (a) approve a list of specialties for the profession; and 9
 - (b) approve one or more specialist titles for each specialty in the list. 10
11
 - (3) In making a recommendation to the Ministerial Council for the purposes of subsection (1)(c) or (2), a National Board established for a health profession may have regard to any relevant advice provided by— 12
13
14
15
 - (a) an accreditation authority for the profession; or 16
 - (b) a specialist college for the profession. 17
 - (4) The Ministerial Council may provide guidance to a National Board established for a health profession for which specialist recognition will operate in relation to the criteria for the approval of specialties for the profession by the Council. 18
19
20
21
- 14 Approval of endorsement in relation to scheduled medicines** 22
23
- (1) The Ministerial Council may, on the recommendation of a National Board, decide that the Board may endorse the registration of health practitioners practising the profession for which the Board is established as being qualified to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines. 24
25
26
27
28
29
 - Note.** See section 94 which provides for the endorsement of health practitioners' registration in relation to scheduled medicines. 30
31
 - (2) An approval under subsection (1) is to specify— 32

(a)	the class of health practitioners registered by the Board to which the approval relates; and	1 2
(b)	whether the National Board may endorse the registration of the class of health practitioners as being qualified in relation to a particular scheduled medicine or a class of scheduled medicines; and	3 4 5 6
(c)	whether the National Board may endorse the registration of the class of health practitioners in relation to administering, obtaining, possessing, prescribing, selling, supplying or using the scheduled medicine or class of scheduled medicines.	7 8 9 10 11
15	Approval of areas of practice for purposes of endorsement	12 13
	The Ministerial Council may, on the recommendation of a National Board, approve an area of practice in the health profession for which the Board is established as being an area of practice for which the registration of a health practitioner registered in the profession may be endorsed.	14 15 16 17 18
	Note. See section 98 which provides for the endorsement of health practitioners' registration in relation to approved areas of practice.	19 20
16	How Ministerial Council exercises functions	21
(1)	The Ministerial Council is to give a direction or approval, or make a recommendation, request or appointment, for the purposes of a provision of this Law by resolution of the Council passed in accordance with procedures determined by the Council.	22 23 24 25 26
(2)	An act or thing done by the Ministerial Council (whether by resolution, instrument or otherwise) does not cease to have effect merely because of a change in the Council's membership.	27 28 29 30

[s 17]

17	Notification and publication of directions and approvals	1
(1)	A copy of any direction given by the Ministerial Council to the National Agency—	2 3
(a)	is to be given to the Chairperson of the Agency Management Committee; and	4 5
(b)	must be published by the National Agency on its website as soon as practicable after being received by the Chairperson.	6 7 8
(2)	A copy of a direction or approval given by the Ministerial Council to a National Board—	9 10
(a)	is to be given to the Chairperson of the National Board; and	11 12
(b)	if the direction is given under section 11(3)(d), is to include reasons for the direction; and	13 14
(c)	must be published by the National Board on its website as soon as practicable after being received by the Chairperson.	15 16 17
(3)	A copy of a direction or approval given by the Ministerial Council to the National Agency or to a National Board is to be published in the annual report of the National Agency.	18 19 20

Part 3	Australian Health Workforce Advisory Council	21 22
---------------	---	----------

18	Establishment of Advisory Council	23
	The Australian Health Workforce Advisory Council is established.	24 25

19	Function of Advisory Council	1
(1)	The function of the Advisory Council is to provide independent advice to the Ministerial Council about the following—	2 3 4
(a)	any matter relating to the national registration and accreditation scheme that is referred to it by the Ministerial Council;	5 6 7
(b)	if asked by the Ministerial Council, any matter relating to the national registration and accreditation scheme on which the Ministerial Council has been unable to reach a decision;	8 9 10 11
(c)	any other matter relating to the national registration and accreditation scheme that it considers appropriate.	12 13
(2)	Advice under this section cannot be about—	14
(a)	a particular person; or	15
(b)	a particular qualification; or	16
(c)	a particular application, notification or proceeding.	17
20	Publication of advice	18
(1)	The Ministerial Council is to make arrangements for the publication of advice given to it by the Advisory Council as soon as practicable after the Ministerial Council has had the opportunity to consider the advice, in accordance with the COAG Agreement.	19 20 21 22 23
(2)	However, the Ministerial Council may decide not to publish an advice or part of an advice if the Advisory Council recommends that the Council not publish it in the interests of protecting the privacy of any person.	24 25 26 27
21	Powers of Advisory Council	28
	The Advisory Council has the powers necessary to enable it to exercise its function.	29 30

[s 22]

22	Membership of Advisory Council	1
(1)	The Advisory Council is to consist of 7 members.	2
(2)	Members of the Advisory Council are to be appointed by the Ministerial Council.	3 4
(3)	One of the members of the Advisory Council is to be appointed as Chairperson, being a person who—	5 6
(a)	is not a registered health practitioner; and	7
(b)	has not been registered as a health practitioner under this Law or a corresponding prior Act within the last 5 years.	8 9
(4)	At least 3 of the other members of the Advisory Council are to be persons who have expertise in health, or education and training, or both.	10 11 12
(5)	Schedule 1 sets out provisions relating to the Advisory Council.	13 14

Part 4	Australian Health Practitioner Regulation Agency	15 16
---------------	---	----------

Division 1	National Agency	17
-------------------	------------------------	----

23	National Agency	18
(1)	The Australian Health Practitioner Regulation Agency is established.	19 20
(2)	The National Agency—	21
(a)	is a body corporate with perpetual succession; and	22
(b)	has a common seal; and	23
(c)	may sue and be sued in its corporate name.	24
(3)	The National Agency represents the State.	25

(4)	Schedule 3 sets out provisions relating to the National Agency.	1 2
24	General powers of National Agency	3
	The National Agency has all the powers of an individual and, in particular, may—	4 5
	(a) enter into contracts; and	6
	(b) acquire, hold, dispose of, and deal with, real and personal property; and	7 8
	(c) do anything necessary or convenient to be done in the exercise of its functions.	9 10
25	Functions of National Agency	11
	The functions of the National Agency are as follows—	12
	(a) to provide administrative assistance and support to the National Boards, and the Boards’ committees, in exercising their functions;	13 14 15
	(b) in consultation with the National Boards, to develop and administer procedures for the purpose of ensuring the efficient and effective operation of the National Boards;	16 17 18
	(c) to establish procedures for the development of accreditation standards, registration standards and codes and guidelines approved by National Boards, for the purpose of ensuring the national registration and accreditation scheme operates in accordance with good regulatory practice;	19 20 21 22 23 24
	(d) to negotiate in good faith with, and attempt to come to an agreement with, each National Board on the terms of a health profession agreement;	25 26 27
	(e) to establish and administer an efficient procedure for receiving and dealing with applications for registration as a health practitioner and other matters relating to the registration of registered health practitioners;	28 29 30 31

[s 26]

- (f) in conjunction with the National Boards, to keep up-to-date and publicly accessible national registers of registered health practitioners for each health profession; 1
2
3
4
- (g) in conjunction with the National Boards, to keep up-to-date national registers of students for each health profession; 5
6
7
- (h) to keep an up-to-date and publicly accessible list of approved programs of study for each health profession; 8
9
- (i) to establish an efficient procedure for receiving and dealing with notifications against persons who are or were registered health practitioners and persons who are students, including by establishing a national process for receiving notifications about registered health practitioners in all professions; 10
11
12
13
14
15
- (j) to provide advice to the Ministerial Council in connection with the administration of the national registration and accreditation scheme; 16
17
18
- (k) if asked by the Ministerial Council, to give to the Ministerial Council the assistance or information reasonably required by the Ministerial Council in connection with the administration of the national registration and accreditation scheme; 19
20
21
22
23
- (l) any other function given to the National Agency by or under this Law. 24
25

26 Health profession agreements 26

- (1) The National Agency must enter into an agreement (a *health profession agreement*) with a National Board that makes provision for the following— 27
28
29
 - (a) the fees that will be payable under this Law by health practitioners and others in respect of the health profession for which the Board is established (including arrangements relating to refunds of fees, waivers of fees and additional fees for late payment); 30
31
32
33
34

-
- (b) the annual budget of the National Board (including the funding arrangements for its committees and accreditation authorities);
- (c) the services to be provided to the National Board by the National Agency to enable the National Board to carry out its functions under this Law.
- (2) If the National Agency and a National Board are unable to agree on a matter relating to a health profession agreement or a proposed health profession agreement, the Ministerial Council may give directions to the National Agency and National Board about how the dispute is to be resolved.
- (3) Each National Board must publish on its website the fees for which provision has been made in a health profession agreement between the Board and the National Agency.
- 27 Co-operation with participating jurisdictions and Commonwealth**
- (1) The National Agency may exercise any of its functions in co-operation with or with the assistance of a participating jurisdiction or the Commonwealth, including in co-operation with or with the assistance of any of the following—
- (a) a government agency of a participating jurisdiction or of the Commonwealth;
- (b) a local registration authority;
- (c) a co-regulatory authority;
- (d) a health complaints entity;
- (e) an educational body or other body established by or under a law of a participating jurisdiction or the Commonwealth.
- (2) In particular, the National Agency may—
- (a) ask an entity referred to in subsection (1) for information that the Agency requires to exercise its functions under this Law; and

[s 28]

(b)	use the information to exercise its functions under this Law.	1 2
(3)	An entity referred to in subsection (1) that receives a request for information from the National Agency is authorised to give the information to the National Agency.	3 4 5
28	Office of National Agency	6
(1)	The National Agency is to establish a national office.	7
(2)	The National Agency is also to establish at least one local office in each participating jurisdiction.	8 9
Division 2	Agency Management Committee	10
29	Agency Management Committee	11
(1)	The Australian Health Practitioner Regulation Agency Management Committee is established.	12 13
(2)	The Agency Management Committee is to consist of at least 5 members appointed by the Ministerial Council.	14 15
(3)	Of the members—	16
(a)	one is to be a person appointed by the Ministerial Council as Chairperson, being a person who—	17 18
(i)	is not a registered health practitioner; and	19
(ii)	has not been registered as a health practitioner under this Law or a corresponding prior Act within the last 5 years; and	20 21 22
(b)	at least 2 others are to be persons who have expertise in health, or education and training, or both; and	23 24
(c)	at least 2 others are to be persons who are not current or former registered health practitioners and who have business or administrative expertise.	25 26 27
(4)	Schedule 2 sets out provisions relating to the Agency Management Committee.	28 29

- 30 Functions of Agency Management Committee** 1
- (1) The functions of the Agency Management Committee are as follows— 2
3
- (a) subject to any directions of the Ministerial Council, to 4
decide the policies of the National Agency; 5
- (b) to ensure that the National Agency performs its 6
functions in a proper, effective and efficient way; 7
- (c) any other function given to the Committee by or under 8
this Law. 9
- (2) The affairs of the National Agency are to be controlled by the 10
Agency Management Committee and all acts and things done 11
in the name of, or on behalf of, the National Agency by or 12
with the authority of the Agency Management Committee are 13
taken to have been done by the National Agency. 14

Part 5 National Boards 15

Division 1 National Boards 16

31 Establishment of National Boards 17

- (1) Each of the following National Health Practitioner Boards is 18
established for the health profession listed beside that Board 19
in the following Table— 20

Table— National Boards 21

Name of Board	Health profession
Aboriginal and Torres Strait Islander Health Practice Board of Australia	Aboriginal and Torres Strait Islander health practice
Chinese Medicine Board of Australia	Chinese medicine
Chiropractic Board of Australia	chiropractic

[s 32]

Name of Board	Health profession
Dental Board of Australia	dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist or oral health therapist)
Medical Board of Australia	medical
Medical Radiation Practice Board of Australia	medical radiation practice
Nursing and Midwifery Board of Australia	nursing and midwifery
Occupational Therapy Board of Australia	occupational therapy
Optometry Board of Australia	optometry
Osteopathy Board of Australia	osteopathy
Pharmacy Board of Australia	pharmacy
Physiotherapy Board of Australia	physiotherapy
Podiatry Board of Australia	podiatry
Psychology Board of Australia	psychology

- (2) A National Board— 1
- (a) is a body corporate with perpetual succession; and 2
 - (b) has a common seal; and 3
 - (c) may sue and be sued in its corporate name. 4
- (3) A National Board represents the State. 5

32 Powers of National Board 6

- (1) Subject to subsection (2), a National Board has the powers necessary to enable it to exercise its functions. 7
8
- (2) A National Board does not have power to— 9
- (a) enter into contracts; or 10
 - (b) employ staff; or 11
 - (c) acquire, hold, dispose of, and deal with, real property. 12

-
- (3) The National Board may exercise any of its functions in co-operation with or with the assistance of a participating jurisdiction or the Commonwealth, including in co-operation with or with the assistance of any of the following—
- (a) a government agency of a participating jurisdiction or of the Commonwealth;
 - (b) a local registration authority;
 - (c) a co-regulatory authority;
 - (d) a health complaints entity;
 - (e) an educational body or other body established by or under a law of a participating jurisdiction or the Commonwealth.
- (4) In particular, the National Board may—
- (a) ask an entity referred to in subsection (3) for information that the Board requires to exercise its functions under this Law; and
 - (b) use the information to exercise its functions under this Law.
- (5) An entity referred to in subsection (3) that receives a request for information from the National Board is authorised to give the information to the National Board.

33 Membership of National Boards

- (1) A National Board is to consist of members appointed in writing by the Ministerial Council.
- (2) Members of a National Board are to be appointed as practitioner members or community members.
- (3) Subject to this section, the Ministerial Council may decide the size and composition of a National Board.
- (4) At least half, but not more than two-thirds, of the members of a National Board must be persons appointed as practitioner members.

[s 33]

- (5) The practitioner members of a National Board must consist of— 1
2
- (a) at least one member from each large participating jurisdiction; and 3
4
- (b) at least one member from a small participating jurisdiction. 5
6
- (6) At least 2 of the members of a National Board must be persons appointed as community members. 7
8
- (7) At least one of the members of a National Board must live in a regional or rural area. 9
10
- (8) A person cannot be appointed as a member of a National Board if the person is a member of the Agency Management Committee. 11
12
13
- (9) One of the practitioner members of the National Board is to be appointed as Chairperson of the Board by the Ministerial Council. 14
15
16
- (10) Schedule 4 sets out provisions relating to a National Board. 17
- (11) In this section— 18
- large participating jurisdiction*** means any of the following States that is a participating jurisdiction— 19
20
- (a) New South Wales; 21
- (b) Queensland; 22
- (c) South Australia; 23
- (d) Victoria; 24
- (e) Western Australia. 25
- small participating jurisdiction*** means any of the following States or Territories that is a participating jurisdiction— 26
27
- (a) the Australian Capital Territory; 28
- (b) the Northern Territory; 29
- (c) Tasmania. 30

-
- 34 Eligibility for appointment** 1
- (1) In deciding whether to appoint a person as a member of a National Board, the Ministerial Council is to have regard to the skills and experience of the person that are relevant to the Board's functions. 2
3
4
5
- (2) A person is eligible to be appointed as a practitioner member only if the person is a registered health practitioner in the health profession for which the Board is established. 6
7
8
- (3) A person is eligible to be appointed as a community member of a National Board only if the person— 9
10
- (a) is not a registered health practitioner in the health profession for which the Board is established; and 11
12
- (b) has not at any time been registered as a health practitioner in the health profession under this Law or a corresponding prior Act. 13
14
15
- (4) A person is not eligible to be appointed as a member of a National Board if— 16
17
- (a) in the case of appointment as a practitioner member, the person has ceased to be registered as a health practitioner in the health profession for which the Board is established, whether before or after the commencement of this Law, as a result of the person's misconduct, impairment or incompetence; or 18
19
20
21
22
23
- (b) in any case, the person has, at any time, been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Ministerial Council, renders the person unfit to hold the office of member. 24
25
26
27
28

Division 2 Functions of National Boards 29

- 35 Functions of National Boards** 30
- (1) The functions of a National Board established for a health profession are as follows— 31
32

[s 35]

- (a) to register suitably qualified and competent persons in the health profession and, if necessary, to impose conditions on the registration of persons in the profession; 1
2
3
4
- (b) to decide the requirements for registration or endorsement of registration in the health profession, including the arrangements for supervised practice in the profession; 5
6
7
8
- (c) to develop or approve standards, codes and guidelines for the health profession, including— 9
10
 - (i) the approval of accreditation standards developed and submitted to it by an accreditation authority; and 11
12
13
 - (ii) the development of registration standards for approval by the Ministerial Council; and 14
15
 - (iii) the development and approval of codes and guidelines that provide guidance to health practitioners registered in the profession; 16
17
18
- (d) to approve accredited programs of study as providing qualifications for registration or endorsement in the health profession; 19
20
21
- (e) to oversee the assessment of the knowledge and clinical skills of overseas trained applicants for registration in the health profession whose qualifications are not approved qualifications for the profession, and to determine the suitability of the applicants for registration in Australia; 22
23
24
25
26
27
- (f) to negotiate in good faith with, and attempt to come to an agreement with, the National Agency on the terms of a health profession agreement; 28
29
30
- (g) to oversee the receipt, assessment and investigation of notifications about persons who— 31
32
 - (i) are or were registered as health practitioners in the health profession under this Law or a corresponding prior Act; or 33
34
35

-
- (ii) are students in the health profession; 1
 - (h) to establish panels to conduct hearings about— 2
 - (i) health and performance and professional standards 3
matters in relation to persons who are or were 4
registered in the health profession under this Law 5
or a corresponding prior Act; and 6
 - (ii) health matters in relation to students registered by 7
the Board; 8
 - (i) to refer matters about health practitioners who are or 9
were registered under this Law or a corresponding prior 10
Act to responsible tribunals for participating 11
jurisdictions; 12
 - (j) to oversee the management of health practitioners and 13
students registered in the health profession, including 14
monitoring conditions, undertaking and suspensions 15
imposed on the registration of the practitioners or 16
students; 17
 - (k) to make recommendations to the Ministerial Council 18
about the operation of specialist recognition in the 19
health profession and the approval of specialties for the 20
profession; 21
 - (l) in conjunction with the National Agency, to keep 22
up-to-date and publicly accessible national registers of 23
registered health practitioners for the health profession; 24
 - (m) in conjunction with the National Agency, to keep an 25
up-to-date national register of students for the health 26
profession; 27
 - (n) at the Board's discretion, to provide financial or other 28
support for health programs for registered health 29
practitioners and students; 30
 - (o) to give advice to the Ministerial Council on issues 31
relating to the national registration and accreditation 32
scheme for the health profession; 33
 - (p) if asked by the Ministerial Council, to give to the 34
Ministerial Council the assistance or information 35
-

[s 36]

- reasonably required by the Ministerial Council in connection with the national registration and accreditation scheme; 1
2
3
- (q) to do anything else necessary or convenient for the effective and efficient operation of the national registration and accreditation scheme; 4
5
6
- (r) any other function given to the Board by or under this Law. 7
8
- (2) For the purposes of subsection (1)(g)-(j), the Board's functions do not include receiving notifications and taking action referred to in those paragraphs in relation to behaviour by a registered health practitioner or student that occurred, or is reasonably believed to have occurred, in a co-regulatory jurisdiction. 9
10
11
12
13
14

36 State and Territory Boards 15

- (1) A National Board may establish a committee (a *State or Territory Board*) for a participating jurisdiction to enable the Board to exercise its functions in the jurisdiction in a way that provides an effective and timely local response to health practitioners and other persons in the jurisdiction. 16
17
18
19
20
- (2) A State or Territory Board is to be known as the “[Name of participating jurisdiction for which it is established] Board” of the National Board. 21
22
23
- (3) The members of a State or Territory Board are to be appointed by the responsible Minister for the participating jurisdiction. 24
25
- Example.** 26
- (a) The Pharmacy Board of Australia decides to establish a State or Territory Board for New South Wales. The State or Territory Board will be known as the New South Wales Board of the Pharmacy Board of Australia. The members of the State or Territory Board will be appointed by the responsible Minister for New South Wales. 27
28
29
30
31
- (b) The Podiatry Board of Australia decides to establish a State or Territory Board for Queensland and the Northern Territory. The State or Territory Board will be known as the Queensland and Northern Territory Board of the Podiatry Board of Australia. The members of the State or 32
33
34
35

Territory Board will be appointed jointly by the responsible Ministers for Queensland and the Northern Territory.	1 2
(4) In deciding whether to appoint a person as a member of a State or Territory Board, the responsible Minister is to have regard to the skills and experience of the person that are relevant to the Board's functions.	3 4 5 6
(5) At least half, but not more than two-thirds, of the members of a State or Territory Board must be persons appointed as practitioner members.	7 8 9
(6) At least 2 of the members of a State or Territory Board must be persons appointed as community members.	10 11
Note. See section 299 which provides that subsections (5) and (6) do not apply to a State or Territory Board for a jurisdiction for the first 12 months after the jurisdiction becomes a participating jurisdiction.	12 13 14
(7) Before a responsible Minister appoints a member of a State or Territory Board the vacancy to be filled is to be publicly advertised.	15 16 17
(8) The National Agency may assist a responsible Minister in the process of appointing members of a State or Territory Board, including in the advertising of vacancies.	18 19 20
(9) It is not necessary to advertise a vacancy in the membership of a State or Territory Board before appointing a person to act in the office of a member.	21 22 23
Note. The general interpretation provisions applicable to this Law under section 6 confer power to appoint acting members of a State or Territory Board.	24 25 26
(10) This section does not limit clause 11 of Schedule 4.	27
Note. Clause 11 of Schedule 4 confers power for the establishment of other committees.	28 29
37 Delegation of functions	30
(1) A National Board may delegate any of its functions, other than this power of delegation, to—	31 32
(a) a committee; or	33
(b) the National Agency; or	34

[s 38]

- (c) a member of the staff of the National Agency; or 1
- (d) a person engaged as a contractor by the National Agency. 2
3
- (2) The National Agency may subdelegate any function delegated to the National Agency by a National Board to a member of the staff of the National Agency. 4
5
6

Division 3 Registration standards and codes and guidelines 7
8

38 National board must develop registration standards 9

- (1) A National Board must develop and recommend to the Ministerial Council one or more registration standards about the following matters for the health profession for which the Board is established— 10
11
12
13
 - (a) requirements for professional indemnity insurance arrangements for registered health practitioners registered in the profession; 14
15
16
 - (b) matters about the criminal history of applicants for registration in the profession, and registered health practitioners and students registered by the Board, including, the matters to be considered in deciding whether an individual’s criminal history is relevant to the practice of the profession; 17
18
19
20
21
22
 - (c) requirements for continuing professional development for registered health practitioners registered in the profession; 23
24
25
 - (d) requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession; 26
27
28
29
 - (e) requirements in relation to the nature, extent, period and recency of any previous practice of the profession by applicants for registration in the profession. 30
31
32

-
- (2) Subject to subsection (3), a National Board may also develop, and recommend to the Ministerial Council, one or more registration standards about the following—
- (a) the physical and mental health of—
 - (i) applicants for registration in the profession; and
 - (ii) registered health practitioners and students;
 - (b) the scope of practice of health practitioners registered in the profession;
 - (c) any other issue relevant to the eligibility of individuals for registration in the profession or the suitability of individuals to competently and safely practise the profession.

- (3) A registration standard may not be about a matter for which an accreditation standard may provide.

Note. An accreditation standard for a health profession is used to assess whether a program of study, and the education provider that provides the program of study, provide persons who complete the program with the knowledge, skills and professional attributes to practise the profession. Accreditation standards are developed and approved under Division 3 of Part 6.

39 Codes and guidelines

A National Board may develop and approve codes and guidelines—

- (a) to provide guidance to the health practitioners it registers; and
- (b) about other matters relevant to the exercise of its functions.

Example. A National Board may develop guidelines about the advertising of regulated health services by health practitioners registered by the Board or other persons for the purposes of section 133.

[s 40]

40	Consultation about registration standards, codes and guidelines	1 2
(1)	If a National Board develops a registration standard or a code or guideline, it must ensure there is wide-ranging consultation about its content.	3 4 5
(2)	A contravention of subsection (1) does not invalidate a registration standard, code or guideline.	6 7
(3)	The following must be published on a National Board's website—	8 9
(a)	a registration standard developed by the Board and approved by the Ministerial Council;	10 11
(b)	a code or guideline approved by the National Board.	12
(4)	An approved registration standard or a code or guideline takes effect—	13 14
(a)	on the day it is published on the National Board's website; or	15 16
(b)	if a later day is stated in the registration standard, code or guideline, on that day.	17 18
41	Use of registration standards, codes or guidelines in disciplinary proceedings	19 20
	An approved registration standard for a health profession, or a code or guideline approved by a National Board, is admissible in proceedings under this Law or a law of a co-regulatory jurisdiction against a health practitioner registered by the Board as evidence of what constitutes appropriate professional conduct or practice for the health profession.	21 22 23 24 25 26

Part 6	Accreditation	1
Division 1	Preliminary	2
42	Definition	3
	In this Part—	4
	<i>accreditation function</i> means—	5
	(a) developing accreditation standards for approval by a National Board; or	6 7
	(b) assessing programs of study, and the education providers that provide the programs of study, to determine whether the programs meet approved accreditation standards; or	8 9 10 11
	(c) assessing authorities in other countries who conduct examinations for registration in a health profession, or accredit programs of study relevant to registration in a health profession, to decide whether persons who successfully complete the examinations or programs of study conducted or accredited by the authorities have the knowledge, clinical skills and professional attributes necessary to practise the profession in Australia; or	12 13 14 15 16 17 18 19
	(d) overseeing the assessment of the knowledge, clinical skills and professional attributes of overseas qualified health practitioners who are seeking registration in a health profession under this Law and whose qualifications are not approved qualifications for the health profession; or	20 21 22 23 24 25
	(e) making recommendations and giving advice to a National Board about a matter referred to in paragraph (a), (b), (c) or (d).	26 27 28

[s 43]

Division 2	Accreditation authorities	1
43	Accreditation authority to be decided	2
(1)	The National Board established for a health profession must decide whether an accreditation function for the health profession for which the Board is established is to be exercised by—	3 4 5 6
(a)	an external accreditation entity; or	7
(b)	a committee established by the Board.	8
	Note. See sections 253 and 301 which provide for the performance of accreditation functions for a health profession by external accreditation authorities appointed by the Ministerial Council for a period after the commencement of this Law.	9 10 11 12
(2)	The National Agency may charge an entity the relevant fee for the exercise of an accreditation function by an accreditation committee.	13 14 15
44	National Agency may enter into contracts with external accreditation entities	16 17
	The National Agency may enter into a contract with an external accreditation entity for the performance by the entity of an accreditation function for a health profession only if the terms of the contract are in accordance with the health profession agreement between the National Agency and the National Board established for that profession.	18 19 20 21 22 23
45	Accreditation processes to be published	24
	Each accreditation authority must publish on its website or, if the authority is an accreditation committee, the website of the National Board that established the committee, how it will exercise its accreditation function.	25 26 27 28

Division 3	Accreditation functions	1
46	Development of accreditation standards	2
(1)	An accreditation standard for a health profession may be developed by—	3 4
(a)	an external accreditation entity for the health profession; or	5 6
(b)	an accreditation committee established by the National Board established for the health profession.	7 8
(2)	In developing an accreditation standard for a health profession, an accreditation authority must undertake wide-ranging consultation about the content of the standard.	9 10 11
47	Approval of accreditation standards	12
(1)	An accreditation authority must, as soon as practicable after developing an accreditation standard for a health profession, submit it to the National Board established for the health profession.	13 14 15 16
(2)	As soon as practicable after a National Board receives an accreditation standard under subsection (1), the Board must decide to—	17 18 19
(a)	approve the accreditation standard; or	20
(b)	refuse to approve the accreditation standard; or	21
(c)	ask the accreditation authority to review the standard.	22
(3)	If the National Board decides to approve the accreditation standard it must give written notice of the approval to—	23 24
(a)	the National Agency; and	25
(b)	the accreditation authority that submitted the standard to the Board.	26 27
(4)	If the National Board decides to refuse to approve the accreditation standard—	28 29

[s 48]

- (a) it must give written notice of the refusal, including the reasons for the refusal, to the accreditation authority that submitted the standard; and
 - (b) the accreditation authority is entitled to publish any information or advice it gave the Board about the standard.
- (5) If the National Board decides to ask the accreditation authority to review the standard it must give the authority a written notice that—
 - (a) states that the authority is being asked to review the standard; and
 - (b) identifies the matters the authority is to address before again submitting the standard to the Board.
- (6) An accreditation standard approved by a National Board must be published on its website.
- (7) An accreditation standard takes effect—
 - (a) on the day it is published on the National Board’s website; or
 - (b) if a later day is stated in the standard, on that day.

48 Accreditation of programs of study

- (1) An accreditation authority for a health profession may accredit a program of study if, after assessing the program, the authority is reasonably satisfied—
 - (a) the program of study, and the education provider that provides the program of study, meet an approved accreditation standard for the profession; or
 - (b) the program of study, and the education provider that provides the program of study, substantially meet an approved accreditation standard for the profession and the imposition of conditions on the approval will ensure the program meets the standard within a reasonable time.

-
- (2) If the accreditation authority decides to accredit a program of study, with or without conditions, it must give to the National Board established for the health profession a report about the authority's accreditation of the program. 1
2
3
4
- (3) If the accreditation authority decides to refuse to accredit a program of study it must give written notice of the decision to the education provider that provides the program of study. 5
6
7
- (4) The notice must state— 8
- (a) the reasons for the decision; and 9
- (b) that, within 30 days after receiving the notice, the education provider may apply to the accreditation authority for an internal review of the decision; and 10
11
12
- (c) how the education provider may apply for the review. 13
- (5) An education provider given a notice under subsection (3) may apply, as stated in the notice, for an internal review of the accreditation authority's decision to refuse to accredit the program of study. 14
15
16
17
- (6) The internal review must not be carried out by a person who assessed the program of study for the accreditation authority. 18
19

49 Approval of accredited programs of study 20

- (1) If a National Board is given a report by an accreditation authority about the authority's accreditation of a program of study, the Board may approve, or refuse to approve, the accredited program of study as providing a qualification for the purposes of registration in the health profession for which the Board is established. 21
22
23
24
25
26
- (2) An approval under subsection (1) may be granted subject to the conditions the National Board considers necessary or desirable in the circumstances. 27
28
29
- (3) If the National Board decides to approve the accredited program of study it must give written notice of the approval to— 30
31
32

[s 50]

- (a) the National Agency for inclusion of the program of study in the list under subsection (5); and
 - (b) the accreditation authority that submitted the program to the Board.
 - (4) If the National Board decides to refuse to approve the accredited program of study—
 - (a) it must give written notice of the refusal, including the reasons for the refusal, to the accreditation authority that submitted the program; and
 - (b) the accreditation authority is entitled to publish any information or advice it gave the Board about the program.
 - (5) A list of the programs of study approved by a National Board as providing a qualification for registration in the health profession for which the Board is established must be published on the National Agency’s website.
 - (6) The list of approved programs of study published under subsection (5) must include, for each program of study, the name of the university, specialist medical or other college or other education provider that provides the approved program of study.
 - (7) An approval under subsection (1) does not take effect until the program of study is included in the list published under subsection (5).
- 50 Accreditation authority to monitor approved programs of study**
- (1) The accreditation authority that accredited an approved program of study must monitor the program and the education provider that provides the program to ensure the authority continues to be satisfied the program and provider meet an approved accreditation standard for the health profession.
 - (2) If the accreditation authority reasonably believes the program of study and education provider no longer meet an approved

-
- accreditation standard for the health profession, the accreditation authority must—
- (a) decide to—
 - (i) impose the conditions on the accreditation that the accreditation authority considers necessary to ensure the program of study will meet the standard within a reasonable time; or
 - (ii) revoke the accreditation of the program of study; and
 - (b) give the National Board that approved the accredited program of study written notice of the accreditation authority’s decision.

51 Changes to approval of program of study

- (1) If a National Board is given notice under section 50(2)(b) that an accreditation authority has revoked the accreditation of a program of study approved by the Board, the Board’s approval of the program is taken to have been cancelled at the same time the accreditation was revoked.
- (2) If a National Board reasonably believes, because of a notice given to the Board under section 50(2)(b) or for any other reason, that an accredited program of study approved by the Board no longer provides a qualification for the purposes of registration in the health profession for which the Board is established, the Board may decide to—
 - (a) impose the conditions the Board considers necessary or desirable on the approval of the accredited program of study to ensure the program provides a qualification for the purposes of registration; or
 - (b) cancel its approval of the accredited program of study.
- (3) If a National Board makes a decision under subsection (2), it must give written notice of the decision, including the reasons for the decision, to the accreditation authority that accredited the program.

[s 52]

Part 7	Registration of health practitioners	1 2
Division 1	General registration	3
52	Eligibility for general registration	4
(1)	An individual is eligible for general registration in a health profession if—	5 6
(a)	the individual is qualified for general registration in the health profession; and	7 8
(b)	the individual has successfully completed—	9
(i)	any period of supervised practice in the health profession required by an approved registration standard for the health profession; or	10 11 12
(ii)	any examination or assessment required by an approved registration standard for the health profession to assess the individual’s ability to competently and safely practise the profession; and	13 14 15 16
(c)	the individual is a suitable person to hold general registration in the health profession; and	17 18
(d)	the individual is not disqualified under this Law or a law of a co-regulatory jurisdiction from applying for registration, or being registered, in the health profession; and	19 20 21 22
(e)	the individual meets any other requirements for registration stated in an approved registration standard for the health profession.	23 24 25
(2)	Without limiting subsection (1), the National Board established for the health profession may decide the individual is eligible for general registration in the profession by imposing conditions on the registration under section 83.	26 27 28 29

53	Qualifications for general registration	1
	An individual is qualified for general registration in a health profession if—	2 3
	(a) the individual holds an approved qualification for the health profession; or	4 5
	(b) the individual holds a qualification the National Board established for the health profession considers to be substantially equivalent, or based on similar competencies, to an approved qualification; or	6 7 8 9
	(c) the individual holds a qualification, not referred to in paragraph (a) or (b), relevant to the health profession and has successfully completed an examination or other assessment required by the National Board for the purpose of general registration in the health profession; or	10 11 12 13 14 15
	(d) the individual—	16
	(i) holds a qualification, not referred to in paragraph (a) or (b), that under this Law or a corresponding prior Act qualified the individual for general registration (however described) in the health profession; and	17 18 19 20 21
	(ii) was previously registered under this Law or the corresponding prior Act on the basis of holding that qualification.	22 23 24
54	Examination or assessment for general registration	25
	For the purposes of section 52(1)(b)(ii), if a National Board requires an individual to undertake an examination or assessment, the examination or assessment must be conducted by an accreditation authority for the health profession, unless the Board decides otherwise.	26 27 28 29 30

[s 55]

55	Unsuitability to hold general registration	1
(1)	A National Board may decide an individual is not a suitable person to hold general registration in a health profession if—	2 3
(a)	in the Board’s opinion, the individual has an impairment that would detrimentally affect the individual’s capacity to practise the profession to such an extent that it would or may place the safety of the public at risk; or	4 5 6 7
(b)	having regard to the individual’s criminal history to the extent that is relevant to the individual’s practice of the profession, the individual is not, in the Board’s opinion, an appropriate person to practise the profession or it is not in the public interest for the individual to practise the profession; or	8 9 10 11 12 13
(c)	the individual has previously been registered under a relevant law and during the period of that registration proceedings under Part 8, or proceedings that substantially correspond to proceedings under Part 8, were started against the individual but not finalised; or	14 15 16 17 18
(d)	in the Board’s opinion, the individual’s competency in speaking or otherwise communicating in English is not sufficient for the individual to practise the profession; or	19 20 21
(e)	the individual’s registration (however described) in the health profession in a jurisdiction that is not a participating jurisdiction, whether in Australia or elsewhere, is currently suspended or cancelled on a ground for which an adjudication body could suspend or cancel a health practitioner’s registration in Australia; or	22 23 24 25 26 27
(f)	the nature, extent, period and recency of any previous practice of the profession is not sufficient to meet the requirements specified in an approved registration standard relevant to general registration in the profession; or	28 29 30 31 32
(g)	the individual fails to meet any other requirement in an approved registration standard for the profession about the suitability of individuals to be registered in the	33 34 35

profession or to competently and safely practise the profession; or	1 2
(h) in the Board’s opinion, the individual is for any other reason—	3 4
(i) not a fit and proper person for general registration in the profession; or	5 6
(ii) unable to practise the profession competently and safely.	7 8
(2) In this section—	9
<i>relevant law</i> means—	10
(a) this Law or a corresponding prior Act; or	11
(b) the law of another jurisdiction, whether in Australia or elsewhere.	12 13
56 Period of general registration	14
(1) The period of registration that is to apply to a health practitioner granted general registration in a health profession is the period (the <i>registration period</i>), not more than 12 months, decided by the National Board established for the profession and published on the Board’s website.	15 16 17 18 19
(2) If the National Board decides to register a health practitioner in the health profession during a registration period, the registration—	20 21 22
(a) starts when the Board makes the decision; and	23
(b) expires at the end of the last day of the registration period.	24 25
Division 2 Specialist registration	26
57 Eligibility for specialist registration	27
(1) An individual is eligible for specialist registration in a recognised specialty in a health profession if—	28 29

[s 58]

- (a) the individual is qualified for registration in the specialty; and 1
2
 - (b) the individual has successfully completed— 3
 - (i) any period of supervised practice in the specialty 4
required by an approved registration standard for 5
the health profession; or 6
 - (ii) any examination or assessment required by an 7
approved registration standard for the health 8
profession to assess the individual's ability to 9
competently and safely practise the specialty; and 10
 - (c) the individual is a suitable person to hold registration in 11
the health profession; and 12
 - (d) the individual is not disqualified under this Law or a law 13
of a co-regulatory jurisdiction from applying for 14
registration, or being registered, in the specialty; and 15
 - (e) the individual meets any other requirements for 16
registration stated in an approved registration standard 17
for the specialty. 18
- (2) Without limiting subsection (1), the National Board may 19
decide the individual is eligible for registration in the 20
recognised specialty by imposing conditions on the 21
registration under section 83. 22

58 Qualifications for specialist registration 23

An individual is qualified for specialist registration in a 24
recognised specialty in a health profession if the individual— 25

- (a) holds an approved qualification for the specialty; or 26
- (b) holds another qualification the National Board 27
established for the health profession considers to be 28
substantially equivalent, or based on similar 29
competencies, to an approved qualification for the 30
specialty; or 31
- (c) holds a qualification, not referred to in paragraph (a) or 32
(b), relevant to the specialty and has successfully 33

	completed an examination or other assessment required	1
	by the National Board for the purpose of registration in	2
	the specialty; or	3
(d)	the individual—	4
(i)	holds a qualification, not referred to in paragraph	5
	(a) or (b), that under this Law or a corresponding	6
	prior Act qualified the individual for specialist	7
	registration (however described) in the specialty;	8
	and	9
(ii)	was previously registered under this Law or the	10
	corresponding prior Act on the basis of holding	11
	that qualification for the specialty.	12
59	Examination or assessment for specialist registration	13
	For the purposes of section 57(1)(b)(ii), if the National Board	14
	requires an individual to undertake an examination or	15
	assessment, the examination or assessment must be conducted	16
	by an accreditation authority for the health profession, unless	17
	the Board decides otherwise.	18
60	Unsuitability to hold specialist registration	19
(1)	Section 55 applies to the making of a decision by a National	20
	Board that an individual is not a suitable person to hold	21
	specialist registration in a recognised specialty.	22
(2)	For the purposes of subsection (1), a reference in section 55	23
	to—	24
(a)	general registration in the health profession is taken to	25
	be a reference to specialist registration in a recognised	26
	specialty; and	27
(b)	the health profession is taken to be a reference to the	28
	recognised specialty.	29

[s 61]

- 61 Period of specialist registration** 1
- (1) The period of registration that is to apply to a health practitioner granted specialist registration in a recognised specialty in a health profession is the period (the *registration period*), not more than 12 months, decided by the National Board established for the profession and published on the Board’s website. 2
3
4
5
6
7
- (2) If the National Board decides to register a health practitioner in a recognised specialty for the health profession during a registration period, the specialist registration— 8
9
10
- (a) starts when the Board makes the decision; and 11
- (b) expires at the end of the last day of the registration period. 12
13

Division 3 Provisional registration 14

- 62 Eligibility for provisional registration** 15
- (1) An individual is eligible for provisional registration in a health profession, to enable the individual to complete a period of supervised practice that the individual requires to be eligible for general registration in the health profession, if— 16
17
18
19
- (a) the individual is qualified for general registration in the profession; and 20
21
- (b) the individual is a suitable person to hold provisional registration in the profession; and 22
23
- (c) the individual is not disqualified under this Law or a law of a co-regulatory jurisdiction from applying for, or being registered in, the profession; and 24
25
26
- (d) the individual meets any other requirements for registration stated in an approved registration standard for the health profession. 27
28
29
- (2) Without limiting subsection (1), the National Board established for the health profession may decide the 30
31

individual is eligible for provisional registration in the health 1
profession by imposing conditions on the registration under 2
section 83. 3

63 Unsuitability to hold provisional registration 4

- (1) Section 55 applies to a decision by a National Board that an 5
individual is not a suitable person to hold provisional 6
registration in a health profession. 7
- (2) For the purposes of subsection (1), a reference in section 55 to 8
general registration in the health profession is taken to be a 9
reference to provisional registration in the health profession. 10

64 Period of provisional registration 11

- (1) The period of registration (the *registration period*) that is to 12
apply to a health practitioner granted provisional registration 13
in a health profession is— 14
- (a) the period decided by the National Board established for 15
the profession, but not more than 12 months, and 16
published on the Board’s website; or 17
- (b) the longer period prescribed by a regulation. 18
- (2) If the National Board decides to register a health practitioner 19
in the health profession during a registration period, the 20
registration— 21
- (a) starts when the Board makes the decision; and 22
- (b) expires at the end of the last day of the registration 23
period. 24
- (3) Provisional registration may not be renewed more than twice. 25
- Note.** If an individual were not able to complete the supervised practice 26
the individual requires for general registration in a health profession 27
during the period consisting of the individual’s initial period of registration 28
and 2 renewals of that registration, the individual would need to make a 29
new application for provisional registration in the profession. 30

[s 65]

Division 4	Limited registration	1
65	Eligibility for limited registration	2
(1)	An individual is eligible for limited registration in a health profession if—	3 4
(a)	the individual is not qualified for general registration in the profession or specialist registration in a recognised speciality in the profession; and	5 6 7
(b)	the individual is qualified under this Division for limited registration; and	8 9
(c)	the individual is a suitable person to hold limited registration in the profession; and	10 11
(d)	the individual is not disqualified under this Law or a law of a co-regulatory jurisdiction from applying for registration, or being registered, in the health profession; and	12 13 14 15
(e)	the individual meets any other requirements for registration stated in an approved registration standard for the health profession.	16 17 18
(2)	Without limiting subsection (1), the National Board established for the health profession may decide the individual is eligible for registration in the profession by imposing conditions on the registration under section 83.	19 20 21 22
66	Limited registration for postgraduate training or supervised practice	23 24
(1)	An individual may apply for limited registration to enable the individual to undertake a period of postgraduate training or supervised practice in a health profession, or to undertake assessment or sit an examination, approved by the National Board established for the profession.	25 26 27 28 29
(2)	The individual is qualified for the limited registration applied for if the National Board is satisfied the individual has completed a qualification that is relevant to, and suitable for,	30 31 32

the postgraduate training, supervised practice, assessment or
examination. 1
2

- 67 Limited registration for area of need** 3
- (1) An individual may apply for limited registration to enable the
individual to practise a health profession in an area of need
decided by the responsible Minister under subsection (5). 4
5
6
- (2) The individual is qualified for the limited registration applied
for if the National Board is satisfied the individual's
qualifications and experience are relevant to, and suitable for,
the practice of the profession in the area of need. 7
8
9
10
- (3) The National Board must consider the application but is not
required to register the individual merely because there is an
area of need. 11
12
13
- (4) If the National Board grants the individual limited registration
to enable the individual to practise the profession in the area
of need, the individual must not practise the profession other
than in the area of need specified in the individual's certificate
of registration. 14
15
16
17
18
- (5) A responsible Minister for a participating jurisdiction may
decide there is an area of need for health services in the
jurisdiction, or part of the jurisdiction, if the Minister
considers there are insufficient health practitioners practising
in a particular health profession in the jurisdiction or the part
of the jurisdiction to provide services that meet the needs of
people living in the jurisdiction or the part of the jurisdiction. 19
20
21
22
23
24
25
- (6) If a responsible Minister decides there is an area of need under
subsection (5), the responsible Minister must give the
National Board established for the health profession written
notice of the decision. 26
27
28
29
- (7) A responsible Minister may delegate the Minister's power
under this section to an appropriately qualified person. 30
31
- (8) In this section— 32

[s 68]

appropriately qualified means having the qualifications, experience or standing appropriate to the exercise of the power. 1
2
3

health services means the provision of services by health practitioners in a particular health profession. 4
5

68 Limited registration in public interest 6

- (1) An individual may apply for limited registration to enable the individual to practise a health profession for a limited time, or for a limited scope, in the public interest. 7
8
9
- (2) The individual is qualified for the limited registration applied for if the National Board established for the health profession is satisfied it is in the public interest for an individual with the individual's qualifications and experience to practise the profession for that time or scope. 10
11
12
13
14

69 Limited registration for teaching or research 15

- (1) An individual may apply for limited registration in a health profession to enable the individual to fill a teaching or research position. 16
17
18
- (2) The individual is qualified for the limited registration applied for if the National Board established for the health profession is satisfied the individual's qualifications are relevant to, and suitable for, the position. 19
20
21
22

70 Unsuitability to hold limited registration 23

- (1) Section 55 applies to a decision by a National Board that an individual is not a suitable person to hold limited registration in a health profession. 24
25
26
- (2) For the purposes of subsection (1), a reference in section 55 to general registration in the health profession is taken to be a reference to limited registration in the health profession. 27
28
29

71	Limited registration not to be held for more than one purpose	1 2
	An individual may not hold limited registration in the same health profession for more than one purpose under this Division at the same time.	3 4 5
72	Period of limited registration	6
(1)	The period of registration that is to apply to a health practitioner granted limited registration in a health profession is the period (the <i>registration period</i>), not more than 12 months, decided by the National Board established for the profession and published on the Board’s website.	7 8 9 10 11
(2)	If the National Board decides to register a health practitioner in the health profession during a registration period, the registration—	12 13 14
(a)	starts when the Board makes the decision; and	15
(b)	expires at the end of the last day of the registration period.	16 17
(3)	Limited registration may not be renewed more than 3 times.	18
	Note. If an individual had been granted limited registration in a health profession for a purpose under this Division, had subsequently renewed the registration in the profession for that purpose 3 times and at the end of the period wished to continue holding limited registration in the profession for that purpose, the individual would need to make a new application for limited registration in the profession for that purpose.	19 20 21 22 23 24
Division 5	Non-practising registration	25
73	Eligibility for non-practising registration	26
	An individual is eligible for non-practising registration in a health profession if—	27 28
(a)	the individual—	29
(i)	holds or has held general registration in the health profession under this Law; or	30 31

[s 74]

	(ii) holds or has held specialist registration in a recognised speciality in the health profession under this Law; or	1 2 3
	(iii) held registration in the health profession under a corresponding prior Act that was equivalent to general registration or specialist registration in the health profession under this Law;	4 5 6 7
	(b) the individual is a suitable person to hold non-practising registration in the profession.	8 9
74	Unsuitability to hold non-practising registration	10
	A National Board may decide an individual is not a suitable person to hold non-practising registration in a health profession if—	11 12 13
	(a) having regard to the individual’s criminal history to the extent that is relevant to the individual’s practise of the profession, the individual is not, in the Board’s opinion, an appropriate person to hold registration in the profession or it is not in the public interest for the individual to hold registration in the profession; or	14 15 16 17 18 19
	(b) in the Board’s opinion, the individual is for any other reason not a fit and proper person to hold non-practising registration in the profession.	20 21 22
75	Registered health practitioner who holds non-practising registration must not practise the profession	23 24
	(1) A registered health practitioner who holds non-practising registration in a health profession must not practise the profession.	25 26 27
	(2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.	28 29 30 31

-
- 76 Period of non-practising registration** 1
- (1) The period of registration that is to apply to a health practitioner granted non-practising registration in a health profession is the period (the *registration period*), not more than 12 months, decided by the National Board established for the profession and published on the Board’s website. 2
3
4
5
6
- (2) If the National Board decides to register a health practitioner in the health profession during a registration period, the registration— 7
8
9
- (a) starts when the Board makes the decision; and 10
- (b) expires at the end of the last day of the registration period. 11
12

Division 6 Application for registration 13

- 77 Application for registration** 14
- (1) An individual may apply to a National Board for registration in the health profession for which the Board is established. 15
16
- (2) An application must— 17
- (a) be in the form approved by the National Board; and 18
- (b) be accompanied by the relevant fee; and 19
- (c) be accompanied by proof of the applicant’s identity; and 20
- (d) be accompanied by any other information reasonably required by the Board. 21
22
- (3) Without limiting subsection (2)(a), a form approved by a National Board for the purposes of that subsection must require an applicant— 23
24
25
- (a) to provide a declaration about— 26
- (i) the address at which the applicant will predominantly practise the profession; or 27
28
- (ii) if the applicant will not be practising the profession or will not predominantly practise the profession at 29
30

[s 78]

- one address, the address that is the applicant's principal place of residence; and 1
2
- (b) to provide an address to be used by the Board in corresponding with the applicant; and 3
4
- (c) to disclose the applicant's criminal history; and 5
- (d) to authorise the Board to obtain the applicant's criminal history. 6
7
- Note.** See the definition of *criminal history* which applies to offences in participating jurisdictions and elsewhere, including outside Australia. 8
9
10
- (4) A criminal history law does not apply to the requirement under subsection (3)(c) for the applicant to disclose the applicant's criminal history. 11
12
13
- (5) Information in the application must, if the approved form requires, be verified by a statutory declaration. 14
15
- 78 Power to check applicant's proof of identity** 16
- (1) If an applicant for registration gives a National Board a document as evidence of the applicant's identity under this section, the Board may, by written notice, ask the entity that issued the document— 17
18
19
20
- (a) to confirm the validity of the document; or 21
- (b) to give the Board other information relevant to the applicant's identity. 22
23
- (2) An entity given a notice under subsection (1) is authorised to give the National Board the information requested in the notice. 24
25
26
- 79 Power to check applicant's criminal history** 27
- (1) Before deciding an application for registration, a National Board must check the applicant's criminal history. 28
29

-
- (2) For the purposes of checking an applicant's criminal history, a National Board may obtain a written report about the criminal history of the applicant from any of the following—
- (a) CrimTrac;
 - (b) a police commissioner;
 - (c) an entity in a jurisdiction outside Australia that has access to records about the criminal history of persons in that jurisdiction.
- (3) A criminal history law does not apply to a report about an applicant's criminal history under subsection (2).

80 Boards' other powers before deciding application for registration

- (1) Before deciding an application for registration, a National Board may—
- (a) investigate the applicant, including, for example, by asking an entity—
 - (i) to give the Board information about the applicant; or
 - (ii) to verify information or a document that relates to the applicant;
- Examples.** If the applicant is or has been registered by another registration authority, the National Board may ask the registration authority for information about the applicant's registration status.
- The National Board may ask an entity that issued qualifications that the applicant believes qualifies the applicant for registration for confirmation that the qualification was issued to the applicant.
- (b) by written notice given to the applicant, require the applicant to give the Board, within a reasonable time stated in the notice, further information or a document the Board reasonably requires to decide the application; and

[s 80]

- (c) by written notice given to the applicant, require the applicant to attend before the Board, within a reasonable time stated in the notice and at a reasonable place, to answer any questions of the Board relating to the application; and
 - (d) by written notice given to the applicant, require the applicant to undergo an examination or assessment, within a reasonable time stated in the notice and at a reasonable place, to assess the applicant's ability to practise the health profession in which registration is sought; and
 - (e) by written notice given to the applicant, require the applicant to undergo a health assessment, within a reasonable time stated in the notice and at a reasonable place.
- (2) The National Board may require the information or document referred to in subsection (1)(b) to be verified by a statutory declaration.
- (3) If the National Board requires an applicant to undertake an examination or assessment under subsection (1)(d) to assess the applicant's ability to practise the health profession—
 - (a) the examination or assessment must be conducted by an accreditation authority for the health profession, unless the Board decides otherwise; and
 - (b) the National Agency may require the applicant to pay the relevant fee.
- (4) A notice under subsection (1)(d) or (e) must state—
 - (a) the reason for the examination or assessment; and
 - (b) the name and qualifications of the person appointed by the National Board to conduct the examination or assessment; and
 - (c) the place where, and the day and time at which, the examination or assessment is to be conducted.

-
- (5) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement under subsection (1). 1
2
3
- 81 Applicant may make submissions about proposed refusal of application or imposition of condition** 4
5
- (1) If, after considering an application for registration, a National Board is proposing to refuse to register the applicant or to register the applicant subject to a condition, the Board must give the applicant written notice of the proposal. 6
7
8
9
- (2) The notice must— 10
- (a) state the reasons for the proposal; and 11
- (b) invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal. 12
13
14
15
- 82 Decision about application** 16
- (1) After considering an application for registration and any submissions made in accordance with a notice under section 81, a National Board established for a health profession must— 17
18
19
20
- (a) decide to grant the applicant the type of registration in the health profession applied for if the applicant is eligible for that type of registration under a relevant section; or 21
22
23
24
- (b) decide to grant the applicant a type of registration in the health profession, other than the type of registration applied for, for which the applicant is eligible under a relevant section; or 25
26
27
28
- (c) decide to refuse to grant the applicant registration in the health profession if— 29
30

[s 83]

- (i) the applicant is ineligible for registration in the profession under a relevant section because the applicant—
- (A) is not qualified for registration; or
 - (B) has not completed a period of supervised practice in the health profession, or an examination or assessment required by the Board to assess the individual’s ability to practise the profession; or
 - (C) is not a suitable person to hold registration; or
 - (D) is disqualified under this Law from applying for registration, or being registered, in the health profession; or
 - (E) does not meet a requirement for registration stated in an approved registration standard for the profession; or
- (ii) it would be improper to register the applicant because the applicant or someone else gave the National Board information or a document in relation to the application that was false or misleading in a material particular.
- (2) In this section—
relevant section means section 52, 57, 62, 65 or 73.

83 Conditions of registration

- (1) If a National Board decides to register a person in the health profession for which the Board is established, the registration is subject to any condition the Board considers necessary or desirable in the circumstances.
- Note.** A failure by a registered health practitioner to comply with a condition of the practitioner’s registration does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.

-
- (2) If the National Board decides to register the person subject to a condition referred to in subsection (1), the Board must decide a review period for the condition. 1
2
3

84 Notice to be given to applicant 4

- (1) Within 30 days after making the decision under section 82, the National Board must— 5
6
- (a) give the applicant written notice of the Board’s decision; 7
and 8
 - (b) if the Board decides to register the applicant, give the applicant a certificate of registration. 9
10
- (2) If the Board decides not to register the applicant, or decides to register the applicant in a type of registration other than the registration applied for or subject to a condition, the notice under subsection (1)(a) must state— 11
12
13
14
- (a) the reasons for the decision; and 15
 - (b) that the applicant may appeal against the decision; and 16
 - (c) how an application for appeal may be made and the period within which the application must be made. 17
18

85 Failure to decide application 19

If a National Board fails to decide an application for registration within 90 days after its receipt, or the longer period agreed between the Board and the applicant, the failure by the Board to make a decision is taken to be a decision to refuse to register the applicant. 20
21
22
23
24

[s 86]

Division 7	Student registration	1
Subdivision 1	Persons undertaking approved programs of study	2 3
86	Definitions	4
	In this Subdivision—	5
	<i>approved program of study</i> , for a health profession, does not include an approved program of study that provides a qualification for endorsement of registration in the profession but does not qualify a person for registration in the profession.	6 7 8 9
	<i>particulars</i> means particulars required to be included in the student register.	10 11
87	National Board must register persons undertaking approved program of study	12 13
(1)	The National Board established for a health profession must decide whether persons who are undertaking an approved program of study for the health profession must be registered—	14 15 16 17
(a)	for the entire period during which the persons are enrolled in the approved program of study; or	18 19
(b)	for the period starting when the persons begin a particular part of the approved program of study and ending when the persons complete, or otherwise cease to be enrolled in, the program.	20 21 22 23
(2)	In deciding whether to register persons undertaking an approved program of study for the entire period of the program of study or only part of the period, the National Board must have regard to—	24 25 26 27
(a)	the likelihood that persons undertaking the approved program of study will, in the course of undertaking the program, have contact with members of the public; and	28 29 30

-
- (b) if it is likely that the persons undertaking the approved program of study will have contact with members of the public—
- (i) when in the approved program of study it is likely the persons will have contact with members of the public; and
- (ii) the potential risk that contact may pose to members of the public.
- 88 National Board may ask education provider for list of persons undertaking approved program of study**
- (1) For the purposes of registering persons as required by section 87, a National Board may, at any time by written notice given to an education provider, ask the provider for the following—
- (a) the particulars of all persons who are undertaking an approved program of study for the health profession for which the Board is established;
- (b) the particulars of all persons who will be undertaking the part of the approved program of study specified in the notice.
- (2) An education provider given a notice under subsection (1) must not fail, without reasonable excuse, to comply with the notice.
- (3) A contravention of subsection (2) does not constitute an offence.
- (4) However, if an education provider does not comply with a notice under subsection (1)—
- (a) the National Board that gave the education provider the notice must publish details of the failure to comply with the notice on the Board’s website; and
- (b) the National Agency may, on the recommendation of the National Board, include a statement about the failure to comply with the notice in the Agency’s annual report.

[s 89]

89	Registration of students	1
(1)	On receipt of the particulars of persons undertaking an approved program of study, or part of an approved program of study, under section 88—	2 3 4
(a)	the National Board may register the persons as students in the health profession by entering the persons' particulars in the student register kept by the Board; or	5 6 7
(b)	the National Board may—	8
(i)	by written notice given to each person, require the person to complete an application for registration as a student in the form approved by the National Board; and	9 10 11 12
(ii)	on receipt of the person's application form, register the person as a student in the health profession by entering the person's particulars in the student register kept by the Board.	13 14 15 16
(2)	The National Board must not register a person as a student if the person is undertaking an approved program of study for a health profession in which the person already holds registration under Division 6.	17 18 19 20
(3)	The National Board must not require a person to pay a fee for registration as a student.	21 22
(4)	As soon as practicable after registering a person as a student, a National Board must give written notice of the registration to—	23 24 25
(a)	the education provider that provided the student's particulars to the Board; and	26 27
(b)	if the Board required the person to complete an application form for registration, the student.	28 29
(5)	As soon as practicable after receiving notice that a student has been registered under subsection (1)(a), the education provider must give written notice of the registration to the student.	30 31 32 33

90	Period of student registration	1
	The period of registration for a student—	2
	(a) starts when the student is registered under section 89;	3
	and	4
	(b) expires at the end of the day on which the student	5
	completes, or otherwise ceases to be enrolled in, the	6
	approved program of study.	7
Subdivision 2	Other persons to be registered as	8
	students	9
91	Education provider to provide lists of persons	10
(1)	If an education provider arranges clinical training in a health	11
	profession for a person who is not enrolled in an approved	12
	program of study for the profession, the education provider	13
	must give the National Board established for the profession	14
	written notice about the arrangement.	15
(2)	Subsection (1) does not apply if the person is a registered	16
	health practitioner who is registered in the health profession in	17
	which the clinical training is being undertaken.	18
(3)	A notice under subsection (1) must include—	19
	(a) the particulars of the person undertaking the clinical	20
	training, and	21
	(b) particulars of the arrangement for the person to	22
	undertake the clinical training.	23
(4)	On receipt of a notice under subsection (1)—	24
	(a) the National Board may register the persons as students	25
	in the health profession by entering the persons’	26
	particulars in the student register kept by the Board; or	27
	(b) the National Board may—	28
	(i) by written notice given to each person, require the	29
	person to complete an application for registration	30

[s 92]

	as a student in the form approved by the National Board; and	1 2
	(ii) on receipt of the person's application form, register the person as a student in the health profession by entering the person's particulars in the student register kept by the Board.	3 4 5 6
(5)	As soon as practicable after registering a person as a student under subsection (4), a National Board must give written notice of the registration to the education provider that provided the student's particulars to the Board.	7 8 9 10
(6)	The National Board must not require a person to pay a fee for registration as a student.	11 12
(7)	A student's period of registration under this section—	13
	(a) starts when the student is registered under subsection (4); and	14 15
	(b) expires at the end of the day on which the person completes, or otherwise ceases to undertake, the period of clinical training.	16 17 18
Subdivision 3	General provisions applicable to students	19 20
92	Notice to be given if student registration suspended or condition imposed	21 22
(1)	This section applies if, at any time, any of the following events occurs—	23 24
	(a) a person's registration as a student under this Law is suspended;	25 26
	(b) a condition is imposed on a person's registration as a student under this Law or a condition to which a person's registration is subject is changed or removed;	27 28 29
	(c) a National Board accepts an undertaking from a person who is a student.	30 31

-
- (2) The National Board that registered the person must, as soon as practicable after the event occurs, give written notice of the event to the education provider with which the person is undertaking the approved program of study.
- (3) If an education provider is given a notice under subsection (2) about a person, the education provider must, as soon as practicable after receiving the notice, give notice of the event to any entity with whom the person is undertaking training as part of the approved program of study.
- 93 Report to National Board of cessation of status as student**
- (1) This section applies if—
- (a) a student completes, or otherwise ceases to be enrolled in, an approved program of study for a health profession provided by an education provider; or
- (b) a student completes, or otherwise ceases to undertake, clinical training in a health profession arranged by an education provider.
- (2) The education provider must give written notice of the student ceasing to be enrolled in the program of study, or to undertake the clinical training, to the National Board established for the health profession within 60 days of it occurring.
- (3) A contravention of subsection (2) does not constitute an offence.
- (4) However, if an education provider contravenes subsection (2)—
- (a) the National Board must publish details of the contravention on the Board’s website; and
- (b) the National Agency may, on the recommendation of the National Board, include a statement about the contravention in the Agency’s annual report.

[s 94]

Division 8	Endorsement of registration	1
Subdivision 1	Endorsement in relation to scheduled medicines	2 3
94	Endorsement for scheduled medicines	4
(1)	A National Board may, in accordance with an approval given by the Ministerial Council under section 14, endorse the registration of a registered health practitioner registered by the Board as being qualified to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines if the practitioner—	5 6 7 8 9 10
(a)	holds either of the following qualifications relevant to the endorsement—	11 12
(i)	an approved qualification;	13
(ii)	another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and	14 15 16
(b)	complies with any approved registration standard relevant to the endorsement.	17 18
	Note. The endorsement of a health practitioner’s registration under this section indicates the practitioner is qualified to administer, obtain, possess, prescribe, sell, supply or use the scheduled medicine or class of medicines specified in the endorsement but does not authorise the practitioner to do so. The authorisation of a health practitioner to administer, obtain, possess, prescribe, sell, supply or use scheduled medicines in a participating jurisdiction will be provided for by or under another Act of that jurisdiction.	19 20 21 22 23 24 25 26
	Health practitioners registered in certain health professions will be authorised to administer, obtain, possess, prescribe, sell, supply or use scheduled medicines by or under an Act of a participating jurisdiction without the need for the health practitioners to hold an endorsement under this Law.	27 28 29 30 31
(2)	An endorsement under subsection (1) must state—	32
(a)	the scheduled medicine or class of scheduled medicines to which the endorsement relates; and	33 34

-
- (b) whether the registered health practitioner is qualified to administer, obtain, possess, prescribe, sell, supply or use the scheduled medicine or class of scheduled medicines; and
 - (c) if the endorsement is for a limited period, the date the endorsement expires.

Subdivision 2 Endorsement in relation to nurse practitioners

95 Endorsement as nurse practitioner

- (1) The Nursing and Midwifery Board of Australia may endorse the registration of a registered health practitioner whose name is included in the Register of Nurses as being qualified to practise as a nurse practitioner if the practitioner—
 - (a) holds either of the following qualifications relevant to the endorsement—
 - (i) an approved qualification;
 - (ii) another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and
 - (b) complies with any approved registration standard relevant to the endorsement.
- (2) An endorsement under subsection (1) must state—
 - (a) that the registered health practitioner is entitled to use the title “nurse practitioner”; and
 - (b) any conditions applicable to the practice by the registered health practitioner as a nurse practitioner.

[s 96]

Subdivision 3	Endorsement in relation to midwife practitioners	1 2
96	Endorsement as midwife practitioner	3
(1)	The Nursing and Midwifery Board of Australia may endorse the registration of a registered health practitioner whose name is included in the Register of Midwives as being qualified to practise as a midwife practitioner if the practitioner—	4 5 6 7
(a)	holds either of the following qualifications relevant to the endorsement—	8 9
(i)	an approved qualification;	10
(ii)	another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and	11 12 13
(b)	complies with any approved registration standard relevant to the endorsement.	14 15
(2)	An endorsement under subsection (1) must state—	16
(a)	that the registered health practitioner is entitled to use the title “midwife practitioner”; and	17 18
(b)	any conditions applicable to the practice by the registered health practitioner as a midwife practitioner.	19 20
Subdivision 4	Endorsement in relation to acupuncture	21 22
97	Endorsement for acupuncture	23
(1)	A National Board may endorse the registration of a registered health practitioner registered by the Board as being qualified to practise as an acupuncturist if the practitioner—	24 25 26
(a)	holds either of the following qualifications relevant to the endorsement—	27 28
(i)	an approved qualification;	29

-
- (ii) another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and
 - (b) complies with an approved registration standard relevant to the endorsement.
 - (2) An endorsement under subsection (1) must state—
 - (a) that the registered health practitioner is entitled to use the title “acupuncturist”; and
 - (b) any conditions applicable to the practice of acupuncture by the registered health practitioner.

Subdivision 5 Endorsements in relation to approved areas of practice

98 Endorsement for approved area of practice

- (1) A National Board established for a health profession may, in accordance with an approval given by the Ministerial Council under section 15, endorse the registration of a registered health practitioner registered by the Board as being qualified to practise in an approved area of practice for the health profession if the practitioner—
 - (a) holds either of the following qualifications relevant to the endorsement—
 - (i) an approved qualification;
 - (ii) another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and
 - (b) complies with an approved registration standard relevant to the endorsement.
- (2) An endorsement under subsection (1) must state—
 - (a) the approved area of practice to which the endorsement relates; and

[s 99]

- (b) any conditions applicable to the practice by the registered health practitioner in the approved area of practice. 1
2
3

Subdivision 6 Application for endorsement 4

99 Application for endorsement 5

- (1) An individual may apply to a National Board for endorsement of the individual's registration. 6
7
- (2) The application must— 8
 - (a) be in the form approved by the National Board; and 9
 - (b) be accompanied by the relevant fee; and 10
 - (c) be accompanied by any other information reasonably required by the Board. 11
12
- (3) For the purposes of subsection (2)(c), the information a National Board may require an applicant to provide includes— 13
14
15
 - (a) evidence of the qualifications in the health profession the applicant believes qualifies the applicant for endorsement; and 16
17
18
 - (b) evidence of successful completion of any period of supervised practice required by an approved registration standard; and 19
20
21
 - (c) if the applicant is required to complete an examination or assessment set by or on behalf of the Board, evidence of the successful completion of the examination or assessment. 22
23
24
25

100 Boards' other powers before deciding application for endorsement 26 27

- (1) Before deciding an application for endorsement, a National Board may— 28
29

-
- (a) investigate the applicant, including, for example, by asking an entity—
 - (i) to give the Board information about the applicant; or
 - (ii) to verify information or a document that relates to the applicant; or
 - (b) by written notice to the applicant, require the applicant to give the Board, within a reasonable time stated in the notice, further information or a document the Board reasonably requires to decide the application; or
 - (c) by written notice to the applicant, require the applicant to attend before the Board, within a reasonable time stated in the notice and at a reasonable place, to answer any questions of the Board relating to the application; or
 - (d) by written notice to the applicant, require the applicant to undergo a written, oral or practical examination, within a reasonable time stated in the notice and at a reasonable place.
- (2) The purpose of an examination under subsection (1)(d) must be to assess the applicant's ability to practise the health profession in accordance with the endorsement sought.
 - (3) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement under subsection (1).

101 Applicant may make submissions about proposed refusal of application or imposition of condition

- (1) If, after considering an application for endorsement of a registration, a National Board is proposing to refuse to endorse the applicant's registration or to endorse the applicant's registration subject to a condition, the Board must give the applicant written notice of the proposal.
- (2) The notice must—
 - (a) state the reasons for the proposal; and

[s 102]

- (b) invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal.

102 Decision about application

- (1) After considering an application for endorsement and any submissions made in accordance with a notice under section 101, a National Board must decide to endorse, or refuse to endorse, the applicant's registration as sought.
- (2) Without limiting subsection (1), a National Board may refuse to endorse an applicant's registration if—
 - (a) the applicant is not qualified for the endorsement under a relevant section; or
 - (b) the Board considers the applicant is not competent to practise the health profession in accordance with the endorsement sought.
- (3) In this section—
relevant section means section 94, 95, 96, 97 or 98.

103 Conditions of endorsement

- (1) If a National Board decides to endorse the applicant's registration under section 102, the Board may decide to impose on the endorsement the conditions the Board considers necessary or desirable in the circumstances.
Note. A failure by a registered health practitioner to comply with a condition of the practitioner's registration does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (2) If the National Board decides to impose a condition on the endorsement, the Board must also decide a review period for the condition.

104	Notice of decision to be given to applicant	1
(1)	As soon as practicable after making the decision under section 102, the National Board must—	2 3
(a)	give the applicant written notice of the Board’s decision; and	4 5
(b)	if the Board decides to endorse the applicant’s registration, give the applicant a new certificate of registration.	6 7 8
(2)	If the Board decides not to endorse the applicant’s registration or decides to endorse the applicant’s registration subject to a condition, the notice under subsection (1)(a) must state—	9 10 11
(a)	the reasons for the decision; and	12
(b)	that the applicant may appeal against the decision; and	13
(c)	how an application for appeal may be made and the period within which the application must be made.	14 15
105	Period of endorsement	16
	If a National Board decides to endorse a registered health practitioner’s registration, the endorsement—	17 18
(a)	starts when the Board makes the decision; and	19
(b)	expires when the practitioner’s registration ends.	20
106	Failure to decide application for endorsement	21
	If a National Board fails to decide an application for endorsement within 90 days after its receipt, or the longer period agreed between the Board and the applicant, the failure by the Board to make a decision is taken to be a decision to refuse to endorse the applicant’s registration.	22 23 24 25 26

[s 107]

Division 9	Renewal of registration	1
107	Application for renewal of registration or endorsement	2
(1)	A registered health practitioner may apply to the National Board that registered the practitioner for renewal of the health practitioner's registration.	3 4 5
(2)	An application for renewal of a registered health practitioner's registration must be made not later than one month after the practitioner's period of registration ends.	6 7 8
(3)	If the registered health practitioner's registration has been endorsed by the National Board, the application for renewal of the practitioner's registration is taken to also be an application for a renewal of the endorsement.	9 10 11 12
(4)	The application for renewal of registration must—	13
(a)	be in the form approved by the National Board; and	14
(b)	be accompanied by the relevant fee; and	15
(c)	if the application for renewal is made after the registered health practitioner's period of registration ends, be accompanied by the relevant fee for a late application; and	16 17 18 19
(d)	be accompanied by the annual statement required under section 109; and	20 21
(e)	be accompanied by any other information reasonably required by the Board.	22 23
108	Registration taken to continue in force	24
(1)	If a registered health practitioner applies under section 107 to renew the practitioner's registration, the applicant's registration, including any endorsement of the registration, is taken to continue in force from the day it would, apart from this section, have ended until—	25 26 27 28 29

-
- (a) if the National Board decides to renew the applicant's registration, the day a new certificate of registration is issued to the applicant; or 1
2
3
- (b) if the National Board decides to refuse to renew the applicant's registration, the day the applicant is given notice of the decision. 4
5
6
- (2) If a health practitioner does not apply to renew the practitioner's registration before the practitioner's period of registration ends, the registration, including any endorsement of the registration, is taken to continue in force until— 7
8
9
10
- (a) the end of the day that is one month after the day the period of registration would, apart from this subsection, have ended; or 11
12
13
- (b) if the health practitioner applies for renewal of the registration not later than one month after the practitioner's period of registration ends, the day referred to in subsection (1)(a) or (b). 14
15
16
17
- (3) Subsection (1) or (2) does not apply if the registration is earlier cancelled under this Law. 18
19
- 109 Annual statement** 20
- (1) An application for renewal of registration must include or be accompanied by a statement that includes the following— 21
22
- (a) a declaration by the applicant that— 23
- (i) the applicant does not have an impairment; and 24
- (ii) the applicant has met any recency of practice requirements stated in an approved registration standard for the health profession; and 25
26
27
- (iii) the applicant has completed the continuing professional development the applicant was required by an approved registration standard to undertake during the applicant's preceding period of registration; and 28
29
30
31
32

[s 109]

- (iv) the applicant has not practised the health profession during the preceding period of registration without appropriate professional indemnity insurance arrangements being in place in relation to the applicant; and
- (v) if the applicant's registration is renewed the applicant will not practise the health profession unless appropriate professional indemnity insurance arrangements are in place in relation to the applicant;
- (b) details of any change in the applicant's criminal history that occurred during the applicant's preceding period of registration;
- Note.** See the definition of *criminal history* which applies to offences in participating jurisdictions and elsewhere, including outside Australia.
- (c) if the applicant's right to practise at a hospital or another facility at which health services are provided was withdrawn or restricted during the applicant's preceding period of registration because of the applicant's conduct, professional performance or health, details of the withdrawal or restriction of the right to practise;
- (d) if the applicant's billing privileges were withdrawn or restricted under the *Medicare Australia Act 1973* of the Commonwealth during the applicant's preceding period of registration because of the applicant's conduct, professional performance or health, details of the withdrawal or restriction of the privileges;
- (e) details of any complaint made about the applicant to a registration authority or another entity having functions relating to professional services provided by health practitioners or the regulation of health practitioners;
- (f) any other information required by an approved registration standard.
- (2) Subsection (1)(a)(ii), (iii) and (iv), (c) and (d) does not apply to an applicant who is applying for the renewal of non-practising registration.

110	National Board's powers before making decision	1
	Before deciding an application for renewal of registration, a National Board may exercise a power under section 80 as if the application were an application for registration made under section 77.	2 3 4 5
111	Applicant may make submissions about proposed refusal of application for renewal or imposition of condition	6 7 8
(1)	If, after considering an application for renewal of registration, a National Board is proposing to refuse to renew the applicant's registration or to renew the applicant's registration subject to a new condition, the Board must give the applicant written notice of the proposal.	9 10 11 12 13
(2)	The notice must—	14
(a)	state the reasons for the proposal; and	15
(b)	invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal.	16 17 18 19
112	Decision about application for renewal	20
(1)	After considering an application for renewal of registration and any submissions made in accordance with a notice under section 111, a National Board may decide to renew, or refuse to renew, the applicant's registration or the endorsement.	21 22 23 24
(2)	The National Board may refuse to renew the applicant's registration or any endorsement on the applicant's registration—	25 26 27
(a)	on any ground on which the Board could refuse to grant the registration or endorsement under section 82 or 102 if the application were for a grant of registration or endorsement; or	28 29 30 31

[s 112]

- (b) if the applicant contravened any condition to which the applicant's previous registration or endorsement was subject; or
- (c) if, during the applicant's previous period of registration, the applicant failed to have appropriate professional indemnity insurance arrangements or failed to complete the continuing professional development required by an approved registration standard for the profession; or
- (d) if a statement made by the applicant in the applicant's annual statement was false or misleading in a material particular; or
- (e) if the application is for the renewal of provisional registration and the applicant's provisional registration has previously been renewed twice; or
- (f) if the application is for the renewal of limited application and the applicant's limited registration has previously been renewed 3 times.
- (3) If the National Board renews a registration, including any endorsement on the registration, the registration or endorsement is subject to—
- (a) any condition to which the registration was subject immediately before the renewal; and
- (b) any condition the Board considers necessary or desirable in the circumstances
- Note.** A failure by a registered health practitioner to comply with a condition of the practitioner's registration does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (4) If the National Board decides to renew a registered health practitioner's registration or an endorsement of the registration subject to a condition under subsection (3)(b), the Board must decide a review period for the condition.
- (5) If a National Board decides to refuse to renew an applicant's registration or the endorsement of the applicant's registration, or to renew the registration or the endorsement subject to a

condition under subsection (3)(b), the Board must give the applicant a notice that states—

- (a) the decision made by the Board; and
 - (b) the reasons for the decision; and
 - (c) that the applicant may appeal against the decision; and
 - (d) how an application for appeal may be made and the period within which the application must be made.
- (6) A registration, including any endorsement of the registration, renewed under this Division—
- (a) starts on the day immediately after the applicant's previous period of registration ends or ended; and
 - (b) expires at the end of the day that is 12 months after the day it starts.

Division 10 Title and practice protections

Subdivision 1 Title protections

113 Restriction on use of protected titles

- (1) A person must not knowingly or recklessly—
- (a) take or use a title in the Table to this section, in a way that could be reasonably expected to induce a belief the person is registered under this Law in the health profession listed beside the title in the Table, unless the person is registered in the profession, or
 - (b) take or use a prescribed title for a health profession, in a way that could be reasonably expected to induce a belief the person is registered under this Law in the profession, unless the person is registered in the profession.

Maximum penalty—

- (a) in the case of an individual—\$30,000; or

[s 113]

- (b) in the case of a body corporate—\$60,000. 1
- (2) A person must not knowingly or recklessly— 2
 - (a) take or use a title in the Table in relation to another 3
 - person (the *second person*), in a way that could be 4
 - reasonably expected to induce a belief the second person 5
 - is registered under this Law in the health profession 6
 - listed beside the title in the Table, unless the second 7
 - person is registered in the profession; or 8
 - (b) take or use a prescribed title for a health profession in 9
 - relation to another person (the *second person*), in a way 10
 - that could be reasonably expected to induce a belief the 11
 - second person is registered under this Law in the 12
 - profession, unless the second person is registered in the 13
 - profession. 14
- Maximum penalty— 15
 - (a) in the case of an individual—\$30,000; or 16
 - (b) in the case of a body corporate—\$60,000. 17
- (3) Subsections (1) and (2) apply whether or not the title is taken 18
 - or used with or without any other words and whether in 19
 - English or any other language. 20

Table— Protected Titles 21

Profession	Title
Aboriginal and Torres Strait Islander Health Practice	Aboriginal and Torres Strait Islander health practitioner, Aboriginal health practitioner, Torres Strait Islander health practitioner
Chinese Medicine	Chinese medicine practitioner, Chinese herbal dispenser, Chinese herbal medicine practitioner, Oriental medicine practitioner, acupuncturist
Chiropractic	chiropractor
Dental	dentist, dental therapist, dental hygienist, dental prosthetist, oral health therapist
Medical	medical practitioner

Profession	Title
Medical Radiation Practice	medical radiation practitioner, diagnostic radiographer, medical imaging technologist, radiographer, nuclear medicine scientist, nuclear medicine technologist, radiation therapist
Nursing and Midwifery	nurse, registered nurse, nurse practitioner, enrolled nurse, midwife, midwife practitioner
Occupational Therapy	occupational therapist
Optometry	optometrist, optician
Osteopathy	osteopath
Pharmacy	pharmacist, pharmaceutical chemist
Physiotherapy	physiotherapist, physical therapist
Podiatry	podiatrist, chiropodist
Psychology	psychologist

- 114 Use of title “acupuncturist”** 1
- (1) A registered health practitioner whose registration is endorsed under section 97 by a National Board as being qualified to practise as an acupuncturist does not commit an offence against section 113(1)(a) merely because the individual takes or uses the title “acupuncturist”. 2
3
4
5
6
- (2) A person does not commit an offence against section 113(2)(a) merely because the person takes or uses the title “acupuncturist” in relation to another person who is a registered health practitioner whose registration is endorsed under section 97 by a National Board as being qualified to practise as an acupuncturist. 7
8
9
10
11
12
- 115 Restriction on use of specialist titles** 13
- (1) A person must not knowingly or recklessly take or use— 14

[s 116]

- (a) the title “dental specialist” unless the person is registered under this Law in a recognised specialty in the dentists division of the dental profession; or
- (b) the title “medical specialist” unless the person is registered in a recognised specialty in the medical profession; or
- (c) a specialist title for a recognised specialty unless the person is registered under this Law in the specialty.
- Maximum penalty—
- (a) in the case of an individual—\$30,000; or
- (b) in the case of a body corporate—\$60,000.
- (2) A person must not knowingly or recklessly take or use—
- (a) the title “dental specialist” in relation to another person unless the other person is registered under this Law in a recognised specialty in the dentists division of the dental profession; or
- (b) the title “medical specialist” in relation to another person unless the person is registered in a recognised specialty in the medical profession; or
- (c) a specialist title for a recognised specialty in relation to another person unless the person is registered under this Law in the specialty.
- Maximum penalty—
- (a) in the case of an individual—\$30,000; or
- (b) in the case of a body corporate—\$60,000.
- (3) Subsection (1) applies whether or not the title is taken or used with or without any other words and whether in English or any other language.
- 116 Claims by persons as to registration as health practitioner**
- (1) A person who is not a registered health practitioner must not knowingly or recklessly—

-
- (a) take or use the title of “registered health practitioner”,
whether with or without any other words; or
- (b) take or use a title, name, initial, symbol, word or
description that, having regard to the circumstances in
which it is taken or used, indicates or could be
reasonably understood to indicate—
- (i) the person is a health practitioner; or
- (ii) the person is authorised or qualified to practise in a
health profession; or
- (c) claim to be registered under this Law or hold himself or
herself out as being registered under this Law; or
- (d) claim to be qualified to practise as a health practitioner.
- Maximum penalty—
- (a) in the case of an individual—\$30,000; or
- (b) in the case of a body corporate—\$60,000.
- (2) A person must not knowingly or recklessly—
- (a) take or use the title of “registered health practitioner”,
whether with or without any other words, in relation to
another person who is not a registered health
practitioner; or
- (b) take or use a title, name, initial, symbol, word or
description that, having regard to the circumstances in
which it is taken or used, indicates or could be
reasonably understood to indicate—
- (i) another person is a health practitioner if the other
person is not a health practitioner; or
- (ii) another person is authorised or qualified to practise
in a health profession if the other person is not a
registered health practitioner in that health
profession; or
- (c) claim another person is registered under this Law, or
hold the other person out as being registered under this

[s 117]

Law, if the other person is not registered under this Law;	1
or	2
(d) claim another person is qualified to practise as a health practitioner if the other person is not a registered health practitioner.	3 4 5
Maximum penalty—	6
(a) in the case of an individual—\$30,000; or	7
(b) in the case of a body corporate—\$60,000.	8
117 Claims by persons as to registration in particular profession or division	9 10
(1) A registered health practitioner must not knowingly or recklessly—	11 12
(a) claim to be registered under this Law in a health profession or a division of a health profession in which the practitioner is not registered, or hold himself or herself out as being registered in a health profession or a division of a health profession if the person is not registered in that health profession or division; or	13 14 15 16 17 18
(b) claim to be qualified to practise as a practitioner in a health profession or a division of a health profession in which the practitioner is not registered; or	19 20 21
(c) take or use any title that could be reasonably understood to induce a belief the practitioner is registered under this Law in a health profession or a division of a health profession in which the practitioner is not registered.	22 23 24 25
(2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.	26 27 28 29
(3) A person must not knowingly or recklessly—	30
(a) claim another person is registered under this Law in a health profession or a division of a health profession in which the other person is not registered, or hold the	31 32 33

-
- other person out as being registered in a health profession or a division of a health profession if the other person is not registered in that health profession or division; or
- (b) claim another person is qualified to practise as a health practitioner in a health profession or division of a health profession in which the other person is not registered; or
- (c) take or use any title in relation to another person that could be reasonably understood to induce a belief the other person is registered under this Law in a health profession or a division of a health profession in which the person is not registered.

Maximum penalty—

- (a) in the case of an individual—\$30,000; or
- (b) in the case of a body corporate—\$60,000.

Note. A contravention of this subsection by a registered health practitioner may also constitute unprofessional conduct for which health, conduct or performance action may be taken.

118 Claims by persons as to specialist registration

- (1) A person who is not a specialist health practitioner must not knowingly or recklessly—
- (a) take or use the title of “specialist health practitioner”, whether with or without any other words; or
- (b) take or use a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—
- (i) the person is a specialist health practitioner; or
- (ii) the person is authorised or qualified to practise in a recognised specialty; or
- (c) claim to be registered under this Law in a recognised specialty or hold himself or herself out as being registered under this Law in a recognised specialty; or

[s 118]

- (d) claim to be qualified to practise as a specialist health practitioner. 1
2
- Maximum penalty— 3
- (a) in the case of an individual—\$30,000; or 4
- (b) in the case of a body corporate—\$60,000. 5
- (2) A person must not knowingly or recklessly— 6
- (a) take or use the title of “specialist health practitioner”, 7
whether with or without any other words, in relation to 8
another person who is not a specialist health 9
practitioner; or 10
- (b) take or use a title, name, initial, symbol, word or 11
description in relation to another person that, having 12
regard to the circumstances in which it is taken or used, 13
indicates or could be reasonably understood to 14
indicate— 15
- (i) the other person is a specialist health practitioner; 16
or 17
- (ii) the other person is authorised or qualified to 18
practise in a recognised specialty; or 19
- (c) claim another person is registered under this Law in a 20
recognised specialty or hold the other person out as 21
being registered under this Law in a recognised 22
specialty if the other person is not registered in that 23
recognised specialty; or 24
- (d) claim another person is qualified to practise as a 25
specialist health practitioner if the person is not a 26
specialist health practitioner. 27
- Maximum penalty— 28
- (a) in the case of an individual—\$30,000; or 29
- (b) in the case of a body corporate—\$60,000. 30
- Note.** A contravention of this section by a registered health 31
practitioner may also constitute unprofessional conduct for which 32
health, conduct or performance action may be taken. 33

119	Claims about type of registration or registration in recognised specialty	1 2
(1)	A registered health practitioner must not knowingly or recklessly—	3 4
(a)	claim to hold a type of registration or endorsement under this Law that the practitioner does not hold or hold himself or herself out as holding a type of registration or endorsement if the practitioner does not hold that type of registration; or	5 6 7 8 9
(b)	claim to be qualified to hold a type of registration or endorsement the practitioner does not hold; or	10 11
(c)	claim to hold specialist registration under this Law in a recognised specialty in which the practitioner does not hold specialist registration or hold himself or herself out as holding specialist registration in a recognised specialty if the person does not hold specialist registration in that specialty; or	12 13 14 15 16 17
(d)	claim to be qualified to practise as a specialist health practitioner in a recognised specialty in which the practitioner is not registered.	18 19 20
(2)	A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.	21 22 23 24
(3)	A person must not knowingly or recklessly—	25
(a)	claim another person holds a type of registration or endorsement under this Law that the other person does not hold or hold the other person out as holding a type of registration or endorsement if the practitioner does not hold that type of registration or endorsement; or	26 27 28 29 30
(b)	claim another person is qualified to hold a type of registration or endorsement that the other person does not hold; or	31 32 33
(c)	claim another person holds specialist registration under this Law in a recognised specialty which the other	34 35

[s 120]

person does not hold or hold the other person out as
holding specialist registration in a recognised specialty
if the other person does not hold specialist registration in
that specialty; or

- (d) claim another person is qualified to practise in a
recognised specialty in which the other person is not
registered.

Maximum penalty—

- (a) in the case of an individual—\$30,000; or
(b) in the case of a body corporate—\$60,000.

Note. A contravention of this subsection by a registered health
practitioner may also constitute unprofessional conduct for which
health, conduct or performance action may be taken.

120 Registered health practitioner registered on conditions

- (1) A registered health practitioner who is registered on
conditions must not knowingly or recklessly claim, or hold
himself or herself out, to be registered without the conditions
or any conditions.
- (2) A contravention of subsection (1) by a registered health
practitioner does not constitute an offence but may constitute
behaviour for which health, conduct or performance action
may be taken.

Subdivision 2 Practice protections

121 Restricted dental acts

- (1) A person must not carry out a restricted dental act unless the
person—
- (a) is registered in the dental profession or medical
profession and carries out the restricted dental act in
accordance with any requirements specified in an
approved registration standard; or

-
- (b) is a student who carries out the restricted dental act in the course of activities undertaken as part of—
- (i) an approved program of study for the dental profession or medical profession; or
 - (ii) clinical training in the dental profession or medical profession; or
- (c) carries out the restricted dental act in the course of carrying out technical work on the written order of a person registered in the dentists or dental prosthetists division of the dental profession; or
- (d) is a person, or a member of a class of persons, prescribed under a regulation as being authorised to carry out the restricted dental act or restricted dental acts generally.
- Maximum penalty— \$30,000.
- (2) In this section—
- restricted dental act*** means any of the following acts—
- (a) performing any irreversible procedure on the human teeth or jaw or associated structures;
 - (b) correcting malpositions of the human teeth or jaw or associated structures;
 - (c) fitting or intra-orally adjusting artificial teeth or corrective or restorative dental appliances for a person;
 - (d) performing any irreversible procedure on, or the giving of any treatment or advice to, a person that is preparatory to or for the purpose of fitting, inserting, adjusting, fixing, constructing, repairing or renewing artificial dentures or a restorative dental appliance.
- technical work*** means the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances.

[s 122]

122	Restriction on prescription of optical appliances	1
(1)	A person must not prescribe an optical appliance unless—	2
(a)	the person is an optometrist or medical practitioner; or	3
(b)	the appliance is spectacles and the person is an orthoptist who—	4
(i)	prescribes the spectacles in the course of carrying out duties at a public health facility; or	6
(ii)	prescribes the spectacles under the supervision of an optometrist or medical practitioner; or	7
(iii)	prescribes the spectacles, on the written referral of an optometrist or medical practitioner, to a person who has had, within the 12 months before the referral, an ocular health examination conducted by an optometrist or medical practitioner; or	10
(c)	the person is a person, or a member of a class of persons, prescribed under a regulation as being authorised to prescribe an optical appliance of that type or to prescribe optical appliances generally.	11
	Maximum penalty— \$30,000.	12
(2)	In this section—	13
	<i>optical appliance</i> means—	14
(a)	any appliance designed to correct, remedy or relieve any refractive abnormality or defect of sight, including, for example, spectacle lenses; or	15
(b)	contact lenses, whether or not designed to correct, remedy or relieve any refractive abnormality or defect of sight.	16
	<i>optometrist</i> means a person registered in the optometry profession.	17
	<i>orthoptist</i> means a person whose name is recorded in the Register of Orthoptists kept by the Australian Orthoptists Registration Body Pty Ltd (ACN 095 11 7 678).	18

123	Restriction on spinal manipulation	1
(1)	A person must not perform manipulation of the cervical spine unless the person—	2
		3
(a)	is registered in an appropriate health profession; or	4
(b)	is a student who performs manipulation of the cervical spine in the course of activities undertaken as part of—	5
		6
(i)	an approved program of study in an appropriate health profession; or	7
		8
(ii)	clinical training in an appropriate health profession; or	9
		10
(c)	is a person, or a member of a class of persons, prescribed under a regulation as being authorised to perform manipulation of the cervical spine.	11
		12
		13
	Maximum penalty— \$30,000.	14
(2)	In this section—	15
	<i>appropriate health profession</i> means any of the following health professions—	16
		17
(a)	chiropractic;	18
(b)	osteopathy;	19
(c)	medical;	20
(d)	physiotherapy.	21
	<i>manipulation of the cervical spine</i> means moving the joints of the cervical spine beyond a person’s usual physiological range of motion using a high velocity, low amplitude thrust.	22
		23
		24

[s 124]

Division 11	Miscellaneous	1
Subdivision 1	Certificates of registration	2
124	Issue of certificate of registration	3
(1)	This section applies if—	4
(a)	a National Board decides to register an individual in the health profession for which the Board is established; or	5 6
(b)	a National Board decides to renew an individual's registration in the health profession for which the Board is established; or	7 8 9
(c)	a National Board or an adjudication body decides to impose, change or remove a condition on a registered health practitioner's registration or otherwise change the practitioner's registration in a material way; or	10 11 12 13
(d)	a National Board or an adjudication body decides to accept an undertaking from a registered health practitioner or to change or revoke an undertaking given by the practitioner; or	14 15 16 17
(e)	a National Board decides to endorse a health practitioner's registration.	18 19
(2)	The National Board must, as soon as practicable after the decision is made, give the registered health practitioner a certificate of registration in the form decided by the Board.	20 21 22
(3)	A certificate of registration must include the following—	23
(a)	the name of the registered health practitioner;	24
(b)	the type of registration granted and, if the registration is endorsed, the type of endorsement granted;	25 26
(c)	the date the registration or endorsement was granted;	27
(d)	the division of the register, if any, in which the practitioner is registered;	28 29

-
- (e) any condition to which the registration or endorsement is subject; 1
2
 - (f) any undertaking given by the practitioner to the National Board; 3
4
 - (g) the date the registration expires; 5
 - (h) any other information the Board considers appropriate. 6

Subdivision 2 Review of conditions and undertakings 7
8

125 Changing or removing conditions or undertaking on application by registered health practitioner or student 9
10

- (1) A registered health practitioner or student may apply to a National Board that registered the practitioner or student— 11
12
 - (a) for a registered health practitioner— 13
 - (i) to change or remove a condition imposed on the practitioner’s registration or endorsement; or 14
15
 - (ii) to change or revoke an undertaking given by the practitioner; or 16
17
 - (b) for a student— 18
 - (i) to change or remove a condition imposed on the student’s registration; or 19
20
 - (ii) to change or revoke an undertaking given by the student to the Board. 21
22
- (2) However, the registered health practitioner or student may not make an application— 23
24
 - (a) during a review period applying to the condition or undertaking, unless the practitioner or student reasonably believes there has been a material change in the practitioner’s or student’s circumstances; or 25
26
27
28
 - (b) for a condition imposed by an adjudication body for a co-regulatory jurisdiction, unless the adjudication body 29
30

[s 126]

- decided, when imposing the condition, that this
Subdivision applied to the condition. 1
2
- (3) An application under subsection (1) must— 3
- (a) be in the form approved by the National Board; and 4
- (b) be accompanied by any other information reasonably
required by the Board. 5
6
- (4) For the purposes of deciding the application, the National
Board may exercise a power under section 80 as if the
application were an application for registration as a registered
health practitioner. 7
8
9
10
- (5) The National Board must decide to grant the application or
refuse to grant the application. 11
12
- (6) As soon as practicable after making the decision under
subsection (5), the National Board must give the registered
health practitioner or student written notice of the Board's
decision. 13
14
15
16
- (7) If the National Board decides to refuse to grant the
application, the notice must state— 17
18
- (a) the decision made by the Board; and 19
- (b) that the registered health practitioner or student may
appeal against the decision; and 20
21
- (c) how an application for appeal may be made and the
period within which the application must be made. 22
23
- 126 Changing conditions on Board's initiative 24**
- (1) This section applies if a National Board reasonably believes it
is necessary to change a condition imposed on the registration
of a registered health practitioner or student registered by the
Board. 25
26
27
28
- (2) The National Board must give the registered health
practitioner or student a written notice stating— 29
30
- (a) that the Board proposes to change the condition; and 31
- (b) how the Board proposes to change the condition; and 32

-
- (c) the reason for the proposed change; and 1
- (d) that the practitioner or student may, within 30 days after 2
receipt of the notice, make written or verbal submissions 3
to the Board about why the condition should not be 4
changed. 5
- (3) However, the condition may not be changed— 6
- (a) during a review period applying to the condition, unless 7
the National Board reasonably believes there has been a 8
material change in the registered health practitioner’s or 9
student’s circumstances; or 10
- (b) if the condition was imposed by an adjudication body 11
for a co-regulatory jurisdiction, unless the adjudication 12
body decided, when imposing the condition, that this 13
Subdivision applied to the condition. 14
- (4) The registered health practitioner or student may make written 15
or verbal submissions about the proposed change to the 16
condition as stated in the notice. 17
- (5) The National Board must consider any submissions made 18
under subsection (4) and decide whether or not to change the 19
condition. 20
- (6) As soon as practicable after making its decision the National 21
Board must give written notice of the decision to the 22
registered health practitioner or student. 23
- (7) If the National Board decides to change the condition, the 24
notice must state— 25
- (a) the decision made by the Board; and 26
- (b) that the registered health practitioner or student may 27
appeal against the decision; and 28
- (c) how an application for appeal may be made and the 29
period within which the application must be made. 30
- 127 Removal of condition or revocation of undertaking 31**
- (1) This section applies if a National Board reasonably believes— 32
-

[s 128]

- (a) that a condition imposed on the registration of a registered health practitioner or student registered by the Board is no longer necessary; or
 - (b) that an undertaking given to the Board by a health practitioner or student registered by the Board is no longer necessary.
- (2) The National Board may decide to remove the condition or revoke the undertaking.
- (3) However, the condition or undertaking may not be removed or revoked—
- (a) during a review period applying to the condition or undertaking, unless the National Board reasonably believes there has been a material change in the registered health practitioner’s or student’s circumstances; or
 - (b) for a condition imposed by an adjudication body for a co-regulatory jurisdiction, unless the adjudication body decided, when imposing the condition, that this Subdivision applied to the condition.
- (4) As soon as practicable after making the decision the National Board must give notice of the decision to the registered health practitioner or student.
- (5) The decision takes effect on the date stated in the notice.

Subdivision 3 Obligations of registered health practitioners and students

128 Continuing professional development

- (1) A registered health practitioner must undertake the continuing professional development required by an approved registration standard for the health profession in which the practitioner is registered.
- (2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute

behaviour for which health, conduct or performance action may be taken.	1 2
(3) In this section—	3
<i>registered health practitioner</i> does not include a registered health practitioner who holds non-practising registration in the profession.	4 5 6
129 Professional indemnity insurance arrangements	7
(1) A registered health practitioner must not practise the health profession in which the practitioner is registered unless appropriate professional indemnity insurance arrangements are in force in relation to the practitioner’s practice of the profession.	8 9 10 11 12
(2) A National Board may, at any time by written notice, require a registered health practitioner registered by the Board to give the Board evidence of the appropriate professional indemnity insurance arrangements that are in force in relation to the practitioner’s practice of the profession.	13 14 15 16 17
(3) A registered health practitioner must not, without reasonable excuse, fail to comply with a written notice given to the practitioner under subsection (2).	18 19 20
(4) A contravention of subsection (1) or (3) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.	21 22 23 24
(5) In this section—	25
<i>registered health practitioner</i> does not include a registered health practitioner who holds non-practising registration in the profession.	26 27 28
130 Registered health practitioner or student to give National Board notice of certain events	29 30
(1) A registered health practitioner or student must, within 7 days after becoming aware that a relevant event has occurred in	31 32

[s 130]

- relation to the practitioner or student, give the National Board
that registered the practitioner or student written notice of the
event. 1
2
3
- (2) A contravention of subsection (1) by a registered health
practitioner or student does not constitute an offence but may
constitute behaviour for which health, conduct or performance
action may be taken. 4
5
6
7
- (3) In this section— 8
relevant event means— 9
- (a) in relation to a registered health practitioner— 10
- (i) the practitioner is charged, whether in a
participating jurisdiction or elsewhere, with an
offence punishable by 12 months imprisonment or
more; or 11
12
13
14
- (ii) the practitioner is convicted of or the subject of a
finding of guilt for an offence, whether in a
participating jurisdiction or elsewhere, punishable
by imprisonment; or 15
16
17
18
- (iii) appropriate professional indemnity insurance
arrangements are no longer in place in relation to
the practitioner's practice of the profession; or 19
20
21
- (iv) the practitioner's right to practise at a hospital or
another facility at which health services are
provided is withdrawn or restricted because of the
practitioner's conduct, professional performance or
health; or 22
23
24
25
26
- (v) the practitioner's billing privileges are withdrawn
or restricted under the *Medicare Australia Act*
1973 of the Commonwealth because of the
practitioner's conduct, professional performance or
health; or 27
28
29
30
31
- (vi) the practitioner's authority under a law of a State or
Territory to administer, obtain, possess, prescribe,
sell, supply or use a scheduled medicine or class of
scheduled medicines is cancelled or restricted; or 32
33
34
35

(vii) a complaint is made about the practitioner to an entity referred to in section 219(1)(a) to (e); or	1 2
(viii) the practitioner's registration under the law of another country that provides for the registration of health practitioners is suspended or cancelled or made subject to a condition or another restriction; or	3 4 5 6 7
(b) in relation to a student—	8
(i) the student is charged with an offence punishable by 12 months imprisonment or more; or	9 10
(ii) the student is convicted of or the subject of a finding of guilt for an offence punishable by imprisonment; or	11 12 13
(iii) the student's registration under the law of another country that provides for the registration of students has been suspended or cancelled.	14 15 16
131 Change in principal place of practice, address or name	17
(1) A registered health practitioner must, within 30 days of any of the following changes happening, give the National Board that registered the practitioner written notice of the change and any evidence providing proof of the change required by the Board—	18 19 20 21 22
(a) a change in the practitioner's principal place of practice;	23
(b) a change in the address provided by the registered health practitioner as the address the Board should use in corresponding with the practitioner;	24 25 26
(c) a change in the practitioner's name.	27
(2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.	28 29 30 31

[s 132]

- 132 National Board may ask registered health practitioner for employer's details** 1
2
- (1) A National Board may, at any time by written notice given to a 3
health practitioner registered by the Board, ask the 4
practitioner to give the Board the following information— 5
- (a) information about whether the practitioner is employed 6
by another entity; 7
- (b) if the practitioner is employed by another entity— 8
- (i) the name of the practitioner's employer; and 9
- (ii) the address and other contact details of the 10
practitioner's employer. 11
- (2) The registered health practitioner must not, without 12
reasonable excuse, fail to comply with the notice. 13
- (3) A contravention of subsection (2) by a registered health 14
practitioner does not constitute an offence but may constitute 15
behaviour for which health, conduct or performance action 16
may be taken. 17

Subdivision 4 Advertising 18

- 133 Advertising** 19
- (1) A person must not advertise a regulated health service, or a 20
business that provides a regulated health service, in a way 21
that— 22
- (a) is false, misleading or deceptive or is likely to be 23
misleading or deceptive; or 24
- (b) offers a gift, discount or other inducement to attract a 25
person to use the service or the business, unless the 26
advertisement also states the terms and conditions of the 27
offer; or 28
- (c) uses testimonials or purported testimonials about the 29
service or business; or 30

-
- (d) creates an unreasonable expectation of beneficial treatment; or
- (e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.
- Maximum penalty—
- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.
- (2) A person does not commit an offence against subsection (1) merely because the person, as part of the person's business, prints or publishes an advertisement for another person.
- (3) In proceedings for an offence against this section, a court may have regard to a guideline approved by a National Board about the advertising of regulated health services.
- (4) In this section—
- regulated health service* means a service provided by, or usually provided by, a health practitioner.

Subdivision 5 Board's powers to check identity and criminal history

134 Evidence of identity

- (1) A National Board may, at any time, require a registered health practitioner to provide evidence of the practitioner's identity.
- (2) A requirement under subsection (1) must be made by written notice given to the registered health practitioner.
- (3) The registered health practitioner must not, without reasonable excuse, fail to comply with the notice.
- (4) A contravention of subsection (3) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.

[s 135]

- (5) If a registered health practitioner gives a National Board a document as evidence of the practitioner's identity under this section, the Board may, by written notice, ask the entity that issued the document—
 - (a) to confirm the validity of the document; or
 - (b) to give the Board other information relevant to the practitioner's identity.
- (6) An entity given a notice under subsection (5) is authorised to provide the information requested.

135 Criminal history check

- (1) A National Board may, at any time, obtain a written report about a registered health practitioner's criminal history from any of the following—
 - (a) CrimTrac;
 - (b) a police commissioner;
 - (c) an entity in a jurisdiction outside Australia that has access to records about the criminal history of persons in that jurisdiction.
- (2) Without limiting subsection (1), a report may be obtained under that subsection—
 - (a) to check a statement made by a registered health practitioner in the practitioner's application for renewal of registration; or
 - (b) as part of an audit carried out by a National Board, to check statements made by registered health practitioners.
- (3) A criminal history law does not apply to a report under subsection (1).

Subdivision 6	General	1
136	Directing or inciting unprofessional conduct or professional misconduct	2 3
(1)	A person must not direct or incite a registered health practitioner to do anything, in the course of the practitioner's practice of the health profession, that amounts to unprofessional conduct or professional misconduct.	4 5 6 7
	Maximum penalty—	8
(a)	in the case of an individual—\$30,000; or	9
(b)	in the case of a body corporate—\$60,000.	10
(2)	Subsection (1) does not apply to a person who is the owner or operator of a public health facility.	11 12
137	Surrender of registration	13
(1)	A registered health practitioner may, by written notice given to the National Board that registered the practitioner, surrender the practitioner's registration.	14 15 16
(2)	The surrender of the registration takes effect on—	17
(a)	the day the National Board receives the notice under subsection (1); or	18 19
(b)	the later day stated in the notice.	20

[s 138]

Part 8	Health, performance and conduct	1 2
Division 1	Preliminary	3
138	Part applicable to persons formerly registered under this Law	4 5
(1)	This section applies if a person was, but is no longer, registered in a health profession under this Law.	6 7
(2)	A notification may be made, and proceedings may be taken, under this Part in relation to the person's behaviour while registered as if the person were still registered under this Law by the National Board established for the health profession.	8 9 10 11
(3)	For the purposes of subsection (2), this Part (other than Divisions 2 and 6) applies, with any necessary changes, to the person as if a reference to a registered health practitioner included that person.	12 13 14 15
139	Part applicable to persons formerly registered under corresponding prior Act in certain circumstances	16 17
(1)	This section applies if a person—	18
(a)	was registered in a health profession under a corresponding prior Act; and	19 20
(b)	is not, and has not been, registered in the health profession under this Law.	21 22
(2)	A notification may be made, and proceedings may be taken, under this Part in relation to the person's behaviour while registered under the corresponding prior Act as if the person were registered under this Law by the National Board established for the health profession.	23 24 25 26 27
(3)	However, subsection (2) applies only to the extent—	28
(a)	a notification about the person's behaviour could have been made under the corresponding prior Act; and	29 30

-
- (b) proceedings of that type could have been taken under the corresponding prior Act. 1
2
- (4) For the purposes of subsection (2), this Part (other than Divisions 2 and 7) applies, with any necessary changes, to the person as if a reference to a registered health practitioner included that person. 3
4
5
6

Division 2 Mandatory notifications 7

140 Definition of notifiable conduct 8

In this Division— 9

notifiable conduct, in relation to a registered health practitioner, means the practitioner has— 10
11

- (a) practised the practitioner’s profession while intoxicated by alcohol or drugs; or 12
13
- (b) engaged in sexual misconduct in connection with the practice of the practitioner’s profession; or 14
15
- (c) placed the public at risk of substantial harm in the practitioner’s practice of the profession because the practitioner has an impairment; or 16
17
18
- (d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards. 19
20
21
22

141 Mandatory notifications by health practitioners 23

- (1) This section applies to a registered health practitioner (the *first health practitioner*) who, in the course of practising the first health practitioner’s profession, forms a reasonable belief that— 24
25
26
27
- (a) another registered health practitioner (the *second health practitioner*) has behaved in a way that constitutes notifiable conduct; or 28
29
30

[s 141]

- (b) a student has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm. 1
2
3
- (2) The first health practitioner must, as soon as practicable after forming the reasonable belief, notify the National Agency of the second health practitioner's notifiable conduct or the student's impairment. 4
5
6
7
- Note.** See section 237 which provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred. 8
9
10
11
12
13
- (3) A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which action may be taken under this Part. 14
15
16
- (4) For the purposes of subsection (1), the first health practitioner does not form the reasonable belief in the course of practising the profession if— 17
18
19
- (a) the first health practitioner— 20
- (i) is employed or otherwise engaged by an insurer that provides professional indemnity insurance that relates to the second health practitioner or student; and 21
22
23
24
- (ii) forms the reasonable belief the second health practitioner has behaved in a way that constitutes notifiable conduct, or the student has an impairment, as a result of a disclosure made by a person to the first health practitioner in the course of a legal proceeding or the provision of legal advice arising from the insurance policy; or 25
26
27
28
29
30
31
- (b) the first health practitioner forms the reasonable belief in the course of providing advice in relation to the notifiable conduct or impairment for the purposes of a legal proceeding or the preparation of legal advice; or 32
33
34
35
- (c) the first health practitioner is a legal practitioner and forms the reasonable belief in the course of providing 36
37

-
- legal services to the second health practitioner or student 1
in relation to a legal proceeding or the preparation of 2
legal advice in which the notifiable conduct or 3
impairment is an issue; or 4
- (d) the first health practitioner— 5
- (i) forms the reasonable belief in the course of 6
exercising functions as a member of a quality 7
assurance committee, council or other body 8
approved or authorised under an Act of a 9
participating jurisdiction; and 10
- (ii) is unable to disclose the information that forms the 11
basis of the reasonable belief because a provision 12
of that Act prohibits the disclosure of the 13
information; or 14
- (e) the first health practitioner knows, or reasonably 15
believes, the National Agency has been notified of the 16
notifiable conduct or impairment that forms the basis of 17
the reasonable belief. 18

142 Mandatory notifications by employers 19

- (1) If an employer of a registered health practitioner reasonably 20
believes the health practitioner has behaved in a way that 21
constitutes notifiable conduct, the employer must notify the 22
National Agency of the notifiable conduct. 23
- Note.** See section 237 which provides protection from civil, criminal and 24
administrative liability for persons who, in good faith, make a notification 25
under this Law. Section 237(3) provides that the making of a notification 26
does not constitute a breach of professional etiquette or ethics or a 27
departure from accepted standards of professional conduct and nor is any 28
liability for defamation incurred. 29
- (2) If the National Agency becomes aware that an employer of a 30
registered health practitioner has failed to notify the Agency 31
of notifiable conduct as required by subsection (1), the 32
Agency must give a written report about the failure to the 33
responsible Minister for the participating jurisdiction in which 34
the notifiable conduct occurred. 35

[s 143]

- (3) As soon as practicable after receiving a report under subsection (2), the responsible Minister must report the employer's failure to notify the Agency of the notifiable conduct to a health complaints entity, the employer's licensing authority or another appropriate entity in that participating jurisdiction. 1
2
3
4
5
6
- (4) In this section— 7
- employer*, of a registered health practitioner, means an entity that employs the health practitioner under a contract of employment or a contract for services. 8
9
10
- licensing authority*, of an employer, means an entity that under a law of a participating jurisdiction is responsible for licensing, registering or authorising the employer to conduct the employer's business. 11
12
13
14

143 Mandatory notifications by education providers 15

- (1) An education provider must notify the National Agency if the provider reasonably believes— 16
17
- (a) a student enrolled in a program of study provided by the provider has an impairment that, in the course of the student undertaking clinical training as part of the program of study, may place the public at substantial risk of harm; or 18
19
20
21
22
- (b) a student for whom the education provider has arranged clinical training has an impairment that, in the course of the student undertaking the clinical training, may place the public at substantial risk of harm; 23
24
25
26
- Note.** See section 237 which provides protection from civil, criminal and administrative liability for persons who make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred. 27
28
29
30
31
32
33
- (2) A contravention of subsection (1) does not constitute an offence. 34
35

-
- (3) However, if an education provider does not comply with subsection (1)—
- (a) the National Board that registered the student must publish details of the failure on the Board’s website; and
 - (b) the National Agency may, on the recommendation of the National Board, include a statement about the failure in the Agency’s annual report.

Division 3 Voluntary notifications

144 Grounds for voluntary notification

- (1) A voluntary notification about a registered health practitioner may be made to the National Agency on any of the following grounds—
- (a) that the practitioner’s professional conduct is, or may be, of a lesser standard than that which might reasonably be expected of the practitioner by the public or the practitioner’s professional peers;
 - (b) that the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the practitioner’s health profession is, or may be, below the standard reasonably expected;
 - (c) that the practitioner is not, or may not be, a suitable person to hold registration in the health profession, including, for example, that the practitioner is not a fit and proper person to be registered in the profession;
 - (d) that the practitioner has, or may have, an impairment;
 - (e) that the practitioner has, or may have, contravened this Law;
 - (f) that the practitioner has, or may have, contravened a condition of the practitioner’s registration or an undertaking given by the practitioner to a National Board;

[s 145]

- (g) that the practitioner’s registration was, or may have been, improperly obtained because the practitioner or someone else gave the National Board information or a document that was false or misleading in a material particular. 1
2
3
4
5
- (2) A voluntary notification about a student may be made to the National Agency on the grounds that— 6
7
 - (a) the student has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or 8
9
10
 - (b) the student has, or may have, an impairment; or 11
 - (c) that the student has, or may have, contravened a condition of the student’s registration or an undertaking given by the student to a National Board. 12
13
14

145 Who may make voluntary notification 15

Any entity that believes that a ground on which a voluntary notification may be made exists in relation to a registered health practitioner or a student may notify the National Agency. 16
17
18
19

Note. See section 237 which provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law. 20
21
22

Division 4 Making a notification 23

146 How notification is made 24

- (1) A notification may be made to the National Agency— 25
 - (a) verbally, including by telephone; or 26
 - (b) in writing, including by email or other electronic means. 27
- (2) A notification must include particulars of the basis on which it is made. 28
29

(3)	If a notification is made verbally, the National Agency must make a record of the notification.	1 2
147	National Agency to provide reasonable assistance to notifier	3 4
(1)	The National Agency must, if asked by an entity, give the entity reasonable assistance to make a notification about a registered health practitioner or student.	5 6 7
(2)	Without limiting subsection (1), the National Agency may assist an entity to make a notification if—	8 9
(a)	the entity is not able to put the entity’s notification in writing without assistance; or	10 11
(b)	the entity needs assistance to clarify the nature of the individual’s notification.	12 13
Division 5	Preliminary assessment	14
148	Referral of notification to National Board or co-regulatory authority	15 16
(1)	Subject to subsections (2) and (3), the National Agency must, as soon as practicable after receiving a notification about a registered health practitioner or a student, refer the notification to the National Board that registered the health practitioner or student.	17 18 19 20 21
(2)	If the behaviour that is the basis for the ground for the notification occurred, or is reasonably believed to have occurred, in a co-regulatory jurisdiction, the National Agency—	22 23 24 25
(a)	must not deal with the notification; and	26
(b)	must, as soon as practicable after receiving the notification, refer the notification to the co-regulatory authority for the co-regulatory jurisdiction.	27 28 29

[s 149]

- (3) If the behaviour that is the basis for the ground for the notification occurred, or is reasonably believed to have occurred, in more than one jurisdiction and one of the jurisdictions is a co-regulatory jurisdiction, the National Agency must—
- (a) if the registered health practitioner’s principal place of practice is in the co-regulatory jurisdiction, refer the notification under subsection (2); or
 - (b) otherwise, refer the notification under subsection (1).

149 Preliminary assessment

- (1) A National Board must, within 60 days after receipt of a notification, conduct a preliminary assessment of the notification and decide—
- (a) whether or not the notification relates to a person who is a health practitioner or a student registered by the Board; and
 - (b) whether or not the notification relates to a matter that is a ground for notification; and
 - (c) if the notification is a notification referred to in paragraphs (a) and (b), whether or not it is a notification that could also be made to a health complaints entity.
- (2) Without limiting subsection (1)(b), the National Board may decide the notification relates to a matter that is a ground for notification under section 144 on the basis of—
- (a) a single notification about a person; or
 - (b) a number of notifications about a person including—
 - (i) a number of notifications that suggest a pattern of conduct; and
 - (ii) notifications made to a health complaints entity.
- (3) If the National Board decides the notification relates to a person who is not registered by the Board but the Board reasonably suspects the person is registered by another

National Board, the Board must refer the notification to that
other Board. 1
2

150 Relationship with health complaints entity 3

- (1) If the subject matter of a notification would also provide a
ground for a complaint to a health complaints entity under a
law of a participating jurisdiction, the National Board that
received the notification must, as soon as practicable after its
receipt— 4
5
6
7
8
- (a) notify the health complaints entity that the Board has
received the notification; and 9
10
- (b) give to the health complaints entity— 11
- (i) a copy of the notification or, if the notification was
not made in writing, a copy of the National
Agency’s record of the details of the notification; 12
13
14
15
- (ii) any other information the Board has that is relevant
to the notification. 16
17
- (2) If a health complaints entity receives a complaint about a
health practitioner, the health complaints entity must, as soon
as practicable after its receipt— 18
19
20
- (a) notify the National Board established for the
practitioner’s health profession that the health
complaints entity has received the complaint; and 21
22
23
- (b) give to the National Board— 24
- (i) a copy of the complaint or, if the complaint was not
made in writing, a copy of the health complaints
entity’s record of the details of the complaint; and 25
26
27
- (ii) any other information the health complaints entity
has that is relevant to the complaint. 28
29
- (3) The National Board and the health complaints entity must
attempt to reach agreement about how the notification or
complaint is to be dealt with, including— 30
31
32

[s 150]

- (a) whether the Board is to deal with the notification or complaint, or part of the notification or complaint, or to decide to take no further action in relation to it; and
- (b) if the Board is to deal with the notification or complaint or part of the notification or complaint, the action the Board is to take.
- (4) If the National Board and the health complaints entity are not able to reach agreement on how the notification or complaint, or part of the notification or complaint, is to be dealt with, the most serious action proposed by either must be taken.
- (5) If an investigation, conciliation or other action taken by a health complaints entity raises issues about the health, conduct or performance of a registered health practitioner, the health complaints entity must give the National Board that registered the practitioner written notice of the issues.
- (6) If a notification, or part of a notification, received by a National Board is referred to a health complaints entity, the Board may decide to take no further action in relation to the notification or the part of the notification until the entity gives the Board written notice that the entity has finished dealing with it.
- (7) If a National Board or an adjudication body takes health, conduct or performance action in relation to a registered health practitioner, the Board that registered the practitioner must give written notice of the action to the health complaints entity for the participating jurisdiction in which the behaviour that provided the basis for the action occurred.
- (8) A written notice under subsection (5) or (7) must include—
- (a) sufficient particulars to identify the registered health practitioner; and
- (b) details of—
- (i) the issues raised about the health, conduct or performance of the registered health practitioner;
- or

	(ii) the health, conduct or performance action taken in relation to the registered health practitioner.	1 2
151	When National Board may decide to take no further action	3 4
	(1) A National Board may decide to take no further action in relation to a notification if—	5 6
	(a) the Board reasonably believes the notification is frivolous, vexatious, misconceived or lacking in substance; or	7 8 9
	(b) given the amount of time that has elapsed since the matter the subject of the notification occurred, it is not practicable for the Board to investigate or otherwise deal with the notification; or	10 11 12 13
	(c) the person to whom the notification relates has not been, or is no longer, registered by the Board and it is not in the public interest for the Board to investigate or otherwise deal with the notification; or	14 15 16 17
	(d) the subject matter of the notification has already been dealt with adequately by the Board; or	18 19
	(e) the subject matter of the notification is being dealt with, or has already been dealt with, adequately by another entity.	20 21 22
	(2) A decision by a National Board to decide to take no further action in relation to a notification does not prevent a National Board or adjudication body taking the notification into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.	23 24 25 26 27
	(3) If a National Board decides to take no further action in relation to a notification it must give written notice of the decision to the notifier.	28 29 30
	(4) A notice under subsection (3) must state—	31
	(a) that the National Board has decided to take no further action in relation to the notification; and	32 33

[s 152]

(b)	the reason the Board has decided to take no further action.	1 2
152	National Board to give notice of receipt of notification	3
(1)	A National Board must, as soon as practicable after receiving a notification about a registered health practitioner or student, give written notice of the notification to the practitioner or student.	4 5 6 7
(2)	The notice must advise the registered health practitioner or student of the nature of the notification.	8 9
(3)	Despite subsection (1), the National Board is not required to give the registered health practitioner or student notice of the notification if the Board reasonably believes doing so would—	10 11 12 13
(a)	prejudice an investigation of the notification; or	14
(b)	place at risk a person’s health or safety or place a person at risk of intimidation or harassment.	15 16
Division 6	Other matters	17
153	National Board may deal with notifications about same person together	18 19
	If the National Agency receives more than one notification about a registered health practitioner or student, the National Board established for the health profession in which the practitioner or student is registered may deal with the notifications together.	20 21 22 23 24
154	National Boards may deal with notifications collaboratively	25 26
(1)	This section applies if a notification received by a National Board relates to—	27 28

-
- (a) a registered health practitioner who is registered in more than one health profession; or
- (b) more than one registered health practitioner and the practitioners are registered in 2 or more different health professions; or
- (c) a person who is registered as a student in more than one health profession; or
- (d) more than one student and the students are registered in 2 or more different health professions.
- (2) The National Board may deal with the notification in conjunction with one or more other National Boards with whom the registered health practitioner or practitioners, or student or students, are registered.

Division 7 Immediate action

155 Definition

In this Division—

immediate action, in relation to a registered health practitioner or student, means—

- (a) the suspension, or imposition of a condition on, the health practitioner's or student's registration; or
- (b) accepting an undertaking from the health practitioner or student; or
- (c) accepting the surrender of the health practitioner's or student's registration.

156 Power to take immediate action

- (1) A National Board may take immediate action in relation to a registered health practitioner or student registered by the Board if—
- (a) the National Board reasonably believes that—

[s 156]

- (i) because of the registered health practitioner's conduct, performance or health, the practitioner poses a serious risk to persons; and
 - (ii) it is necessary to take immediate action to protect public health or safety; or
 - (b) the National Board reasonably believes that—
 - (i) the student poses a serious risk to persons because the student—
 - (A) has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or
 - (B) has, or may have, an impairment; or
 - (C) has, or may have, contravened a condition of the student's registration or an undertaking given by the student to a National Board; and
 - (ii) it is necessary to take immediate action to protect public health or safety; or
 - (c) the registered health practitioner's registration was improperly obtained because the practitioner or someone else gave the National Board information or a document that was false or misleading in a material particular; or
 - (d) the registered health practitioner's or student's registration has been cancelled or suspended under the law of a jurisdiction, whether in Australia or elsewhere, that is not a participating jurisdiction.
- (2) However, the National Board may take immediate action that consists of suspending, or imposing a condition on, the health practitioner's or student's registration only if the Board has complied with section 157.

-
- 157 Show cause process** 1
- (1) If a National Board is proposing to take immediate action that 2
consists of suspending, or imposing a condition on, a 3
registered health practitioner's or student's registration under 4
section 156, the Board must— 5
- (a) give the practitioner or student notice of the proposed 6
immediate action; and 7
- (b) invite the practitioner or student to make a submission to 8
the Board, within the time stated in the notice about the 9
proposed immediate action. 10
- (2) A notice given to a registered health practitioner or student 11
under subsection (1), and any submissions made by the 12
practitioner or student in accordance with the notice, may be 13
written or verbal. 14
- (3) The National Board must have regard to any submissions 15
made by the registered health practitioner or student in 16
accordance with this section in deciding whether to take 17
immediate action in relation to the practitioner or student. 18
- 158 Notice to be given to registered health practitioner or 19
student about immediate action** 20
- (1) Immediately after deciding to take immediate action in 21
relation to a registered health practitioner or student, the 22
National Board must— 23
- (a) give written notice of the Board's decision to the health 24
practitioner or student; and 25
- (b) take the further action under this Part the Board 26
considers appropriate, including, for example, 27
investigating the practitioner or student or requiring the 28
practitioner or student to undergo a health or 29
performance assessment. 30
- (2) The notice must state— 31
- (a) the immediate action the National Board has decided to 32
take; and 33
-

[s 159]

- (b) the reasons for the decision to take the immediate action; and 1
2
- (c) the further action the National Board proposes to take under this Part in relation to the health practitioner or student; and 3
4
5
- (d) that the registered health practitioner or student may appeal against the decision to take the immediate action if the action is to suspend, or impose a condition on, the practitioner's or student's registration; and 6
7
8
9
- (e) how an application for appeal may be made and the period within which the application must be made. 10
11

159 Period of immediate action 12

- (1) The decision by the National Board to take immediate action in relation to the registered health practitioner or student takes effect on— 13
14
15
 - (a) the day the notice is given to the practitioner or student; 16
or 17
 - (b) the later day stated in the notice. 18
- (2) The decision continues to have effect until the earlier of the following occurs— 19
20
 - (a) the decision is set aside on appeal; 21
 - (b) for the suspension of, or imposition of conditions on, the registered health practitioner's or student's registration, the suspension is revoked, or the conditions are removed, by the National Board; or 22
23
24
25
 - (c) for an undertaking, the National Board and the registered health practitioner or student agree to end the undertaking. 26
27
28

Division 8	Investigations	1
Subdivision 1	Preliminary	2
160	When investigation may be conducted	3
(1)	A National Board may investigate a registered health practitioner or student registered by the Board if it decides it is necessary or appropriate—	4 5 6
(a)	because the Board has received a notification about the practitioner or student; or	7 8
(b)	because the Board for any other reason believes—	9
(i)	the practitioner or student has or may have an impairment; or	10 11
(ii)	for a practitioner—	12
(A)	the way the practitioner practises the profession is or may be unsatisfactory; or	13 14
(B)	the practitioner’s conduct is or may be unsatisfactory; or	15 16
(c)	to ensure the practitioner or student—	17
(i)	is complying with conditions imposed on the practitioner’s or student’s registration; or	18 19
(ii)	an undertaking given by the practitioner or student to the Board.	20 21
(2)	If a National Board decides to investigate a registered health practitioner or student it must direct an appropriate investigator to conduct the investigation.	22 23 24
161	Registered health practitioner or student to be given notice of investigation	25 26
(1)	A National Board that decides to investigate a registered health practitioner or student must, within as soon as	27 28

[s 162]

practicable after making the decision, give the practitioner or student written notice about the investigation.	1 2
(2) The notice must advise the registered health practitioner or student of the nature of the matter being investigated.	3 4
(3) Also, the National Board must, at not less than 3 monthly intervals, give the written notice of the progress of the investigation to—	5 6 7
(a) the registered health practitioner or student; and	8
(b) if the investigation relates to a notification made about the registered health practitioner or student, the notifier.	9 10
(4) However, the National Board need not give the registered health practitioner or student a notice under subsection (1) or (3) if the Board reasonably believes giving the notice may—	11 12 13
(a) seriously prejudice the investigation; or	14
(b) place at risk a person’s health or safety; or	15
(c) place a person at risk of harassment or intimidation.	16
162 Investigation to be conducted in timely way	17
The National Board must ensure an investigator it directs to conduct an investigation conducts the investigation as quickly as practicable, having regard to the nature of the matter to be investigated.	18 19 20 21
Subdivision 2 Investigators	22
163 Appointment of investigators	23
(1) A National Board may appoint the following persons as investigators—	24 25
(a) members of the National Agency’s staff;	26
(b) contractors engaged by the National Agency.	27

-
- (2) An investigator holds office on the conditions stated in the instrument of appointment. 1
2
 - (3) If an investigator's appointment provides for a term of appointment, the investigator ceases holding office at the end of the term. 3
4
5
 - (4) An investigator may resign by signed notice of resignation given to the National Board which appointed the investigator. 6
7
 - (5) Schedule 5 sets out provisions relating to the powers of an investigator. 8
9

164 Identity card 10

- (1) A National Board must give an identity card to each investigator it appoints. 11
12
- (2) The identity card must— 13
 - (a) contain a recent photograph of the investigator; and 14
 - (b) be signed by the investigator; and 15
 - (c) identify the person as an investigator appointed by the National Board; and 16
17
 - (d) include an expiry date. 18
- (3) This section does not prevent the issue of a single identity card to a person— 19
20
 - (a) if the person is appointed as an investigator for this Law by more than one National Board; or 21
22
 - (b) for this Law and other Acts. 23
- (4) A person who ceases to be an investigator must give the person's identity card to the National Board that appointed the person within 7 days after the person ceases to be an investigator, unless the person has a reasonable excuse. 24
25
26
27

165 Display of identity card 28

- (1) An investigator may exercise a power in relation to someone else (the *other person*) only if the investigator— 29
30

[s 166]

- (a) first produces the investigator's identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the investigator must produce the identity card for the other person's inspection at the first reasonable opportunity.

Subdivision 3 Procedure after investigation

166 Investigator's report about investigation

- (1) As soon as practicable after completing an investigation under this Division, an investigator must give a written report about the investigation to the National Board that directed the investigator to carry out the investigation.
- (2) The report must include—
- (a) the investigator's findings about the investigation; and
 - (b) the investigator's recommendations about any action to be taken in relation to the health practitioner or student the subject of the investigation.

167 Decision by National Board

After considering the investigator's report, the National Board must decide—

- (a) to take no further action in relation to the matter; or
- (b) to do either or both of the following—
 - (i) take the action the Board considers necessary or appropriate under another Division;
 - (ii) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.

Division 9	Health and performance assessments	1 2
168	Definition	3
	In this Division—	4
	<i>assessment</i> means—	5
	(a) a health assessment; or	6
	(b) a performance assessment.	7
169	Requirement for health assessment	8
	A National Board may require a registered health practitioner or student to undergo a health assessment if the Board reasonably believes, because of a notification or for any other reason, that the practitioner or student has, or may have, an impairment.	9 10 11 12 13
170	Requirement for performance assessment	14
	A National Board may require a registered health practitioner to undergo a performance assessment if the Board reasonably believes, because of a notification or for any other reason, that the way the practitioner practises the profession is or may be unsatisfactory.	15 16 17 18 19
171	Appointment of assessor to carry out assessment	20
(1)	If the National Board requires a registered health practitioner or student to undergo an assessment, the National Agency must appoint an assessor chosen by the Board to carry out the assessment.	21 22 23 24
(2)	The assessor must be—	25
(a)	for a health assessment, a medical practitioner or psychologist who is not a member of the National Board; or	26 27 28

[s 172]

- (b) for a performance assessment, a registered health practitioner who is a member of the health profession for which the National Board is established but is not a member of the Board. 1
2
3
4
- (3) The assessor may ask another health practitioner to assist the assessor in carrying out the assessment of the registered health practitioner or student. 5
6
7
- (4) The assessor's fee for carrying out the assessment is to be paid out of the National Board's budget. 8
9
- 172 Notice to be given to registered health practitioner or student about assessment** 10
11
- (1) A requirement by a National Board for a registered health practitioner or student to undergo an assessment must be made by written notice given to the practitioner or student. 12
13
14
- (2) The written notice must state— 15
- (a) that the registered health practitioner or student is required to undergo a health assessment or performance assessment; and 16
17
18
- (b) the nature of the assessment to be carried out; and 19
- (c) the name and qualifications of the registered health practitioner who is to carry out the assessment; and 20
21
- (d) that if the registered health practitioner or student does not undergo the assessment the National Board may continue to take proceedings in relation to the practitioner or student under this Part. 22
23
24
25
- 173 Assessor may require information or attendance** 26
- For the purposes of conducting an assessment of a registered health practitioner or student, an assessor may, by written notice given to the practitioner or student, require the practitioner or student to— 27
28
29
30
- (a) give stated information to the assessor within a stated reasonable time and in a stated reasonable way; or 31
32

(b)	attend before the assessor at a stated time and a stated place to undergo the assessment.	1 2
	Example of stated place.	3
	the registered health practitioner's principal place of practice	4
174	Inspection of documents	5
(1)	If a document is produced to an assessor, the assessor may—	6
(a)	inspect the document; and	7
(b)	make a copy of, or take an extract from, the document; and	8 9
(c)	keep the document while it is necessary for the assessment.	10 11
(2)	If the assessor keeps the document, the assessor must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the assessor.	12 13 14 15
175	Report from assessor	16
	The assessor must, as soon as practicable after carrying out the assessment, give to the National Board a report about the assessment.	17 18 19
176	Copy of report to be given to health practitioner or student	20 21
(1)	The National Board must, as soon as practicable after receiving the assessor's report, give a copy of the report to—	22 23
(a)	the registered health practitioner or student to whom it relates; or	24 25
(b)	if the report contains information the Board considers may, if disclosed to the practitioner or student, be prejudicial to the practitioner's or student's physical or mental health or wellbeing, to a medical practitioner or psychologist nominated by the practitioner or student.	26 27 28 29 30

[s 177]

- (2) If a medical practitioner or psychologist is given a copy of a report about a registered health practitioner or student under subsection (1)(b), the medical practitioner or psychologist must give a copy of the report to the practitioner or student as soon as it will no longer be prejudicial to the practitioner's or student's health or wellbeing. 1
2
3
4
5
6
- (3) After the registered health practitioner or student has been given a copy of the report under subsection (1)(a) or (2), a person nominated by the Board must— 7
8
9
- (a) discuss the report with the practitioner or student; and 10
- (b) if the report makes an adverse finding about the practitioner's practice of the profession or states that the assessor finds the practitioner has an impairment, discuss with the practitioner ways of dealing with the finding, including, for a practitioner, whether the practitioner is prepared to alter the way the practitioner practises the health profession. 11
12
13
14
15
16
17

177 Decision by National Board 18

After considering the assessor's report and the discussions held with the registered health practitioner or student under section 176(3), the National Board may decide to— 19
20
21

- (a) take the action the Board considers necessary or appropriate under another Division; or 22
23
- (b) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action; or 24
25
26
- (c) take no further action in relation to the matter. 27

Division 10 Action by National Board 28

178 National Board may take action 29

- (1) This section applies if— 30

-
- (a) a National Board reasonably believes, because of a notification or for any other reason—
- (i) the way a registered health practitioner registered by the Board practises the health profession, or the practitioner’s professional conduct, is or may be unsatisfactory; or
 - (ii) a registered health practitioner or student registered by the Board has or may have an impairment; or
 - (iii) a student has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or
 - (iv) a student has or may have contravened a condition of the student’s registration or an undertaking given by the student to a National Board; and
- (b) the matter is not required to be referred to a responsible tribunal under section 193; and
- (c) the Board decides it is not necessary or appropriate to refer the matter to a panel.
- (2) The National Board may decide to take one or more of the following actions (*relevant action*) in relation to the registered health practitioner or student—
- (a) caution the registered health practitioner or student;
 - (b) accept an undertaking from the registered health practitioner or student;
 - (c) impose conditions on the practitioner’s or student’s registration, including, for example, in relation to a practitioner—
 - (i) a condition requiring the practitioner to complete specified further education or training within a specified period; or
 - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
-

[s 179]

- (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or 1
2
3
 - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or 4
5
 - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or 6
7
8
 - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons; 9
10
11
 - (d) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action. 12
13
14
- (3) If the National Board decides to impose a condition on the registered health practitioner's or student's registration, the Board must also decide a review period for the condition. 15
16
17

179 Show cause process 18

- (1) If a National Board is proposing to take relevant action in relation to a registered health practitioner or student, the Board must— 19
20
21
 - (a) give the practitioner or student written notice of the proposed relevant action; and 22
23
 - (b) invite the practitioner or student to make a written or verbal submission to the Board, within the reasonable time stated in the notice, about the proposed relevant action. 24
25
26
27
- (2) After considering any submissions made by the registered health practitioner or student in accordance with this section, the National Board must decide to— 28
29
30
 - (a) take no action in relation to the matter; or 31
 - (b) do either or both of the following— 32

(i)	take the proposed relevant action or other relevant action;	1 2
(ii)	refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.	3 4 5
(3)	This section does not apply if—	6
(a)	a National Board is proposing to take relevant action in relation to a registered health practitioner or student; and	7 8
(b)	the National Board has, in relation to the matter that forms the basis for the relevant action—	9 10
(i)	investigated the registered health practitioner or student under Division 8; or	11 12
(ii)	conducted a health assessment or performance assessment of the registered health practitioner or student under Division 9.	13 14 15
180	Notice to be given to health practitioner or student and notifier	16 17
(1)	As soon as practicable after making a decision under section 179(2), the National Board must give written notice of the decision to—	18 19 20
(a)	the registered health practitioner or student; and	21
(b)	if the decision was the result of a notification, the notifier.	22 23
(2)	The notice given to the notifier must include information about the decision made by the Board only to the extent the information is available on the National Board's register.	24 25 26
Division 11	Panels	27
181	Establishment of health panel	28
(1)	A National Board may establish a health panel if—	29

[s 181]

- (a) the Board reasonably believes, because of a notification or for any other reason, that a registered health practitioner or student has or may have an impairment; and
 - (b) the Board decides it is necessary or appropriate for the matter to be referred to a panel.
- (2) A health panel must consist of the following members chosen from a list referred to in section 183—
 - (a) at least one member who is a registered health practitioner in the health profession for which the Board is established;
 - (b) at least one member who is a medical practitioner with expertise relevant to the matter the subject of the hearing;
 - (c) at least one member who is not, and has not been, a registered health practitioner in the health profession for which the Board has been established.
- (3) In choosing members of the panel, the National Board must, if possible, choose a member from the jurisdiction in which the matter the subject of the hearing occurred.
- (4) No more than half of the members of the panel may be registered health practitioners in the health profession for which the Board is established.
- (5) However, if the registered health practitioner the subject of the hearing is a medical practitioner, a member of the panel referred to in subsection (2)(b) is not to be considered to be registered in the health profession for which the Board is established for the purposes of subsection (4).
- (6) A person cannot be appointed to the panel if the person has been involved in any proceedings relating to the matter the subject of the hearing by the panel.

182	Establishment of performance and professional standards panel	1 2
(1)	A National Board may establish a performance and professional standards panel if—	3 4
(a)	the Board reasonably believes, because of a notification or for any other reason, that—	5 6
(i)	the way a registered health practitioner practises the health profession is or may be unsatisfactory; or	7 8 9
(ii)	the registered health practitioner’s professional conduct is or may be unsatisfactory; and	10 11
(b)	the Board decides it is necessary or appropriate for the matter to be referred to a panel.	12 13
(2)	A performance and professional standards panel must consist of at least 3 members.	14 15
(3)	In choosing members of the panel, the National Board must, if possible, choose a member from the jurisdiction in which the matter the subject of the hearing occurred.	16 17 18
(4)	At least half, but no more than two-thirds, of the members of the panel must be persons who are registered health practitioners in the health profession for which the Board is established, and chosen from a list approved under section 183.	19 20 21 22 23
(5)	At least one member must be a person who represents the community and chosen from a list approved under section 183.	24 25 26
(6)	A person may not be appointed to the panel if the person has been involved in any proceedings relating to the matter the subject of the hearing by the panel.	27 28 29
183	List of approved persons for appointment to panels	30
(1)	A National Board may appoint individuals to a list of persons approved to be appointed as members of panels.	31 32

[s 184]

- (2) To the extent practicable, individuals appointed under subsection (1) should not—
- (a) for registered health practitioners, be individuals whose principal place of practice is in a co-regulatory jurisdiction; or
 - (b) otherwise, be individuals who live in a co-regulatory jurisdiction.
- 184 Notice to be given to registered health practitioner or student**
- (1) A panel must give notice of its hearing of a matter to the registered health practitioner or student the subject of the hearing.
- (2) The notice must state—
- (a) the day, time and place at which the hearing is to be held; and
 - (b) the nature of the hearing and the matters to be considered at the hearing; and
 - (c) that the registered health practitioner or student is required to attend the hearing; and
 - (d) that the registered health practitioner may be accompanied at the hearing by an Australian legal practitioner or other person; and
 - (e) that if the registered health practitioner or student fails to attend the hearing the hearing may continue, and the panel may make a decision, in the practitioner’s or student’s absence; and
 - (f) the types of decision the panel may make at the end of the hearing.
- 185 Procedure of panel**
- (1) Subject to this Division, a panel may decide its own procedures.

(2)	A panel is required to observe the principles of natural justice but is not bound by the rules of evidence.	1 2
(3)	A panel may have regard to—	3
(a)	a report prepared by an assessor about the registered health practitioner or student; and	4 5
(b)	any other information the panel considers relevant to the hearing of the matter.	6 7
186	Legal representation	8
(1)	At a hearing of a panel, the registered health practitioner or student the subject of the hearing may be accompanied by an Australian legal practitioner or another person.	9 10 11
(2)	An Australian legal practitioner or other person accompanying the registered health practitioner or student may appear on behalf of the practitioner or student only with the leave of the panel.	12 13 14 15
(3)	The panel may grant leave for an Australian legal practitioner or other person to appear on behalf of the registered health practitioner or student only if the panel considers it appropriate in the particular circumstances of the hearing.	16 17 18 19
187	Submission by notifier	20
	If a matter the subject of a hearing before a panel relates to a notification, the notifier may, with the leave of the panel, make a submission to the panel about the matter.	21 22 23
188	Panel may proceed in absence of registered health practitioner or student	24 25
	At a hearing, a panel may proceed in the absence of the registered health practitioner or student the subject of the proceedings if the panel reasonably believes the practitioner or student has been given notice of the hearing.	26 27 28 29

[s 189]

189	Hearing not open to the public	1
	A hearing before a panel is not open to the public.	2
190	Referral to responsible tribunal	3
	A panel must stop hearing a matter and require the National Board that established the panel to refer the matter to a responsible tribunal under section 193 if, at any time—	4 5 6
	(a) the practitioner or student the subject of the hearing asks the panel for the matter to be referred to a responsible tribunal under section 193; or	7 8 9
	(b) if the subject of the hearing is a registered health practitioner—	10 11
	(i) the panel reasonably believes the evidence demonstrates the practitioner may have behaved in a way that constitutes professional misconduct; or	12 13 14
	(ii) the panel reasonably believes the evidence demonstrates the practitioner’s registration may have been improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.	15 16 17 18 19 20
191	Decision of panel	21
	(1) After hearing a matter about a registered health practitioner, a panel may decide—	22 23
	(a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or	24 25
	(b) one or more of the following—	26
	(i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;	27 28 29
	(ii) the practitioner has behaved in a way that constitutes unprofessional conduct;	30 31

-
- (iii) the practitioner has an impairment; 1
- (iv) the matter must be referred to a responsible 2
tribunal under section 193; 3
- (v) the matter must be referred to another entity, 4
including, for example, a health complaints entity, 5
for investigation or other action. 6
- (2) After hearing a matter about a student, a health panel may 7
decide— 8
- (a) the student has an impairment; or 9
- (b) the matter must be referred to another entity, including, 10
for example, a health complaints entity, for investigation 11
or other action; or 12
- (c) the student has no case to answer and no further action 13
is to be taken in relation to the matter. 14
- (3) If a panel decides a registered health practitioner or student 15
has an impairment, or that a practitioner has behaved in a way 16
that constitutes unsatisfactory professional performance or 17
unprofessional conduct, the panel may decide to do one or 18
more of the following— 19
- (a) impose conditions on the practitioner’s or student’s 20
registration, including, for example, in relation to a 21
practitioner— 22
- (i) a condition requiring the practitioner to complete 23
specified further education or training within a 24
specified period; or 25
- (ii) a condition requiring the practitioner to undertake 26
a specified period of supervised practice; or 27
- (iii) a condition requiring the practitioner to do, or 28
refrain from doing, something in connection with 29
the practitioner’s practice; or 30
- (iv) a condition requiring the practitioner to manage the 31
practitioner’s practice in a specified way; or 32

[s 192]

- (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
 - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
 - (b) for a health panel, suspend the practitioner's or student's registration;
 - (c) for a performance and professional standards panel, caution or reprimand the practitioner.
 - (4) If a panel decides to impose a condition on a registered health practitioner's or student's registration, the panel must also decide a review period for the condition.
 - (5) A decision by a panel that a registered health practitioner has no case to answer in relation to a matter does not prevent a National Board or adjudication body taking the matter into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.
- 192 Notice to be given about panel's decision**
- (1) As soon as practicable after making a decision under section 191, a panel must give notice of its decision to the National Board that established it.
 - (2) The National Board must, within 30 days after the panel makes its decision, give written notice of the decision to—
 - (a) the registered health practitioner or student the subject of the hearing; and
 - (b) if the hearing related to a notification, the notifier.
 - (3) The notice given to the registered health practitioner or student must state—
 - (a) the decision made by the panel; and
 - (b) the reasons for the decision; and

-
- (c) that the registered health practitioner or student may appeal against the decision; and
 - (d) how an application for appeal may be made and the period within which the application must be made.
- (4) The notice to the notifier must include information about the decision made by the panel but only to the extent the information is available on the National Board's register.

Division 12 Referring matter to responsible tribunals

193 Matters to be referred to responsible tribunal

- (1) A National Board must refer a matter about a registered health practitioner or student to a responsible tribunal if—
- (a) for a registered health practitioner, the Board reasonably believes, based on a notification or for any other reason—
 - (i) the practitioner has behaved in a way that constitutes professional misconduct; or
 - (ii) the practitioner's registration was improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular; or
 - (b) for a registered health practitioner or student, a panel established by the Board requires the Board to refer the matter to a responsible tribunal.
- (2) The National Board must—
- (a) refer the matter to—
 - (i) the responsible tribunal for the participating jurisdiction in which the behaviour the subject of the matter occurred; or
 - (ii) if the behaviour occurred in more than one jurisdiction, the responsible tribunal for the

[s 194]

	participating jurisdiction in which the practitioner's principal place of practice is located; and	1 2 3
	(b) give written notice of the referral to the registered health practitioner or student to whom the matter relates.	4 5
194	Parties to the proceedings	6
	The parties to proceedings relating to a matter being heard by a responsible tribunal are—	7 8
	(a) the registered health practitioner or student who is the subject of the proceedings; and	9 10
	(b) the National Board that referred the matter to the tribunal.	11 12
195	Costs	13
	The responsible tribunal may make any order about costs it considers appropriate for the proceedings.	14 15
196	Decision by responsible tribunal about registered health practitioner	16 17
	(1) After hearing a matter about a registered health practitioner, a responsible tribunal may decide—	18 19
	(a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or	20 21
	(b) one or more of the following—	22
	(i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;	23 24 25
	(ii) the practitioner has behaved in a way that constitutes unprofessional conduct;	26 27
	(iii) the practitioner has behaved in a way that constitutes professional misconduct;	28 29

-
- (iv) the practitioner has an impairment; 1
- (v) the practitioner's registration was improperly 2
obtained because the practitioner or someone else 3
gave the National Board that registered the 4
practitioner information or a document that was 5
false or misleading in a material particular; or 6
- (2) If a responsible tribunal makes a decision referred to in 7
subsection (1)(b), the tribunal may decide to do one or more 8
of the following— 9
- (a) caution or reprimand the practitioner; 10
- (b) impose a condition on the practitioner's registration, 11
including, for example— 12
- (i) a condition requiring the practitioner to complete 13
specified further education or training, or to 14
undergo counselling, within a specified period; or 15
- (ii) a condition requiring the practitioner to undertake 16
a specified period of supervised practice; or 17
- (iii) a condition requiring the practitioner to do, or 18
refrain from doing, something in connection with 19
the practitioner's practice; or 20
- (iv) a condition requiring the practitioner to manage the 21
practitioner's practice in a specified way; or 22
- (v) a condition requiring the practitioner to report to a 23
specified person at specified times about the 24
practitioner's practice; or 25
- (vi) a condition requiring the practitioner not to 26
employ, engage or recommend a specified person, 27
or class of persons, 28
- (c) require the practitioner to pay a fine of not more than 29
\$30,000 to the National Board that registers the 30
practitioner; 31
- (d) suspend the practitioner's registration for a specified 32
period; 33
- (e) cancel the practitioner's registration. 34
-

[s 197]

(3)	If the responsible tribunal decides to impose a condition on the practitioner's registration, the tribunal must also decide a review period for the condition.	1 2 3
(4)	If the tribunal decides to cancel a person's registration under this Law or the person does not hold registration under this Law, the tribunal may also decide to—	4 5 6
(a)	disqualify the person from applying for registration as a registered health practitioner for a specified period; or	7 8
(b)	prohibit the person from using a specified title or providing a specified health service.	9 10
197	Decision by responsible tribunal about student	11
(1)	After hearing a matter about a student, a responsible tribunal may decide—	12 13
(a)	the student has an impairment; or	14
(b)	the student has no case to answer and no further action is to be taken in relation to the matter.	15 16
(2)	If the responsible tribunal decides the student has an impairment, the tribunal may decide—	17 18
(a)	impose a condition on the student's registration; or	19
(b)	suspend the student's registration.	20
198	Relationship with Act establishing responsible tribunal	21
	This Division applies despite any provision to the contrary of the Act that establishes the responsible tribunal but does not otherwise limit that Act.	22 23 24
Division 13	Appeals	25
199	Appellable decisions	26
(1)	A person who is the subject of any of the following decisions (an <i>appellable decision</i>) may appeal against the decision to	27 28

-
- the appropriate responsible tribunal for the appellable
decision— 1
2
- (a) a decision by a National Board to refuse to register the
person; 3
4
 - (b) a decision by a National Board to refuse to endorse the
person’s registration; 5
6
 - (c) a decision by a National Board to refuse to renew the
person’s registration; 7
8
 - (d) a decision by a National Board to refuse to renew the
endorsement of the person’s registration; 9
10
 - (e) a decision by a National Board to impose or change a
condition on a person’s registration or the endorsement
of the person’s registration, other than— 11
12
13
 - (i) a condition relating to the person’s qualification for
general registration in the health profession; and 14
15
 - (ii) a condition imposed by section 112(3)(a); 16
 - (f) a decision by a National Board to refuse to change or
remove a condition imposed on the person’s registration
or the endorsement of the person’s registration; 17
18
19
 - (g) a decision by a National Board to refuse to change or
revoke an undertaking given by the person to the Board; 20
21
 - (h) a decision by a National Board to suspend the person’s
registration; 22
23
 - (i) a decision by a panel to impose a condition on the
person’s registration; 24
25
 - (j) a decision by a health panel to suspend the person’s
registration; 26
27
 - (k) a decision by a performance and professional standards
panel to reprimand the person. 28
29
- (2) For the purposes of subsection (1), the appropriate responsible
tribunal for an appellable decision is— 30
31

[s 200]

- (a) for a decision to take health, conduct or performance action in relation to a registered health practitioner or student—
 - (i) the responsible tribunal for the participating jurisdiction in which the behaviour the subject of the decision occurred; or
 - (ii) if the behaviour the subject of the decision occurred in more than one jurisdiction, the responsible tribunal for the participating jurisdiction in which the practitioner’s principal place of practice is located; or
- (b) for another decision in relation to a registered health practitioner, the responsible tribunal for the participating jurisdiction in which the practitioner’s principal place of practice is located; or
- (c) for another decision in relation to a student, the responsible tribunal for the participating jurisdiction in which the student is undertaking the approved program of study or clinical training; or
- (d) for a decision in relation to another person—
 - (i) the responsible tribunal for the participating jurisdiction in which the person lives, or
 - (ii) if the person does not live in a participating jurisdiction, the responsible tribunal for the participating jurisdiction nominated by the National Board that made the appellable decision and specified in the notice given to the person of the appellable decision.

200 Parties to the proceedings 29

The parties to proceedings relating to an appellable decision being heard by a responsible tribunal are— 30
31

- (a) the person who is the subject of the appellable decision; 32
and 33

(b)	the National Board that—	1
(i)	made the appellable decision; or	2
(ii)	established the panel that made the appellable decision.	3
		4
201	Costs	5
	The responsible tribunal may make any order about costs it considers appropriate for the proceedings.	6
		7
202	Decision	8
(1)	After hearing the matter, the responsible tribunal may—	9
(a)	confirm the appellable decision; or	10
(b)	amend the appellable decision; or	11
(c)	substitute another decision for the appellable decision.	12
(2)	In substituting another decision for the appellable decision, the responsible tribunal has the same powers as the entity that made the appellable decision.	13
		14
		15
203	Relationship with Act establishing responsible tribunal	16
	This Division applies despite any provision to the contrary of the Act that establishes the responsible tribunal but does not otherwise limit that Act.	17
		18
		19
Division 14	Miscellaneous	20
204	Notice from adjudication body	21
(1)	If an adjudication body, other than a court, makes a decision in relation to a health practitioner or student registered in a health profession, it must give written notice of the decision to the National Board established for the profession.	22
		23
		24
		25
(2)	The notice must state—	26

[s 205]

(a)	the decision made by the adjudication body; and	1
(b)	the reasons for the decision; and	2
(c)	the date the decision takes effect; and	3
(d)	any action the National Board must take to give effect to the decision.	4 5
205	Implementation of decisions	6
(1)	A National Board must give effect to a decision of an adjudication body unless the decision is stayed on appeal.	7 8
(2)	Without limiting subsection (1), the National Board must, if the notice given to the Board states that a health practitioner's or student's registration is cancelled, remove the practitioner's or student's name from the appropriate register kept by the Board.	9 10 11 12 13
206	National Board to give notice to registered health practitioner's employer	14 15
(1)	This section applies if—	16
(a)	a National Board—	17
(i)	decides to take health, conduct or performance action against a registered health practitioner; or	18 19
(ii)	receives notice from an adjudication body that the adjudication body has decided to take health, conduct or performance action against a registered health practitioner; or	20 21 22 23
(iii)	receives notice from a co-regulatory authority that an adjudication body in the co-regulatory jurisdiction has decided to take health, conduct or performance action against a registered health practitioner; and	24 25 26 27 28
(b)	the National Board has been advised by the registered health practitioner that the practitioner is employed by another entity.	29 30 31

[s 207]

Note. Under section 132, a National Board may ask a registered health practitioner to give the Board information about whether or not the practitioner is employed by another entity and, if so, for the employer's details.

- (2) The National Board must, as soon as practicable after making the decision or receiving the notice, give written notice of the decision to take health, conduct or performance action against the registered health practitioner to the practitioner's employer.

207 Effect of suspension

If a person's registration as a health practitioner or student is suspended under this Law the person is taken during the period of suspension not to be registered under this Law, other than for the purposes of this Part.

Part 9 Finance

208 Australian Health Practitioner Regulation Agency Fund

- (1) The Australian Health Practitioner Regulation Agency Fund is established.
- (2) The Agency Fund is to have a separate account for each National Board.
- (3) The Agency Fund is a fund to be administered by the National Agency.
- (4) The National Agency may establish accounts with any financial institution for money in the Agency Fund.
- (5) The Agency Fund does not form part of the consolidated fund or consolidated account of a participating jurisdiction or the Commonwealth.

[s 209]

209	Payments into Agency Fund	1
(1)	There is payable into the Agency Fund—	2
(a)	all money appropriated by the Parliament of any participating jurisdiction or the Commonwealth for the purposes of the Fund; and	3 4 5
(b)	all fees, costs and expenses paid or recovered under this Law; and	6 7
(c)	all fines paid to, or recovered by, a National Board in accordance with an order of an adjudication body; and	8 9
(d)	the proceeds of the investment of money in the Fund; and	10 11
(e)	all grants, gifts and donations made to the National Agency or a National Board, but subject to any trusts declared in relation to the grants, gifts or donations; and	12 13 14
(f)	all money directed or authorised to be paid into the Fund by or under this Law, any law of a participating jurisdiction or any law of the Commonwealth; and	15 16 17
(g)	any other money or property received by the National Agency or a National Board in connection with the exercise of its functions.	18 19 20
(2)	Any money paid into the Agency Fund under subsection (1) for or on behalf of a National Board must be paid into the Board's account kept within the Agency Fund.	21 22 23
210	Payments out of Agency Fund	24
(1)	Payments may be made from the Agency Fund for the purpose of—	25 26
(a)	paying any costs or expenses, or discharging any liabilities, incurred in the administration or enforcement of this Law; and	27 28 29
(b)	making payments to co-regulatory authorities; and	30

-
- (c) any other payments recommended by the National Board or National Agency and approved by the Ministerial Council. 1
2
3
 - (2) Without limiting subsection (1)(a), a payment may be made from the Agency Fund to a responsible tribunal to meet the expenses of the responsible tribunal in performing functions under this Law. 4
5
6
7
 - (3) A payment under subsection (1) may be made from a National Board's account kept within the Agency Fund only if the payment is in accordance with the Board's budget or otherwise approved by the Board. 8
9
10
11

211 Investment of money in Agency Fund 12

- (1) Subject to this section, the National Agency may invest money in the Agency Fund in the way it considers appropriate. 13
14
15
- (2) The National Agency may invest money in a National Board's account kept within the Agency Fund only if the Agency has consulted the Board about the investment. 16
17
18
- (3) An investment under this section must be— 19
 - (a) in Australian money; and 20
 - (b) undertaken in Australia. 21
- (4) The National Agency must use its best efforts to invest money in the Agency Fund in a way it considers is most appropriate in all the circumstances. 22
23
24
- (5) The National Agency must keep records that show it has invested in the way most appropriate in the circumstances. 25
26
- (6) A security, safe custody acknowledgment or other document evidencing title accepted, guaranteed or issued for an investment arrangement must be held by the National Agency. 27
28
29

[s 212]

212	Financial management duties of National Agency and National Boards	1 2
(1)	The National Agency must—	3
(a)	ensure that its operations are carried out efficiently, effectively and economically; and	4 5
(b)	keep proper books and records in relation to the Agency Fund; and	6 7
(c)	ensure that expenditure is made from the Agency Fund for lawful purposes only and, as far as possible, reasonable value is obtained for moneys expended from the Fund; and	8 9 10 11
(d)	ensure that its procedures, including internal control procedures, afford adequate safeguards with respect to—	12 13 14
(i)	the correctness, regularity and propriety of payments made from the Agency Fund; and	15 16
(ii)	receiving and accounting for payments made to the Agency Fund; and	17 18
(iii)	prevention of fraud or mistake; and	19
(e)	take any action necessary to ensure the preparation of accurate financial statements in accordance with Australian Accounting Standards for inclusion in its annual report; and	20 21 22 23
(f)	take any action necessary to facilitate the audit of those financial statements in accordance with this Law; and	24 25
(g)	arrange for any further audit by a qualified person of the books and records kept by the National Agency in relation to the Agency Fund, if directed to do so by the Ministerial Council.	26 27 28 29
(2)	A National Board must—	30
(a)	ensure that its operations are carried out efficiently, effectively and economically; and	31 32

-
- (b) take any action necessary to ensure that the National Agency is able to comply with this section in relation to the funding of the National Board in exercising its functions. 1
2
3
4

Part 10 Information and privacy 5

Division 1 Privacy 6

213 Application of Commonwealth Privacy Act 7

- (1) The Privacy Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme. 8
9
10
- (2) For the purposes of subsection (1), the Privacy Act applies— 11
 - (a) as if a reference to the Office of the Privacy Commissioner were a reference to the Office of the National Health Practitioners Privacy Commissioner; and 12
13
14
15
 - (b) as if a reference to the Privacy Commissioner were a reference to the National Health Practitioners Privacy Commissioner; and 16
17
18
 - (c) with any other modifications made by the regulations. 19
- (3) Without limiting subsection (2)(c), the regulations may— 20
 - (a) provide that the Privacy Act applies under subsection (1) as if a provision of the Privacy Act specified in the regulations were omitted; or 21
22
23
 - (b) provide that the Privacy Act applies under subsection (1) as if an amendment to the Privacy Act made by a law of the Commonwealth, and specified in the regulations, had not taken effect; or 24
25
26
27

[s 214]

(c) confer jurisdiction on a tribunal or court of a participating jurisdiction. 1
2

(4) In this section— 3

Privacy Act means the *Privacy Act 1988* of the Commonwealth, as in force from time to time. 4
5

Division 2 Disclosure of information and confidentiality 6 7

214 Definition 8

In this Division— 9

protected information means information that comes to a person's knowledge in the course of, or because of, the person exercising functions under this Law. 10
11
12

215 Application of Commonwealth FOI Act 13

(1) The FOI Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme. 14
15
16

(2) The regulations under this Law may modify the FOI Act for the purposes of this Law. 17
18

(3) Without limiting subsection (2), the regulations may— 19

(a) provide that the FOI Act applies under subsection (1) as if a provision of the FOI Act specified in the regulations were omitted; or 20
21
22

(b) provide that the FOI Act applies under subsection (1) as if an amendment to the FOI Act made by a law of the Commonwealth, and specified in the regulations, had not taken effect; or 23
24
25
26

(c) confer jurisdiction on a tribunal or court of a participating jurisdiction. 27
28

(4) In this section— 29

FOI Act means the *Freedom of Information Act 1982* of the Commonwealth, as in force from time to time. 1
2

216 Duty of confidentiality 3

(1) A person who is, or has been, a person exercising functions under this Law must not disclose to another person protected information. 4
5
6

Maximum penalty— 7

(a) in the case of an individual—\$5,000; or 8

(b) in the case of a body corporate—\$10,000. 9

(2) However, subsection (1) does not apply if— 10

(a) the information is disclosed in the exercise of a function under, or for the purposes of, this Law; or 11
12

(b) the disclosure— 13

(i) is to a co-regulatory authority; or 14

(ii) is authorised or required by any law of a participating jurisdiction; or 15
16

(c) the disclosure is otherwise required or permitted by law; or 17
18

(d) the disclosure is with the agreement of the person to whom the information relates; or 19
20

(e) the disclosure is in a form that does not identify the identity of a person; or 21
22

(f) the information relates to proceedings before a responsible tribunal and the proceedings are or were open to the public; or 23
24
25

(g) the information is, or has been, accessible to the public, including because it is or was recorded in a National Register; or 26
27
28

(h) the disclosure is otherwise authorised by the Ministerial Council. 29
30

[s 217]

- 217 Disclosure of information for workforce planning** 1
- (1) The Ministerial Council may, by written notice given to a National Board, ask the Board for information required by the Council for planning the workforce of health practitioners, or a class of practitioners, in Australia or a part of Australia. 2
3
4
5
- (2) If a National Board receives a request under subsection (1), the Board may, by written notice given to health practitioners registered by the Board, ask the practitioners for information relevant to the request. 6
7
8
9
- (3) A registered health practitioner who is asked to provide information under subsection (2) may, but is not required to, provide the information. 10
11
12
- (4) The National Board— 13
- (a) must give information received from a registered health practitioner to the Ministerial Council in a way that does not identify any registered health practitioner; and 14
15
16
- (b) must not use information received under this section that identifies a registered health practitioner for any other purpose. 17
18
19
- (5) The Ministerial Council must publish information it receives under this section in a way that is timely and ensures it is accessible to the public. 20
21
22
- 218 Disclosure of information for information management and communication purposes** 23
24
- (1) A person may disclose protected information to an information management agency if the disclosure is in accordance with an authorisation given by the Ministerial Council under subsection (2). 25
26
27
28
- (2) The Ministerial Council may authorise the disclosure of protected information to an information management agency if the Council is satisfied— 29
30
31
- (a) the protected information will be collected, stored and used by the information management agency in a way 32
33

that ensures the privacy of the persons to whom it relates	1
is protected; and	2
(b) the provision of the protected information to the	3
information management agency is necessary to enable	4
the agency to exercise its functions.	5
(3) An authorisation under subsection (2)—	6
(a) may apply to protected information generally or a class	7
of protected information; and	8
(b) may be subject to conditions.	9
(4) In this section—	10
<i>information management agency</i> means a Commonwealth,	11
State or Territory agency that has functions relating to the	12
identification of health practitioners for information	13
management and communication purposes, including, for	14
example, the National E-health Transition Authority.	15
219 Disclosure of information to other Commonwealth, State	16
and Territory entities	17
(1) A person exercising functions under this Law may disclose	18
protected information to the following entities—	19
(a) the chief executive officer under the <i>Medicare Australia</i>	20
<i>Act 1973</i> of the Commonwealth;	21
(b) an entity performing functions under the <i>Health</i>	22
<i>Insurance Act 1973</i> of the Commonwealth;	23
(c) the Secretary within the meaning of the <i>National Health</i>	24
<i>Act 1953</i> of the Commonwealth;	25
(d) the Secretary to the Department in which the <i>Migration</i>	26
<i>Act 1958</i> of the Commonwealth is administered;	27
(e) another Commonwealth, State or Territory entity having	28
functions relating to professional services provided by	29
health practitioners or the regulation of health	30
practitioners.	31

[s 220]

- (2) However, a person may disclose protected information under subsection (1) only if the person is satisfied— 1
2
- (a) the protected information will be collected, stored and 3
used by the entity to which it is disclosed in a way that 4
ensures the privacy of the persons to whom it relates is 5
protected; and 6
- (b) the provision of the protected information to the entity is 7
necessary to enable the entity to exercise its functions. 8
- 220 Disclosure to protect health or safety of patients or other 9
persons 10**
- (1) This section applies if a National Board reasonably believes 11
that— 12
- (a) a registered health practitioner poses, or may pose, a risk 13
to public health; or 14
- (b) the health or safety of a patient or a class of patients is or 15
may be at risk because of a registered health 16
practitioner’s practice as a health practitioner. 17
- (2) The National Board may give written notice of the risk and 18
any relevant information about the registered health 19
practitioner to an entity of the Commonwealth or of a State or 20
Territory that the Board considers may be required to take 21
action in relation to the risk. 22
- 221 Disclosure to registration authorities 23**
- A person exercising functions under this Law may disclose 24
protected information to a registration authority if the 25
disclosure is necessary for the authority to exercise its 26
functions. 27

Division 3 **Registers in relation to registered health practitioner** 1
2

222 National Registers 3

- (1) Each of the following National Boards must, in conjunction with the National Agency— 4
5
- (a) keep the public national register listed beside that Board in the following Table that is to include the names of all health practitioners, other than specialist health practitioners, currently registered by the Board; and 6
7
8
9
- (b) if Divisions are listed beside the public national register in the Table, keep the register in a way that ensures it includes those Divisions. 10
11
12
- (2) In addition, each National Board must keep a public national register that is to include the names of all health practitioners, other than specialist health practitioners, who were registered by the Board and whose registration has been cancelled by an adjudication body. 13
14
15
16
17

Table— Public national registers 18

Name of Board	Name of public national register	Divisions of public national register
Aboriginal and Torres Strait Islander Health Practice Board of Australia	Register of Aboriginal and Torres Strait Islander Health Practitioners	
Chinese Medicine Board of Australia	Register of Chinese Medicine Practitioners	Acupuncturists, Chinese herbal medicine practitioners, Chinese herbal dispensers
Chiropractic Board of Australia	Register of Chiropractors	

[s 223]

Name of Board	Name of public national register	Divisions of public national register
Dental Board of Australia	Register of Dental Practitioners	Dentists, Dental therapists, Dental hygienists, Dental prosthetists, Oral health therapists
Medical Board of Australia	Register of Medical Practitioners	
Medical Radiation Practice Board of Australia	Register of Medical Radiation Practitioners	Diagnostic radiographers, Nuclear medicine technologists, Radiation therapists
Nursing and Midwifery Board of Australia	Register of Nurses Register of Midwives	Registered nurses (Division 1), Enrolled nurses (Division 2)
Occupational Therapy Board of Australia	Register of Occupational Therapists	
Optometry Board of Australia	Register of Optometrists	
Osteopathy Board of Australia	Register of Osteopaths	
Pharmacy Board of Australia	Register of Pharmacists	
Physiotherapy Board of Australia	Register of Physiotherapists	
Podiatry Board of Australia	Register of Podiatrists	
Psychology Board of Australia	Register of Psychologists	

223 Specialists Registers

The National Board established for a health profession for which specialist recognition operates under this Law must, in conjunction with the National Agency, keep—

1
2
3
4

[s 224]

-
- (a) a public national specialists register that includes the names of all specialist health practitioners currently registered by the Board; and
- (b) a public national register that includes the names of all specialist health practitioners whose registration has been cancelled by an adjudication body.
- 224 Way registers are to be kept**
- Subject to this Division, a register a National Board is required to keep under this Division must be kept—
- (a) in a way that ensures it is up-to-date and accurate; and
- (b) otherwise in the way the National Agency considers appropriate.
- 225 Information to be recorded in National Register**
- A National Register or Specialists Register must include the following information for each registered health practitioner whose name is included in the register—
- (a) the practitioner’s sex;
- (b) the suburb and postcode of the practitioner’s principal place of practice;
- (c) the registration number or code given to the practitioner by the National Board;
- (d) the date on which the practitioner was first registered in the health profession in Australia, whether under this Law or a corresponding prior Act;
- (e) the date on which the practitioner’s registration expires;
- (f) the type of registration held by the practitioner;
- (g) if the register includes divisions, the division in which the practitioner is registered;

[s 226]

- (h) if the practitioner holds specialist registration, the recognised specialty in which the practitioner is registered; 1
2
3
- (i) if the practitioner holds limited registration, the purpose for which the practitioner is registered; 4
5
- (j) if the practitioner has been reprimanded, the fact that the practitioner has been reprimanded; 6
7
- (k) if a condition has been imposed on the practitioner's registration or the National Board has entered into an undertaking with the practitioner— 8
9
10
 - (i) if section 226(1) applies, the fact that a condition has been imposed or an undertaking accepted; or 11
12
 - (ii) otherwise, details of the condition or undertaking; 13
- (l) if the practitioner's registration is suspended, the fact that the practitioner's registration has been suspended and, if the suspension is for a specified period, the period during which the suspension applies; 14
15
16
17
- (m) if the practitioner's registration has been endorsed, details of the endorsement; 18
19
- (n) details of any qualifications relied on by the practitioner to obtain registration or to have the practitioner's registration endorsed; 20
21
22
- (o) if the practitioner has advised the National Board the practitioner fluently speaks a language other than English, details of the other language spoken; 23
24
25
- (p) any other information the National Board considers appropriate. 26
27

226 National Board may decide not to include or to remove certain information in register 28
29

- (1) A National Board may decide that a condition imposed on a registered health practitioner's registration, or the details of an undertaking accepted from a registered health practitioner, 30
31
32

[s 227]

-
- because the practitioner has an impairment is not to be recorded in its National Register or Specialists Register if—
- (a) it is necessary to protect the practitioner’s privacy; and
 - (b) there is no overriding public interest for the condition or the details of the undertaking to be recorded.
- (2) A National Board may decide that information relating to a registered health practitioner is not to be recorded in its National Register or Specialists Register if—
- (a) the practitioner asks the Board not to include the information in the register; and
 - (b) the Board reasonably believes the inclusion of the information in the register would present a serious risk to the health or safety of the practitioner.
- (3) A National Board may decide to remove information that a registered health practitioner has been reprimanded from the National Register or Specialists Register if it considers it is no longer necessary or appropriate for the information to be recorded on the Register.

227 Register about former registered health practitioners

- A register kept by a National Board under section 222(2) or 223(b) must include the following information for each health practitioner whose registration was cancelled by an adjudication body—
- (a) the fact that the practitioner’s registration was cancelled by an adjudication body;
 - (b) the grounds on which the practitioner’s registration was cancelled;
 - (c) if the adjudication body’s hearing of the matter was open to the public, details of the conduct that formed the basis of the cancellation.

[s 228]

228	Inspection of registers	1
(1)	The National Agency—	2
(a)	must keep each register kept by a National Board under this Division open for inspection, free of charge, by members of the public—	3 4 5
(i)	at its national office and each of its local offices during ordinary office hours; and	6 7
(ii)	on the Agency’s website; and	8
(b)	must give a person an extract from the register on payment of the relevant fee; and	9 10
(c)	may give a person a copy of the register on payment of the relevant fee.	11 12
(2)	The National Agency may give a person a copy of the register under subsection (1)(c) only if the Agency is satisfied it would be in the public interest to do so.	13 14 15
(3)	The National Agency may waive, wholly or partly, the payment of a fee by a person under subsection (1)(b) or (c) if the Agency considers it appropriate in the circumstances.	16 17 18

Division 4 **Student registers** 19

229 **Student registers** 20

- | | | |
|-----|---|----------------|
| (1) | Each National Board must, in conjunction with the National Agency, keep a student register that includes the name of all persons currently registered as students by the Board. | 21
22
23 |
| (2) | A student register is not to be open to inspection by the public. | 24 |

230 **Information to be recorded in student register** 25

- | | | |
|-----|--|----------------|
| (1) | Subject to this Division, a student register kept by a National Board must be kept in the way the National Agency considers appropriate. | 26
27
28 |
|-----|--|----------------|

-
- (2) A student register kept by a National Board must include the following information for each student whose name is included in the register—
- (a) the student's name;
 - (b) the student's date of birth;
 - (c) the student's sex;
 - (d) the student's mailing address and any other contact details;
 - (e) the name of the education provider that is providing the approved program of study being undertaken by the student;
 - (f) the date on which the student was first registered, whether under this law or a corresponding prior Act;
 - (g) the date on which the student started the approved program of study;
 - (h) the date on which the student is expected to complete the approved program of study;
 - (i) if the student has completed or otherwise ceased to be enrolled in the approved program of study, the date of the completion or cessation;
 - (j) if a condition has been imposed on the student's registration, details of the condition;
 - (k) if the Board accepts an undertaking from the student, details of the undertaking;
 - (l) any other information the Board considers appropriate.

Division 5 Other records 26

231 Other records to be kept by National Boards 27

A National Board must keep a record of the following information for each health practitioner it registers— 28
29

- (a) information that identifies the practitioner; 30

[s 232]

- (b) the practitioner's contact details; 1
 - (c) information about the practitioner's registration or endorsement; 2
3
 - (d) information about any previous registration of the practitioner, whether in Australia or overseas; 4
5
 - (e) information about any notification made about the practitioner and any investigation and health, conduct or performance action taken as a result of the notification; 6
7
8
 - (f) information about the practitioner's professional indemnity insurance arrangements; 9
10
 - (g) information about checks carried out by the Board about the practitioner's criminal history and identity, including the nature of the check carried out, when it was carried out and the nature of the information provided by the check. 11
12
13
14
15
- 232 Record of adjudication decisions to be kept and made publicly available** 16
17
- (1) A National Board is to keep and publish on its website a record of decisions made by— 18
19
 - (a) panels established by the Board; and 20
 - (b) responsible tribunals that relate to registered health practitioners or students registered by the Board. 21
22
 - (2) The record is to be kept— 23
 - (a) in a way that does not identify persons involved in the matter, unless the decision was made by a responsible tribunal and the hearing was open to the public; and 24
25
26
 - (b) otherwise in the way decided by the National Board. 27

Division 6	Unique identifier	1
233	Unique identifier to be given to each registered health practitioner	2 3
(1)	This section applies if—	4
(a)	a National Board registers a person in the health profession for which the Board is established; and	5 6
(b)	the person has not previously been registered by that Board or any other National Board.	7 8
(2)	The National Board must, at the time of registering the person, give the person an identifying number or code (a <i>unique identifier</i>) that is unique to the person.	9 10 11
(3)	The National Board must keep a record of the unique identifier given to the person.	12 13
(4)	If the person is subsequently registered by the National Board or another Board the person is to continue to be identified by the unique identifier given to the person under subsection (2).	14 15 16
Part 11	Miscellaneous	17
Division 1	Provisions relating to persons exercising functions under Law	18 19
234	General duties of persons exercising functions under this Law	20 21
(1)	A person exercising functions under this Law must, when exercising the functions, act honestly and with integrity.	22 23
(2)	A person exercising functions under this Law must exercise the person's functions under this Law—	24 25
(a)	in good faith; and	26

[s 235]

- (b) in a financially responsible manner; and 1
 - (c) with a reasonable degree of care, diligence and skill. 2
 - (3) A person exercising functions under this Law must not make 3
improper use of the person's position or of information that 4
comes to the person's knowledge in the course of, or because 5
of, the person's exercise of the functions— 6
 - (a) to gain an advantage for himself or herself or another 7
person; or 8
 - (b) to cause a detriment to the development, implementation 9
or operation of the national registration and 10
accreditation scheme. 11
- 235 Application of Commonwealth Ombudsman Act 12**
 - (1) The Ombudsman Act applies as a law of a participating 13
jurisdiction for the purposes of the national registration and 14
accreditation scheme. 15
 - (2) For the purposes of subsection (1), the Ombudsman Act 16
applies— 17
 - (a) as if a reference to the Commonwealth Ombudsman 18
were a reference to the National Health Practitioners 19
Ombudsman; and 20
 - (b) with any other modifications made by the regulations. 21
 - (3) Without limiting subsection (2), the regulations may— 22
 - (a) provide that the Ombudsman Act applies under 23
subsection (1) as if a provision of the Ombudsman Act 24
specified in the regulations were omitted; or 25
 - (b) provide that the Ombudsman Act applies under 26
subsection (1) as if an amendment to the Ombudsman 27
Act made by a law of the Commonwealth, and specified 28
in the regulations, had not taken effect; or 29
 - (c) confer jurisdiction on a tribunal or court of a 30
participating jurisdiction. 31
 - (4) In this section— 32

Ombudsman Act means the *Ombudsman Act 1976* of the Commonwealth, as in force from time to time.

- 236 Protection from personal liability for persons exercising functions**
- (1) A protected person is not personally liable for anything done or omitted to be done in good faith—
- (a) in the exercise of a function under this Law; or
 - (b) in the reasonable belief that the act or omission was the exercise of a function under this Law.
- (2) Any liability resulting from an act or omission that would, but for subsection (1), attach to a protected person attaches instead to the National Agency.
- (3) In this section—
- protected person* means any of the following—
- (a) a member of the Advisory Council;
 - (b) a member of the Agency Management Committee;
 - (c) a member of a National Board or a committee of the National Board;
 - (d) a member of an external accreditation entity;
 - (e) a member of the staff of the National Agency;
 - (f) a consultant or contractor engaged by the National Agency;
 - (g) a person appointed by the National Agency to conduct an examination or assessment for a National Board;
 - (h) a person employed or engaged by an external accreditation entity to assist it with its accreditation function.
- 237 Protection from liability for persons making notification or otherwise providing information**
- (1) This section applies to a person who, in good faith—

[s 238]

- (a) makes a notification under this Law; or 1
- (b) gives information in the course of an investigation or for 2
another purpose under this Law to a person exercising 3
functions under this Law. 4
- (2) The person is not liable, civilly, criminally or under an 5
administrative process, for giving the information. 6
- (3) Without limiting subsection (2)— 7
 - (a) the making of the notification or giving of the 8
information does not constitute a breach of professional 9
etiquette or ethics or a departure from accepted 10
standards of professional conduct; and 11
 - (b) no liability for defamation is incurred by the person 12
because of the making of the notification or giving of 13
the information. 14
- (4) The protection given to the person by this section extends to— 15
 - (a) a person who, in good faith, provided the person with 16
any information on the basis of which the notification 17
was made or the information was given; and 18
 - (b) a person who, in good faith, was otherwise concerned in 19
the making of the notification or giving of the 20
information. 21

Division 2 Inspectors 22

238 Functions and powers of inspectors 23

- (1) An inspector has the function of conducting investigations to 24
enforce compliance with this Law. 25
- (2) Schedule 6 sets out provisions relating to the powers of an 26
inspector. 27

-
- 239 Appointment of inspectors** 1
- (1) A National Board may appoint the following persons as inspectors— 2
3
- (a) members of the National Agency’s staff; 4
- (b) contractors engaged by the National Agency. 5
- (2) An inspector holds office on the conditions stated in the instrument of appointment. 6
7
- (3) If an inspector’s appointment provides for a term of appointment, the inspector ceases holding office at the end of the term. 8
9
10
- (4) An inspector may resign by signed notice of resignation given to the National Board that appointed the inspector. 11
12
- 240 Identity card** 13
- (1) A National Board must give an identity card to each inspector it appoints. 14
15
- (2) The identity card must— 16
- (a) contain a recent photograph of the inspector; and 17
- (b) be signed by the inspector; and 18
- (c) identify the person as an inspector appointed by the National Board; and 19
20
- (d) include an expiry date. 21
- (3) This section does not prevent the issue of a single identity card to a person— 22
23
- (a) if the person is appointed as an inspector for this Law by more than one National Board; or 24
25
- (b) if the person is appointed as an inspector and investigator for this Law by a National Board; or 26
27
- (c) for this Law and other Acts. 28
- (4) A person who ceases to be an inspector must give the person’s identity card to the National Board that appointed the person 29
30

[s 241]

	within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.	1 2
241	Display of identity card	3
(1)	An inspector may exercise a power in relation to someone else (the <i>other person</i>) only if the inspector—	4 5
(a)	first produces the inspector’s identity card for the other person’s inspection; or	6 7
(b)	has the identity card displayed so it is clearly visible to the other person.	8 9
(2)	However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person’s inspection at the first reasonable opportunity.	10 11 12 13
Division 3	Legal proceedings	14
242	Proceedings for offences	15
	A proceeding for an offence against this Law is to be by way of a summary proceeding before a court of summary jurisdiction.	16 17 18
243	Conduct may constitute offence and be subject of disciplinary proceedings	19 20
(1)	If a person’s behaviour constitutes an offence against this Law or another Act and constitutes professional misconduct, unsatisfactory professional performance or unprofessional conduct under this Law—	21 22 23 24
(a)	the fact that proceedings for an offence have been taken in relation to the behaviour does not prevent proceedings being taken before an adjudication body under this Law for the same behaviour; and	25 26 27 28

-
- (b) the fact that proceedings have been taken before an adjudication body under this Law in relation to the conduct does not prevent proceedings for an offence being taken for the same behaviour. 1
2
3
4
- (2) If a person's behaviour may be dealt with by a health complaints entity under the law of a participating jurisdiction and constitutes professional misconduct, unsatisfactory professional performance or unprofessional conduct under this Law— 5
6
7
8
9
- (a) the fact that the behaviour has been dealt with by the health complaints entity does not prevent proceedings being taken before an adjudication body under this Law for the same behaviour; and 10
11
12
13
- (b) the fact that proceedings have been taken before an adjudication body under this Law in relation to the behaviour does not prevent action being taken by the health complaints entity under the law of the participating jurisdiction for the same behaviour. 14
15
16
17
18

244 Evidentiary certificates

- A certificate purporting to be signed by the chief executive officer of the National Agency and stating any of the following matters is prima facie evidence of the matter— 19
20
21
22
- (a) a stated document is one of the following things made, given, issued or kept under this Law— 23
24
- (i) an appointment, approval or decision; 25
- (ii) a notice, direction or requirement; 26
- (iii) a certificate of registration; 27
- (iv) a register, or an extract from a register; 28
- (v) a record, or an extract from a record; 29
- (b) a stated document is another document kept under this Law; 30
31
- (c) a stated document is a copy of a document mentioned in paragraph (a) or (b); 32
33

[s 245]

- (d) on a stated day, or during a stated period, a stated person was or was not a registered health practitioner or a student; 1
2
3
- (e) on a stated day, or during a stated period, a registration or endorsement was or was not subject to a stated condition; 4
5
6
- (f) on a stated day, a registration was suspended or cancelled; 7
8
- (g) on a stated day, or during a stated period, an appointment as an investigator or inspector was, or was not, in force for a stated person; 9
10
11
- (h) on a stated day, a stated person was given a stated notice or direction under this Law; 12
13
- (i) on a stated day, a stated requirement was made of a stated person. 14
15

Division 4 Regulations 16

245 National regulations 17

- (1) The Ministerial Council may make regulations for the purposes of this Law. 18
19
- (2) The regulations may provide for any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Law. 20
21
22
- (3) The regulations are to be published by the Victorian Government Printer in accordance with the arrangements for the publication of the making of regulations in Victoria. 23
24
25
- (4) A regulation commences on the day or days specified in the regulation for its commencement (being not earlier than the date it is published). 26
27
28
- (5) In this section— 29

Victorian Government Printer means the person appointed to be the Government Printer for Victoria under section 72 of the *Constitution Act 1975* of Victoria.

- 246 Parliamentary scrutiny of national regulations**
- (1) A regulation made under this Law may be disallowed in a participating jurisdiction by a House of the Parliament of that jurisdiction—
- (a) in the same way that a regulation made under an Act of that jurisdiction may be disallowed; and
- (b) as if the regulation had been tabled in the House on the first sitting day after the regulation was published by the Victorian Government Printer.
- (2) A regulation disallowed under subsection (1) does not cease to have effect in the participating jurisdiction, or any other participating jurisdiction, unless the regulation is disallowed in a majority of the participating jurisdictions.
- (3) If a regulation is disallowed in a majority of the participating jurisdictions, it ceases to have effect in all participating jurisdictions on the date of its disallowance in the last of the jurisdictions forming the majority.
- (4) In this section—
regulation includes a provision of a regulation.
- 247 Effect of disallowance of national regulation**
- (1) The disallowance of a regulation in a majority of jurisdictions has the same effect as a repeal of the regulation.
- (2) If a regulation ceases to have effect under section 246 any law or provision of a law repealed or amended by the regulation is revived as if the disallowed regulation had not been made.
- (3) The restoration or revival of a law under subsection (2) takes effect at the beginning of the day on which the disallowed regulation by which it was amended or repealed ceases to have effect.

[s 248]

(4)	In this section—	1
	<i>regulation</i> includes a provision of a regulation.	2
Division 5	Miscellaneous	3
248	Combined notice may be given	4
	If an entity is required under this Law to give another entity (the <i>recipient</i>) notices under more than one provision, the entity may give the recipient a combined notice for the provisions.	5 6 7 8
249	Fees	9
	The National Agency may, in accordance with a health profession agreement entered into with a National Board—	10 11
	(a) refund a relevant fee paid into the Board’s account kept in the Agency Fund; or	12 13
	(b) waive, in whole or in part, a relevant fee payable for a service provided by the Board; or	14 15
	(c) require a person who pays a relevant fee late to pay an additional fee.	16 17
Part 12	Transitional provisions	18
Division 1	Preliminary	19
250	Definitions	20
	In this Part—	21
	<i>commencement day</i> means 1 July 2010.	22

-
- local registration authority*** means an entity that had functions under a law of a participating jurisdiction that included the registration of persons as health practitioners.
- participation day***, for a participating jurisdiction, means—
- (a) for a health profession other than a relevant health profession—
 - (i) 1 July 2010; or
 - (ii) the later day on which the jurisdiction became a participating jurisdiction; or
 - (b) for a relevant health profession, 1 July 2012.
- relevant health profession*** means—
- (a) Aboriginal and Torres Strait Islander health practice; or
 - (b) Chinese medicine; or
 - (c) medical radiation practice; or
 - (d) occupational therapy.
- repealed Law*** means the Health Practitioner Regulation (Administrative Arrangements) National Law set out in the Schedule to the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* of Queensland.

- 251 References to registered health practitioners**
- (1) A reference in an Act of a participating jurisdiction, or another instrument, to the Health Practitioner Regulation (Administrative Arrangements) National Law may, if the context permits, be taken to be a reference to this Law.
 - (2) A reference in an Act of a participating jurisdiction, or another instrument, to a health practitioner registered in a health profession under a corresponding prior Act may, if the context permits, be taken after the participation day to be a reference to a health practitioner registered in the health profession under this Law.

[s 252]

Division 2	Ministerial Council	1
252	Directions given by Ministerial council	2
	A direction given by the Ministerial Council to the National Agency or a National Board under the repealed Law, and in force immediately before the commencement day, is taken from the commencement day to be a direction given by the Ministerial Council under this Law.	3 4 5 6 7
253	Accreditation functions exercised by existing accreditation entities	8 9
(1)	This section applies to an entity that, immediately before the commencement day, was an entity appointed by the Ministerial Council under the repealed Law to exercise functions with respect to accreditation for a health profession under the national registration and accreditation scheme.	10 11 12 13 14
(2)	From the commencement day, the entity is taken to have been appointed under this Law to exercise the functions for the health profession.	15 16 17
(3)	An accreditation standard approved by the entity for a health profession, and in force immediately before the commencement day, is taken to be an approved accreditation standard for the health profession under this Law.	18 19 20 21
(4)	The National Board established for the health profession must, not later than 3 years after the commencement day, review the arrangements for the exercise of accreditation functions for the health profession.	22 23 24 25
(5)	The National Board must ensure the process for the review includes wide-ranging consultation about the arrangements for the exercise of the accreditation functions.	26 27 28
(6)	If an entity is taken under subsection (2) to have been appointed to exercise an accreditation function for a health profession, the National Board established for the profession must not, before the day that is 3 years after the commencement day, end that entity's appointment.	29 30 31 32 33

254	Health profession standards approved by Ministerial Council	1 2
	A health profession standard approved by the Ministerial Council under the repealed Law is taken from the commencement day to be an approved registration standard under this Law.	3 4 5 6
255	Accreditation standards approved by National Board	7
	An accreditation standard approved by a National Board under the repealed Law is taken from the commencement day to be an approved accreditation standard under this Law.	8 9 10
Division 3	Advisory Council	11
256	Members of Advisory Council	12
(1)	A person who was, immediately before the commencement day, a member of the Australian Health Workforce Advisory Council under the repealed Law is taken to be a member of the Advisory Council under this Law.	13 14 15 16
(2)	Without limiting subsection (1), a member of the Advisory Council continues to hold office—	17 18
(a)	on the same terms and conditions that applied to the member’s appointment under the repealed Law; and	19 20
(b)	until the day the member’s term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.	21 22 23
(3)	The person who, immediately before the commencement day, held office as Chairperson of the Australian Health Workforce Advisory Council under the repealed Law continues to hold office as Chairperson of the Advisory Council under this Law.	24 25 26 27

[s 257]

Division 4	National Agency	1
257	Health profession agreements	2
	From the commencement day, a health profession agreement entered into by the Australian Health Practitioner Regulation Agency and in force immediately before the commencement day is taken to be a health profession agreement entered into by the National Agency under this Law.	3 4 5 6 7
258	Service agreement	8
(1)	This section applies if, immediately before the participation day for a participating jurisdiction—	9 10
(a)	a local registration authority in that jurisdiction exercised functions in relation to related health professionals; or	11 12 13
(b)	a local registration authority in that jurisdiction was a party to a service agreement for an entity to provide administrative or operational support to the authority and the entity also provided support under a service agreement to an authority that registers related health professionals.	14 15 16 17 18 19
(2)	From the participation day for the participating jurisdiction, the National Agency may enter into an agreement with the authority that is responsible for registering the related health professionals to provide services to the authority.	20 21 22 23
(3)	In this section—	24
	<i>related health professionals</i> means persons who practise a profession providing health services that is not a health profession under this Law.	25 26 27

Division 5	Agency Management Committee	1
259	Members of Agency Management Committee	2
(1)	A person who was, immediately before the commencement day, a member of the Australian Health Practitioner Regulation Agency Management Committee under the repealed Law is taken to be a member of the Agency Management Committee appointed under this Law.	3 4 5 6 7
(2)	Without limiting subsection (1), a member of the Agency Management Committee continues to hold office—	8 9
(a)	on the same terms and conditions that applied to the person’s appointment under the repealed Law; and	10 11
(b)	until the day the member’s term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.	12 13 14
(3)	The person who, immediately before the commencement day, held office as Chairperson of the Australian Health Practitioner Regulation Agency Management Committee under the repealed Law continues to hold office as Chairperson of the Agency Management Committee under this Law.	15 16 17 18 19 20
Division 6	Staff, consultants and contractors of National Agency	21 22
260	Chief executive officer	23
	The person who, immediately before the commencement day, held office as chief executive officer of the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been appointed as the chief executive officer of the National Agency under this Law on the same terms and conditions that applied to the person’s appointment under the repealed Law.	24 25 26 27 28 29 30

[s 261]

261	Staff	1
(1)	A person who, immediately before the commencement day, was employed by the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been employed by the National Agency under this Law.	2 3 4 5 6
(2)	A secondment arrangement in force immediately before the commencement day is taken, from the commencement day, to have been made by the National Agency under this Law.	7 8 9
(3)	In this section—	10
	<i>secondment arrangement</i> means an arrangement made under the repealed Law by the Australian Health Practitioner Regulation Agency for the services of any staff of a government agency of a participating jurisdiction or the Commonwealth.	11 12 13 14 15
262	Consultants and contractors	16
	A person who, immediately before the commencement day, was a consultant or contractor engaged by the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been engaged by the National Agency under this Law.	17 18 19 20 21
Division 7	Reports	22
263	Annual report	23
	Sections 35 and 36 of the repealed Law continue to apply to the preparation and submission of the first annual report of the Australian Health Practitioner Regulation Agency as if this Law had not commenced.	24 25 26 27

Division 8	National Boards	1
264	Members of National Boards	2
(1)	A person who was, immediately before the commencement day, a member of a National Health Practitioner Board under the repealed Law is taken to be a member of the National Board of the same name under this Law.	3 4 5 6
(2)	Without limiting subsection (1), a member of a National Board holds office—	7 8
(a)	on the same terms and conditions that applied to the person’s appointment under the repealed Law; and	9 10
(b)	until the day the member’s term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.	11 12 13
(3)	A person who, immediately before the commencement day, held office as Chairperson of a National Health Practitioner Board is taken, from the commencement day, to hold office as Chairperson of the National Board of the same name.	14 15 16 17
265	Committees	18
(1)	From the commencement day, a committee established by a National Health Practitioner Board under the repealed Law and in existence immediately before the commencement day is taken to be a committee established under this Law by the National Board of the same name.	19 20 21 22 23
(2)	A person who, immediately before the commencement day, held office as a member of a committee established by a National Health Practitioner Board under the repealed Law is taken, from the commencement day, to hold office as a member of the committee as continued in existence under subsection (1).	24 25 26 27 28 29
266	Delegation	30
(1)	This section applies if, under the repealed Law—	31

[s 267]

- (a) a National Health Practitioner Board had delegated any of its functions to a committee or the Australian Health Practitioner Regulation Agency and the delegation was in force immediately before the commencement day; or
- (b) the Australian Health Practitioner Regulation Agency had subdelegated a function delegated to it by a National Health Practitioner Board to a member of the Agency's staff and the subdelegation was in force immediately before the commencement day.
- (2) From the commencement day, the delegation or subdelegation continues as if it were a delegation or subdelegation under this Law.

Division 9 Agency Fund 13

267 Agency Fund 14

From the commencement day, the Australian Health Practitioner Regulation Agency Fund established by the repealed Law is taken to be the Agency Fund established by this Law. 15
16
17
18

Division 10 Offences 19

268 Offences 20

Proceedings for an offence against the repealed Law may be started or continued as if this Law had not commenced. 21
22

Division 11 Registration 23

269 General registration 24

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held general 25
26

-
- registration (however described) in a health profession under the law of that jurisdiction. 1
2
- (2) From the participation day, the person is taken to hold general registration under this Law in the health profession. 3
4
- (3) In this section— 5
- general registration* includes— 6
- (a) full registration, unconditional registration and registration without conditions; and 7
8
- (b) enrolment, unconditional enrolment and enrolment without conditions. 9
10

270 Specialist registration 11

- (1) This section applies if— 12
- (a) immediately before the participation day for a participating jurisdiction, a person was a specialist health practitioner in a specialty in a health profession under the law of that jurisdiction; and 13
14
15
16
- (b) from the participation day— 17
- (i) the specialty is a recognised specialty in the health profession under this Law; or 18
19
- (ii) a recognised specialty in the health profession under this Law includes, or is equivalent to, the specialty. 20
21
22
- (2) From the participation day, the person is taken to hold specialist registration in the recognised specialty in the health profession under this Law. 23
24
25
- (3) In this section— 26
- corresponding purpose* means a purpose that is equivalent to, or substantially equivalent to, a purpose for which limited registration may be granted under this Law. 27
28
29
- specialist health practitioner*, in a specialty in a health profession, means a person who held specialist registration in, or was endorsed or otherwise authorised to practise, the 30
31
32

[s 271]

specialty in the health profession but does not include a 1
person who held registration to practise the profession only 2
for a corresponding purpose. 3

271 Provisional registration 4

- (1) This section applies to a person who, immediately before the 5
participation day for a participating jurisdiction, held 6
registration (however described) under a law of that 7
jurisdiction to enable the person to complete a period of 8
supervised practice or internship in a health profession 9
required for the person to be eligible for general registration 10
(however described) in the profession. 11
- (2) From the participation day, the person is taken to hold 12
provisional registration in the health profession under this 13
Law. 14

272 Limited registration 15

- (1) This section applies to a person who, immediately before the 16
participation day for a participating jurisdiction, held a type of 17
registration (however described) in a health profession under 18
the law of that jurisdiction that was granted for the practice of 19
the health profession only for a corresponding purpose. 20
- (2) From the participation day, the person is taken to hold limited 21
registration in the health profession for that purpose under this 22
Law. 23
- (3) In this section— 24
corresponding purpose means a purpose that is equivalent to, 25
or substantially equivalent to, a purpose for which limited 26
registration may be granted under this Law. 27

273 Limited registration (public interest-occasional practice) 28

- (1) This section applies to a person who, immediately before the 29
participation day for a participating jurisdiction, held a type of 30

registration (however described) in a health profession under the law of that jurisdiction that was granted—	1 2
(a) subject to the following conditions limiting the scope of the person’s practise of the profession—	3 4
(i) the person must not practise the profession other than—	5 6
(A) to refer a person to another registered health practitioner; or	7 8
(B) to prescribe scheduled medicines in specified circumstances; and	9 10
(ii) the person must not receive a fee or other benefit for providing a service referred to in subparagraph (i); or	11 12 13
(b) on the basis the person had indicated the person was retired from regular practise and intended only to practise on an occasional basis.	14 15 16
(2) From the participation day, the person is taken to hold limited registration in the public interest under this Law for the limited scope that applied to the person’s practise of the health profession immediately before the participation day.	17 18 19 20
274 Non-practising registration	21
(1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held a type of registration (however described) in a health profession under the law of that jurisdiction that was granted subject to the condition that the person must not practise the profession.	22 23 24 25 26
(2) From the participation day, the person is taken to hold non-practising registration in the health profession under this Law.	27 28 29
275 Registration for existing registered students	30
(1) This section applies if, immediately before the participation day for a participating jurisdiction, a person held registration	31 32

[s 276]

as a student in a health profession under the law of that jurisdiction. 1
2

- (2) From the participation day, the person is taken to hold student registration in the health profession under this Law. 3
4

276 Registration for new students 5

- (1) This section applies in relation to a person who, immediately before the participation day for a participating jurisdiction— 6
7
- (a) was a student undertaking a program of study, provided by an education provider located in the jurisdiction, that from the participation day is an approved program of study for a health profession; and 8
9
10
11
- (b) was not required under the law of that jurisdiction to be registered as a student in the health profession to undertake the program of study or any part of the program, including any clinical training or other practice of the profession related to undertaking the program. 12
13
14
15
16
17
- (2) Despite Division 7 of Part 7, the National Board established for the health profession is not required before 1 March 2011 to register the student in the profession. 18
19
20

277 Other registrations 21

- (1) This section applies if— 22
- (a) immediately before the participation day for a participating jurisdiction, a class of persons held a type of registration in, or was endorsed or otherwise authorised to practise, a health profession under the law of that jurisdiction; and 23
24
25
26
27
- (b) from the participation day, persons in that class are not registered, endorsed or otherwise authorised to practise the profession by another provision of this Division. 28
29
30
- (2) From the participation day, persons in that class are taken to hold the type of registration in the health profession that is 31
32

-
- specified for the class of persons in the registration transition plan prepared under subsection (3) by the National Board established for that profession. 1
2
3
- (3) Before the participation day, each National Board must prepare a registration transition plan that includes details of the type of registration that is to be held under this Law by a class of persons referred to in subsection (1). 4
5
6
7
- (4) In preparing a registration transition plan, a National Board must— 8
9
- (a) comply with any directions given by the Ministerial Council that are relevant to the transitional arrangements for the registration of the class of persons; and 10
11
12
13
- (b) have regard to the principle that persons in the class are to be given the widest possible scope of practice of the profession that is consistent with— 14
15
16
- (i) the authority the class of persons had to practise the profession before the participation day; and 17
18
- (ii) the protection of the safety of the public. 19
- 278 Endorsements** 20
- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction— 21
22
- (a) held a type of registration in that jurisdiction in a health profession for a corresponding purpose; or 23
24
- (b) held general registration in that jurisdiction in a health profession that had been endorsed for a corresponding purpose. 25
26
27
- (2) From the participation day, the person is taken to hold general registration in the health profession that has been endorsed under this Law for the purpose that is equivalent to, or substantially equivalent to, the corresponding purpose. 28
29
30
31
- (3) In this section— 32

[s 279]

corresponding purpose means a purpose that is equivalent to, 1
or substantially equivalent to, a purpose for which an 2
endorsement may be granted under this Law. 3

279 Conditions imposed on registration or endorsement 4

- (1) This section applies if— 5
- (a) a person is taken to be registered under this Law, or the 6
person’s registration under this Law is taken to be 7
endorsed, because of the person’s registration or 8
endorsement under the law of a participating jurisdiction 9
before the participation day for the jurisdiction; and 10
 - (b) the person’s registration or endorsement under the law 11
of that jurisdiction was, immediately before the 12
participation day, subject to a condition— 13
 - (i) whether described as a condition, restriction or 14
otherwise; and 15
 - (ii) whether imposed by or under an Act of that 16
jurisdiction. 17
- (2) From the participation day, the person’s registration or 18
endorsement under this Law is taken to be subject to the same 19
condition. 20

280 Expiry of registration and endorsement 21

- (1) This section applies if, under this Division, a person is taken 22
to be registered under this Law because of the person’s 23
registration or endorsement under the law of a participating 24
jurisdiction. 25
- (2) The person’s registration, and any endorsement of the 26
registration, expires on— 27
- (a) if the person was registered in more than one 28
participating jurisdiction, the end of the latest day on 29
which under the law of a participating jurisdiction— 30
 - (i) any of the registrations would have expired; or 31

-
- (ii) an annual registration fee for any of the registrations would have become payable; or
 - (b) otherwise, at the end of the day on which under the law of the participating jurisdiction—
 - (i) the registration would have expired; or
 - (ii) an annual registration fee for the registration would have become payable.
 - (3) Subsection (2) does not prevent a National Board suspending or cancelling the person’s registration under this Law.

281 Protected titles for certain specialist health practitioners

- (1) This section applies if—
 - (a) immediately before the participation day for a participating jurisdiction, a person held specialist registration in a health profession in that jurisdiction; and
 - (b) on the participation day the health profession is not a profession for which specialist recognition operates under this Law.
- (2) Despite section 118, the person does not commit an offence during the transition period merely because the person takes or uses—
 - (a) the title “specialist health practitioner”; or
 - (b) another title the person was entitled to use under the law of the participating jurisdiction as in force immediately before the participation day.
- (3) In this section—

transition period means the period—

 - (a) starting at the beginning of the commencement day; and
 - (b) ending at the end of the day that is 3 years after the commencement day.

[s 282]

282	First renewal of registration or endorsement	1
(1)	This section applies if—	2
(a)	a health practitioner’s registration or endorsement expires under section 280; and	3 4
(b)	the National Board decides to renew the health practitioner’s registration or endorsement under section 112.	5 6 7
(2)	Despite section 112(6), the National Board may decide that the period for which the registration or endorsement is renewed is a period of not more than 2 years.	8 9 10
283	Programs of study	11
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, a program of study provided a qualification for registration in a health profession in that jurisdiction.	12 13 14 15
(2)	From the participation day, the program of study is taken to be an approved program of study for that health profession as if it had been approved under this Law.	16 17 18
(3)	The National Agency must, as soon as practicable after the participation day, include an approved program of study under subsection (2) in the list published under section 49(5).	19 20 21
284	Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery	22 23 24
(1)	During the transition period, a midwife does not contravene section 129(1) merely because the midwife practises private midwifery if—	25 26 27
(a)	the practise occurs in a participating jurisdiction in which, immediately before the participation day for that jurisdiction, a person was not prohibited from attending homebirths in the course of practising midwifery unless professional indemnity insurance arrangements were in place; and	28 29 30 31 32 33

-
- (b) informed consent has been given by the woman in relation to whom the midwife is practising private midwifery; and
- (c) the midwife complies with any requirements set out in a code or guideline approved by the National Board under section 39 about the practise of private midwifery, including—
- (i) any requirement in a code or guideline about reports to be provided by midwives practising private midwifery; and
 - (ii) any requirement in a code or guideline relating to the safety and quality of the practise of private midwifery.
- (2) A midwife who practises private midwifery under this section is not required to include in an annual statement under section 109 a declaration required by subsection (1)(a)(iv) and (v) of that section in relation to the midwife’s practise of private midwifery during a period of registration that is within the transition period.
- (3) For the purposes of this section, the transition period—
- (a) starts on 1 July 2010; and
 - (b) ends on the prescribed day.
- (4) If the National Board decides appropriate professional indemnity arrangements are available in relation to the practice of private midwifery, the Board may recommend to the Ministerial Council that the transition period, and the exemption provided by this section during the transition period, should end.
- (5) In this section—
- homebirth** means a birth in which the mother gives birth at her own home or another person’s home.
- informed consent** means written consent given by a woman after she has been given a written statement by a midwife that includes—

[s 285]

- (a) a statement that appropriate professional indemnity insurance arrangements will not be in force in relation to the midwife's practise of private midwifery; and
- (b) any other information required by the National Board.
- midwife* means a person whose name is included in the Register of Midwives kept by the National Board.
- National Board* means the Nursing and Midwifery Board of Australia.
- private midwifery* means practising the nursing and midwifery profession—
- (a) in the course of attending a homebirth; and
- (b) without appropriate professional indemnity insurance arrangements being in force in relation to that practise; and
- (c) other than as an employee of an entity.
- transition period* means the period referred to in subsection (3).

Division 12 Applications for registration and endorsement

- ### **285 Applications for registration**
- (1) This section applies if, immediately before the participation day for a participating jurisdiction, an application for registration or renewal of registration in a health profession had been made to a local registration authority for the jurisdiction but not decided.
- (2) From the participation day, the application is taken to have been made under this Law to the National Board for the health profession.

286	Applications for endorsement	1
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, an application for endorsement or renewal of an endorsement of a registration in a health profession had been made to a local registration authority for the jurisdiction but not decided.	2 3 4 5 6
(2)	From the participation day, the application is taken to have been made under this Law to the National Board for the health profession.	7 8 9
287	Disqualifications and conditions relevant to applications for registration	10 11
(1)	This section applies if—	12
(a)	under a corresponding prior Act or another law of a participating jurisdiction, a person’s registration in a health profession had been cancelled in that jurisdiction by an entity; and	13 14 15 16
(b)	in cancelling the person’s registration the entity also made any of the following decisions—	17 18
(i)	a decision to set a period during which the person was disqualified from applying for registration, or being registered, in a health profession in the participating jurisdiction;	19 20 21 22
(ii)	a decision to set conditions under which the person might reapply for registration in the profession;	23 24
(iii)	a decision to set conditions that must be imposed on any future registration of the person in the profession; and	25 26 27
(c)	immediately before the participation day, the decision was still in force.	28 29
(2)	From the participation day, the decision continues as if it had been made under this Law by the responsible tribunal for the participating jurisdiction.	30 31 32

[s 288]

Division 13	Complaints, notifications and disciplinary proceedings	1 2
288	Complaints and notifications made but not being dealt with on participation day	3 4
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, a local registration authority for the jurisdiction had received but not started dealing with a complaint or notification about a person registered in a health profession by the authority.	5 6 7 8 9
(2)	From the participation day, the complaint or notification is taken to be a notification made under this Law to the National Agency.	10 11 12
(3)	This section does not apply to a co-regulatory jurisdiction.	13
289	Complaints and notifications being dealt with on participation day	14 15
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, a local registration authority for the jurisdiction had started but not completed dealing with a complaint or notification about a person registered in a health profession by the authority.	16 17 18 19 20
(2)	From the participation day—	21
(a)	the complaint or notification is taken to be a notification made under this Law and is to be dealt with by the National Board for the health profession; and	22 23 24
(b)	the notification is to continue to be dealt with under the Act of the participating jurisdiction under which it was made, and any proceedings or appeal relating to the notification may be dealt with, as if that Act had not been repealed.	25 26 27 28 29
(3)	For the purposes of this section, the Act of the participating jurisdiction applies—	30 31

(a)	as if a reference to the local registration authority were a reference to the National Board; and	1 2
(b)	with any other changes that are necessary or convenient.	3
(4)	The National Board must give effect to a decision made on an inquiry, investigation, proceeding or appeal completed under the Act of the participating jurisdiction as if it were a decision under this Law.	4 5 6 7
(5)	This section does not apply to a co-regulatory jurisdiction.	8
290	Effect of suspension	9
(1)	This section applies if—	10
(a)	because of another provision of this Part, a person is taken to be registered under this Law; and	11 12
(b)	immediately before the participation day for the participating jurisdiction in which the person was registered under a corresponding prior Act, the person’s registration was suspended under a law of that jurisdiction.	13 14 15 16 17
(2)	From the participation day, the person’s registration is taken to have been suspended under this Law.	18 19
291	Undertakings and other agreements	20
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, an undertaking or other agreement between a person registered under a corresponding prior Act and the local registration authority for a health profession was in force.	21 22 23 24 25
(2)	From the participation day, the undertaking or other agreement is taken to have been entered into under this Law between the person and the National Board established for the health profession.	26 27 28 29

[s 292]

292	Orders	1
(1)	This section applies if—	2
(a)	under a corresponding prior Act of a participating jurisdiction, an adjudication body had, at the end of a proceeding before the adjudication body about a health practitioner’s practice or conduct, ordered the health practitioner to do, or refrain from doing, something; and	3 4 5 6 7
(b)	immediately before the participation day, the order was still in force.	8 9
(2)	From the participation day, the order continues in force as if it had been made under this Law.	10 11
(3)	In this section—	12
	<i>adjudication body</i> means a court, tribunal, panel or local registration authority.	13 14
293	List of approved persons	15
(1)	This section applies if, immediately before the participation day for a participating jurisdiction, a person was appointed as a member of a list of persons approved to be appointed as members of a body that exercised functions that correspond to a panel for a health profession.	16 17 18 19 20
(2)	From the participation day, the person is taken to have been appointed by the National Board established for the health profession to the list kept by that Board under section 183.	21 22 23
Division 14	Local registration authority	24
294	Definition	25
	In this Division—	26
	<i>transfer day</i> , for a participating jurisdiction, means—	27
(a)	for a health profession other than a relevant health profession—	28 29

-
- (i) 1 July 2010; or 1
- (ii) the later day on which the jurisdiction became a participating jurisdiction; or 2
3
- (b) for a relevant health profession, 1 July 2012. 4
- 295 Assets and liabilities** 5
- (1) From the transfer day for a participating jurisdiction— 6
- (a) the assets and liabilities of a local registration authority 7
for a health profession in a participating jurisdiction are 8
taken to be assets and liabilities of the National Agency 9
and are to be paid into or out of the account kept in the 10
Agency Fund for the National Board established for the 11
profession; and 12
- (b) any contract, other than an employment contract, 13
entered into by or on behalf of the local registration 14
authority and all guarantees, undertakings and securities 15
given by or on behalf of the authority, in force 16
immediately before the participation day, are taken to 17
have been entered into or given by or to the National 18
Agency and may be enforced against or by the Agency; 19
and 20
- (c) any property that, immediately before the participation 21
day, was held on trust, or subject to a condition, by the 22
local registration authority continues to be held by the 23
National Agency on the same trust, or subject to the 24
same condition and is to be paid into the account kept in 25
the Agency Fund for the National Board. 26
- (2) In this section— 27
- employment contract* means either of the following under 28
which a person is employed— 29
- (a) a contract of employment; 30
- (b) a contract for services. 31

[s 296]

296	Records relating to registration and accreditation	1
(1)	This section applies to a record of a local registration authority for a health profession in a participating jurisdiction that relates to the authority's functions in relation to the following—	2 3 4 5
(a)	the registration of individuals;	6
(b)	complaints and notifications about, and proceedings against, individuals who are or were registered;	7 8
(c)	accreditation of courses that qualify individuals for registration.	9 10
(2)	From the transfer day for the participating jurisdiction, the record is taken to be a record of the National Board for the health profession.	11 12 13
297	Financial and administrative records	14
(1)	This section applies to a record of a local registration authority in a participating jurisdiction that relates to the authority's financial or administrative functions.	15 16 17
(2)	From the transfer day for the participating jurisdiction, the record is taken to be a record of the National Agency.	18 19
298	Pharmacy businesses and premises	20
	Sections 295 to 297 do not apply to an asset, liability, contract, property or record of a local registration authority that relates to the regulation of a pharmacy business, pharmacy premises, a pharmacy department or any other pharmacy-related entity that is not an individual.	21 22 23 24 25
299	Members of local registration authority	26
(1)	This section applies if, in anticipation of a jurisdiction becoming a participating jurisdiction, a National Board established for a health profession establishes a State or Territory Board for the jurisdiction.	27 28 29 30

-
- (2) A person who, immediately before the State or Territory Board was established, was a member of the local registration authority for the profession in the participating jurisdiction is taken to be a member of the State or Territory Board. 1
2
3
4
- (3) Section 36(5) and (6) do not apply to the membership of a State or Territory Board for a jurisdiction for 12 months after the jurisdiction becomes a participating jurisdiction. 5
6
7
- Note.** Section 36(5) and (6) provide requirements for the number of practitioner members and community members required by a State or Territory Board. 8
9
10

Division 15 **Staged commencement for certain health professions** 11
12

300 **Application of Law to relevant health profession between commencement and 1 July 2012** 13
14

- (1) This Law does not apply with respect to a relevant health profession during the period starting on the commencement day and ending on 30 June 2011. 15
16
17
- (2) The following Parts of this Law do not apply with respect to a relevant health profession during the period starting on 1 July 2011 and ending on 30 June 2012— 18
19
20
- (a) Part 7, other than Division 10; 21
- (b) Parts 8 to 11. 22
- (3) Despite subsection (2)(a), a person does not commit an offence against a provision of Division 10 of Part 7 merely because, before 1 July 2012, the person— 23
24
25
- (a) takes or uses a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate that the person is authorised or qualified to practise in a relevant health profession; or 26
27
28
29
30
31

[s 301]

	(b) uses a title that is listed in the Table to section 113 opposite a relevant health profession.	1 2
301	Ministerial Council may appoint external accreditation entity	3 4
	(1) The Ministerial Council may appoint an entity, other than a committee established by a National Board, to exercise an accreditation function for a relevant health profession.	5 6 7
	(2) Without limiting subsection (1), an entity that accredited courses for the purposes of registration in a relevant health profession under a corresponding prior Act may be appointed to exercise an accreditation function for the profession under this Law.	8 9 10 11 12
	(3) The National Board established for the health profession must, not later than 1 July 2015, review the arrangements for the exercise of the accreditation functions for the health profession.	13 14 15 16
	(4) The National Board must ensure the process for the review includes wide-ranging consultation about the arrangements for the exercise of the accreditation functions.	17 18 19
	(5) If an entity is appointed under subsection (1) to exercise an accreditation function for a health profession, the National Board established for the profession must not, before 1 July 2015, end that entity's appointment.	20 21 22 23
302	Application of Law to appointment of first National Board for relevant professions	24 25
	Despite section 34(2), a person is eligible for appointment as a practitioner member of the first National Board for a relevant health profession if the person—	26 27 28
	(a) is registered in the profession under a law of a participating jurisdiction; or	29 30
	(b) holds a qualification that entitles the person to registration in the profession under a law of a participating jurisdiction; or	31 32 33

-
- (c) is otherwise eligible to apply for or hold registration in the profession under the law of a participating jurisdiction. 1
2
3

303 Qualifications for general registration in relevant profession 4
5

- (1) For the purposes of section 52(1)(a), an individual who applies for registration in a relevant health profession before 1 July 2015 is qualified for general registration in the profession if the individual— 6
7
8
9
- (a) holds a qualification or has completed training in the profession, whether in a participating jurisdiction or elsewhere, that the National Board established for the profession considers is adequate for the purposes of practising the profession; or 10
11
12
13
14
- (b) holds a qualification or has completed training in the profession, whether in a participating jurisdiction or elsewhere, and has completed any further study, training or supervised practice in the profession required by the Board for the purposes of this section; or 15
16
17
18
19
- (c) has practised the profession at any time between 1 July 2002 and 30 June 2012 for a consecutive period of 5 years or for any periods which together amount to 5 years. 20
21
22
23
- (2) This section applies despite section 53. 24

304 Relationship with other provisions of Law 25

This Division applies despite any other provision of this Law but does not affect the operation of clause 30 of Schedule 7. 26
27

[s 305]

Division 16	Savings and transitional regulations	1
305	Savings and transitional regulations	2
(1)	The regulations may contain provisions (<i>savings and transitional provisions</i>) of a savings or transitional nature—	3 4
(a)	consequent on the enactment of this Law in a participating jurisdiction; or	5 6
(b)	to otherwise allow or facilitate the change from the operation of a law of the participating jurisdiction relating to health practitioners to the operation of this Law.	7 8 9 10
(2)	Savings and transitional provisions may have retrospective operation to a day not earlier than the participation day for that participating jurisdiction.	11 12 13
(3)	This section and any savings and transitional provisions expire on 30 June 2015.	14 15

Schedule 1	Constitution and procedure of Advisory Council	1 2
	(Section 22)	3
Part 1	General	4
1	Definitions	5
	In this Schedule—	6
	<i>Chairperson</i> means the Chairperson of the Advisory Council.	7
	<i>member</i> means a member of the Advisory Council.	8
Part 2	Constitution	9
2	Terms of office of members	10
	Subject to this Schedule, a member holds office for the period (not exceeding 3 years) specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for reappointment.	11 12 13 14
3	Remuneration	15
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Ministerial Council may from time to time determine with respect to the member.	16 17 18 19
4	Vacancy in office of member	20
	(1) The office of a member becomes vacant if the member—	21

Schedule 1

(a)	completes the member’s term of office; or	1
(b)	resigns the office by instrument in writing addressed to the Chairperson of the Ministerial Council; or	2 3
(c)	is removed from office by the Chairperson of the Ministerial Council under this clause; or	4 5
(d)	dies.	6
(2)	The Chairperson of the Ministerial Council may remove a member from office if—	7 8
(a)	the member has been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or	9 10 11 12 13
(b)	the member ceases to be a registered health practitioner as a result of the member’s misconduct, impairment or incompetence; or	14 15 16
(c)	the Advisory Council recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member’s functions as a member.	17 18 19 20
(3)	In addition, the Chairperson of the Ministerial Council may remove the Chairperson of the Advisory Council from office as a member if the Chairperson of the Advisory Council becomes a registered health practitioner.	21 22 23 24
5	Extension of term of office during vacancy in membership	25 26
(1)	If the office of a member becomes vacant because the member has completed the member’s term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).	27 28 29 30 31
(2)	However, this clause ceases to apply to the member if—	32

-
- | | | |
|----------|--|----------------------|
| (a) | the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or | 1
2
3 |
| (b) | the Chairperson of the Ministerial Council determines that the services of the member are no longer required. | 4
5 |
| (3) | The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months. | 6
7
8 |
| 6 | Disclosure of conflict of interest | 9 |
| (1) | If— | 10 |
| (a) | a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the Advisory Council; and | 11
12
13 |
| (b) | the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter; | 14
15
16 |
| | the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Council. | 17
18
19 |
| (2) | Particulars of any disclosure made under this clause must be recorded by the Advisory Council in a book kept for the purpose. | 20
21
22 |
| (3) | After a member has disclosed the nature of an interest in any matter, the member must not, unless the Ministerial Council or the Advisory Council otherwise determines— | 23
24
25 |
| (a) | be present during any deliberation of the Advisory Council with respect to the matter; or | 26
27 |
| (b) | take part in any decision of the Advisory Council with respect to the matter. | 28
29 |
| (4) | For the purposes of the making of a determination by the Advisory Council under subclause (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not— | 30
31
32
33 |
-

Schedule 1

- (a) be present during any deliberation of the Advisory Council for the purpose of making the determination; or
- (b) take part in the making of the determination by the Advisory Council.
- (5) A contravention of this clause does not invalidate any decision of the Advisory Council.

Part 3 Procedure

- 7 General procedure**
- The procedure for the calling of meetings of the Advisory Council and for the conduct of business at those meetings is, subject to this Law, to be as determined by the Advisory Council.
- 8 Quorum**
- The quorum for a meeting of the Advisory Council is a majority of its members for the time being.
- 9 Presiding member**
- The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Advisory Council who are present at a meeting of the Advisory Council) is to preside at a meeting of the Advisory Council.
- 10 Transaction of business outside meetings or by telecommunication**
- (1) The Advisory Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Advisory Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Advisory Council.

-
- (2) The Advisory Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
- (a) the approval of a resolution under subclause (1); or
 - (b) a meeting held in accordance with subclause (2);
- the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Advisory Council.
- (4) Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.
- 11 First meeting**
- The Chairperson may call the first meeting of the Advisory Council in any manner the Chairperson thinks fit.

Schedule 2	Agency Management Committee	1 2
	(Section 29)	3
Part 1	General	4
1	Definitions	5
	In this Schedule—	6
	<i>Chairperson</i> means the Chairperson of the Committee.	7
	<i>Committee</i> means the Agency Management Committee.	8
	<i>member</i> means a member of the Committee.	9
Part 2	Constitution	10
2	Terms of office of members	11
	Subject to this Schedule, a member holds office for the period (not exceeding 3 years) specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for reappointment.	12 13 14 15
3	Remuneration	16
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Ministerial Council may from time to time determine with respect to the member.	17 18 19 20
4	Vacancy in office of member	21
	(1) The office of a member becomes vacant if the member—	22

-
- | | | |
|-----|---|----------------------------|
| (a) | completes a term of office; or | 1 |
| (b) | resigns the office by instrument in writing addressed to the Chairperson of the Ministerial Council; or | 2
3 |
| (c) | is removed from office by the Chairperson of the Ministerial Council under this clause; or | 4
5 |
| (d) | is absent, without leave first being granted by the Chairperson of the Committee, from 3 or more consecutive meetings of the Committee of which reasonable notice has been given to the member personally or by post; or | 6
7
8
9
10 |
| (e) | dies. | 11 |
| (2) | The Chairperson of the Ministerial Council may remove a member from office if— | 12
13 |
| (a) | the member has been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or | 14
15
16
17
18 |
| (b) | the member ceases to be a registered health practitioner as a result of the member's misconduct, impairment or incompetence; or | 19
20
21 |
| (c) | the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit; or | 22
23
24
25
26 |
| (d) | the Committee recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member's functions as a member. | 27
28
29
30 |
| (3) | In addition, the Chairperson of the Ministerial Council may remove the Chairperson of the Committee from office as a member if the Chairperson of the Committee becomes a registered health practitioner. | 31
32
33
34 |
-

5	Vacancies to be advertised	1
(1)	Before the Ministerial Council appoints a member of the Committee, the vacancy to be filled is to be publicly advertised.	2 3 4
(2)	It is not necessary to advertise a vacancy in the membership of the Committee before appointing a person to act in the office of a member.	5 6 7
	Note. The general interpretation provisions applicable to this Law under section 6 confer power to appoint acting members of the Agency Management Committee.	8 9 10
6	Extension of term of office during vacancy in membership	11 12
(1)	If the office of a member becomes vacant because the member has completed the member's term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).	13 14 15 16 17
(2)	However, this clause ceases to apply to the member if—	18
(a)	the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or	19 20 21
(b)	the Chairperson of the Ministerial Council determines that the services of the member are no longer required.	22 23
(3)	The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months.	24 25 26
7	Members to act in public interest	27
(1)	A member of the Committee is to act impartially and in the public interest in the exercise of the member's functions as a member.	28 29 30
(2)	Accordingly, a member of the Committee is to put the public interest before the interests of particular health practitioners or any body or organisation that represents health practitioners.	31 32 33

-
- 8 Disclosure of conflict of interest** 1
- (1) If— 2
- (a) a member has a direct or indirect pecuniary or other 3
interest in a matter being considered or about to be 4
considered at a meeting of the Committee; and 5
- (b) the interest appears to raise a conflict with the proper 6
performance of the member’s duties in relation to the 7
consideration of the matter; 8
- the member must, as soon as possible after the relevant facts 9
have come to the member’s knowledge, disclose the nature of 10
the interest at a meeting of the Committee. 11
- (2) Particulars of any disclosure made under this clause must be 12
recorded by the Committee in a book kept for the purpose. 13
- (3) After a member has disclosed the nature of an interest in any 14
matter, the member must not, unless the Ministerial Council 15
or the Committee otherwise determines— 16
- (a) be present during any deliberation of the Committee 17
with respect to the matter; or 18
- (b) take part in any decision of the Committee with respect 19
to the matter. 20
- (4) For the purposes of the making of a determination by the 21
Committee under subclause (3), a member who has a direct or 22
indirect pecuniary or other interest in a matter to which the 23
disclosure relates must not— 24
- (a) be present during any deliberation of the Committee for 25
the purpose of making the determination; or 26
- (b) take part in the making of the determination by the 27
Committee. 28
- (5) A contravention of this clause does not invalidate any decision 29
of the Committee. 30

Part 3	Procedure	1
9	General procedure	2
	The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Law, to be as determined by the Committee.	3 4 5
10	Quorum	6
	The quorum for a meeting of the Committee is a majority of its members for the time being.	7 8
11	Chief executive officer may attend meetings	9
	The chief executive officer of the National Agency may attend meetings of the Committee and may participate in discussions of the Committee, but is not entitled to vote at a meeting.	10 11 12
12	Presiding member	13
	(1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Committee who are present at a meeting of the Committee) is to preside at a meeting of the Committee.	14 15 16 17
	(2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	18 19
13	Voting	20
	A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.	21 22 23
14	Transaction of business outside meetings or by telecommunication	24 25
	(1) The Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the	26 27

	Committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Committee.	1 2 3
(2)	The Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	4 5 6 7 8
(3)	For the purposes of—	9
	(a) the approval of a resolution under subclause (1); or	10
	(b) a meeting held in accordance with subclause (2);	11
	the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Committee.	12 13
(4)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.	14 15 16
15	First meeting	17
	The Chairperson may call the first meeting of the Committee in any manner the Chairperson thinks fit.	18 19
16	Defects in appointment of members	20
	A decision of the Committee is not invalidated by any defect or irregularity in the appointment of any member (or acting member) of the Committee.	21 22 23

Schedule 3 National Agency 1

(Section 23) 2

Part 1 Chief executive officer 3

1 Chief executive officer 4

- (1) The Agency Management Committee is to appoint a person as chief executive officer of the National Agency. 5
6
- (2) The chief executive officer of the National Agency is to be appointed for a period, not more than 5 years, specified in the officer's instrument of appointment, but is eligible for reappointment. 7
8
9
10
- (3) The chief executive officer of the National Agency is taken, while holding that office, to be a member of the staff of the National Agency. 11
12
13

2 Functions of chief executive officer 14

- (1) The chief executive officer of the National Agency has the functions conferred on the chief executive officer by written instrument of the Agency Management Committee. 15
16
17
- (2) The Agency Management Committee may delegate any of the functions of the National Agency, or of the Agency Management Committee, to the chief executive officer of the National Agency, other than this power of delegation. 18
19
20
21

3 Delegation and subdelegation by chief executive officer 22

- (1) The chief executive officer of the National Agency may delegate any of the functions conferred on the officer under clause 2(1) to a member of the staff of the National Agency, other than this power of delegation. 23
24
25
26
- (2) The chief executive officer of the National Agency may subdelegate any function delegated to the officer under clause 27
28

2(2) to any member of the staff of the National Agency if the chief executive officer is authorised to do so by the Agency Management Committee.	1 2 3
4 Vacancy in office	4
(1) The office of the chief executive officer of the National Agency becomes vacant if—	5 6
(a) the chief executive officer resigns the officer’s office by written instrument addressed to the Chairperson of the Agency Management Committee; or	7 8 9
(b) the appointment of the chief executive officer is terminated by the Agency Management Committee under this clause.	10 11 12
(2) The Agency Management Committee may, at any time and for any reason, terminate the appointment of the chief executive officer of the National Agency by written notice given to the chief executive officer.	13 14 15 16
 Part 2 Staff, consultants and contractors	 17 18
5 Staff of National Agency	19
(1) The National Agency may, for the purpose of performing its functions, employ staff.	20 21
(2) The staff of the National Agency are to be employed on the terms and conditions decided by the National Agency from time to time.	22 23 24
(3) Subclause (2) is subject to any relevant industrial award or agreement that applies to the staff.	25 26

6	Staff seconded to National Agency	1
	The National Agency may make arrangements for the services of any of the following persons to be made available to the National Agency in connection with the exercise of its functions—	2 3 4 5
	(a) a person who is a member of the staff of a government agency of a participating jurisdiction or the Commonwealth;	6 7 8
	(b) a person who is a member of the staff of a local registration authority.	9 10
7	Consultants and contractors	11
	(1) The National Agency may engage persons with suitable qualifications and experience as consultants or contractors.	12 13
	(2) The terms and conditions of engagement of consultants or contractors are as decided by the National Agency from time to time.	14 15 16
Part 3	Reporting obligations	17
8	Annual report	18
	(1) The National Agency must, within 3 months after the end of each financial year, submit an annual report for the financial year to the Ministerial Council.	19 20 21
	(2) The annual report must include—	22
	(a) a financial statement for the National Agency, and each National Board, for the period to which the report relates; and	23 24 25
	(b) a report about the Agency’s performance of its functions under this Law during the period to which the annual report relates.	26 27 28

-
- | | | |
|----------|--|-----------------------|
| (3) | The financial statement is to be prepared in accordance with Australian Accounting Standards. | 1
2 |
| (4) | The financial statement is to be audited by a public sector auditor and a report is to be provided by the auditor. | 3
4 |
| (5) | The Ministerial Council is to make arrangements for the tabling of the annual report of the National Agency, and the report of the public sector auditor with respect to the financial statement in the report, in the Parliament of each participating jurisdiction and the Commonwealth. | 5
6
7
8
9 |
| (6) | The Ministerial Council may extend, or further extend, the period for submission of an annual report to the Council by a total period of up to 3 months. | 10
11
12 |
| (7) | In this clause— | 13 |
| | <i>public sector auditor</i> means— | 14 |
| | (a) the Auditor-General (however described) of a participating jurisdiction; or | 15
16 |
| | (b) an auditor employed, appointed or otherwise engaged by an Auditor-General of a participating jurisdiction. | 17
18 |
| 9 | Reporting by National Boards | 19 |
| (1) | A National Board must, if asked by the National Agency, give the National Agency the information the National Agency requires to compile its annual report, including— | 20
21
22 |
| | (a) a report about the National Board's performance of its functions under this Law during the period to which the annual report relates; and | 23
24
25 |
| | (b) a statement of the income and expenditure of the National Board for the period to which the annual report relates, presented by reference to the budget of the National Board for that period. | 26
27
28
29 |
| (2) | The information provided by the National Board is to be incorporated in the relevant annual report for the National Agency. | 30
31
32 |
-

Schedule 4	National Boards	1
	(Section 33)	2
Part 1	General	3
1	Definitions	4
	In this Schedule—	5
	<i>Chairperson</i> means the Chairperson of a National Board.	6
	<i>community member</i> means a member of a National Board appointed as a community member.	7 8
	<i>member</i> means a member of a National Board.	9
Part 2	Constitution	10
2	Terms of office of members	11
	Subject to this Schedule, a member holds office for the period (not exceeding 3 years) specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for reappointment.	12 13 14 15
3	Remuneration	16
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Ministerial Council may from time to time determine with respect to the member.	17 18 19 20
4	Vacancy in office of member	21
	(1) The office of a member becomes vacant if the member—	22

-
- | | | |
|-----|---|----------------------------|
| (a) | completes a term of office; or | 1 |
| (b) | resigns the office by instrument in writing addressed to the Chairperson of the Ministerial Council; or | 2
3 |
| (c) | is removed from office by the Chairperson of the Ministerial Council under this clause; or | 4
5 |
| (d) | is absent, without leave first being granted by the Chairperson of the Board, from 3 or more consecutive meetings of the National Board of which reasonable notice has been given to the member personally or by post; or | 6
7
8
9
10 |
| (e) | dies. | 11 |
| (2) | The Chairperson of the Ministerial Council may remove a member from office if— | 12
13 |
| (a) | the member has been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or | 14
15
16
17
18 |
| (b) | the member ceases to be a registered health practitioner as a result of the member's misconduct, impairment or incompetence; or | 19
20
21 |
| (c) | the member ceases to be eligible for appointment to the office that the member holds on the National Board; or | 22
23 |
| (d) | the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with member's creditors or makes an assignment of the member's remuneration for their benefit; or | 24
25
26
27
28 |
| (e) | the National Board recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member's functions as a member. | 29
30
31
32 |
-

5	Vacancies to be advertised	1
(1)	Before the Ministerial Council appoints a member of a National Board, the vacancy to be filled is to be publicly advertised.	2 3 4
(2)	The National Agency may assist the Ministerial Council in the process of appointing members of a National Board, including in the advertising of vacancies.	5 6 7
(3)	It is not necessary to advertise a vacancy in the membership of a National Board before appointing a person to act in the office of a member.	8 9 10
	Note. The general interpretation provisions applicable to this Law under section 6 confer power to appoint acting members of a National Board.	11 12
6	Extension of term of office during vacancy in membership	13 14
(1)	If the office of a member becomes vacant because the member has completed the member's term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).	15 16 17 18 19
(2)	However, this clause ceases to apply to the member if—	20
(a)	the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or	21 22 23
(b)	the Chairperson of the Ministerial Council determines that the services of the member are no longer required.	24 25
(3)	The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months.	26 27 28
7	Members to act in public interest	29
(1)	A member of a National Board is to act impartially and in the public interest in the exercise of the member's functions as a member.	30 31 32

-
- (2) Accordingly, a member of a National Board is to put the public interest before the interests of particular health practitioners or any entity that represents health practitioners.
- 8 Disclosure of conflict of interest**
- (1) If—
- (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the National Board; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the National Board.
- (2) Particulars of any disclosure made under this clause must be recorded by the National Board in a book kept for the purpose.
- (3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Ministerial Council or the National Board otherwise determines—
- (a) be present during any deliberation of the National Board with respect to the matter; or
- (b) take part in any decision of the National Board with respect to the matter.
- (4) For the purposes of the making of a determination by the National Board under subclause (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—
- (a) be present during any deliberation of the National Board for the purpose of making the determination; or
- (b) take part in the making of the determination by the National Board.
- (5) A contravention of this clause does not invalidate any decision of the National Board.
-

- (6) This clause applies to a member of a committee of a National Board and the committee in the same way as it applies to a member of the National Board and the National Board.

Part 3 Functions and powers

9 Requirement to consult other National Boards

If a National Board (the *first Board*) proposes to make a recommendation to the Ministerial Council about a matter that may reasonably be expected to be of interest to another National Board (the *other Board*), the first Board must—

- (a) consult with the other Board about the proposed recommendation; and
- (b) if the first Board makes the recommendation to the Ministerial Council, advise the Council about any contrary views expressed by the other Board about the recommendation.

10 Boards may obtain assistance

A National Board may, for the purposes of exercising its functions, obtain the assistance of or advice from a local registration authority or another entity having knowledge of matters relating to the health profession for which it is established.

11 Committees

A National Board may establish committees to do any of the following—

- (a) to develop registration standards for the health profession for which the Board is established;
- (b) to develop codes or guidelines for the health profession for which the Board is established;

- (c) to exercise any other functions of the Board or to provide assistance or advice to the Board in the exercise of its functions. 1
2
3

Part 4 Procedure 4

12 General procedure 5

The procedure for the calling of meetings of the National Board and for the conduct of business at those meetings is, subject to this Law, to be as determined by the National Board. 6
7
8
9

13 Quorum 10

The quorum for a meeting of the National Board is a majority of its members for the time being, at least one of whom is a community member. 11
12
13

14 Presiding member 14

- (1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the National Board who are present at a meeting of the National Board) is to preside at a meeting of the National Board. 15
16
17
18
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 19
20

15 Voting 21

A decision supported by a majority of the votes cast at a meeting of the National Board at which a quorum is present is the decision of the National Board. 22
23
24

16	Transaction of business outside meetings or by telecommunication	1 2
(1)	The National Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the National Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the National Board.	3 4 5 6 7
(2)	The National Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	8 9 10 11 12
(3)	For the purposes of—	13
(a)	the approval of a resolution under subclause (1); or	14
(b)	a meeting held in accordance with subclause (2);	15
	the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the National Board.	16 17
(4)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.	18 19 20
17	First meeting	21
	The Chairperson may call the first meeting of the National Board in any manner the Chairperson thinks fit.	22 23
18	Defects in appointment of members	24
	A decision of the National Board or of a committee of the National Board is not invalidated by any defect or irregularity in the appointment of any member (or acting member) of the National Board or of a committee of the National Board.	25 26 27 28

Schedule 5	Investigators	1
	(section 163)	2
Part 1	Power to obtain information	3
1	Powers of investigators	4
	For the purposes of conducting an investigation, an investigator may, by written notice given to a person, require the person to—	5 6 7
	(a) give stated information to the investigator within a stated reasonable time and in a stated reasonable way; or	8 9
	(b) attend before the investigator at a stated time and a stated place to answer questions or produce documents.	10 11
2	Offence for failing to produce information or attend before investigator	12 13
	(1) A person required to give stated information to an investigator under clause 1(a) must not fail, without reasonable excuse, to give the information as required by the notice.	14 15 16
	Maximum penalty—	17
	(a) in the case of an individual—\$5,000; or	18
	(b) in the case of a body corporate—\$10,000.	19
	(2) A person given a notice to attend before an investigator must not fail, without reasonable excuse, to—	20 21
	(a) attend as required by the notice; and	22
	(b) continue to attend as required by the investigator until excused from further attendance; and	23 24
	(c) answer a question the person is required to answer by the investigator; and	25 26
	(d) produce a document the person is required to produce by the notice.	27 28

Schedule 5

Maximum penalty—	1
(a) in the case of an individual—\$5,000; or	2
(b) in the case of a body corporate—\$10,000.	3
(3) For the purposes of subclauses (1) and (2), it is a reasonable excuse for an individual to fail to give stated information, answer a question or to produce a document, if giving the information, answering the question or producing the document might tend to incriminate the individual.	4 5 6 7 8
3 Inspection of documents	9
(1) If a document is produced to an investigator, the investigator may—	10 11
(a) inspect the document; and	12
(b) make a copy of, or take an extract from, the document; and	13 14
(c) keep the document while it is necessary for the investigation.	15 16
(2) If the investigator keeps the document, the investigator must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the investigator.	17 18 19 20 21
Part 2 Power to enter places	22
4 Entering places	23
For the purposes of conducting an investigation, an investigator may enter a place if—	24 25
(a) its occupier consents to the entry of the place; or	26

-
- | | | |
|----------|--|----------------------|
| (b) | it is a public place and the entry is made when it is open to the public; or | 1
2 |
| (c) | the entry is authorised by a warrant. | 3 |
| 5 | Application for warrant | 4 |
| (1) | An investigator may apply to a magistrate of a participating jurisdiction for a warrant for a place. | 5
6 |
| (2) | The investigator must prepare a written application that states the grounds on which the warrant is sought. | 7
8 |
| (3) | The written application must be sworn. | 9 |
| (4) | The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires. | 10
11
12
13 |
| 6 | Issue of warrant | 14 |
| (1) | The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting there is evidence about a matter being investigated by the investigator at the place. | 15
16
17
18 |
| (2) | The warrant must state— | 19 |
| (a) | that a stated investigator may, with necessary and reasonable help and force— | 20
21 |
| (i) | enter the place and any other place necessary for entry; and | 22
23 |
| (ii) | exercise the investigator’s powers under this Part; and | 24
25 |
| (b) | the matter for which the warrant is sought; and | 26 |
| (c) | the evidence that may be seized under the warrant; and | 27 |
| (d) | the hours of the day or night when the place may be entered; and | 28
29 |
| (e) | the date, within 14 days after the warrant’s issue, the warrant ends. | 30
31 |
-

7	Application by electronic communication	1
(1)	An investigator may apply for a warrant by phone, facsimile, email, radio, video conferencing or another form of communication if the investigator considers it necessary because of—	2 3 4 5
	(a) urgent circumstances; or	6
	(b) other special circumstances, including the investigator’s remote location.	7 8
(2)	The application—	9
	(a) may not be made before the investigator prepares the written application under clause 5(2); but	10 11
	(b) may be made before the written application is sworn.	12
(3)	The magistrate may issue the warrant (the <i>original warrant</i>) only if the magistrate is satisfied—	13 14
	(a) it was necessary to make the application under subclause (1); and	15 16
	(b) the way the application was made under subclause (1) was appropriate.	17 18
(4)	After the magistrate issues the original warrant—	19
	(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the investigator, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the investigator; or	20 21 22 23 24
	(b) otherwise—	25
	(i) the magistrate must tell the investigator the date and time the warrant is issued and the other terms of the warrant; and	26 27 28
	(ii) the investigator must complete a form of warrant including by writing on it—	29 30
	(A) the magistrate’s name; and	31
	(B) the date and time the magistrate issued the warrant; and	32 33

-
- (C) the other terms of the warrant. 1
- (5) The copy of the warrant referred to in subclause (4)(a), or the 2
 form of warrant completed under subclause (4)(b) (in either 3
 case the *duplicate warrant*), is a duplicate of, and as effectual 4
 as, the original warrant. 5
- (6) The investigator must, at the first reasonable opportunity, send 6
 to the magistrate— 7
- (a) the written application complying with clause 5(2) and 8
 (3); and 9
- (b) if the investigator completed a form of warrant under 10
 subclause (4)(b), the completed form of warrant. 11
- (7) The magistrate must keep the original warrant and, on 12
 receiving the documents under subclause (6), file the original 13
 warrant and documents in the court. 14
- (8) Despite subclause (5), if— 15
- (a) an issue arises in a proceeding about whether an 16
 exercise of a power was authorised by a warrant issued 17
 under this clause; and 18
- (b) the original warrant is not produced in evidence; 19
 the onus of proof is on the person relying on the lawfulness of 20
 the exercise of the power to prove a warrant authorised the 21
 exercise of the power. 22
- (9) This clause does not limit clause 5. 23
- 8 Procedure before entry under warrant 24**
- (1) Before entering a place under a warrant, an investigator must 25
 do or make a reasonable attempt to do the following— 26
- (a) identify himself or herself to a person present at the 27
 place who is an occupier of the place by producing the 28
 investigator's identity card or another document 29
 evidencing the investigator's appointment; 30
- (b) give the person a copy of the warrant; 31
- (c) tell the person the investigator is permitted by the 32
 warrant to enter the place; 33
-

Schedule 5

- (d) give the person an opportunity to allow the investigator immediate entry to the place without using force. 1
2
 - (2) However, the investigator need not comply with subclause (1) if the investigator reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated. 3
4
5
6
- 9 Powers after entering places** 7
- (1) This clause applies if an investigator enters a place under clause 4. 8
9
 - (2) The investigator may for the purposes of the investigation do the following— 10
11
 - (a) search any part of the place; 12
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; 13
14
 - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing; 15
16
 - (d) copy, or take an extract from, a document, at the place; 17
 - (e) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under this Part; 18
19
20
 - (f) require the occupier of the place, or a person at the place, to give the investigator reasonable help to exercise the investigator's powers under paragraphs (a) to (e); 21
22
23
24
 - (g) require the occupier of the place, or a person at the place, to give the investigator information to help the investigator in conducting the investigation. 25
26
27
 - (3) When making a requirement referred to in subclause (2)(f) or (g), the investigator must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse. 28
29
30
31

10	Offences for failing to comply with requirement under clause 9	1
		2
(1)	A person required to give reasonable help under clause 9(2)(f) must comply with the requirement, unless the person has a reasonable excuse.	3
		4
	Maximum penalty—	5
		6
(a)	in the case of an individual—\$5,000; or	7
(b)	in the case of a body corporate—\$10,000.	8
(2)	A person of whom a requirement is made under clause 9(2)(g) must comply with the requirement, unless the person has a reasonable excuse.	9
		10
	Maximum penalty—	11
		12
(a)	in the case of an individual—\$5,000; or	13
(b)	in the case of a body corporate—\$10,000.	14
(3)	It is a reasonable excuse for an individual not to comply with a requirement under clause 9(2)(f) or (g) that complying with the requirement might tend to incriminate the individual.	15
		16
		17
11	Seizure of evidence	18
(1)	An investigator who enters a public place when the place is open to the public may seize a thing at the place if the investigator reasonably believes the thing is evidence that is relevant to the investigation being conducted by the investigator.	19
		20
		21
		22
		23
(2)	If an investigator enters a place with the occupier's consent, the investigator may seize a thing at the place if—	24
		25
(a)	the investigator reasonably believes the thing is evidence that is relevant to the investigation being conducted by the investigator; and	26
		27
		28
(b)	seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the occupier's consent.	29
		30
		31

Schedule 5

- (3) If an investigator enters a place with a warrant, the investigator may seize the evidence for which the warrant was issued. 1
2
3
- (4) For the purposes of subclauses (2) and (3), the investigator may also seize anything else at the place if the investigator reasonably believes— 4
5
6
 - (a) the thing is evidence that is relevant to the investigation; 7
and 8
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed. 9
10

- 12 Securing seized things 11**
 - Having seized a thing, an investigator may— 12
 - (a) move the thing from the place where it was seized; or 13
 - (b) leave the thing at the place where it was seized but take reasonable action to restrict access to it. 14
15

- 13 Receipt for seized things 16**
 - (1) As soon as practicable after an investigator seizes a thing, the investigator must give a receipt for it to the person from whom it was seized. 17
18
19
 - (2) However, if for any reason it is not practicable to comply with subclause (1), the investigator must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way. 20
21
22
23
 - (3) The receipt must describe generally the seized thing and its condition. 24
25
 - (4) This clause does not apply to a thing if it is impracticable or would be unreasonable to give the receipt given the thing's nature, condition and value. 26
27
28

- 14 Forfeiture of seized thing 29**
 - (1) A seized thing is forfeited to the National Agency if the investigator who seized the thing— 30
31

(a)	cannot find its owner, after making reasonable inquiries; or	1 2
(b)	cannot return it to its owner, after making reasonable efforts.	3 4
(2)	In applying subclause (1)—	5
(a)	subclause (1)(a) does not require the investigator to make inquiries if it would be unreasonable to make inquiries to find the owner; and	6 7 8
(b)	subclause (1)(b) does not require the investigator to make efforts if it would be unreasonable to make efforts to return the thing to its owner.	9 10 11
(3)	Regard must be had to a thing's nature, condition and value in deciding—	12 13
(a)	whether it is reasonable to make inquiries or efforts; and	14
(b)	if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.	15 16 17
15	Dealing with forfeited things	18
(1)	On the forfeiture of a thing to the National Agency, the thing becomes the Agency's property and may be dealt with by the Agency as the Agency considers appropriate.	19 20 21
(2)	Without limiting subclause (1), the National Agency may destroy or dispose of the thing.	22 23
16	Return of seized things	24
(1)	If a seized thing has not been forfeited, the investigator must return it to its owner—	25 26
(a)	at the end of 6 months; or	27
(b)	if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.	28 29 30

Schedule 5

(2)	Despite subclause (1), unless the thing has been forfeited, the investigator must immediately return a thing seized as evidence to its owner if the investigator is no longer satisfied its continued retention as evidence is necessary.	1 2 3 4
17	Access to seized things	5
(1)	Until a seized thing is forfeited or returned, an investigator must allow its owner to inspect it and, if it is a document, to copy it.	6 7 8
(2)	Subclause (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.	9 10
Part 3	General matters	11
18	Damage to property	12
(1)	This clause applies if—	13
(a)	an investigator damages property when exercising or purporting to exercise a power; or	14 15
(b)	a person (the <i>other person</i>) acting under the direction of an investigator damages property.	16 17
(2)	The investigator must promptly give written notice of particulars of the damage to the person who appears to the investigator to be the owner of the property.	18 19 20
(3)	If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator's or other person's control, the investigator must state the belief in the notice.	21 22 23 24
(4)	If, for any reason, it is impracticable to comply with subclause (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.	25 26 27 28

(5)	This clause does not apply to damage the investigator reasonably believes is trivial.	1 2
(6)	In this clause—	3
	<i>owner</i> , of property, includes the person in possession or control of it.	4 5
19	Compensation	6
(1)	A person may claim compensation from the National Agency if the person incurs loss or expense because of the exercise or purported exercise of a power under this Schedule by the investigator.	7 8 9 10
(2)	Without limiting subclause (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under this Schedule.	11 12 13
(3)	Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.	14 15 16
(4)	A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.	17 18 19
20	False or misleading information	20
	A person must not state anything to an investigator that the person knows is false or misleading in a material particular.	21 22
	Maximum penalty—	23
	(a) in the case of an individual—\$5,000; or	24
	(b) in the case of a body corporate—\$10,000.	25
21	False or misleading documents	26
(1)	A person must not give an investigator a document containing information the person knows is false or misleading in a material particular.	27 28 29

Schedule 5

Maximum penalty—	1
(a) in the case of an individual—\$5,000; or	2
(b) in the case of a body corporate—\$10,000.	3
(2) Subclause (1) does not apply to a person who, when giving the document—	4
(a) informs the investigator, to the best of the person’s ability, how it is false or misleading; and	6
(b) gives the correct information to the investigator if the person has, or can reasonably obtain, the correct information.	7
	8
	9
	10
22 Obstructing investigators	11
(1) A person must not obstruct an investigator in the exercise of a power, unless the person has a reasonable excuse.	12
Maximum penalty—	13
(a) in the case of an individual—\$5,000; or	14
(b) in the case of a body corporate—\$10,000.	15
(2) If a person has obstructed an investigator and the investigator decides to proceed with the exercise of the power, the investigator must warn the person that—	16
(a) it is an offence to obstruct the investigator, unless the person has a reasonable excuse; and	17
(b) the investigator considers the person’s conduct is an obstruction.	18
	19
(3) In this clause—	20
<i>obstruct</i> includes hinder and attempt to obstruct or hinder.	21
	22
	23
	24
	25
23 Impersonation of investigators	26
A person must not pretend to be an investigator.	27
Maximum penalty— \$5,000.	28

Schedule 6 Inspectors 1

(Section 238) 2

Part 1 Power to obtain information 3

- 1 Powers of inspectors 4**
- (1) This clause applies if an inspector reasonably believes— 5
- (a) an offence against this Law has been committed; and 6
- (b) a person may be able to give information about the 7
offence. 8
- (2) The inspector may, by written notice given to a person, require 9
the person to— 10
- (a) give stated information to the inspector within a stated 11
reasonable time and in a stated reasonable way; or 12
- (b) attend before the inspector at a stated time and a stated 13
place to answer questions or produce documents. 14
- 2 Offence for failing to produce information or attend 15
before inspector 16**
- (1) A person required to give stated information to an inspector 17
under clause 1(2)(a) must not fail, without reasonable excuse, 18
to give the information as required by the notice. 19
- Maximum penalty— 20
- (a) in the case of an individual—\$5,000; or 21
- (b) in the case of a body corporate—\$10,000. 22
- (2) A person given a notice to attend before an inspector must not 23
fail, without reasonable excuse, to— 24
- (a) attend as required by the notice; and 25
- (b) continue to attend as required by the inspector until 26
excused from further attendance; and 27

Schedule 6

(c)	answer a question the person is required to answer by the inspector; and	1 2
(d)	produce a document the person is required to produce by the notice.	3 4
	Maximum penalty—	5
(a)	in the case of an individual—\$5,000; or	6
(b)	in the case of a body corporate—\$10,000.	7
(3)	For the purposes of subclauses (1) and (2), it is a reasonable excuse for an individual to fail to give stated information, answer a question or to produce a document, if giving the information, answering the question or producing the document might tend to incriminate the individual.	8 9 10 11 12
3	Inspection of documents	13
(1)	If a document is produced to an inspector, the inspector may—	14 15
(a)	inspect the document; and	16
(b)	make a copy of, or take an extract from, the document; and	17 18
(c)	keep the document while it is necessary for the investigation.	19 20
(2)	If the inspector keeps the document, the inspector must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the inspector.	21 22 23 24
Part 2	Power to enter places	25
4	Entering places	26
	An inspector may enter a place if—	27
(a)	its occupier consents to the entry of the place; or	28

-
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant.
- 5 Application for warrant**
- (1) An inspector may apply to a magistrate of a participating jurisdiction for a warrant for a place.
- (2) The inspector must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- 6 Issue of warrant**
- (1) The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence against this Law at the place.
- (2) The warrant must state—
- (a) that a stated inspector may, with necessary and reasonable help and force—
- (i) enter the place and any other place necessary for entry; and
- (ii) exercise the inspector’s powers under this Part; and
- (b) the matter for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.
-

7	Application by electronic communication	1
(1)	An inspector may apply for a warrant by phone, facsimile, email, radio, video conferencing or another form of communication if the inspector considers it necessary because of—	2 3 4 5
	(a) urgent circumstances; or	6
	(b) other special circumstances, including the inspector’s remote location.	7 8
(2)	The application—	9
	(a) may not be made before the inspector prepares the written application under clause 5(2); but	10 11
	(b) may be made before the written application is sworn.	12
(3)	The magistrate may issue the warrant (the <i>original warrant</i>) only if the magistrate is satisfied—	13 14
	(a) it was necessary to make the application under subclause (1); and	15 16
	(b) the way the application was made under subclause (1) was appropriate.	17 18
(4)	After the magistrate issues the original warrant—	19
	(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the inspector; or	20 21 22 23 24
	(b) otherwise—	25
	(i) the magistrate must tell the inspector the date and time the warrant is issued and the other terms of the warrant; and	26 27 28
	(ii) the inspector must complete a form of warrant including by writing on it—	29 30
	(A) the magistrate’s name; and	31
	(B) the date and time the magistrate issued the warrant; and	32 33

-
- (C) the other terms of the warrant. 1
- (5) The copy of the warrant referred to in subclause (4)(a), or the 2
 form of warrant completed under subclause (4)(b) (in either 3
 case the *duplicate warrant*), is a duplicate of, and as effectual 4
 as, the original warrant. 5
- (6) The inspector must, at the first reasonable opportunity, send to 6
 the magistrate— 7
- (a) the written application complying with clause 5(2) and 8
 (3); and 9
- (b) if the inspector completed a form of warrant under 10
 subclause (4)(b), the completed form of warrant. 11
- (7) The magistrate must keep the original warrant and, on 12
 receiving the documents under subclause (6), file the original 13
 warrant and documents in the court. 14
- (8) Despite subclause (5), if— 15
- (a) an issue arises in a proceeding about whether an 16
 exercise of a power was authorised by a warrant issued 17
 under this clause; and 18
- (b) the original warrant is not produced in evidence; 19
 the onus of proof is on the person relying on the lawfulness of 20
 the exercise of the power to prove a warrant authorised the 21
 exercise of the power. 22
- (9) This clause does not limit clause 5. 23
- 8 Procedure before entry under warrant 24**
- (1) Before entering a place under a warrant, an inspector must do 25
 or make a reasonable attempt to do the following— 26
- (a) identify himself or herself to a person present at the 27
 place who is an occupier of the place by producing the 28
 inspector's identity card or another document 29
 evidencing the inspector's appointment; 30
- (b) give the person a copy of the warrant; 31
- (c) tell the person the inspector is permitted by the warrant 32
 to enter the place; 33
-

Schedule 6

- (d) give the person an opportunity to allow the inspector immediate entry to the place without using force. 1
2
 - (2) However, the inspector need not comply with subclause (1) if the inspector reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated. 3
4
5
6
- 9 Powers after entering places** 7
- (1) This clause applies if an inspector enters a place under clause 4. 8
9
 - (2) The inspector may for the purposes of the investigation do the following— 10
11
 - (a) search any part of the place; 12
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; 13
14
 - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing; 15
16
 - (d) copy, or take an extract from, a document, at the place; 17
 - (e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this Part; 18
19
20
 - (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector’s powers under paragraphs (a) to (e); 21
22
23
 - (g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Law is being complied with. 24
25
26
27
 - (3) When making a requirement referred to in subclause (2)(f) or (g), the inspector must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse. 28
29
30
31

-
- | | | |
|-----------|---|----------------------|
| 10 | Offences for failing to comply with requirement under clause 9 | 1
2 |
| | (1) A person required to give reasonable help under clause 9(2)(f) must comply with the requirement, unless the person has a reasonable excuse. | 3
4
5 |
| | Maximum penalty— | 6 |
| | (a) in the case of an individual—\$5,000; or | 7 |
| | (b) in the case of a body corporate—\$10,000. | 8 |
| | (2) A person of whom a requirement is made under clause 9(2)(g) must comply with the requirement, unless the person has a reasonable excuse. | 9
10
11 |
| | Maximum penalty— | 12 |
| | (a) in the case of an individual—\$5,000; or | 13 |
| | (b) in the case of a body corporate—\$10,000. | 14 |
| | (3) It is a reasonable excuse for an individual not to comply with a requirement under clause 9(2)(f) or (g) that complying with the requirement might tend to incriminate the individual. | 15
16
17 |
| 11 | Seizure of evidence | 18 |
| | (1) An inspector who enters a public place when the place is open to the public may seize a thing at the place if the inspector reasonably believes the thing is evidence that is relevant to the investigation being conducted by the inspector. | 19
20
21
22 |
| | (2) If an inspector enters a place with the occupier's consent, the inspector may seize a thing at the place if— | 23
24 |
| | (a) the inspector reasonably believes the thing is evidence that is relevant to the investigation being conducted by the inspector; and | 25
26
27 |
| | (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the occupier's consent. | 28
29
30 |
| | (3) If an inspector enters a place with a warrant, the inspector may seize the evidence for which the warrant was issued. | 31
32 |
-

Schedule 6

- (4) For the purposes of subclauses (2) and (3), the inspector may also seize anything else at the place if the inspector reasonably believes—
 - (a) the thing is evidence that is relevant to the investigation; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- 12 Securing seized things**
- Having seized a thing, an inspector may—
- (a) move the thing from the place where it was seized; or
 - (b) leave the thing at the place where it was seized but take reasonable action to restrict access to it.
- 13 Receipt for seized things**
- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
 - (2) However, if for any reason it is not practicable to comply with subclause (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
 - (3) The receipt must describe generally the seized thing and its condition.
 - (4) This clause does not apply to a thing if it is impracticable or would be unreasonable to give the receipt given the thing's nature, condition and value.
- 14 Forfeiture of seized thing**
- (1) A seized thing is forfeited to the National Agency if the inspector who seized the thing—
 - (a) cannot find its owner, after making reasonable inquiries; or

	(b) cannot return it to its owner, after making reasonable efforts.	1 2
	(2) In applying subclause (1)—	3
	(a) subclause (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and	4 5 6
	(b) subclause (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.	7 8 9
	(3) Regard must be had to a thing's nature, condition and value in deciding—	10 11
	(a) whether it is reasonable to make inquiries or efforts; and	12
	(b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.	13 14 15
15	Dealing with forfeited things	16
	(1) On the forfeiture of a thing to the National Agency, the thing becomes the Agency's property and may be dealt with by the Agency as the Agency considers appropriate.	17 18 19
	(2) Without limiting subclause (1), the National Agency may destroy or dispose of the thing.	20 21
16	Return of seized things	22
	(1) If a seized thing has not been forfeited, the inspector must return it to its owner—	23 24
	(a) at the end of 6 months; or	25
	(b) if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.	26 27 28
	(2) Despite subclause (1), unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector is no longer satisfied its continued retention as evidence is necessary.	29 30 31 32

- 17 Access to seized things** 1
- (1) Until a seized thing is forfeited or returned, an inspector must 2
allow its owner to inspect it and, if it is a document, to copy it. 3
- (2) Subclause (1) does not apply if it is impracticable or would be 4
unreasonable to allow the inspection or copying. 5

Part 3 General matters 6

- 18 Damage to property** 7
- (1) This clause applies if— 8
- (a) an inspector damages property when exercising or 9
purporting to exercise a power; or 10
- (b) a person (the *other person*) acting under the direction of 11
an inspector damages property. 12
- (2) The inspector must promptly give written notice of particulars 13
of the damage to the person who appears to the inspector to be 14
the owner of the property. 15
- (3) If the inspector believes the damage was caused by a latent 16
defect in the property or circumstances beyond the inspector's 17
or other person's control, the inspector must state the belief in 18
the notice. 19
- (4) If, for any reason, it is impracticable to comply with subclause 20
(2), the inspector must leave the notice in a conspicuous 21
position and in a reasonably secure way where the damage 22
happened. 23
- (5) This clause does not apply to damage the inspector reasonably 24
believes is trivial. 25
- (6) In this clause— 26
- owner*, of property, includes the person in possession or 27
control of it. 28

-
- 19 Compensation** 1
- (1) A person may claim compensation from the National Agency 2
if the person incurs loss or expense because of the exercise or 3
purported exercise of a power under this Schedule by the 4
inspector. 5
- (2) Without limiting subclause (1), compensation may be claimed 6
for loss or expense incurred in complying with a requirement 7
made of the person under this Schedule. 8
- (3) Compensation may be claimed and ordered to be paid in a 9
proceeding brought in a court with jurisdiction for the 10
recovery of the amount of compensation claimed. 11
- (4) A court may order compensation to be paid only if it is 12
satisfied it is fair to make the order in the circumstances of the 13
particular case. 14
- 20 False or misleading information** 15
- A person must not state anything to an inspector that the 16
person knows is false or misleading in a material particular. 17
- Maximum penalty— 18
- (a) in the case of an individual—\$5,000; or 19
- (b) in the case of a body corporate—\$10,000. 20
- 21 False or misleading documents** 21
- (1) A person must not give an inspector a document containing 22
information the person knows is false or misleading in a 23
material particular. 24
- Maximum penalty— 25
- (a) in the case of an individual—\$5,000; or 26
- (b) in the case of a body corporate—\$10,000. 27
- (2) Subclause (1) does not apply to a person who, when giving the 28
document— 29
- (a) informs the inspector, to the best of the person's ability, 30
how it is false or misleading; and 31
-

Schedule 6

	(b) gives the correct information to the inspector if the person has, or can reasonably obtain, the correct information.	1 2 3
22	Obstructing inspectors	4
	(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.	5 6
	Maximum penalty—	7
	(a) in the case of an individual—\$5,000; or	8
	(b) in the case of a body corporate—\$10,000.	9
	(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—	10 11 12
	(a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and	13 14
	(b) the inspector considers the person’s conduct is an obstruction.	15 16
	(3) In this clause—	17
	<i>obstruct</i> includes hinder and attempt to obstruct or hinder.	18
23	Impersonation of inspectors	19
	A person must not pretend to be an inspector.	20
	Maximum penalty— \$5,000.	21

Schedule 7	Miscellaneous provisions relating to interpretation	1
		2
	(Section 6)	3
Part 1	Preliminary	4
1	Displacement of Schedule by contrary intention	5
	The application of this Schedule may be displaced, wholly or partly, by a contrary intention appearing in this Law.	6
		7
Part 2	General	8
2	Law to be construed not to exceed legislative power of Legislature	9
		10
(1)	This Law is to be construed as operating to the full extent of, but so as not to exceed, the legislative power of the Legislature of this jurisdiction.	11
		12
		13
(2)	If a provision of this Law, or the application of a provision of this Law to a person, subject matter or circumstance, would, but for this clause, be construed as being in excess of the legislative power of the Legislature of this jurisdiction—	14
		15
		16
		17
(a)	it is a valid provision to the extent to which it is not in excess of the power; and	18
		19
(b)	the remainder of this Law, and the application of the provision to other persons, subject matters or circumstances, is not affected.	20
		21
		22
(3)	This clause applies to this Law in addition to, and without limiting the effect of, any provision of this Law.	23
		24

3	Every section to be a substantive enactment	1
	Every section of this Law has effect as a substantive enactment without introductory words.	2 3
4	Material that is, and is not, part of this Law	4
(1)	The heading to a Part, Division or Subdivision into which this Law is divided is part of this Law.	5 6
(2)	A Schedule to this Law is part of this Law.	7
(3)	Punctuation in this Law is part of this Law.	8
(4)	A heading to a section or subsection of this Law does not form part of this Law.	9 10
(5)	Notes included in this Law (including footnotes and endnotes) do not form part of this Law.	11 12
5	References to particular Acts and to enactments	13
	In this Law—	14
(a)	an Act of this jurisdiction may be cited—	15
(i)	by its short title; or	16
(ii)	by reference to the year in which it was passed and its number; and	17 18
(b)	a Commonwealth Act may be cited—	19
(i)	by its short title; or	20
(ii)	in another way sufficient in a Commonwealth Act for the citation of such an Act;	21 22
	together with a reference to the Commonwealth; and	23
(c)	an Act of another jurisdiction may be cited—	24
(i)	by its short title; or	25
(ii)	in another way sufficient in an Act of the jurisdiction for the citation of such an Act;	26 27
	together with a reference to the jurisdiction.	28

6	References taken to be included in Act or Law citation etc	1
(1)	A reference in this Law to an Act includes a reference to—	2
(a)	the Act as originally enacted, and as amended from time to time since its original enactment; and	3 4
(b)	if the Act has been repealed and re-enacted (with or without modification) since the enactment of the reference—the Act as re-enacted, and as amended from time to time since its re-enactment.	5 6 7 8
(2)	A reference in this Law to a provision of this Law or of an Act includes a reference to—	9 10
(a)	the provision as originally enacted, and as amended from time to time since its original enactment; and	11 12
(b)	if the provision has been omitted and re-enacted (with or without modification) since the enactment of the reference—the provision as re-enacted, and as amended from time to time since its re-enactment.	13 14 15 16
(3)	Subclauses (1) and (2) apply to a reference in this Law to a law of the Commonwealth or another jurisdiction as they apply to a reference in this Law to an Act and to a provision of an Act.	17 18 19 20
7	Interpretation best achieving Law's purpose	21
(1)	In the interpretation of a provision of this Law, the interpretation that will best achieve the purpose or object of this Law is to be preferred to any other interpretation.	22 23 24
(2)	Subclause (1) applies whether or not the purpose is expressly stated in this Law.	25 26
8	Use of extrinsic material in interpretation	27
(1)	In this clause—	28
	<i>extrinsic material</i> means relevant material not forming part of this Law, including, for example—	29 30

Schedule 7

- (a) material that is set out in the document containing the text of this Law as printed by the Government Printer; and
 - (b) a relevant report of a Royal Commission, Law Reform Commission, commission or committee of inquiry, or a similar body, that was laid before the Parliament of this jurisdiction before the provision concerned was enacted; and
 - (c) a relevant report of a committee of the Parliament of this jurisdiction that was made to the Parliament before the provision was enacted; and
 - (d) a treaty or other international agreement that is mentioned in this Law; and
 - (e) an explanatory note or memorandum relating to the Bill that contained the provision, or any relevant document, that was laid before, or given to the members of, the Parliament of this jurisdiction by the member bringing in the Bill before the provision was enacted; and
 - (f) the speech made to the Parliament of this jurisdiction by the member in moving a motion that the Bill be read a second time; and
 - (g) material in the Votes and Proceedings of the Parliament of this jurisdiction or in any official record of debates in the Parliament of this jurisdiction; and
 - (h) a document that is declared by this Law to be a relevant document for the purposes of this clause.
- ordinary meaning* means the ordinary meaning conveyed by a provision having regard to its context in this Law and to the purpose of this Law.
- (2) Subject to subclause (3), in the interpretation of a provision of this Law, consideration may be given to extrinsic material capable of assisting in the interpretation—
 - (a) if the provision is ambiguous or obscure—to provide an interpretation of it; or

(b)	if the ordinary meaning of the provision leads to a result that is manifestly absurd or is unreasonable—to provide an interpretation that avoids such a result; or	1 2 3
(c)	in any other case—to confirm the interpretation conveyed by the ordinary meaning of the provision.	4 5
(3)	In determining whether consideration should be given to extrinsic material, and in determining the weight to be given to extrinsic material, regard is to be had to—	6 7 8
(a)	the desirability of a provision being interpreted as having its ordinary meaning; and	9 10
(b)	the undesirability of prolonging proceedings without compensating advantage; and	11 12
(c)	other relevant matters.	13
9	Effect of change of drafting practice and use of examples	14
	If—	15
(a)	a provision of this Law expresses an idea in particular words; and	16 17
(b)	a provision enacted later appears to express the same idea in different words for the purpose of implementing a different legislative drafting practice, including, for example—	18 19 20 21
(i)	the use of a clearer or simpler style; or	22
(ii)	the use of gender-neutral language;	23
	the ideas must not be taken to be different merely because different words are used.	24 25
10	Use of examples	26
	If this Law includes an example of the operation of a provision—	27 28
(a)	the example is not exhaustive; and	29
(b)	the example does not limit, but may extend, the meaning of the provision; and	30 31

- (c) the example and the provision are to be read in the context of each other and the other provisions of this Law, but, if the example and the provision so read are inconsistent, the provision prevails.

11 Compliance with forms

- (1) If a form is prescribed or approved by or for the purpose of this Law, strict compliance with the form is not necessary and substantial compliance is sufficient.
- (2) If a form prescribed or approved by or for the purpose of this Law requires—
 - (a) the form to be completed in a specified way; or
 - (b) specified information or documents to be included in, attached to or given with the form; or
 - (c) the form, or information or documents included in, attached to or given with the form, to be verified in a specified way,the form is not properly completed unless the requirement is complied with.

Part 3 Terms and references

12 Definitions

- (1) In this Law—
 - Act* means an Act of the Legislature of this jurisdiction.
 - adult* means an individual who is 18 or more.
 - affidavit*, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.
 - amend* includes—
 - (a) omit or omit and substitute; or

-
- (b) alter or vary; or 1
- (c) amend by implication. 2
- appoint** includes reappoint. 3
- Australia** means the Commonwealth of Australia but, when 4
used in a geographical sense, does not include an external 5
Territory. 6
- business day** means a day that is not— 7
- (a) a Saturday or Sunday; or 8
- (b) a public holiday, special holiday or bank holiday in the 9
place in which any relevant act is to be or may be done. 10
- calendar month** means a period starting at the beginning of 11
any day of one of the 12 named months and ending— 12
- (a) immediately before the beginning of the corresponding 13
day of the next named month; or 14
- (b) if there is no such corresponding day—at the end of the 15
next named month. 16
- calendar year** means a period of 12 months beginning on 1
January. 18
- commencement**, in relation to this Law or an Act or a 19
provision of this Law or an Act, means the time at which this 20
Law, the Act or provision comes into operation. 21
- Commonwealth** means the Commonwealth of Australia but, 22
when used in a geographical sense, does not include an 23
external Territory. 24
- confer**, in relation to a function, includes impose. 25
- contravene** includes fail to comply with. 26
- country** includes— 27
- (a) a federation; or 28
- (b) a state, province or other part of a federation. 29
- date of assent**, in relation to an Act, means the day on which 30
the Act receives the Royal Assent. 31
-

Schedule 7

definition means a provision of this Law (however expressed) that—	1 2
(a) gives a meaning to a word or expression; or	3
(b) limits or extends the meaning of a word or expression.	4
document includes—	5
(a) any paper or other material on which there is writing; or	6
(b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; or	7 8 9
(c) any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being reproduced (with or without the aid of another article or device).	10 11 12 13
electronic communication means—	14
(a) a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both; or	15 16 17
(b) a communication of information in the form of sound by means of guided or unguided electromagnetic energy, or both, where the sound is processed at its destination by an automated voice recognition system.	18 19 20 21
estate includes easement, charge, right, title, claim, demand, lien or encumbrance, whether at law or in equity.	22 23
expire includes lapse or otherwise cease to have effect.	24
external Territory means a Territory, other than an internal Territory, for the government of which as a Territory provision is made by a Commonwealth Act.	25 26 27
fail includes refuse.	28
financial year means a period of 12 months beginning on 1 July.	29 30
foreign country means a country (whether or not an independent sovereign State) outside Australia and the external Territories.	31 32 33

<i>function</i> includes a power, authority or duty.	1
<i>Gazette</i> means the Government Gazette of this jurisdiction.	2
<i>gazetted</i> means published in the Gazette.	3
<i>Gazette notice</i> means notice published in the Gazette.	4
<i>Government Printer</i> means the Government Printer of this jurisdiction, and includes any other person authorised by the Government of this jurisdiction to print an Act or instrument.	5 6 7
<i>individual</i> means a natural person.	8
<i>information system</i> means a system for generating, sending, receiving, storing or otherwise processing electronic communications.	9 10 11
<i>insert</i> , in relation to a provision of this Law, includes substitute.	12 13
<i>instrument</i> includes a statutory instrument.	14
<i>interest</i> , in relation to land or other property, means—	15
(a) a legal or equitable estate in the land or other property; or	16 17
(b) a right, power or privilege over, or in relation to, the land or other property.	18 19
<i>internal Territory</i> means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.	20 21
<i>Jervis Bay Territory</i> means the Territory mentioned in the <i>Jervis Bay Territory Acceptance Act 1915</i> (Cwlth).	22 23
<i>make</i> includes issue or grant.	24
<i>minor</i> means an individual who is under 18.	25
<i>modification</i> includes addition, omission or substitution.	26
<i>month</i> means a calendar month.	27
<i>named month</i> means 1 of the 12 months of the year.	28
<i>Northern Territory</i> means the Northern Territory of Australia.	29
<i>number</i> means—	30
(a) a number expressed in figures or words; or	31

Schedule 7

(b) a letter; or	1
(c) a combination of a number so expressed and a letter.	2
<i>oath</i> , in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration or promise.	3 4
<i>office</i> includes position.	5
<i>omit</i> , in relation to a provision of this Law or an Act, includes repeal.	6 7
<i>party</i> includes an individual or a body politic or corporate.	8
<i>penalty</i> includes forfeiture or punishment.	9
<i>person</i> includes an individual or a body politic or corporate.	10
<i>power</i> includes authority.	11
<i>prescribed</i> means prescribed by, or by regulations made or in force for the purposes of or under, this Law.	12 13
<i>printed</i> includes typewritten, lithographed or reproduced by any mechanical means.	14 15
<i>proceeding</i> means a legal or other action or proceeding.	16
<i>property</i> means any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes things in action.	17 18 19 20
<i>provision</i> , in relation to this Law or an Act, means words or other matter that form or forms part of this Law or the Act, and includes—	21 22 23
(a) a Chapter, Part, Division, Subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or Schedule of or to this Law or the Act; or	24 25 26
(b) a section, clause, subclause, item, column, table or form of or in a Schedule to this Law or the Act; or	27 28
(c) the long title and any preamble to the Act.	29
<i>record</i> includes information stored or recorded by means of a computer.	30 31
<i>repeal</i> includes—	32

	(a) revoke or rescind; or	1
	(b) repeal by implication; or	2
	(c) abrogate or limit the effect of this Law or instrument concerned; or	3 4
	(d) exclude from, or include in, the application of this Law or instrument concerned any person, subject matter or circumstance.	5 6 7
	<i>sign</i> includes the affixing of a seal or the making of a mark.	8
	<i>statutory declaration</i> means a declaration made under an Act, or under a Commonwealth Act or an Act of another jurisdiction, that authorises a declaration to be made otherwise than in the course of a judicial proceeding.	9 10 11 12
	<i>statutory instrument</i> means an instrument (including a regulation) made or in force under or for the purposes of this Law, and includes an instrument made or in force under any such instrument.	13 14 15 16
	<i>swear</i> , in relation to a person allowed by law to affirm, declare or promise, includes affirm, declare or promise.	17 18
	<i>word</i> includes any symbol, figure or drawing.	19
	<i>writing</i> includes any mode of representing or reproducing words in a visible form.	20 21
	(2) In a statutory instrument—	22
	<i>the Law</i> means this Law.	23
13	Provisions relating to defined terms and gender and number	24 25
	(1) If this Law defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.	26 27 28
	(2) Definitions in or applicable to this Law apply except so far as the context or subject matter otherwise indicates or requires.	29 30
	(3) In this Law, words indicating a gender include each other gender.	31 32

Schedule 7

(4)	In this Law—	1
(a)	words in the singular include the plural; and	2
(b)	words in the plural include the singular.	3
14	Meaning of “may” and “must” etc	4
(1)	In this Law, the word <i>may</i> , or a similar word or expression, used in relation to a power indicates that the power may be exercised or not exercised, at discretion.	5 6 7
(2)	In this Law, the word <i>must</i> , or a similar word or expression, used in relation to a power indicates that the power is required to be exercised.	8 9 10
(3)	This clause has effect despite any rule of construction to the contrary.	11 12
15	Words and expressions used in statutory instruments	13
(1)	Words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in this Law, or relevant provisions of this Law, under or for the purposes of which the instrument is made or in force.	14 15 16 17
(2)	This clause has effect in relation to an instrument except so far as the contrary intention appears in the instrument.	18 19
16	Effect of express references to bodies corporate and individuals	20 21
	In this Law, a reference to a person generally (whether the expression “person”, “party”, “someone”, “anyone”, “no-one”, “one”, “another” or “whoever” or another expression is used)—	22 23 24 25
(a)	does not exclude a reference to a body corporate or an individual merely because elsewhere in this Law there is particular reference to a body corporate (however expressed); and	26 27 28 29
(b)	does not exclude a reference to a body corporate or an individual merely because elsewhere in this Law there is	30 31

	particular reference to an individual (however expressed).	1 2
17	Production of records kept in computers etc	3
	If a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under this Law—	4 5 6
	(a) to produce the information or a document containing the information to a court, tribunal or person; or	7 8
	(b) to make a document containing the information available for inspection by a court, tribunal or person;	9 10
	then, unless the court, tribunal or person otherwise directs—	11
	(c) the requirement obliges the person to produce or make available for inspection, as the case may be, a document that reproduces the information in a form capable of being understood by the court, tribunal or person; and	12 13 14 15
	(d) the production to the court, tribunal or person of the document in that form complies with the requirement.	16 17
18	References to this jurisdiction to be implied	18
	In this Law—	19
	(a) a reference to an officer, office or statutory body is a reference to such an officer, office or statutory body in and for this jurisdiction; and	20 21 22
	(b) a reference to a locality or other matter or thing is a reference to such a locality or other matter or thing in and of this jurisdiction.	23 24 25
19	References to officers and holders of offices	26
	In this Law, a reference to a particular officer, or to the holder of a particular office, includes a reference to the person for the time being occupying or acting in the office concerned.	27 28 29

20	Reference to certain provisions of Law	1
	If a provision of this Law refers—	2
	(a) to a Part, section or Schedule by a number and without reference to this Law—the reference is a reference to the Part, section or Schedule, designated by the number, of or to this Law; or	3 4 5 6
	(b) to a Schedule without reference to it by a number and without reference to this Law—the reference, if there is only one Schedule to this Law, is a reference to the Schedule; or	7 8 9 10
	(c) to a Division, Subdivision, subsection, paragraph, subparagraph, sub-subparagraph, clause, subclause, item, column, table or form by a number and without reference to this Law—the reference is a reference to—	11 12 13 14
	(i) the Division, designated by the number, of the Part in which the reference occurs; and	15 16
	(ii) the Subdivision, designated by the number, of the Division in which the reference occurs; and	17 18
	(iii) the subsection, designated by the number, of the section in which the reference occurs; and	19 20
	(iv) the paragraph, designated by the number, of the section, subsection, Schedule or other provision in which the reference occurs; and	21 22 23
	(v) the paragraph, designated by the number, of the clause, subclause, item, column, table or form of or in the Schedule in which the reference occurs; and	24 25 26
	(vi) the subparagraph, designated by the number, of the paragraph in which the reference occurs; and	27 28
	(vii) the sub-subparagraph, designated by the number, of the subparagraph in which the reference occurs; and	29 30 31
	(viii) the section, clause, subclause, item, column, table or form, designated by the number, of or in the Schedule in which the reference occurs;	32 33 34
	as the case requires.	35

21	Reference to provisions of this Law or an Act is inclusive	1
	In this Law, a reference to a portion of this Law or an Act includes—	2 3
	(a) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of this Law or the Act referred to that forms the beginning of the portion; and	4 5 6 7
	(b) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of this Law or the Act referred to that forms the end of the portion.	8 9 10
	Example. A reference to “sections 5 to 9” includes both section 5 and section 9.	11 12
	It is not necessary to refer to “sections 5 to 9 (both inclusive)” to ensure that the reference is given an inclusive interpretation.	13 14
Part 4	Functions and powers	15
22	Performance of statutory functions	16
	(1) If this Law confers a function or power on a person or body, the function may be performed, or the power may be exercised, from time to time as occasion requires.	17 18 19
	(2) If this Law confers a function or power on a particular officer or the holder of a particular office, the function may be performed, or the power may be exercised, by the person for the time being occupying or acting in the office concerned.	20 21 22 23
	(3) If this Law confers a function or power on a body (whether or not incorporated), the performance of the function, or the exercise of the power, is not affected merely because of vacancies in the membership of the body.	24 25 26 27

23	Power to make instrument or decision includes power to amend or repeal	1 2
	If this Law authorises or requires the making of an instrument or decision—	3 4
	(a) the power includes power to amend or repeal the instrument or decision; and	5 6
	(b) the power to amend or repeal the instrument or decision is exercisable in the same way, and subject to the same conditions, as the power to make the instrument or decision.	7 8 9 10
 24	 Matters for which statutory instruments may make provision	 11 12
	(1) If this Law authorises or requires the making of a statutory instrument in relation to a matter, a statutory instrument made under this Law may make provision for the matter by applying, adopting or incorporating (with or without modification) the provisions of—	13 14 15 16 17
	(a) an Act or statutory instrument; or	18
	(b) another document (whether of the same or a different kind);	19 20
	as in force at a particular time or as in force from time to time.	21
	(2) If a statutory instrument applies, adopts or incorporates the provisions of a document, the statutory instrument applies, adopts or incorporates the provisions as in force from time to time, unless the statutory instrument otherwise expressly provides.	22 23 24 25 26
	(3) A statutory instrument may—	27
	(a) apply generally throughout this jurisdiction or be limited in its application to a particular part of this jurisdiction; or	28 29 30
	(b) apply generally to all persons, matters or things or be limited in its application to—	31 32
	(i) particular persons, matters or things; or	33

-
- | | |
|---|----------------------------------|
| (ii) particular classes of persons, matters or things; or | 1 |
| (c) otherwise apply generally or be limited in its application by reference to specified exceptions or factors. | 2
3 |
| (4) A statutory instrument may— | 4 |
| (a) apply differently according to different specified factors; or | 5
6 |
| (b) otherwise make different provision in relation to— | 7 |
| (i) different persons, matters or things; or | 8 |
| (ii) different classes of persons, matters or things. | 9 |
| (5) A statutory instrument may authorise a matter or thing to be from time to time determined, applied or regulated by a specified person or body. | 10
11
12 |
| (6) If this Law authorises or requires a matter to be regulated by statutory instrument, the power may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter. | 13
14
15
16 |
| (7) If this Law authorises or requires provision to be made with respect to a matter by statutory instrument, a statutory instrument made under this Law may make provision with respect to a particular aspect of the matter despite the fact that provision is made by this Law in relation to another aspect of the matter or in relation to another matter. | 17
18
19
20
21
22 |
| (8) A statutory instrument may provide for the review of, or a right of appeal against, a decision made under the statutory instrument, or this Law, and may, for that purpose, confer jurisdiction on any court, tribunal, person or body. | 23
24
25
26 |
| (9) A statutory instrument may require a form prescribed by or under the statutory instrument, or information or documents included in, attached to or given with the form, to be verified by statutory declaration. | 27
28
29
30 |

25	Presumption of validity and power to make	1
(1)	All conditions and preliminary steps required for the making of a statutory instrument are presumed to have been satisfied and performed in the absence of evidence to the contrary.	2 3 4
(2)	A statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under this Law or a particular provision of this Law.	5 6 7
26	Appointments may be made by name or office	8
(1)	If this Law authorises or requires a person or body—	9
(a)	to appoint a person to an office; or	10
(b)	to appoint a person or body to exercise a power; or	11
(c)	to appoint a person or body to do another thing;	12
	the person or body may make the appointment by—	13
(d)	appointing a person or body by name; or	14
(e)	appointing a particular officer, or the holder of a particular office, by reference to the title of the office concerned.	15 16 17
(2)	An appointment of a particular officer, or the holder of a particular office, is taken to be the appointment of the person for the time being occupying or acting in the office concerned.	18 19 20
27	Acting appointments	21
(1)	If this Law authorises a person or body to appoint a person to act in an office, the person or body may, in accordance with this Law, appoint—	22 23 24
(a)	a person by name; or	25
(b)	a particular officer, or the holder of a particular office, by reference to the title of the office concerned;	26 27
	to act in the office.	28
(2)	The appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment.	29 30

-
- | | | |
|------|--|---------------------|
| (3) | The appointer may— | 1 |
| | (a) determine the terms and conditions of the appointment, including remuneration and allowances; and | 2
3 |
| | (b) terminate the appointment at any time. | 4 |
| (4) | The appointment, or the termination of the appointment, must be in, or evidenced by, writing signed by the appointer. | 5
6 |
| (5) | The appointee must not act for more than 1 year during a vacancy in the office. | 7
8 |
| (6) | If the appointee is acting in the office otherwise than because of a vacancy in the office and the office becomes vacant, then, subject to subclause (2), the appointee may continue to act until— | 9
10
11
12 |
| | (a) the appointer otherwise directs; or | 13 |
| | (b) the vacancy is filled; or | 14 |
| | (c) the end of a year from the day of the vacancy; | 15 |
| | whichever happens first. | 16 |
| (7) | The appointment ceases to have effect if the appointee resigns by writing signed and delivered to the appointer. | 17
18 |
| (8) | While the appointee is acting in the office— | 19 |
| | (a) the appointee has all the powers and functions of the holder of the office; and | 20
21 |
| | (b) this Law and other laws apply to the appointee as if the appointee were the holder of the office. | 22
23 |
| (9) | Anything done by or in relation to a person purporting to act in the office is not invalid merely because— | 24
25 |
| | (a) the occasion for the appointment had not arisen; or | 26 |
| | (b) the appointment had ceased to have effect; or | 27 |
| | (c) the occasion for the person to act had not arisen or had ceased. | 28
29 |
| (10) | If this Law authorises the appointer to appoint a person to act during a vacancy in the office, an appointment to act in the | 30
31 |
-

	office may be made by the appointer whether or not an appointment has previously been made to the office.	1 2
28	Powers of appointment imply certain incidental powers	3
(1)	If this Law authorises or requires a person or body to appoint a person to an office—	4 5
(a)	the power may be exercised from time to time as occasion requires; and	6 7
(b)	the power includes—	8
(i)	power to remove or suspend, at any time, a person appointed to the office; and	9 10
(ii)	power to appoint another person to act in the office if a person appointed to the office is removed or suspended; and	11 12 13
(iii)	power to reinstate or reappoint a person removed or suspended; and	14 15
(iv)	power to appoint a person to act in the office if it is vacant (whether or not the office has ever been filled); and	16 17 18
(v)	power to appoint a person to act in the office if the person appointed to the office is absent or is unable to discharge the functions of the office (whether because of illness or otherwise).	19 20 21 22
(2)	The power to remove or suspend a person under subclause (1)(b) may be exercised even if this Law provides that the holder of the office to which the person was appointed is to hold office for a specified period.	23 24 25 26
(3)	The power to make an appointment under subclause (1)(b) may be exercised from time to time as occasion requires.	27 28
(4)	An appointment under subclause (1)(b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.	29 30 31

-
- 29 Delegation of functions** 1
- (1) If this Law authorises a person or body to delegate a function, 2
the person or body may, in accordance with this Law and any 3
other applicable law, delegate the function to— 4
- (a) a person or body by name; or 5
- (b) a specified officer, or the holder of a specified office, by 6
reference to the title of the office concerned. 7
- (2) The delegation may be— 8
- (a) general or limited; and 9
- (b) made from time to time; and 10
- (c) revoked, wholly or partly, by the delegator. 11
- (3) The delegation, or a revocation of the delegation, must be in, 12
or evidenced by, writing signed by the delegator or, if the 13
delegator is a body, by a person authorised by the body for the 14
purpose. 15
- (4) A delegated function may be exercised only in accordance 16
with any conditions to which the delegation is subject. 17
- (5) The delegate may, in the performance of a delegated function, 18
do anything that is incidental to the delegated function. 19
- (6) A delegated function that purports to have been exercised by 20
the delegate is taken to have been properly exercised by the 21
delegate unless the contrary is proved. 22
- (7) A delegated function that is properly exercised by the delegate 23
is taken to have been exercised by the delegator. 24
- (8) If, when exercised by the delegator, a function is dependent on 25
the delegator's opinion, belief or state of mind, then, when 26
exercised by the delegate, the function is dependent on the 27
delegate's opinion, belief or state of mind. 28
- (9) If— 29
- (a) the delegator is a specified officer or the holder of a 30
specified office; and 31
-

Schedule 7

- (b) the person who was the specified officer or holder of the specified office when the delegation was made ceases to be the holder of the office; 1
2
3
 - then— 4
 - (a) the delegation continues in force; and 5
 - (b) the person for the time being occupying or acting in the office concerned is taken to be the delegator for the purposes of this section. 6
7
8
- (10) If— 9
 - (a) the delegator is a body; and 10
 - (b) there is a change in the membership of the body; 11
 - then— 12
 - (a) the delegation continues in force; and 13
 - (b) the body as constituted for the time being is taken to be the delegator for the purposes of this section. 14
15
- (11) If a function is delegated to a specified officer or the holder of a specified office— 16
17
 - (a) the delegation does not cease to have effect merely because the person who was the specified officer or the holder of the specified office when the function was delegated ceases to be the officer or the holder of the office; and 18
19
20
21
22
 - (b) the function may be exercised by the person for the time being occupying or acting in the office concerned. 23
24
- (12) A function that has been delegated may, despite the delegation, be exercised by the delegator. 25
26
- (13) The delegation of a function does not relieve the delegator of the delegator's obligation to ensure that the function is properly exercised. 27
28
29
- (14) Subject to subsection (15), this clause applies to a subdelegation of a function in the same way as it applies to a delegation of a function. 30
31
32

-
- (15) If this Law authorises the delegation of a function, the function may be subdelegated only if the Law expressly authorises the function to be subdelegated.
- 30 Exercise of powers between enactment and commencement**
- (1) If a provision of this Law (the *empowering provision*) that does not commence on its enactment would, had it commenced, confer a power—
- (a) to make an appointment; or
 - (b) to make a statutory instrument of a legislative or administrative character; or
 - (c) to do another thing;
- then—
- (d) the power may be exercised; and
 - (e) anything may be done for the purpose of enabling the exercise of the power or of bringing the appointment, instrument or other thing into effect;
- before the empowering provision commences.
- (2) If a provision of a Queensland Act (the *empowering provision*) that does not commence on its enactment would, had it commenced, amend a provision of this Law so that it would confer a power—
- (a) to make an appointment; or
 - (b) to make a statutory instrument of a legislative or administrative character; or
 - (c) to do another thing;
- then—
- (d) the power may be exercised; and
 - (e) anything may be done for the purpose of enabling the exercise of the power or of bringing the appointment, instrument or other thing into effect;
- before the empowering provision commences.
-

Schedule 7

- (3) If— 1
- (a) this Law has commenced and confers a power to make a 2
statutory instrument (the *basic instrument-making* 3
power); and 4
 - (b) a provision of a Queensland Act that does not 5
commence on its enactment would, had it commenced, 6
amend this Law so as to confer additional power to 7
make a statutory instrument (the *additional* 8
instrument-making power); 9
- then— 10
- (c) the basic instrument-making power and the additional 11
instrument-making power may be exercised by making a 12
single instrument; and 13
 - (d) any provision of the instrument that required an exercise 14
of the additional instrument-making power is to be 15
treated as made under subclause (2). 16
- (4) If an instrument, or a provision of an instrument, is made 17
under subclause (1) or (2) that is necessary for the purpose 18
of— 19
- (a) enabling the exercise of a power mentioned in the 20
subclause; or 21
 - (b) bringing an appointment, instrument or other thing 22
made or done under such a power into effect; 23
- the instrument or provision takes effect— 24
- (c) on the making of the instrument; or 25
 - (d) on such later day (if any) on which, or at such later time 26
(if any) at which, the instrument or provision is 27
expressed to take effect. 28
- (5) If— 29
- (a) an appointment is made under subclause (1) or (2); or 30
 - (b) an instrument, or a provision of an instrument, made 31
under subclause (1) or (2) is not necessary for a purpose 32
mentioned in subclause (4); 33
- the appointment, instrument or provision takes effect— 34

-
- (c) on the commencement of the relevant empowering provision; or 1
2
 - (d) on such later day (if any) on which, or at such later time (if any) at which, the appointment, instrument or provision is expressed to take effect. 3
4
5
 - (6) Anything done under subclause (1) or (2) does not confer a right, or impose a liability, on a person before the relevant empowering provision commences. 6
7
8
 - (7) After the enactment of a provision mentioned in subclause (2) but before the provision's commencement, this clause applies as if the references in subclauses (2) and (5) to the commencement of the empowering provision were references to the commencement of the provision mentioned in subclause (2) as amended by the empowering provision. 9
10
11
12
13
14
 - (8) In the application of this clause to a statutory instrument, a reference to the enactment of the instrument is a reference to the making of the instrument. 15
16
17

Part 5 Distance, time and age 18

31 Matters relating to distance, time and age 19

- (1) In the measurement of distance for the purposes of this Law, the distance is to be measured along the shortest road ordinarily used for travelling. 20
21
22
- (2) If a period beginning on a given day, act or event is provided or allowed for a purpose by this Law, the period is to be calculated by excluding the day, or the day of the act or event, and— 23
24
25
26
 - (a) if the period is expressed to be a specified number of clear days or at least a specified number of days—by excluding the day on which the purpose is to be fulfilled; and 27
28
29
30

Schedule 7

- (b) in any other case—by including the day on which the purpose is to be fulfilled. 1
2
- (3) If the last day of a period provided or allowed by this Law for doing anything is not a business day in the place in which the thing is to be or may be done, the thing may be done on the next business day in the place. 3
4
5
6
- (4) If the last day of a period provided or allowed by this Law for the filing or registration of a document is a day on which the office is closed where the filing or registration is to be or may be done, the document may be filed or registered at the office on the next day that the office is open. 7
8
9
10
11
- (5) If no time is provided or allowed for doing anything, the thing is to be done as soon as possible, and as often as the prescribed occasion happens. 12
13
14
- (6) If, in this Law, there is a reference to time, the reference is, in relation to the doing of anything in a jurisdiction, a reference to the legal time in the jurisdiction. 15
16
17
- (7) For the purposes of this Law, a person attains an age in years at the beginning of the person’s birthday for the age. 18
19

Part 6 **Effect of repeal, amendment or expiration** 20
21

32 Time of Law ceasing to have effect 22

If a provision of this Law is expressed— 23

(a) to expire on a specified day; or 24

(b) to remain or continue in force, or otherwise have effect, until a specified day; 25
26

this provision has effect until the last moment of the specified day. 27
28

33	Repealed Law provisions not revived	1
	If a provision of this Law is repealed or amended by a Queensland Act, or a provision of a Queensland Act, the provision is not revived merely because the Queensland Act or the provision of the Queensland Act—	2 3 4 5
	(a) is later repealed or amended; or	6
	(b) later expires.	7
34	Saving of operation of repealed Law provisions	8
(1)	The repeal, amendment or expiry of a provision of this Law does not—	9 10
	(a) revive anything not in force or existing at the time the repeal, amendment or expiry takes effect; or	11 12
	(b) affect the previous operation of the provision or anything suffered, done or begun under the provision; or	13 14
	(c) affect a right, privilege or liability acquired, accrued or incurred under the provision; or	15 16
	(d) affect a penalty incurred in relation to an offence arising under the provision; or	17 18
	(e) affect an investigation, proceeding or remedy in relation to such a right, privilege, liability or penalty.	19 20
(2)	Any such penalty may be imposed and enforced, and any such investigation, proceeding or remedy may be begun, continued or enforced, as if the provision had not been repealed or amended or had not expired.	21 22 23 24
35	Continuance of repealed provisions	25
	If a Queensland Act repeals some provisions of this Law and enacts new provisions in substitution for the repealed provisions, the repealed provisions continue in force until the new provisions commence.	26 27 28 29

36	Law and amending Acts to be read as one	1
	This Law and all Queensland Acts amending this Law are to be read as one.	2 3
Part 7	Instruments under Law	4
37	Schedule applies to statutory instruments	5
	(1) This Schedule applies to a statutory instrument, and to things that may be done or are required to be done under a statutory instrument, in the same way as it applies to this Law, and things that may be done or are required to be done under this Law, except so far as the context or subject matter otherwise indicates or requires.	6 7 8 9 10 11
	(2) The fact that a provision of this Schedule refers to this Law and not also to a statutory instrument does not, by itself, indicate that the provision is intended to apply only to this Law.	12 13 14 15
Part 8	Application to coastal sea	16
38	Application	17
	This Law has effect in and relation to the coastal sea of this jurisdiction as if that coastal sea were part of this jurisdiction.	18 19