

Health Practitioner Regulation National Law (WA) Bill 2010

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

**Health Practitioner Regulation National Law
(WA) Bill 2010**

A Bill for

An Act to —

- **provide for a national registration and accreditation scheme for health practitioners; and**
- **repeal various Acts; and**
- **make consequential amendments to various Acts, and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Health Practitioner Regulation National Law (WA) Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Terms used

(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.

(2) In the local application provisions of this Act —
Health Practitioner Regulation National Law (Western Australia) means the provisions applying in this jurisdiction because of section 4.

(3) If a term is given a meaning in the Health Practitioner Regulation National Law set out in the Schedule, it has the same meaning in the local application provisions of this Act.

**Part 2 — Application of Health Practitioner
Regulation National Law**

4. Application of Health Practitioner Regulation National Law

- (1) The Health Practitioner Regulation National Law set out in the Schedule, as modified to give effect to subsections (5), (6) and (7) —
- (a) applies as a law of this jurisdiction; and
 - (b) as so applying, may be referred to as the *Health Practitioner Regulation National Law (Western Australia)*; and
 - (c) as so applying, is a part of this Act.
- (2) The power conferred by the *Health Practitioner Regulation National Law (Western Australia)* section 245 to make regulations for the purposes of that Law does not extend to making a regulation relating to the safe operation or use by a medical radiation practitioner of an electronic product, irradiating apparatus or radioactive substance as those terms are defined in the *Radiation Safety Act 1975* section 4.
- (3) The *Health Practitioner Regulation National Law (Western Australia)* sections 295 to 297 do not apply to an asset, liability, contract, property or record of the Council that relate to the management of the unincorporated Pharmaceutical Society by the Council.
- (4) In subsection (3) —
- Council** means the Pharmaceutical Council of Western Australia referred to in the *Pharmacy Act 1964* section 7(1);
- unincorporated Pharmaceutical Society** means the Pharmaceutical Society of Western Australia referred to in the *Pharmacy Act 1964* section 6(1).

s. 5

- 1 (5) In the Schedule section 3(3)(c) delete “and are of an appropriate
2 quality.” and insert:
3
4 consistent with best practice principles.
5
- 6 (6) In the Schedule section 113 in the Table delete “medical
7 practitioner” and insert:
8
9 medical practitioner, physician
10
- 11 (7) In the Schedule after section 141(4)(c) insert:
12
13 (da) the first health practitioner forms the reasonable
14 belief in the course of providing health services
15 to the second health practitioner or student; or
16
- 17 **5. Meaning of generic terms in *Health Practitioner Regulation***
18 ***National Law (Western Australia)* for purposes of this**
19 **jurisdiction**
- 20 In the *Health Practitioner Regulation National Law (Western*
21 *Australia)* —
- 22 ***magistrate*** means a magistrate appointed under the *Magistrates*
23 *Court Act 2004*;
- 24 ***Magistrates Court*** means the Magistrates Court of Western
25 Australia established under the *Magistrates Court Act 2004*;
- 26 ***this jurisdiction*** means Western Australia.
- 27 **6. Responsible tribunal for *Health Practitioner Regulation***
28 ***National Law (Western Australia)***
- 29 The State Administrative Tribunal established under the *State*
30 *Administrative Tribunal Act 2004* is declared to be the
31 responsible tribunal for this jurisdiction for the purposes of the

1 *Health Practitioner Regulation National Law (Western*
2 *Australia).*

3 **7. Exclusion of legislation of this jurisdiction**

4 (1) Except as provided in subsection (2), the following Acts of this
5 jurisdiction do not apply to the *Health Practitioner Regulation*
6 *National Law (Western Australia)* or to the instruments made
7 under that Law —

- 8 (a) the *Auditor General Act 2006*;
9 (b) the *Financial Management Act 2006*;
10 (c) the *Freedom of Information Act 1992*;
11 (d) the *Interpretation Act 1984*;
12 (e) the *Parliamentary Commissioner Act 1971*;
13 (f) the *Public Sector Management Act 1994*.

14 (2) Sections 41 and 42 of the *Interpretation Act 1984* apply to
15 regulations made under the *Health Practitioner Regulation*
16 *National Law (Western Australia)*.

1 **Part 3 — Provisions specific to this jurisdiction**

2 **8. Transfer of certain property exempt from duty**

3 (1) In this section, *dutiable property* and *dutiable transaction* have
4 the respective meanings given in the *Duties Act 2008* section 3.

5 (2) A dutiable transaction relating to the transfer of any dutiable
6 property from a local registration authority to the National
7 Agency in accordance with the *Health Practitioner Regulation*
8 *National Law (Western Australia)* is exempt from duty under
9 the *Duties Act 2008*.

10 **9. Minister's direction**

11 (1) The Minister may, by written notice given to a local registration
12 authority established under an Act repealed by section 14, direct
13 that authority —

14 (a) to transfer any of the local registration authority's funds
15 to the National Agency before the participation day for
16 this jurisdiction; and

17 (b) to give information to the National Agency before the
18 participation day for this jurisdiction; and

19 (c) to sign any documents that are required to enable
20 transition to the proposed national registration and
21 accreditation scheme; and

22 (d) to take any action or do any other thing required to
23 enable transition to the national registration and
24 accreditation scheme.

25 (2) A local registration authority is to comply with any direction
26 given by the Minister under subsection (1).

27 **10. Police Commissioner may give criminal history information**

28 (1) In this section —

29 *criminal history information* means information about a
30 person's criminal history that may be included in a written
31 report under the *Health Practitioner Regulation National Law*
32 *(Western Australia)* section 79 or 135.

- 1 (2) The Commissioner of Police appointed under the *Police*
2 *Act 1892* section 5 may give criminal history information to —
3 (a) a National Board; or
4 (b) CrimTrac, or a police force or service of the
5 Commonwealth or another State or a Territory, for the
6 purpose of CrimTrac or the police force or service
7 giving the criminal history information to a National
8 Board.

9 **11. Review of decision by State Administrative Tribunal as**
10 **responsible tribunal**

11 A reference in the *Health Practitioner Regulation National Law*
12 (*Western Australia*) to an appeal against a decision is, for an
13 appeal to the State Administrative Tribunal as the responsible
14 tribunal, a reference to a review of the decision as provided
15 under the *State Administrative Tribunal Act 2004* Part 3
16 Division 3.

17 **12. Regulations**

18 The Governor may make regulations prescribing all matters that
19 are required or permitted by this Act to be prescribed, or are
20 necessary or convenient to be prescribed for giving effect to the
21 purposes of this Act.

22 **13. Review of Act**

- 23 (1) The Minister is to carry out a review of the operation and
24 effectiveness of this Act as soon as is practicable after 5 years
25 have elapsed since the Act comes into operation.
- 26 (2) The Minister is to prepare a report based on the review carried
27 out under subsection (1) and is to cause the report to be laid
28 before each House of Parliament as soon as is practicable after
29 the report is prepared, and in any event in relation to a review
30 under subsection (1), not later than 12 months after the
31 requirement for the review arose.

1 **Part 4 — Repeals, transitional and saving provisions**

2 **Division 1 — Repeals**

3 **14. Acts repealed**

4 These Acts are repealed:

- 5 (a) the *Chiropractors Act 2005*;
- 6 (b) the *Dental Act 1939*;
- 7 (c) the *Dental Prosthetists Act 1985*;
- 8 (d) the *Medical Practitioners Act 2008*;
- 9 (e) the *Medical Radiation Technologists Act 2006*;
- 10 (f) the *Nurses and Midwives Act 2006*;
- 11 (g) the *Occupational Therapists Act 2005*;
- 12 (h) the *Optometrists Act 2005*;
- 13 (i) the *Osteopaths Act 2005*;
- 14 (j) the *Pharmacy Act 1964*;
- 15 (k) the *Physiotherapists Act 2005*;
- 16 (l) the *Podiatrists Act 2005*;
- 17 (m) the *Psychologists Act 2005*.

18 **15. Codes of practice, regulations and rules repealed**

19 (1) These Codes of Practice are repealed:

- 20 (a) the *Nurse Practitioners Code of Practice 2004*;
- 21 (b) the *Nurses Code of Practice 2000*;
- 22 (c) the *Occupational Therapists Code of Practice 2009*.

23 (2) These regulations are repealed:

- 24 (a) the *Chiropractors Regulations 2007*;
- 25 (b) the *Dental Board Elections Regulations*;
- 26 (c) the *Dental Charges Committee Regulations 1973*;
- 27 (d) the *Dental Prosthetists Regulations 1986*;

- 1 (e) the *Medical Practitioners Regulations 2008*;
2 (f) the *Medical Radiation Technologists Regulations 2007*;
3 (g) the *Nurses and Midwives Regulations 2007*;
4 (h) the *Occupational Therapists Regulations 2007*;
5 (i) the *Optometrists Regulations 2006*;
6 (j) the *Osteopaths Regulations 2006*;
7 (k) the *Pharmacy Act Regulations 1976*;
8 (l) the *Physiotherapists Regulations 2006*;
9 (m) the *Podiatrists Regulations 2006*;
10 (n) the *Psychologists Regulations 2007*.
11 (3) The *Dental Board Rules 1973* are repealed.

12 **Division 2 — Transitional and saving provisions**

13 **16. Term used: former Act**

14 In this Division —

15 *former Act* means any of the Acts repealed by section 14.

16 **17. Complaints and matters being dealt with on the**
17 **participation day**

18 (1) Despite the *Health Practitioner Regulation National Law*
19 (*Western Australia*) section 289 this section applies if
20 immediately before the participation day —

- 21 (a) a complaint about a person in relation to a competency
22 matter, a disciplinary matter or an impairment matter
23 was being dealt with under a former Act other than the
24 *Dental Act 1939* and the *Pharmacy Act 1964*; or
25 (b) a matter was being dealt with under the *Dental Act 1939*
26 section 30; or
27 (c) a matter was being dealt with under the *Pharmacy*
28 *Act 1964* section 32(4).

- 1 (2) If this section applies —
- 2 (a) the complaint or matter is to be dealt with by the
- 3 National Board for the health profession of the person as
- 4 if a reference to the local registration authority in the
- 5 former Act were a reference to the Board; and
- 6 (b) the complaint or matter is to continue to be dealt with
- 7 under the former Act under which it was made or dealt
- 8 with; and
- 9 (c) any committee dealing with the complaint or matter
- 10 under the former Act is to continue dealing with the
- 11 complaint or matter as if any provisions of the former
- 12 Act relating to its establishment or constitution had not
- 13 been repealed; and
- 14 (d) any investigator appointed under the former Act to
- 15 investigate the complaint or matter is to continue to do
- 16 so as if the provision of the former Act under which he
- 17 or she was appointed had not been repealed.
- 18 (3) The National Board must give effect to a decision made in
- 19 relation to a complaint or matter as if it were a decision under
- 20 this Law.

21 **18. Annual reports for part of a year**

- 22 (1) A local registration authority is to make and submit an annual
- 23 report as required by the provision of the former Act under
- 24 which it was required to make and submit an annual report, but
- 25 limited to the period from the end of the period in relation to
- 26 which its last annual report was made to the participation day,
- 27 and that provision applies as if that period were a year.
- 28 (2) Despite the repeal of the former Act under which it was
- 29 established and the *Health Practitioner Regulation National*
- 30 *Law (Western Australia)* Part 12, the local registration authority
- 31 remains in existence for the purpose of subsection (1) and is
- 32 entitled to receive from the National Agency and its staff such
- 33 assistance as it may require for the purpose.

1 **19. School dental therapists**

2 Despite the *Health Practitioner Regulation National Law*
3 (*Western Australia*) Part 12 Division 11, if a person
4 immediately before the participation day held registration under
5 the *Dental Act 1939* as a school dental therapist, from the
6 participation day the person is taken to hold general registration
7 under that Law in the dental therapist profession.

8 **20. Determination of area of need**

9 If, immediately before the participation day, a determination by
10 the Minister of an area of need for the purposes of the definition
11 of ***an unmet area of need*** in the *Medical Practitioners Act 2008*
12 section 34(1) is in force, on the participation day that area of
13 need is to be taken to be an area of need for health services in
14 this jurisdiction as if it had been decided under the *Health*
15 *Practitioner Regulation National Law (Western Australia)*
16 section 67(5) that it is an area of need for health services in this
17 jurisdiction in the medical profession.

18 **21. Transitional regulations**

19 (1) If there is no sufficient provision in this Part for dealing with a
20 transitional matter the Governor may make regulations
21 prescribing all matters that are required, necessary or convenient
22 to be prescribed in relation to that matter.

23 (2) Regulations made under subsection (1) may provide that
24 specific provisions of the *Health Practitioner Regulation*
25 *National Law (Western Australia)* —

- 26 (a) do not apply; or
27 (b) apply with specific modifications,

28 to or in relation to any matter.

29 (3) If regulations made under subsection (1) provide that a specified
30 state of affairs is to be taken to have existed, or not to have
31 existed, on and from a day that is earlier than the day on which
32 the regulations are published in the *Gazette* but not earlier than

- 1 the day on which section 2 commenced, the regulations have
2 effect according to their terms.
- 3 (4) In subsection (3) —
4 *specified* means specified or described in the regulations.
- 5 (5) If regulations contain a provision referred to in subsection (3),
6 the provision does not operate so as —
- 7 (a) to affect in a manner prejudicial to any person (other
8 than the State), the right of that person existing before
9 the day of publication of those regulations; or
- 10 (b) to impose liabilities on any person (other than the State
11 or an authority of the State) in respect of anything done
12 or omitted to be done before the day of publication of
13 those regulations.
- 14 (6) Regulations can only be made under this section before
15 1 July 2013.

1 **Part 5 — Consequential amendments**

2 **Division 1 — *Adoption Act 1994* amended**

3 **22. Act amended**

4 This Division amends the *Adoption Act 1994*.

5 **23. Section 4 amended**

6 In section 4(1) delete the definition of *medical practitioner* and
7 insert:

8
9 *medical practitioner* means a person registered under
10 the *Health Practitioner Regulation National Law*
11 (*Western Australia*) in the medical profession;
12

13 **Division 2 — *Alcohol and Drug Authority Act 1974* amended**

14 **24. Act amended**

15 This Division amends the *Alcohol and Drug Authority Act 1974*.

16 **25. Section 4 amended**

17 In section 4 delete the definition of *medical practitioner* and
18 insert:

19
20 *medical practitioner* means a person registered under
21 the *Health Practitioner Regulation National Law*
22 (*Western Australia*) in the medical profession;
23

24 **Division 3 — *Anatomy Act 1930* amended**

25 **26. Act amended**

26 This Division amends the *Anatomy Act 1930*.

1 **27. Section 2 amended**

2 In section 2 delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **Division 4 — *Bail Act 1982* amended**

10 **28. Act amended**

11 This Division amends the *Bail Act 1982*.

12 **29. Schedule 1 amended**

13 In Schedule 1 Part D clause 2(7) delete the definition of *medical*
14 *practitioner* and “and” after it and insert:

15
16 *medical practitioner* means a person registered under the
17 *Health Practitioner Regulation National Law (Western*
18 *Australia)* in the medical profession;
19

20 **Division 5 — *Biosecurity and Agriculture Management Act 2007***
21 **amended**

22 **30. Act amended**

23 This Division amends the *Biosecurity and Agriculture*
24 *Management Act 2007*.

1 **31. Section 6 amended**

2 In section 6 in the definition of *veterinary chemical product*
3 paragraph (a)(i) delete “pharmaceutical chemist registered under
4 the *Pharmacy Act 1964*” and insert:

5

6 person registered under the *Health Practitioner*
7 *Regulation National Law (Western Australia)* in the
8 pharmacy profession

9

10 **32. Section 118 amended**

11 In section 118(1)(m) delete “or a pharmaceutical chemist.” and
12 insert:

13

14 or a person registered under the *Health*
15 *Practitioner Regulation National Law (Western*
16 *Australia)* in the pharmacy profession.

17

18 **Division 6 — *Births, Deaths and Marriages Registration***
19 ***Act 1998* amended**

20 **33. Act amended**

21 This Division amends the *Births, Deaths and Marriages*
22 *Registration Act 1998*.

23 **34. Section 4 amended**

24 In section 4 delete the definition of *doctor* and insert:

25

26 *doctor* means a person registered under the *Health*
27 *Practitioner Regulation National Law (Western*
28 *Australia)* in the medical profession;

29

1 **Division 7 — *Blood Donation (Limitation of Liability) Act 1985***
2 **amended**

3 **35. Act amended**

4 This Division amends the *Blood Donation (Limitation of*
5 *Liability) Act 1985*.

6 **36. Section 3 amended**

7 In section 3 delete the definition of *medical practitioner* and
8 insert:

9
10 *medical practitioner* means a person registered under
11 the *Health Practitioner Regulation National Law*
12 (*Western Australia*) in the medical profession;
13

14 **37. Section 11 amended**

15 Delete section 11(1)(e) and insert:

16
17 (e) registered under the *Health Practitioner*
18 *Regulation National Law (Western Australia)*
19 in the nursing and midwifery profession whose
20 name is entered on Division 1 of the Register of
21 Nurses kept under that Law as a registered
22 nurse and is employed for the taking of tissue,
23

24 **Division 8 — *Children and Community Services***
25 ***Act 2004* amended**

26 **38. Act amended**

27 This Division amends the *Children and Community Services*
28 *Act 2004*.

29 **39. Section 124A amended**

30 (1) In section 124A delete the definitions of:
31 *doctor*

1 ***midwife***

2 ***nurse***

3 (2) In section 124A insert in alphabetical order:

4
5 ***doctor*** means a person registered under the *Health*
6 *Practitioner Regulation National Law (Western*
7 *Australia)* in the medical profession;

8 ***midwife*** means a person registered under the *Health*
9 *Practitioner Regulation National Law (Western*
10 *Australia)* whose name is entered on the Register of
11 Midwives kept under that Law;

12 ***nurse*** means a person registered under the *Health*
13 *Practitioner Regulation National Law (Western*
14 *Australia)* in the nursing and midwifery profession
15 whose name is entered on the Register of Nurses kept
16 under that Law;

17

18 **Division 9 — *Civil Liability Act 2002* amended**

19 **40. Act amended**

20 This Division amends the *Civil Liability Act 2002*.

21 **41. Section 5PA amended**

22 (1) In section 5PA delete the definition of ***health professional*** and
23 insert:

24
25 ***health professional*** means —

26 (a) a person registered under the *Health*
27 *Practitioner Regulation National Law (Western*
28 *Australia)* in any of the following health
29 professions —

30 (i) chiropractic;

- 1 (ii) dental;
2 (iii) medical;
3 (iv) nursing and midwifery;
4 (v) optometry;
5 (vi) osteopathy;
6 (vii) pharmacy;
7 (viii) physiotherapy;
8 (ix) podiatry;
9 (x) psychology;
10 or
11 (b) any of the following —
12 (i) a medical radiation technologist as
13 defined in the *Medical Radiation*
14 *Technologists Act 2006* section 3;
15 (ii) an occupational therapist as defined in
16 the *Occupational Therapists Act 2005*
17 section 3;
18 (iii) any other person who practises a
19 discipline or profession in the health
20 area that involves the application of a
21 body of learning.
22
23 (2) In section 5PA delete the definition of **health professional** and
24 insert:
25
26 **health professional** means —
27 (a) a person registered under the *Health*
28 *Practitioner Regulation National Law (Western*
29 *Australia)* in any of the following health
30 professions —
31 (i) Aboriginal and Torres Strait Islander
32 health practice;

- 1 (ii) Chinese medicine;
2 (iii) chiropractic;
3 (iv) dental;
4 (v) medical;
5 (vi) medical radiation practice;
6 (vii) nursing and midwifery;
7 (viii) occupational therapy;
8 (ix) optometry;
9 (x) osteopathy;
10 (xi) pharmacy;
11 (xii) physiotherapy;
12 (xiii) podiatry;
13 (xiv) psychology;
14 or
15 (b) any other person who practises a discipline or
16 profession in the health area that involves the
17 application of a body of learning.
18

19 **42. Section 5AB amended**

20 In section 5AB in the definition of *medical qualifications* delete
21 paragraph (a) and insert:
22

- 23 (a) registered under the *Health Practitioner*
24 *Regulation National Law (Western Australia)*
25 in the medical profession; or
26

27 **Division 10 — *Constitution Acts Amendment Act 1899* amended**

28 **43. Act amended**

29 This Division amends the *Constitution Acts Amendment*
30 *Act 1899*.

1 **44. Schedule V Part 3 amended**

2 (1) In Schedule V Part 3 insert in alphabetical order:

3

4 The Aboriginal and Torres Strait Islander Health Practice Board of
5 Australia established under the *Health Practitioner*
6 *Regulation National Law (Western Australia)*.

7 The Chinese Medicine Board of Australia established under the
8 *Health Practitioner Regulation National Law (Western*
9 *Australia)*.

10

11 (2) In Schedule V Part 3 delete the item commencing “The
12 Chiropractors Registration Board of Western Australia” and insert:

13

14 The Chiropractic Board of Australia established under the *Health*
15 *Practitioner Regulation National Law (Western Australia)*.

16

17 (3) In Schedule V Part 3 delete the item commencing “The
18 Chiropodists Registration Board”.

19 (4) In Schedule V Part 3 delete the item commencing “The Dental
20 Board of Western Australia” and insert:

21

22 The Dental Board of Australia established under the *Health*
23 *Practitioner Regulation National Law (Western Australia)*.

24

25 (5) In Schedule V Part 3 delete the item commencing “The Dental
26 Charges Committee”.

27 (6) In Schedule V Part 3 delete the item commencing “The Medical
28 Board of Western Australia” and insert:

29

30 The Medical Board of Australia established under the *Health*
31 *Practitioner Regulation National Law (Western Australia)*.

32

- 1 (7) In Schedule V Part 3 delete the item commencing “The Medical
2 Radiation Technologists Registration Board of Western Australia”
3 and insert:

4
5 The Medical Radiation Practice Board of Australia established under
6 the *Health Practitioner Regulation National Law (Western*
7 *Australia)*.

- 8
9 (8) In Schedule V Part 3 delete the item commencing “The Nurses
10 and Midwives Board of Western Australia” and insert:

11
12 The Nursing and Midwifery Board of Australia established under the
13 *Health Practitioner Regulation National Law (Western*
14 *Australia)*.

- 15
16 (9) In Schedule V Part 3 delete the item commencing “The
17 Occupational Therapists Registration Board of Western Australia”
18 and insert:

19
20 The Occupational Therapy Board of Australia established under the
21 *Health Practitioner Regulation National Law (Western*
22 *Australia)*.

- 23
24 (10) In Schedule V Part 3 delete the item commencing “The
25 Optometrists Registration Board of Western Australia” and insert:

26
27 The Optometry Board of Australia established under the *Health*
28 *Practitioner Regulation National Law (Western Australia)*.

- 29
30 (11) In Schedule V Part 3 delete the item commencing “The
31 Osteopaths Registration Board of Western Australia” and insert:

32
33 The Osteopathy Board of Australia established under the *Health*
34 *Practitioner Regulation National Law (Western Australia)*.

35

1 (12) In Schedule V Part 3 insert in alphabetical order:

2

3 The Pharmacy Board of Australia established under the *Health*
4 *Practitioner Regulation National Law (Western Australia)*.

5

6 (13) In Schedule V Part 3 delete the item commencing “The
7 Physiotherapists Registration Board of Western Australia” and
8 insert:

9

10 The Physiotherapy Board of Australia established under the *Health*
11 *Practitioner Regulation National Law (Western Australia)*.

12

13 (14) In Schedule V Part 3 delete the item commencing “The
14 Podiatrists Registration Board of Western Australia” and insert:

15

16 The Podiatry Board of Australia established under the *Health*
17 *Practitioner Regulation National Law (Western Australia)*.

18

19 (15) In Schedule V Part 3 delete the item commencing “The
20 Psychologists Registration Board of Western Australia” and insert:

21

22 The Psychology Board of Australia established under the *Health*
23 *Practitioner Regulation National Law (Western Australia)*.

24

25 **Division 11 — Coroners Act 1996 amended**

26 **45. Act amended**

27 This Division amends the *Coroners Act 1996*.

1 **46. Section 3 amended**

2 In section 3 delete the definition of *doctor* and insert:

3
4 *doctor* means a person registered under the *Health*
5 *Practitioner Regulation National Law (Western*
6 *Australia)* in the medical profession;
7

8 **Division 12 — *Corruption and Crime Commission***
9 ***Act 2003* amended**

10 **47. Act amended**

11 This Division amends the *Corruption and Crime Commission*
12 *Act 2003*.

13 **48. Section 54 amended**

14 Delete section 54(1) and insert:

15
16 (1) In this section —

17 *medical practitioner* means a person registered under
18 the *Health Practitioner Regulation National Law*
19 *(Western Australia)* in the medical profession;

20 *registered nurse* means a person registered under the
21 *Health Practitioner Regulation National Law (Western*
22 *Australia)* in the nursing and midwifery profession
23 whose name is entered on Division 1 of the Register of
24 Nurses kept under that Law as a registered nurse.
25

26 **Division 13 — *Court Security and Custodial Services Act 1999***
27 **amended**

28 **49. Act amended**

29 This Division amends the *Court Security and Custodial Services*
30 *Act 1999*.

1 **50. Section 3 amended**

2 (1) In section 3 delete the definitions of:

3 *doctor*

4 *nurse*

5 (2) In section 3 insert in alphabetical order:

6

7 *doctor* means a person registered under the *Health*
8 *Practitioner Regulation National Law (Western*
9 *Australia)* in the medical profession;

10 *nurse* means a person registered under the *Health*
11 *Practitioner Regulation National Law (Western*
12 *Australia)* in the nursing and midwifery profession
13 whose name is entered on Division 1 of the Register of
14 Nurses kept under that Law as a registered nurse;

15

16 **Division 14 — *Cremation Act 1929* amended**

17 **51. Act amended**

18 This Division amends the *Cremation Act 1929*.

19 **52. Section 2 amended**

20 In section 2 delete the definition of *medical practitioner* and
21 insert:

22

23 *medical practitioner* means a person registered under
24 the *Health Practitioner Regulation National Law*
25 (*Western Australia*) in the medical profession.

26

Division 15 — *Criminal Injuries Compensation Act 2003* amended

53. Act amended

This Division amends the *Criminal Injuries Compensation Act 2003*.

54. Section 3 amended

In section 3 delete the definition of ***health professional*** and insert:

health professional means —

- (a) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law or under a law of another place that is substantially similar to that Law; or
- (b) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession or under a law of another place that is substantially similar to that Law; or
- (c) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession or under a law of another place that is substantially similar to that Law;

1 **58. Section 73 amended**

2 (1) In section 73 delete the definitions of:

3 *dentist*

4 *doctor*

5 *nurse*

6 (2) In section 73 insert in alphabetical order:

7
8 *dentist* means a person registered under the *Health*
9 *Practitioner Regulation National Law (Western*
10 *Australia)* in the dental profession whose name is
11 entered on the Dentists Division of the Register of
12 Dental Practitioners kept under that Law;

13 *doctor* means a person registered under the *Health*
14 *Practitioner Regulation National Law (Western*
15 *Australia)* in the medical profession;

16 *nurse* means a person registered under the *Health*
17 *Practitioner Regulation National Law (Western*
18 *Australia)* in the nursing and midwifery profession
19 whose name is entered on Division 1 of the Register of
20 Nurses kept under that Law as a registered nurse;
21

22 **Division 18 — *Criminal Property Confiscation***
23 ***Act 2000* amended**

24 **59. Act amended**

25 This Division amends the *Criminal Property Confiscation*
26 *Act 2000*.

1 **60. Glossary amended**

2 In the Glossary delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under the
6 *Health Practitioner Regulation National Law (Western*
7 *Australia)* in the medical profession;
8

9 **Division 19 — *Diamond (Argyle Diamond Mines Joint Venture)***
10 ***Agreement Act 1981* amended**

11 **61. Act amended**

12 This Division amends the *Diamond (Argyle Diamond Mines*
13 *Joint Venture) Agreement Act 1981*.

14 **62. Section 14 amended**

15 In section 14 delete the definition of *medical practitioner* and
16 insert:

17
18 *medical practitioner* means a person registered under
19 the *Health Practitioner Regulation National Law*
20 (*Western Australia*) in the medical profession;
21

22 **Division 20 — *Firearms Act 1973* amended**

23 **63. Act amended**

24 This Division amends the *Firearms Act 1973*.

1 **64. Section 4 amended**

2 In section 4 delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **65. Section 23B amended**

10 (1) In section 23B(3) in the definition of *health professional* delete
11 paragraph (b) and insert:

12
13 (b) a person registered under the *Health*
14 *Practitioner Regulation National Law (Western*
15 *Australia)* in the psychology profession;
16

17 (2) In section 23B(3) delete the definition of *registered nurse* and
18 insert:

19
20 *registered nurse* means a person registered under the
21 *Health Practitioner Regulation National Law (Western*
22 *Australia)* in the nursing and midwifery profession
23 whose name is entered on Division 1 of the Register of
24 Nurses kept under that Law as a registered nurse.
25

26 **Division 21 — *Gender Reassignment Act 2000* amended**

27 **66. Act amended**

28 This Division amends the *Gender Reassignment Act 2000*.

1 **67. Section 3 amended**

2 In section 3 delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **Division 22 — *Health Act 1911* amended**

10 **68. Act amended**

11 This Division amends the *Health Act 1911*.

12 **69. Section 3 amended**

13 (1) In section 3(1) delete the definitions of:

14 *medical practitioner*

15 *midwife*

16 *nurse practitioner*

17 (2) In section 3(1) insert in alphabetical order:

18
19 *medical practitioner* means a person registered under
20 the *Health Practitioner Regulation National Law*
21 (*Western Australia*) in the medical profession;

22 *midwife* means a person registered under the *Health*
23 *Practitioner Regulation National Law (Western*
24 *Australia)* whose name is entered on the Register of
25 Midwives kept under that Law;

26 *nurse practitioner* means a person registered under the
27 *Health Practitioner Regulation National Law (Western*
28 *Australia)* whose name is entered on the Register of
29 Nurses kept under that Law as being qualified to
30 practise as a nurse practitioner;
31

1 **70. Section 246A amended**

2 In section 246A(3) delete “*Pharmacy Act 1964*” and insert:

3

4 *Health Practitioner Regulation National Law (Western*
5 *Australia)*

6

7 Note: The heading to amended section 246A is to read:

8 **Crown bound, but *Health Practitioner Regulation National Law***
9 **(*Western Australia*) and *Poisons Act 1964* not affected by**
10 **Division 8**

11 **71. Section 246D amended**

12 In section 246D(1)(n) delete “a medical practitioner within the
13 meaning given to that term in the *Medical Practitioners*
14 *Act 2008* section 4” and insert:

15

16 a person registered under the *Health*
17 *Practitioner Regulation National Law (Western*
18 *Australia)* in the medical profession

19

20 **72. Section 331 inserted**

21 At the beginning of Part XIII insert:

22

23 **331. Terms used in this Part**

24 In this Part —

25 ***dentist*** means a person registered under the *Health*
26 *Practitioner Regulation National Law (Western*
27 *Australia)* in the dental profession whose name is
28 entered on the Dentists Division of the Register of
29 Dental Practitioners kept under that Law;

30 ***school dental service*** means the service established
31 under section 337A;

1 *school dental therapist* means a person who holds or is
2 taken to hold general registration under the *Health*
3 *Practitioner Regulation National Law (Western*
4 *Australia)* in the dental therapist profession.
5

6 **73. Section 337 amended**

7 In section 337(2):

- 8 (a) delete “duly registered”;
- 9 (b) delete “Health or by the local government,” and insert:
- 10

11 Health,
12

13 **74. Section 337A amended**

14 Delete section 337A(5).

15 **Division 23 — *Health Legislation Administration***
16 ***Act 1984* amended**

17 **75. Act amended**

18 This Division amends the *Health Legislation Administration*
19 *Act 1984*.

20 **76. Section 6 amended**

21 Delete section 6(4)(a) and insert:

22

- 23 (a) an office referred to in subsection (1)(b) or (c)
24 unless the person is registered under the *Health*
25 *Practitioner Regulation National Law (Western*
26 *Australia)* in the medical profession;
27

1 **Division 24 — *Health Professionals (Special Events Exemption)***
2 ***Act 2000* amended**

3 **77. Act amended**

4 This Division amends the *Health Professionals (Special Events*
5 *Exemption) Act 2000*.

6 **78. Section 3 amended**

- 7 (1) In section 3(1) delete the definition of ***Health Registration Act***
8 and insert:

9
10 ***Health Registration Act*** means any of the following
11 Acts —

- 12 (a) *Medical Radiation Technologists Act 2006*;
13 (b) *National Health Practitioner Regulation*
14 *National Law (Western Australia)*;
15 (c) *Occupational Therapists Act 2005*;

- 16
17 (2) In section 3(1) delete the definition of ***Health Registration Act***
18 and insert:

19
20 ***Health Registration Act*** means the *National Health*
21 *Practitioner Regulation National Law (Western*
22 *Australia)*;

23
24 **Division 25 — *Health Services (Conciliation and Review)***
25 ***Act 1995* amended**

26 **79. Act amended**

27 This Division amends the *Health Services (Conciliation and*
28 *Review) Act 1995* (citation changed to the *Health and Disability*
29 *Services (Complaints) Act 1995* by the *Health and Disability*
30 *Services Legislation Amendment Act 2010* section 5).

1 **80. Section 11 amended**

2 In section 11(2) delete “or 46”.

3 **81. Section 31 replaced**

4 Delete section 31 and insert:

5

6 **31. Complaints not dealt with by National Board under**
7 **the *Health Practitioner Regulation National Law***
8 **(*Western Australia*)**

9 If a complaint, or an element of a complaint, relates to
10 a registered provider and the complaint, or the element
11 of the complaint, is not to be dealt with under the
12 *Health Practitioner Regulation National Law (Western*
13 *Australia)* section 150 by the National Board
14 established for the provider’s health profession, the
15 Director may deal with the complaint, or the element of
16 the complaint, under this Part.

17 **32A. Notice that complaint being dealt with by National**
18 **Board**

19 If a complaint, or an element of a complaint, is being
20 dealt with by a National Board under the *Health*
21 *Practitioner Regulation National Law (Western*
22 *Australia)* section 150, the Director must within
23 28 days of the Board beginning to so deal with it notify
24 the user that the Board is dealing with it.

25

26 **82. Section 33 amended**

27 In section 33:

28 (a) delete “31 or”;

29 (b) in paragraph (b) delete “registration board,”.

1 **83. Section 34 amended**

2 (1) In section 34(1) delete “complaint” and insert:

3

4 complaint, or an element of a complaint, that is not to
5 be dealt with by the National Board established for a
6 registered provider’s health profession,

7

8 (2) If this section comes into operation after the *Health and*
9 *Disability Services Legislation Amendment Act 2010* section 17
10 comes into operation —

11 (a) in the *Health Services (Complaints) Act 1995*
12 section 34(1)(c) (as inserted by the *Health and*
13 *Disability Services Legislation Amendment Act 2010*
14 section 17) delete “section 28, 31 or 32,” and insert:

15

16 section 28 or 32,

17

18 (b) delete subsection (3).

19 (3) If this section comes into operation before the *Health and*
20 *Disability Services Legislation Amendment Act 2010* section 17
21 comes into operation —

22 (a) in the *Health and Disability Services Legislation*
23 *Amendment Act 2010* section 17(1) delete “section 28,
24 31 or 32,” and insert:

25

26 section 28 or 32,

27

28 (b) delete subsection (2).

29 (4) Delete section 34(5).

30 **84. Section 35 amended**

31 (1) Delete section 35(1)(b) and “and” after it.

1 (2) After paragraph (a) insert:

2

3 and

4

5 **85. Section 43 amended**

6 Delete section 43(3).

7 **86. Section 44 amended**

8 Delete section 44(3).

9 **87. Section 46 deleted**

10 Delete section 46.

11 **88. Section 49 deleted**

12 Delete section 49.

13 **89. Sections 53, 54 and 55 deleted**

14 Delete sections 53, 54 and 55.

15 **90. Section 71 amended**

16 In section 71(5)(d) delete “44(3),”.

17 **91. Schedule 1 amended**

18 (1) In Schedule 1 delete “[Sections 3 and 54]” and insert:

19

20 [s. 3]

21

22 (2) Delete Schedule 1 items 1, 2, 3, 4, 6, 6a, 7, 8, 9 and 10.

- 1 (3) In Schedule 1 insert in alphanumerical order:
2
- 3 1. Chiropractor Board of Australia established under the
4 *Health Practitioner Regulation National Law (Western*
5 *Australia).*
- 6 2. Dental Board of Australia established under the *Health*
7 *Practitioner Regulation National Law (Western Australia).*
- 8 3. Medical Board of Australia established under the *Health*
9 *Practitioner Regulation National Law (Western Australia).*
- 10 4. Nursing and Midwifery Board of Australia established
11 under the *Health Practitioner Regulation National Law*
12 *(Western Australia).*
- 13 6. Optometry Board of Australia established under the *Health*
14 *Practitioner Regulation National Law (Western Australia).*
- 15 6a. Osteopathy Board of Australia established under the *Health*
16 *Practitioner Regulation National Law (Western Australia).*
- 17 7. Pharmacy Board of Australia established under the *Health*
18 *Practitioner Regulation National Law (Western Australia).*
- 19 8. Physiotherapy Board of Australia established under the
20 *Health Practitioner Regulation National Law (Western*
21 *Australia).*
- 22 9. Podiatry Board of Australia established under the *Health*
23 *Practitioner Regulation National Law (Western Australia).*
- 24 10. Psychology Board of Australia established under the *Health*
25 *Practitioner Regulation National Law (Western Australia).*
26
- 27 (4) Delete Schedule 1 items 3a and 5.
- 28 (5) In Schedule 1 insert in alphanumerical order:
29
- 30 1a. Aboriginal and Torres Strait Islander Health Practice Board
31 of Australia established under the *Health Practitioner*
32 *Regulation National Law (Western Australia).*

- 1 1b. Chinese Medicine Board of Australia established under the
2 *Health Practitioner Regulation National Law (Western*
3 *Australia)*.
- 4 3a. Medical Radiation Practice Board of Australia established
5 under the *Health Practitioner Regulation National Law*
6 *(Western Australia)*.
- 7 5. Occupational Therapy Board of Australia established under
8 the *Health Practitioner Regulation National Law (Western*
9 *Australia)*.
- 10

11 **Division 26 — *Hospitals and Health Services Act 1927* amended**

12 **92. Act amended**

13 This Division amends the *Hospitals and Health Services*
14 *Act 1927*.

15 **93. Section 2 amended**

16 In section 2(1) delete the definition of *practitioner* and insert:

17

18 *practitioner* includes —

- 19 (a) a person registered under the *Health*
20 *Practitioner Regulation National Law (Western*
21 *Australia)* in the medical profession; and
- 22 (b) any other person practising in the field of health
23 or medicine who is declared by the Minister
24 under section 3(5) to be a practitioner for the
25 purposes of this Act;
- 26

1 **Division 27 — *Human Reproductive Technology***
2 ***Act 1991* amended**

3 **94. Act amended**

4 This Division amends the *Human Reproductive Technology*
5 *Act 1991*.

6 **95. Section 3 amended**

7 In section 3(1) delete the definition of *medical practitioner* and
8 insert:

9
10 *medical practitioner* means a person registered under
11 the *Health Practitioner Regulation National Law*
12 (*Western Australia*) in the medical profession;
13

14 **Division 28 — *Human Tissue and Transplant Act 1982* amended**

15 **96. Act amended**

16 This Division amends the *Human Tissue and Transplant*
17 *Act 1982*.

18 **97. Section 3 amended**

19 In section 3(1) delete the definition of *medical practitioner* and
20 insert:

21
22 *medical practitioner* means a person registered under
23 the *Health Practitioner Regulation National Law*
24 (*Western Australia*) in the medical profession;
25

26 **Division 29 — *Industrial Relations Act 1979* amended**

27 **98. Act amended**

28 This Division amends the *Industrial Relations Act 1979*.

1 **99. Section 72B amended**

2 In section 72B(1) delete the definition of *medical practitioner*
3 and insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **100. Section 97WR amended**

10 In section 97WR delete the definition of *medical practitioner*
11 and insert:

12
13 *medical practitioner* means a person registered under
14 the *Health Practitioner Regulation National Law*
15 (*Western Australia*) in the medical profession;
16

17 **Division 30 — *Juries Act 1957* amended**

18 **101. Act amended**

19 This Division amends the *Juries Act 1957*.

20 **102. Second Schedule amended**

21 In the Second Schedule Part II delete clause 2 and insert:

22
23 2. Health.

24 A person registered under the *Health Practitioner*
25 *Regulation National Law (Western Australia)* in the
26 chiropractic profession if actually practising.

27 A person registered under the *Health Practitioner*
28 *Regulation National Law (Western Australia)* in the dental
29 profession whose name is entered on the Dentists Division
30 of the Register of Dental Practitioners kept under that Law if
31 actually practising.

1 A person registered under the *Health Practitioner*
2 *Regulation National Law (Western Australia)* in the medical
3 profession if actually practising.

4 A person registered under the *Health Practitioner*
5 *Regulation National Law (Western Australia)* in the nursing
6 and midwifery profession if actually practising.

7 A person registered under the *Health Practitioner*
8 *Regulation National Law (Western Australia)* in the
9 osteopathy profession if actually practising.

10 A person registered under the *Health Practitioner*
11 *Regulation National Law (Western Australia)* in the
12 pharmacy profession if actually in business whether as
13 principal or manager for a principal.

14 A person registered under the *Health Practitioner*
15 *Regulation National Law (Western Australia)* in the
16 physiotherapy profession if actually practising.

17 A person registered under the *Health Practitioner*
18 *Regulation National Law (Western Australia)* in the
19 psychology profession if actually practising.

20 Veterinary surgeons registered under the *Veterinary*
21 *Surgeons Act 1960* if actually practising.
22

23 **Division 31 — *Liquor Control Act 1988* amended**

24 **103. Act amended**

25 This Division amends the *Liquor Control Act 1988*.

26 **104. Section 6 amended**

27 Delete section 6(1)(b) and insert:
28

- 29 (b) where liquor is sold or administered for
30 medicinal purposes —
31 (i) by a person registered under the *Health*
32 *Practitioner Regulation National Law*

- 1 (Western Australia) in the pharmacy
2 profession; or
3 (ii) by or on the prescription of a person
4 registered under the *Health Practitioner*
5 *Regulation National Law (Western*
6 *Australia)* in the dental profession
7 whose name is entered on the Dentists
8 Division of the Register of Dental
9 Practitioners kept under that Law or
10 registered under that Law in the medical
11 profession;
12

13 **Division 32 — *Magistrates Court Act 2004* amended**

14 **105. Act amended**

15 This Division amends the *Magistrates Court Act 2004*.

16 **106. Schedule 1 amended**

17 In Schedule 1 clause 13(3) delete “2 medical practitioners (as
18 defined in the *Medical Practitioners Act 2008* section 4) to —” and
19 insert:
20

21 2 persons registered under the *Health Practitioner*
22 *Regulation National Law (Western Australia)* in the medical
23 profession to —
24

25 **Division 33 — *Medical Radiation Technologists Act 2006***
26 **amended**

27 **107. Act amended**

28 This Division amends the *Medical Radiation Technologists*
29 *Act 2006*.

1 **108. Section 3 amended**

2 In section 3 delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **Division 34 — *Mental Health Act 1996* amended**

10 **109. Act amended**

11 This Division amends the *Mental Health Act 1996*.

12 **110. Section 3 amended**

13 (1) In section 3 delete the definitions of:

14 *medical practitioner*

15 *psychiatrist*

16 *psychologist*

17 (2) In section 3 insert in alphabetical order:

18
19 *medical practitioner* means a person registered under
20 the *Health Practitioner Regulation National Law*
21 (*Western Australia*) in the medical profession;

22 *psychiatrist* means a person whose name is contained
23 in the register of specialist psychiatrists kept by the
24 Medical Board of Australia under the *Health*
25 *Practitioner Regulation National Law (Western*
26 *Australia)* section 223;

27 *psychologist* means a person registered under the
28 *Health Practitioner Regulation National Law (Western*
29 *Australia)* in the psychology profession;
30

1 **111. Section 17 deleted**

2 Delete section 17.

3 **112. Section 19 amended**

4 (1) Delete section 19(1)(b) and “or” after it and insert:

5

6 (b) a person —

7 (i) registered under the *Health Practitioner*
8 *Regulation National Law (Western*
9 *Australia)* in the nursing and midwifery
10 profession; or

11 (ii) registered as an occupational therapist
12 under the *Occupational Therapists*
13 *Act 2005*;

14 or

15

16 (2) Delete section 19(1)(b) and “or” after it and insert:

17

18 (b) a person —

19 (i) registered under the *Health Practitioner*
20 *Regulation National Law (Western*
21 *Australia)* in the nursing and midwifery
22 profession; or

23 (ii) registered under the *Health Practitioner*
24 *Regulation National Law (Western*
25 *Australia)* in the occupational therapy
26 profession;

27 or

28

1 **Division 35 — *Miner's Phthisis Act 1922* amended**

2 **113. Act amended**

3 This Division amends the *Miner's Phthisis Act 1922*.

4 **114. Section 8 amended**

5 (1) In section 8(2) delete “a practitioner registered under the
6 *Medical Practitioners Act 2008*,” and insert:

7
8 a person registered under the *Health Practitioner*
9 *Regulation National Law (Western Australia)* in the
10 medical profession,
11

12 (2) In section 8(3) delete “2 practitioners registered under the
13 *Medical Practitioners Act 2008*,” and insert:

14
15 2 persons registered under the *Health Practitioner*
16 *Regulation National Law (Western Australia)* in the
17 medical profession,
18

19 **Division 36 — *Minimum Conditions of Employment***
20 ***Act 1993* amended**

21 **115. Act amended**

22 This Division amends the *Minimum Conditions of Employment*
23 *Act 1993*.

1 **116. Section 3 amended**

2 In section 3(1) delete the definition of *medical practitioner* and
3 insert:

4
5 *medical practitioner* means a person registered under
6 the *Health Practitioner Regulation National Law*
7 (*Western Australia*) in the medical profession;
8

9 **Division 37 — *Misuse of Drugs Act 1981* amended**

10 **117. Act amended**

11 This Division amends the *Misuse of Drugs Act 1981*.

12 **118. Section 3 amended**

13 (1) In section 3(1) delete the definitions of:

14 *dentist*

15 *medical practitioner*

16 *nurse practitioner*

17 (2) In section 3(1) insert in alphabetical order:

18
19 *dentist* means a person registered under the *Health*
20 *Practitioner Regulation National Law (Western*
21 *Australia)* in the dental profession whose name is
22 entered on the Dentists Division of the Register of
23 Dental Practitioners kept under that Law;

24 *medical practitioner* means a person registered under
25 the *Health Practitioner Regulation National Law*
26 (*Western Australia*) in the medical profession;

27 *nurse practitioner* means a person registered under the
28 *Health Practitioner Regulation National Law (Western*
29 *Australia)* whose name is entered on the Register of

Nurses kept under that Law as a being qualified to
practise as a nurse practitioner;

Division 38 — Oaths, Affidavits and Statutory Declarations
Act 2005 amended

119. Act amended

This Division amends the *Oaths, Affidavits and Statutory
Declarations Act 2005*.

120. Schedule 2 amended

- (1) Delete Schedule 2 items 9, 10, 14, 15, 27, 28, 30, 31 and 34.
- (2) In Schedule 2 insert in numerical order:

9.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the pharmacy profession.	Chemist
10.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the chiropractic profession.	Chiropractor
14.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law.	Dentist
15.	A person who is registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the medical profession.	Doctor

27.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the nursing and midwifery profession.	Nurse
28.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the optometry profession.	Optometrist
30.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the physiotherapy profession.	Physiotherapist
31.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the podiatry profession.	Podiatrist
34.	A person registered under the <i>Health Practitioner Regulation National Law (Western Australia)</i> in the psychology profession.	Psychologist

1

2 **Division 39 — *Occupational Therapists Act 2005* amended**

3 **121. Act amended**

4 This Division amends the *Occupational Therapists Act 2005*.

5 **122. Section 3 amended**

6 In section 3 delete the definition of ***medical practitioner*** and
7 insert:

8

9 ***medical practitioner*** means a person who is registered
10 under the *Health Practitioner Regulation National Law*
11 (*Western Australia*) in the medical profession;
12

Division 40 — *Poisons Act 1964* amended

123. Act amended

This Division amends the *Poisons Act 1964*.

124. Section 5 amended

(1) In section 5(1) delete the definitions of:

dentist

medical practitioner

nurse practitioner

pharmaceutical chemist

(2) In section 5(1) insert in alphabetical order:

dentist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

endorsed health practitioner, in relation to a scheduled medicine or class of scheduled medicine, means a health practitioner who is registered under the *Health Practitioner Regulation National Law (Western Australia)* to practise a health profession and whose registration is endorsed to administer, obtain, possess, prescribe, sell, supply or use the scheduled medicine or class of scheduled medicine;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

medicine means a substance included in Schedule 2, 3, 4 or 8;

nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western*

pharmacist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the pharmacy profession;

Schedule 1 — [Blank]

Schedule 2 — Pharmacy medicines

Substances, the safe use of which may require advice from a pharmacist and which should be available from a pharmacy or, where a pharmacy service is not available, from a licensed person.

Schedule 3 — Pharmacist only medicines

Substances, the safe use of which requires professional advice but which should be available to the public from a pharmacist without a prescription.

**Schedule 4 — Prescription only medicines, or
Prescription Animal Remedy**

Substances, the use or supply of which should be by or on the order of persons permitted under the Act to prescribe and should be available from a pharmacist on prescription.

Schedule 5 — Caution

Substances with a low potential for causing harm, the extent of which can be reduced through the use of appropriate packaging with simple warnings and safety directions on the label.

Schedule 6 — Poison

Substances with a moderate potential for causing harm, the extent of which can be reduced through the use of distinctive packaging with strong warnings and safety directions on the label.

Schedule 7 — Dangerous Poison

Substances with a high potential for causing harm at low exposure and which require special precautions during manufacture, handling or use. These poisons should be available only to specialised or authorised users who have the skills necessary to handle them safely. Special regulations restricting their availability, possession, storage or use may apply.

Schedule 8 — Controlled Drug

Substances which should be available for use but require restriction of manufacture, supply, distribution, possession and use to reduce abuse, misuse and physical or psychological dependence.

Schedule 9 — Prohibited Substance

Substances which may be abused or misused, the manufacture, possession, sale or use of which should be prohibited by law except when required for medical or scientific research, or for analytical, teaching or training purposes with approval of the CEO.

1

2 **127. Section 23 amended**

3 (1) In section 23(2)(a) delete “a pharmaceutical chemist” and insert:

4

5 a pharmacist

6

7 (2) After section 23(3) insert:

8 (4A) If the CEO gives a dentist, medical practitioner, nurse
9 practitioner or pharmacist a notice pursuant to any
10 regulations made under section 64(2)(ha), the CEO
11 may give a copy of the notice to the National Board as
12 defined in the *Health Practitioner Regulation National*

- 1 *Law (Western Australia)* section 5 for the person's
2 health profession.
- 3 (4B) Subject to this Act, a person who is a member of a
4 prescribed class of endorsed health practitioner is
5 authorised in the lawful practice of his or her
6 profession to do any one or more of the following
7 things in relation to a medicine as is prescribed in
8 relation to the prescribed class —
- 9 (a) possess;
10 (b) use;
11 (c) supply;
12 (d) sell;
13 (e) prescribe.
- 14 (4C) The authorisation given by subsection (4B) is subject
15 to —
- 16 (a) such conditions and restrictions as may be
17 prescribed; and
18 (b) any notice given by the CEO pursuant to any
19 regulations made under section 64(2)(ha).
- 20 (4D) If the CEO gives an endorsed health practitioner a
21 notice pursuant to any regulations made under
22 section 64(2)(ha), the CEO may give a copy of the
23 notice to the National Board as defined in the *Health*
24 *Practitioner Regulation National Law (Western*
25 *Australia)* section 5 that endorsed the registration of
26 the health practitioner.
- 27 (4E) Subsection (4B) does not authorise a person to sell any
28 poison in an open shop unless the person is licensed
29 under this Act to do so.

1 **128. Section 24 amended**

2 (1) In section 24(1) delete “or at any pharmacy or other premises
3 or” and insert:

4
5 premises or at a
6

7 (2) Delete section 24(4).

8 **129. Section 26 amended**

9 In section 26(2) delete “pharmacy or other”.

10 **130. Section 30 amended**

11 (1) In section 30(1):

12 (a) delete “pharmaceutical chemist,” and insert:

13
14 pharmacist;

15
16 (b) delete “pharmaceutical chemist” (second and third
17 occurrences) and insert:

18
19 pharmacist
20

21 (2) In section 30(2):

22 (a) delete “pharmaceutical chemist” and insert:

23
24 pharmacist
25

26 (b) delete “pharmaceutical chemist,” and insert:

27
28 pharmacist,
29

- 1 (3) In section 30(3) delete the definition of *friendly society* and
2 insert:

3
4 *friendly society* means a company that is a friendly
5 society under the Corporations Act and that —

- 6 (a) provides mutual benefits to its members; and
7 (b) is a non-profit organisation; and
8 (c) has a constitution that provides that the main
9 object of the company is to carry on the
10 business of pharmacy.
11

12 **131. Section 50 amended**

13 In section 50(2) delete “pharmaceutical chemists” and insert:

14
15 pharmacists
16

17 **132. Section 55C amended**

18 In section 55C after “provisions of the” insert:

19
20 *Health Practitioner Regulation National Law (Western*
21 *Australia)* or the
22

23 Note: The heading to amended section 55C is to read:

24 **Sections 54 to 55A do not derogate from the *Health Practitioner***
25 ***Regulation National Law (Western Australia)* or the *Misuse of***
26 ***Drugs Act 1981***

1 **133. Section 61 replaced**

2 Delete section 61 and insert:

3

4 **61. Evidence of qualifications**

5 In all courts and before all persons and bodies
6 authorised to receive evidence, in the absence of
7 evidence to the contrary —

8 (a) a certificate purporting to be issued by the CEO
9 and stating that a person is or is not, or was or
10 was not, on a certain date or for a certain period
11 the holder of a licence, permit or authority
12 under this Act is evidence of that matter; and

13 (b) the production of a copy of the *Gazette*
14 containing the list as last published under
15 section 59 in relation to the time in question of
16 persons holding licences or permits under this
17 Act is, if the name of the accused does not
18 appear in the list, prima facie proof that he or
19 she is not a person who holds a licence or
20 permit under this Act; and

21 (c) a certificate purporting to be issued by the
22 Registrar as defined in the *Veterinary Surgeons*
23 *Act 1960* section 2 that any person is or is not,
24 or was or was not, on a certain date or for a
25 certain period a registered veterinary surgeon is
26 evidence of that matter.
27

1 **134. Section 64 amended**

2 In section 64(2):

- 3 (a) in paragraph (ha) delete “section 23(2) in relation to
4 drugs of addiction or specified drugs or both;” and
5 insert:
6
7 section 23(2) or (4B) in relation to a poison or medicine;
8
9 (b) in paragraph (q) delete “pharmaceutical chemist” and
10 insert:
11
12 pharmacist
13
14 (c) in paragraph (r) delete “pharmaceutical chemists” and
15 insert:
16
17 pharmacists
18

19 **Division 41 — *Prisons Act 1981* amended**

20 **135. Act amended**

21 This Division amends the *Prisons Act 1981*.

22 **136. Section 3 amended**

23 In section 3(1) in the definition of ***medical practitioner*** delete
24 paragraph (a) and “and” after it and insert:
25

- 26 (a) a person who is registered under the *Health*
27 *Practitioner Regulation National Law (Western*
28 *Australia)* in the medical profession; and
29

1 **137. Section 46 amended**

2 In section 46 delete “a medical practitioner registered under the
3 *Medical Practitioners Act 2008*” and insert:

4
5 a person who is registered under the *Health*
6 *Practitioner Regulation National Law (Western*
7 *Australia)* in the medical profession
8

9 **Division 42 — *Prostitution Act 2000* amended**

10 **138. Act amended**

11 This Division amends the *Prostitution Act 2000*.

12 **139. Section 29 amended**

13 Delete section 29(7) and insert:

14
15 (7) In this section —

16 *medical practitioner* means a person who is registered
17 under the *Health Practitioner Regulation National Law*
18 *(Western Australia)* in the medical profession;

19 *registered nurse* means a person who is registered
20 under the *Health Practitioner Regulation National Law*
21 *(Western Australia)* in the nursing and midwifery
22 profession whose name is entered on Division 1 of the
23 Register of Nurses kept under that Law as a registered
24 nurse.
25

Division 43 — *Queen Elizabeth II Medical Centre Act 1966* amended

140. Act amended

This Division amends the *Queen Elizabeth II Medical Centre Act 1966*.

141. Section 16 amended

In section 16(4a) delete “a medical practitioner as defined in the *Medical Practitioners Act 2008* section 4.” and insert:

a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

Division 44 — *Radiation Safety Act 1975* amended

142. Act amended

This Division amends the *Radiation Safety Act 1975*.

143. Section 4 amended

(1) In section 4 delete the definition of ***medical radiation technologist***.

(2) In section 4 insert in alphabetical order:

Board means the Medical Radiation Practice Board of Australia established under the *Health Practitioner Regulation National Law (Western Australia)* section 31;

medical radiation practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical radiation practice profession;

- 1 ***medical radiation technology*** means —
2 (a) medical imaging technology; or
3 (b) nuclear medicine technology; or
4 (c) radiation therapy;
5

6 **144. Section 13 amended**

7 Delete section 13(2)(b)(vii) and insert:

- 8
9 (vii) one shall be a medical radiation
10 practitioner.
11

12 **145. Section 24A amended**

13 (1) In section 24A(1) delete “as defined in section 3 of the *Medical*
14 *Radiation Technologists Act 2006*”.

15 (2) In section 24A(1)(a) delete “medical radiation technologist” and
16 insert:

17
18 medical radiation practitioner
19

20 Note: The heading to amended section 24A is to read:

21 **Disclosure of information to the Medical Radiation Practice Board**
22 **of Australia**

23 **146. Section 26 amended**

24 In section 26(2a):

25 (a) delete “a nurse practitioner as defined in the *Nurses and*
26 *Midwives Act 2006*” and insert:

27
28 a person registered under the *Health Practitioner*
29 *Regulation National Law (Western Australia)* whose

1 name is entered on the Register of Nurses kept under
2 that Law as being qualified to practise as a nurse
3 practitioner
4

- 5 (b) delete “a code of practice issued under
6 section 100(1)(b)” and insert:

7
8 a code or guidelines approved under section 39
9

10 **147. Section 27 amended**

- 11 (1) Delete section 27(2)(a) and “or” after it and insert:
12

- 13 (a) the person was —

14 (i) registered under the *Health Practitioner*
15 *Regulation National Law (Western*
16 *Australia)* in the chiropractic profession;
17 or

18 (ii) registered under the *Health Practitioner*
19 *Regulation National Law (Western*
20 *Australia)* in the dental profession
21 whose name is entered on the Dentists
22 Division of the Register of Dental
23 Practitioners kept under that Law; or

24 (iii) registered under the *Health Practitioner*
25 *Regulation National Law (Western*
26 *Australia)* in the medical profession; or

27 (iv) registered under the *Health Practitioner*
28 *Regulation National Law (Western*
29 *Australia)* in the physiotherapy
30 profession,

31 and engaged in his or her professional practice,
32 and was the holder of a relevant licence under
33 this Act authorising him or her so to do; or
34

- 1 (2) In section 27(2)(b) delete “medical radiation technology as
2 defined in section 3 of the *Medical Radiation Technologists*
3 *Act 2006*,” and insert:
4
5 medical radiation technology,
6
7 (3) In section 27(2)(ba)(i) delete “medical radiation technologist”
8 and insert:
9
10 medical radiation practitioner
11
12 (4) In section 27(2)(bb)(i) delete “medical radiation technologist”
13 and insert:
14
15 medical radiation practitioner
16
17 **148. Section 37A inserted**
18 After section 36 insert:
19
20 **37A. Conflict or inconsistency between conditions**
21 **imposed under *Health Practitioner Regulation***
22 ***National Law (Western Australia)* and this Act**
23 (1) If there is any conflict or inconsistency between a
24 condition —
25 (a) imposed on a medical radiation practitioner
26 under the *Health Practitioner Regulation*
27 *National Law (Western Australia)*; and
28 (b) imposed on a licence held by the medical
29 radiation practitioner under this Act,

1 then —

2 (c) the condition imposed on the licence prevails
3 (whether that condition was imposed before or
4 after the condition imposed under the *Health
5 Practitioner Regulation National Law (Western
6 Australia)*); and

7 (d) the condition imposed under the *Health
8 Practitioner Regulation National Law (Western
9 Australia)* is of no effect to the extent of the
10 conflict or inconsistency.

11 (2) For the purposes of subsection (1), a conflict or
12 inconsistency does not exist merely because the
13 condition imposed under the *Health Practitioner
14 Regulation National Law (Western Australia)* imposes
15 more stringent measures or a higher duty or standard in
16 respect of a particular matter or aspect of practice.
17

18 **149. Section 40A inserted**

19 After section 39 insert:

20
21 **40A. Notifications to Radiological Council**

22 (1) The Board is to give the Radiological Council written
23 advice of the following matters —

24 (a) the cancellation of the registration of a medical
25 radiation practitioner and the removal of that
26 person's name from the register under the
27 *Health Practitioner Regulation National Law
28 (Western Australia)*;

29 (b) the taking of immediate action in relation to a
30 medical radiation practitioner under the *Health
31 Practitioner Regulation National Law (Western
32 Australia)* Part 8 Division 7, together with a
33 copy of the notice given to the practitioner;

- 1 (c) the suspension or revocation of the suspension
2 from the practice of medical radiation
3 technology under the *Health Practitioner*
4 *Regulation National Law (Western Australia)*
5 of a medical radiation practitioner, whether
6 generally or in relation to any specified area,
7 circumstances or service;
- 8 (d) the imposition, variation or revocation of any
9 condition on registration or the practice of
10 medical radiation technology under the *Health*
11 *Practitioner Regulation National Law (Western*
12 *Australia)* of a medical radiation practitioner;
- 13 (e) the referral of a matter relating to a medical
14 radiation practitioner to the responsible tribunal
15 under the *Health Practitioner Regulation*
16 *National Law (Western Australia)*.
- 17 (2) The advice is to be given no later than 14 days after the
18 occurrence of the matter referred to in that subsection.
19

20 **Division 45 — Road Traffic Act 1974 amended**

21 **150. Act amended**

22 This Division amends the *Road Traffic Act 1974*.

23 **151. Section 63 amended**

24 Delete section 63(7)(a) and “and” after it and insert:

- 25
- 26 (a) that those drugs were —
- 27 (i) taken by him pursuant to a prescription
28 of a medical practitioner, nurse
29 practitioner or dentist; or

- 1 (ii) administered to him by a medical
2 practitioner, nurse practitioner or
3 dentist,
4 for therapeutic purposes; and
5

6 **152. Section 64AB amended**

7 Delete section 64AB(8)(a) and “and” after it and insert:

- 8
9 (a) that the drug was —
10 (i) taken pursuant to a prescription of a
11 medical practitioner, nurse practitioner
12 or dentist; or
13 (ii) administered by a medical practitioner,
14 nurse practitioner or dentist,
15 for therapeutic purposes; and
16

17 **153. Section 65 amended**

18 (1) In section 65 delete the definitions of:

19 ***medical practitioner***

20 ***registered nurse***

21 (2) In section 65 insert in alphabetical order:

22
23 ***dentist*** means a person registered under the *Health*
24 *Practitioner Regulation National Law (Western*
25 *Australia)* in the dental profession whose name is
26 entered on the Dentists Division of the Register of
27 Dental Practitioners kept under that Law;

28 ***medical practitioner*** means a person who is registered
29 under the *Health Practitioner Regulation National Law*
30 *(Western Australia)* in the medical profession;

1 **nurse practitioner** means a person registered under the
2 *Health Practitioner Regulation National Law (Western*
3 *Australia)* whose name is entered on the Register of
4 Nurses kept under that Law as being qualified to
5 practise as a nurse practitioner;

6 **registered nurse** means a person who is registered
7 under the *Health Practitioner Regulation National Law*
8 *(Western Australia)* in the nursing and midwifery
9 profession whose name is entered on Division 1 of the
10 Register of Nurses kept under that Law as a registered
11 nurse;

12

13 **Division 46 — *Sentencing Act 1995* amended**

14 **154. Act amended**

15 This Division amends the *Sentencing Act 1995*.

16 **155. Schedule 1 amended**

17 In Schedule 1 delete the items relating to the *Dental Act 1939*
18 and the *Medical Practitioners Act 2008*.

19 **Division 47 — *State Administrative Tribunal Act 2004* amended**

20 **156. Act amended**

21 This Division amends the *State Administrative Tribunal*
22 *Act 2004*.

23 **157. Schedule 1 amended**

24 (1) In Schedule 1:

- 25 (a) delete the items for:
26 *Chiropractors Act 2005*
27 *Dental Act 1939*
28 *Dental Prosthetists Act 1985*

1 *Medical Practitioners Act 2008*
2 *Nurses and Midwives Act 2006*
3 *Optical Dispensers Act 1966*
4 *Optometrists Act 2005*
5 *Osteopaths Act 2005*
6 *Physiotherapists Act 2005*
7 *Podiatrists Act 2005*
8 *Psychologists Act 2005*

9 (b) insert in alphabetical order:

10
11 *Health Practitioner Regulation National Law*
12 *(Western Australia)*
13

14 (2) In Schedule 1 delete “*Pharmacy Act 1964*”.

15 (3) In Schedule 1 delete the items for:

16 *Medical Radiation Technologists Act 2006*

17 *Occupational Therapists Act 2005*

18 **Division 48 — *Veterinary Chemical Control and Animal Feeding***
19 ***Stuffs Act 1976* amended**

20 **158. Act amended**

21 This Division amends the *Veterinary Chemical Control and*
22 *Animal Feeding Stuffs Act 1976*.

1 **159. Section 5 amended**

2 In section 5(1) in the definition of ***veterinary chemical product***
3 paragraph (a)(i) delete “pharmaceutical chemist registered under
4 the *Pharmacy Act 1964*; or” and insert:

5

6 person registered under the *Health Practitioner*
7 *Regulation National Law (Western Australia)*
8 in the pharmacy profession; or

9

10 **160. Section 65 amended**

11 (1) Delete section 65(b).

12 (2) In section 65(c):

13 (a) delete “registered pharmaceutical chemist,” and insert:

14

15 person registered under the *Health Practitioner*
16 *Regulation National Law (Western Australia)*
17 in the pharmacy profession (***pharmaceutical***
18 ***chemist***),

19

20 (b) delete subparagraph (i) and insert:

21

22 (i) in the case of a pharmaceutical chemist,
23 by the chief executive officer of the
24 National Agency as defined in the
25 *Health Practitioner Regulation National*
26 *Law (Western Australia)* section 5; and

27

28 **Division 49 — *Veterinary Surgeons Act 1960* amended**

29 **161. Act amended**

30 This Division amends the *Veterinary Surgeons Act 1960*.

1 **162. Section 28 amended**

2 In section 28(a) delete “any registered pharmaceutical chemist”
3 and insert:

4
5 a person registered under the *Health*
6 *Practitioner Regulation National Law (Western*
7 *Australia)* in the pharmacy profession
8

9 **Division 50 — *Workers' Compensation and Injury Management***
10 ***Act 1981* amended**

11 **163. Act amended**

12 This Division amends the *Workers' Compensation and Injury*
13 *Management Act 1981*.

14 **164. Section 5 amended**

15 (1) In section 5(1) delete the definitions of:

16 *chiropractor*

17 *physiotherapist*

18 (2) In section 5(1) insert in alphabetical order:

19
20 *chiropractor* means a person who is resident in this
21 State and is registered under the *Health Practitioner*
22 *Regulation National Law (Western Australia)* in the
23 chiropractic profession;

24 *physiotherapist* means a person who is resident in this
25 State and is registered under the *Health Practitioner*
26 *Regulation National Law (Western Australia)* in the
27 physiotherapy profession;
28

- 1 (3) In section 5(1) in the definition of ***dentist*** delete paragraph (a)
2 and “or” after it and insert:
3
- 4 (a) a person who is resident in this State and is
5 registered under the *Health Practitioner*
6 *Regulation National Law (Western Australia)*
7 in the dental profession whose name is entered
8 on the Dentists Division of the Register of
9 Dental Practitioners kept under that Law; or
10
- 11 (4) In section 5(1) in the definition of ***medical practitioner*** delete
12 paragraph (a) and “or” after it and insert:
13
- 14 (a) a person who is resident in this State and who is
15 registered under the *Health Practitioner*
16 *Regulation National Law (Western Australia)*
17 in the medical profession; or
18
- 19 (5) In section 5(1) in the definition of ***specialist*** delete paragraph (a)
20 and “or” after it and insert:
21
- 22 (a) who is resident in this State and whose name is
23 contained in a register of specialists kept by the
24 Medical Board of Australia under the *Health*
25 *Practitioner Regulation National Law (Western*
26 *Australia)* section 223; or
27

28 **Division 51 — *Young Offenders Act 1994* amended**

29 **165. Act amended**

30 This Division amends the *Young Offenders Act 1994*.

1 **166. Section 179 amended**

2 In section 179(1) delete the definition of *medical officer* and
3 insert:

4
5 *medical officer* means an officer of the Department
6 who is registered under the *Health Practitioner*
7 *Regulation National Law (Western Australia)* in the
8 medical profession;
9

1 **Schedule — Health Practitioner Regulation National Law**

2 [s. 4]

3 **Part 1 — Preliminary**

4 **1. Short title**

5 This Law may be cited as the Health Practitioner Regulation National
6 Law.

7 **2. Commencement**

8 This Law commences in a participating jurisdiction as provided by the
9 Act of that jurisdiction that applies this Law as a law of that
10 jurisdiction.

11 **3. Objectives and guiding principles**

12 (1) The object of this Law is to establish a national registration and
13 accreditation scheme for —

- 14 (a) the regulation of health practitioners; and
15 (b) the registration of students undertaking —
16 (i) programmes of study that provide a qualification for
17 registration in a health profession; or
18 (ii) clinical training in a health profession.

19 (2) The objectives of the national registration and accreditation scheme
20 are —

- 21 (a) to provide for the protection of the public by ensuring that
22 only health practitioners who are suitably trained and
23 qualified to practise in a competent and ethical manner are
24 registered; and
25 (b) to facilitate workforce mobility across Australia by reducing
26 the administrative burden for health practitioners wishing to
27 move between participating jurisdictions or to practise in
28 more than one participating jurisdiction; and
29 (c) to facilitate the provision of high quality education and
30 training of health practitioners; and

- 1 (d) to facilitate the rigorous and responsive assessment of
2 overseas-trained health practitioners; and
3 (e) to facilitate access to services provided by health practitioners
4 in accordance with the public interest; and
5 (f) to enable the continuous development of a flexible,
6 responsive and sustainable Australian health workforce and to
7 enable innovation in the education of, and service delivery
8 by, health practitioners.

9 (3) The guiding principles of the national registration and accreditation
10 scheme are as follows —

- 11 (a) the scheme is to operate in a transparent, accountable,
12 efficient, effective and fair way;
13 (b) fees required to be paid under the scheme are to be reasonable
14 having regard to the efficient and effective operation of the
15 scheme;
16 (c) restrictions on the practice of a health profession are to be
17 imposed under the scheme only if it is necessary to ensure
18 health services are provided safely and are of an appropriate
19 quality.

20 **4. How functions to be exercised**

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

24 **5. Terms used**

25 In this Law —

26 **accreditation authority** means —

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

29 **accreditation committee** means a committee established by a National
30 Board to exercise an accreditation function for the health profession
31 for which the Board is established;

32 **accreditation standard**, for a health profession, means a standard used
33 to assess whether a programme of study, and the education provider
34 that provides the programme of study, provide persons who complete

- 1 the programme with the knowledge, skills and professional attributes
2 necessary to practise the profession in Australia;
- 3 ***accredited programme of study*** means a programme of study
4 accredited under section 48 by an accreditation authority;
- 5 ***adjudication body*** means —
- 6 (a) a panel; or
7 (b) a responsible tribunal; or
8 (c) a Court; or
9 (d) an entity of a co-regulatory jurisdiction that is declared in the
10 Act applying this Law to be an adjudication body for the
11 purposes of this Law;
- 12 ***Advisory Council*** means the Australian Health Workforce Advisory
13 Council established by section 18;
- 14 ***Agency Fund*** means the Australian Health Practitioner Regulation
15 Agency Fund established by section 208;
- 16 ***Agency Management Committee*** means the Australian Health
17 Practitioner Regulation Agency Management Committee established
18 by section 29;
- 19 ***appropriate professional indemnity insurance arrangements***, in
20 relation to a registered health practitioner, means professional
21 indemnity insurance arrangements that comply with an approved
22 registration standard for the health profession in which the
23 practitioner is registered;
- 24 ***approved accreditation standard*** means an accreditation standard —
- 25 (a) approved by a National Board under section 47(3); and
26 (b) published on the Board's website under section 47(6);
- 27 ***approved area of practice***, for a health profession, means an area of
28 practice approved under section 15 for the profession;
- 29 ***approved programme of study***, for a health profession or for
30 endorsement of registration in a health profession, means an
31 accredited programme of study —
- 32 (a) approved under section 49(1) by the National Board
33 established for the health profession; and
34 (b) included in the list published by the National Agency under
35 section 49(5);

1 ***approved qualification*** —

2 (a) for a health profession, means a qualification obtained by
3 completing an approved programme of study for the
4 profession; and

5 (b) for endorsement of registration in a health profession, means
6 a qualification obtained by completing an approved
7 programme of study relevant to the endorsement;

8 ***approved registration standard*** means a registration standard —

9 (a) approved by the Ministerial Council under section 12; and

10 (b) published on the website of the National Board that
11 developed the standard;

12 ***Australian legal practitioner*** means a person who —

13 (a) is admitted to the legal profession under the law of a State or
14 Territory; and

15 (b) holds a current practising certificate under a law of a State or
16 Territory authorising the person to practise the legal
17 profession;

18 ***COAG Agreement*** means the agreement for a national registration
19 and accreditation scheme for health professions, made on
20 26 March 2008 between the Commonwealth, the States, the
21 Australian Capital Territory and the Northern Territory;

22 Note: A copy of the COAG Agreement is available on the Council of
23 Australian Governments' website.

24 ***co-regulatory authority***, for a co-regulatory jurisdiction, means an
25 entity that is declared by the Act applying this Law in the
26 co-regulatory jurisdiction to be a co-regulatory authority for the
27 purposes of this Law;

28 ***co-regulatory jurisdiction*** means a participating jurisdiction in which
29 the Act applying this Law declares that the jurisdiction is not
30 participating in the health, performance and conduct process provided
31 by Part 8 Divisions 3 to 12;

32 ***corresponding prior Act*** means a law of a participating jurisdiction
33 that —

34 (a) was in force before the day on which the jurisdiction became
35 a participating jurisdiction; and

- 1 (b) established an entity having functions that included —
2 (i) the registration of persons as health practitioners; or
3 (ii) health, conduct or performance action;
4 **criminal history**, of a person, means the following —
5 (a) every conviction of the person for an offence, in a
6 participating jurisdiction or elsewhere, and whether before or
7 after the commencement of this Law;
8 (b) every plea of guilty or finding of guilt by a court of the
9 person for an offence, in a participating jurisdiction or
10 elsewhere, and whether before or after the commencement of
11 this Law and whether or not a conviction is recorded for the
12 offence;
13 (c) every charge made against the person for an offence, in a
14 participating jurisdiction or elsewhere, and whether before or
15 after the commencement of this Law;
16 **criminal history law** means a law of a participating jurisdiction that
17 provides that spent or other convictions do not form part of a person's
18 criminal history and prevents or does not require the disclosure of
19 those convictions;
20 **CrimTrac** means the CrimTrac agency established under the *Public*
21 *Service Act 1999* (Commonwealth) section 65;
22 **division**, of a health profession, means a part of a health profession for
23 which a Division is included in the National Register kept for the
24 profession;
25 **education provider** means —
26 (a) a university; or
27 (b) a tertiary education institution, or another institution or
28 organisation, that provides vocational training; or
29 (c) a specialist medical college or other health profession
30 college;
31 **entity** includes a person and an unincorporated body;
32 **exercise** a function includes perform a duty;
33 **external accreditation entity** means an entity, other than a committee
34 established by a National Board, that exercises an accreditation
35 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
- (b) whose functions include conciliating, investigating and resolving complaints made against health service providers and investigating failures in the health system;

health, conduct or performance action means action that —

- (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
- (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;

health panel means a panel established under section 181;

health practitioner means an individual who practises a health profession;

health profession means the following professions, and includes a recognised specialty in any of the following professions —

- (a) Aboriginal and Torres Strait Islander health practice;
- (b) Chinese medicine;
- (c) chiropractic;
- (d) dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- (e) medical;
- (f) medical radiation practice;
- (g) nursing and midwifery;
- (h) occupational therapy;
- (i) optometry;
- (j) osteopathy;

1 (k) pharmacy;

2 (l) physiotherapy;

3 (m) podiatry;

4 (n) psychology;

5 Note: See Division 15 of Part 12 which provides for a staged commencement
6 of the application of this Law to the Aboriginal and Torres Strait
7 Islander health practice, Chinese medicine, medical radiation practice
8 and occupational therapy professions.

9 **health profession agreement** has the meaning given by section 26;

10 **health programme** means a programme providing education,
11 prevention, early intervention, treatment or rehabilitation services
12 relating to physical or mental impairments, disabilities, conditions or
13 disorders, including substance abuse or dependence;

14 **health service** includes the following services, whether provided as
15 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 referred
24 to in paragraphs (a) to (g);

25 (i) services provided by dietitians, masseurs, naturopaths, social
26 workers, speech pathologists, audiologists or audiometrists;

27 (j) pathology services;

28 **health service provider** means a person who provides a health service;

29 **impairment**, in relation to a person, means the person has a physical
30 or mental impairment, disability, condition or disorder (including
31 substance abuse or dependence) that detrimentally affects or is likely
32 to detrimentally affect —

33 (a) for a registered health practitioner or an applicant for
34 registration in a health profession, the person's capacity to
35 practise the profession; or

- 1 (b) for a student, the student's capacity to undertake clinical
2 training —
- 3 (i) as part of the approved programme of study in which
4 the student is enrolled; or
- 5 (ii) arranged by an education provider;
- 6 **local registration authority** means an entity having functions under a
7 law of a State or Territory that include the registration of persons as
8 health practitioners;
- 9 **mandatory notification** means a notification an entity is required to
10 make to the National Agency under Part 8 Division 2;
- 11 **medical practitioner** means a person who is registered under this Law
12 in the medical profession;
- 13 **Ministerial Council** means the Australian Health Workforce
14 Ministerial Council comprising Ministers of the governments of the
15 participating jurisdictions and the Commonwealth with portfolio
16 responsibility for health;
- 17 **National Agency** means the Australian Health Practitioner Regulation
18 Agency established by section 23;
- 19 **National Board** means a National Health Practitioner Board
20 established by section 31;
- 21 **National Register** means the Register kept by a National Board under
22 section 222;
- 23 **national registration and accreditation scheme** means the scheme —
- 24 (a) referred to in the COAG Agreement; and
25 (b) established by this Law;
- 26 **notification** means —
- 27 (a) a mandatory notification; or
28 (b) a voluntary notification;
- 29 **notifier** means a person who makes a notification;
- 30 **panel** means —
- 31 (a) a health panel; or
32 (b) a performance and professional standards panel;
- 33 **participating jurisdiction** means a State or Territory —
34 (a) that is a party to the COAG Agreement; and

- 1 (b) in which —
- 2 (i) this Law applies as a law of the State or Territory; or
- 3 (ii) a law that substantially corresponds to the provisions
- 4 of this Law has been enacted;

5 ***performance and professional standards panel*** means a panel

6 established under section 182;

7 ***performance assessment*** means an assessment of the knowledge, skill

8 or judgment possessed, or care exercised by, a registered health

9 practitioner in the practice of the health profession in which the

10 practitioner is registered;

11 ***police commissioner*** means the commissioner of the police force or

12 police service of a participating jurisdiction or the Commonwealth;

13 ***principal place of practice***, for a registered health practitioner, means

14 the address declared by the practitioner to be the address —

- 15 (a) at which the practitioner is predominantly practising the
- 16 profession; or
- 17 (b) if the practitioner is not practising the profession or is not
- 18 practising the profession predominantly at one address, that is
- 19 the practitioner's principal place of residence;

20 ***professional misconduct***, of a registered health practitioner,

21 includes —

- 22 (a) unprofessional conduct by the practitioner that amounts to
- 23 conduct that is substantially below the standard reasonably
- 24 expected of a registered health practitioner of an equivalent
- 25 level of training or experience; and
- 26 (b) more than one instance of unprofessional conduct that, when
- 27 considered together, amounts to conduct that is substantially
- 28 below the standard reasonably expected of a registered health
- 29 practitioner of an equivalent level of training or experience;
- 30 and
- 31 (c) conduct of the practitioner, whether occurring in connection
- 32 with the practice of the health practitioner's profession or not,
- 33 that is inconsistent with the practitioner being a fit and proper
- 34 person to hold registration in the profession;

35 ***programme of study*** means a programme of study provided by an

36 education provider;

1 **psychologist** means a person registered under this Law in the
2 psychology profession;

3 **public health facility** includes —

- 4 (a) a public hospital; and
5 (b) a public health, teaching or research facility;

6 **recognised specialty** means a specialty in a health profession that has
7 been approved by the Ministerial Council under section 13(2);

8 **registered health practitioner** means an individual who —

- 9 (a) is registered under this Law to practise a health profession,
10 other than as a student; or
11 (b) holds non-practicing registration under this Law in a health
12 profession;

13 **registration authority** means —

- 14 (a) a local registration authority; or
15 (b) an entity of a jurisdiction outside Australia that has
16 responsibility for registering health practitioners in that
17 jurisdiction;

18 **registration standard** means a registration standard developed by a
19 National Board under section 38;

20 **registration status**, in relation to an applicant for registration,
21 includes —

- 22 (a) any undertakings given by the applicant to a registration
23 authority, whether before or after the commencement of this
24 Law; and
25 (b) any conditions previously imposed on the applicant's
26 registration by a registration authority, whether before or after
27 the commencement of this Law; and
28 (c) any decisions made by a registration authority, a tribunal, a
29 court or another entity having functions relating to the
30 regulation of health practitioners about the applicant's
31 practice of the profession, whether before or after the
32 commencement of this Law; and
33 (d) any investigation commenced by a registration authority or a
34 health complaints entity into the applicant's conduct,
35 performance or possible impairment but not finalised at the
36 time of the application;

- 1 **relevant action**, for Part 8 Division 10, see section 178;
- 2 **relevant fee**, for a service provided by a National Board, means the
- 3 fee —
- 4 (a) set under a health profession agreement between the Board
- 5 and the National Agency for the service; and
- 6 (b) published on the Board’s website under section 26(3);
- 7 **responsible Minister** means a Minister responsible for the
- 8 administration of this Law in a participating jurisdiction;
- 9 **responsible tribunal** means a tribunal or court that —
- 10 (a) is declared, by the Act applying this Law in a participating
- 11 jurisdiction, to be the responsible tribunal for that jurisdiction
- 12 for the purposes of this Law as applied in that jurisdiction; or
- 13 (b) is declared, by a law that substantially corresponds to this
- 14 Law enacted in a participating jurisdiction, to be the
- 15 responsible tribunal for that jurisdiction for the purposes of
- 16 the law of that jurisdiction;
- 17 **review period**, for a condition or undertaking, means the period during
- 18 which the condition may not be changed or removed, or the
- 19 undertaking may not be changed or revoked, under section 125, 126
- 20 or 127;
- 21 **scheduled medicine** means a substance included in a Schedule to the
- 22 current Poisons Standard within the meaning of the *Therapeutic*
- 23 *Goods Act 1989* (Commonwealth);
- 24 **specialist health practitioner** means a person registered under this
- 25 Law in a recognised specialty;
- 26 **Specialists Register** means a register kept by a National Board under
- 27 section 223;
- 28 **specialist title**, in relation to a recognised specialty, means a title that
- 29 is approved by the Ministerial Council under section 13 as being a
- 30 specialist title for that recognised specialty;
- 31 **State or Territory Board** has the meaning given by section 36;
- 32 **student** means a person whose name is entered in a student register as
- 33 being currently registered under this Law;
- 34 **student register**, for a health profession, means a register kept under
- 35 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; and
- (b) a contravention by the practitioner of —
 - (i) a condition to which the practitioner's registration was subject; or
 - (ii) an undertaking given by the practitioner to the National Board that registers the practitioner;
- and
- (c) the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner's suitability to continue to practise the profession; and
- (d) providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person's well-being; and
- (e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care; and
- (f) accepting a benefit as inducement, consideration or reward for referring another person to a health service provider or recommending another person use or consult with a health service provider; and
- (g) offering or giving a person a benefit, consideration or reward in return for the person referring another person to the practitioner or recommending to another person that the person use a health service provided by the practitioner; and
- (h) referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest in giving that referral or recommendation, unless the practitioner discloses the nature of that interest to the person before or at the time of giving the referral or recommendation;

1 ***unsatisfactory professional performance***, of a registered health
2 practitioner, means the knowledge, skill or judgment possessed, or
3 care exercised by, the practitioner in the practice of the health
4 profession in which the practitioner is registered is below the standard
5 reasonably expected of a health practitioner of an equivalent level of
6 training or experience;

7 ***voluntary notification*** means a notification made under Part 8
8 Division 3.

9 **6. Interpretation generally**

10 Schedule 7 applies in relation to this Law.

11 **7. Single national entity**

12 (1) It is the intention of the Parliament of this jurisdiction that this Law as
13 applied by an Act of this jurisdiction, together with this Law as
14 applied by Acts of the other participating jurisdictions, has the effect
15 that an entity established by this Law is one single national entity,
16 with functions conferred by this Law as so applied.

17 (2) An entity established by this Law has power to do acts in or in
18 relation to this jurisdiction in the exercise of a function expressed to
19 be conferred on it by this Law as applied by Acts of each participating
20 jurisdiction.

21 (3) An entity established by this Law may exercise its functions in
22 relation to —

- 23 (a) one participating jurisdiction; or
24 (b) 2 or more or all participating jurisdictions collectively.

25 (4) In this section, a reference to this Law as applied by an Act of a
26 jurisdiction includes a reference to a law that substantially
27 corresponds to this Law enacted in a jurisdiction.

28 **8. Extraterritorial operation of Law**

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

- 32 (a) things situated in or outside the territorial limits of this
33 jurisdiction;

- 1 (b) acts, transactions and matters done, entered into or occurring
2 in or outside the territorial limits of this jurisdiction;
3 (c) things, acts, transactions and matters (wherever situated,
4 done, entered into or occurring) that would, apart from this
5 Law, be governed or otherwise affected by the law of another
6 jurisdiction.

7 **9. Trans-Tasman mutual recognition principle**

8 This Law does not affect the operation of an Act of a participating
9 jurisdiction providing for the application of the Trans-Tasman mutual
10 recognition principle to occupations.

11 **10. Law binds the State**

12 (1) This Law binds the State.

13 (2) In this section —

14 **State** means the Crown in right of this jurisdiction, and includes —

- 15 (a) the Government of this jurisdiction; and
16 (b) a Minister of the Crown in right of this jurisdiction; and
17 (c) a statutory corporation, or other entity, representing the
18 Crown in right of this jurisdiction.

Part 2 — Ministerial Council

11. Policy directions

- (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.
- (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.
- (3) Without limiting subsections (1) and (2), a direction under this section may relate to —
- (a) a matter relevant to the policies of the National Agency or a National Board; or
 - (b) an administrative process of the National Agency or a National Board; or
 - (c) a procedure of the National Agency or a National Board; or
 - (d) a particular proposed accreditation standard, or a particular proposed amendment of an accreditation standard, for a health profession.
- (4) However, the Ministerial Council may give a National Board a direction under subsection (3)(d) only if —
- (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
 - (b) the Council has first given consideration to the potential impact of the Council's direction on the quality and safety of health care.
- (5) A direction under this section cannot be about —
- (a) a particular person; or
 - (b) a particular qualification; or
 - (c) a particular application, notification or proceeding.
- (6) The National Agency or a National Board must comply with a direction given to it by the Ministerial Council under this section.

1 **12. Approval of registration standards**

2 (1) The Ministerial Council may approve a registration standard about —

- 3 (a) the registration, or renewal of registration, of persons in a
4 health profession; or
5 (b) the endorsement, or renewal of the endorsement, of the
6 registration of registered health practitioners.

7 (2) The Ministerial Council may approve a registration standard for a
8 health profession only if —

- 9 (a) its approval is recommended by the National Board
10 established for the health profession; and
11 (b) it does not provide for a matter about which an accreditation
12 standard may provide.

13 Note: An accreditation standard for a health profession is a standard used to
14 assess whether a programme of study, and the education provider that
15 provides the programme, provide persons who complete the
16 programme with the knowledge, skills and professional attributes to
17 practise the profession in Australia. Accreditation standards are
18 developed and approved under Division 3 of Part 6.

19 (3) The Ministerial Council may, at any time, ask a National Board to
20 review an approved or proposed registration standard for the health
21 profession for which the National Board is established.

22 **13. Approvals in relation to specialist registration**

23 (1) The following health professions, or divisions of health professions,
24 are health professions for which specialist recognition operates under
25 this Law —

- 26 (a) the medical profession;
27 (b) the dentists division of the dental profession;
28 (c) any other health profession approved by the Ministerial
29 Council, on the recommendation of the National Board
30 established for the profession.

31 (2) If a health profession is a profession for which specialist recognition
32 operates, the Ministerial Council may, on the recommendation of the
33 National Board established for the profession —

- 34 (a) approve a list of specialties for the profession; and

1 (b) approve one or more specialist titles for each specialty in the
2 list.

3 (3) In making a recommendation to the Ministerial Council for the
4 purposes of subsection (1)(c) or (2), a National Board established for
5 a health profession may have regard to any relevant advice provided
6 by —

7 (a) an accreditation authority for the profession; or

8 (b) a specialist college for the profession.

9 (4) The Ministerial Council may provide guidance to a National Board
10 established for a health profession for which specialist recognition
11 will operate in relation to the criteria for the approval of specialties for
12 the profession by the Council.

13 **14. Approval of endorsement in relation to scheduled medicines**

14 (1) The Ministerial Council may, on the recommendation of a National
15 Board, decide that the Board may endorse the registration of health
16 practitioners practising the profession for which the Board is
17 established as being qualified to administer, obtain, possess, prescribe,
18 sell, supply or use a scheduled medicine or class of scheduled
19 medicines.

20 Note: See section 94 which provides for the endorsement of health
21 practitioners' registration in relation to scheduled medicines.

22 (2) An approval under subsection (1) is to specify —

23 (a) the class of health practitioners registered by the Board to
24 which the approval relates; and

25 (b) whether the National Board may endorse the registration of
26 the class of health practitioners as being qualified in relation
27 to a particular scheduled medicine or a class of scheduled
28 medicines; and

29 (c) whether the National Board may endorse the registration of
30 the class of health practitioners in relation to administering,
31 obtaining, possessing, prescribing, selling, supplying or using
32 the scheduled medicine or class of scheduled medicines.

1 **15. Approval of areas of practice for purposes of endorsement**

2 The Ministerial Council may, on the recommendation of a National
3 Board, approve an area of practice in the health profession for which
4 the Board is established as being an area of practice for which the
5 registration of a health practitioner registered in the profession may be
6 endorsed.

7 Note: See section 98 which provides for the endorsement of health
8 practitioners' registration in relation to approved areas of practice.

9 **16. How Ministerial Council exercises functions**

10 (1) The Ministerial Council is to give a direction or approval, or make a
11 recommendation, request or appointment, for the purposes of a
12 provision of this Law by resolution of the Council passed in
13 accordance with procedures determined by the Council.

14 (2) An act or thing done by the Ministerial Council (whether by
15 resolution, instrument or otherwise) does not cease to have effect
16 merely because of a change in the Council's membership.

17 **17. Notification and publication of directions and approvals**

18 (1) A copy of any direction given by the Ministerial Council to the
19 National Agency —

20 (a) is to be given to the Chairperson of the Agency Management
21 Committee; and

22 (b) must be published by the National Agency on its website as
23 soon as practicable after being received by the Chairperson.

24 (2) A copy of a direction or approval given by the Ministerial Council to
25 a National Board —

26 (a) is to be given to the Chairperson of the National Board; and

27 (b) if the direction is given under section 11(3)(d), is to include
28 reasons for the direction; and

29 (c) must be published by the National Board on its website as
30 soon as practicable after being received by the Chairperson.

31 (3) A copy of a direction or approval given by the Ministerial Council to
32 the National Agency or to a National Board is to be published in the
33 annual report of the National Agency.

Part 3 — Australian Health Workforce Advisory Council

18. Establishment of Advisory Council

The Australian Health Workforce Advisory Council is established.

19. Function of Advisory Council

(1) The function of the Advisory Council is to provide independent advice to the Ministerial Council about the following —

- (a) any matter relating to the national registration and accreditation scheme that is referred to it by the Ministerial Council;
- (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;
- (c) any other matter relating to the national registration and accreditation scheme that it considers appropriate.

(2) Advice under this section cannot be about —

- (a) a particular person; or
- (b) a particular qualification; or
- (c) a particular application, notification or proceeding.

20. Publication of advice

(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.

(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.

21. Powers of Advisory Council

The Advisory Council has the powers necessary to enable it to exercise its function.

1 **22. Membership of Advisory Council**

2 (1) The Advisory Council is to consist of 7 members.

3 (2) Members of the Advisory Council are to be appointed by the
4 Ministerial Council.

5 (3) One of the members of the Advisory Council is to be appointed as
6 Chairperson, being a person who —

7 (a) is not a registered health practitioner; and

8 (b) has not been registered as a health practitioner under this Law
9 or a corresponding prior Act within the last 5 years.

10 (4) At least 3 of the other members of the Advisory Council are to be
11 persons who have expertise in health, or education and training, or
12 both.

13 (5) Schedule 1 sets out provisions relating to the Advisory Council.

1 **Part 4 — Australian Health Practitioner Regulation Agency**

2 **Division 1 — National Agency**

3 **23. National Agency**

4 (1) The Australian Health Practitioner Regulation Agency is established.

5 (2) The National Agency —

6 (a) is a body corporate with perpetual succession; and

7 (b) has a common seal; and

8 (c) may sue and be sued in its corporate name.

9 (3) The National Agency represents the State.

10 (4) Schedule 3 sets out provisions relating to the National Agency.

11 **24. General powers of National Agency**

12 The National Agency has all the powers of an individual and, in
13 particular, may —

14 (a) enter into contracts; and

15 (b) acquire, hold, dispose of, and deal with, real and personal
16 property; and

17 (c) do anything necessary or convenient to be done in the
18 exercise of its functions.

19 **25. Functions of National Agency**

20 The functions of the National Agency are as follows —

21 (a) to provide administrative assistance and support to the
22 National Boards, and the Boards' committees, in exercising
23 their functions;

24 (b) in consultation with the National Boards, to develop and
25 administer procedures for the purpose of ensuring the
26 efficient and effective operation of the National Boards;

27 (c) to establish procedures for the development of accreditation
28 standards, registration standards and codes and guidelines
29 approved by National Boards, for the purpose of ensuring the

- 1 national registration and accreditation scheme operates in
2 accordance with good regulatory practice;
- 3 (d) to negotiate in good faith with, and attempt to come to an
4 agreement with, each National Board on the terms of a health
5 profession agreement;
- 6 (e) to establish and administer an efficient procedure for
7 receiving and dealing with applications for registration as a
8 health practitioner and other matters relating to the
9 registration of registered health practitioners;
- 10 (f) in conjunction with the National Boards, to keep up-to-date
11 and publicly accessible national registers of registered health
12 practitioners for each health profession;
- 13 (g) in conjunction with the National Boards, to keep up-to-date
14 national registers of students for each health profession;
- 15 (h) to keep an up-to-date and publicly accessible list of approved
16 programmes of study for each health profession;
- 17 (i) to establish an efficient procedure for receiving and dealing
18 with notifications against persons who are or were registered
19 health practitioners and persons who are students, including
20 by establishing a national process for receiving notifications
21 about registered health practitioners in all professions;
- 22 (j) to provide advice to the Ministerial Council in connection
23 with the administration of the national registration and
24 accreditation scheme;
- 25 (k) if asked by the Ministerial Council, to give to the Ministerial
26 Council the assistance or information reasonably required by
27 the Ministerial Council in connection with the administration
28 of the national registration and accreditation scheme;
- 29 (l) any other function given to the National Agency by or under
30 this Law.

31 **26. Health profession agreements**

- 32 (1) The National Agency must enter into an agreement (a *health*
33 *profession agreement*) with a National Board that makes provision
34 for the following —
- 35 (a) the fees that will be payable under this Law by health
36 practitioners and others in respect of the health profession for

- 1 which the Board is established (including arrangements
2 relating to refunds of fees, waivers of fees and additional fees
3 for late payment);
- 4 (b) the annual budget of the National Board (including the
5 funding arrangements for its committees and accreditation
6 authorities);
- 7 (c) the services to be provided to the National Board by the
8 National Agency to enable the National Board to carry out its
9 functions under this Law.
- 10 (2) If the National Agency and a National Board are unable to agree on a
11 matter relating to a health profession agreement or a proposed health
12 profession agreement, the Ministerial Council may give directions to
13 the National Agency and National Board about how the dispute is to
14 be resolved.
- 15 (3) Each National Board must publish on its website the fees for which
16 provision has been made in a health profession agreement between the
17 Board and the National Agency.
- 18 **27. Cooperation with participating jurisdictions and Commonwealth**
- 19 (1) The National Agency may exercise any of its functions in cooperation
20 with or with the assistance of a participating jurisdiction or the
21 Commonwealth, including in cooperation with or with the assistance
22 of any of the following —
- 23 (a) a government agency of a participating jurisdiction or of the
24 Commonwealth;
- 25 (b) a local registration authority;
- 26 (c) a co-regulatory authority;
- 27 (d) a health complaints entity;
- 28 (e) an educational body or other body established by or under a
29 law of a participating jurisdiction or the Commonwealth.
- 30 (2) In particular, the National Agency may —
- 31 (a) ask an entity referred to in subsection (1) for information that
32 the Agency requires to exercise its functions under this Law;
33 and
- 34 (b) use the information to exercise its functions under this Law.

- 1 (3) An entity referred to in subsection (1) that receives a request for
2 information from the National Agency is authorised to give the
3 information to the National Agency.

4 **28. Office of National Agency**

- 5 (1) The National Agency is to establish a national office.
6 (2) The National Agency is also to establish at least one local office in
7 each participating jurisdiction.

8 **Division 2 — Agency Management Committee**

9 **29. Agency Management Committee**

- 10 (1) The Australian Health Practitioner Regulation Agency Management
11 Committee is established.
- 12 (2) The Agency Management Committee is to consist of at least
13 5 members appointed by the Ministerial Council.
- 14 (3) Of the members —
- 15 (a) one is to be a person appointed by the Ministerial Council as
16 Chairperson, being a person who —
- 17 (i) is not a registered health practitioner; and
18 (ii) has not been registered as a health practitioner under
19 this Law or a corresponding prior Act within the last
20 5 years;
- 21 and
- 22 (b) at least 2 others are to be persons who have expertise in
23 health, or education and training, or both; and
- 24 (c) at least 2 others are to be persons who are not current or
25 former registered health practitioners and who have business
26 or administrative expertise.
- 27 (4) Schedule 2 sets out provisions relating to the Agency Management
28 Committee.

1 **30. Functions of Agency Management Committee**

2 (1) The functions of the Agency Management Committee are as
3 follows —

4 (a) subject to any directions of the Ministerial Council, to decide
5 the policies of the National Agency;

6 (b) to ensure that the National Agency performs its functions in a
7 proper, effective and efficient way;

8 (c) any other function given to the Committee by or under this
9 Law.

10 (2) The affairs of the National Agency are to be controlled by the Agency
11 Management Committee and all acts and things done in the name of,
12 or on behalf of, the National Agency by or with the authority of the
13 Agency Management Committee are taken to have been done by the
14 National Agency.

Part 5 — National Boards

Division 1 — National Boards

31. Establishment of National Boards

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

Table — National Boards

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
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

Name of Board	Health profession
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

- 1 (2) A National Board —
- 2 (a) is a body corporate with perpetual succession; and
- 3 (b) has a common seal; and
- 4 (c) may sue and be sued in its corporate name.
- 5 (3) A National Board represents the State.
- 6 **32. Powers of National Board**
- 7 (1) Subject to subsection (2), a National Board has the powers necessary
- 8 to enable it to exercise its functions.
- 9 (2) A National Board does not have power to —
- 10 (a) enter into contracts; or
- 11 (b) employ staff; or
- 12 (c) acquire, hold, dispose of, and deal with, real property.
- 13 (3) The National Board may exercise any of its functions in cooperation
- 14 with or with the assistance of a participating jurisdiction or the
- 15 Commonwealth, including in cooperation with or with the assistance
- 16 of any of the following —
- 17 (a) a government agency of a participating jurisdiction or of the
- 18 Commonwealth;
- 19 (b) a local registration authority;
- 20 (c) a co-regulatory authority;
- 21 (d) a health complaints entity;

- 1 (e) an educational body or other body established by or under a
2 law of a participating jurisdiction or the Commonwealth.
- 3 (4) In particular, the National Board may —
- 4 (a) ask an entity referred to in subsection (3) for information that
5 the Board requires to exercise its functions under this Law;
6 and
- 7 (b) use the information to exercise its functions under this Law.
- 8 (5) An entity referred to in subsection (3) that receives a request for
9 information from the National Board is authorised to give the
10 information to the National Board.
- 11 **33. Membership of National Boards**
- 12 (1) A National Board is to consist of members appointed in writing by the
13 Ministerial Council.
- 14 (2) Members of a National Board are to be appointed as practitioner
15 members or community members.
- 16 (3) Subject to this section, the Ministerial Council may decide the size
17 and composition of a National Board.
- 18 (4) At least half, but not more than two-thirds, of the members of a
19 National Board must be persons appointed as practitioner members.
- 20 (5) The practitioner members of a National Board must consist of —
- 21 (a) at least one member from each large participating
22 jurisdiction; and
- 23 (b) at least one member from a small participating jurisdiction.
- 24 (6) At least 2 of the members of a National Board must be persons
25 appointed as community members.
- 26 (7) At least one of the members of a National Board must live in a
27 regional or rural area.
- 28 (8) A person cannot be appointed as a member of a National Board if the
29 person is a member of the Agency Management Committee.
- 30 (9) One of the practitioner members of the National Board is to be
31 appointed as Chairperson of the Board by the Ministerial Council.

- 1 (10) Schedule 4 sets out provisions relating to a National Board.
- 2 (11) In this section —
- 3 *large participating jurisdiction* means any of the following States that
- 4 is a participating jurisdiction —
- 5 (a) New South Wales;
- 6 (b) Queensland;
- 7 (c) South Australia;
- 8 (d) Victoria;
- 9 (e) Western Australia;
- 10 *small participating jurisdiction* means any of the following States or
- 11 Territories that is a participating jurisdiction —
- 12 (a) the Australian Capital Territory;
- 13 (b) the Northern Territory;
- 14 (c) Tasmania.
- 15 **34. Eligibility for appointment**
- 16 (1) In deciding whether to appoint a person as a member of a National
- 17 Board, the Ministerial Council is to have regard to the skills and
- 18 experience of the person that are relevant to the Board's functions.
- 19 (2) A person is eligible to be appointed as a practitioner member only if
- 20 the person is a registered health practitioner in the health profession
- 21 for which the Board is established.
- 22 (3) A person is eligible to be appointed as a community member of a
- 23 National Board only if the person —
- 24 (a) is not a registered health practitioner in the health profession
- 25 for which the Board is established; and
- 26 (b) has not at any time been registered as a health practitioner in
- 27 the health profession under this Law or a corresponding prior
- 28 Act.
- 29 (4) A person is not eligible to be appointed as a member of a National
- 30 Board if —
- 31 (a) in the case of appointment as a practitioner member, the
- 32 person has ceased to be registered as a health practitioner in

- 1 the health profession for which the Board is established,
2 whether before or after the commencement of this Law, as a
3 result of the person's misconduct, impairment or
4 incompetence; or
5 (b) in any case, the person has, at any time, been found guilty of
6 an offence (whether in a participating jurisdiction or
7 elsewhere) that, in the opinion of the Ministerial Council,
8 renders the person unfit to hold the office of member.

9 **Division 2 — Functions of National Boards**

10 **35. Functions of National Boards**

- 11 (1) The functions of a National Board established for a health profession
12 are as follows —
13 (a) to register suitably qualified and competent persons in the
14 health profession and, if necessary, to impose conditions on
15 the registration of persons in the profession;
16 (b) to decide the requirements for registration or endorsement of
17 registration in the health profession, including the
18 arrangements for supervised practice in the profession;
19 (c) to develop or approve standards, codes and guidelines for the
20 health profession, including —
21 (i) the approval of accreditation standards developed and
22 submitted to it by an accreditation authority; and
23 (ii) the development of registration standards for
24 approval by the Ministerial Council; and
25 (iii) the development and approval of codes and
26 guidelines that provide guidance to health
27 practitioners registered in the profession;
28 (d) to approve accredited programmes of study as providing
29 qualifications for registration or endorsement in the health
30 profession;
31 (e) to oversee the assessment of the knowledge and clinical skills
32 of overseas trained applicants for registration in the health
33 profession whose qualifications are not approved
34 qualifications for the profession, and to determine the
35 suitability of the applicants for registration in Australia;

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

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

17 **36. State and Territory Boards**

- 18 (1) A National Board may establish a committee (a ***State or Territory***
19 ***Board***) for a participating jurisdiction to enable the Board to exercise
20 its functions in the jurisdiction in a way that provides an effective and
21 timely local response to health practitioners and other persons in the
22 jurisdiction.
- 23 (2) A State or Territory Board is to be known as the "[Name of
24 participating jurisdiction for which it is established] Board" of the
25 National Board.
- 26 (3) The members of a State or Territory Board are to be appointed by the
27 responsible Minister for the participating jurisdiction.

28 **Example:**

- 29 (a) The Pharmacy Board of Australia decides to establish a State or
30 Territory Board for New South Wales. The State or Territory Board will
31 be known as the New South Wales Board of the Pharmacy Board of
32 Australia. The members of the State or Territory Board will be appointed
33 by the responsible Minister for New South Wales.
- 34 (b) The Podiatry Board of Australia decides to establish a State or Territory
35 Board for Queensland and the Northern Territory. The State or Territory
36 Board will be known as the Queensland and Northern Territory Board of

1 the Podiatry Board of Australia. The members of the State or Territory
2 Board will be appointed jointly by the responsible Ministers for
3 Queensland and the Northern Territory.

4 (4) In deciding whether to appoint a person as a member of a State or
5 Territory Board, the responsible Minister is to have regard to the skills
6 and experience of the person that are relevant to the Board's
7 functions.

8 (5) At least half, but not more than two-thirds, of the members of a State
9 or Territory Board must be persons appointed as practitioner
10 members.

11 (6) At least 2 of the members of a State or Territory Board must be
12 persons appointed as community members.

13 Note: See section 299 which provides that subsections (5) and (6) do not
14 apply to a State or Territory Board for a jurisdiction for the first
15 12 months after the jurisdiction becomes a participating jurisdiction.

16 (7) Before a responsible Minister appoints a member of a State or
17 Territory Board the vacancy to be filled is to be publicly advertised.

18 (8) The National Agency may assist a responsible Minister in the process
19 of appointing members of a State or Territory Board, including in the
20 advertising of vacancies.

21 (9) It is not necessary to advertise a vacancy in the membership of a State
22 or Territory Board before appointing a person to act in the office of a
23 member.

24 Note: The general interpretation provisions applicable to this Law under
25 section 6 confer power to appoint acting members of a State or
26 Territory Board.

27 (10) This section does not limit Schedule 4 clause 11.

28 Note: Schedule 4 clause 11 confers power for the establishment of other
29 committees.

30 **37. Delegation of functions**

31 (1) A National Board may delegate any of its functions, other than this
32 power of delegation, to —

- 33 (a) a committee; or
34 (b) the National Agency; or

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

6 **Division 3 — Registration standards and codes and guidelines**

7 **38. National Board must develop registration standards**

- 8 (1) A National Board must develop and recommend to the Ministerial
- 9 Council one or more registration standards about the following
- 10 matters for the health profession for which the Board is established —
- 11 (a) requirements for professional indemnity insurance
- 12 arrangements for registered health practitioners registered in
- 13 the profession;
- 14 (b) matters about the criminal history of applicants for
- 15 registration in the profession, and registered health
- 16 practitioners and students registered by the Board, including,
- 17 the matters to be considered in deciding whether an
- 18 individual's criminal history is relevant to the practice of the
- 19 profession;
- 20 (c) requirements for continuing professional development for
- 21 registered health practitioners registered in the profession;
- 22 (d) requirements about the English language skills necessary for
- 23 an applicant for registration in the profession to be suitable
- 24 for registration in the profession;
- 25 (e) requirements in relation to the nature, extent, period and
- 26 recency of any previous practice of the profession by
- 27 applicants for registration in the profession.
- 28 (2) Subject to subsection (3), a National Board may also develop, and
- 29 recommend to the Ministerial Council, one or more registration
- 30 standards about the following —
- 31 (a) the physical and mental health of —
- 32 (i) applicants for registration in the profession; and
- 33 (ii) registered health practitioners and students;

- 1 (b) the scope of practice of health practitioners registered in the
2 profession;
3 (c) any other issue relevant to the eligibility of individuals for
4 registration in the profession or the suitability of individuals
5 to competently and safely practise the profession.

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

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

14 **39. Codes and guidelines**

15 A National Board may develop and approve codes and guidelines —

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

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

21 **40. Consultation about registration standards, codes and guidelines**

- 22 (1) If a National Board develops a registration standard or a code or
23 guideline, it must ensure there is wide-ranging consultation about its
24 content.

- 25 (2) A contravention of subsection (1) does not invalidate a registration
26 standard, code or guideline.

- 27 (3) The following must be published on a National Board's website —

- 28 (a) a registration standard developed by the Board and approved
29 by the Ministerial Council;
30 (b) a code or guideline approved by the National Board.

- 31 (4) An approved registration standard or a code or guideline takes
32 effect —

- 33 (a) on the day it is published on the National Board's website; or

- 1 (b) if a later day is stated in the registration standard, code or
2 guideline, on that day.

3 **41. Use of registration standards, codes or guidelines in disciplinary**
4 **proceedings**

5 An approved registration standard for a health profession, or a code or
6 guideline approved by a National Board, is admissible in proceedings
7 under this Law or a law of a co-regulatory jurisdiction against a health
8 practitioner registered by the Board as evidence of what constitutes
9 appropriate professional conduct or practice for the health profession.

Part 6 — Accreditation

Division 1 — Preliminary

42. Term used: accreditation function

In this Part —

accreditation function means —

- (a) developing accreditation standards for approval by a National Board; or
- (b) assessing programmes of study, and the education providers that provide the programmes of study, to determine whether the programmes meet approved accreditation standards; or
- (c) assessing authorities in other countries who conduct examinations for registration in a health profession, or accredit programmes of study relevant to registration in a health profession, to decide whether persons who successfully complete the examinations or programmes of study conducted or accredited by the authorities have the knowledge, clinical skills and professional attributes necessary to practise the profession in Australia; or
- (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
- (e) making recommendations and giving advice to a National Board about a matter referred to in paragraph (a), (b), (c) or (d).

Division 2 — Accreditation authorities

43. Accreditation authority to be decided

- (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 —
 - (a) an external accreditation entity; or

1 (b) a committee established by the Board.

2 Note: See sections 253 and 301 which provide for the performance of
3 accreditation functions for a health profession by external accreditation
4 authorities appointed by the Ministerial Council for a period after the
5 commencement of this Law.

6 (2) The National Agency may charge an entity the relevant fee for the
7 exercise of an accreditation function by an accreditation committee.

8 **44. National Agency may enter into contracts with external**
9 **accreditation entities**

10 The National Agency may enter into a contract with an external
11 accreditation entity for the performance by the entity of an
12 accreditation function for a health profession only if the terms of the
13 contract are in accordance with the health profession agreement
14 between the National Agency and the National Board established for
15 that profession.

16 **45. Accreditation processes to be published**

17 Each accreditation authority must publish on its website or, if the
18 authority is an accreditation committee, the website of the National
19 Board that established the committee, how it will exercise its
20 accreditation function.

21 **Division 3 — Accreditation functions**

22 **46. Development of accreditation standards**

23 (1) An accreditation standard for a health profession may be developed
24 by —

25 (a) an external accreditation entity for the health profession; or

26 (b) an accreditation committee established by the National Board
27 established for the health profession.

28 (2) In developing an accreditation standard for a health profession, an
29 accreditation authority must undertake wide-ranging consultation
30 about the content of the standard.

- 1 **47. Approval of accreditation standards**
- 2 (1) An accreditation authority must, as soon as practicable after
- 3 developing an accreditation standard for a health profession, submit it
- 4 to the National Board established for the health profession.
- 5 (2) As soon as practicable after a National Board receives an
- 6 accreditation standard under subsection (1), the Board must decide
- 7 to —
- 8 (a) approve the accreditation standard; or
- 9 (b) refuse to approve the accreditation standard; or
- 10 (c) ask the accreditation authority to review the standard.
- 11 (3) If the National Board decides to approve the accreditation standard it
- 12 must give written notice of the approval to —
- 13 (a) the National Agency; and
- 14 (b) the accreditation authority that submitted the standard to the
- 15 Board.
- 16 (4) If the National Board decides to refuse to approve the accreditation
- 17 standard —
- 18 (a) it must give written notice of the refusal, including the
- 19 reasons for the refusal, to the accreditation authority that
- 20 submitted the standard; and
- 21 (b) the accreditation authority is entitled to publish any
- 22 information or advice it gave the Board about the standard.
- 23 (5) If the National Board decides to ask the accreditation authority to
- 24 review the standard it must give the authority a written notice that —
- 25 (a) states that the authority is being asked to review the standard;
- 26 and
- 27 (b) identifies the matters the authority is to address before again
- 28 submitting the standard to the Board.
- 29 (6) An accreditation standard approved by a National Board must be
- 30 published on its website.
- 31 (7) An accreditation standard takes effect —
- 32 (a) on the day it is published on the National Board's website; or
- 33 (b) if a later day is stated in the standard, on that day.

1 **48. Accreditation of programmes of study**

2 (1) An accreditation authority for a health profession may accredit a
3 programme of study if, after assessing the programme, the authority is
4 reasonably satisfied —

5 (a) the programme of study, and the education provider that
6 provides the programme of study, meet an approved
7 accreditation standard for the profession; or

8 (b) the programme of study, and the education provider that
9 provides the programme of study, substantially meet an
10 approved accreditation standard for the profession and the
11 imposition of conditions on the approval will ensure the
12 programme meets the standard within a reasonable time.

13 (2) If the accreditation authority decides to accredit a programme of
14 study, with or without conditions, it must give to the National Board
15 established for the health profession a report about the authority's
16 accreditation of the programme.

17 (3) If the accreditation authority decides to refuse to accredit a
18 programme of study it must give written notice of the decision to the
19 education provider that provides the programme of study.

20 (4) The notice must state —

21 (a) the reasons for the decision; and

22 (b) that, within 30 days after receiving the notice, the education
23 provider may apply to the accreditation authority for an
24 internal review of the decision; and

25 (c) how the education provider may apply for the review.

26 (5) An education provider given a notice under subsection (3) may apply,
27 as stated in the notice, for an internal review of the accreditation
28 authority's decision to refuse to accredit the programme of study.

29 (6) The internal review must not be carried out by a person who assessed
30 the programme of study for the accreditation authority.

31 **49. Approval of accredited programmes of study**

32 (1) If a National Board is given a report by an accreditation authority
33 about the authority's accreditation of a programme of study, the
34 Board may approve, or refuse to approve, the accredited programme

- 1 of study as providing a qualification for the purposes of registration in
2 the health profession for which the Board is established.
- 3 (2) An approval under subsection (1) may be granted subject to the
4 conditions the National Board considers necessary or desirable in the
5 circumstances.
- 6 (3) If the National Board decides to approve the accredited programme of
7 study it must give written notice of the approval to —
8 (a) the National Agency for inclusion of the programme of study
9 in the list under subsection (5); and
10 (b) the accreditation authority that submitted the programme to
11 the Board.
- 12 (4) If the National Board decides to refuse to approve the accredited
13 programme of study —
14 (a) it must give written notice of the refusal, including the
15 reasons for the refusal, to the accreditation authority that
16 submitted the programme; and
17 (b) the accreditation authority is entitled to publish any
18 information or advice it gave the Board about the programme.
- 19 (5) A list of the programmes of study approved by a National Board as
20 providing a qualification for registration in the health profession for
21 which the Board is established must be published on the National
22 Agency's website.
- 23 (6) The list of approved programmes of study published under
24 subsection (5) must include, for each programme of study, the name
25 of the university, specialist medical or other college or other
26 education provider that provides the approved programme of study.
- 27 (7) An approval under subsection (1) does not take effect until the
28 programme of study is included in the list published under
29 subsection (5).
- 30 **50. Accreditation authority to monitor approved programmes of**
31 **study**
- 32 (1) The accreditation authority that accredited an approved programme of
33 study must monitor the programme and the education provider that
34 provides the programme to ensure the authority continues to be

1 satisfied the programme and provider meet an approved accreditation
2 standard for the health profession.

3 (2) If the accreditation authority reasonably believes the programme of
4 study and education provider no longer meet an approved
5 accreditation standard for the health profession, the accreditation
6 authority must —

7 (a) decide to —

8 (i) impose the conditions on the accreditation that the
9 accreditation authority considers necessary to ensure
10 the programme of study will meet the standard within
11 a reasonable time; or

12 (ii) revoke the accreditation of the programme of study;

13 and

14 (b) give the National Board that approved the accredited
15 programme of study written notice of the accreditation
16 authority's decision.

17 **51. Changes to approval of programme of study**

18 (1) If a National Board is given notice under section 50(2)(b) that an
19 accreditation authority has revoked the accreditation of a programme
20 of study approved by the Board, the Board's approval of the
21 programme is taken to have been cancelled at the same time the
22 accreditation was revoked.

23 (2) If a National Board reasonably believes, because of a notice given to
24 the Board under section 50(2)(b) or for any other reason, that an
25 accredited programme of study approved by the Board no longer
26 provides a qualification for the purposes of registration in the health
27 profession for which the Board is established, the Board may decide
28 to —

29 (a) impose the conditions the Board considers necessary or
30 desirable on the approval of the accredited programme of
31 study to ensure the programme provides a qualification for
32 the purposes of registration; or

33 (b) cancel its approval of the accredited programme of study.

Health Practitioner Regulation National Law (WA) Bill 2010

Schedule Health Practitioner Regulation National Law

Part 6 Accreditation

s. 51

- 1 (3) If a National Board makes a decision under subsection (2), it must
2 give written notice of the decision, including the reasons for the
3 decision, to the accreditation authority that accredited the programme.

Part 7 — Registration of health practitioners

Division 1 — General registration

52. Eligibility for general registration

(1) An individual is eligible for general registration in a health profession if —

(a) the individual is qualified for general registration in the health profession; and

(b) the individual has successfully completed —

(i) any period of supervised practice in the health profession required by an approved registration standard for the health profession; or

(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

(c) the individual is a suitable person to hold general registration in the health profession; and

(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

(e) the individual meets any other requirements for registration stated in an approved registration standard for the health profession.

(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.

53. Qualifications for general registration

An individual is qualified for general registration in a health profession if —

(a) the individual holds an approved qualification for the health profession; or

- 1 (b) the individual holds a qualification the National Board
2 established for the health profession considers to be
3 substantially equivalent, or based on similar competencies, to
4 an approved qualification; or
- 5 (c) the individual holds a qualification, not referred to in
6 paragraph (a) or (b), relevant to the health profession and has
7 successfully completed an examination or other assessment
8 required by the National Board for the purpose of general
9 registration in the health profession; or
- 10 (d) the individual —
- 11 (i) holds a qualification, not referred to in paragraph (a)
12 or (b), that under this Law or a corresponding prior
13 Act qualified the individual for general registration
14 (however described) in the health profession; and
- 15 (ii) was previously registered under this Law or the
16 corresponding prior Act on the basis of holding that
17 qualification.

18 **54. Examination or assessment for general registration**

19 For the purposes of section 52(1)(b)(ii), if a National Board requires
20 an individual to undertake an examination or assessment, the
21 examination or assessment must be conducted by an accreditation
22 authority for the health profession, unless the Board decides
23 otherwise.

24 **55. Unsuitability to hold general registration**

- 25 (1) A National Board may decide an individual is not a suitable person to
26 hold general registration in a health profession if —
- 27 (a) in the Board's opinion, the individual has an impairment that
28 would detrimentally affect the individual's capacity to
29 practise the profession to such an extent that it would or may
30 place the safety of the public at risk; or
- 31 (b) having regard to the individual's criminal history to the extent
32 that is relevant to the individual's practice of the profession,
33 the individual is not, in the Board's opinion, an appropriate
34 person to practise the profession or it is not in the public
35 interest for the individual to practise the profession; or

- 1 (c) the individual has previously been registered under a relevant
2 law and during the period of that registration proceedings
3 under Part 8, or proceedings that substantially correspond to
4 proceedings under Part 8, were started against the individual
5 but not finalised; or
- 6 (d) in the Board's opinion, the individual's competency in
7 speaking or otherwise communicating in English is not
8 sufficient for the individual to practise the profession; or
- 9 (e) the individual's registration (however described) in the health
10 profession in a jurisdiction that is not a participating
11 jurisdiction, whether in Australia or elsewhere, is currently
12 suspended or cancelled on a ground for which an adjudication
13 body could suspend or cancel a health practitioner's
14 registration in Australia; or
- 15 (f) the nature, extent, period and recency of any previous
16 practice of the profession is not sufficient to meet the
17 requirements specified in an approved registration standard
18 relevant to general registration in the profession; or
- 19 (g) the individual fails to meet any other requirement in an
20 approved registration standard for the profession about the
21 suitability of individuals to be registered in the profession or
22 to competently and safely practise the profession; or
- 23 (h) in the Board's opinion, the individual is for any other
24 reason —
- 25 (i) not a fit and proper person for general registration in
26 the profession; or
- 27 (ii) unable to practise the profession competently and
28 safely.
- 29 (2) In this section —
- 30 **relevant law** means —
- 31 (a) this Law or a corresponding prior Act; or
- 32 (b) the law of another jurisdiction, whether in Australia or
33 elsewhere.

1 **56. Period of general registration**

2 (1) The period of registration that is to apply to a health practitioner
3 granted general registration in a health profession is the period (the
4 **registration period**), not more than 12 months, decided by the
5 National Board established for the profession and published on the
6 Board's website.

7 (2) If the National Board decides to register a health practitioner in the
8 health profession during a registration period, the registration —

- 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 **Division 2 — Specialist registration**

12 **57. Eligibility for specialist registration**

13 (1) An individual is eligible for specialist registration in a recognised
14 specialty in a health profession if —

- 15 (a) the individual is qualified for registration in the specialty; and
16 (b) the individual has successfully completed —
17 (i) any period of supervised practice in the specialty
18 required by an approved registration standard for the
19 health profession; or
20 (ii) any examination or assessment required by an
21 approved registration standard for the health
22 profession to assess the individual's ability to
23 competently and safely practise the specialty;

24 and

- 25 (c) the individual is a suitable person to hold registration in the
26 health profession; and
27 (d) the individual is not disqualified under this Law or a law of a
28 co-regulatory jurisdiction from applying for registration, or
29 being registered, in the specialty; and
30 (e) the individual meets any other requirements for registration
31 stated in an approved registration standard for the specialty.

- 1 (2) Without limiting subsection (1), the National Board may decide the
2 individual is eligible for registration in the recognised specialty by
3 imposing conditions on the registration under section 83.

4 **58. Qualifications for specialist registration**

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

- 7 (a) holds an approved qualification for the specialty; or
8 (b) holds another qualification the National Board established for
9 the health profession considers to be substantially equivalent,
10 or based on similar competencies, to an approved
11 qualification for the specialty; or
12 (c) holds a qualification, not referred to in paragraph (a) or (b),
13 relevant to the specialty and has successfully completed an
14 examination or other assessment required by the National
15 Board for the purpose of registration in the specialty; or
16 (d) the individual —
17 (i) holds a qualification, not referred to in paragraph (a)
18 or (b), that under this Law or a corresponding prior
19 Act qualified the individual for specialist registration
20 (however described) in the specialty; and
21 (ii) was previously registered under this Law or the
22 corresponding prior Act on the basis of holding that
23 qualification for the specialty.

24 **59. Examination or assessment for specialist registration**

25 For the purposes of section 57(1)(b)(ii), if the National Board requires
26 an individual to undertake an examination or assessment, the
27 examination or assessment must be conducted by an accreditation
28 authority for the health profession, unless the Board decides
29 otherwise.

30 **60. Unsuitability to hold specialist registration**

- 31 (1) Section 55 applies to the making of a decision by a National Board
32 that an individual is not a suitable person to hold specialist
33 registration in a recognised specialty.

- 1 (2) For the purposes of subsection (1), a reference in section 55 to —
- 2 (a) general registration in the health profession is taken to be a
- 3 reference to specialist registration in a recognised specialty;
- 4 and
- 5 (b) the health profession is taken to be a reference to the
- 6 recognised specialty.

7 **61. Period of specialist registration**

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

18 **Division 3 — Provisional registration**

19 **62. Eligibility for provisional registration**

- 20 (1) An individual is eligible for provisional registration in a health
- 21 profession, to enable the individual to complete a period of supervised
- 22 practice that the individual requires to be eligible for general
- 23 registration in the health profession, if —
- 24 (a) the individual is qualified for general registration in the
- 25 profession; and
- 26 (b) the individual is a suitable person to hold provisional
- 27 registration in the profession; and
- 28 (c) the individual is not disqualified under this Law or a law of a
- 29 co-regulatory jurisdiction from applying for, or being
- 30 registered in, the profession; and
- 31 (d) the individual meets any other requirements for registration
- 32 stated in an approved registration standard for the health
- 33 profession.

- 1 (2) Without limiting subsection (1), the National Board established for
2 the health profession may decide the individual is eligible for
3 provisional registration in the health profession by imposing
4 conditions on the registration under section 83.

5 **63. Unsuitability to hold provisional registration**

- 6 (1) Section 55 applies to a decision by a National Board that an individual
7 is not a suitable person to hold provisional registration in a health
8 profession.

- 9 (2) For the purposes of subsection (1), a reference in section 55 to general
10 registration in the health profession is taken to be a reference to
11 provisional registration in the health profession.

12 **64. Period of provisional registration**

- 13 (1) The period of registration (the *registration period*) that is to apply to a
14 health practitioner granted provisional registration in a health
15 profession is —

16 (a) the period decided by the National Board established for the
17 profession, but not more than 12 months, and published on
18 the Board's website; or

19 (b) the longer period prescribed by a regulation.

- 20 (2) If the National Board decides to register a health practitioner in the
21 health profession during a registration period, the registration —

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 (3) Provisional registration may not be renewed more than twice.

25 Note: If an individual were not able to complete the supervised practice the
26 individual requires for general registration in a health profession during
27 the period consisting of the individual's initial period of registration and
28 2 renewals of that registration, the individual would need to make a
29 new application for provisional registration in the profession.

1 **Division 4 — Limited registration**

2 **65. Eligibility for limited registration**

3 (1) An individual is eligible for limited registration in a health profession
4 if —

- 5 (a) the individual is not qualified for general registration in the
6 profession or specialist registration in a recognised specialty
7 in the profession; and
- 8 (b) the individual is qualified under this Division for limited
9 registration; and
- 10 (c) the individual is a suitable person to hold limited registration
11 in the profession; and
- 12 (d) the individual is not disqualified under this Law or a law of a
13 co-regulatory jurisdiction from applying for registration, or
14 being registered, in the health profession; and
- 15 (e) the individual meets any other requirements for registration
16 stated in an approved registration standard for the health
17 profession.

18 (2) Without limiting subsection (1), the National Board established for
19 the health profession may decide the individual is eligible for
20 registration in the profession by imposing conditions on the
21 registration under section 83.

22 **66. Limited registration for postgraduate training or supervised**
23 **practice**

24 (1) An individual may apply for limited registration to enable the
25 individual to undertake a period of postgraduate training or supervised
26 practice in a health profession, or to undertake assessment or sit an
27 examination, approved by the National Board established for the
28 profession.

29 (2) The individual is qualified for the limited registration applied for if
30 the National Board is satisfied the individual has completed a
31 qualification that is relevant to, and suitable for, the postgraduate
32 training, supervised practice, assessment or examination.

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

1 **68. Limited registration in public interest**

2 (1) An individual may apply for limited registration to enable the
3 individual to practise a health profession for a limited time, or for a
4 limited scope, in the public interest.

5 (2) The individual is qualified for the limited registration applied for if
6 the National Board established for the health profession is satisfied it
7 is in the public interest for an individual with the individual's
8 qualifications and experience to practise the profession for that time
9 or scope.

10 **69. Limited registration for teaching or research**

11 (1) An individual may apply for limited registration in a health profession
12 to enable the individual to fill a teaching or research position.

13 (2) The individual is qualified for the limited registration applied for if
14 the National Board established for the health profession is satisfied
15 the individual's qualifications are relevant to, and suitable for, the
16 position.

17 **70. Unsuitability to hold limited registration**

18 (1) Section 55 applies to a decision by a National Board that an individual
19 is not a suitable person to hold limited registration in a health
20 profession.

21 (2) For the purposes of subsection (1), a reference in section 55 to general
22 registration in the health profession is taken to be a reference to
23 limited registration in the health profession.

24 **71. Limited registration not to be held for more than one purpose**

25 An individual may not hold limited registration in the same health
26 profession for more than one purpose under this Division at the same
27 time.

28 **72. Period of limited registration**

29 (1) The period of registration that is to apply to a health practitioner
30 granted limited registration in a health profession is the period (the
31 *registration period*), not more than 12 months, decided by the

1 National Board established for the profession and published on the
2 Board's website.

3 (2) If the National Board decides to register a health practitioner in the
4 health profession during a registration period, the registration —

5 (a) starts when the Board makes the decision; and

6 (b) expires at the end of the last day of the registration period.

7 (3) Limited registration may not be renewed more than 3 times.

8 Note: If an individual had been granted limited registration in a health
9 profession for a purpose under this Division, had subsequently
10 renewed the registration in the profession for that purpose 3 times and
11 at the end of the period wished to continue holding limited registration
12 in the profession for that purpose, the individual would need to make a
13 new application for limited registration in the profession for that
14 purpose.

15 **Division 5 — Non-practicing registration**

16 **73. Eligibility for non-practicing registration**

17 An individual is eligible for non-practicing registration in a health
18 profession if —

19 (a) the individual —

20 (i) holds or has held general registration in the health
21 profession under this Law; or

22 (ii) holds or has held specialist registration in a
23 recognised specialty in the health profession under
24 this Law; or

25 (iii) held registration in the health profession under a
26 corresponding prior Act that was equivalent to
27 general registration or specialist registration in the
28 health profession under this Law;

29 and

30 (b) the individual is a suitable person to hold non-practicing
31 registration in the profession.

1 **74. Unsuitability to hold non-practicing registration**

2 A National Board may decide an individual is not a suitable person to
3 hold non-practicing registration in a health profession if —

- 4 (a) having regard to the individual's criminal history to the extent
5 that is relevant to the individual's practice of the profession,
6 the individual is not, in the Board's opinion, an appropriate
7 person to hold registration in the profession or it is not in the
8 public interest for the individual to hold registration in the
9 profession; or
- 10 (b) in the Board's opinion, the individual is for any other reason
11 not a fit and proper person to hold non-practicing registration
12 in the profession.

13 **75. Registered health practitioner who holds non-practicing**
14 **registration must not practise the profession**

- 15 (1) A registered health practitioner who holds non-practicing registration
16 in a health profession must not practise the profession.
- 17 (2) A contravention of subsection (1) by a registered health practitioner
18 does not constitute an offence but may constitute behaviour for which
19 health, conduct or performance action may be taken.

20 **76. Period of non-practicing registration**

- 21 (1) The period of registration that is to apply to a health practitioner
22 granted non-practicing registration in a health profession is the period
23 (the **registration period**), not more than 12 months, decided by the
24 National Board established for the profession and published on the
25 Board's website.
- 26 (2) If the National Board decides to register a health practitioner in the
27 health profession during a registration period, the registration —
- 28 (a) starts when the Board makes the decision; and
29 (b) expires at the end of the last day of the registration period.

Division 6 — Application for registration

77. Application for registration

- (1) An individual may apply to a National Board for registration in the health profession for which the Board is established.
- (2) An application must —
- (a) be in the form approved by the National Board; and
 - (b) be accompanied by the relevant fee; and
 - (c) be accompanied by proof of the applicant's identity; and
 - (d) be accompanied by any other information reasonably required by the Board.
- (3) Without limiting subsection (2)(a), a form approved by a National Board for the purposes of that subsection must require an applicant —
- (a) to provide a declaration about —
 - (i) the address at which the applicant will predominantly practise the profession; or
 - (ii) if the applicant will not be practising the profession or will not predominantly practise the profession at one address, the address that is the applicant's principal place of residence;
 - and
 - (b) to provide an address to be used by the Board in corresponding with the applicant; and
 - (c) to disclose the applicant's criminal history; and
 - (d) to authorise the Board to obtain the applicant's criminal history.
- Note: See the definition of **criminal history** which applies to offences in participating jurisdictions and elsewhere, including outside Australia.
- (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.
- (5) Information in the application must, if the approved form requires, be verified by a statutory declaration.

1 **78. Power to check applicant's proof of identity**

2 (1) If an applicant for registration gives a National Board a document as
3 evidence of the applicant's identity under this section, the Board may,
4 by written notice, ask the entity that issued the document —

5 (a) to confirm the validity of the document; or

6 (b) to give the Board other information relevant to the applicant's
7 identity.

8 (2) An entity given a notice under subsection (1) is authorised to give the
9 National Board the information requested in the notice.

10 **79. Power to check applicant's criminal history**

11 (1) Before deciding an application for registration, a National Board must
12 check the applicant's criminal history.

13 (2) For the purposes of checking an applicant's criminal history, a
14 National Board may obtain a written report about the criminal history
15 of the applicant from any of the following —

16 (a) CrimTrac;

17 (b) a police commissioner;

18 (c) an entity in a jurisdiction outside Australia that has access to
19 records about the criminal history of persons in that
20 jurisdiction.

21 (3) A criminal history law does not apply to a report about an applicant's
22 criminal history under subsection (2).

23 **80. Boards' other powers before deciding application for registration**

24 (1) Before deciding an application for registration, a National Board
25 may —

26 (a) investigate the applicant, including, for example, by asking an
27 entity —

28 (i) to give the Board information about the applicant; or

29 (ii) to verify information or a document that relates to the
30 applicant;

31 and

1 **Examples:** If the applicant is or has been registered by another registration
2 authority, the National Board may ask the registration authority for information
3 about the applicant's registration status.

4 The National Board may ask an entity that issued qualifications that the
5 applicant believes qualifies the applicant for registration for confirmation that
6 the qualification was issued to the applicant.

7 (b) by written notice given to the applicant, require the applicant
8 to give the Board, within a reasonable time stated in the
9 notice, further information or a document the Board
10 reasonably requires to decide the application; and

11 (c) by written notice given to the applicant, require the applicant
12 to attend before the Board, within a reasonable time stated in
13 the notice and at a reasonable place, to answer any questions
14 of the Board relating to the application; and

15 (d) by written notice given to the applicant, require the applicant
16 to undergo an examination or assessment, within a reasonable
17 time stated in the notice and at a reasonable place, to assess
18 the applicant's ability to practise the health profession in
19 which registration is sought; and

20 (e) by written notice given to the applicant, require the applicant
21 to undergo a health assessment, within a reasonable time
22 stated in the notice and at a reasonable place.

23 (2) The National Board may require the information or document referred
24 to in subsection (1)(b) to be verified by a statutory declaration.

25 (3) If the National Board requires an applicant to undertake an
26 examination or assessment under subsection (1)(d) to assess the
27 applicant's ability to practise the health profession —

28 (a) the examination or assessment must be conducted by an
29 accreditation authority for the health profession, unless the
30 Board decides otherwise; and

31 (b) the National Agency may require the applicant to pay the
32 relevant fee.

33 (4) A notice under subsection (1)(d) or (e) must state —

34 (a) the reason for the examination or assessment; and

35 (b) the name and qualifications of the person appointed by the
36 National Board to conduct the examination or assessment;
37 and

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

- 1 (II) has not completed a period of supervised
2 practice in the health profession, or an
3 examination or assessment required by the
4 Board to assess the individual's ability to
5 practise the profession; or
6 (III) is not a suitable person to hold registration;
7 or
8 (IV) is disqualified under this Law from
9 applying for registration, or being
10 registered, in the health profession; or
11 (V) does not meet a requirement for registration
12 stated in an approved registration standard
13 for the profession;
14 or
15 (ii) it would be improper to register the applicant because
16 the applicant or someone else gave the National
17 Board information or a document in relation to the
18 application that was false or misleading in a material
19 particular.

- 20 (2) In this section —
21 *relevant section* means section 52, 57, 62, 65 or 73.

22 **83. Conditions of registration**

- 23 (1) If a National Board decides to register a person in the health
24 profession for which the Board is established, the registration is
25 subject to any condition the Board considers necessary or desirable in
26 the circumstances.

27 Note: A failure by a registered health practitioner to comply with a condition
28 of the practitioner's registration does not constitute an offence but may
29 constitute behaviour for which health, conduct or performance action
30 may be taken.

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

- 1 **84. Notice to be given to applicant**
- 2 (1) Within 30 days after making the decision under section 82, the
- 3 National Board must —
- 4 (a) give the applicant written notice of the Board’s decision; and
- 5 (b) if the Board decides to register the applicant, give the
- 6 applicant a certificate of registration.
- 7 (2) If the Board decides not to register the applicant, or decides to register
- 8 the applicant in a type of registration other than the registration
- 9 applied for or subject to a condition, the notice under subsection (1)(a)
- 10 must state —
- 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
- 14 within which the application must be made.
- 15 **85. Failure to decide application**
- 16 If a National Board fails to decide an application for registration
- 17 within 90 days after its receipt, or the longer period agreed between
- 18 the Board and the applicant, the failure by the Board to make a
- 19 decision is taken to be a decision to refuse to register the applicant.

20 **Division 7 — Student registration**

21 **Subdivision 1 — Persons undertaking approved programmes of study**

- 22 **86. Terms used**
- 23 In this Subdivision —
- 24 *approved programme of study*, for a health profession, does not
- 25 include an approved programme of study that provides a qualification
- 26 for endorsement of registration in the profession but does not qualify
- 27 a person for registration in the profession;
- 28 *particulars* means particulars required to be included in the student
- 29 register.

87. National Board must register persons undertaking approved programme of study

- (1) The National Board established for a health profession must decide whether persons who are undertaking an approved programme of study for the health profession must be registered —
- (a) for the entire period during which the persons are enrolled in the approved programme of study; or
 - (b) for the period starting when the persons begin a particular part of the approved programme of study and ending when the persons complete, or otherwise cease to be enrolled in, the programme.
- (2) In deciding whether to register persons undertaking an approved programme of study for the entire period of the programme of study or only part of the period, the National Board must have regard to —
- (a) the likelihood that persons undertaking the approved programme of study will, in the course of undertaking the programme, have contact with members of the public; and
 - (b) if it is likely that the persons undertaking the approved programme of study will have contact with members of the public —
 - (i) when in the approved programme 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 programme 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 programme 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 programme of study specified in the notice.

- 1 (2) An education provider given a notice under subsection (1) must not
2 fail, without reasonable excuse, to comply with the notice.
- 3 (3) A contravention of subsection (2) does not constitute an offence.
- 4 (4) However, if an education provider does not comply with a notice
5 under subsection (1) —
- 6 (a) the National Board that gave the education provider the
7 notice must publish details of the failure to comply with the
8 notice on the Board's website; and
- 9 (b) the National Agency may, on the recommendation of the
10 National Board, include a statement about the failure to
11 comply with the notice in the Agency's annual report.
- 12 **89. Registration of students**
- 13 (1) On receipt of the particulars of persons undertaking an approved
14 programme of study, or part of an approved programme of study,
15 under section 88 —
- 16 (a) the National Board may register the persons as students in the
17 health profession by entering the persons' particulars in the
18 student register kept by the Board; or
- 19 (b) the National Board may —
- 20 (i) by written notice given to each person, require the
21 person to complete an application for registration as a
22 student in the form approved by the National Board;
23 and
- 24 (ii) on receipt of the person's application form, register
25 the person as a student in the health profession by
26 entering the person's particulars in the student
27 register kept by the Board.
- 28 (2) The National Board must not register a person as a student if the
29 person is undertaking an approved programme of study for a health
30 profession in which the person already holds registration under
31 Division 6.
- 32 (3) The National Board must not require a person to pay a fee for
33 registration as a student.

- 1 (4) As soon as practicable after registering a person as a student, a
2 National Board must give written notice of the registration to —
- 3 (a) the education provider that provided the student's particulars
4 to the Board; and
- 5 (b) if the Board required the person to complete an application
6 form for registration, the student.
- 7 (5) As soon as practicable after receiving notice that a student has been
8 registered under subsection (1)(a), the education provider must give
9 written notice of the registration to the student.

10 **90. Period of student registration**

11 The period of registration for a student —

- 12 (a) starts when the student is registered under section 89; and
- 13 (b) expires at the end of the day on which the student completes,
14 or otherwise ceases to be enrolled in, the approved
15 programme of study.

16 **Subdivision 2 — Other persons to be registered as students**

17 **91. Education provider to provide lists of persons**

- 18 (1) If an education provider arranges clinical training in a health
19 profession for a person who is not enrolled in an approved programme
20 of study for the profession, the education provider must give the
21 National Board established for the profession written notice about the
22 arrangement.
- 23 (2) Subsection (1) does not apply if the person is a registered health
24 practitioner who is registered in the health profession in which the
25 clinical training is being undertaken.
- 26 (3) A notice under subsection (1) must include —
- 27 (a) the particulars of the person undertaking the clinical training;
28 and
- 29 (b) particulars of the arrangement for the person to undertake the
30 clinical training.

- 1 (4) On receipt of a notice under subsection (1) —
- 2 (a) the National Board may register the persons as students in the
- 3 health profession by entering the persons' particulars in the
- 4 student register kept by the Board; or
- 5 (b) the National Board may —
- 6 (i) by written notice given to each person, require the
- 7 person to complete an application for registration as a
- 8 student in the form approved by the National Board;
- 9 and
- 10 (ii) on receipt of the person's application form, register
- 11 the person as a student in the health profession by
- 12 entering the person's particulars in the student
- 13 register kept by the Board.
- 14 (5) As soon as practicable after registering a person as a student under
- 15 subsection (4), a National Board must give written notice of the
- 16 registration to the education provider that provided the student's
- 17 particulars to the Board.
- 18 (6) The National Board must not require a person to pay a fee for
- 19 registration as a student.
- 20 (7) A student's period of registration under this section —
- 21 (a) starts when the student is registered under subsection (4); and
- 22 (b) expires at the end of the day on which the person completes,
- 23 or otherwise ceases to undertake, the period of clinical
- 24 training.

25 **Subdivision 3 — General provisions applicable to students**

26 **92. Notice to be given if student registration suspended or condition**

27 **imposed**

- 28 (1) This section applies if, at any time, any of the following events
- 29 occurs —
- 30 (a) a person's registration as a student under this Law is
- 31 suspended;
- 32 (b) a condition is imposed on a person's registration as a student
- 33 under this Law or a condition to which a person's registration
- 34 is subject is changed or removed;

1 (c) a National Board accepts an undertaking from a person who
2 is a student.

3 (2) The National Board that registered the person must, as soon as
4 practicable after the event occurs, give written notice of the event to
5 the education provider with which the person is undertaking the
6 approved programme of study.

7 (3) If an education provider is given a notice under subsection (2) about a
8 person, the education provider must, as soon as practicable after
9 receiving the notice, give notice of the event to any entity with whom
10 the person is undertaking training as part of the approved programme
11 of study.

12 **93. Report to National Board of cessation of status as student**

13 (1) This section applies if —

14 (a) a student completes, or otherwise ceases to be enrolled in, an
15 approved programme of study for a health profession
16 provided by an education provider; or

17 (b) a student completes, or otherwise ceases to undertake, clinical
18 training in a health profession arranged by an education
19 provider.

20 (2) The education provider must give written notice of the student ceasing
21 to be enrolled in the programme of study, or to undertake the clinical
22 training, to the National Board established for the health profession
23 within 60 days of it occurring.

24 (3) A contravention of subsection (2) does not constitute an offence.

25 (4) However, if an education provider contravenes subsection (2) —

26 (a) the National Board must publish details of the contravention
27 on the Board's website; and

28 (b) the National Agency may, on the recommendation of the
29 National Board, include a statement about the contravention
30 in the Agency's annual report.

Division 8 — Endorsement of registration

Subdivision 1 — Endorsement in relation to scheduled medicines

94. Endorsement for scheduled medicines

(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 —

(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.

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.

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.

(2) An endorsement under subsection (1) must state —

(a) the scheduled medicine or class of scheduled medicines to which the endorsement relates; and

(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

- 1 (c) if the endorsement is for a limited period, the date the
2 endorsement expires.

3 **Subdivision 2 — Endorsement in relation to nurse practitioners**

4 **95. Endorsement as nurse practitioner**

- 5 (1) The Nursing and Midwifery Board of Australia may endorse the
6 registration of a registered health practitioner whose name is included
7 in the Register of Nurses as being qualified to practise as a nurse
8 practitioner if the practitioner —

- 9 (a) holds either of the following qualifications relevant to the
10 endorsement —

- 11 (i) an approved qualification;
12 (ii) another qualification that, in the Board’s opinion, is
13 substantially equivalent to, or based on similar
14 competencies to, an approved qualification;

15 and

- 16 (b) complies with any approved registration standard relevant to
17 the endorsement.

- 18 (2) An endorsement under subsection (1) must state —

- 19 (a) that the registered health practitioner is entitled to use the title
20 “nurse practitioner”; and
21 (b) any conditions applicable to the practice by the registered
22 health practitioner as a nurse practitioner.

23 **Subdivision 3 — Endorsement in relation to midwife practitioners**

24 **96. Endorsement as midwife practitioner**

- 25 (1) The Nursing and Midwifery Board of Australia may endorse the
26 registration of a registered health practitioner whose name is included
27 in the Register of Midwives as being qualified to practise as a
28 midwife practitioner if the practitioner —

- 29 (a) holds either of the following qualifications relevant to the
30 endorsement —

- 31 (i) an approved qualification;

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

12 **Subdivision 4 — Endorsement in relation to acupuncture**

13 **97. Endorsement for acupuncture**

- 14 (1) A National Board may endorse the registration of a registered health
15 practitioner registered by the Board as being qualified to practise as
16 an acupuncturist if the practitioner —
17 (a) holds either of the following qualifications relevant to the
18 endorsement —
19 (i) an approved qualification;
20 (ii) another qualification that, in the Board’s opinion, is
21 substantially equivalent to, or based on similar
22 competencies to, an approved qualification;
23 and
24 (b) complies with an approved registration standard relevant to
25 the endorsement.
- 26 (2) An endorsement under subsection (1) must state —
27 (a) that the registered health practitioner is entitled to use the title
28 “acupuncturist”; and
29 (b) any conditions applicable to the practice of acupuncture by
30 the registered health practitioner.

1 **Subdivision 5 — Endorsements in relation to approved areas of practice**

2 **98. Endorsement for approved area of practice**

3 (1) A National Board established for a health profession may, in
4 accordance with an approval given by the Ministerial Council under
5 section 15, endorse the registration of a registered health practitioner
6 registered by the Board as being qualified to practise in an approved
7 area of practice for the health profession if the practitioner —

8 (a) holds either of the following qualifications relevant to the
9 endorsement —

10 (i) an approved qualification;

11 (ii) another qualification that, in the Board's opinion, is
12 substantially equivalent to, or based on similar
13 competencies to, an approved qualification;

14 and

15 (b) complies with an approved registration standard relevant to
16 the endorsement.

17 (2) An endorsement under subsection (1) must state —

18 (a) the approved area of practice to which the endorsement
19 relates; and

20 (b) any conditions applicable to the practice by the registered
21 health practitioner in the approved area of practice.

22 **Subdivision 6 — Application for endorsement**

23 **99. Application for endorsement**

24 (1) An individual may apply to a National Board for endorsement of the
25 individual's registration.

26 (2) The application must —

27 (a) be in the form approved by the National Board; and

28 (b) be accompanied by the relevant fee; and

29 (c) be accompanied by any other information reasonably required
30 by the Board.

- 1 (3) For the purposes of subsection (2)(c), the information a National
2 Board may require an applicant to provide includes —
- 3 (a) evidence of the qualifications in the health profession the
4 applicant believes qualifies the applicant for endorsement;
5 and
- 6 (b) evidence of successful completion of any period of
7 supervised practice required by an approved registration
8 standard; and
- 9 (c) if the applicant is required to complete an examination or
10 assessment set by or on behalf of the Board, evidence of the
11 successful completion of the examination or assessment.

12 **100. Boards' other powers before deciding application for**
13 **endorsement**

- 14 (1) Before deciding an application for endorsement, a National Board
15 may —
- 16 (a) investigate the applicant, including, for example, by asking an
17 entity —
- 18 (i) to give the Board information about the applicant; or
19 (ii) to verify information or a document that relates to the
20 applicant;
- 21 or
- 22 (b) by written notice to the applicant, require the applicant to
23 give the Board, within a reasonable time stated in the notice,
24 further information or a document the Board reasonably
25 requires to decide the application; or
- 26 (c) by written notice to the applicant, require the applicant to
27 attend before the Board, within a reasonable time stated in the
28 notice and at a reasonable place, to answer any questions of
29 the Board relating to the application; or
- 30 (d) by written notice to the applicant, require the applicant to
31 undergo a written, oral or practical examination, within a
32 reasonable time stated in the notice and at a reasonable place.
- 33 (2) The purpose of an examination under subsection (1)(d) must be to
34 assess the applicant's ability to practise the health profession in
35 accordance with the endorsement sought.

- 1 (3) The applicant is taken to have withdrawn the application if, within the
2 stated time, the applicant does not comply with a requirement under
3 subsection (1).

4 **101. Applicant may make submissions about proposed refusal of**
5 **application or imposition of condition**

- 6 (1) If, after considering an application for endorsement of a registration, a
7 National Board is proposing to refuse to endorse the applicant's
8 registration or to endorse the applicant's registration subject to a
9 condition, the Board must give the applicant written notice of the
10 proposal.

- 11 (2) The notice must —

- 12 (a) state the reasons for the proposal; and
13 (b) invite the applicant to make a written or verbal submission to
14 the Board by the date stated in the notice, being not less than
15 30 days after the day the notice is given to the applicant,
16 about the proposal.

17 **102. Decision about application**

- 18 (1) After considering an application for endorsement and any submissions
19 made in accordance with a notice under section 101, a National Board
20 must decide to endorse, or refuse to endorse, the applicant's
21 registration as sought.

- 22 (2) Without limiting subsection (1), a National Board may refuse to
23 endorse an applicant's registration if —

- 24 (a) the applicant is not qualified for the endorsement under a
25 relevant section; or
26 (b) the Board considers the applicant is not competent to practise
27 the health profession in accordance with the endorsement
28 sought.

- 29 (3) In this section —

30 *relevant section* means section 94, 95, 96, 97 or 98.

31 **103. Conditions of endorsement**

- 32 (1) If a National Board decides to endorse the applicant's registration
33 under section 102, the Board may decide to impose on the

1 endorsement the conditions the Board considers necessary or
2 desirable in the circumstances.

3 Note: A failure by a registered health practitioner to comply with a condition
4 of the practitioner's registration does not constitute an offence but may
5 constitute behaviour for which health, conduct or performance action
6 may be taken.

7 (2) If the National Board decides to impose a condition on the
8 endorsement, the Board must also decide a review period for the
9 condition.

10 **104. Notice of decision to be given to applicant**

11 (1) As soon as practicable after making the decision under section 102,
12 the National Board must —

- 13 (a) give the applicant written notice of the Board's decision; and
14 (b) if the Board decides to endorse the applicant's registration,
15 give the applicant a new certificate of registration.

16 (2) If the Board decides not to endorse the applicant's registration or
17 decides to endorse the applicant's registration subject to a condition,
18 the notice under subsection (1)(a) must state —

- 19 (a) the reasons for the decision; and
20 (b) that the applicant may appeal against the decision; and
21 (c) how an application for appeal may be made and the period
22 within which the application must be made.

23 **105. Period of endorsement**

24 If a National Board decides to endorse a registered health
25 practitioner's registration, the endorsement —

- 26 (a) starts when the Board makes the decision; and
27 (b) expires when the practitioner's registration ends.

28 **106. Failure to decide application for endorsement**

29 If a National Board fails to decide an application for endorsement
30 within 90 days after its receipt, or the longer period agreed between
31 the Board and the applicant, the failure by the Board to make a
32 decision is taken to be a decision to refuse to endorse the applicant's
33 registration.

Division 9 — Renewal of registration

107. Application for renewal of registration or endorsement

- (1) A registered health practitioner may apply to the National Board that registered the practitioner for renewal of the health practitioner's registration.
- (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.
- (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.
- (4) The application for renewal of registration must —
 - (a) be in the form approved by the National Board; and
 - (b) be accompanied by the relevant fee; and
 - (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
 - (d) be accompanied by the annual statement required under section 109; and
 - (e) be accompanied by any other information reasonably required by the Board.

108. Registration taken to continue in force

- (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 —
 - (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
 - (b) if the National Board decides to refuse to renew the applicant's registration, the day the applicant is given notice of the decision.

- 1 (2) If a health practitioner does not apply to renew the practitioner's
2 registration before the practitioner's period of registration ends, the
3 registration, including any endorsement of the registration, is taken to
4 continue in force until —
- 5 (a) the end of the day that is one month after the day the period
6 of registration would, apart from this subsection, have ended;
7 or
- 8 (b) if the health practitioner applies for renewal of the
9 registration not later than one month after the practitioner's
10 period of registration ends, the day referred to in
11 subsection (1)(a) or (b).
- 12 (3) Subsection (1) or (2) does not apply if the registration is earlier
13 cancelled under this Law.

14 **109. Annual statement**

- 15 (1) An application for renewal of registration must include or be
16 accompanied by a statement that includes the following —
- 17 (a) a declaration by the applicant that —
- 18 (i) the applicant does not have an impairment; and
- 19 (ii) the applicant has met any recency of practice
20 requirements stated in an approved registration
21 standard for the health profession; and
- 22 (iii) the applicant has completed the continuing
23 professional development the applicant was required
24 by an approved registration standard to undertake
25 during the applicant's preceding period of
26 registration; and
- 27 (iv) the applicant has not practised the health profession
28 during the preceding period of registration without
29 appropriate professional indemnity insurance
30 arrangements being in place in relation to the
31 applicant; and
- 32 (v) if the applicant's registration is renewed the applicant
33 will not practise the health profession unless
34 appropriate professional indemnity insurance
35 arrangements are in place in relation to the applicant;

- 1 (b) details of any change in the applicant's criminal history that
2 occurred during the applicant's preceding period of
3 registration;

4 Note: See the definition of **criminal history** which applies to offences in
5 participating jurisdictions and elsewhere, including outside Australia.

- 6 (c) if the applicant's right to practise at a hospital or another
7 facility at which health services are provided was withdrawn
8 or restricted during the applicant's preceding period of
9 registration because of the applicant's conduct, professional
10 performance or health, details of the withdrawal or restriction
11 of the right to practise;

- 12 (d) if the applicant's billing privileges were withdrawn or
13 restricted under the *Medicare Australia Act 1973*
14 (Commonwealth) during the applicant's preceding period of
15 registration because of the applicant's conduct, professional
16 performance or health, details of the withdrawal or restriction
17 of the privileges;

- 18 (e) details of any complaint made about the applicant to a
19 registration authority or another entity having functions
20 relating to professional services provided by health
21 practitioners or the regulation of health practitioners;

- 22 (f) any other information required by an approved registration
23 standard.

- 24 (2) Subsection (1)(a)(ii), (iii) and (iv), (c) and (d) does not apply to an
25 applicant who is applying for the renewal of non-practicing
26 registration.

27 **110. National Board's powers before making decision**

28 Before deciding an application for renewal of registration, a National
29 Board may exercise a power under section 80 as if the application
30 were an application for registration made under section 77.

31 **111. Applicant may make submissions about proposed refusal of**
32 **application for renewal or imposition of condition**

- 33 (1) If, after considering an application for renewal of registration, a
34 National Board is proposing to refuse to renew the applicant's
35 registration or to renew the applicant's registration subject to a new

1 condition, the Board must give the applicant written notice of the
2 proposal.

3 (2) The notice must —

- 4 (a) state the reasons for the proposal; and
5 (b) invite the applicant to make a written or verbal submission to
6 the Board by the date stated in the notice, being not less than
7 30 days after the day the notice is given to the applicant,
8 about the proposal.

9 **112. Decision about application for renewal**

10 (1) After considering an application for renewal of registration and any
11 submissions made in accordance with a notice under section 111, a
12 National Board may decide to renew, or refuse to renew, the
13 applicant's registration or the endorsement.

14 (2) The National Board may refuse to renew the applicant's registration
15 or any endorsement on the applicant's registration —

- 16 (a) on any ground on which the Board could refuse to grant the
17 registration or endorsement under section 82 or 102 if the
18 application were for a grant of registration or endorsement; or
19 (b) if the applicant contravened any condition to which the
20 applicant's previous registration or endorsement was subject;
21 or
22 (c) if, during the applicant's previous period of registration, the
23 applicant failed to have appropriate professional indemnity
24 insurance arrangements or failed to complete the continuing
25 professional development required by an approved
26 registration standard for the profession; or
27 (d) if a statement made by the applicant in the applicant's annual
28 statement was false or misleading in a material particular; or
29 (e) if the application is for the renewal of provisional registration
30 and the applicant's provisional registration has previously
31 been renewed twice; or
32 (f) if the application is for the renewal of limited application and
33 the applicant's limited registration has previously been
34 renewed 3 times.

- 1 (3) If the National Board renews a registration, including any
2 endorsement on the registration, the registration or endorsement is
3 subject to —
- 4 (a) any condition to which the registration was subject
5 immediately before the renewal; and
- 6 (b) any condition the Board considers necessary or desirable in
7 the circumstances.
- 8 Note: A failure by a registered health practitioner to comply with a condition
9 of the practitioner's registration does not constitute an offence but may
10 constitute behaviour for which health, conduct or performance action
11 may be taken.
- 12 (4) If the National Board decides to renew a registered health
13 practitioner's registration or an endorsement of the registration subject
14 to a condition under subsection (3)(b), the Board must decide a review
15 period for the condition.
- 16 (5) If a National Board decides to refuse to renew an applicant's
17 registration or the endorsement of the applicant's registration, or to
18 renew the registration or the endorsement subject to a condition under
19 subsection (3)(b), the Board must give the applicant a notice that
20 states —
- 21 (a) the decision made by the Board; and
22 (b) the reasons for the decision; and
23 (c) that the applicant may appeal against the decision; and
24 (d) how an application for appeal may be made and the period
25 within which the application must be made.
- 26 (6) A registration, including any endorsement of the registration, renewed
27 under this Division —
- 28 (a) starts on the day immediately after the applicant's previous
29 period of registration ends or ended; and
30 (b) expires at the end of the day that is 12 months after the day it
31 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.

Penalty:

(a) in the case of an individual — a fine of \$30 000;

(b) in the case of a body corporate — a fine of \$60 000.

(2) A person must not knowingly or recklessly —

(a) take or use a title in the Table in relation to another person (the *second person*), in a way that could be reasonably expected to induce a belief the second person is registered under this Law in the health profession listed beside the title in the Table, unless the second person is registered in the profession; or

(b) take or use a prescribed title for a health profession in relation to another person (the *second person*), in a way that could be reasonably expected to induce a belief the second person is registered under this Law in the profession, unless the second person is registered in the profession.

Penalty:

(a) in the case of an individual — a fine of \$30 000;

(b) in the case of a body corporate — a fine of \$60 000.

(3) Subsections (1) and (2) apply whether or not the title is taken or used with or without any other words and whether in English or any other language.

1

Table — Protected Titles

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
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

Profession	Title
Pharmacy	pharmacist, pharmaceutical chemist
Physiotherapy	physiotherapist, physical therapist
Podiatry	podiatrist, chiropodist
Psychology	psychologist

1 **114. Use of title “acupuncturist”**

- 2 (1) A registered health practitioner whose registration is endorsed under
3 section 97 by a National Board as being qualified to practise as an
4 acupuncturist does not commit an offence against section 113(1)(a)
5 merely because the individual takes or uses the title “acupuncturist”.
- 6 (2) A person does not commit an offence against section 113(2)(a) merely
7 because the person takes or uses the title “acupuncturist” in relation to
8 another person who is a registered health practitioner whose
9 registration is endorsed under section 97 by a National Board as being
10 qualified to practise as an acupuncturist.

11 **115. Restriction on use of specialist titles**

- 12 (1) A person must not knowingly or recklessly take or use —
- 13 (a) the title “dental specialist” unless the person is registered
14 under this Law in a recognised specialty in the dentists
15 division of the dental profession; or
- 16 (b) the title “medical specialist” unless the person is registered in
17 a recognised specialty in the medical profession; or
- 18 (c) a specialist title for a recognised specialty unless the person is
19 registered under this Law in the specialty.

20 Penalty:

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

- 1 (2) A person must not knowingly or recklessly take or use —
- 2 (a) the title “dental specialist” in relation to another person unless
- 3 the other person is registered under this Law in a recognised
- 4 specialty in the dentists division of the dental profession; or
- 5 (b) the title “medical specialist” in relation to another person
- 6 unless the person is registered in a recognised specialty in the
- 7 medical profession; or
- 8 (c) a specialist title for a recognised specialty in relation to
- 9 another person unless the person is registered under this Law
- 10 in the specialty.

11 Penalty:

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

- 14 (3) Subsection (1) applies whether or not the title is taken or used with or
- 15 without any other words and whether in English or any other
- 16 language.

17 **116. Claims by persons as to registration as health practitioner**

- 18 (1) A person who is not a registered health practitioner must not
- 19 knowingly or recklessly —
- 20 (a) take or use the title of “registered health practitioner”,
- 21 whether with or without any other words; or
- 22 (b) take or use a title, name, initial, symbol, word or description
- 23 that, having regard to the circumstances in which it is taken
- 24 or used, indicates or could be reasonably understood to
- 25 indicate —
- 26 (i) the person is a health practitioner; or
- 27 (ii) the person is authorised or qualified to practise in a
- 28 health profession;
- 29 or
- 30 (c) claim to be registered under this Law or hold himself or
- 31 herself out as being registered under this Law; or
- 32 (d) claim to be qualified to practise as a health practitioner.

33 Penalty:

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

- 1 (b) in the case of a body corporate — a fine of \$60 000.
- 2 (2) A person must not knowingly or recklessly —
- 3 (a) take or use the title of “registered health practitioner”,
4 whether with or without any other words, in relation to
5 another person who is not a registered health practitioner; or
- 6 (b) take or use a title, name, initial, symbol, word or description
7 that, having regard to the circumstances in which it is taken
8 or used, indicates or could be reasonably understood to
9 indicate —
- 10 (i) another person is a health practitioner if the other
11 person is not a health practitioner; or
- 12 (ii) another person is authorised or qualified to practise in
13 a health profession if the other person is not a
14 registered health practitioner in that health
15 profession;
- 16 or
- 17 (c) claim another person is registered under this Law, or hold the
18 other person out as being registered under this Law, if the
19 other person is not registered under this Law; or
- 20 (d) claim another person is qualified to practise as a health
21 practitioner if the other person is not a registered health
22 practitioner.
- 23 **Penalty:**
- 24 (a) in the case of an individual — a fine of \$30 000;
- 25 (b) in the case of a body corporate — a fine of \$60 000.

26 **117. Claims by persons as to registration in particular profession or**
27 **division**

- 28 (1) A registered health practitioner must not knowingly or recklessly —
- 29 (a) claim to be registered under this Law in a health profession or
30 a division of a health profession in which the practitioner is
31 not registered, or hold himself or herself out as being
32 registered in a health profession or a division of a health
33 profession if the person is not registered in that health
34 profession or division; or

- 1 (b) claim to be qualified to practise as a practitioner in a health
2 profession or a division of a health profession in which the
3 practitioner is not registered; or
4 (c) take or use any title that could be reasonably understood to
5 induce a belief the practitioner is registered under this Law in
6 a health profession or a division of a health profession in
7 which the practitioner is not registered.

8 (2) A contravention of subsection (1) by a registered health practitioner
9 does not constitute an offence but may constitute behaviour for which
10 health, conduct or performance action may be taken.

11 (3) A person must not knowingly or recklessly —

- 12 (a) claim another person is registered under this Law in a health
13 profession or a division of a health profession in which the
14 other person is not registered, or hold the other person out as
15 being registered in a health profession or a division of a
16 health profession if the other person is not registered in that
17 health profession or division; or
18 (b) claim another person is qualified to practise as a health
19 practitioner in a health profession or division of a health
20 profession in which the other person is not registered; or
21 (c) take or use any title in relation to another person that could be
22 reasonably understood to induce a belief the other person is
23 registered under this Law in a health profession or a division
24 of a health profession in which the person is not registered.

25 Penalty:

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

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

31 **118. Claims by persons as to specialist registration**

32 (1) A person who is not a specialist health practitioner must not
33 knowingly or recklessly —

- 34 (a) take or use the title of “specialist health practitioner”, whether
35 with or without any other words; or

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

- 1 (d) claim another person is qualified to practise as a specialist
2 health practitioner if the person is not a specialist health
3 practitioner.

4 Penalty:

5 (a) in the case of an individual — a fine of \$30 000;

6 (b) in the case of a body corporate — a fine of \$60 000.

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

10 **119. Claims about type of registration or registration in recognised**
11 **specialty**

12 (1) A registered health practitioner must not knowingly or recklessly —

13 (a) claim to hold a type of registration or endorsement under this
14 Law that the practitioner does not hold or hold himself or
15 herself out as holding a type of registration or endorsement if
16 the practitioner does not hold that type of registration; or

17 (b) claim to be qualified to hold a type of registration or
18 endorsement the practitioner does not hold; or

19 (c) claim to hold specialist registration under this Law in a
20 recognised specialty in which the practitioner does not hold
21 specialist registration or hold himself or herself out as holding
22 specialist registration in a recognised specialty if the person
23 does not hold specialist registration in that specialty; or

24 (d) claim to be qualified to practise as a specialist health
25 practitioner in a recognised specialty in which the practitioner
26 is not registered.

27 (2) A contravention of subsection (1) by a registered health practitioner
28 does not constitute an offence but may constitute behaviour for which
29 health, conduct or performance action may be taken.

30 (3) A person must not knowingly or recklessly —

31 (a) claim another person holds a type of registration or
32 endorsement under this Law that the other person does not
33 hold or hold the other person out as holding a type of
34 registration or endorsement if the practitioner does not hold
35 that type of registration or endorsement; or

- 1 (b) claim another person is qualified to hold a type of registration
2 or endorsement that the other person does not hold; or
- 3 (c) claim another person holds specialist registration under this
4 Law in a recognised specialty which the other person does
5 not hold or hold the other person out as holding specialist
6 registration in a recognised specialty if the other person does
7 not hold specialist registration in that specialty; or
- 8 (d) claim another person is qualified to practise in a recognised
9 specialty in which the other person is not registered.

10 Penalty:

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

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

16 **120. Registered health practitioner registered on conditions**

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

23 **Subdivision 2 — Practice protections**

24 **121. Restricted dental acts**

- 25 (1) A person must not carry out a restricted dental act unless the
26 person —
- 27 (a) is registered in the dental profession or medical profession
28 and carries out the restricted dental act in accordance with
29 any requirements specified in an approved registration
30 standard; or
- 31 (b) is a student who carries out the restricted dental act in the
32 course of activities undertaken as part of —
- 33 (i) an approved programme of study for the dental
34 profession or medical profession; or

- 1 (ii) clinical training in the dental profession or medical
2 profession;
3 or
4 (c) carries out the restricted dental act in the course of carrying
5 out technical work on the written order of a person registered
6 in the dentists or dental prosthetists division of the dental
7 profession; or
8 (d) is a person, or a member of a class of persons, prescribed
9 under a regulation as being authorised to carry out the
10 restricted dental act or restricted dental acts generally.

11 Penalty: a fine of \$30 000.

12 (2) In this section —

13 ***restricted dental act*** means any of the following acts —

- 14 (a) performing any irreversible procedure on the human teeth or
15 jaw or associated structures;
16 (b) correcting malpositions of the human teeth or jaw or
17 associated structures;
18 (c) fitting or intra-orally adjusting artificial teeth or corrective or
19 restorative dental appliances for a person;
20 (d) performing any irreversible procedure on, or the giving of
21 any treatment or advice to, a person that is preparatory to or
22 for the purpose of fitting, inserting, adjusting, fixing,
23 constructing, repairing or renewing artificial dentures or a
24 restorative dental appliance;

25 ***technical work*** means the mechanical construction or the renewal or
26 repair of artificial dentures or restorative dental appliances.

27 **122. Restriction on prescription of optical appliances**

28 (1) A person must not prescribe an optical appliance unless —

- 29 (a) the person is an optometrist or medical practitioner; or
30 (b) the appliance is spectacles and the person is an orthoptist
31 who —
32 (i) prescribes the spectacles in the course of carrying out
33 duties at a public health facility; or

- 1 (ii) prescribes the spectacles under the supervision of an
2 optometrist or medical practitioner; or
- 3 (iii) prescribes the spectacles, on the written referral of an
4 optometrist or medical practitioner, to a person who
5 has had, within the 12 months before the referral, an
6 ocular health examination conducted by an
7 optometrist or medical practitioner;
- 8 or
- 9 (c) the person is a person, or a member of a class of persons,
10 prescribed under a regulation as being authorised to prescribe
11 an optical appliance of that type or to prescribe optical
12 appliances generally.
- 13 Penalty: a fine of \$30 000.
- 14 (2) In this section —
- 15 *optical appliance* means —
- 16 (a) any appliance designed to correct, remedy or relieve any
17 refractive abnormality or defect of sight, including, for
18 example, spectacle lenses; or
- 19 (b) contact lenses, whether or not designed to correct, remedy or
20 relieve any refractive abnormality or defect of sight;
- 21 *optometrist* means a person registered in the optometry profession;
- 22 *orthoptist* means a person whose name is recorded in the Register of
23 Orthoptists kept by the Australian Orthoptists Registration Body Pty
24 Ltd (ACN 095 11 7 678).
- 25 **123. Restriction on spinal manipulation**
- 26 (1) A person must not perform manipulation of the cervical spine unless
27 the person —
- 28 (a) is registered in an appropriate health profession; or
- 29 (b) is a student who performs manipulation of the cervical spine
30 in the course of activities undertaken as part of —
- 31 (i) an approved programme of study in an appropriate
32 health profession; or
- 33 (ii) clinical training in an appropriate health profession;
- 34 or

- 1 (c) is a person, or a member of a class of persons, prescribed
2 under a regulation as being authorised to perform
3 manipulation of the cervical spine.

4 Penalty: a fine of \$30 000.

5 (2) In this section —

6 ***appropriate health profession*** means any of the following health
7 professions —

- 8 (a) chiropractic;
9 (b) osteopathy;
10 (c) medical;
11 (d) physiotherapy;

12 ***manipulation of the cervical spine*** means moving the joints of the
13 cervical spine beyond a person's usual physiological range of motion
14 using a high velocity, low amplitude thrust.

15 **Division 11 — Miscellaneous**

16 **Subdivision 1 — Certificates of registration**

17 **124. Issue of certificate of registration**

18 (1) This section applies if —

- 19 (a) a National Board decides to register an individual in the
20 health profession for which the Board is established; or
21 (b) a National Board decides to renew an individual's registration
22 in the health profession for which the Board is established; or
23 (c) a National Board or an adjudication body decides to impose,
24 change or remove a condition on a registered health
25 practitioner's registration or otherwise change the
26 practitioner's registration in a material way; or
27 (d) a National Board or an adjudication body decides to accept an
28 undertaking from a registered health practitioner or to change
29 or revoke an undertaking given by the practitioner; or
30 (e) a National Board decides to endorse a health practitioner's
31 registration.

- 1 (2) The National Board must, as soon as practicable after the decision is
2 made, give the registered health practitioner a certificate of
3 registration in the form decided by the Board.
- 4 (3) A certificate of registration must include the following —
- 5 (a) the name of the registered health practitioner;
- 6 (b) the type of registration granted and, if the registration is
7 endorsed, the type of endorsement granted;
- 8 (c) the date the registration or endorsement was granted;
- 9 (d) the division of the register, if any, in which the practitioner is
10 registered;
- 11 (e) any condition to which the registration or endorsement is
12 subject;
- 13 (f) any undertaking given by the practitioner to the National
14 Board;
- 15 (g) the date the registration expires;
- 16 (h) any other information the Board considers appropriate.

17 **Subdivision 2 — Review of conditions and undertakings**

18 **125. Changing or removing conditions or undertaking on application**
19 **by registered health practitioner or student**

- 20 (1) A registered health practitioner or student may apply to a National
21 Board that registered the practitioner or student —
- 22 (a) for a registered health practitioner —
- 23 (i) to change or remove a condition imposed on the
24 practitioner's registration or endorsement; or
- 25 (ii) to change or revoke an undertaking given by the
26 practitioner;
- 27 or
- 28 (b) for a student —
- 29 (i) to change or remove a condition imposed on the
30 student's registration; or
- 31 (ii) to change or revoke an undertaking given by the
32 student to the Board.

- 1 (2) However, the registered health practitioner or student may not make
2 an application —
- 3 (a) during a review period applying to the condition or
4 undertaking, unless the practitioner or student reasonably
5 believes there has been a material change in the practitioner's
6 or student's circumstances; or
- 7 (b) for a condition imposed by an adjudication body for a
8 co-regulatory jurisdiction, unless the adjudication body
9 decided, when imposing the condition, that this Subdivision
10 applied to the condition.
- 11 (3) An application under subsection (1) must —
- 12 (a) be in the form approved by the National Board; and
13 (b) be accompanied by any other information reasonably required
14 by the Board.
- 15 (4) For the purposes of deciding the application, the National Board may
16 exercise a power under section 80 as if the application were an
17 application for registration as a registered health practitioner.
- 18 (5) The National Board must decide to grant the application or refuse to
19 grant the application.
- 20 (6) As soon as practicable after making the decision under subsection (5),
21 the National Board must give the registered health practitioner or
22 student written notice of the Board's decision.
- 23 (7) If the National Board decides to refuse to grant the application, the
24 notice must state —
- 25 (a) the decision made by the Board; and
26 (b) that the registered health practitioner or student may appeal
27 against the decision; and
28 (c) how an application for appeal may be made and the period
29 within which the application must be made.

30 **126. Changing conditions on Board's initiative**

- 31 (1) This section applies if a National Board reasonably believes it is
32 necessary to change a condition imposed on the registration of a
33 registered health practitioner or student registered by the Board.

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

1 **127. Removal of condition or revocation of undertaking**

2 (1) This section applies if a National Board reasonably believes —

3 (a) that a condition imposed on the registration of a registered
4 health practitioner or student registered by the Board is no
5 longer necessary; or

6 (b) that an undertaking given to the Board by a health
7 practitioner or student registered by the Board is no longer
8 necessary.

9 (2) The National Board may decide to remove the condition or revoke the
10 undertaking.

11 (3) However, the condition or undertaking may not be removed or
12 revoked —

13 (a) during a review period applying to the condition or
14 undertaking, unless the National Board reasonably believes
15 there has been a material change in the registered health
16 practitioner's or student's circumstances; or

17 (b) for a condition imposed by an adjudication body for a
18 co-regulatory jurisdiction, unless the adjudication body
19 decided, when imposing the condition, that this subdivision
20 applied to the condition.

21 (4) As soon as practicable after making the decision the National Board
22 must give notice of the decision to the registered health practitioner or
23 student.

24 (5) The decision takes effect on the date stated in the notice.

25 **Subdivision 3 — Obligations of registered health practitioners and students**

26 **128. Continuing professional development**

27 (1) A registered health practitioner must undertake the continuing
28 professional development required by an approved registration
29 standard for the health profession in which the practitioner is
30 registered.

31 (2) A contravention of subsection (1) by a registered health practitioner
32 does not constitute an offence but may constitute behaviour for which
33 health, conduct or performance action may be taken.

1 (3) In this section —

2 *registered health practitioner* does not include a registered health
3 practitioner who holds non-practicing registration in the profession.

4 **129. Professional indemnity insurance arrangements**

5 (1) A registered health practitioner must not practise the health profession
6 in which the practitioner is registered unless appropriate professional
7 indemnity insurance arrangements are in force in relation to the
8 practitioner's practice of the profession.

9 (2) A National Board may, at any time by written notice, require a
10 registered health practitioner registered by the Board to give the
11 Board evidence of the appropriate professional indemnity insurance
12 arrangements that are in force in relation to the practitioner's practice
13 of the profession.

14 (3) A registered health practitioner must not, without reasonable excuse,
15 fail to comply with a written notice given to the practitioner under
16 subsection (2).

17 (4) A contravention of subsection (1) or (3) by a registered health
18 practitioner does not constitute an offence but may constitute
19 behaviour for which health, conduct or performance action may be
20 taken.

21 (5) In this section —

22 *registered health practitioner* does not include a registered health
23 practitioner who holds non-practicing registration in the profession.

24 **130. Registered health practitioner or student to give National Board**
25 **notice of certain events**

26 (1) A registered health practitioner or student must, within 7 days after
27 becoming aware that a relevant event has occurred in relation to the
28 practitioner or student, give the National Board that registered the
29 practitioner or student written notice of the event.

30 (2) A contravention of subsection (1) by a registered health practitioner or
31 student does not constitute an offence but may constitute behaviour
32 for which health, conduct or performance action may be taken.

1 (3) In this section —

2 **relevant event** means —

3 (a) in relation to a registered health practitioner —

4 (i) the practitioner is charged, whether in a participating
5 jurisdiction or elsewhere, with an offence punishable
6 by 12 months imprisonment or more; or

7 (ii) the practitioner is convicted of or the subject of a
8 finding of guilt for an offence, whether in a
9 participating jurisdiction or elsewhere, punishable by
10 imprisonment; or

11 (iii) appropriate professional indemnity insurance
12 arrangements are no longer in place in relation to the
13 practitioner's practice of the profession; or

14 (iv) the practitioner's right to practise at a hospital or
15 another facility at which health services are provided
16 is withdrawn or restricted because of the
17 practitioner's conduct, professional performance or
18 health; or

19 (v) the practitioner's billing privileges are withdrawn or
20 restricted under the *Medicare Australia Act 1973*
21 (Commonwealth) because of the practitioner's
22 conduct, professional performance or health; or

23 (vi) the practitioner's authority under a law of a State or
24 Territory to administer, obtain, possess, prescribe,
25 sell, supply or use a scheduled medicine or class of
26 scheduled medicines is cancelled or restricted; or

27 (vii) a complaint is made about the practitioner to an entity
28 referred to in section 219(1)(a) to (e); or

29 (viii) the practitioner's registration under the law of another
30 country that provides for the registration of health
31 practitioners is suspended or cancelled or made
32 subject to a condition or another restriction;

33 or

34 (b) in relation to a student —

35 (i) the student is charged with an offence punishable by
36 12 months imprisonment or more; or

- 1 (ii) the student is convicted of or the subject of a finding
2 of guilt for an offence punishable by imprisonment;
3 or
4 (iii) the student's registration under the law of another
5 country that provides for the registration of students
6 has been suspended or cancelled.

7 **131. Change in principal place of practice, address or name**

- 8 (1) A registered health practitioner must, within 30 days of any of the
9 following changes happening, give the National Board that registered
10 the practitioner written notice of the change and any evidence
11 providing proof of the change required by the Board —
12 (a) a change in the practitioner's principal place of practice;
13 (b) a change in the address provided by the registered health
14 practitioner as the address the Board should use in
15 corresponding with the practitioner;
16 (c) a change in the practitioner's name.
17 (2) A contravention of subsection (1) by a registered health practitioner
18 does not constitute an offence but may constitute behaviour for which
19 health, conduct or performance action may be taken.

20 **132. National Board may ask registered health practitioner for**
21 **employer's details**

- 22 (1) A National Board may, at any time by written notice given to a health
23 practitioner registered by the Board, ask the practitioner to give the
24 Board the following information —
25 (a) information about whether the practitioner is employed by
26 another entity;
27 (b) if the practitioner is employed by another entity —
28 (i) the name of the practitioner's employer; and
29 (ii) the address and other contact details of the
30 practitioner's employer.
31 (2) The registered health practitioner must not, without reasonable
32 excuse, fail to comply with the notice.

1 **Subdivision 5 — Board’s powers to check identity and criminal history**

2 **134. Evidence of identity**

- 3 (1) A National Board may, at any time, require a registered health
4 practitioner to provide evidence of the practitioner’s identity.
- 5 (2) A requirement under subsection (1) must be made by written notice
6 given to the registered health practitioner.
- 7 (3) The registered health practitioner must not, without reasonable
8 excuse, fail to comply with the notice.
- 9 (4) A contravention of subsection (3) by a registered health practitioner
10 does not constitute an offence but may constitute behaviour for which
11 health, conduct or performance action may be taken.
- 12 (5) If a registered health practitioner gives a National Board a document
13 as evidence of the practitioner’s identity under this section, the Board
14 may, by written notice, ask the entity that issued the document —
- 15 (a) to confirm the validity of the document; or
16 (b) to give the Board other information relevant to the
17 practitioner’s identity.
- 18 (6) An entity given a notice under subsection (5) is authorised to provide
19 the information requested.

20 **135. Criminal history check**

- 21 (1) A National Board may, at any time, obtain a written report about a
22 registered health practitioner’s criminal history from any of the
23 following —
- 24 (a) CrimTrac;
25 (b) a police commissioner;
26 (c) an entity in a jurisdiction outside Australia that has access to
27 records about the criminal history of persons in that
28 jurisdiction.
- 29 (2) Without limiting subsection (1), a report may be obtained under that
30 subsection —
- 31 (a) to check a statement made by a registered health practitioner
32 in the practitioner’s application for renewal of registration; or

- 1 (b) as part of an audit carried out by a National Board, to check
2 statements made by registered health practitioners.
- 3 (3) A criminal history law does not apply to a report under subsection (1).

4 **Subdivision 6 — General**

5 **136. Directing or inciting unprofessional conduct or professional**
6 **misconduct**

- 7 (1) A person must not direct or incite a registered health practitioner to do
8 anything, in the course of the practitioner's practice of the health
9 profession, that amounts to unprofessional conduct or professional
10 misconduct.

11 Penalty:

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

- 14 (2) Subsection (1) does not apply to a person who is the owner or
15 operator of a public health facility.

16 **137. Surrender of registration**

- 17 (1) A registered health practitioner may, by written notice given to the
18 National Board that registered the practitioner, surrender the
19 practitioner's registration.

- 20 (2) The surrender of the registration takes effect on —

- 21 (a) the day the National Board receives the notice under
22 subsection (1); or
23 (b) the later day stated in the notice.

Part 8 — Health, performance and conduct

Division 1 — Preliminary

138. Part applicable to persons formerly registered under this Law

- (1) This section applies if a person was, but is no longer, registered in a health profession under this Law.
- (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.
- (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.

139. Part applicable to persons formerly registered under corresponding prior Act in certain circumstances

- (1) This section applies if a person —
- (a) was registered in a health profession under a corresponding prior Act; and
- (b) is not, and has not been, registered in the health profession under this Law.
- (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.
- (3) However, subsection (2) applies only to the extent —
- (a) a notification about the person's behaviour could have been made under the corresponding prior Act; and
- (b) proceedings of that type could have been taken under the corresponding prior Act.
- (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.

Division 2 — Mandatory notifications

140. Term used: notifiable conduct

In this Division —

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

- (a) practised the practitioner's profession while intoxicated by alcohol or drugs; or
- (b) engaged in sexual misconduct in connection with the practice of the practitioner's profession; or
- (c) placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or
- (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.

141. Mandatory notifications by health practitioners

- (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 —

- (a) another registered health practitioner (the **second health practitioner**) has behaved in a way that constitutes notifiable conduct; or
- (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.

- (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.

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.

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- 1 (e) the first health practitioner knows, or reasonably believes, the
2 National Agency has been notified of the notifiable conduct
3 or impairment that forms the basis of the reasonable belief.

4 **142. Mandatory notifications by employers**

- 5 (1) If an employer of a registered health practitioner reasonably believes
6 the health practitioner has behaved in a way that constitutes notifiable
7 conduct, the employer must notify the National Agency of the
8 notifiable conduct.

9 Note: See section 237 which provides protection from civil, criminal and
10 administrative liability for persons who, in good faith, make a
11 notification under this Law. Section 237(3) provides that the making of
12 a notification does not constitute a breach of professional etiquette or
13 ethics or a departure from accepted standards of professional conduct
14 and nor is any liability for defamation incurred.

- 15 (2) If the National Agency becomes aware that an employer of a
16 registered health practitioner has failed to notify the Agency of
17 notifiable conduct as required by subsection (1), the Agency must
18 give a written report about the failure to the responsible Minister for
19 the participating jurisdiction in which the notifiable conduct occurred.

- 20 (3) As soon as practicable after receiving a report under subsection (2),
21 the responsible Minister must report the employer's failure to notify
22 the Agency of the notifiable conduct to a health complaints entity, the
23 employer's licensing authority or another appropriate entity in that
24 participating jurisdiction.

- 25 (4) In this section —

26 **employer**, of a registered health practitioner, means an entity that
27 employs the health practitioner under a contract of employment or a
28 contract for services;

29 **licensing authority**, of an employer, means an entity that under a law
30 of a participating jurisdiction is responsible for licensing, registering
31 or authorising the employer to conduct the employer's business.

1 **143. Mandatory notifications by education providers**

2 (1) An education provider must notify the National Agency if the
3 provider reasonably believes —

- 4 (a) a student enrolled in a programme of study provided by the
5 provider has an impairment that, in the course of the student
6 undertaking clinical training as part of the programme of
7 study, may place the public at substantial risk of harm; or
8 (b) a student for whom the education provider has arranged
9 clinical training has an impairment that, in the course of the
10 student undertaking the clinical training, may place the public
11 at substantial risk of harm.

12 Note: See section 237 which provides protection from civil, criminal and
13 administrative liability for persons who make a notification under this
14 Law. Section 237(3) provides that the making of a notification does not
15 constitute a breach of professional etiquette or ethics or a departure
16 from accepted standards of professional conduct and nor is any liability
17 for defamation incurred.

18 (2) A contravention of subsection (1) does not constitute an offence.

19 (3) However, if an education provider does not comply with
20 subsection (1) —

- 21 (a) the National Board that registered the student must publish
22 details of the failure on the Board's website; and
23 (b) the National Agency may, on the recommendation of the
24 National Board, include a statement about the failure in the
25 Agency's annual report.

26 **Division 3 — Voluntary notifications**

27 **144. Grounds for voluntary notification**

28 (1) A voluntary notification about a registered health practitioner may be
29 made to the National Agency on any of the following grounds —

- 30 (a) that the practitioner's professional conduct is, or may be, of a
31 lesser standard than that which might reasonably be expected
32 of the practitioner by the public or the practitioner's
33 professional peers;
34 (b) that the knowledge, skill or judgment possessed, or care
35 exercised by, the practitioner in the practice of the

- 1 practitioner's health profession is, or may be, below the
2 standard reasonably expected;
- 3 (c) that the practitioner is not, or may not be, a suitable person to
4 hold registration in the health profession, including, for
5 example, that the practitioner is not a fit and proper person to
6 be registered in the profession;
- 7 (d) that the practitioner has, or may have, an impairment;
- 8 (e) that the practitioner has, or may have, contravened this Law;
- 9 (f) that the practitioner has, or may have, contravened a
10 condition of the practitioner's registration or an undertaking
11 given by the practitioner to a National Board;
- 12 (g) that the practitioner's registration was, or may have been,
13 improperly obtained because the practitioner or someone else
14 gave the National Board information or a document that was
15 false or misleading in a material particular.
- 16 (2) A voluntary notification about a student may be made to the National
17 Agency on the grounds that —
- 18 (a) the student has been charged with an offence, or has been
19 convicted or found guilty of an offence, that is punishable by
20 12 months imprisonment or more; or
- 21 (b) the student has, or may have, an impairment; or
- 22 (c) that the student has, or may have, contravened a condition of
23 the student's registration or an undertaking given by the
24 student to a National Board.

25 **145. Who may make voluntary notification**

26 Any entity that believes that a ground on which a voluntary
27 notification may be made exists in relation to a registered health
28 practitioner or a student may notify the National Agency.

29 Note: See section 237 which provides protection from civil, criminal and
30 administrative liability for persons who, in good faith, make a
31 notification under this Law.

Division 4 — Making a notification

146. How notification is made

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

147. National Agency to provide reasonable assistance to notifier

- (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.
- (2) Without limiting subsection (1), the National Agency may assist an entity to make a notification if —
 - (a) the entity is not able to put the entity's notification in writing without assistance; or
 - (b) the entity needs assistance to clarify the nature of the individual's notification.

Division 5 — Preliminary assessment

148. Referral of notification to National Board or co-regulatory authority

- (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.
- (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 —
 - (a) must not deal with the notification; and

- 1 (b) must, as soon as practicable after receiving the notification,
2 refer the notification to the co-regulatory authority for the
3 co-regulatory jurisdiction.
- 4 (3) If the behaviour that is the basis for the ground for the notification
5 occurred, or is reasonably believed to have occurred, in more than one
6 jurisdiction and one of the jurisdictions is a co-regulatory jurisdiction,
7 the National Agency must —
- 8 (a) if the registered health practitioner's principal place of
9 practice is in the co-regulatory jurisdiction, refer the
10 notification under subsection (2); or
- 11 (b) otherwise, refer the notification under subsection (1).
- 12 **149. Preliminary assessment**
- 13 (1) A National Board must, within 60 days after receipt of a notification,
14 conduct a preliminary assessment of the notification and decide —
- 15 (a) whether or not the notification relates to a person who is a
16 health practitioner or a student registered by the Board; and
- 17 (b) whether or not the notification relates to a matter that is a
18 ground for notification; and
- 19 (c) if the notification is a notification referred to in
20 paragraphs (a) and (b), whether or not it is a notification that
21 could also be made to a health complaints entity.
- 22 (2) Without limiting subsection (1)(b), the National Board may decide the
23 notification relates to a matter that is a ground for notification under
24 section 144 on the basis of —
- 25 (a) a single notification about a person; or
- 26 (b) a number of notifications about a person including —
- 27 (i) a number of notifications that suggest a pattern of
28 conduct; and
- 29 (ii) notifications made to a health complaints entity.
- 30 (3) If the National Board decides the notification relates to a person who
31 is not registered by the Board but the Board reasonably suspects the
32 person is registered by another National Board, the Board must refer
33 the notification to that other Board.

1 **150. Relationship with health complaints entity**

2 (1) If the subject matter of a notification would also provide a ground for
3 a complaint to a health complaints entity under a law of a
4 participating jurisdiction, the National Board that received the
5 notification must, as soon as practicable after its receipt —

6 (a) notify the health complaints entity that the Board has received
7 the notification; and

8 (b) give to the health complaints entity —

9 (i) a copy of the notification or, if the notification was
10 not made in writing, a copy of the National Agency's
11 record of the details of the notification; and

12 (ii) any other information the Board has that is relevant to
13 the notification.

14 (2) If a health complaints entity receives a complaint about a health
15 practitioner, the health complaints entity must, as soon as practicable
16 after its receipt —

17 (a) notify the National Board established for the practitioner's
18 health profession that the health complaints entity has
19 received the complaint; and

20 (b) give to the National Board —

21 (i) a copy of the complaint or, if the complaint was not
22 made in writing, a copy of the health complaints
23 entity's record of the details of the complaint; and

24 (ii) any other information the health complaints entity has
25 that is relevant to the complaint.

26 (3) The National Board and the health complaints entity must attempt to
27 reach agreement about how the notification or complaint is to be dealt
28 with, including —

29 (a) whether the Board is to deal with the notification or
30 complaint, or part of the notification or complaint, or to
31 decide to take no further action in relation to it; and

32 (b) if the Board is to deal with the notification or complaint or
33 part of the notification or complaint, the action the Board is to
34 take.

- 1 (4) If the National Board and the health complaints entity are not able to
2 reach agreement on how the notification or complaint, or part of the
3 notification or complaint, is to be dealt with, the most serious action
4 proposed by either must be taken.
- 5 (5) If an investigation or other action, other than conciliation, taken by a
6 health complaints entity raises issues about the health, conduct or
7 performance of a registered health practitioner, the health complaints
8 entity must give the National Board that registered the practitioner
9 written notice of the issues.
- 10 (6) If a notification, or part of a notification, received by a National Board
11 is referred to a health complaints entity, the Board may decide to take
12 no further action in relation to the notification or the part of the
13 notification until the entity gives the Board written notice that the
14 entity has finished dealing with it.
- 15 (7) If a National Board or an adjudication body takes health, conduct or
16 performance action in relation to a registered health practitioner, the
17 Board that registered the practitioner must give written notice of the
18 action to the health complaints entity for the participating jurisdiction
19 in which the behaviour that provided the basis for the action occurred.
- 20 (8) A written notice under subsection (5) or (7) must include —
21 (a) sufficient particulars to identify the registered health
22 practitioner; and
23 (b) details of —
24 (i) the issues raised about the health, conduct or
25 performance of the registered health practitioner; or
26 (ii) the health, conduct or performance action taken in
27 relation to the registered health practitioner.

28 **151. When National Board may decide to take no further action**

- 29 (1) A National Board may decide to take no further action in relation to a
30 notification if —
31 (a) the Board reasonably believes the notification is frivolous,
32 vexatious, misconceived or lacking in substance; or
33 (b) given the amount of time that has elapsed since the matter the
34 subject of the notification occurred, it is not practicable for

- 1 the Board to investigate or otherwise deal with the
2 notification; or
- 3 (c) the person to whom the notification relates has not been, or is
4 no longer, registered by the Board and it is not in the public
5 interest for the Board to investigate or otherwise deal with the
6 notification; or
- 7 (d) the subject matter of the notification has already been dealt
8 with adequately by the Board; or
- 9 (e) the subject matter of the notification is being dealt with, or
10 has already been dealt with, adequately by another entity.
- 11 (2) A decision by a National Board to decide to take no further action in
12 relation to a notification does not prevent a National Board or
13 adjudication body taking the notification into consideration at a later
14 time as part of a pattern of conduct or practice by the health
15 practitioner.
- 16 (3) If a National Board decides to take no further action in relation to a
17 notification it must give written notice of the decision to the notifier.
- 18 (4) A notice under subsection (3) must state —
- 19 (a) that the National Board has decided to take no further action
20 in relation to the notification; and
- 21 (b) the reason the Board has decided to take no further action.
- 22 **152. National Board to give notice of receipt of notification**
- 23 (1) A National Board must, as soon as practicable after receiving a
24 notification about a registered health practitioner or student, give
25 written notice of the notification to the practitioner or student.
- 26 (2) The notice must advise the registered health practitioner or student of
27 the nature of the notification.
- 28 (3) Despite subsection (1), the National Board is not required to give the
29 registered health practitioner or student notice of the notification if the
30 Board reasonably believes doing so would —
- 31 (a) prejudice an investigation of the notification; or
32 (b) place at risk a person's health or safety or place a person at
33 risk of intimidation or harassment.

Division 6 — Other matters

153. National Board may deal with notifications about same person together

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.

154. National Boards may deal with notifications collaboratively

(1) This section applies if a notification received by a National Board relates to —

- (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. Term used: immediate action

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

- 1 (c) accepting the surrender of the health practitioner's or
2 student's registration.

3 **156. Power to take immediate action**

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

- 6 (a) the National Board reasonably believes that —

- 7 (i) because of the registered health practitioner's
8 conduct, performance or health, the practitioner poses
9 a serious risk to persons; and
10 (ii) it is necessary to take immediate action to protect
11 public health or safety;

12 or

- 13 (b) the National Board reasonably believes that —

- 14 (i) the student poses a serious risk to persons because the
15 student —

- 16 (I) has been charged with an offence, or has
17 been convicted or found guilty of an
18 offence, that is punishable by 12 months
19 imprisonment or more; or

- 20 (II) has, or may have, an impairment; or

- 21 (III) has, or may have, contravened a condition
22 of the student's registration or an
23 undertaking given by the student to a
24 National Board;

25 and

- 26 (ii) it is necessary to take immediate action to protect
27 public health or safety;

28 or

- 29 (c) the registered health practitioner's registration was
30 improperly obtained because the practitioner or someone else
31 gave the National Board information or a document that was
32 false or misleading in a material particular; or

- 33 (d) the registered health practitioner's or student's registration
34 has been cancelled or suspended under the law of a

1 jurisdiction, whether in Australia or elsewhere, that is not a
2 participating jurisdiction.

3 (2) However, the National Board may take immediate action that consists
4 of suspending, or imposing a condition on, the health practitioner's or
5 student's registration only if the Board has complied with section 157.

6 **157. Show cause process**

7 (1) If a National Board is proposing to take immediate action that consists
8 of suspending, or imposing a condition on, a registered health
9 practitioner's or student's registration under section 156, the Board
10 must —

11 (a) give the practitioner or student notice of the proposed
12 immediate action; and

13 (b) invite the practitioner or student to make a submission to the
14 Board, within the time stated in the notice about the proposed
15 immediate action.

16 (2) A notice given to a registered health practitioner or student under
17 subsection (1), and any submissions made by the practitioner or
18 student in accordance with the notice, may be written or verbal.

19 (3) The National Board must have regard to any submissions made by the
20 registered health practitioner or student in accordance with this
21 section in deciding whether to take immediate action in relation to the
22 practitioner or student.

23 **158. Notice to be given to registered health practitioner or student**
24 **about immediate action**

25 (1) Immediately after deciding to take immediate action in relation to a
26 registered health practitioner or student, the National Board must —

27 (a) give written notice of the Board's decision to the health
28 practitioner or student; and

29 (b) take the further action under this Part the Board considers
30 appropriate, including, for example, investigating the
31 practitioner or student or requiring the practitioner or student
32 to undergo a health or performance assessment.

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

13 **159. Period of immediate action**

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

Division 8 — Investigations

Subdivision 1 — Preliminary

160. When investigation may be conducted

(1) A National Board may investigate a registered health practitioner or student registered by the Board if it decides it is necessary or appropriate —

(a) because the Board has received a notification about the practitioner or student; or

(b) because the Board for any other reason believes —

(i) the practitioner or student has or may have an impairment; or

(ii) for a practitioner —

(I) the way the practitioner practises the profession is or may be unsatisfactory; or

(II) the practitioner's conduct is or may be unsatisfactory;

or

(c) to ensure the practitioner or student —

(i) is complying with conditions imposed on the practitioner's or student's registration; or

(ii) is complying with an undertaking given by the practitioner or student to the Board.

(2) If a National Board decides to investigate a registered health practitioner or student it must direct an appropriate investigator to conduct the investigation.

161. Registered health practitioner or student to be given notice of investigation

(1) A National Board that decides to investigate a registered health practitioner or student must, as soon as practicable after making the decision, give the practitioner or student written notice about the investigation.

1 (2) The notice must advise the registered health practitioner or student of
2 the nature of the matter being investigated.

3 (3) Also, the National Board must, at not less than 3 monthly intervals,
4 give the written notice of the progress of the investigation to —

- 5 (a) the registered health practitioner or student; and
6 (b) if the investigation relates to a notification made about the
7 registered health practitioner or student, the notifier.

8 (4) However, the National Board need not give the registered health
9 practitioner or student a notice under subsection (1) or (3) if the Board
10 reasonably believes giving the notice may —

- 11 (a) seriously prejudice the investigation; or
12 (b) place at risk a person's health or safety; or
13 (c) place a person at risk of harassment or intimidation.

14 **162. Investigation to be conducted in timely way**

15 The National Board must ensure an investigator it directs to conduct
16 an investigation conducts the investigation as quickly as practicable,
17 having regard to the nature of the matter to be investigated.

18 **Subdivision 2 — Investigators**

19 **163. Appointment of investigators**

20 (1) A National Board may appoint the following persons as
21 investigators —

- 22 (a) members of the National Agency's staff;
23 (b) contractors engaged by the National Agency.

24 (2) An investigator holds office on the conditions stated in the instrument
25 of appointment.

26 (3) If an investigator's appointment provides for a term of appointment,
27 the investigator ceases holding office at the end of the term.

28 (4) An investigator may resign by signed notice of resignation given to
29 the National Board which appointed the investigator.

30 (5) Schedule 5 sets out provisions relating to the powers of an
31 investigator.

1 **164. Identity card**

2 (1) A National Board must give an identity card to each investigator it
3 appoints.

4 (2) The identity card must —

- 5 (a) contain a recent photograph of the investigator; and
- 6 (b) be signed by the investigator; and
- 7 (c) identify the person as an investigator appointed by the
8 National Board; and
- 9 (d) include an expiry date.

10 (3) This section does not prevent the issue of a single identity card to a
11 person —

- 12 (a) if the person is appointed as an investigator for this Law by
13 more than one National Board; or
- 14 (b) for this Law and other Acts.

15 (4) A person who ceases to be an investigator must give the person's
16 identity card to the National Board that appointed the person within
17 7 days after the person ceases to be an investigator, unless the person
18 has a reasonable excuse.

19 **165. Display of identity card**

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

- 22 (a) first produces the investigator's identity card for the other
23 person's inspection; or
- 24 (b) has the identity card displayed so it is clearly visible to the
25 other person.

26 (2) However, if for any reason it is not practicable to comply with
27 subsection (1) before exercising the power, the investigator must
28 produce the identity card for the other person's inspection at the first
29 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

168. Term used: assessment

In this Division —

assessment means —

- (a) a health assessment; or
- (b) a performance assessment.

169. Requirement for health assessment

A National Board may require a registered health practitioner or student to undergo a health assessment if the Board reasonably

1 believes, because of a notification or for any other reason, that the
2 practitioner or student has, or may have, an impairment.

3 **170. Requirement for performance assessment**

4 A National Board may require a registered health practitioner to
5 undergo a performance assessment if the Board reasonably believes,
6 because of a notification or for any other reason, that the way the
7 practitioner practises the profession is or may be unsatisfactory.

8 **171. Appointment of assessor to carry out assessment**

9 (1) If the National Board requires a registered health practitioner or
10 student to undergo an assessment, the National Agency must appoint
11 an assessor chosen by the Board to carry out the assessment.

12 (2) The assessor must be —

13 (a) for a health assessment, a medical practitioner or psychologist
14 who is not a member of the National Board; or

15 (b) for a performance assessment, a registered health practitioner
16 who is a member of the health profession for which the
17 National Board is established but is not a member of the
18 Board.

19 (3) The assessor may ask another health practitioner to assist the assessor
20 in carrying out the assessment of the registered health practitioner or
21 student.

22 (4) The assessor's fee for carrying out the assessment is to be paid out of
23 the National Board's budget.

24 **172. Notice to be given to registered health practitioner or student**
25 **about assessment**

26 (1) A requirement by a National Board for a registered health practitioner
27 or student to undergo an assessment must be made by written notice
28 given to the practitioner or student.

29 (2) The written notice must state —

30 (a) that the registered health practitioner or student is required to
31 undergo a health assessment or performance assessment; and

32 (b) the nature of the assessment to be carried out; and

- 1 (c) the name and qualifications of the registered health
2 practitioner who is to carry out the assessment; and
3 (d) that if the registered health practitioner or student does not
4 undergo the assessment the National Board may continue to
5 take proceedings in relation to the practitioner or student
6 under this Part.

7 **173. Assessor may require information or attendance**

8 For the purposes of conducting an assessment of a registered health
9 practitioner or student, an assessor may, by written notice given to the
10 practitioner or student, require the practitioner or student to —

- 11 (a) give stated information to the assessor within a stated
12 reasonable time and in a stated reasonable way; or
13 (b) attend before the assessor at a stated time and a stated place
14 to undergo the assessment.

15 **Example of stated place:**

16 The registered health practitioner's principal place of practice.

17 **174. Inspection of documents**

- 18 (1) If a document is produced to an assessor, the assessor may —
19 (a) inspect the document; and
20 (b) make a copy of, or take an extract from, the document; and
21 (c) keep the document while it is necessary for the assessment.
22 (2) If the assessor keeps the document, the assessor must permit a person
23 otherwise entitled to possession of the document to inspect, make a
24 copy of, or take an extract from, the document at the reasonable time
25 and place decided by the assessor.

26 **175. Report from assessor**

27 The assessor must, as soon as practicable after carrying out the
28 assessment, give to the National Board a report about the assessment.

1 **176. Copy of report to be given to health practitioner or student**

- 2 (1) The National Board must, as soon as practicable after receiving the
3 assessor's report, give a copy of the report to —
- 4 (a) the registered health practitioner or student to whom it
5 relates; or
- 6 (b) if the report contains information the Board considers may, if
7 disclosed to the practitioner or student, be prejudicial to the
8 practitioner's or student's physical or mental health or
9 wellbeing, to a medical practitioner or psychologist
10 nominated by the practitioner or student.
- 11 (2) If a medical practitioner or psychologist is given a copy of a report
12 about a registered health practitioner or student under
13 subsection (1)(b), the medical practitioner or psychologist must give a
14 copy of the report to the practitioner or student as soon as it will no
15 longer be prejudicial to the practitioner's or student's health or
16 wellbeing.
- 17 (3) After the registered health practitioner or student has been given a
18 copy of the report under subsection (1)(a) or (2), a person nominated
19 by the Board must —
- 20 (a) discuss the report with the practitioner or student; and
- 21 (b) if the report makes an adverse finding about the practitioner's
22 practice of the profession or states that the assessor finds the
23 practitioner has an impairment, discuss with the practitioner
24 ways of dealing with the finding, including, for a practitioner,
25 whether the practitioner is prepared to alter the way the
26 practitioner practises the health profession.

27 **177. Decision by National Board**

- 28 After considering the assessor's report and the discussions held with
29 the registered health practitioner or student under section 176(3), the
30 National Board may decide to —
- 31 (a) take the action the Board considers necessary or appropriate
32 under another Division; or
- 33 (b) refer the matter to another entity, including, for example, a
34 health complaints entity, for investigation or other action; or
- 35 (c) take no further action in relation to the matter.

Division 10 — Action by National Board

178. National Board may take action

(1) This section applies if —

- (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

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

19 **179. Show cause process**

- 20 (1) If a National Board is proposing to take relevant action in relation to a
21 registered health practitioner or student, the Board must —
22 (a) give the practitioner or student written notice of the proposed
23 relevant action; and
24 (b) invite the practitioner or student to make a written or verbal
25 submission to the Board, within the reasonable time stated in
26 the notice, about the proposed relevant action.
27 (2) After considering any submissions made by the registered health
28 practitioner or student in accordance with this section, the National
29 Board must decide to —
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
33 action;

- 1 (ii) refer the matter to another entity, including, for
2 example, a health complaints entity, for investigation
3 or other action.
- 4 (3) This section does not apply if —
- 5 (a) a National Board is proposing to take relevant action in
6 relation to a registered health practitioner or student; and
- 7 (b) the National Board has, in relation to the matter that forms
8 the basis for the relevant action —
- 9 (i) investigated the registered health practitioner or
10 student under Division 8; or
- 11 (ii) conducted a health assessment or performance
12 assessment of the registered health practitioner or
13 student under Division 9.

14 **180. Notice to be given to health practitioner or student and notifier**

- 15 (1) As soon as practicable after making a decision under section 179(2),
16 the National Board must give written notice of the decision to —
- 17 (a) the registered health practitioner or student; and
18 (b) if the decision was the result of a notification, the notifier.
- 19 (2) The notice given to the notifier must include information about the
20 decision made by the Board only to the extent the information is
21 available on the National Board's register.

22 **Division 11 — Panels**

23 **181. Establishment of health panel**

- 24 (1) A National Board may establish a health panel if —
- 25 (a) the Board reasonably believes, because of a notification or for
26 any other reason, that a registered health practitioner or
27 student has or may have an impairment; and
- 28 (b) the Board decides it is necessary or appropriate for the matter
29 to be referred to a panel.

- 1 (2) A health panel must consist of the following members chosen from a
2 list referred to in section 183 —
- 3 (a) at least one member who is a registered health practitioner in
4 the health profession for which the Board is established;
- 5 (b) at least one member who is a medical practitioner with
6 expertise relevant to the matter the subject of the hearing;
- 7 (c) at least one member who is not, and has not been, a registered
8 health practitioner in the health profession for which the
9 Board has been established.
- 10 (3) In choosing members of the panel, the National Board must, if
11 possible, choose a member from the jurisdiction in which the matter
12 the subject of the hearing occurred.
- 13 (4) No more than half of the members of the panel may be registered
14 health practitioners in the health profession for which the Board is
15 established.
- 16 (5) However, if the registered health practitioner the subject of the
17 hearing is a medical practitioner, a member of the panel referred to in
18 subsection (2)(b) is not to be considered to be registered in the health
19 profession for which the Board is established for the purposes of
20 subsection (4).
- 21 (6) A person cannot be appointed to the panel if the person has been
22 involved in any proceedings relating to the matter the subject of the
23 hearing by the panel.

24 **182. Establishment of performance and professional standards panel**

- 25 (1) A National Board may establish a performance and professional
26 standards panel if —
- 27 (a) the Board reasonably believes, because of a notification or for
28 any other reason, that —
- 29 (i) the way a registered health practitioner practises the
30 health profession is or may be unsatisfactory; or
- 31 (ii) the registered health practitioner's professional
32 conduct is or may be unsatisfactory;
- 33 and

1 (b) the Board decides it is necessary or appropriate for the matter
2 to be referred to a panel.

3 (2) A performance and professional standards panel must consist of at
4 least 3 members.

5 (3) In choosing members of the panel, the National Board must, if
6 possible, choose a member from the jurisdiction in which the matter
7 the subject of the hearing occurred.

8 (4) At least half, but no more than two-thirds, of the members of the
9 panel must be persons who are registered health practitioners in the
10 health profession for which the Board is established, and chosen from
11 a list approved under section 183.

12 (5) At least one member must be a person who represents the community
13 and chosen from a list approved under section 183.

14 (6) A person may not be appointed to the panel if the person has been
15 involved in any proceedings relating to the matter the subject of the
16 hearing by the panel.

17 **183. List of approved persons for appointment to panels**

18 (1) A National Board may appoint individuals to a list of persons
19 approved to be appointed as members of panels.

20 (2) To the extent practicable, individuals appointed under subsection (1)
21 should not —

22 (a) for registered health practitioners, be individuals whose
23 principal place of practice is in a co-regulatory jurisdiction; or

24 (b) otherwise, be individuals who live in a co-regulatory
25 jurisdiction.

26 **184. Notice to be given to registered health practitioner or student**

27 (1) A panel must give notice of its hearing of a matter to the registered
28 health practitioner or student the subject of the hearing.

29 (2) The notice must state —

30 (a) the day, time and place at which the hearing is to be held; and

31 (b) the nature of the hearing and the matters to be considered at
32 the hearing; and

- 1 (c) that the registered health practitioner or student is required to
2 attend the hearing; and
- 3 (d) that the registered health practitioner may be accompanied at
4 the hearing by an Australian legal practitioner or other
5 person; and
- 6 (e) that if the registered health practitioner or student fails to
7 attend the hearing the hearing may continue, and the panel
8 may make a decision, in the practitioner's or student's
9 absence; and
- 10 (f) the types of decision the panel may make at the end of the
11 hearing.

12 **185. Procedure of panel**

- 13 (1) Subject to this Division, a panel may decide its own procedures.
- 14 (2) A panel is required to observe the principles of natural justice but is
15 not bound by the rules of evidence.
- 16 (3) A panel may have regard to —
- 17 (a) a report prepared by an assessor about the registered health
18 practitioner or student; and
- 19 (b) any other information the panel considers relevant to the
20 hearing of the matter.

21 **186. Legal representation**

- 22 (1) At a hearing of a panel, the registered health practitioner or student
23 the subject of the hearing may be accompanied by an Australian legal
24 practitioner or another person.
- 25 (2) An Australian legal practitioner or other person accompanying the
26 registered health practitioner or student may appear on behalf of the
27 practitioner or student only with the leave of the panel.
- 28 (3) The panel may grant leave for an Australian legal practitioner or other
29 person to appear on behalf of the registered health practitioner or
30 student only if the panel considers it appropriate in the particular
31 circumstances of the hearing.

1 **187. Submission by notifier**

2 If a matter the subject of a hearing before a panel relates to a
3 notification, the notifier may, with the leave of the panel, make a
4 submission to the panel about the matter.

5 **188. Panel may proceed in absence of registered health practitioner or**
6 **student**

7 At a hearing, a panel may proceed in the absence of the registered
8 health practitioner or student the subject of the proceedings if the
9 panel reasonably believes the practitioner or student has been given
10 notice of the hearing.

11 **189. Hearing not open to the public**

12 A hearing before a panel is not open to the public.

13 **190. Referral to responsible tribunal**

14 A panel must stop hearing a matter and require the National Board
15 that established the panel to refer the matter to a responsible tribunal
16 under section 193 if, at any time —

- 17 (a) the practitioner or student the subject of the hearing asks the
18 panel for the matter to be referred to a responsible tribunal
19 under section 193; or
- 20 (b) if the subject of the hearing is a registered health
21 practitioner —
- 22 (i) the panel reasonably believes the evidence
23 demonstrates the practitioner may have behaved in a
24 way that constitutes professional misconduct; or
- 25 (ii) the panel reasonably believes the evidence
26 demonstrates the practitioner's registration may have
27 been improperly obtained because the practitioner or
28 someone else gave the Board information or a
29 document that was false or misleading in a material
30 particular.

1 **191. Decision of panel**

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

- 1 (iii) a condition requiring the practitioner to do, or refrain
2 from doing, something in connection with the
3 practitioner's practice; or
- 4 (iv) a condition requiring the practitioner to manage the
5 practitioner's practice in a specified way; or
- 6 (v) a condition requiring the practitioner to report to a
7 specified person at specified times about the
8 practitioner's practice; or
- 9 (vi) a condition requiring the practitioner not to employ,
10 engage or recommend a specified person, or class of
11 persons;
- 12 (b) for a health panel, suspend the practitioner's or student's
13 registration;
- 14 (c) for a performance and professional standards panel, caution
15 or reprimand the practitioner.
- 16 (4) If a panel decides to impose a condition on a registered health
17 practitioner's or student's registration, the panel must also decide a
18 review period for the condition.
- 19 (5) A decision by a panel that a registered health practitioner has no case
20 to answer in relation to a matter does not prevent a National Board or
21 adjudication body taking the matter into consideration at a later time
22 as part of a pattern of conduct or practice by the health practitioner.
- 23 **192. Notice to be given about panel's decision**
- 24 (1) As soon as practicable after making a decision under section 191, a
25 panel must give notice of its decision to the National Board that
26 established it.
- 27 (2) The National Board must, within 30 days after the panel makes its
28 decision, give written notice of the decision to —
- 29 (a) the registered health practitioner or student the subject of the
30 hearing; and
- 31 (b) if the hearing related to a notification, the notifier.
- 32 (3) The notice given to the registered health practitioner or student must
33 state —
- 34 (a) the decision made by the panel; and

- 1 (b) the reasons for the decision; and
2 (c) that the registered health practitioner or student may appeal
3 against the decision; and
4 (d) how an application for appeal may be made and the period
5 within which the application must be made.

- 6 (4) The notice to the notifier must include information about the decision
7 made by the panel but only to the extent the information is available
8 on the National Board's register.

9 **Division 12 — Referring matter to responsible tribunals**

10 **193. Matters to be referred to responsible tribunal**

- 11 (1) A National Board must refer a matter about a registered health
12 practitioner or student to a responsible tribunal if —
13 (a) for a registered health practitioner, the Board reasonably
14 believes, based on a notification or for any other reason —
15 (i) the practitioner has behaved in a way that constitutes
16 professional misconduct; or
17 (ii) the practitioner's registration was improperly
18 obtained because the practitioner or someone else
19 gave the Board information or a document that was
20 false or misleading in a material particular;
21 or
22 (b) for a registered health practitioner or student, a panel
23 established by the Board requires the Board to refer the
24 matter to a responsible tribunal.
25 (2) The National Board must —
26 (a) refer the matter to —
27 (i) the responsible tribunal for the participating
28 jurisdiction in which the behaviour the subject of the
29 matter occurred; or
30 (ii) if the behaviour occurred in more than one
31 jurisdiction, the responsible tribunal for the
32 participating jurisdiction in which the practitioner's
33 principal place of practice is located;
34 and

- 1 (b) give written notice of the referral to the registered health
2 practitioner or student to whom the matter relates.

3 **194. Parties to the proceedings**

4 The parties to proceedings relating to a matter being heard by a
5 responsible tribunal are —

- 6 (a) the registered health practitioner or student who is the subject
7 of the proceedings; and
8 (b) the National Board that referred the matter to the tribunal.

9 **195. Costs**

10 The responsible tribunal may make any order about costs it considers
11 appropriate for the proceedings.

12 **196. Decision by responsible tribunal about registered health**
13 **practitioner**

- 14 (1) After hearing a matter about a registered health practitioner, a
15 responsible tribunal may decide —
- 16 (a) the practitioner has no case to answer and no further action is
17 to be taken in relation to the matter; or
- 18 (b) one or more of the following —
- 19 (i) the practitioner has behaved in a way that constitutes
20 unsatisfactory professional performance;
- 21 (ii) the practitioner has behaved in a way that constitutes
22 unprofessional conduct;
- 23 (iii) the practitioner has behaved in a way that constitutes
24 professional misconduct;
- 25 (iv) the practitioner has an impairment;
- 26 (v) the practitioner's registration was improperly
27 obtained because the practitioner or someone else
28 gave the National Board that registered the
29 practitioner information or a document that was false
30 or misleading in a material particular.

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

- 1 (b) prohibit the person from using a specified title or providing a
2 specified health service.

3 **197. Decision by responsible tribunal about student**

- 4 (1) After hearing a matter about a student, a responsible tribunal may
5 decide —
6 (a) the student has an impairment; or
7 (b) the student has no case to answer and no further action is to
8 be taken in relation to the matter.
9 (2) If the responsible tribunal decides the student has an impairment, the
10 tribunal may decide to —
11 (a) impose a condition on the student's registration; or
12 (b) suspend the student's registration.

13 **198. Relationship with Act establishing responsible tribunal**

14 This Division applies despite any provision to the contrary of the Act
15 that establishes the responsible tribunal but does not otherwise limit
16 that Act.

17 **Division 13 — Appeals**

18 **199. Appellable decisions**

- 19 (1) A person who is the subject of any of the following decisions (an
20 *appellable decision*) may appeal against the decision to the
21 appropriate responsible tribunal for the appellable decision —
22 (a) a decision by a National Board to refuse to register the
23 person;
24 (b) a decision by a National Board to refuse to endorse the
25 person's registration;
26 (c) a decision by a National Board to refuse to renew the
27 person's registration;
28 (d) a decision by a National Board to refuse to renew the
29 endorsement of the person's registration;

- 1 (e) a decision by a National Board to impose or change a
2 condition on a person's registration or the endorsement of the
3 person's registration, other than —
- 4 (i) a condition relating to the person's qualification for
5 general registration in the health profession; and
- 6 (ii) a condition imposed by section 112(3)(a);
- 7 (f) a decision by a National Board to refuse to change or remove
8 a condition imposed on the person's registration or the
9 endorsement of the person's registration;
- 10 (g) a decision by a National Board to refuse to change or revoke
11 an undertaking given by the person to the Board;
- 12 (h) a decision by a National Board to suspend the person's
13 registration;
- 14 (i) a decision by a panel to impose a condition on the person's
15 registration;
- 16 (j) a decision by a health panel to suspend the person's
17 registration;
- 18 (k) a decision by a performance and professional standards panel
19 to reprimand the person.
- 20 (2) For the purposes of subsection (1), the appropriate responsible
21 tribunal for an appellable decision is —
- 22 (a) for a decision to take health, conduct or performance action in
23 relation to a registered health practitioner or student —
- 24 (i) the responsible tribunal for the participating
25 jurisdiction in which the behaviour the subject of the
26 decision occurred; or
- 27 (ii) if the behaviour the subject of the decision occurred
28 in more than one jurisdiction, the responsible tribunal
29 for the participating jurisdiction in which the
30 practitioner's principal place of practice is located;
- 31 or
- 32 (b) for another decision in relation to a registered health
33 practitioner, the responsible tribunal for the participating
34 jurisdiction in which the practitioner's principal place of
35 practice is located; or

- 1 (c) for another decision in relation to a student, the responsible
2 tribunal for the participating jurisdiction in which the student
3 is undertaking the approved programme of study or clinical
4 training; or
5 (d) for a decision in relation to another person —
6 (i) the responsible tribunal for the participating
7 jurisdiction in which the person lives; or
8 (ii) if the person does not live in a participating
9 jurisdiction, the responsible tribunal for the
10 participating jurisdiction nominated by the National
11 Board that made the appellable decision and specified
12 in the notice given to the person of the appellable
13 decision.

14 **200. Parties to the proceedings**

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

- 17 (a) the person who is the subject of the appellable decision; and
18 (b) the National Board that —
19 (i) made the appellable decision; or
20 (ii) established the panel that made the appellable
21 decision.

22 **201. Costs**

23 The responsible tribunal may make any order about costs it considers
24 appropriate for the proceedings.

25 **202. Decision**

- 26 (1) After hearing the matter, the responsible tribunal may —
27 (a) confirm the appellable decision; or
28 (b) amend the appellable decision; or
29 (c) substitute another decision for the appellable decision.
30 (2) In substituting another decision for the appellable decision, the
31 responsible tribunal has the same powers as the entity that made the
32 appellable decision.

1 **203. Relationship with Act establishing responsible tribunal**

2 This Division applies despite any provision to the contrary of the Act
3 that establishes the responsible tribunal but does not otherwise limit
4 that Act.

5 **Division 14 — Miscellaneous**

6 **204. Notice from adjudication body**

7 (1) If an adjudication body, other than a court, makes a decision in
8 relation to a health practitioner or student registered in a health
9 profession, it must give written notice of the decision to the National
10 Board established for the profession.

11 (2) The notice must state —

- 12 (a) the decision made by the adjudication body; and
- 13 (b) the reasons for the decision; and
- 14 (c) the date the decision takes effect; and
- 15 (d) any action the National Board must take to give effect to the
16 decision.

17 **205. Implementation of decisions**

18 (1) A National Board must give effect to a decision of an adjudication
19 body unless the decision is stayed on appeal.

20 (2) Without limiting subsection (1), the National Board must, if the notice
21 given to the Board states that a health practitioner's or student's
22 registration is cancelled, remove the practitioner's or student's name
23 from the appropriate register kept by the Board.

24 **206. National Board to give notice to registered health practitioner's
25 employer**

26 (1) This section applies if —

27 (a) a National Board —

- 28 (i) decides to take health, conduct or performance action
29 against a registered health practitioner; or
- 30 (ii) receives notice from an adjudication body that the
31 adjudication body has decided to take health, conduct

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- 1 or performance action against a registered health
2 practitioner; or
- 3 (iii) receives notice from a co-regulatory authority that an
4 adjudication body in the co-regulatory jurisdiction
5 has decided to take health, conduct or performance
6 action against a registered health practitioner;
- 7 and
- 8 (b) the National Board has been advised by the registered health
9 practitioner that the practitioner is employed by another
10 entity.
- 11 Note: Under section 132, a National Board may ask a registered health
12 practitioner to give the Board information about whether or not the
13 practitioner is employed by another entity and, if so, for the employer's
14 details.
- 15 (2) The National Board must, as soon as practicable after making the
16 decision or receiving the notice, give written notice of the decision to
17 take health, conduct or performance action against the registered
18 health practitioner to the practitioner's employer.
- 19 **207. Effect of suspension**
- 20 If a person's registration as a health practitioner or student is
21 suspended under this Law the person is taken during the period of
22 suspension not to be registered under this Law, other than for the
23 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.

209. Payments into Agency Fund

- (1) There is payable into the Agency Fund —
 - (a) all money appropriated by the Parliament of any participating jurisdiction or the Commonwealth for the purposes of the Fund; and
 - (b) all fees, costs and expenses paid or recovered under this Law; and
 - (c) all fines paid to, or recovered by, a National Board in accordance with an order of an adjudication body; and
 - (d) the proceeds of the investment of money in the Fund; and
 - (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
 - (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
 - (g) any other money or property received by the National Agency or a National Board in connection with the exercise of its functions.

- 1 (2) Any money paid into the Agency Fund under subsection (1) for or on
2 behalf of a National Board must be paid into the Board's account kept
3 within the Agency Fund.

4 **210. Payments out of Agency Fund**

- 5 (1) Payments may be made from the Agency Fund for the purpose of —
6 (a) paying any costs or expenses, or discharging any liabilities,
7 incurred in the administration or enforcement of this Law;
8 and
9 (b) making payments to co-regulatory authorities; and
10 (c) any other payments recommended by the National Board or
11 National Agency and approved by the Ministerial Council.
- 12 (2) Without limiting subsection (1)(a), a payment may be made from the
13 Agency Fund to a responsible tribunal to meet the expenses of the
14 responsible tribunal in performing functions under this Law.
- 15 (3) A payment under subsection (1) may be made from a National
16 Board's account kept within the Agency Fund only if the payment is
17 in accordance with the Board's budget or otherwise approved by the
18 Board.

19 **211. Investment of money in Agency Fund**

- 20 (1) Subject to this section, the National Agency may invest money in the
21 Agency Fund in the way it considers appropriate.
- 22 (2) The National Agency may invest money in a National Board's
23 account kept within the Agency Fund only if the Agency has
24 consulted the Board about the investment.
- 25 (3) An investment under this section must be —
26 (a) in Australian money; and
27 (b) undertaken in Australia.
- 28 (4) The National Agency must use its best efforts to invest money in the
29 Agency Fund in a way it considers is most appropriate in all the
30 circumstances.
- 31 (5) The National Agency must keep records that show it has invested in
32 the way most appropriate in the circumstances.

- 1 (6) A security, safe custody acknowledgment or other document
2 evidencing title accepted, guaranteed or issued for an investment
3 arrangement must be held by the National Agency.

4 **212. Financial management duties of National Agency and National**
5 **Boards**

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

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

Part 10 — Information and privacy

Division 1 — Privacy

213. Application of Commonwealth Privacy Act

- (1) The Privacy Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.
- (2) For the purposes of subsection (1), the Privacy Act applies —
- (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
 - (b) as if a reference to the Privacy Commissioner were a reference to the National Health Practitioners Privacy Commissioner; and
 - (c) with any other modifications made by the regulations.
- (3) Without limiting subsection (2)(c), the regulations may —
- (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
 - (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
 - (c) confer jurisdiction on a tribunal or court of a participating jurisdiction.
- (4) In this section —
- Privacy Act** means the *Privacy Act 1988* (Commonwealth), as in force from time to time.

1 **Division 2 — Disclosure of information and confidentiality**

2 **214. Term used: protected information**

3 In this Division —

4 ***protected information*** means information that comes to a person's
5 knowledge in the course of, or because of, the person exercising
6 functions under this Law.

7 **215. Application of Commonwealth FOI Act**

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

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

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

13 (a) provide that the FOI Act applies under subsection (1) as if a
14 provision of the FOI Act specified in the regulations were
15 omitted; or

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

20 (c) confer jurisdiction on a tribunal or court of a participating
21 jurisdiction.

22 (4) In this section —

23 ***FOI Act*** means the *Freedom of Information Act 1982*
24 (Commonwealth), as in force from time to time.

25 **216. Duty of confidentiality**

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

28 Penalty:

29 (a) in the case of an individual — a fine of \$5 000;

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

- 1 (2) However, subsection (1) does not apply if —
- 2 (a) the information is disclosed in the exercise of a function
- 3 under, or for the purposes of, this Law; or
- 4 (b) the disclosure —
- 5 (i) is to a co-regulatory authority; or
- 6 (ii) is authorised or required by any law of a participating
- 7 jurisdiction;
- 8 or
- 9 (c) the disclosure is otherwise required or permitted by law; or
- 10 (d) the disclosure is with the agreement of the person to whom
- 11 the information relates; or
- 12 (e) the disclosure is in a form that does not identify the identity
- 13 of a person; or
- 14 (f) the information relates to proceedings before a responsible
- 15 tribunal and the proceedings are or were open to the public;
- 16 or
- 17 (g) the information is, or has been, accessible to the public,
- 18 including because it is or was recorded in a National Register;
- 19 or
- 20 (h) the disclosure is otherwise authorised by the Ministerial
- 21 Council.

22 **217. Disclosure of information for workforce planning**

- 23 (1) The Ministerial Council may, by written notice given to a National
- 24 Board, ask the Board for information required by the Council for
- 25 planning the workforce of health practitioners, or a class of
- 26 practitioners, in Australia or a part of Australia.
- 27 (2) If a National Board receives a request under subsection (1), the Board
- 28 may, by written notice given to health practitioners registered by the
- 29 Board, ask the practitioners for information relevant to the request.
- 30 (3) A registered health practitioner who is asked to provide information
- 31 under subsection (2) may, but is not required to, provide the
- 32 information.

- 1 (4) The National Board —
- 2 (a) must give information received from a registered health
- 3 practitioner to the Ministerial Council in a way that does not
- 4 identify any registered health practitioner; and
- 5 (b) must not use information received under this section that
- 6 identifies a registered health practitioner for any other
- 7 purpose.
- 8 (5) The Ministerial Council must publish information it receives under
- 9 this section in a way that is timely and ensures it is accessible to the
- 10 public.
- 11 **218. Disclosure of information for information management and**
- 12 **communication purposes**
- 13 (1) A person may disclose protected information to an information
- 14 management agency if the disclosure is in accordance with an
- 15 authorisation given by the Ministerial Council under subsection (2).
- 16 (2) The Ministerial Council may authorise the disclosure of protected
- 17 information to an information management agency if the Council is
- 18 satisfied —
- 19 (a) the protected information will be collected, stored and used
- 20 by the information management agency in a way that ensures
- 21 the privacy of the persons to whom it relates is protected; and
- 22 (b) the provision of the protected information to the information
- 23 management agency is necessary to enable the agency to
- 24 exercise its functions.
- 25 (3) An authorisation under subsection (2) —
- 26 (a) may apply to protected information generally or a class of
- 27 protected information; and
- 28 (b) may be subject to conditions.
- 29 (4) In this section —
- 30 *information management agency* means a Commonwealth, State or
- 31 Territory agency that has functions relating to the identification of
- 32 health practitioners for information management and communication
- 33 purposes, including, for example, the National E-health Transition
- 34 Authority.

219. Disclosure of information to other Commonwealth, State and Territory entities

(1) A person exercising functions under this Law may disclose protected information to the following entities —

- (a) the chief executive officer under the *Medicare Australia Act 1973* (Commonwealth);
- (b) an entity performing functions under the *Health Insurance Act 1973* (Commonwealth);
- (c) the Secretary within the meaning of the *National Health Act 1953* (Commonwealth);
- (d) the Secretary to the Department in which the *Migration Act 1958* (Commonwealth) is administered;
- (e) another Commonwealth, State or Territory entity having functions relating to professional services provided by health practitioners or the regulation of health practitioners.

(2) However, a person may disclose protected information under subsection (1) only if the person is satisfied —

- (a) the protected information will be collected, stored and used by the entity to which it is disclosed in a way that ensures the privacy of the persons to whom it relates is protected; and
- (b) the provision of the protected information to the entity is necessary to enable the entity to exercise its functions.

220. Disclosure to protect health or safety of patients or other persons

(1) This section applies if a National Board reasonably believes that —

- (a) a registered health practitioner poses, or may pose, a risk to public health; or
- (b) the health or safety of a patient or a class of patients is or may be at risk because of a registered health practitioner's practice as a health practitioner.

(2) The National Board may give written notice of the risk and any relevant information about the registered health practitioner to an entity of the Commonwealth or of a State or Territory that the Board considers may be required to take action in relation to the risk.

221. Disclosure to registration authorities

A person exercising functions under this Law may disclose protected information to a registration authority if the disclosure is necessary for the authority to exercise its functions.

Division 3 — Registers in relation to registered health practitioner

222. National Registers

(1) Each of the following National Boards must, in conjunction with the National Agency —

(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

(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.

(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.

Table — Public national registers

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

Name of Board	Name of public national register	Divisions of public national register
Chiropractic Board of Australia	Register of Chiropractors	
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	Registered nurses (Division 1), Enrolled nurses (Division 2)
	Register of Midwives	
Occupational Therapy Board of Australia	Register of Occupational Therapists	
Optometry Board of Australia	Register of Optometrists	
Osteopathy Board of Australia	Register of Osteopaths	

Name of Board	Name of public national register	Divisions of public national register
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	

1 **223. Specialists registers**

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

- 5 (a) a public national specialists register that includes the names
6 of all specialist health practitioners currently registered by the
7 Board; and
8 (b) a public national register that includes the names of all
9 specialist health practitioners whose registration has been
10 cancelled by an adjudication body.

11 **224. Way registers are to be kept**

12 Subject to this Division, a register a National Board is required to
13 keep under this Division must be kept —

- 14 (a) in a way that ensures it is up-to-date and accurate; and
15 (b) otherwise in the way the National Agency considers
16 appropriate.

1 **225. Information to be recorded in National Register**

2 A National Register or Specialists Register must include the following
3 information for each registered health practitioner whose name is
4 included in the register —

- 5 (a) the practitioner's sex;
- 6 (b) the suburb and postcode of the practitioner's principal place
7 of practice;
- 8 (c) the registration number or code given to the practitioner by
9 the National Board;
- 10 (d) the date on which the practitioner was first registered in the
11 health profession in Australia, whether under this Law or a
12 corresponding prior Act;
- 13 (e) the date on which the practitioner's registration expires;
- 14 (f) the type of registration held by the practitioner;
- 15 (g) if the register includes divisions, the division in which the
16 practitioner is registered;
- 17 (h) if the practitioner holds specialist registration, the recognised
18 specialty in which the practitioner is registered;
- 19 (i) if the practitioner holds limited registration, the purpose for
20 which the practitioner is registered;
- 21 (j) if the practitioner has been reprimanded, the fact that the
22 practitioner has been reprimanded;
- 23 (k) if a condition has been imposed on the practitioner's
24 registration or the National Board has entered into an
25 undertaking with the practitioner —
 - 26 (i) if section 226(1) applies, the fact that a condition has
27 been imposed or an undertaking accepted; or
 - 28 (ii) otherwise, details of the condition or undertaking;
- 29 (l) if the practitioner's registration is suspended, the fact that the
30 practitioner's registration has been suspended and, if the
31 suspension is for a specified period, the period during which
32 the suspension applies;
- 33 (m) if the practitioner's registration has been endorsed, details of
34 the endorsement;

- 1 (n) details of any qualifications relied on by the practitioner to
2 obtain registration or to have the practitioner's registration
3 endorsed;
- 4 (o) if the practitioner has advised the National Board the
5 practitioner fluently speaks a language other than English,
6 details of the other language spoken;
- 7 (p) any other information the National Board considers
8 appropriate.

9 **226. National Board may decide not to include or to remove certain**
10 **information in register**

- 11 (1) A National Board may decide that a condition imposed on a registered
12 health practitioner's registration, or the details of an undertaking
13 accepted from a registered health practitioner, because the practitioner
14 has an impairment is not to be recorded in its National Register or
15 Specialists Register if —
- 16 (a) it is necessary to protect the practitioner's privacy; and
17 (b) there is no overriding public interest for the condition or the
18 details of the undertaking to be recorded.
- 19 (2) A National Board may decide that information relating to a registered
20 health practitioner is not to be recorded in its National Register or
21 Specialists Register if —
- 22 (a) the practitioner asks the Board not to include the information
23 in the register; and
24 (b) the Board reasonably believes the inclusion of the
25 information in the register would present a serious risk to the
26 health or safety of the practitioner.
- 27 (3) A National Board may decide to remove information that a registered
28 health practitioner has been reprimanded from the National Register
29 or Specialists Register if it considers it is no longer necessary or
30 appropriate for the information to be recorded on the Register.

-
- 1 **227. Register about former registered health practitioners**
- 2 A register kept by a National Board under section 222(2) or 223(b)
- 3 must include the following information for each health practitioner
- 4 whose registration was cancelled by an adjudication body —
- 5 (a) the fact that the practitioner’s registration was cancelled by an
- 6 adjudication body;
- 7 (b) the grounds on which the practitioner’s registration was
- 8 cancelled;
- 9 (c) if the adjudication body’s hearing of the matter was open to
- 10 the public, details of the conduct that formed the basis of the
- 11 cancellation.
- 12 **228. Inspection of registers**
- 13 (1) The National Agency —
- 14 (a) must keep each register kept by a National Board under this
- 15 Division open for inspection, free of charge, by members of
- 16 the public —
- 17 (i) at its national office and each of its local offices
- 18 during ordinary office hours; and
- 19 (ii) on the Agency’s website;
- 20 and
- 21 (b) must give a person an extract from the register on payment of
- 22 the relevant fee; and
- 23 (c) may give a person a copy of the register on payment of the
- 24 relevant fee.
- 25 (2) The National Agency may give a person a copy of the register under
- 26 subsection (1)(c) only if the Agency is satisfied it would be in the
- 27 public interest to do so.
- 28 (3) The National Agency may waive, wholly or partly, the payment of a
- 29 fee by a person under subsection (1)(b) or (c) if the Agency considers
- 30 it appropriate in the circumstances.

Division 4 — Student registers

229. Student registers

- (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.
- (2) A student register is not to be open to inspection by the public.

230. Information to be recorded in student register

- (1) Subject to this Division, a student register kept by a National Board must be kept in the way the National Agency considers appropriate.
- (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 programme 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 programme of study;
 - (h) the date on which the student is expected to complete the approved programme of study;
 - (i) if the student has completed or otherwise ceased to be enrolled in the approved programme 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

231. Other records to be kept by National Boards

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

- (a) information that identifies the practitioner;
- (b) the practitioner's contact details;
- (c) information about the practitioner's registration or endorsement;
- (d) information about any previous registration of the practitioner, whether in Australia or overseas;
- (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;
- (f) information about the practitioner's professional indemnity insurance arrangements;
- (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.

232. Record of adjudication decisions to be kept and made publicly available

(1) A National Board is to keep and publish on its website a record of decisions made by —

- (a) panels established by the Board; and
- (b) responsible tribunals that relate to registered health practitioners or students registered by the Board.

(2) The record is to be kept —

- (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
- (b) otherwise in the way decided by the National Board.

Division 6 — Unique Identifier

233. Unique identifier to be given to each registered health practitioner

(1) This section applies if —

- (a) a National Board registers a person in the health profession for which the Board is established; and
- (b) the person has not previously been registered by that Board or any other National Board.

(2) The National Board must, at the time of registering the person, give the person an identifying number or code (a ***unique identifier***) that is unique to the person.

(3) The National Board must keep a record of the unique identifier given to the person.

(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).

Part 11 — Miscellaneous

Division 1 — Provisions relating to persons exercising functions under law

234. General duties of persons exercising functions under this Law

- (1) A person exercising functions under this Law must, when exercising the functions, act honestly and with integrity.
- (2) A person exercising functions under this Law must exercise the person's functions under this Law —
 - (a) in good faith; and
 - (b) in a financially responsible manner; and
 - (c) with a reasonable degree of care, diligence and skill.
- (3) A person exercising functions under this Law must not make improper use of the person's position or of information that comes to the person's knowledge in the course of, or because of, the person's exercise of the functions —
 - (a) to gain an advantage for himself or herself or another person; or
 - (b) to cause a detriment to the development, implementation or operation of the national registration and accreditation scheme.

235. Application of Commonwealth Ombudsman Act

- (1) The Ombudsman Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.
- (2) For the purposes of subsection (1), the Ombudsman Act applies —
 - (a) as if a reference to the Commonwealth Ombudsman were a reference to the National Health Practitioners Ombudsman; and
 - (b) with any other modifications made by the regulations.
- (3) Without limiting subsection (2), the regulations may —
 - (a) provide that the Ombudsman Act applies under subsection (1) as if a provision of the Ombudsman Act specified in the regulations were omitted; or

- 1 (b) provide that the Ombudsman Act applies under subsection (1)
2 as if an amendment to the Ombudsman Act made by a law of
3 the Commonwealth, and specified in the regulations, had not
4 taken effect; or
- 5 (c) confer jurisdiction on a tribunal or court of a participating
6 jurisdiction.
- 7 (4) In this section —
8 ***Ombudsman Act*** means the *Ombudsman Act 1976* (Commonwealth),
9 as in force from time to time.
- 10 **236. Protection from personal liability for persons exercising functions**
- 11 (1) A protected person is not personally liable for anything done or
12 omitted to be done in good faith —
- 13 (a) in the exercise of a function under this Law; or
14 (b) in the reasonable belief that the act or omission was the
15 exercise of a function under this Law.
- 16 (2) Any liability resulting from an act or omission that would, but for
17 subsection (1), attach to a protected person attaches instead to the
18 National Agency.
- 19 (3) In this section —
20 ***protected person*** means any of the following —
- 21 (a) a member of the Advisory Council;
22 (b) a member of the Agency Management Committee;
23 (c) a member of a National Board or a committee of the National
24 Board;
25 (d) a member of an external accreditation entity;
26 (e) a member of the staff of the National Agency;
27 (f) a consultant or contractor engaged by the National Agency;
28 (g) a person appointed by the National Agency to conduct an
29 examination or assessment for a National Board;
30 (h) a person employed or engaged by an external accreditation
31 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 —
- (a) makes a notification under this Law; or
 - (b) gives information in the course of an investigation or for another purpose under this Law to a person exercising functions under this Law.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Without limiting subsection (2) —
- (a) the making of the notification or giving of the information does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct; and
 - (b) no liability for defamation is incurred by the person because of the making of the notification or giving of the information.
- (4) The protection given to the person by this section extends to —
- (a) a person who, in good faith, provided the person with any information on the basis of which the notification was made or the information was given; and
 - (b) a person who, in good faith, was otherwise concerned in the making of the notification or giving of the information.

Division 2 — Inspectors

238. Functions and powers of inspectors

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

239. Appointment of inspectors

- (1) A National Board may appoint the following persons as inspectors —
- (a) members of the National Agency's staff;
 - (b) contractors engaged by the National Agency.

1 (2) An inspector holds office on the conditions stated in the instrument of
2 appointment.

3 (3) If an inspector's appointment provides for a term of appointment, the
4 inspector ceases holding office at the end of the term.

5 (4) An inspector may resign by signed notice of resignation given to the
6 National Board that appointed the inspector.

7 **240. Identity card**

8 (1) A National Board must give an identity card to each inspector it
9 appoints.

10 (2) The identity card must —

11 (a) contain a recent photograph of the inspector; and

12 (b) be signed by the inspector; and

13 (c) identify the person as an inspector appointed by the National
14 Board; and

15 (d) include an expiry date.

16 (3) This section does not prevent the issue of a single identity card to a
17 person —

18 (a) if the person is appointed as an inspector for this Law by
19 more than one National Board; or

20 (b) if the person is appointed as an inspector and investigator for
21 this Law by a National Board; or

22 (c) for this Law and other Acts.

23 (4) A person who ceases to be an inspector must give the person's
24 identity card to the National Board that appointed the person within
25 7 days after the person ceases to be an inspector, unless the person has
26 a reasonable excuse.

27 **241. Display of identity card**

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

30 (a) first produces the inspector's identity card for the other
31 person's inspection; or

1 does not prevent action being taken by the health complaints
2 entity under the law of the participating jurisdiction for the
3 same behaviour.

4 **244. Evidentiary certificates**

5 A certificate purporting to be signed by the chief executive officer of
6 the National Agency and stating any of the following matters is prima
7 facie evidence of the matter —

- 8 (a) a stated document is one of the following things made, given,
9 issued or kept under this Law —
- 10 (i) an appointment, approval or decision;
11 (ii) a notice, direction or requirement;
12 (iii) a certificate of registration;
13 (iv) a register, or an extract from a register;
14 (v) a record, or an extract from a record;
- 15 (b) a stated document is another document kept under this Law;
- 16 (c) a stated document is a copy of a document mentioned in
17 paragraph (a) or (b);
- 18 (d) on a stated day, or during a stated period, a stated person was
19 or was not a registered health practitioner or a student;
- 20 (e) on a stated day, or during a stated period, a registration or
21 endorsement was or was not subject to a stated condition;
- 22 (f) on a stated day, a registration was suspended or cancelled;
- 23 (g) on a stated day, or during a stated period, an appointment as
24 an investigator or inspector was, or was not, in force for a
25 stated person;
- 26 (h) on a stated day, a stated person was given a stated notice or
27 direction under this Law;
- 28 (i) on a stated day, a stated requirement was made of a stated
29 person.

Division 4 — Regulations

245. National regulations

- (1) The Ministerial Council may make regulations for the purposes of this Law.
- (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.
- (3) Despite section 7(1)(d) of the *Health Practitioner Regulation National Law (WA) Act 2010*, sections 41 and 42 of the *Interpretation Act 1984* apply to regulations made under subsection (1).
- (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).

246. Parliamentary scrutiny of national regulations

Note: Clause 246 of the *Health Practitioner Regulation National Law* does not form part of the *Health Practitioner Regulation National Law* in Western Australia.

247. Effect of disallowance of national regulation

Note: Clause 247 of the *Health Practitioner Regulation National Law* does not form part of the *Health Practitioner Regulation National Law* in Western Australia.

Division 5 — Miscellaneous

248. Combined notice may be given

If an entity is required under this Law to give another entity (the **recipient**) notices under more than one provision, the entity may give the recipient a combined notice for the provisions.

249. Fees

The National Agency may, in accordance with a health profession agreement entered into with a National Board —

- (a) refund a relevant fee paid into the Board's account kept in the Agency Fund; or

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- 1 (b) waive, in whole or in part, a relevant fee payable for a service
- 2 provided by the Board; or
- 3 (c) require a person who pays a relevant fee late to pay an
- 4 additional fee.

Part 12 — Transitional provisions

Division 1 — Preliminary

250. Terms used

In this Part —

commencement day means 1 July 2010;

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* (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.

6 **Division 2 — Ministerial Council**

8 A direction given by the Ministerial Council to the National Agency
9 or a National Board under the repealed Law, and in force immediately
10 before the commencement day, is taken from the commencement day
11 to be a direction given by the Ministerial Council under this Law.

(2) From the commencement day, the entity is taken to have been appointed under this Law to exercise the functions for the health profession.

25 (4) The National Board established for the health profession must, not
26 later than 3 years after the commencement day, review the
27 arrangements for the exercise of accreditation functions for the health
28 profession.

(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.

1 **254. Health profession standards approved by Ministerial Council**

2 A health profession standard approved by the Ministerial Council
3 under the repealed Law is taken from the commencement day to be an
4 approved registration standard under this Law.

5 **255. Accreditation standards approved by National Board**

6 An accreditation standard approved by a National Board under the
7 repealed Law is taken from the commencement day to be an approved
8 accreditation standard under this Law.

9 **Division 3 — Advisory Council**

10 **256. Members of Advisory Council**

11 (1) A person who was, immediately before the commencement day, a
12 member of the Australian Health Workforce Advisory Council under
13 the repealed Law is taken to be a member of the Advisory Council
14 under this Law.

15 (2) Without limiting subsection (1), a member of the Advisory Council
16 continues to hold office —

17 (a) on the same terms and conditions that applied to the
18 member's appointment under the repealed Law; and

19 (b) until the day the member's term of appointment under the
20 repealed Law would have ended or the earlier day the
21 member otherwise vacates office under this Law.

22 (3) The person who, immediately before the commencement day, held
23 office as Chairperson of the Australian Health Workforce Advisory
24 Council under the repealed Law continues to hold office as
25 Chairperson of the Advisory Council under this Law.

26 **Division 4 — National Agency**

27 **257. Health profession agreements**

28 From the commencement day, a health profession agreement entered
29 into by the Australian Health Practitioner Regulation Agency and in
30 force immediately before the commencement day is taken to be a
31 health profession agreement entered into by the National Agency
32 under this Law.

1 **258. Service agreement**

2 (1) This section applies if, immediately before the participation day for a
3 participating jurisdiction —

4 (a) a local registration authority in that jurisdiction exercised
5 functions in relation to related health professionals; or

6 (b) a local registration authority in that jurisdiction was a party to
7 a service agreement for an entity to provide administrative or
8 operational support to the authority and the entity also
9 provided support under a service agreement to an authority
10 that registers related health professionals.

11 (2) From the participation day for the participating jurisdiction, the
12 National Agency may enter into an agreement with the authority that
13 is responsible for registering the related health professionals to
14 provide services to the authority.

15 (3) In this section —

16 *related health professionals* means persons who practise a profession
17 providing health services that is not a health profession under this
18 Law.

19 **Division 5 — Agency Management Committee**

20 **259. Members of Agency Management Committee**

21 (1) A person who was, immediately before the commencement day, a
22 member of the Australian Health Practitioner Regulation Agency
23 Management Committee under the repealed Law is taken to be a
24 member of the Agency Management Committee appointed under this
25 Law.

26 (2) Without limiting subsection (1), a member of the Agency
27 Management Committee continues to hold office —

28 (a) on the same terms and conditions that applied to the person's
29 appointment under the repealed Law; and

30 (b) until the day the member's term of appointment under the
31 repealed Law would have ended or the earlier day the
32 member otherwise vacates office under this Law.

- 1 (3) The person who, immediately before the commencement day, held
2 office as Chairperson of the Australian Health Practitioner Regulation
3 Agency Management Committee under the repealed Law continues to
4 hold office as Chairperson of the Agency Management Committee
5 under this Law.

6 **Division 6 — Staff, consultants and contractors of National Agency**

7 **260. Chief executive officer**

8 The person who, immediately before the commencement day, held
9 office as chief executive officer of the Australian Health Practitioner
10 Regulation Agency under the repealed Law is taken, from the
11 commencement day, to have been appointed as the chief executive
12 officer of the National Agency under this Law on the same terms and
13 conditions that applied to the person's appointment under the repealed
14 Law.

15 **261. Staff**

16 (1) A person who, immediately before the commencement day, was
17 employed by the Australian Health Practitioner Regulation Agency
18 under the repealed Law is taken, from the commencement day, to
19 have been employed by the National Agency under this Law.

20 (2) A secondment arrangement in force immediately before the
21 commencement day is taken, from the commencement day, to have
22 been made by the National Agency under this Law.

23 (3) In this section —
24 *secondment arrangement* means an arrangement made under the
25 repealed Law by the Australian Health Practitioner Regulation
26 Agency for the services of any staff of a government agency of a
27 participating jurisdiction or the Commonwealth.

28 **262. Consultants and contractors**

29 A person who, immediately before the commencement day, was a
30 consultant or contractor engaged by the Australian Health Practitioner
31 Regulation Agency under the repealed Law is taken, from the
32 commencement day, to have been engaged by the National Agency
33 under this Law.

1 **Division 7 — Reports**

2 **263. Annual report**

3 Sections 35 and 36 of the repealed Law continue to apply to the
4 preparation and submission of the first annual report of the Australian
5 Health Practitioner Regulation Agency as if this Law had not
6 commenced.

7 **Division 8 — National Boards**

8 **264. Members of National Boards**

9 (1) A person who was, immediately before the commencement day, a
10 member of a National Health Practitioner Board under the repealed
11 Law is taken to be a member of the National Board of the same name
12 under this Law.

13 (2) Without limiting subsection (1), a member of a National Board holds
14 office —

15 (a) on the same terms and conditions that applied to the person's
16 appointment under the repealed Law; and

17 (b) until the day the member's term of appointment under the
18 repealed Law would have ended or the earlier day the
19 member otherwise vacates office under this Law.

20 (3) A person who, immediately before the commencement day, held
21 office as Chairperson of a National Health Practitioner Board is taken,
22 from the commencement day, to hold office as Chairperson of the
23 National Board of the same name.

24 **265. Committees**

25 (1) From the commencement day, a committee established by a National
26 Health Practitioner Board under the repealed Law and in existence
27 immediately before the commencement day is taken to be a
28 committee established under this Law by the National Board of the
29 same name.

30 (2) A person who, immediately before the commencement day, held
31 office as a member of a committee established by a National Health
32 Practitioner Board under the repealed Law is taken, from the

1 commencement day, to hold office as a member of the committee as
2 continued in existence under subsection (1).

3 **266. Delegation**

4 (1) This section applies if, under the repealed Law —

5 (a) a National Health Practitioner Board had delegated any of its
6 functions to a committee or the Australian Health Practitioner
7 Regulation Agency and the delegation was in force
8 immediately before the commencement day; or

9 (b) the Australian Health Practitioner Regulation Agency had
10 subdelegated a function delegated to it by a National Health
11 Practitioner Board to a member of the Agency's staff and the
12 subdelegation was in force immediately before the
13 commencement day.

14 (2) From the commencement day, the delegation or subdelegation
15 continues as if it were a delegation or subdelegation under this Law.

16 **Division 9 — Agency Fund**

17 **267. Agency Fund**

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

21 **Division 10 — Offences**

22 **268. Offences**

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

25 **Division 11 — Registration**

26 **269. General registration**

27 (1) This section applies to a person who, immediately before the
28 participation day for a participating jurisdiction, held general
29 registration (however described) in a health profession under the law
30 of that jurisdiction.

1 (2) From the participation day, the person is taken to hold general
2 registration under this Law in the health profession.

3 (3) In this section —

4 **general registration** includes —

5 (a) full registration, unconditional registration and registration
6 without conditions; and

7 (b) enrolment, unconditional enrolment and enrolment without
8 conditions.

9 **270. Specialist registration**

10 (1) This section applies if —

11 (a) immediately before the participation day for a participating
12 jurisdiction, a person was a specialist health practitioner in a
13 specialty in a health profession under the law of that
14 jurisdiction; and

15 (b) from the participation day —

16 (i) the specialty is a recognised specialty in the health
17 profession under this Law; or

18 (ii) a recognised specialty in the health profession under
19 this Law includes, or is equivalent to, the specialty.

20 (2) From the participation day, the person is taken to hold specialist
21 registration in the recognised specialty in the health profession under
22 this Law.

23 (3) In this section —

24 **corresponding purpose** means a purpose that is equivalent to, or
25 substantially equivalent to, a purpose for which limited registration
26 may be granted under this Law;

27 **specialist health practitioner**, in a specialty in a health profession,
28 means a person who held specialist registration in, or was endorsed or
29 otherwise authorised to practise, the specialty in the health profession
30 but does not include a person who held registration to practise the
31 profession only for a corresponding purpose.

1 **271. Provisional registration**

2 (1) This section applies to a person who, immediately before the
3 participation day for a participating jurisdiction, held registration
4 (however described) under a law of that jurisdiction to enable the
5 person to complete a period of supervised practice or internship in a
6 health profession required for the person to be eligible for general
7 registration (however described) in the profession.

8 (2) From the participation day, the person is taken to hold provisional
9 registration in the health profession under this Law.

10 **272. Limited registration**

11 (1) This section applies to a person who, immediately before the
12 participation day for a participating jurisdiction, held a type of
13 registration (however described) in a health profession under the law
14 of that jurisdiction that was granted for the practice of the health
15 profession only for a corresponding purpose.

16 (2) From the participation day, the person is taken to hold limited
17 registration in the health profession for that purpose under this Law.

18 (3) In this section —

19 *corresponding purpose* means a purpose that is equivalent to, or
20 substantially equivalent to, a purpose for which limited registration
21 may be granted under this Law.

22 **273. Limited registration (public interest-occasional practice)**

23 (1) This section applies to a person who, immediately before the
24 participation day for a participating jurisdiction, held a type of
25 registration (however described) in a health profession under the law
26 of that jurisdiction that was granted —

27 (a) subject to the following conditions limiting the scope of the
28 person's practice of the profession —

29 (i) the person must not practise the profession other
30 than —

31 (I) to refer a person to another registered
32 health practitioner; or

- 1 (II) to prescribe scheduled medicines in
2 specified circumstances;
- 3 (ii) the person must not receive a fee or other benefit for
4 providing a service referred to in subparagraph (i);
5 or
- 6 (b) on the basis the person had indicated the person was retired
7 from regular practice and intended only to practise on an
8 occasional basis.
- 9 (2) From the participation day, the person is taken to hold limited
10 registration in the public interest under this Law for the limited scope
11 that applied to the person's practice of the health profession
12 immediately before the participation day.
- 13 **274. Non-practicing registration**
- 14 (1) This section applies to a person who, immediately before the
15 participation day for a participating jurisdiction, held a type of
16 registration (however described) in a health profession under the law
17 of that jurisdiction that was granted subject to the condition that the
18 person must not practise the profession.
- 19 (2) From the participation day, the person is taken to hold non-practicing
20 registration in the health profession under this Law.
- 21 **275. Registration for existing registered students**
- 22 (1) This section applies if, immediately before the participation day for a
23 participating jurisdiction, a person held registration as a student in a
24 health profession under the law of that jurisdiction.
- 25 (2) From the participation day, the person is taken to hold student
26 registration in the health profession under this Law.
- 27 **276. Registration for new students**
- 28 (1) This section applies in relation to a person who, immediately before
29 the participation day for a participating jurisdiction —
- 30 (a) was a student undertaking a programme of study, provided by
31 an education provider located in the jurisdiction, that from the
32 participation day is an approved programme of study for a
33 health profession; and

1 (b) was not required under the law of that jurisdiction to be
2 registered as a student in the health profession to undertake
3 the programme of study or any part of the programme,
4 including any clinical training or other practice of the
5 profession related to undertaking the programme.

6 (2) Despite Part 7 Division 7, the National Board established for the
7 health profession is not required before 1 March 2011 to register the
8 student in the profession.

9 **277. Other registrations**

10 (1) This section applies if —

11 (a) immediately before the participation day for a participating
12 jurisdiction, a class of persons held a type of registration in,
13 or was endorsed or otherwise authorised to practise, a health
14 profession under the law of that jurisdiction; and

15 (b) from the participation day, persons in that class are not
16 registered, endorsed or otherwise authorised to practise the
17 profession by another provision of this Division.

18 (2) From the participation day, persons in that class are taken to hold the
19 type of registration in the health profession that is specified for the
20 class of persons in the registration transition plan prepared under
21 subsection (3) by the National Board established for that profession.

22 (3) Before the participation day, each National Board must prepare a
23 registration transition plan that includes details of the type of
24 registration that is to be held under this Law by a class of persons
25 referred to in subsection (1).

26 (4) In preparing a registration transition plan, a National Board must —

27 (a) comply with any directions given by the Ministerial Council
28 that are relevant to the transitional arrangements for the
29 registration of the class of persons; and

30 (b) have regard to the principle that persons in the class are to be
31 given the widest possible scope of practice of the profession
32 that is consistent with —

33 (i) the authority the class of persons had to practise the
34 profession before the participation day; and

35 (ii) the protection of the safety of the public.

1 **278. Endorsements**

- 2 (1) This section applies to a person who, immediately before the
3 participation day for a participating jurisdiction —
- 4 (a) held a type of registration in that jurisdiction in a health
5 profession for a corresponding purpose; or
- 6 (b) held general registration in that jurisdiction in a health
7 profession that had been endorsed for a corresponding
8 purpose.
- 9 (2) From the participation day, the person is taken to hold general
10 registration in the health profession that has been endorsed under this
11 Law for the purpose that is equivalent to, or substantially equivalent
12 to, the corresponding purpose.
- 13 (3) In this section —
- 14 *corresponding purpose* means a purpose that is equivalent to, or
15 substantially equivalent to, a purpose for which an endorsement may
16 be granted under this Law.

17 **279. Conditions imposed on registration or endorsement**

- 18 (1) This section applies if —
- 19 (a) a person is taken to be registered under this Law, or the
20 person's registration under this Law is taken to be endorsed,
21 because of the person's registration or endorsement under the
22 law of a participating jurisdiction before the participation day
23 for the jurisdiction; and
- 24 (b) the person's registration or endorsement under the law of that
25 jurisdiction was, immediately before the participation day,
26 subject to a condition —
- 27 (i) whether described as a condition, restriction or
28 otherwise; and
- 29 (ii) whether imposed by or under an Act of that
30 jurisdiction.
- 31 (2) From the participation day, the person's registration or endorsement
32 under this Law is taken to be subject to the same condition.

1 **280. Expiry of registration and endorsement**

- 2 (1) This section applies if, under this Division, a person is taken to be
3 registered under this Law because of the person's registration or
4 endorsement under the law of a participating jurisdiction.
- 5 (2) The person's registration, and any endorsement of the registration,
6 expires on —
- 7 (a) if the person was registered in more than one participating
8 jurisdiction, the end of the latest day on which under the law
9 of a participating jurisdiction —
- 10 (i) any of the registrations would have expired; or
- 11 (ii) an annual registration fee for any of the registrations
12 would have become payable;
- 13 or
- 14 (b) otherwise, at the end of the day on which under the law of the
15 participating jurisdiction —
- 16 (i) the registration would have expired; or
- 17 (ii) an annual registration fee for the registration would
18 have become payable.
- 19 (3) Subsection (2) does not prevent a National Board suspending or
20 cancelling the person's registration under this Law.

21 **281. Protected titles for certain specialist health practitioners**

- 22 (1) This section applies if —
- 23 (a) immediately before the participation day for a participating
24 jurisdiction, a person held specialist registration in a health
25 profession in that jurisdiction; and
- 26 (b) on the participation day the health profession is not a
27 profession for which specialist recognition operates under this
28 Law.
- 29 (2) Despite section 118, the person does not commit an offence during the
30 transition period merely because the person takes or uses —
- 31 (a) the title "specialist health practitioner"; or

1 (b) another title the person was entitled to use under the law of
2 the participating jurisdiction as in force immediately before
3 the participation day.

4 (3) In this section —
5 *transition period* means the period —

6 (a) starting at the beginning of the commencement day; and

7 (b) ending at the end of the day that is 3 years after the
8 commencement day.

9 **282. First renewal of registration or endorsement**

10 (1) This section applies if —

11 (a) a health practitioner's registration or endorsement expires
12 under section 280; and

13 (b) the National Board decides to renew the health practitioner's
14 registration or endorsement under section 112.

15 (2) Despite section 112(6), the National Board may decide that the period
16 for which the registration or endorsement is renewed is a period of not
17 more than 2 years.

18 **283. Programmes of study**

19 (1) This section applies if, immediately before the participation day for a
20 participating jurisdiction, a programme of study provided a
21 qualification for registration in a health profession in that jurisdiction.

22 (2) From the participation day, the programme of study is taken to be an
23 approved programme of study for that health profession as if it had
24 been approved under this Law.

25 (3) The National Agency must, as soon as practicable after the
26 participation day, include an approved programme of study under
27 subsection (2) in the list published under section 49(5).

284. Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery

- (1) During the transition period, a midwife does not contravene section 129(1) merely because the midwife practises private midwifery if —
- (a) the practice 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
 - (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 practice 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 practice 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 practice 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.

- 1 (5) In this section —
- 2 *homebirth* means a birth in which the mother gives birth at her own
- 3 home or another person's home;
- 4 *informed consent* means written consent given by a woman after she
- 5 has been given a written statement by a midwife that includes —
- 6 (a) a statement that appropriate professional indemnity insurance
- 7 arrangements will not be in force in relation to the midwife's
- 8 practice of private midwifery; and
- 9 (b) any other information required by the National Board;
- 10 *midwife* means a person whose name is included in the Register of
- 11 Midwives kept by the National Board;
- 12 *National Board* means the Nursing and Midwifery Board of
- 13 Australia;
- 14 *private midwifery* means practising the nursing and midwifery
- 15 profession —
- 16 (a) in the course of attending a homebirth; and
- 17 (b) without appropriate professional indemnity insurance
- 18 arrangements being in force in relation to that practice; and
- 19 (c) other than as an employee of an entity;
- 20 *transition period* means the period referred to in subsection (3).

21 **Division 12 — Applications for registration and endorsement**

22 **285. Applications for registration**

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

29 **286. Applications for endorsement**

- 30 (1) This section applies if, immediately before the participation day for a
- 31 participating jurisdiction, an application for endorsement or renewal
- 32 of an endorsement of a registration in a health profession had been

1 made to a local registration authority for the jurisdiction but not
2 decided.

3 (2) From the participation day, the application is taken to have been made
4 under this Law to the National Board for the health profession.

5 **287. Disqualifications and conditions relevant to applications for**
6 **registration**

7 (1) This section applies if —

8 (a) under a corresponding prior Act or another law of a
9 participating jurisdiction, a person's registration in a health
10 profession had been cancelled in that jurisdiction by an entity;
11 and

12 (b) in cancelling the person's registration the entity also made
13 any of the following decisions —

14 (i) a decision to set a period during which the person
15 was disqualified from applying for registration, or
16 being registered, in a health profession in the
17 participating jurisdiction;

18 (ii) a decision to set conditions under which the person
19 might reapply for registration in the profession;

20 (iii) a decision to set conditions that must be imposed on
21 any future registration of the person in the profession;

22 and

23 (c) immediately before the participation day, the decision was
24 still in force.

25 (2) From the participation day, the decision continues as if it had been
26 made under this Law by the responsible tribunal for the participating
27 jurisdiction.

28 **Division 13 — Complaints, notifications and disciplinary proceedings**

29 **288. Complaints and notifications made but not being dealt with on**
30 **participation day**

31 (1) This section applies if, immediately before the participation day for a
32 participating jurisdiction, a local registration authority for the
33 jurisdiction had received but not started dealing with a complaint or

1 notification about a person registered in a health profession by the
2 authority.

3 (2) From the participation day, the complaint or notification is taken to be
4 a notification made under this Law to the National Agency.

5 (3) This section does not apply to a co-regulatory jurisdiction.

6 **289. Complaints and notifications being dealt with on participation**
7 **day**

8 (1) This section applies if, immediately before the participation day for a
9 participating jurisdiction, a local registration authority for the
10 jurisdiction had started but not completed dealing with a complaint or
11 notification about a person registered in a health profession by the
12 authority.

13 (2) From the participation day —

- 14 (a) the complaint or notification is taken to be a notification
15 made under this Law and is to be dealt with by the National
16 Board for the health profession; and
17 (b) the notification is to continue to be dealt with under the Act
18 of the participating jurisdiction under which it was made, and
19 any proceedings or appeal relating to the notification may be
20 dealt with, as if that Act had not been repealed.

21 (3) For the purposes of this section, the Act of the participating
22 jurisdiction applies —

- 23 (a) as if a reference to the local registration authority were a
24 reference to the National Board; and
25 (b) with any other changes that are necessary or convenient.

26 (4) The National Board must give effect to a decision made on an inquiry,
27 investigation, proceeding or appeal completed under the Act of the
28 participating jurisdiction as if it were a decision under this Law.

29 (5) This section does not apply to a co-regulatory jurisdiction.

30 **290. Effect of suspension**

31 (1) This section applies if —

- 32 (a) because of another provision of this Part, a person is taken to
33 be registered under this Law; and

1 (b) immediately before the participation day for the participating
2 jurisdiction in which the person was registered under a
3 corresponding prior Act, the person's registration was
4 suspended under a law of that jurisdiction.

5 (2) From the participation day, the person's registration is taken to have
6 been suspended under this Law.

7 **291. Undertakings and other agreements**

8 (1) This section applies if, immediately before the participation day for a
9 participating jurisdiction, an undertaking or other agreement between
10 a person registered under a corresponding prior Act and the local
11 registration authority for a health profession was in force.

12 (2) From the participation day, the undertaking or other agreement is
13 taken to have been entered into under this Law between the person
14 and the National Board established for the health profession.

15 **292. Orders**

16 (1) This section applies if —

17 (a) under a corresponding prior Act of a participating
18 jurisdiction, an adjudication body had, at the end of a
19 proceeding before the adjudication body about a health
20 practitioner's practice or conduct, ordered the health
21 practitioner to do, or refrain from doing, something; and

22 (b) immediately before the participation day, the order was still
23 in force.

24 (2) From the participation day, the order continues in force as if it had
25 been made under this Law.

26 (3) In this section —

27 *adjudication body* means a court, tribunal, panel or local registration
28 authority.

29 **293. List of approved persons**

30 (1) This section applies if, immediately before the participation day for a
31 participating jurisdiction, a person was appointed as a member of a
32 list of persons approved to be appointed as members of a body that
33 exercised functions that correspond to a panel for a health profession.

- 1 (2) From the participation day, the person is taken to have been appointed
2 by the National Board established for the health profession to the list
3 kept by that Board under section 183.

4 **Division 14 — Local registration authority**

5 **294. Term used: transfer day**

6 In this Division —

7 *transfer day*, for a participating jurisdiction, means —

8 (a) for a health profession other than a relevant health
9 profession —

10 (i) 1 July 2010; or

11 (ii) the later day on which the jurisdiction became a
12 participating jurisdiction;

13 or

14 (b) for a relevant health profession, 1 July 2012.

15 **295. Assets and liabilities**

16 (1) From the transfer day for a participating jurisdiction —

17 (a) the assets and liabilities of a local registration authority for a
18 health profession in a participating jurisdiction are taken to be
19 assets and liabilities of the National Agency and are to be
20 paid into or out of the account kept in the Agency Fund for
21 the National Board established for the profession; and

22 (b) any contract, other than an employment contract, entered into
23 by or on behalf of the local registration authority and all
24 guarantees, undertakings and securities given by or on behalf
25 of the authority, in force immediately before the participation
26 day, are taken to have been entered into or given by or to the
27 National Agency and may be enforced against or by the
28 Agency; and

29 (c) any property that, immediately before the participation day,
30 was held on trust, or subject to a condition, by the local
31 registration authority continues to be held by the National
32 Agency on the same trust, or subject to the same condition
33 and is to be paid into the account kept in the Agency Fund for
34 the National Board.

1 (2) In this section —

2 *employment contract* means either of the following under which a
3 person is employed —

4 (a) a contract of employment;

5 (b) a contract for services.

6 **296. Records relating to registration and accreditation**

7 (1) This section applies to a record of a local registration authority for a
8 health profession in a participating jurisdiction that relates to the
9 authority's functions in relation to the following —

10 (a) the registration of individuals;

11 (b) complaints and notifications about, and proceedings against,
12 individuals who are or were registered;

13 (c) accreditation of courses that qualify individuals for
14 registration.

15 (2) From the transfer day for the participating jurisdiction, the record is
16 taken to be a record of the National Board for the health profession.

17 **297. Financial and administrative records**

18 (1) This section applies to a record of a local registration authority in a
19 participating jurisdiction that relates to the authority's financial or
20 administrative functions.

21 (2) From the transfer day for the participating jurisdiction, the record is
22 taken to be a record of the National Agency.

23 **298. Pharmacy businesses and premises**

24 Sections 295 to 297 do not apply to an asset, liability, contract,
25 property or record of a local registration authority that relates to the
26 regulation of a pharmacy business, pharmacy premises, a pharmacy
27 department or any other pharmacy-related entity that is not an
28 individual.

1 **299. Members of local registration authority**

2 (1) This section applies if, in anticipation of a jurisdiction becoming a
3 participating jurisdiction, a National Board established for a health
4 profession establishes a State or Territory Board for the jurisdiction.

5 (2) A person who, immediately before the State or Territory Board was
6 established, was a member of the local registration authority for the
7 profession in the participating jurisdiction is taken to be a member of
8 the State or Territory Board.

9 (3) Section 36(5) and (6) do not apply to the membership of a State or
10 Territory Board for a jurisdiction for 12 months after the jurisdiction
11 becomes a participating jurisdiction.

12 Note: Section 36(5) and (6) provide requirements for the number of
13 practitioner members and community members required by a State or
14 Territory Board.

15 **Division 15 — Staged commencement for certain health professions**

16 **300. Application of Law to relevant health profession between**
17 **commencement and 1 July 2012**

18 (1) This Law does not apply with respect to a relevant health profession
19 during the period starting on the commencement day and ending on
20 30 June 2011.

21 (2) The following Parts of this Law do not apply with respect to a
22 relevant health profession during the period starting on 1 July 2011
23 and ending on 30 June 2012 —

24 (a) Part 7, other than Division 10;

25 (b) Parts 8 to 11.

26 (3) Despite subsection (2)(a), a person does not commit an offence
27 against a provision of Part 7 Division 10 merely because, before
28 1 July 2012, the person —

29 (a) takes or uses a title, name, initial, symbol, word or
30 description that, having regard to the circumstances in which
31 it is taken or used, indicates or could be reasonably
32 understood to indicate that the person is authorised or
33 qualified to practise in a relevant health profession; or

- 1 (b) uses a title that is listed in the Table to section 113 opposite a
2 relevant health profession.

3 **301. Ministerial Council may appoint external accreditation entity**

- 4 (1) The Ministerial Council may appoint an entity, other than a
5 committee established by a National Board, to exercise an
6 accreditation function for a relevant health profession.
- 7 (2) Without limiting subsection (1), an entity that accredited courses for
8 the purposes of registration in a relevant health profession under a
9 corresponding prior Act may be appointed to exercise an accreditation
10 function for the profession under this Law.
- 11 (3) The National Board established for the health profession must, not
12 later than 1 July 2015, review the arrangements for the exercise of the
13 accreditation functions for the health profession.
- 14 (4) The National Board must ensure the process for the review includes
15 wide-ranging consultation about the arrangements for the exercise of
16 the accreditation functions.
- 17 (5) If an entity is appointed under subsection (1) to exercise an
18 accreditation function for a health profession, the National Board
19 established for the profession must not, before 1 July 2015, end that
20 entity's appointment.

21 **302. Application of Law to appointment of first National Board for**
22 **relevant professions**

23 Despite section 34(2), a person is eligible for appointment as a
24 practitioner member of the first National Board for a relevant health
25 profession if the person —

- 26 (a) is registered in the profession under a law of a participating
27 jurisdiction; or
- 28 (b) holds a qualification that entitles the person to registration in
29 the profession under a law of a participating jurisdiction; or
- 30 (c) is otherwise eligible to apply for or hold registration in the
31 profession under the law of a participating jurisdiction.

1 **303. Qualifications for general registration in relevant profession**

2 (1) For the purposes of section 52(1)(a), an individual who applies for
3 registration in a relevant health profession before 1 July 2015 is
4 qualified for general registration in the profession if the individual —

5 (a) holds a qualification or has completed training in the
6 profession, whether in a participating jurisdiction or
7 elsewhere, that the National Board established for the
8 profession considers is adequate for the purposes of
9 practicing the profession; or

10 (b) holds a qualification or has completed training in the
11 profession, whether in a participating jurisdiction or
12 elsewhere, and has completed any further study, training or
13 supervised practice in the profession required by the Board
14 for the purposes of this section; or

15 (c) has practised the profession at any time between 1 July 2002
16 and 30 June 2012 for a consecutive period of 5 years or for
17 any periods which together amount to 5 years.

18 (2) This section applies despite section 53.

19 **304. Relationship with other provisions of Law**

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

22 **Division 16 — Savings and transitional regulations**

23 **305. Savings and transitional regulations**

24 (1) The regulations may contain provisions (*savings and transitional*
25 *provisions*) of a savings or transitional nature —

26 (a) consequent on the enactment of this Law in a participating
27 jurisdiction; or

28 (b) to otherwise allow or facilitate the change from the operation
29 of a law of the participating jurisdiction relating to health
30 practitioners to the operation of this Law.

31 (2) Savings and transitional provisions may have retrospective operation
32 to a day not earlier than the participation day for that participating
33 jurisdiction.

- 1 (3) This section and any savings and transitional provisions expire on
2 30 June 2015.

Schedule 1 — Constitution and procedure of Advisory Council

[s. 22]

Part 1 — General

1. Terms used

In this Schedule —

Chairperson means the Chairperson of the Advisory Council;

member means a member of the Advisory Council.

Part 2 — Constitution

2. Terms of office of members

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.

3. Remuneration

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.

4. Vacancy in office of member

(1) The office of a member becomes vacant if the member —

- (a) completes the member's term of office; or
- (b) resigns the office by instrument in writing addressed to the Chairperson of the Ministerial Council; or
- (c) is removed from office by the Chairperson of the Ministerial Council under this clause; or
- (d) dies.

(2) The Chairperson of the Ministerial Council may remove a member from office if —

- (a) the member has been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of

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

26 **Part 3 — Procedure**

27 **7. General procedure**

28 The procedure for the calling of meetings of the Advisory Council
29 and for the conduct of business at those meetings is, subject to this
30 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.

- 1 (2) The Chairperson of the Ministerial Council may remove a member
2 from office if —
- 3 (a) the member has been found guilty of an offence (whether in a
4 participating jurisdiction or elsewhere) that, in the opinion of
5 the Chairperson of the Ministerial Council, renders the
6 member unfit to continue to hold the office of member; or
- 7 (b) the member ceases to be a registered health practitioner as a
8 result of the member's misconduct, impairment or
9 incompetence; or
- 10 (c) the member becomes bankrupt, applies to take the benefit of
11 any law for the relief of bankrupt or insolvent debtors,
12 compounds with the member's creditors or makes an
13 assignment of the member's remuneration for their benefit; or
- 14 (d) the Committee recommends the removal of the member, on
15 the basis that the member has engaged in misconduct or has
16 failed or is unable to properly exercise the member's
17 functions as a member.
- 18 (3) In addition, the Chairperson of the Ministerial Council may remove
19 the Chairperson of the Committee from office as a member if the
20 Chairperson of the Committee becomes a registered health
21 practitioner.

22 **5. Vacancies to be advertised**

- 23 (1) Before the Ministerial Council appoints a member of the Committee,
24 the vacancy to be filled is to be publicly advertised.
- 25 (2) It is not necessary to advertise a vacancy in the membership of the
26 Committee before appointing a person to act in the office of a
27 member.

28 Note: The general interpretation provisions applicable to this Law under
29 section 6 confer power to appoint acting members of the Agency
30 Management Committee.

31 **6. Extension of term of office during vacancy in membership**

- 32 (1) If the office of a member becomes vacant because the member has
33 completed the member's term of office, the member is taken to
34 continue to be a member during that vacancy until the date on which

1 the vacancy is filled (whether by reappointment of the member or
2 appointment of a successor to the member).

3 (2) However, this clause ceases to apply to the member if —

4 (a) the member resigns the member's office by instrument in
5 writing addressed to the Chairperson of the Ministerial
6 Council; or

7 (b) the Chairperson of the Ministerial Council determines that the
8 services of the member are no longer required.

9 (3) The maximum period for which a member is taken to continue to be a
10 member under this clause after completion of the member's term of
11 office is 6 months.

12 **7. Members to act in public interest**

13 (1) A member of the Committee is to act impartially and in the public
14 interest in the exercise of the member's functions as a member.

15 (2) Accordingly, a member of the Committee is to put the public interest
16 before the interests of particular health practitioners or any body or
17 organisation that represents health practitioners.

18 **8. Disclosure of conflict of interest**

19 (1) If —

20 (a) a member has a direct or indirect pecuniary or other interest
21 in a matter being considered or about to be considered at a
22 meeting of the Committee; and

23 (b) the interest appears to raise a conflict with the proper
24 performance of the member's duties in relation to the
25 consideration of the matter,

26 the member must, as soon as possible after the relevant facts have
27 come to the member's knowledge, disclose the nature of the interest at
28 a meeting of the Committee.

29 (2) Particulars of any disclosure made under this clause must be recorded
30 by the Committee in a book kept for the purpose.

1 meeting of the Committee) is to preside at a meeting of the
2 Committee.

3 (2) The presiding member has a deliberative vote and, in the event of an
4 equality of votes, has a second or casting vote.

5 **13. Voting**

6 A decision supported by a majority of the votes cast at a meeting of
7 the Committee at which a quorum is present is the decision of the
8 Committee.

9 **14. Transaction of business outside meetings or by**
10 **telecommunication**

11 (1) The Committee may, if it thinks fit, transact any of its business by the
12 circulation of papers among all the members of the Committee for the
13 time being, and a resolution in writing approved in writing by a
14 majority of those members is taken to be a decision of the Committee.

15 (2) The Committee may, if it thinks fit, transact any of its business at a
16 meeting at which members (or some members) participate by
17 telephone, closed-circuit television or other means, but only if any
18 member who speaks on a matter before the meeting can be heard by
19 the other members.

20 (3) For the purposes of —

21 (a) the approval of a resolution under subclause (1); or

22 (b) a meeting held in accordance with subclause (2),

23 the Chairperson and each member have the same voting rights as they
24 have at an ordinary meeting of the Committee.

25 (4) Papers may be circulated among the members for the purposes of
26 subclause (1) by facsimile, email or other transmission of the
27 information in the papers concerned.

28 **15. First meeting**

29 The Chairperson may call the first meeting of the Committee in any
30 manner the Chairperson thinks fit.

1 **16. Defects in appointment of members**

2 A decision of the Committee is not invalidated by any defect or
3 irregularity in the appointment of any member (or acting member) of
4 the Committee.

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Schedule 3 — National Agency

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[s. 23]

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Part 1 — Chief executive officer

4

1. Chief executive officer

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- (1) The Agency Management Committee is to appoint a person as chief executive officer of the National Agency.

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- (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.

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- (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.

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2. Functions of chief executive officer

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- (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.

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- (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.

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3. Delegation and subdelegation by chief executive officer

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- (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.

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- (2) The chief executive officer of the National Agency may subdelegate any function delegated to the officer under clause 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.

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4. Vacancy in office

- (1) The office of the chief executive officer of the National Agency becomes vacant if —
- (a) the chief executive officer resigns the officer's office by written instrument addressed to the Chairperson of the Agency Management Committee; or
 - (b) the appointment of the chief executive officer is terminated by the Agency Management Committee under this clause.
- (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.

Part 2 — Staff, consultants and contractors

5. Staff of National Agency

- (1) The National Agency may, for the purpose of performing its functions, employ staff.
- (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.
- (3) Subclause (2) is subject to any relevant industrial award or agreement that applies to the staff.

6. Staff seconded to National Agency

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 —

- (a) a person who is a member of the staff of a government agency of a participating jurisdiction or the Commonwealth;
- (b) a person who is a member of the staff of a local registration authority.

7. Consultants and contractors

- (1) The National Agency may engage persons with suitable qualifications and experience as consultants or contractors.

- 1 (2) The terms and conditions of engagement of consultants or contractors
2 are as decided by the National Agency from time to time.

3 **Part 3 — Reporting obligations**

4 **8. Annual report**

- 5 (1) The National Agency must, within 3 months after the end of each
6 financial year, submit an annual report for the financial year to the
7 Ministerial Council.
- 8 (2) The annual report must include —
9 (a) a financial statement for the National Agency, and each
10 National Board, for the period to which the report relates; and
11 (b) a report about the Agency's performance of its functions
12 under this Law during the period to which the annual report
13 relates.
- 14 (3) The financial statement is to be prepared in accordance with
15 Australian Accounting Standards.
- 16 (4) The financial statement is to be audited by a public sector auditor and
17 a report is to be provided by the auditor.
- 18 (5) The Ministerial Council is to make arrangements for the tabling of the
19 annual report of the National Agency, and the report of the public
20 sector auditor with respect to the financial statement in the report, in
21 the Parliament of each participating jurisdiction and the
22 Commonwealth.
- 23 (6) The Ministerial Council may extend, or further extend, the period for
24 submission of an annual report to the Council by a total period of up
25 to 3 months.
- 26 (7) In this clause —
27 *public sector auditor* means —
28 (a) the Auditor-General (however described) of a participating
29 jurisdiction; or
30 (b) an auditor employed, appointed or otherwise engaged by an
31 Auditor-General of a participating jurisdiction.

1 **9. Reporting by National Boards**

2 (1) A National Board must, if asked by the National Agency, give the
3 National Agency the information the National Agency requires to
4 compile its annual report, including —

5 (a) a report about the National Board's performance of its
6 functions under this Law during the period to which the
7 annual report relates; and

8 (b) a statement of the income and expenditure of the National
9 Board for the period to which the annual report relates,
10 presented by reference to the budget of the National Board
11 for that period.

12 (2) The information provided by the National Board is to be incorporated
13 in the relevant annual report for the National Agency.

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Schedule 4 — National Boards

[s. 33]

Part 1 — General

1. Terms used

In this Schedule —

Chairperson means the Chairperson of a National Board;

community member means a member of a National Board appointed as a community member;

member means a member of a National Board.

Part 2 — Constitution

2. Terms of office of members

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.

3. Remuneration

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.

4. Vacancy in office of member

(1) The office of a member becomes vacant if the member —

- (a) completes a term of office; or
- (b) resigns the office by instrument in writing addressed to the Chairperson of the Ministerial Council; or
- (c) is removed from office by the Chairperson of the Ministerial Council under this clause; or
- (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

1 (e) dies.

2 (2) The Chairperson of the Ministerial Council may remove a member
3 from office if —

4 (a) the member has been found guilty of an offence (whether in a
5 participating jurisdiction or elsewhere) that, in the opinion of
6 the Chairperson of the Ministerial Council, renders the
7 member unfit to continue to hold the office of member; or

8 (b) the member ceases to be a registered health practitioner as a
9 result of the member's misconduct, impairment or
10 incompetence; or

11 (c) the member ceases to be eligible for appointment to the office
12 that the member holds on the National Board; or

13 (d) the member becomes bankrupt, applies to take the benefit of
14 any law for the relief of bankrupt or insolvent debtors,
15 compounds with member's creditors or makes an assignment
16 of the member's remuneration for their benefit; or

17 (e) the National Board recommends the removal of the member,
18 on the basis that the member has engaged in misconduct or
19 has failed or is unable to properly exercise the member's
20 functions as a member.

21 **5. Vacancies to be advertised**

22 (1) Before the Ministerial Council appoints a member of a National
23 Board, the vacancy to be filled is to be publicly advertised.

24 (2) The National Agency may assist the Ministerial Council in the
25 process of appointing members of a National Board, including in the
26 advertising of vacancies.

27 (3) It is not necessary to advertise a vacancy in the membership of a
28 National Board before appointing a person to act in the office of a
29 member.

30 Note: The general interpretation provisions applicable to this Law under
31 section 6 confer power to appoint acting members of a National Board.

32 **6. Extension of term of office during vacancy in membership**

33 (1) If the office of a member becomes vacant because the member has
34 completed the member's term of office, the member is taken to

1 continue to be a member during that vacancy until the date on which
2 the vacancy is filled (whether by reappointment of the member or
3 appointment of a successor to the member).

4 (2) However, this clause ceases to apply to the member if —

5 (a) the member resigns the member's office by instrument in
6 writing addressed to the Chairperson of the Ministerial
7 Council; or

8 (b) the Chairperson of the Ministerial Council determines that the
9 services of the member are no longer required.

10 (3) The maximum period for which a member is taken to continue to be a
11 member under this clause after completion of the member's term of
12 office is 6 months.

13 **7. Members to act in public interest**

14 (1) A member of a National Board is to act impartially and in the public
15 interest in the exercise of the member's functions as a member.

16 (2) Accordingly, a member of a National Board is to put the public
17 interest before the interests of particular health practitioners or any
18 entity that represents health practitioners.

19 **8. Disclosure of conflict of interest**

20 (1) If —

21 (a) a member has a direct or indirect pecuniary or other interest
22 in a matter being considered or about to be considered at a
23 meeting of the National Board; and

24 (b) the interest appears to raise a conflict with the proper
25 performance of the member's duties in relation to the
26 consideration of the matter,

27 the member must, as soon as possible after the relevant facts have
28 come to the member's knowledge, disclose the nature of the interest at
29 a meeting of the National Board.

30 (2) Particulars of any disclosure made under this clause must be recorded
31 by the National Board in a book kept for the purpose.

- 1 (3) After a member has disclosed the nature of an interest in any matter,
2 the member must not, unless the Ministerial Council or the National
3 Board otherwise determines —
- 4 (a) be present during any deliberation of the National Board with
5 respect to the matter; or
- 6 (b) take part in any decision of the National Board with respect to
7 the matter.
- 8 (4) For the purposes of the making of a determination by the National
9 Board under subclause (3), a member who has a direct or indirect
10 pecuniary or other interest in a matter to which the disclosure relates
11 must not —
- 12 (a) be present during any deliberation of the National Board for
13 the purpose of making the determination; or
- 14 (b) take part in the making of the determination by the National
15 Board.
- 16 (5) A contravention of this clause does not invalidate any decision of the
17 National Board.
- 18 (6) This clause applies to a member of a committee of a National Board
19 and the committee in the same way as it applies to a member of the
20 National Board and the National Board.

21 **Part 3 — Functions and powers**

22 **9. Requirement to consult other National Boards**

- 23 If a National Board (the **first Board**) proposes to make a
24 recommendation to the Ministerial Council about a matter that may
25 reasonably be expected to be of interest to another National Board
26 (the **other Board**), the first Board must —
- 27 (a) consult with the other Board about the proposed
28 recommendation; and
- 29 (b) if the first Board makes the recommendation to the
30 Ministerial Council, advise the Council about any contrary
31 views expressed by the other Board about the
32 recommendation.

1 **15. Voting**

2 A decision supported by a majority of the votes cast at a meeting of
3 the National Board at which a quorum is present is the decision of the
4 National Board.

5 **16. Transaction of business outside meetings or by**
6 **telecommunication**

7 (1) The National Board may, if it thinks fit, transact any of its business by
8 the circulation of papers among all the members of the National
9 Board for the time being, and a resolution in writing approved in
10 writing by a majority of those members is taken to be a decision of the
11 National Board.

12 (2) The National Board may, if it thinks fit, transact any of its business at
13 a meeting at which members (or some members) participate by
14 telephone, closed-circuit television or other means, but only if any
15 member who speaks on a matter before the meeting can be heard by
16 the other members.

17 (3) For the purposes of —

18 (a) the approval of a resolution under subclause (1); or

19 (b) a meeting held in accordance with subclause (2),

20 the Chairperson and each member have the same voting rights as they
21 have at an ordinary meeting of the National Board.

22 (4) Papers may be circulated among the members for the purposes of
23 subclause (1) by facsimile, email or other transmission of the
24 information in the papers concerned.

25 **17. First meeting**

26 The Chairperson may call the first meeting of the National Board in
27 any manner the Chairperson thinks fit.

28 **18. Defects in appointment of members**

29 A decision of the National Board or of a committee of the National
30 Board is not invalidated by any defect or irregularity in the
31 appointment of any member (or acting member) of the National Board
32 or of a committee of the National Board.

Schedule 5 — Investigators

[s. 163]

Part 1 — Power to obtain information

1. Powers of investigators

For the purposes of conducting an investigation, an investigator may, by written notice given to a person, require the person to —

- (a) give stated information to the investigator within a stated reasonable time and in a stated reasonable way; or
- (b) attend before the investigator at a stated time and a stated place to answer questions or produce documents.

2. Offence for failing to produce information or attend before investigator

- (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.

Penalty:

- (a) in the case of an individual — a fine of \$5 000;
- (b) in the case of a body corporate — a fine of \$10 000.

- (2) A person given a notice to attend before an investigator must not fail, without reasonable excuse, to —

- (a) attend as required by the notice; and
- (b) continue to attend as required by the investigator until excused from further attendance; and
- (c) answer a question the person is required to answer by the investigator; and
- (d) produce a document the person is required to produce by the notice.

Penalty:

- (a) in the case of an individual — a fine of \$5 000;
- (b) in the case of a body corporate — a fine of \$10 000.

- 1 (3) For the purposes of subclauses (1) and (2), it is a reasonable excuse
2 for an individual to fail to give stated information, answer a question
3 or to produce a document, if giving the information, answering the
4 question or producing the document might tend to incriminate the
5 individual.

6 **3. Inspection of documents**

- 7 (1) If a document is produced to an investigator, the investigator may —
8 (a) inspect the document; and
9 (b) make a copy of, or take an extract from, the document; and
10 (c) keep the document while it is necessary for the investigation.
11 (2) If the investigator keeps the document, the investigator must permit a
12 person otherwise entitled to possession of the document to inspect,
13 make a copy of, or take an extract from, the document at the
14 reasonable time and place decided by the investigator.

15 **Part 2 — Power to enter places**

16 **4. Entering places**

- 17 For the purposes of conducting an investigation, an investigator may
18 enter a place if —
19 (a) its occupier consents to the entry of the place; or
20 (b) it is a public place and the entry is made when it is open to
21 the public; or
22 (c) the entry is authorised by a warrant.

23 **5. Application for warrant**

- 24 (1) An investigator may apply to a magistrate of a participating
25 jurisdiction for a warrant for a place.
26 (2) The investigator must prepare a written application that states the
27 grounds on which the warrant is sought.
28 (3) The written application must be sworn.
29 (4) The magistrate may refuse to consider the application until the
30 investigator gives the magistrate all the information the magistrate
31 requires about the application in the way the magistrate requires.

1 **6. Issue of warrant**

2 (1) The magistrate may issue the warrant only if the magistrate is
3 satisfied there are reasonable grounds for suspecting there is evidence
4 about a matter being investigated by the investigator at the place.

5 (2) The warrant must state —

6 (a) that a stated investigator may, with necessary and reasonable
7 help and force —

8 (i) enter the place and any other place necessary for
9 entry; and

10 (ii) exercise the investigator's powers under this Part;
11 and

12 (b) the matter for which the warrant is sought; and

13 (c) the evidence that may be seized under the warrant; and

14 (d) the hours of the day or night when the place may be entered;
15 and

16 (e) the date, within 14 days after the warrant's issue, the warrant
17 ends.

18 **7. Application by electronic communication**

19 (1) An investigator may apply for a warrant by phone, facsimile, email,
20 radio, video conferencing or another form of communication if the
21 investigator considers it necessary because of —

22 (a) urgent circumstances; or

23 (b) other special circumstances, including the investigator's
24 remote location.

25 (2) The application —

26 (a) may not be made before the investigator prepares the written
27 application under clause 5(2); but

28 (b) may be made before the written application is sworn.

29 (3) The magistrate may issue the warrant (the *original warrant*) only if
30 the magistrate is satisfied —

31 (a) it was necessary to make the application under subclause (1);
32 and

- 1 (b) the way the application was made under subclause (1) was
2 appropriate.
- 3 (4) After the magistrate issues the original warrant —
- 4 (a) if there is a reasonably practicable way of immediately giving
5 a copy of the warrant to the investigator, for example, by
6 sending a copy by fax or email, the magistrate must
7 immediately give a copy of the warrant to the investigator; or
- 8 (b) otherwise —
- 9 (i) the magistrate must tell the investigator the date and
10 time the warrant is issued and the other terms of the
11 warrant; and
- 12 (ii) the investigator must complete a form of warrant
13 including by writing on it —
- 14 (I) the magistrate's name; and
- 15 (II) the date and time the magistrate issued the
16 warrant; and
- 17 (III) the other terms of the warrant.
- 18 (5) The copy of the warrant referred to in subclause (4)(a), or the form of
19 warrant completed under subclause (4)(b) (in either case the ***duplicate***
20 ***warrant***), is a duplicate of, and as effectual as, the original warrant.
- 21 (6) The investigator must, at the first reasonable opportunity, send to the
22 magistrate —
- 23 (a) the written application complying with clause 5(2) and (3);
24 and
- 25 (b) if the investigator completed a form of warrant under
26 subclause (4)(b), the completed form of warrant.
- 27 (7) The magistrate must keep the original warrant and, on receiving the
28 documents under subclause (6), file the original warrant and
29 documents in the court.
- 30 (8) Despite subclause (5), if —
- 31 (a) an issue arises in a proceeding about whether an exercise of a
32 power was authorised by a warrant issued under this clause;
33 and

1 (b) the original warrant is not produced in evidence,
2 the onus of proof is on the person relying on the lawfulness of the
3 exercise of the power to prove a warrant authorised the exercise of the
4 power.

5 (9) This clause does not limit clause 5.

6 **8. Procedure before entry under warrant**

7 (1) Before entering a place under a warrant, an investigator must do or
8 make a reasonable attempt to do the following —

- 9 (a) identify himself or herself to a person present at the place
10 who is an occupier of the place by producing the
11 investigator's identity card or another document evidencing
12 the investigator's appointment;
13 (b) give the person a copy of the warrant;
14 (c) tell the person the investigator is permitted by the warrant to
15 enter the place;
16 (d) give the person an opportunity to allow the investigator
17 immediate entry to the place without using force.

18 (2) However, the investigator need not comply with subclause (1) if the
19 investigator reasonably believes that immediate entry to the place is
20 required to ensure the effective execution of the warrant is not
21 frustrated.

22 **9. Powers after entering places**

23 (1) This clause applies if an investigator enters a place under clause 4.

24 (2) The investigator may for the purposes of the investigation do the
25 following —

- 26 (a) search any part of the place;
27 (b) inspect, measure, test, photograph or film any part of the
28 place or anything at the place;
29 (c) take a thing, or a sample of or from a thing, at the place for
30 analysis, measurement or testing;
31 (d) copy, or take an extract from, a document, at the place;

- 1 (e) take into or onto the place any person, equipment and
2 materials the investigator reasonably requires for exercising a
3 power under this Part;
- 4 (f) require the occupier of the place, or a person at the place, to
5 give the investigator reasonable help to exercise the
6 investigator's powers under paragraphs (a) to (e);
- 7 (g) require the occupier of the place, or a person at the place, to
8 give the investigator information to help the investigator in
9 conducting the investigation.

- 10 (3) When making a requirement referred to in subclause (2)(f) or (g), the
11 investigator must warn the person it is an offence to fail to comply
12 with the requirement unless the person has a reasonable excuse.

13 **10. Offences for failing to comply with requirement under clause 9**

- 14 (1) A person required to give reasonable help under clause 9(2)(f) must
15 comply with the requirement, unless the person has a reasonable
16 excuse.

17 Penalty:

- 18 (a) in the case of an individual — a fine of \$5 000;
19 (b) in the case of a body corporate — a fine of \$10 000.

- 20 (2) A person of whom a requirement is made under clause 9(2)(g) must
21 comply with the requirement, unless the person has a reasonable
22 excuse.

23 Penalty:

- 24 (a) in the case of an individual — a fine of \$5 000;
25 (b) in the case of a body corporate — a fine of \$10 000.

- 26 (3) It is a reasonable excuse for an individual not to comply with a
27 requirement under clause 9(2)(f) or (g) that complying with the
28 requirement might tend to incriminate the individual.

29 **11. Seizure of evidence**

- 30 (1) An investigator who enters a public place when the place is open to
31 the public may seize a thing at the place if the investigator reasonably
32 believes the thing is evidence that is relevant to the investigation
33 being conducted by the investigator.

- 1 (2) If an investigator enters a place with the occupier's consent, the
2 investigator may seize a thing at the place if —
- 3 (a) the investigator reasonably believes the thing is evidence that
4 is relevant to the investigation being conducted by the
5 investigator; and
- 6 (b) seizure of the thing is consistent with the purpose of the entry
7 as told to the occupier when asking for the occupier's
8 consent.
- 9 (3) If an investigator enters a place with a warrant, the investigator may
10 seize the evidence for which the warrant was issued.
- 11 (4) For the purposes of subclauses (2) and (3), the investigator may also
12 seize anything else at the place if the investigator reasonably
13 believes —
- 14 (a) the thing is evidence that is relevant to the investigation; and
15 (b) the seizure is necessary to prevent the thing being hidden, lost
16 or destroyed.
- 17 **12. Securing seized things**
- 18 Having seized a thing, an investigator may —
- 19 (a) move the thing from the place where it was seized; or
20 (b) leave the thing at the place where it was seized but take
21 reasonable action to restrict access to it.
- 22 **13. Receipt for seized things**
- 23 (1) As soon as practicable after an investigator seizes a thing, the
24 investigator must give a receipt for it to the person from whom it was
25 seized.
- 26 (2) However, if for any reason it is not practicable to comply with
27 subclause (1), the investigator must leave the receipt at the place of
28 seizure in a conspicuous position and in a reasonably secure way.
- 29 (3) The receipt must describe generally the seized thing and its condition.
- 30 (4) This clause does not apply to a thing if it is impracticable or would be
31 unreasonable to give the receipt given the thing's nature, condition
32 and value.

1 **14. Forfeiture of seized thing**

2 (1) A seized thing is forfeited to the National Agency if the investigator
3 who seized the thing —

- 4 (a) cannot find its owner, after making reasonable inquiries; or
5 (b) cannot return it to its owner, after making reasonable efforts.

6 (2) In applying subclause (1) —

- 7 (a) subclause (1)(a) does not require the investigator to make
8 inquiries if it would be unreasonable to make inquiries to find
9 the owner; and
10 (b) subclause (1)(b) does not require the investigator to make
11 efforts if it would be unreasonable to make efforts to return
12 the thing to its owner.

13 (3) Regard must be had to a thing's nature, condition and value in
14 deciding —

- 15 (a) whether it is reasonable to make inquiries or efforts; and
16 (b) if making inquiries or efforts, what inquiries or efforts,
17 including the period over which they are made, are
18 reasonable.

19 **15. Dealing with forfeited things**

20 (1) On the forfeiture of a thing to the National Agency, the thing becomes
21 the Agency's property and may be dealt with by the Agency as the
22 Agency considers appropriate.

23 (2) Without limiting subclause (1), the National Agency may destroy or
24 dispose of the thing.

25 **16. Return of seized things**

26 (1) If a seized thing has not been forfeited, the investigator must return it
27 to its owner —

- 28 (a) at the end of 6 months; or
29 (b) if proceedings involving the thing are started within
30 6 months, at the end of the proceedings and any appeal from
31 the proceedings.

- 1 (2) Despite subclause (1), unless the thing has been forfeited, the
2 investigator must immediately return a thing seized as evidence to its
3 owner if the investigator is no longer satisfied its continued retention
4 as evidence is necessary.

5 **17. Access to seized things**

- 6 (1) Until a seized thing is forfeited or returned, an investigator must allow
7 its owner to inspect it and, if it is a document, to copy it.
- 8 (2) Subclause (1) does not apply if it is impracticable or would be
9 unreasonable to allow the inspection or copying.

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

1 **19. Compensation**

- 2 (1) A person may claim compensation from the National Agency if the
3 person incurs loss or expense because of the exercise or purported
4 exercise of a power under this Schedule by the investigator.
- 5 (2) Without limiting subclause (1), compensation may be claimed for loss
6 or expense incurred in complying with a requirement made of the
7 person under this Schedule.
- 8 (3) Compensation may be claimed and ordered to be paid in a proceeding
9 brought in a court with jurisdiction for the recovery of the amount of
10 compensation claimed.
- 11 (4) A court may order compensation to be paid only if it is satisfied it is
12 fair to make the order in the circumstances of the particular case.

13 **20. False or misleading information**

14 A person must not state anything to an investigator that the person
15 knows is false or misleading in a material particular.

16 Penalty:

- 17 (a) in the case of an individual — a fine of \$5 000;
18 (b) in the case of a body corporate — a fine of \$10 000.

19 **21. False or misleading documents**

20 (1) A person must not give an investigator a document containing
21 information the person knows is false or misleading in a material
22 particular.

23 Penalty:

- 24 (a) in the case of an individual — a fine of \$5 000;
25 (b) in the case of a body corporate — a fine of \$10 000.

26 (2) Subclause (1) does not apply to a person who, when giving the
27 document —

- 28 (a) informs the investigator, to the best of the person's ability,
29 how it is false or misleading; and
30 (b) gives the correct information to the investigator if the person
31 has, or can reasonably obtain, the correct information.

1 **22. Obstructing investigators**

2 (1) A person must not obstruct an investigator in the exercise of a power,
3 unless the person has a reasonable excuse.

4 Penalty:

5 (a) in the case of an individual — a fine of \$5 000;

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

7 (2) If a person has obstructed an investigator and the investigator decides
8 to proceed with the exercise of the power, the investigator must warn
9 the person that —

10 (a) it is an offence to obstruct the investigator, unless the person
11 has a reasonable excuse; and

12 (b) the investigator considers the person's conduct is an
13 obstruction.

14 (3) In this clause —

15 ***obstruct*** includes hinder and attempt to obstruct or hinder.

16 **23. Impersonation of investigators**

17 A person must not pretend to be an investigator.

18 Penalty: a fine of \$5 000.

Schedule 6 — Inspectors

[s. 238]

Part 1 — Power to obtain information

1. Powers of inspectors

- (1) This clause applies if an inspector reasonably believes —
- (a) an offence against this Law has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The inspector may, by written notice given to a person, require the person to —
- (a) give stated information to the inspector within a stated reasonable time and in a stated reasonable way; or
 - (b) attend before the inspector at a stated time and a stated place to answer questions or produce documents.

2. Offence for failing to produce information or attend before inspector

- (1) A person required to give stated information to an inspector under clause 1(2)(a) must not fail, without reasonable excuse, to give the information as required by the notice.

Penalty:

- (a) in the case of an individual — a fine of \$5 000;
 - (b) in the case of a body corporate — a fine of \$10 000.
- (2) A person given a notice to attend before an inspector must not fail, without reasonable excuse, to —
- (a) attend as required by the notice; and
 - (b) continue to attend as required by the inspector until excused from further attendance; and
 - (c) answer a question the person is required to answer by the inspector; and

- 1 (d) produce a document the person is required to produce by the
2 notice.

3 Penalty:

- 4 (a) in the case of an individual — a fine of \$5 000;

- 5 (b) in the case of a body corporate — a fine of \$10 000.

- 6 (3) For the purposes of subclauses (1) and (2), it is a reasonable excuse
7 for an individual to fail to give stated information, answer a question
8 or to produce a document, if giving the information, answering the
9 question or producing the document might tend to incriminate the
10 individual.

11 **3. Inspection of documents**

- 12 (1) If a document is produced to an inspector, the inspector may —

- 13 (a) inspect the document; and

- 14 (b) make a copy of, or take an extract from, the document; and

- 15 (c) keep the document while it is necessary for the investigation.

- 16 (2) If the inspector keeps the document, the inspector must permit a
17 person otherwise entitled to possession of the document to inspect,
18 make a copy of, or take an extract from, the document at the
19 reasonable time and place decided by the inspector.

20 **Part 2 — Power to enter places**

21 **4. Entering places**

22 An inspector may enter a place if —

- 23 (a) its occupier consents to the entry of the place; or

- 24 (b) it is a public place and the entry is made when it is open to
25 the public; or

- 26 (c) the entry is authorised by a warrant.

27 **5. Application for warrant**

- 28 (1) An inspector may apply to a magistrate of a participating jurisdiction
29 for a warrant for a place.

- 1 (2) The inspector must prepare a written application that states the
2 grounds on which the warrant is sought.
- 3 (3) The written application must be sworn.
- 4 (4) The magistrate may refuse to consider the application until the
5 inspector gives the magistrate all the information the magistrate
6 requires about the application in the way the magistrate requires.

7 **6. Issue of warrant**

- 8 (1) The magistrate may issue the warrant only if the magistrate is
9 satisfied there are reasonable grounds for suspecting there is a
10 particular thing or activity that may provide evidence of an offence
11 against this Law at the place.
- 12 (2) The warrant must state —
- 13 (a) that a stated inspector may, with necessary and reasonable
14 help and force —
- 15 (i) enter the place and any other place necessary for
16 entry; and
- 17 (ii) exercise the inspector's powers under this Part;
18 and
- 19 (b) the matter for which the warrant is sought; and
- 20 (c) the evidence that may be seized under the warrant; and
- 21 (d) the hours of the day or night when the place may be entered;
22 and
- 23 (e) the date, within 14 days after the warrant's issue, the warrant
24 ends.

25 **7. Application by electronic communication**

- 26 (1) An inspector may apply for a warrant by phone, facsimile, email,
27 radio, video conferencing or another form of communication if the
28 inspector considers it necessary because of —
- 29 (a) urgent circumstances; or
- 30 (b) other special circumstances, including the inspector's remote
31 location.

- 1 (2) The application —
- 2 (a) may not be made before the inspector prepares the written
- 3 application under clause 5(2); but
- 4 (b) may be made before the written application is sworn.
- 5 (3) The magistrate may issue the warrant (the **original warrant**) only if
- 6 the magistrate is satisfied —
- 7 (a) it was necessary to make the application under subclause (1);
- 8 and
- 9 (b) the way the application was made under subclause (1) was
- 10 appropriate.
- 11 (4) After the magistrate issues the original warrant —
- 12 (a) if there is a reasonably practicable way of immediately giving
- 13 a copy of the warrant to the inspector, for example, by
- 14 sending a copy by fax or email, the magistrate must
- 15 immediately give a copy of the warrant to the inspector; or
- 16 (b) otherwise —
- 17 (i) the magistrate must tell the inspector the date and
- 18 time the warrant is issued and the other terms of the
- 19 warrant; and
- 20 (ii) the inspector must complete a form of warrant
- 21 including by writing on it —
- 22 (I) the magistrate's name; and
- 23 (II) the date and time the magistrate issued the
- 24 warrant; and
- 25 (III) the other terms of the warrant.
- 26 (5) The copy of the warrant referred to in subclause (4)(a), or the form of
- 27 warrant completed under subclause (4)(b) (in either case the **duplicate**
- 28 **warrant**), is a duplicate of, and as effectual as, the original warrant.
- 29 (6) The inspector must, at the first reasonable opportunity, send to the
- 30 magistrate —
- 31 (a) the written application complying with clause 5(2) and (3);
- 32 and
- 33 (b) if the inspector completed a form of warrant under
- 34 subclause (4)(b), the completed form of warrant.

- 1 (7) The magistrate must keep the original warrant and, on receiving the
2 documents under subclause (6), file the original warrant and
3 documents in the court.
- 4 (8) Despite subclause (5), if —
- 5 (a) an issue arises in a proceeding about whether an exercise of a
6 power was authorised by a warrant issued under this clause;
7 and
- 8 (b) the original warrant is not produced in evidence,
9 the onus of proof is on the person relying on the lawfulness of the
10 exercise of the power to prove a warrant authorised the exercise of the
11 power.
- 12 (9) This clause does not limit clause 5.

13 **8. Procedure before entry under warrant**

- 14 (1) Before entering a place under a warrant, an inspector must do or make
15 a reasonable attempt to do the following —
- 16 (a) identify himself or herself to a person present at the place
17 who is an occupier of the place by producing the inspector's
18 identity card or another document evidencing the inspector's
19 appointment;
- 20 (b) give the person a copy of the warrant;
- 21 (c) tell the person the inspector is permitted by the warrant to
22 enter the place;
- 23 (d) give the person an opportunity to allow the inspector
24 immediate entry to the place without using force.
- 25 (2) However, the inspector need not comply with subclause (1) if the
26 inspector reasonably believes that immediate entry to the place is
27 required to ensure the effective execution of the warrant is not
28 frustrated.

29 **9. Powers after entering places**

- 30 (1) This clause applies if an inspector enters a place under clause 4.

- 1 (2) The inspector may for the purposes of the investigation do the
2 following —
- 3 (a) search any part of the place;
- 4 (b) inspect, measure, test, photograph or film any part of the
5 place or anything at the place;
- 6 (c) take a thing, or a sample of or from a thing, at the place for
7 analysis, measurement or testing;
- 8 (d) copy, or take an extract from, a document, at the place;
- 9 (e) take into or onto the place any person, equipment and
10 materials the inspector reasonably requires for exercising a
11 power under this Part;
- 12 (f) require the occupier of the place, or a person at the place, to
13 give the inspector reasonable help to exercise the inspector's
14 powers under paragraphs (a) to (e);
- 15 (g) require the occupier of the place, or a person at the place, to
16 give the inspector information to help the inspector ascertain
17 whether this Law is being complied with.
- 18 (3) When making a requirement referred to in subclause (2)(f) or (g), the
19 inspector must warn the person it is an offence to fail to comply with
20 the requirement unless the person has a reasonable excuse.

21 **10. Offences for failing to comply with requirement under clause 9**

- 22 (1) A person required to give reasonable help under clause 9(2)(f) must
23 comply with the requirement, unless the person has a reasonable
24 excuse.
- 25 Penalty:
- 26 (a) in the case of an individual — a fine of \$5 000;
- 27 (b) in the case of a body corporate — a fine of \$10 000.
- 28 (2) A person of whom a requirement is made under clause 9(2)(g) must
29 comply with the requirement, unless the person has a reasonable
30 excuse.
- 31 Penalty:
- 32 (a) in the case of an individual — a fine of \$5 000;
- 33 (b) in the case of a body corporate — a fine of \$10 000.

- 1 (3) It is a reasonable excuse for an individual not to comply with a
2 requirement under clause 9(2)(f) or (g) that complying with the
3 requirement might tend to incriminate the individual.

4 **11. Seizure of evidence**

- 5 (1) An inspector who enters a public place when the place is open to the
6 public may seize a thing at the place if the inspector reasonably
7 believes the thing is evidence that is relevant to the investigation
8 being conducted by the inspector.
- 9 (2) If an inspector enters a place with the occupier's consent, the
10 inspector may seize a thing at the place if —
- 11 (a) the inspector reasonably believes the thing is evidence that is
12 relevant to the investigation being conducted by the
13 inspector; and
- 14 (b) seizure of the thing is consistent with the purpose of the entry
15 as told to the occupier when asking for the occupier's
16 consent.
- 17 (3) If an inspector enters a place with a warrant, the inspector may seize
18 the evidence for which the warrant was issued.
- 19 (4) For the purposes of subclauses (2) and (3), the inspector may also
20 seize anything else at the place if the inspector reasonably believes —
- 21 (a) the thing is evidence that is relevant to the investigation; and
22 (b) the seizure is necessary to prevent the thing being hidden, lost
23 or destroyed.

24 **12. Securing seized things**

25 Having seized a thing, an inspector may —

- 26 (a) move the thing from the place where it was seized; or
27 (b) leave the thing at the place where it was seized but take
28 reasonable action to restrict access to it.

29 **13. Receipt for seized things**

- 30 (1) As soon as practicable after an inspector seizes a thing, the inspector
31 must give a receipt for it to the person from whom it was seized.

- 1 (2) However, if for any reason it is not practicable to comply with
2 subclause (1), the inspector must leave the receipt at the place of
3 seizure in a conspicuous position and in a reasonably secure way.
- 4 (3) The receipt must describe generally the seized thing and its condition.
- 5 (4) This clause does not apply to a thing if it is impracticable or would be
6 unreasonable to give the receipt given the thing's nature, condition
7 and value.

8 **14. Forfeiture of seized thing**

- 9 (1) A seized thing is forfeited to the National Agency if the inspector who
10 seized the thing —
- 11 (a) cannot find its owner, after making reasonable inquiries; or
12 (b) cannot return it to its owner, after making reasonable efforts.
- 13 (2) In applying subclause (1) —
- 14 (a) subclause (1)(a) does not require the inspector to make
15 inquiries if it would be unreasonable to make inquiries to find
16 the owner; and
- 17 (b) subclause (1)(b) does not require the inspector to make efforts
18 if it would be unreasonable to make efforts to return the thing
19 to its owner.
- 20 (3) Regard must be had to a thing's nature, condition and value in
21 deciding —
- 22 (a) whether it is reasonable to make inquiries or efforts; and
23 (b) if making inquiries or efforts, what inquiries or efforts,
24 including the period over which they are made, are
25 reasonable.

26 **15. Dealing with forfeited things**

- 27 (1) On the forfeiture of a thing to the National Agency, the thing becomes
28 the Agency's property and may be dealt with by the Agency as the
29 Agency considers appropriate.
- 30 (2) Without limiting subclause (1), the National Agency may destroy or
31 dispose of the thing.

16. Return of seized things

(1) If a seized thing has not been forfeited, the inspector must return it to its owner —

(a) at the end of 6 months; or

(b) if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.

(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.

17. Access to seized things

(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subclause (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Part 3 — General matters

18. Damage to property

(1) This clause applies if —

(a) an inspector damages property when exercising or purporting to exercise a power; or

(b) a person (the *other person*) acting under the direction of an inspector damages property.

(2) The inspector must promptly give written notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.

(3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector must state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subclause (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

1 (5) This clause does not apply to damage the inspector reasonably
2 believes is trivial.

3 (6) In this clause —
4 *owner*, of property, includes the person in possession or control of it.

5 **19. Compensation**

6 (1) A person may claim compensation from the National Agency if the
7 person incurs loss or expense because of the exercise or purported
8 exercise of a power under this Schedule by the inspector.

9 (2) Without limiting subclause (1), compensation may be claimed for loss
10 or expense incurred in complying with a requirement made of the
11 person under this Schedule.

12 (3) Compensation may be claimed and ordered to be paid in a proceeding
13 brought in a court with jurisdiction for the recovery of the amount of
14 compensation claimed.

15 (4) A court may order compensation to be paid only if it is satisfied it is
16 fair to make the order in the circumstances of the particular case.

17 **20. False or misleading information**

18 A person must not state anything to an inspector that the person
19 knows is false or misleading in a material particular.

20 Penalty:

21 (a) in the case of an individual — a fine of \$5 000;

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

23 **21. False or misleading documents**

24 (1) A person must not give an inspector a document containing
25 information the person knows is false or misleading in a material
26 particular.

27 Penalty:

28 (a) in the case of an individual — a fine of \$5 000;

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

- 1 (2) Subclause (1) does not apply to a person who, when giving the
2 document —
- 3 (a) informs the inspector, to the best of the person's ability, how
4 it is false or misleading; and
- 5 (b) gives the correct information to the inspector if the person
6 has, or can reasonably obtain, the correct information.

7 **22. Obstructing inspectors**

- 8 (1) A person must not obstruct an inspector in the exercise of a power,
9 unless the person has a reasonable excuse.

10 Penalty:

- 11 (a) in the case of an individual — a fine of \$5 000;
- 12 (b) in the case of a body corporate — a fine of \$10 000.

- 13 (2) If a person has obstructed an inspector and the inspector decides to
14 proceed with the exercise of the power, the inspector must warn the
15 person that —

- 16 (a) it is an offence to obstruct the inspector, unless the person has
17 a reasonable excuse; and
- 18 (b) the inspector considers the person's conduct is an obstruction.

- 19 (3) In this clause —

20 ***obstruct*** includes hinder and attempt to obstruct or hinder.

21 **23. Impersonation of inspectors**

22 A person must not pretend to be an inspector.

23 Penalty: a fine of \$5 000.

- 1 (3) Punctuation in this Law is part of this Law.
- 2 (4) A heading to a section or subsection of this Law does not form part of
3 this Law.
- 4 (5) Notes included in this Law (including footnotes and endnotes) do not
5 form part of this Law.

6 **5. References to particular Acts and to enactments**

7 In this Law —

- 8 (a) an Act of this jurisdiction may be cited —
9 (i) by its short title; or
10 (ii) by reference to the year in which it was passed and its
11 number;
12 and
13 (b) a Commonwealth Act may be cited —
14 (i) by its short title; or
15 (ii) in another way sufficient in a Commonwealth Act for
16 the citation of such an Act,
17 together with a reference to the Commonwealth; and
18 (c) an Act of another jurisdiction may be cited —
19 (i) by its short title; or
20 (ii) in another way sufficient in an Act of the jurisdiction
21 for the citation of such an Act,
22 together with a reference to the jurisdiction.

23 **6. References taken to be included in Act or Law citation etc.**

- 24 (1) A reference in this Law to an Act includes a reference to —
25 (a) the Act as originally enacted, and as amended from time to
26 time since its original enactment; and
27 (b) if the Act has been repealed and re-enacted (with or without
28 modification) since the enactment of the reference — the Act
29 as re-enacted, and as amended from time to time since its
30 re-enactment.

- 1 (2) A reference in this Law to a provision of this Law or of an Act
2 includes a reference to —
- 3 (a) the provision as originally enacted, and as amended from
4 time to time since its original enactment; and
- 5 (b) if the provision has been omitted and re-enacted (with or
6 without modification) since the enactment of the reference —
7 the provision as re-enacted, and as amended from time to
8 time since its re-enactment.
- 9 (3) Subclauses (1) and (2) apply to a reference in this Law to a law of the
10 Commonwealth or another jurisdiction as they apply to a reference in
11 this Law to an Act and to a provision of an Act.
- 12 **7. Interpretation best achieving Law's purpose**
- 13 (1) In the interpretation of a provision of this Law, the interpretation that
14 will best achieve the purpose or object of this Law is to be preferred
15 to any other interpretation.
- 16 (2) Subclause (1) applies whether or not the purpose is expressly stated in
17 this Law.
- 18 **8. Use of extrinsic material in interpretation**
- 19 (1) In this clause —
- 20 *extrinsic material* means relevant material not forming part of this
21 Law, including, for example —
- 22 (a) material that is set out in the document containing the text of
23 this Law as printed by the Government Printer; and
- 24 (b) a relevant report of a Royal Commission, Law Reform
25 Commission, commission or committee of inquiry, or a
26 similar body, that was laid before the Parliament of this
27 jurisdiction before the provision concerned was enacted; and
- 28 (c) a relevant report of a committee of the Parliament of this
29 jurisdiction that was made to the Parliament before the
30 provision was enacted; and
- 31 (d) a treaty or other international agreement that is mentioned in
32 this Law; and
- 33 (e) an explanatory note or memorandum relating to the Bill that
34 contained the provision, or any relevant document, that was

- 1 laid before, or given to the members of, the Parliament of this
2 jurisdiction by the member bringing in the Bill before the
3 provision was enacted; and
- 4 (f) the speech made to the Parliament of this jurisdiction by the
5 member in moving a motion that the Bill be read a second
6 time; and
- 7 (g) material in the Votes and Proceedings of the Parliament of
8 this jurisdiction or in any official record of debates in the
9 Parliament of this jurisdiction; and
- 10 (h) a document that is declared by this Law to be a relevant
11 document for the purposes of this clause;
- 12 **ordinary meaning** means the ordinary meaning conveyed by a
13 provision having regard to its context in this Law and to the purpose
14 of this Law.
- 15 (2) Subject to subclause (3), in the interpretation of a provision of this
16 Law, consideration may be given to extrinsic material capable of
17 assisting in the interpretation —
- 18 (a) if the provision is ambiguous or obscure — to provide an
19 interpretation of it; or
- 20 (b) if the ordinary meaning of the provision leads to a result that
21 is manifestly absurd or is unreasonable — to provide an
22 interpretation that avoids such a result; or
- 23 (c) in any other case — to confirm the interpretation conveyed
24 by the ordinary meaning of the provision.
- 25 (3) In determining whether consideration should be given to extrinsic
26 material, and in determining the weight to be given to extrinsic
27 material, regard is to be had to —
- 28 (a) the desirability of a provision being interpreted as having its
29 ordinary meaning; and
- 30 (b) the undesirability of prolonging proceedings without
31 compensating advantage; and
- 32 (c) other relevant matters.

9. Effect of change of drafting practice and use of examples

If —

- (a) a provision of this Law expresses an idea in particular words;
and
- (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 —
 - (i) the use of a clearer or simpler style; or
 - (ii) the use of gender-neutral language,the ideas must not be taken to be different merely because different words are used.

10. Use of examples

If this Law includes an example of the operation of a provision —

- (a) the example is not exhaustive; and
- (b) the example does not limit, but may extend, the meaning of the provision; and
- (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. Terms used

(1) In this Law —

Act means an Act of the Legislature of this jurisdiction;

adult means an individual who is 18 years 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

(c) amend by implication;

appoint includes reappoint;

Australia means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory;

business day means a day that is not —

(a) a Saturday or Sunday; or

(b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done;

calendar month means a period starting at the beginning of any day of one of the 12 named months and ending —

(a) immediately before the beginning of the corresponding day of the next named month; or

(b) if there is no such corresponding day — at the end of the next named month;

calendar year means a period of 12 months beginning on 1 January;

commencement, in relation to this Law or an Act or a provision of this Law or an Act, means the time at which this Law, the Act or provision comes into operation;

Commonwealth means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory;

confer, in relation to a function, includes impose;

contravene includes fail to comply with;

1 **country** includes —

2 (a) a federation; or

3 (b) a state, province or other part of a federation;

4 **date of assent**, in relation to an Act, means the day on which the Act
5 receives the Royal Assent;

6 **definition** means a provision of this Law (however expressed) that —

7 (a) gives a meaning to a word or expression; or

8 (b) limits or extends the meaning of a word or expression;

9 **document** includes —

10 (a) any paper or other material on which there is writing; or

11 (b) any paper or other material on which there are marks, figures,
12 symbols or perforations having a meaning for a person
13 qualified to interpret them; or

14 (c) any disk, tape or other article or any material from which
15 sounds, images, writings or messages are capable of being
16 reproduced (with or without the aid of another article or
17 device);

18 **electronic communication** means —

19 (a) a communication of information in the form of data, text or
20 images by means of guided or unguided electromagnetic
21 energy, or both; or

22 (b) a communication of information in the form of sound by
23 means of guided or unguided electromagnetic energy, or
24 both, where the sound is processed at its destination by an
25 automated voice recognition system;

26 **estate** includes easement, charge, right, title, claim, demand, lien or
27 encumbrance, whether at law or in equity;

28 **expire** includes lapse or otherwise cease to have effect;

29 **external Territory** means a Territory, other than an internal Territory,
30 for the government of which as a Territory provision is made by a
31 Commonwealth Act;

32 **fail** includes refuse;

33 **financial year** means a period of 12 months beginning on 1 July;

34 **foreign country** means a country (whether or not an independent
35 sovereign State) outside Australia and the external Territories;

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

- 1 **omit**, in relation to a provision of this Law or an Act, includes repeal;
- 2 **party** includes an individual or a body politic or corporate;
- 3 **penalty** includes forfeiture or punishment;
- 4 **person** includes an individual or a body politic or corporate;
- 5 **power** includes authority;
- 6 **prescribed** means prescribed by, or by regulations made or in force
- 7 for the purposes of or under, this Law;
- 8 **printed** includes typewritten, lithographed or reproduced by any
- 9 mechanical means;
- 10 **proceeding** means a legal or other action or proceeding;
- 11 **property** means any legal or equitable estate or interest (whether
- 12 present or future, vested or contingent, or tangible or intangible) in
- 13 real or personal property of any description (including money), and
- 14 includes things in action;
- 15 **provision**, in relation to this Law or an Act, means words or other
- 16 matter that form or forms part of this Law or the Act, and includes —
- 17 (a) a Chapter, Part, Division, Subdivision, section, subsection,
- 18 paragraph, subparagraph, sub-subparagraph or Schedule of or
- 19 to this Law or the Act; or
- 20 (b) a section, clause, subclause, item, column, table or form of or
- 21 in a Schedule to this Law or the Act; or
- 22 (c) the long title and any preamble to the Act;
- 23 **record** includes information stored or recorded by means of a
- 24 computer;
- 25 **repeal** includes —
- 26 (a) revoke or rescind; or
- 27 (b) repeal by implication; or
- 28 (c) abrogate or limit the effect of this Law or instrument
- 29 concerned; or
- 30 (d) exclude from, or include in, the application of this Law or
- 31 instrument concerned any person, subject matter or
- 32 circumstance;
- 33 **sign** includes the affixing of a seal or the making of a mark;

statutory declaration 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;

statutory instrument 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;

swear, in relation to a person allowed by law to affirm, declare or promise, includes affirm, declare or promise;

word includes any symbol, figure or drawing;

writing includes any mode of representing or reproducing words in a visible form.

(2) In a statutory instrument —
the Law means this Law.

13. Provisions relating to defined terms and gender and number

(1) If this Law defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

(2) Definitions in or applicable to this Law apply except so far as the context or subject matter otherwise indicates or requires.

(3) In this Law, words indicating a gender include each other gender.

(4) In this Law —

(a) words in the singular include the plural; and

(b) words in the plural include the singular.

14. Meaning of “may” and “must” etc.

(1) In this Law, the word **may**, or a similar word or expression, used in relation to a power indicates that the power may be exercised or not exercised, at discretion.

(2) In this Law, the word ***must***, or a similar word or expression, used in relation to a power indicates that the power is required to be exercised.

(3) This clause has effect despite any rule of construction to the contrary.

1 **15. Words and expressions used in statutory instruments**

2 (1) Words and expressions used in a statutory instrument have the same
3 meanings as they have, from time to time, in this Law, or relevant
4 provisions of this Law, under or for the purposes of which the
5 instrument is made or in force.

6 (2) This clause has effect in relation to an instrument except so far as the
7 contrary intention appears in the instrument.

8 **16. Effect of express references to bodies corporate and individuals**

9 In this Law, a reference to a person generally (whether the expression
10 “person”, “party”, “someone”, “anyone”, “no-one”, “one”, “another”
11 or “whoever” or another expression is used) —

12 (a) does not exclude a reference to a body corporate or an
13 individual merely because elsewhere in this Law there is
14 particular reference to a body corporate (however expressed);
15 and

16 (b) does not exclude a reference to a body corporate or an
17 individual merely because elsewhere in this Law there is
18 particular reference to an individual (however expressed).

19 **17. Production of records kept in computers etc.**

20 If a person who keeps a record of information by means of a
21 mechanical, electronic or other device is required by or under this
22 Law —

- 23 (a) to produce the information or a document containing the
24 information to a court, tribunal or person; or
25 (b) to make a document containing the information available for
26 inspection by a court, tribunal or person,

27 then, unless the court, tribunal or person otherwise directs —

28 (c) the requirement obliges the person to produce or make
29 available for inspection, as the case may be, a document that
30 reproduces the information in a form capable of being
31 understood by the court, tribunal or person; and

32 (d) the production to the court, tribunal or person of the
33 document in that form complies with the requirement.

1 **18. References to this jurisdiction to be implied**

2 In this Law —

- 3 (a) a reference to an officer, office or statutory body is a
4 reference to such an officer, office or statutory body in and
5 for this jurisdiction; and
- 6 (b) a reference to a locality or other matter or thing is a reference
7 to such a locality or other matter or thing in and of this
8 jurisdiction.

9 **19. References to officers and holders of offices**

10 In this Law, a reference to a particular officer, or to the holder of a
11 particular office, includes a reference to the person for the time being
12 occupying or acting in the office concerned.

13 **20. Reference to certain provisions of Law**

14 If a provision of this Law refers —

- 15 (a) to a Part, section or Schedule by a number and without
16 reference to this Law — the reference is a reference to the
17 Part, section or Schedule, designated by the number, of or to
18 this Law; or
- 19 (b) to a Schedule without reference to it by a number and without
20 reference to this Law — the reference, if there is only one
21 Schedule to this Law, is a reference to the Schedule; or
- 22 (c) to a Division, Subdivision, subsection, paragraph,
23 subparagraph, sub-subparagraph, clause, subclause, item,
24 column, table or form by a number and without reference to
25 this Law — the reference is a reference to —
- 26 (i) the Division, designated by the number, of the Part in
27 which the reference occurs; and
- 28 (ii) the Subdivision, designated by the number, of the
29 Division in which the reference occurs; and
- 30 (iii) the subsection, designated by the number, of the
31 section in which the reference occurs; and
- 32 (iv) the paragraph, designated by the number, of the
33 section, subsection, Schedule or other provision in
34 which the reference occurs; and

- 1 (v) the paragraph, designated by the number, of the
2 clause, subclause, item, column, table or form of or in
3 the Schedule in which the reference occurs; and
4 (vi) the subparagraph, designated by the number, of the
5 paragraph in which the reference occurs; and
6 (vii) the sub-subparagraph, designated by the number, of
7 the subparagraph in which the reference occurs; and
8 (viii) the section, clause, subclause, item, column, table or
9 form, designated by the number, of or in the Schedule
10 in which the reference occurs,
11 as the case requires.

12 **21. Reference to provisions of this Law or an Act is inclusive**

13 In this Law, a reference to a portion of this Law or an Act includes —

- 14 (a) a reference to the Chapter, Part, Division, Subdivision,
15 section, subsection or other provision of this Law or the Act
16 referred to that forms the beginning of the portion; and
17 (b) a reference to the Chapter, Part, Division, Subdivision,
18 section, subsection or other provision of this Law or the Act
19 referred to that forms the end of the portion.

20 **Example:** A reference to “sections 5 to 9” includes both section 5 and
21 section 9.

22 It is not necessary to refer to “sections 5 to 9 (both inclusive)” to ensure that
23 the reference is given an inclusive interpretation.

24 **Part 4 — Functions and powers**

25 **22. Performance of statutory functions**

- 26 (1) If this Law confers a function or power on a person or body, the
27 function may be performed, or the power may be exercised, from time
28 to time as occasion requires.
29 (2) If this Law confers a function or power on a particular officer or the
30 holder of a particular office, the function may be performed, or the
31 power may be exercised, by the person for the time being occupying
32 or acting in the office concerned.

- 1 (3) If this Law confers a function or power on a body (whether or not
2 incorporated), the performance of the function, or the exercise of the
3 power, is not affected merely because of vacancies in the membership
4 of the body.
- 5 **23. Power to make instrument or decision includes power to amend**
6 **or repeal**
- 7 If this Law authorises or requires the making of an instrument or
8 decision —
- 9 (a) the power includes power to amend or repeal the instrument
10 or decision; and
- 11 (b) the power to amend or repeal the instrument or decision is
12 exercisable in the same way, and subject to the same
13 conditions, as the power to make the instrument or decision.
- 14 **24. Matters for which statutory instruments may make provision**
- 15 (1) If this Law authorises or requires the making of a statutory instrument
16 in relation to a matter, a statutory instrument made under this Law
17 may make provision for the matter by applying, adopting or
18 incorporating (with or without modification) the provisions of —
- 19 (a) an Act or statutory instrument; or
20 (b) another document (whether of the same or a different kind),
21 as in force at a particular time or as in force from time to time.
- 22 (2) If a statutory instrument applies, adopts or incorporates the provisions
23 of a document, the statutory instrument applies, adopts or incorporates
24 the provisions as in force from time to time, unless the statutory
25 instrument otherwise expressly provides.
- 26 (3) A statutory instrument may —
- 27 (a) apply generally throughout this jurisdiction or be limited in
28 its application to a particular part of this jurisdiction; or
- 29 (b) apply generally to all persons, matters or things or be limited
30 in its application to —
- 31 (i) particular persons, matters or things; or
32 (ii) particular classes of persons, matters or things;
33 or

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

1 **26. Appointments may be made by name or office**

- 2 (1) If this Law authorises or requires a person or body —
- 3 (a) to appoint a person to an office; or
- 4 (b) to appoint a person or body to exercise a power; or
- 5 (c) to appoint a person or body to do another thing,
- 6 the person or body may make the appointment by —
- 7 (d) appointing a person or body by name; or
- 8 (e) appointing a particular officer, or the holder of a particular
- 9 office, by reference to the title of the office concerned.
- 10 (2) An appointment of a particular officer, or the holder of a particular
- 11 office, is taken to be the appointment of the person for the time being
- 12 occupying or acting in the office concerned.

13 **27. Acting appointments**

- 14 (1) If this Law authorises a person or body to appoint a person to act in an
- 15 office, the person or body may, in accordance with this Law,
- 16 appoint —
- 17 (a) a person by name; or
- 18 (b) a particular officer, or the holder of a particular office, by
- 19 reference to the title of the office concerned,
- 20 to act in the office.
- 21 (2) The appointment may be expressed to have effect only in the
- 22 circumstances specified in the instrument of appointment.
- 23 (3) The appointer may —
- 24 (a) determine the terms and conditions of the appointment,
- 25 including remuneration and allowances; and
- 26 (b) terminate the appointment at any time.
- 27 (4) The appointment, or the termination of the appointment, must be in,
- 28 or evidenced by, writing signed by the appointer.
- 29 (5) The appointee must not act for more than one year during a vacancy
- 30 in the office.

- 1 (6) If the appointee is acting in the office otherwise than because of a
2 vacancy in the office and the office becomes vacant, then, subject to
3 subclause (2), the appointee may continue to act until —
- 4 (a) the appointer otherwise directs; or
5 (b) the vacancy is filled; or
6 (c) the end of a year from the day of the vacancy,
7 whichever happens first.
- 8 (7) The appointment ceases to have effect if the appointee resigns by
9 writing signed and delivered to the appointer.
- 10 (8) While the appointee is acting in the office —
- 11 (a) the appointee has all the powers and functions of the holder
12 of the office; and
13 (b) this Law and other laws apply to the appointee as if the
14 appointee were the holder of the office.
- 15 (9) Anything done by or in relation to a person purporting to act in the
16 office is not invalid merely because —
- 17 (a) the occasion for the appointment had not arisen; or
18 (b) the appointment had ceased to have effect; or
19 (c) the occasion for the person to act had not arisen or had
20 ceased.
- 21 (10) If this Law authorises the appointer to appoint a person to act during a
22 vacancy in the office, an appointment to act in the office may be made
23 by the appointer whether or not an appointment has previously been
24 made to the office.
- 25 **28. Powers of appointment imply certain incidental powers**
- 26 (1) If this Law authorises or requires a person or body to appoint a person
27 to an office —
- 28 (a) the power may be exercised from time to time as occasion
29 requires; and
30 (b) the power includes —
- 31 (i) power to remove or suspend, at any time, a person
32 appointed to the office; and

- 19 (4) An appointment under subclause (1)(b) may be expressed to have
20 effect only in the circumstances specified in the instrument of
21 appointment.

22 29. Delegation of functions

- 29 (2) The delegation may be —
30 (a) general or limited; and
31 (b) made from time to time; and
32 (c) revoked, wholly or partly, by the delegator.

- 1 (3) The delegation, or a revocation of the delegation, must be in, or
2 evidenced by, writing signed by the delegator or, if the delegator is a
3 body, by a person authorised by the body for the purpose.
- 4 (4) A delegated function may be exercised only in accordance with any
5 conditions to which the delegation is subject.
- 6 (5) The delegate may, in the performance of a delegated function, do
7 anything that is incidental to the delegated function.
- 8 (6) A delegated function that purports to have been exercised by the
9 delegate is taken to have been properly exercised by the delegate
10 unless the contrary is proved.
- 11 (7) A delegated function that is properly exercised by the delegate is
12 taken to have been exercised by the delegator.
- 13 (8) If, when exercised by the delegator, a function is dependent on the
14 delegator's opinion, belief or state of mind, then, when exercised by
15 the delegate, the function is dependent on the delegate's opinion,
16 belief or state of mind.
- 17 (9) If —
- 18 (a) the delegator is a specified officer or the holder of a specified
19 office; and
- 20 (b) the person who was the specified officer or holder of the
21 specified office when the delegation was made ceases to be
22 the holder of the office,
- 23 then —
- 24 (c) the delegation continues in force; and
- 25 (d) the person for the time being occupying or acting in the office
26 concerned is taken to be the delegator for the purposes of this
27 section.
- 28 (10) If —
- 29 (a) the delegator is a body; and
- 30 (b) there is a change in the membership of the body,
- 31 then —
- 32 (c) the delegation continues in force; and

- 30 (d) the power may be exercised; and

- 1 (e) anything may be done for the purpose of enabling the
2 exercise of the power or of bringing the appointment,
3 instrument or other thing into effect,
4 before the empowering provision commences.
- 5 (2) If a provision of an Act (the ***empowering provision***) that does not
6 commence on its enactment would, had it commenced, amend a
7 provision of this Law so that it would confer a power —
8 (a) to make an appointment; or
9 (b) to make a statutory instrument of a legislative or
10 administrative character; or
11 (c) to do another thing,
12 then —
13 (d) the power may be exercised; and
14 (e) anything may be done for the purpose of enabling the
15 exercise of the power or of bringing the appointment,
16 instrument or other thing into effect,
17 before the empowering provision commences.
- 18 (3) If —
19 (a) this Law has commenced and confers a power to make a
20 statutory instrument (the ***basic instrument-making power***);
21 and
22 (b) a provision of an Act that does not commence on its
23 enactment would, had it commenced, amend this Law so as to
24 confer additional power to make a statutory instrument (the
25 ***additional instrument-making power***),
26 then —
27 (c) the basic instrument-making power and the additional
28 instrument-making power may be exercised by making a
29 single instrument; and
30 (d) any provision of the instrument that required an exercise of
31 the additional instrument-making power is to be treated as
32 made under subclause (2).

- 1 (4) If an instrument, or a provision of an instrument, is made under
2 subclause (1) or (2) that is necessary for the purpose of —
- 3 (a) enabling the exercise of a power mentioned in the subclause;
4 or
- 5 (b) bringing an appointment, instrument or other thing made or
6 done under such a power into effect,
- 7 the instrument or provision takes effect —
- 8 (c) on the making of the instrument; or
- 9 (d) on such later day (if any) on which, or at such later time
10 (if any) at which, the instrument or provision is expressed to
11 take effect.
- 12 (5) If —
- 13 (a) an appointment is made under subclause (1) or (2); or
- 14 (b) an instrument, or a provision of an instrument, made under
15 subclause (1) or (2) is not necessary for a purpose mentioned
16 in subclause (4),
- 17 the appointment, instrument or provision takes effect —
- 18 (c) on the commencement of the relevant empowering provision;
19 or
- 20 (d) on such later day (if any) on which, or at such later time
21 (if any) at which, the appointment, instrument or provision is
22 expressed to take effect.
- 23 (6) Anything done under subclause (1) or (2) does not confer a right, or
24 impose a liability, on a person before the relevant empowering
25 provision commences.
- 26 (7) After the enactment of a provision mentioned in subclause (2) but
27 before the provision's commencement, this clause applies as if the
28 references in subclauses (2) and (5) to the commencement of the
29 empowering provision were references to the commencement of the
30 provision mentioned in subclause (2) as amended by the empowering
31 provision.
- 32 (8) In the application of this clause to a statutory instrument, a reference
33 to the enactment of the instrument is a reference to the making of the
34 instrument.

Part 5 — Distance, time and age

31. Matters relating to distance, time and age

- (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.
- (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 —
 - (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
 - (b) in any other case — by including the day on which the purpose is to be fulfilled.
- (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.
- (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.
- (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.
- (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.
- (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.

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1 **35. Continuance of repealed provisions**

2 If an Act repeals some provisions of this Law and enacts new
3 provisions in substitution for the repealed provisions, the repealed
4 provisions continue in force until the new provisions commence.

5 **36. Law and amending Acts to be read as one**

6 This Law and all Acts amending this Law are to be read as one.

7 **Part 7 — Instruments under Law**

8 **37. Schedule applies to statutory instruments**

9 (1) This Schedule applies to a statutory instrument, and to things that may
10 be done or are required to be done under a statutory instrument, in the
11 same way as it applies to this Law, and things that may be done or are
12 required to be done under this Law, except so far as the context or
13 subject matter otherwise indicates or requires.

14 (2) The fact that a provision of this Schedule refers to this Law and not
15 also to a statutory instrument does not, by itself, indicate that the
16 provision is intended to apply only to this Law.

17 **Part 8 — Application to coastal sea**

18 **38. Application**

19 This Law has effect in and relation to the coastal sea of this
20 jurisdiction as if that coastal sea were part of this jurisdiction.

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Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
accreditation authority	Sch. s. 5
accreditation committee	Sch. s. 5
accreditation function.....	Sch. s. 42
accreditation standard	Sch. s. 5
accredited programme of study	Sch. s. 5
Act	Sch. Sch. 7 cl. 12(1)
additional instrument-making power	Sch. Sch. 7 cl. 30(3)
adjudication body.....	Sch. s. 5, 292(3)
adult	Sch. Sch. 7 cl. 12(1)
Advisory Council	Sch. s. 5
affidavit	Sch. Sch. 7 cl. 12(1)
Agency Fund.....	Sch. s. 5
Agency Management Committee.....	Sch. s. 5
amend.....	Sch. Sch. 7 cl. 12(1)
appellable decision.....	Sch. s. 199(1)
appoint	Sch. Sch. 7 cl. 12(1)
appropriate health profession	Sch. s. 123(2)
appropriate professional indemnity insurance arrangements	Sch. s. 5
appropriately qualified	Sch. s. 67(8)
approved accreditation standard.....	Sch. s. 5
approved area of practice	Sch. s. 5
approved programme of study	Sch. s. 5, 86
approved qualification	Sch. s. 5
approved registration standard	Sch. s. 5
assessment.....	Sch. s. 168
Australia.....	Sch. Sch. 7 cl. 12(1)
Australian legal practitioner	Sch. s. 5
basic instrument-making power	Sch. Sch. 7 cl. 30(3)
business day	Sch. Sch. 7 cl. 12(1)
calendar month.....	Sch. Sch. 7 cl. 12(1)
calendar year	Sch. Sch. 7 cl. 12(1)
Chairperson.....	Sch. Sch. 1 cl. 1, Sch. 2 cl. 1, Sch. 4 cl. 1
COAG Agreement	Sch. s. 5
commencement	Sch. Sch. 7 cl. 12(1)
commencement day	Sch. s. 250
Committee.....	Sch. Sch. 2, cl. 1
Commonwealth	Sch. Sch. 7 cl. 12(1)
community member	Sch. Sch. 4 cl. 1
confer	Sch. Sch. 7 cl. 12(1)

Defined Terms

contravene.....	Sch. Sch. 7 cl. 12(1)
co-regulatory authority.....	Sch. s. 5
co-regulatory jurisdiction.....	Sch. s. 5
corresponding prior Act.....	Sch. s. 5
corresponding purpose.....	Sch. s. 270(3), 272(3), 278(3)
Council.....	4(4)
country.....	Sch. Sch. 7 cl. 12(1)
criminal history.....	Sch. s. 5
criminal history information.....	10(1)
criminal history law.....	Sch. s. 5
CrimTrac.....	Sch. s. 5
date of assent.....	Sch. Sch. 7 cl. 12(1)
definition.....	Sch. Sch. 7 cl. 12(1)
division.....	Sch. s. 5
document.....	Sch. Sch. 7 cl. 12(1)
duplicate warrant.....	Sch. Sch. 5 cl. 7(5), Sch. 6 cl. 7(5)
dutiable property.....	8(1)
dutiable transaction.....	8(1)
education provider.....	Sch. s. 5
electronic communication.....	Sch. Sch. 7 cl. 12(1)
employer.....	Sch. s. 142(4)
employment contract.....	Sch. s. 295(2)
empowering provision.....	Sch. Sch. 7 cl. 30(1), (2)
entity.....	Sch. s. 5
estate.....	Sch. Sch. 7 cl. 12(1)
exercise.....	Sch. s. 5
expire.....	Sch. Sch. 7 cl. 12(1)
external accreditation entity.....	Sch. s. 5
external Territory.....	Sch. Sch. 7 cl. 12(1)
extrinsic material.....	Sch. Sch. 7 cl. 8(1)
fail.....	Sch. Sch. 7 cl. 12(1)
financial year.....	Sch. Sch. 7 cl. 12(1)
first Board.....	Sch. Sch. 4 cl. 9
first health practitioner.....	Sch. s. 141(1)
FOI Act.....	Sch. s. 215(4)
foreign country.....	Sch. Sch. 7 cl. 12(1)
former Act.....	17
function.....	Sch. Sch. 7 cl. 12(1)
Gazette.....	Sch. Sch. 7 cl. 12(1)
Gazette notice.....	Sch. Sch. 7 cl. 12(1)
gazetted.....	Sch. Sch. 7 cl. 12(1)
general registration.....	Sch. s. 269(3)
Government Printer.....	Sch. Sch. 7 cl. 12(1)
health assessment.....	Sch. s. 5
health complaints entity.....	Sch. s. 5

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health panel	Sch. s. 5
health practitioner	Sch. s. 5
Health Practitioner Regulation National Law (Western Australia)	3(2)
health profession	Sch. s. 5
health profession agreement	Sch. s. 5, 26(1)
health programme	Sch. s. 5
health service	Sch. s. 5
health service provider	Sch. s. 5
health services	Sch. s. 67(8)
health, conduct or performance action	Sch. s. 5
homebirth	Sch. s. 284(5)
immediate action	Sch. s. 155
impairment	Sch. s. 5
individual	Sch. Sch. 7 cl. 12(1)
information management agency	Sch. s. 218(4)
information system	Sch. Sch. 7 cl. 12(1)
informed consent	Sch. s. 284(5)
insert	Sch. Sch. 7 cl. 12(1)
instrument	Sch. Sch. 7 cl. 12(1)
interest	Sch. Sch. 7 cl. 12(1)
internal Territory	Sch. Sch. 7 cl. 12(1)
Jervis Bay Territory	Sch. Sch. 7 cl. 12(1)
large participating jurisdiction	Sch. s. 33(11)
licensing authority	Sch. s. 142(4)
local application provisions of this Act	3(1)
local registration authority	Sch. s. 5, 250
magistrate	5
Magistrates Court	5
make	Sch. Sch. 7 cl. 12(1)
mandatory notification	Sch. s. 5
manipulation of the cervical spine	Sch. s. 123(2)
may	Sch. Sch. 7 cl. 14(1)
medical practitioner	12(1), Sch. s. 5
member	Sch. Sch. 1 cl. 1, Sch. 2 cl. 1, Sch. 4 cl. 1
midwife	Sch. s. 284(5)
Ministerial Council	Sch. s. 5
minor	Sch. Sch. 7 cl. 12(1)
modification	Sch. Sch. 7 cl. 12(1)
month	Sch. Sch. 7 cl. 12(1)
must	Sch. Sch. 7 cl. 14(2)
named month	Sch. Sch. 7 cl. 12(1)
National Agency	Sch. s. 5
National Board	Sch. s. 5, 284(5)
National Register	Sch. s. 5
national registration and accreditation scheme	Sch. s. 5

Defined Terms

Northern Territory.....	Sch. Sch. 7 cl. 12(1)
notifiable conduct	Sch. s. 140
notification	Sch. s. 5
notifier.....	Sch. s. 5
number	Sch. Sch. 7 cl. 12(1)
oath	Sch. Sch. 7 cl. 12(1)
obstruct	Sch. Sch. 5 cl. 22(3) , Sch. 6 cl. 22(3)
office	Sch. Sch. 7 cl. 12(1)
Ombudsman Act	Sch. s. 235(4)
omit	Sch. Sch. 7 cl. 12(1)
optical appliance	Sch. s. 122(2)
optometrist	12(1), Sch. s. 122(2)
ordinary meaning	Sch. Sch. 7 cl. 8(1)
original warrant.....	Sch. Sch. 5 cl. 7(3)
orthoptist.....	Sch. s. 122(2)
other Board	Sch. Sch. 4 cl. 9
other person.....	Sch. s. 165(1), 241(1), Sch. 5 cl. 18(1), Sch. 6 cl. 18(1)
owner	Sch. Sch. 5 cl. 18(6) , Sch. 6 cl. 18(6)
panel.....	Sch. s. 5
participating jurisdiction	Sch. s. 5
participation day	Sch. s. 250
particulars	Sch. s. 86
party	Sch. Sch. 7 cl. 12(1)
penalty.....	Sch. Sch. 7 cl. 12(1)
performance and professional standards panel.....	Sch. s. 5
performance assessment.....	Sch. s. 5
person.....	Sch. Sch. 7 cl. 12(1)
police commissioner	Sch. s. 5
power	Sch. Sch. 7 cl. 12(1)
prescribed.....	Sch. Sch. 7 cl. 12(1)
principal place of practice.....	Sch. s. 5
printed	Sch. Sch. 7 cl. 12(1)
Privacy Act	Sch. s. 213(4)
private midwifery.....	Sch. s. 284(5)
proceeding.....	Sch. Sch. 7 cl. 12(1)
professional misconduct.....	Sch. s. 5
programme of study	Sch. s. 5
property.....	Sch. Sch. 7 cl. 12(1)
protected information.....	Sch. s. 214
protected person.....	Sch. s. 236(3)
provision	Sch. Sch. 7 cl. 12(1)
psychologist	Sch. s. 5
public health facility	Sch. s. 5
public sector auditor.....	Sch. Sch. 3 cl. 8(7)
recipient	Sch. s. 248

Defined Terms

recognised specialty	Sch. s. 5
record	Sch. Sch. 7 cl. 12(1)
registered health practitioner	Sch. s. 5, 128(3), 129(5)
registration authority	Sch. s. 5
registration period	Sch. s. 56(1), 61(1), 64(1), 72(1), 76(1)
registration standard	Sch. s. 5
registration status	Sch. s. 5
regulated health service	Sch. s. 133(4)
regulation	Sch. s. 246(4), 247(4)
related health professionals	Sch. s. 258(3)
relevant action	Sch. s. 5, 178(2)
relevant event	Sch. s. 130(3)
relevant fee	Sch. s. 5
relevant health profession	Sch. s. 250
relevant law	Sch. s. 55(2)
relevant section	Sch. s. 82(2), 102(3)
repeal	Sch. Sch. 7 cl. 12(1)
repealed Law	Sch. s. 250
responsible Minister	Sch. s. 5
responsible tribunal	Sch. s. 5
restricted dental act	Sch. s. 121(2)
review period	Sch. s. 5
savings and transitional provisions	Sch. s. 305(1)
scheduled medicine	Sch. s. 5
second health practitioner	Sch. s. 141(1)
second person	Sch. s. 113(2)
secondment arrangement	Sch. s. 261(3)
sign	Sch. Sch. 7 cl. 12(1)
small participating jurisdiction	Sch. s. 33(11)
specialist health practitioner	Sch. s. 5, 270(3)
specialist title	Sch. s. 5
Specialists Register	Sch. s. 5
specified	22(4)
State	Sch. s. 10(2)
State or Territory Board	Sch. s. 5, 36(1)
statutory declaration	Sch. Sch. 7 cl. 12(1)
statutory instrument	Sch. Sch. 7 cl. 12(1)
student	Sch. s. 5
student register	Sch. s. 5
swear	Sch. Sch. 7 cl. 12(1)
technical work	Sch. s. 121(2)
the Law	Sch. Sch. 7 cl. 12(2)
this jurisdiction	5
transfer day	Sch. s. 294
transition period	Sch. s. 281(3), 284(5)

Defined Terms

unincorporated Pharmaceutical Society.....	4(4)
unique identifier.....	Sch. s. 233(2)
unprofessional conduct	Sch. s. 5
unsatisfactory professional performance.....	Sch. s. 5
Victorian Government Printer.....	Sch. s. 245(5)
voluntary notification.....	Sch. s. 5
word	Sch. Sch. 7 cl. 12(1)
writing.....	Sch. Sch. 7 cl. 12(1)