



# THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

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PUBLISHED BY AUTHORITY

ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such

ADELAIDE, THURSDAY, 12 AUGUST 2010

## CONTENTS

	Page		Page
Administrative Arrangements Act 1994—Notice.....	4011	<b>REGULATIONS</b>	
Appointments, Resignations, Etc.....	4010	Local Government Act 1934 (No. 182 of 2010).....	4022
Aquaculture Act 2001—Notice.....	4011	Employment Agents Registration Act 1993—	
Building Work Contractors Act 1995—Notice.....	4011	(No. 183 of 2010).....	4032
Corporations and District Councils—Notices.....	4283	Land Valuers Act 1994 (No. 184 of 2010).....	4037
Environment Protection Act 1993—Notice.....	4011	Conveyancers Act 1994 (No. 185 of 2010).....	4039
Health Care Act 2008—		Land Agents Act 1994 (No. 186 of 2010).....	4055
[REPUBLISHED].....	4012	Plumbers, Gas Fitters and Electricians Act 1995—	
Land Acquisition Act 1969—Notice.....	4012	(No. 187 of 2010).....	4071
Liquor Licensing Act 1997—Notices.....	4012	Residential Tenancies Act 1995 (No. 188 of 2010).....	4081
Livestock Act 1997—Notice.....	4015	Health Practitioner Regulation National Law (South	
Mining Act 1971—Notices.....	4017	Australia) Act 2010 (No. 189 of 2010).....	4101
Petroleum and Geothermal Energy Act 2000—		Road Traffic Act 1961—Notice.....	4020
Notices.....	4020	Sale of Property.....	4297
Public Trustee Office—Administration of Estates.....	4297	Sewerage Act 1929—Notice.....	4021
Rail Safety Act 2007—Notice.....	4011	Transport, Department of—Notice to Mariners.....	4020

## GOVERNMENT GAZETTE NOTICES

ALL poundkeepers' and private advertisements forwarded for publication in the *South Australian Government Gazette* must be PAID FOR PRIOR TO INSERTION; and all notices, from whatever source, should be legibly written on one side of the paper only and sent to **Government Publishing SA** so as to be *received no later than 4 p.m. on the Tuesday preceding the day of publication. Phone 8207 1045 or Fax 8207 1040. E-mail: [governmentgazette@dpc.sa.gov.au](mailto:governmentgazette@dpc.sa.gov.au)*. Send as attachments in Word format and please confirm your transmission with a faxed copy of your document, including the date the notice is to be published and to whom the notice will be charged. The *Government Gazette* is available online at: [www.governmentgazette.sa.gov.au](http://www.governmentgazette.sa.gov.au)

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Equal Opportunity Tribunal, pursuant to the provisions of the Equal Opportunity Act 1984:

Presiding Officer: (from 30 August 2010 until 29 August 2013)

Terence Anthony Worthington

Deputy Presiding Officer: (from 19 August 2010 until 18 August 2013)

Steven Millsteed

Deputy Presiding Officer: (from 25 October 2010 until 24 October 2013)

Julie McIntyre

By command,

MICHAEL O'BRIEN, for Premier

AGO0266/02CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Pastoral Board, pursuant to the provisions of the Pastoral Land Management and Conservation Act 1989:

Member: (from 12 August 2010 until 11 August 2011)

Michael Phillip McBride

Member: (from 12 August 2010 until 11 August 2013)

Roger Barrington Wickes

Vicki Michelle Linton

Douglas Gordon Lillecrapp

Iris Iwanicki

Leonie Petula Paulson

Deputy Member: (from 12 August 2010 until 11 August 2013)

Julie-Ann Mould (Deputy to McBride)

Helen Kay Lamont (Deputy to Wickes)

Lisien Marjory Loan (Deputy to Linton)

Ann Sharon Oldfield (Deputy to Lillecrapp)

Fraser James Vickery (Deputy to Iwanicki)

Brenda Joan Anderson (Deputy to Paulson)

Presiding Member: (from 12 August 2010 until 11 August 2011)

Michael Phillip McBride

By command,

MICHAEL O'BRIEN, for Premier

MEC10/0039CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the South Australian Museum Board, pursuant to the provisions of the South Australian Museum Act 1976:

Member: (from 12 August 2010 until 11 August 2013)

Susan Mary Carthew

Elizabeth Diana Perry

By command,

MICHAEL O'BRIEN, for Premier

ASACAB003/02

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Remuneration Tribunal, pursuant to the provisions of the Remuneration Act 1990:

Member: (from 12 August 2010 until 11 August 2011)

David Smythe

By command,

MICHAEL O'BRIEN, for Premier

DPC10/019CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to designate Mark Stephen Blumberg as a Master of the Environment, Resources and Development Court of South Australia commencing on 12 August 2010, pursuant to Section 11 of the Environment, Resources and Development Court Act 1993.

By command,

MICHAEL O'BRIEN, for Premier

AGO0140/04CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Michael John Wright, MP, Minister for Police, Minister for Emergency Services and Minister for Recreation, Sport and Racing to be also Acting Minister for Mineral Resources Development, Acting Minister for Urban Development and Planning, Acting Minister for Industrial Relations and Acting Minister Assisting the Premier in Public Sector Management for the period from 17 August 2010 to 31 August 2010 inclusive, during the absence of the Honourable Paul Holloway, MLC.

By command,

MICHAEL O'BRIEN, for Premier

MMRD10/006CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Paul Caica, MP, Minister for Environment and Conservation, Minister for the River Murray and Minister for Water to be also Acting Minister for State/Local Government Relations, Acting Minister for Consumer Affairs, Acting Minister for Government Enterprises and Acting Minister for the City of Adelaide for the period from 23 August 2010 to 29 August 2010 inclusive, during the absence of the Honourable Gail Elizabeth Gago, MLC.

By command,

MICHAEL O'BRIEN, for Premier

10MLG0014CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Grace Portolesi, MP, Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth and Minister for Volunteers to be also Acting Minister for the Status of Women for the period from 23 August 2010 to 29 August 2010 inclusive, during the absence of the Honourable Gail Elizabeth Gago, MLC.

By command,

MICHAEL O'BRIEN, for Premier

10MLG0014CS

Department of the Premier and Cabinet  
Adelaide, 12 August 2010

HIS Excellency the Governor in Executive Council has accepted the resignation of Her Honour Justice Robyn Layton from the Office of Judge of the Supreme Court of South Australia, with effect from 3 September 2010.

By command,

MICHAEL O'BRIEN, for Premier

AGO0098/05CS

#### ADMINISTRATIVE ARRANGEMENTS ACT, 1994

##### *Revocation of Delegation*

PURSUANT to the Administrative Arrangements Act, 1994 ('the Act'), I, Michael O'Brien, Minister for Agriculture, Food and Fisheries, make the following notice:

The notice under the Administrative Arrangements Act, 1994 published at page 4741 of the *Government Gazette*, 1 October 2009 (as varied), is hereby revoked.

In doing so, delegation of Ministerial functions and powers vested under sections 8, 9, 41, 50, 53 and 59 of the Plant Health Act 2009 to the Minister for Environment and Conservation insofar as the exercise of those functions and powers relates to the control of the disease Branched Broomrape (*Orobanche ramosa*) are also revoked.

Dated 10 August 2010

MICHAEL O'BRIEN, Minister For Agriculture,  
Food and Fisheries

#### AQUACULTURE ACT 2001

##### *Grant of Aquaculture Lease*

PURSUANT to the provisions of section 22 of the Aquaculture Act 2001, Michael O'Brien, Minister for Agriculture, Food and Fisheries, hereby gives notice of the grant of the following leases for the purposes of aquaculture in the waters of the State:

LA00271 and LA00272

Further details are available for all of the above leases granted on the PIRSA Aquaculture Public Register; which can be found at <https://info.pir.sa.gov.au/aquapr/page/gui3/map.html>.

Dated 12 August 2010.

MICHAEL O'BRIEN, Minister for Aquaculture,  
Food and Fisheries

#### BUILDING WORK CONTRACTORS ACT 1995

##### *Exemption*

TAKE notice that, pursuant to section 45 of the Building Work Contractors Act 1995, I, David Green, Commissioner for Consumer Affairs, do hereby exempt the licensee named in Schedule 1 from the application of Division 3 of Part 5 of the above Act in relation to domestic building work described in Schedule 2 and subject to the conditions specified in Schedule 3.

##### SCHEDULE 1

Lesley Ian Shawcross, (BLD 30899).

##### SCHEDULE 2

An extension to the licensee and partner's family home which will comprise the construction of a triple garage plus and additional room, the relocation of the laundry and the relocation of and upgrades to the en suites on land situated at Lot 3, Murray Road, Inglewood, S.A. 5133 (Allotment 3, Filed Plan 13874 in the area named Inglewood, Hundred of Yatala (certificate of title volume 5076, folio 787)).

##### SCHEDULE 3

1. This exemption is limited to domestic building work personally performed by the licensee in relation to an extension to the licensee and partner's family home which will comprise the construction of a triple garage plus an additional room, the

relocation of the laundry and the relocation of and upgrades to the en suites on land situated on Lot 3, Murray Road, Inglewood, S.A. 5133 (Allotment 3, Filed Plan 13874 in the area named Inglewood, Hundred of Yatala (certificate of title volume 5076, folio 787)).

2. This exemption does not apply to any domestic building work the licensee sub-contracts to another building work contractor, for which that contractor is required by law to hold building indemnity insurance.

3. That the licensee does not transfer his interest in the land prior to five years from the date of completion of the building work the subject of this exemption, without the prior authorisation of the Commissioner for Consumer Affairs. Before giving such authorisation, the Commissioner for Consumer Affairs may require the licensee to take any reasonable steps to protect the future purchaser(s) of the property, including but not limited to:

- providing evidence that an adequate policy of building indemnity insurance is in force to cover the balance of the five-year period from the date of completion of the building work the subject of this exemption;
- providing evidence of an independent expert inspection of the building work the subject of this exemption;
- making an independent expert report available to prospective purchasers of the property; and
- giving prospective purchasers of the property notice of the absence of a policy of building indemnity insurance.

Dated 9 August 2010.

D. GREEN, Commissioner for Consumer Affairs,  
Office of Consumer and Business Affairs,  
Delegate of the Minister for Consumer  
Affairs

Ref.: 610/10-00030

#### ENVIRONMENT PROTECTION ACT 1993

##### *Granting of an Exemption*

THE Environment Protection Authority has issued an Exemption to:

Otek Australia Pty Ltd is exempted from section 34 of the Environment Protection Act 1993, in respect of the requirements of Clause 17 of the Environment Protection (Water Quality) Policy 2003, in undertaking the specified activity of 'Petroleum Hydrocarbon Remediation', 232 Torrens Road, Renown Park, S.A. 5008, subject to conditions of Authorisation.

K. VOGELSANG, Delegate, Environment  
Protection Authority

#### RAIL SAFETY ACT 2007

##### *Notice of Revocation of Exemption*

TAKE notice that pursuant to section 7 of the Rail Safety Act 2007, ('the Act'), I, Patrick Frederick Conlon, Minister for Transport in the State of South Australia, do hereby revoke the exemption, dated 18 February 2010, of the Rail Commissioner from Part 4, Division 2 of the Act for the Rail Commissioner's actions as a rail transport operator to carry out or cause or permit to be carried out the:

- (a) construction of a railway, railway tracks and associated track structures; and
- (b) management, commissioning, maintenance, repair, modification, installation, operation or decommissioning of rail infrastructure.

This revocation shall have effect on 13 August 2010.

Dated 8 August 2010.

PATRICK CONLON, Minister for Transport

[REPUBLISHED]

IN *Government Gazette* dated 24 June 2010 at page 3121, first notice appearing in Column B, first line *should* read 'non-emergency ambulance services at events at which the organisation is in official attendance on duty'.

## HEALTH CARE ACT 2008

NOTICE BY THE MINISTER

*Sections 57 (1) (c), 58 (1) (d) and 62—Exemptions*

TAKE notice that I, John Hill, Minister for Health, pursuant to sections 57 (1) (c), 58 (1) (d) and 62 of the Health Care Act 2008, do hereby exempt the persons named in Column A of the Schedule from the application of Part 6—Division 2 and Division 3, section 59 of the Act, in relation to the ambulance services specified in Column B of the Schedule, and on the conditions specified in Column C of the Schedule, with effect on and from 1 July 2010 and for the period expiring on 30 June 2013.

Dated 22 June 2010.

JOHN HILL, Minister for Health

## SCHEDULE

Column A	Column B	Column C
St John Ambulance Australia South Australia Incorporated	non-emergency ambulance services at events at which the organisation is in official attendance on duty	That the non-emergency ambulance services are provided either at the request of SAAS or, in circumstances where SAAS has not made a request, the organisation notifies SAAS of each occasion that such services are provided within a time and with details as requested by SAAS
	emergency ambulance services	that the emergency ambulance services are provided only with an authorisation from, or at the request or direction, of SAAS

## LAND ACQUISITION ACT 1969

(SECTION 16)

*Notice of Acquisition*

THE Commissioner of Highways ('the Authority'), of 136 North Terrace, Adelaide, S.A. 5000, acquires the following interests in the following land:

Comprising an unencumbered estate in fee simple in that piece of land situated at 519-523 Grand Junction Road, Wingfield, being portion of Allotment 100 in Deposited Plan No. 74117 comprised in certificate of title volume 5991, folio 218, and being the whole of the land numbered 32 on the unapproved plan numbered D84432 that has been lodged in the Lands Titles Office

This notice is given under section 16 of the Land Acquisition Act 1969.

*Compensation*

A person who has or had an interest in the land that is divested or diminished by the acquisition or the enjoyment of which is adversely affected by the acquisition who does not receive an offer of compensation from the Authority may apply to the Authority for compensation.

*Inquiries*

Inquiries should be directed to:

Peter Lloyd,  
G.P.O. Box 1533,  
Adelaide, S.A. 5001.

Telephone: (08) 8343 2780

Dated 10 August 2010.

The Common Seal of the Commissioner of Highways was hereto affixed by authority of the Commissioner in the presence of:

D. THOMAS, Manager, Transport Property  
(Authorised Officer), Department for  
Transport, Energy and Infrastructure

DTEI 2008/14729/01

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Charleston Cellars Pty Ltd has applied to the Licensing Authority for Redefinition and variation to Conditions in respect of premises situated at Lot 60, Scott Creek Road, Longwood, S.A. 5153 and known as Charleston Cellars.

The application has been set down for hearing on 6 September 2010 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- Redefinition to include a new building incorporating a sampling area and office/cellar door sales area as per plans lodged with this office.
- Variation to Conditions to remove the following conditions from the licence:
  - There shall be no production or walk up sales on the licensed premises.

- There shall be no storage of commercial quantities of liquor on the licensed premises.
- All activities associated with the Producer's Licence are to meet the criteria under the 'Home Activity' guidelines as defined in the Development Act 1993.
- Approval is sought under section 39 (1) (e) to sell the Licensee's product excluding sampling at any time from consumption within the approved tasting area.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 30 August 2010).

The applicant's address for service is c/o Hamish Laurie, R.M.B. 214, Scott Creek, S.A. 5153.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 August 2010.

Applicant

#### LIQUOR LICENSING ACT 1997

##### *Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Mesa Osteria Pty Ltd has applied to the Licensing Authority for an Extended Trading Authorisation and variation to Entertainment Consent in respect of premises situated at 1/205 Glen Osmond Road, Frewville, S.A. 5063 and known as Mesa Osteria.

The application has been set down for hearing on 7 September 2010 at 10.30 a.m.

##### *Conditions*

The following licence conditions are sought:

- Extended Trading Authorisation is sought for the licensed premises as per plans lodged with this office and for the following days and times:
  - Monday to Saturday: Midnight to 2 a.m. the following day;
  - Sunday: 8 p.m. to 2 a.m. the following day;
  - Good Friday: Midnight to 2 a.m. the following day;
  - Christmas Day: Midnight to 2 a.m. the following day;
  - Sunday Christmas Eve: 8 p.m. to 2 a.m. the following day;
  - New Year's Eve: 2 a.m. the following day to 2 a.m. the following day;
  - Days preceding other Public Holidays: Midnight to 2 a.m. the following day;
  - Sundays preceding Public Holidays: 8 p.m. to 2 a.m. the following day.
- Variation to Entertainment Consent to include the abovementioned proposed hours.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 31 August 2010).

The applicant's address for service is c/o Sarah Howell, 6/193 Hindley Street, Adelaide, S.A. 5000.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 5 August 2010.

Applicant

#### LIQUOR LICENSING ACT 1997

##### *Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Independent Pub Group Pty Ltd has applied to the Licensing Authority for variation to Entertainment Consent in respect of premises situated at 75 Port Wakefield Road, Bolivar, S.A. 5110 and known as Whitehorse Inn Hotel.

The application has been set down for hearing on 7 September 2010 at 10.30 a.m.

##### *Conditions*

The following licence conditions are sought:

- Variation to Entertainment Consent to include Area 6 as per plans lodged with this office and for the following days and times:
  - Sunday: 8 p.m. to 9 p.m.
  - Sundays preceding Public Holidays: 8 p.m. to 9 p.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 31 August 2010).

The applicant's address for service is c/o Andrew Dunn, P.O. Box 997, Salisbury, S.A. 5108.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 5 August 2010.

Applicant

#### LIQUOR LICENSING ACT 1997

##### *Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Bathe Wines Pty Ltd has applied to the Licensing Authority for a Producer's Licence in respect of premises situated at 10 Leonard Terrace, Torrens Park, S.A. 5062 and to be known as Bathe Wines.

The application has been set down for hearing on 7 September 2010 at 9.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 31 August 2010).

The applicant's address for service is c/o John Harvey, 15 Flinders Avenue, Colonel Light Gardens, S.A. 5041.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 5 August 2010.

Applicant

#### LIQUOR LICENSING ACT 1997

##### *Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that George Mesaritis has applied to the Licensing Authority for a Special Circumstances Licence with an Extended Trading Authorisation in respect of premises situated at 135 Sir Donald Bradman Drive, Hilton, S.A. 5033 and to be known as Acropolis Coffee & Bilards.

The application has been set down for hearing on 7 September 2010 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- Liquor is to only be sold, supplied or consumed by a person seated in the premises.
- There shall be no entertainment, live or recorded except for low level background music via 'in house' sound system, i.e. no disk jockey or band type activity.
- There will be no signage placed outside the licensed premises advertising the facilities other than the name of the premises.
- The premises shall be closed at 10 p.m. each night and not re-open for at least six hours.
- There shall be no sale, supply or consumption of liquor on Good Friday or Christmas Day.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 31 August 2010).

The applicant's address for service is c/o George Mesaritis, 1 Spring Street, North Plympton, S.A. 5037.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 5 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that GRE Commercial Pty Ltd as trustee for GRE Commercial Trust has applied to the Licensing Authority for the transfer of a Residential Licence in respect of premises situated at 728 Tapleys Hill Road, West Beach, S.A. 5024 and known as Adelaide Aviators Lodge.

The application has been set down for hearing on 7 September 2010 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 31 August 2010).

The applicant's address for service is c/o Donaldson Walsh Lawyers, G.P.O. Box 2873, Adelaide, S.A. 5001 (Attention: Lisa Dowdy).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 6 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Gourmet Communications Pty Ltd as trustee for Paola Family Trust has applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 44-46 Unley road, Unley, S.A. 5061 and known as Vino Ristorante.

The application has been set down for hearing on 8 September 2010 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 September 2010).

The applicant's address for service is c/o Tania Paola, 6 Korana Street, South Plympton, S.A. 5038.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 6 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Mario Maiolo Promotions Pty Ltd has applied to the Licensing Authority for a Special Circumstances Licence with an Extended Trading Authorisation in respect of premises situated at 28 Lombard Street, North Adelaide, S.A. 5006 and to be known as Grape Valley Tours.

The application has been set down for hearing on 8 September 2010 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- The licence will authorise the licensee for consumption on or adjacent to the licensed premises (provided that the passengers are always under the supervision and control of the driver of the subject vehicles) on any day at any time.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 September 2010).

The applicant's address for service is c/o Mario Maiolo, P.O. Box 572, North Adelaide, S.A. 5006.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 6 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Suprabon Pty Ltd has applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 9 Gawler Street, Nuriootpa, S.A. 5355, known as Chinese Dragon Licensed Restaurant.

The application has been set down for hearing on 8 September 2010 at 9.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 September 2010).

The applicant's address for service is c/o Michael Trenerry, Lot 12, Moppa Road South, Nuriootpa, S.A. 5355.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Vignerons of the World Pty Ltd has applied to the Licensing Authority for a Wholesale Liquor Merchant's Licence in respect of premises situated at Menge Road, Tanunda, S.A. 5352 and to be known Vignerons of the World Pty Ltd.

The application has been set down for hearing on 9 September 2010 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 2 September 2010).

The applicant's address for service is c/o Graeme Tucker, P.O. Box 421, Tanunda, S.A. 5352.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 9 August 2010.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Andrew Michael Jenner, Jason Brian Webb and Ho Jong You have applied to the Licensing Authority for a Producer's Licence in respect of premises situated at 9 Webb Street, Clare, S.A. 5453 to be known as Jenner and Webb Wines.

The application has been set down for hearing on 13 September 2010 at 9.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicants at the applicants' address, at least seven days before the hearing date (viz: 6 September 2010).

The applicants' address for service is c/o Jenkins Anderson Allard, P.O. Box 118, Auburn, S.A. 5451 (Attention: Greg Anderson).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 9 August 2010.

Applicants

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that El Toro Espanol Pty Ltd as trustee for the El Toro Espanol Unit Trust has applied to the Licensing Authority for a Restaurant Licence with section 34 (1) (c), Extended Trading Authorisation and Entertainment Consent in respect of premises situated at 39A Semaphore Road, Semaphore, S.A. 5019 and to be known as El Toro Espanol.

The application has been set down for hearing on 13 September 2010 at 10 a.m.

*Conditions*

The following licence conditions are sought:

- Approval is sought under section 34 (1) (c) to sell liquor on any day except Good Friday and Christmas Day for consumption on the licensed premises by persons:

(a) seated at a table; or

(b) attending a function at which food is provided.

- Extended Trading Authorisation is sought for the licensed premises as per plans lodged with this office and for the following days and times in relation to the abovementioned condition:

Sunday: 8 a.m. to 11 a.m. and 8 p.m. to midnight;

Sunday Christmas Eve: 8 p.m. to midnight;

Sundays preceding Public Holidays: 8 p.m. to midnight.

- Entertainment Consent is sought for the licensed premises as per plans lodged with this office and for the following days and times:

On any day: Midday to midnight.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 6 September 2010).

The applicant's address for service is c/o Paul Berry, 39A Semaphore Road, Semaphore, S.A. 5019.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 9 August 2010.

Applicant

## LIVESTOCK ACT 1997

## NOTICE BY THE MINISTER

*Notifiable Diseases*

PURSUANT to section 4 of the Livestock Act 1997, I, Michael O'Brien, Minister for Agriculture, Food and Fisheries, declare to be notifiable diseases those diseases listed as exotic diseases, plus the following diseases:

This notice revokes the notice made by the Minister for Agriculture, Food and Fisheries on 9 September 2008 and published 11 September 2008 and subsequent amendments to that notice.

**Diseases of bees**

American foul brood  
European foul brood  
small hive beetle

**Diseases of aquatic species**

abalone ganglioneuritis (viral)  
*Aeromonas salmonicida* (atypical strains)  
*Boccardia knoxi*  
bonamiosis (*Bonamia* sp.)  
epizootic haematopoietic necrosis  
epizootic ulcerative syndrome (*Aphanomyces invadans*)  
gill associated virus  
infection with abalone herpes-like virus  
infection with *Batrachochytrium dendrobatidis*  
infection with ranavirus  
marteiliosis (*Marteilia sydneyi*)  
mikrocytosis (*Mikrocytosis roughleyi*)  
perkinsosis (*Perkinsus olseni*)  
spawner-isolated mortality virus disease  
viral encephalopathy and retinopathy  
white tail disease

**Diseases of other species**

Aino disease  
 Akabane disease  
 anaplasmosis  
 avian mycoplasmosis (*M. synoviae*)  
 babesiosis (bovines only)  
 bluetongue  
*Brucella suis*  
 buffalo fly  
 cattle tick (*Rhipicephalus microplus*)  
*Cysticercus bovis*  
 enzootic bovine leucosis  
 ephemeral fever  
 equine herpes virus (abortigenic and neurological strains)  
 equine infectious anaemia  
 equine viral arteritis  
 footrot (sheep and goats only)  
 infectious laryngotracheitis  
 Johne's disease  
 listeriosis  
 melioidosis  
 pullorum disease  
 sporadic bovine encephalomyelitis  
 strangles  
 tuberculosis (all species)  
 verotoxigenic (*E. coli*)

**EXOTIC DISEASES****Diseases of bees**

Acariasis tracheal mite (*Acarapis woodi*)  
 acute bee paralysis  
 Africanised honey bees  
 Asian honey bees  
*Braula coeca*  
 Tropilaelaps mite  
 Varroasis (*Varroa destructor*)  
 Varroasis (*Varroa jacobsoni*)

**Diseases of aquatic species**

*Aeromonas salmonicida* (subsp *salmonicida*)  
 Akoya oyster disease  
 bacterial kidney disease (*Renibacterium salmoninarum*)  
 Baculoviral midgut gland necrosis  
 bonamiosis (*Bonamia ostreae*)  
 Channel catfish virus disease  
 Crayfish plague (*Aphanomyces astaci*)  
 enteric redmouth disease (*Yersinia ruckeri*)  
 enteric septicaemia of catfish (*Edwardsiella ictaluri*)  
 epizootic haematopoietic necrosis (European catfish virus/  
 European sheatfish virus)  
 grouper iridoviral disease  
 gyrodactylosis (*Gyrodactylus salaris*)  
 haplosporidiosis (*Haplosporidium costale*, *H. nelsoni*)  
 infection with *Bonamia exitiosa*  
 infection with *Candidatus Xenohalictis californiensis*  
 infection with *Marteilioides chungmuensis*  
 infectious haematopoietic necrosis virus  
 infectious hypodermal and haematopoietic necrosis  
 infectious myonecrosis  
 infectious pancreatic necrosis  
 infectious salmon anaemia  
 iridoviroses of molluscs  
 Koi herpesvirus  
 marteiliosis (*Marteilia refringens*)  
 Mikrocytosis (*Mikrocytos mackini*)  
 Milky haemolymph disease of spiny lobster (*Panulirus* spp.)  
*Monodon* slow growth syndrome  
 necrotising hepatopancreatitis  
*Oncorhynchus masou* virus disease  
 oyster velar disease  
*Perkinsus* spp. (exotic)  
 perkinsosis (*Perkinsus marinus*)  
*Piscirickettsia salmonis*  
 Red sea bream iridoviral disease  
 spring viraemia of carp  
 Taura syndrome  
 viral haemorrhagic septicaemia  
 whirling disease (*Myxobolus cerebralis*)  
 white sturgeon iridoviral disease  
 whitespot disease  
 yellowhead disease

**Diseases of other species**

African horse sickness  
 African swine fever  
 anthrax  
 Aujeszky's disease  
 avian influenza  
 babesiosis (equine only)  
 bat lyssavirus  
 bluetongue (in classical virulent form)  
 borna disease  
 bovine virus diarrhoea Type 2  
*Brucella abortus*  
*Brucella canis*  
*Brucella melitensis*  
 Camelpox  
 Chaga's disease  
 Circovirus (associated with Porcine Dermatitis/Nephropathy  
 Syndrome and Post-weaning Multisystemic Wasting  
 Syndrome only)  
 Classical swine fever  
*Coenurus cerebralis*  
 contagious agalactia  
 contagious bovine pleuropneumonia  
 contagious caprine pleuropneumonia  
 contagious equine metritis  
 cow pox  
 Crimean Congo Haemorrhagic Fever  
*Cysticercus cellulosae*  
 Devil Face Tumour Disease  
 dourine  
 duck plague  
 duck virus hepatitis  
 east coast fever  
 ehrlichiosis  
*Elaphostrongylus cervi*  
 encephalitides (tick borne)  
 epizootic haemorrhagic disease  
 epizootic lymphangitis  
 equine encephalosis  
 equine influenza  
 equine viral encephalomyelitis  
*Fasciola gigantica*  
 foot-and-mouth disease  
 Getah virus  
 glanders  
 haemorrhagic septicaemia  
 Hantann virus  
 heartwater  
 Hendra virus  
 horse pox  
 Ibaraki disease  
 infectious bursal disease (hypervirulent and exotic antigenic  
 variant forms)  
 jaagsiekte  
 Japanese B encephalitis  
 Jembrana disease  
 leishmaniasis  
*Leptospira canicola*  
 Louping ill  
 lumpy skin disease  
 Lyme disease  
 maedi-visna  
 malignant catarrhal fever (wildebeest-associated)  
 Menangle virus  
 Nagana  
 Nairobi sheep disease  
 Newcastle disease (in classical virulent form)  
 Nipah virus  
 peste des petits ruminants  
 porcine endemic diarrhoea  
 porcine myocarditis  
 porcine respiratory and reproductive syndrome  
 Potomac fever  
 proventricular dilatation syndrome  
 rabies  
 Rift Valley fever  
 rinderpest  
*Salmonella abortus-equi*  
*Salmonella abortus-ovis*  
*Salmonella enteritidis*  
 screw worm fly

sheep and goat pox  
 sheep scab  
 Shopes fibroma virus  
 surra  
 swine influenza  
 swine plague  
 swine vesicular disease  
 Teschen/Talfan disease  
 theileriasis  
 transmissible gastroenteritis  
 transmissible spongiform encephalopathies (including bovine spongiform encephalopathy; feline spongiform encephalopathy; chronic wasting disease of deer and elk, scrapie and transmissible mink encephalopathy)  
 trichinosis  
 trypanosomosis  
 tularaemia  
 turkey rhinotracheitis  
 vesicular exanthema  
 vesicular stomatitis  
 warbles  
 Wesselsbron disease  
 West Nile virus

Dated 8 August 2010.

MICHAEL O'BRIEN, Minister for Agriculture,  
 Food and Fisheries

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Sturt Exploration Pty Ltd  
 Location: Olary area—Approximately 5 to 50 km north-east of Olary.  
 Pastoral Leases: Abminga, Bulloo Creek, Wiawera, Bindarra, Aroona West, Wompinie and Lake Dismal.  
 Term: 1 year  
 Area in km<sup>2</sup>: 262  
 Ref.: 2009/00226

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Sturt Exploration Pty Ltd  
 Location: Mount Fitton area—Approximately 130 km north-east of Leigh Creek.  
 Pastoral Leases: Moolawatana and Mount Freeling  
 Term: 1 year  
 Area in km<sup>2</sup>: 107  
 Ref.: 2009/00264

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Wentworth Metal Group Pty Ltd

Location: Olary area—Approximately 10 km north and west of Olary.

Pastoral Leases: Outalpa, Bimbowrie, Abminga, Wiawera and Wawirra.

Term: 2 years

Area in km<sup>2</sup>: 174

Ref.: 2010/00005

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on 08 8463 3103.

J. MARTIN, Mining Registrar

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Minotaur Operations Pty Ltd  
 Location: Warriner Creek area—Approximately 120 km south-east of Coober Pedy.  
 Pastoral Lease: Anna Creek  
 Term: 1 year  
 Area in km<sup>2</sup>: 253  
 Ref.: 2010/00029

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Gingertom Resources Pty Ltd  
 Location: Wild Horse Plain area—Approximately 100 km south-west of Whyalla.  
 Term: 1 year  
 Area in km<sup>2</sup>: 816  
 Ref.: 2010/00123

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

#### MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Cosmo Development Pty Ltd  
 Location: Ooldea area—Approximately 230 km north-west of Ceduna.  
 Term: 2 years  
 Area in km<sup>2</sup>: 534  
 Ref.: 2010/00159

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

## GOVERNMENT GAZETTE ADVERTISEMENT RATES

To apply from 1 July 2010

	\$		\$
Agents, Ceasing to Act as.....	44.25	Firms:	
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Incorporation .....	22.40	Discontinuance Place of Business .....	29.50
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Transfer of Properties .....	55.50	Intention to Sell, Notice of.....	55.50
Attorney, Appointment of.....	44.25	Lost Certificate of Title Notices .....	55.50
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Meeting Final.....	37.00	Annual Financial Statement—Forms 1 and 2 .....	618.00
Meeting Final Regarding Liquidator's Report on		Electricity Supply—Forms 19 and 20.....	439.00
Conduct of Winding Up (equivalent to 'Final		Default in Payment of Rates:	
Meeting')		First Name .....	88.00
First Name.....	44.25	Each Subsequent Name.....	11.30
Each Subsequent Name.....	11.30	Noxious Trade.....	32.75
Notices:		Partnership, Dissolution of.....	32.75
Call.....	55.50	Petitions (small).....	22.40
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Creditors Compromise of Arrangement .....	44.25	Register of Unclaimed Moneys—First Name.....	32.75
Creditors (extraordinary resolution that 'the Com-		Each Subsequent Name .....	11.30
pany be wound up voluntarily and that a liquidator		Registers of Members—Three pages and over:	
be appointed').....	55.50	Rate per page (in 8pt) .....	281.00
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ALL private advertisements forwarded for publication in the *South Australian Government Gazette* must be PAID FOR PRIOR TO INSERTION; and all notices, from whatever source, should be legibly written on one side of the paper only and sent to **Government Publishing SA** so as to be *received no later than 4 p.m. Tuesday preceding the day of publication. Phone 8207 1045 or Fax 8207 1040. E-mail: governmentgazette@dpc.sa.gov.au*. Send as attachments in Word format. Please include date the notice is to be published and to whom the notice will be charged. **The Government Gazette is available online at: [www.governmentgazette.sa.gov.au](http://www.governmentgazette.sa.gov.au).**

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Pages	Main	Amends	Pages	Main	Amends
1-16	2.70	1.25	497-512	37.50	36.50
17-32	3.60	2.25	513-528	38.50	37.25
33-48	4.70	3.35	529-544	39.75	38.50
49-64	5.95	4.55	545-560	40.75	39.75
65-80	6.90	5.75	561-576	41.75	40.75
81-96	8.05	6.65	577-592	43.25	41.25
97-112	9.20	7.85	593-608	44.50	42.75
113-128	10.30	9.05	609-624	45.25	44.25
129-144	11.50	10.20	625-640	46.50	44.75
145-160	12.60	11.30	641-656	47.50	46.50
161-176	13.70	12.40	657-672	48.25	47.00
177-192	15.00	13.50	673-688	50.25	48.25
193-208	16.10	14.90	689-704	51.25	49.25
209-224	17.00	15.70	705-720	52.00	50.50
225-240	18.20	16.80	721-736	53.50	51.50
241-257	19.50	17.80	737-752	54.00	52.50
258-272	20.60	18.90	753-768	55.50	53.50
273-288	21.70	20.40	769-784	56.50	55.50
289-304	22.60	21.30	785-800	57.50	56.50
305-320	24.00	22.50	801-816	59.00	57.00
321-336	25.00	23.60	817-832	60.00	59.00
337-352	26.20	24.90	833-848	61.00	60.00
353-368	27.00	26.00	849-864	62.00	60.50
369-384	28.50	27.00	865-880	63.50	62.00
385-400	29.75	28.25	881-896	64.00	62.50
401-416	30.75	29.25	897-912	65.50	64.00
417-432	32.00	30.50	913-928	66.00	65.50
433-448	33.00	31.75	929-944	67.00	66.00
449-464	33.75	32.50	945-960	68.00	66.50
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## PETROLEUM AND GEOTHERMAL ENERGY ACT 2000

*Suspension of Geothermal Exploration Licences  
GELs 294 and 295*

PURSUANT to section 90 of the Petroleum and Geothermal Energy Act 2000, notice is hereby given that the abovementioned Geothermal Exploration Licences have been suspended under the provisions of the Petroleum and Geothermal Energy Act 2000, for the period from and including 1 July 2010 until 31 December 2010, pursuant to delegated powers dated 1 October 2009.

The expiry date of GELs 294 and 295 is now determined to be 10 August 2013.

Dated 3 August 2010.

B. A. GOLDSTEIN,  
Director Petroleum and Geothermal  
Minerals and Energy Resources  
Primary Industries and Resources SA  
Delegate of the Minister for Mineral  
Resources Development

## PETROLEUM AND GEOTHERMAL ENERGY ACT 2000

*Suspension of Licence Condition  
Extension of Licence Term  
Petroleum Exploration Licences—PELs 154 and 155*

PURSUANT to section 76 A of the Petroleum and Geothermal Energy Act 2000, notice is hereby given that Condition 1 of the abovementioned Petroleum Exploration Licences has been suspended for the period from and including 1 January 2011 until 30 June 2011, under the provisions of the Petroleum and Geothermal Energy Act 2000, pursuant to delegated powers dated 1 October 2009.

The term of PELs 154 and 155 have been extended by a period corresponding to the period of suspension, such that the licences will now expire on 30 June 2011.

Dated 5 August 2010.

B. A. GOLDSTEIN,  
Director Petroleum and Geothermal  
Minerals and Energy Resources  
Primary Industries and Resources SA  
Delegate of the Minister for Mineral  
Resources Development

## ROAD TRAFFIC ACT 1961

*Authorised Officers to Perform Breath Analysis*

I, MALCOLM ARTHUR HYDE, Commissioner of Police, pursuant to section 47K (3) (a) of the Road Traffic Act 1961, do hereby certify that on 5 August 2010, the following police officers were authorised to conduct breath analysis:

PD Number	Officer Name
22136	Betts, Phillip Edward
73220	Hartley, Stella Margaret
79047	McGradey, Peter John
79459	McGrath, Mark Thomas

Dated 5 August 2010.

MALCOLM ARTHUR HYDE, Commissioner  
of Police

## NOTICE TO MARINERS

NO. 36 OF 2010

*South Australia—Kangaroo Island—Penneshaw—  
Temporary Lights Installed*

MARINERS are advised that further to Notice No. 31 of 2010, the light on Penneshaw breakwater which was washed away in heavy seas has been temporarily replaced by two lights in the following locations:

1. On the edge of the Jetty: 35°43'01.2S, 137°56'36.1E—Flashing green every 2 seconds, Range: 4 nautical miles.

2. On the Breakwater: 35°42'58.8S, 137°56'37.1E—Flashing white every 3 seconds, Range: 2 nautical miles.

Mariners are advised to exercise extreme caution when navigating in the area.

Charts affected: Aus 346.

Dated 9 August 2010.

PATRICK CONLON, Minister for Transport

DTEI 2019/01461

SEWERAGE ACT 1929

Addition of Land to Adelaide Drainage Area

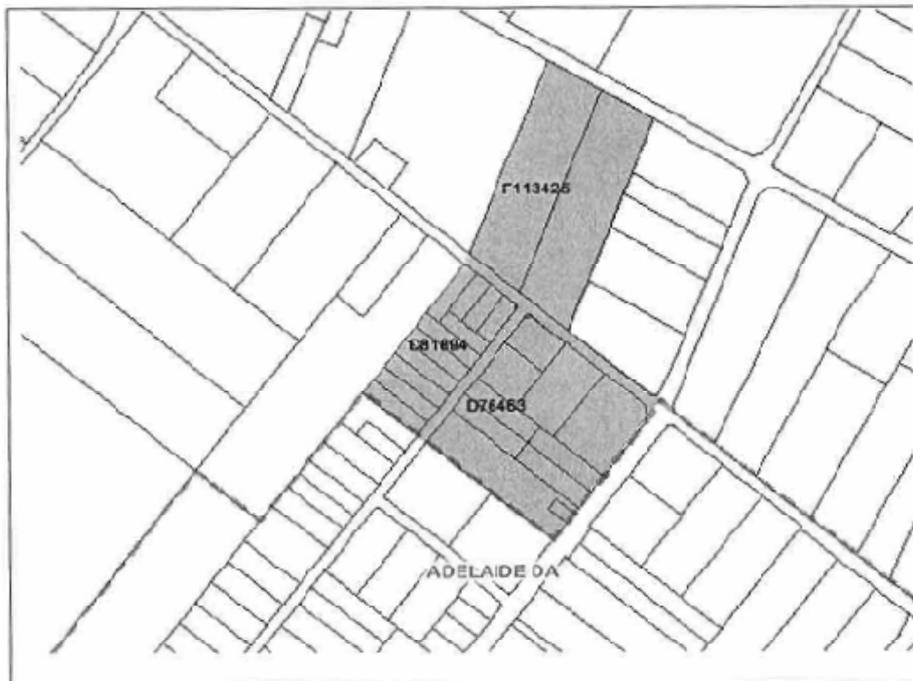
PURSUANT to section 18 of the Sewerage Act 1929, the South Australian Water Corporation:

- (a) adds to the Adelaide Drainage Area the land shown on the plan in the Schedule; and
- (b) declares that this notice has effect from the commencement of the financial year in which it is published in the *Gazette*.

D1459  
 SA Water 10/06416  
 Mapsheet: 662822J

SCHEDULE

**BURTON**  
 HUNDRED OF MUNNO PARA



NOT TO SCALE

**BOUNDARY OF ADELAIDE DRAINAGE AREA PREVIOUSLY PROCLAIMED  
 SHOWN AS DASHED LINES**

**LAND TO BE ADDED TO ADELAIDE DRAINAGE AREA SHOWN AS  
 SHADED AREA**

Dated 10 August 2010.

Signed for and on behalf of the South Australian Water Corporation by a person duly authorised so to do:

A. SCHIRRIPIA, Manager Billing and Collection

In the presence of:

N. GLASS, Team Leader Rating

South Australia

## Local Government (Cemetery) Regulations 2010

under the *Local Government Act 1934*

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### Contents

1	Short title
2	Commencement
3	Interpretation
4	Non-application to Aboriginal sites
5	Non-application to unclaimed cremated remains
6	Cemetery to be fenced
7	Plan of cemetery
8	Register of interments
9	Register of interment rights
10	Grant of interment rights
11	Authority to inter at particular site
12	Transportation of remains within cemetery
13	Interment of name plate with remains
14	Depth of interment in earth
15	Interment in vault
16	Sealing of vault after interment
17	Powers of cemetery authority in relation to vaults
18	Filling of sunken interment sites
19	Re-interment
20	Opening of interment sites
21	Disposal of unclaimed memorials
22	Dangerous driving
23	Drivers to comply with directions of cemetery authority
24	Prohibited activities
25	Power of cemetery authority in relation to things on interment sites
26	Power of cemetery authority to require persons to leave cemetery

### Schedule 1—Revocation of *Local Government (Cemetery) Regulations 1995*

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#### 1—Short title

These regulations may be cited as the *Local Government (Cemetery) Regulations 2010*.

#### 2—Commencement

These regulations will come into operation on 1 September 2010.

#### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Local Government Act 1934*;

*cemetery authority* means the person or body for the time being responsible for the administration of a cemetery;

**certificate as to cause of death** means a certificate as to the cause of the death of a person given under the *Births, Deaths and Marriages Registration Act 1996*, the *Coroners Act 2003* or the *Cremation Act 2000*, as the case may be;

**exhumation** includes the removal of non cremated human remains from a vault;

**human remains** means the body or part of the body of a deceased person and includes cremated remains;

**interment** of human remains includes—

- (a) the placement of cremated remains in a columbarium or other structure designed as a repository for human remains;
- (b) the burial in the earth of cremated remains (with or without a container),

but does not include the scattering of cremated remains;

**mausoleum** means a structure—

- (a) that is designed for the interment of human remains; and
- (b) that is designed to hold 1 or more vaults for the interment of non cremated human remains; and
- (c) in which at least 1 vault (excluding any memorial attached to the vault) is wholly, or protrudes at least 150 millimetres or more, above the surface of the ground,

but does not include a structure that is designed for the interment exclusively of cremated remains;

**memorial** means—

- (a) a gravestone or other monument; or
- (b) a plaque; or
- (c) any other structure or physical object used to memorialise a deceased person;

**underground vault chamber** means a walk in structure—

- (a) that is designed for the interment of human remains; and
- (b) that is designed to hold 1 or more vaults for the interment of non cremated human remains; and
- (c) in which each vault (excluding any memorial attached to the vault) is wholly below the surface of the ground,

but does not include a structure that is designed for the interment exclusively of cremated remains.

#### **4—Non-application to Aboriginal sites**

These regulations do not apply to or in relation to a cemetery that is an Aboriginal site within the meaning of the *Aboriginal Heritage Act 1988*.

#### **5—Non-application to unclaimed cremated remains**

These regulations do not apply to or in relation to cremated remains disposed of by a cemetery authority under the *Cremation Regulations 2001*.

## 6—Cemetery to be fenced

A cemetery authority must ensure that the cemetery is securely fenced at all times.

Maximum penalty: \$200.

## 7—Plan of cemetery

(1) A cemetery authority must keep a plan of the cemetery showing—

- (a) each site at which human remains are interred; and
- (b) each site set aside for the interment of human remains.

Maximum penalty: \$200.

(2) If an interment right in force identifies the site at which human remains are to be interred in pursuance of the interment right, the cemetery authority must include in the plan of the cemetery the number allocated to, or a description of, that site.

Maximum penalty: \$200.

## 8—Register of interments

(1) A cemetery authority must keep a register of interments in accordance with this regulation.

Maximum penalty: \$200.

(2) The cemetery authority must enter in the register—

(a) the following particulars in relation to each interment in the cemetery (including any re-interment of remains following their exhumation from the cemetery):

- (i) the name of the deceased;
- (ii) the age of the deceased at the date of his or her death;
- (iii) the last place of residence of the deceased;
- (iv) the date on which the interment occurred;
- (v) whether the remains of the deceased were cremated;
- (vi) if the remains of the deceased were interred in the earth—
  - (A) whether the remains were interred in a coffin or other receptacle;
  - (B) the number allocated to the interment site;
  - (C) the location of the interment site;
  - (D) the depth to which the remains were interred;
- (vii) if the remains of the deceased were interred in a vault—
  - (A) the number allocated to the vault site;
  - (B) the location of the vault site;
  - (C) whether the vault is in a mausoleum or underground vault chamber;
  - (D) whether the remains were interred in a coffin or other receptacle;
  - (E) if the vault consists of more than 1 compartment—the compartment in which the remains were interred;

- (F) if the vault is wholly below the surface of the ground and is not in an underground vault chamber—the depth of cover between the highest part of the vault and the surface of the ground; and
- (b) the following particulars in relation to each exhumation of remains interred in the cemetery:
  - (i) the name of the deceased whose remains were exhumed;
  - (ii) the date on which the exhumation occurred;
  - (iii) the reasons for the exhumation.

Maximum penalty: \$200.

- (3) The register will be in a form determined by the cemetery authority.

### **9—Register of interment rights**

- (1) A cemetery authority must keep a register of all interment rights granted by the cemetery authority.

Maximum penalty: \$200.

- (2) The cemetery authority must record in the register the location of and number allocated to, or a description of, each site in the cemetery in respect of which an interment right has been granted.

Maximum penalty: \$200.

- (3) The register will be in a form determined by the cemetery authority.

### **10—Grant of interment rights**

- (1) Before granting an interment right to a person, a cemetery authority must give the person a statement written in plain English that—

- (a) includes the matters required by subregulation (2) to be included in the interment right; and
- (b) sets out the rights and responsibilities of the cemetery authority and relatives of a deceased person whose remains may be interred pursuant to the interment right in relation to any memorial (including any unclaimed memorial) to the deceased person; and
- (c) specifies the cost of the interment right and any options for periodic payment.

Maximum penalty: \$200.

- (2) An interment right granted by the cemetery authority must—

- (a) identify the person to whom the interment right is granted; and
- (b) identify the person or persons whose remains may be interred in pursuance of the interment right or provide that a specified person or class of person may, at some future time, nominate the person or persons whose remains may be interred in pursuance of the interment right; and
- (c) identify the site at which remains may be interred in pursuance of the interment right or provide for determination, in a manner set out in the interment right, of the site at which the remains may be interred in pursuance of the interment right; and
- (d) specify the period for which the interment right is granted; and
- (e) set out the rights (if any) to renewal of the interment right; and

- (f) specify whether the interment right may be cancelled or transferred and set out any conditions governing its cancellation or transfer.

### **11—Authority to inter at particular site**

A person must not inter human remains, or cause, suffer or permit the interment of human remains, in a cemetery at a site in relation to which an interment right is in force, unless the remains are those of a person entitled to have his or her remains interred at that site.

Maximum penalty: \$200.

### **12—Transportation of remains within cemetery**

A person must not transport, or cause, suffer or permit the transportation of, non cremated human remains within a cemetery unless—

- (a) the remains are contained in a coffin or other rigid container; or  
(b) the remains are transported on a rigid base and contained within a shroud or other wrapping,

from which no offensive odours or noxious gases or fluids may escape.

Maximum penalty: \$200.

### **13—Interment of name plate with remains**

- (1) A person must not inter, or cause, suffer or permit the interment of, non cremated human remains in a cemetery unless a name plate made of a durable material with the surname, at least 1 given name and the date of the death of the deceased engraved, printed or stamped on it in a manner approved by the relevant Minister is—

- (a) in the case of remains interred in a coffin—affixed to the coffin; or  
(b) in the case of remains interred without a coffin—placed on top of the remains.

Maximum penalty: \$200.

- (2) A person must not inter, or cause, suffer or permit the interment of, cremated human remains in a cemetery unless a name plate made of a durable material with the surname, at least 1 given name and the date of the death of the deceased engraved, printed or stamped on it in a manner approved by the cemetery authority is affixed to the outside of, or placed within, the receptacle that contains the remains.

Maximum penalty: \$200.

- (3) Subregulation (2) does not apply in relation to the interment of cremated remains in the earth without a container.

- (4) In this regulation—

*relevant Minister* means the Minister to whom the administration of the *Health Care Act 2008* is committed.

### **14—Depth of interment in earth**

A person must not inter, or cause, suffer or permit the interment of, non cremated human remains in a cemetery so that any of the remains are at a depth of less than 1 metre from the surface of the ground unless the remains are interred in a vault in accordance with regulation 15.

Maximum penalty: \$200.

## 15—Interment in vault

- (1) A person must not inter, or cause, suffer or permit the interment of, non cremated human remains in a vault in a cemetery unless—
  - (a) the vault is constructed of brick, stone, concrete or other material approved by the cemetery authority; and
  - (b) subject to subregulations (2) and (3), the vault is air tight; and
  - (c) subject to subregulations (4) and (5), the vault is water tight; and
  - (d) in the case of a vault not in a mausoleum or underground vault chamber—no part of the vault (excluding any memorial attached to the vault) is more than 150 millimetres above the surface of the ground.

Maximum penalty: \$200.

- (2) A vault may have a vent if—
  - (a) the vent is insect and vermin proof; and
  - (b) the vent—
    - (i) is equipped with a filter; or
    - (ii) terminates at least 1 metre below the surface of the ground, so as to prevent the discharge of any offensive odours or noxious gases into the atmosphere.
- (3) A vault not in a mausoleum or underground vault chamber must, unless it is air tight or has a vent that complies with subregulation (2), be impervious to air for at least 1 metre below the natural surface of the ground.
- (4) A vault may have a drain if—
  - (a) the drain is insect and vermin proof; and
  - (b) the drain terminates—
    - (i) in the case of a drain for a vault in a mausoleum or underground vault chamber—at least 1 metre below the lowest part of the mausoleum or chamber;
    - (ii) in any other case—at least 1 metre below the surface of the ground.
- (5) A vault not in a mausoleum or underground vault chamber must, unless it is water tight or has a drain that complies with subregulation (4), be impervious to water for at least 1 metre below the natural surface of the ground.

## 16—Sealing of vault after interment

- (1) A person who inters, or arranges for the interment of, human remains in a vault in a cemetery must ensure that the opening of the vault is sealed to the satisfaction of the cemetery authority as soon as practicable after the interment.

Maximum penalty: \$200.

- (2) A vault must be sealed so that the opening is at all times air tight, water tight and secure against unauthorised access.

### **17—Powers of cemetery authority in relation to vaults**

- (1) If a cemetery authority suspects on reasonable grounds that—
  - (a) a vault in the cemetery does not comply with these regulations; or
  - (b) offensive odours or noxious gases or fluids have escaped or are escaping from a vault in the cemetery,the cemetery authority may open the vault and inspect it.
- (2) If, after inspecting a vault, the cemetery authority is satisfied that—
  - (a) the vault does not comply with these regulations; or
  - (b) offensive odours or noxious gases or fluids have escaped or are escaping from the vault,the cemetery authority may, by notice in writing to a person who holds an interment right in force in relation to that vault or who is, under such an interment right, entitled to have his or her remains interred in that vault, require the person to take specified remedial action within a reasonable period specified in the notice.
- (3) If a person refuses or fails to comply with a notice under subregulation (2), the cemetery authority may cause the work to be carried out and recover the costs as a debt from the person.

### **18—Filling of sunken interment sites**

If the surface of an interment site in a cemetery sinks below the level of the natural surface of the ground, the cemetery authority may cause the site to be filled up to that level.

### **19—Re-interment**

- (1) A person must not cause, suffer or permit non cremated human remains that have been exhumed or removed from their place of interment to be re-interred in a cemetery without the consent in writing of the Attorney-General.  
Maximum penalty: \$200.
- (2) The Attorney-General must, before giving a consent under subregulation (1), consult with the relevant cemetery authority.
- (3) A consent under this regulation may be made subject to such conditions as the Attorney-General thinks fit.
- (4) A person must not contravene or fail to comply with a condition of a consent under this regulation.  
Maximum penalty: \$200.

### **20—Opening of interment sites**

- (1) Subject to subregulation (2), a person must not, without the consent of the Attorney-General, open, or cause, suffer or permit the opening of, an interment site in a cemetery for the purpose of interring additional human remains.  
Maximum penalty: \$200.
- (2) The consent of the Attorney-General under subregulation (1) is not required if—
  - (a) only cremated remains are interred at the site; or
  - (b) in the case of a site at which non cremated remains are interred (whether or not cremated remains are also interred there)—

- (i) additional human remains can be interred without disturbing non cremated remains; or
  - (ii) the non cremated remains last interred were interred in a vault that is air tight and water tight and—
    - (A) the remains were those of a child who at the time of death was not more than 5 years of age and 3 years or more have elapsed since the remains were interred; or
    - (B) the remains were those of a child who at the time of death was more than 5 years but not more than 10 years of age and 4 years or more have elapsed since the remains were interred; or
    - (C) 6 years or more have elapsed since the remains were interred; or
  - (iii) the non cremated remains last interred were interred otherwise than in a vault that is air tight and water tight and—
    - (A) the remains were those of a child who at the time of death was not more than 5 years of age and 18 months or more have elapsed since the remains were interred; or
    - (B) the remains were those of a child who at the time of death was more than 5 years but not more than 10 years of age and 2 years or more have elapsed since the remains were interred; or
    - (C) 3 years or more have elapsed since the remains were interred.
- (3) If, when an interment site is opened, human remains are found, the remains must—
- (a) in the case of remains interred in a vault—be re-interred within the vault;
  - (b) in any other case—be re-interred at a greater depth.
- (4) The Attorney-General must, before giving a consent under subregulation (1), consult with the relevant cemetery authority.
- (5) A consent under this regulation may be made subject to such conditions as the Attorney-General thinks fit.
- (6) A person must not contravene or fail to comply with a condition of a consent under this regulation.

Maximum penalty: \$200.

## **21—Disposal of unclaimed memorials**

If—

- (a) an interment right relating to an interment site in a cemetery has expired; and
- (b) 2 years or more have elapsed since the interment right expired; and
- (c) a memorial is situated at the interment site; and
- (d) the cemetery authority has given notice of its intention to dispose of the memorial—
  - (i) by public advertisement in a newspaper circulating throughout the State; and
  - (ii) by letter to relatives of the deceased person whose name appears on the memorial (being relatives whose names and addresses are known to the cemetery authority); and

- (iii) by notice affixed to the memorial; and
- (e) 6 months have elapsed since the cemetery authority gave notice under paragraph (d) and no person has claimed the memorial within that period,

the cemetery authority may dispose of the memorial in such manner as it thinks fit.

## **22—Dangerous driving**

A person must not drive a motor vehicle within a cemetery in a dangerous or careless manner or without reasonable consideration for others.

Maximum penalty: \$200.

## **23—Drivers to comply with directions of cemetery authority**

- (1) A person must, while in charge of a motor vehicle within a cemetery, comply with any lawful directions of the cemetery authority as to the driving of vehicles.

Maximum penalty: \$200.

Expiation fee: \$50.

- (2) A person must, while in charge of a motor vehicle within a cemetery, comply with any lawful directions of the cemetery authority as to the parking of vehicles.

Maximum penalty: \$200.

Expiation fee: \$21.

## **24—Prohibited activities**

A person must not remove, damage, deface or interfere with—

- (a) a building, memorial or other fixture or structure in a cemetery; or
- (b) a part of the grounds of a cemetery, including a tree, shrub, plant, flower or lawn, or a stake or label on or near any such thing.

Maximum penalty: \$200.

## **25—Power of cemetery authority in relation to things on interment sites**

A cemetery authority may—

- (a) cause to be removed from an interment site in the cemetery any unattached ornament, empty flower container, broken masonry, decayed or broken wreath or dead flowers; and
- (b) cause to be pruned, cut down or removed any plant on an interment site in the cemetery that is, in the opinion of the cemetery authority, unsightly or overgrown.

## **26—Power of cemetery authority to require persons to leave cemetery**

- (1) If a cemetery authority has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery, the cemetery authority may require the person to leave the cemetery.
- (2) A person must not fail or refuse to comply with a requirement of a cemetery authority under subregulation (1).

Maximum penalty: \$200.

## **Schedule 1—Revocation of *Local Government (Cemetery) Regulations 1995***

The *Local Government (Cemetery) Regulations 1995* are revoked.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 182 of 2010

10MLG0002CS

South Australia

## Employment Agents Registration Regulations 2010

under the *Employment Agents Registration Act 1993*

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### Contents

1	Short title
2	Commencement
3	Interpretation
4	Employment agent
5	Employment contract
6	Application for licence
7	Application for renewal of licence
8	Notice of employment agent's scale of fees
9	Prescribed form for statement
10	Exemption of premises from Act
11	Fees

Schedule 1—Forms

Schedule 2—Fees

Schedule 3—Revocation of *Employment Agents Registration Regulations 1995*

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### 1—Short title

These regulations may be cited as the *Employment Agents Registration Regulations 2010*.

### 2—Commencement

These regulations will come into operation on 1 September 2010.

### 3—Interpretation

In these regulations—

*Act* means the *Employment Agents Registration Act 1993*;

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*spouse*—a person is the spouse of another if they are legally married.

### 4—Employment agent

An organisation or association is excluded from the definition of *employment agent* in section 3 of the Act insofar as it administers a group training scheme jointly funded by the Commonwealth and State Governments for—

- (a) the procurement of apprentices or trainees for persons who desire to employ or engage such persons in any kind of work; or
- (b) the procurement of employment for apprentices or trainees.

## 5—Employment contract

A contract, arrangement or understanding (not being a contract of service) for the engagement of a worker by an employer to perform remunerated work for the employer is excluded from the definition of *employment contract* in section 3 of the Act if the yearly remuneration payable to the worker is—

- (a) for the financial year ending on 30 June 2011—not less than \$113,800; and
- (b) for each subsequent financial year—not less than the *high income threshold* (within the meaning of the *Fair Work Act 2009* of the Commonwealth) applying under that Act for that financial year.

## 6—Application for licence

- (1) Pursuant to section 7(1)(c)(i) of the Act, the following persons are disqualified from giving a character reference for an applicant for a licence:
  - (a) a person who has, within the previous 5 years, been convicted of an offence—
    - (i) in connection with the promotion, operation or management of a business; or
    - (ii) involving fraud or dishonesty; or
  - (b) a person who is an associate of the applicant.
- (2) For the purposes of subregulation (1)(b), a person is an associate of an applicant if—
  - (a) they are partners; or
  - (b) they are both involved in the same business; or
  - (c) they are both directors of the same company; or
  - (d) they are both trustees or beneficiaries of the same trust, or 1 is a trustee and the other is a beneficiary of the same trust; or
  - (e) 1 is a spouse, domestic partner, parent, grandparent, child or grandchild of the other.
- (3) Pursuant to section 7(3) of the Act, an applicant that is a body corporate must furnish 2 character references for the natural person who is to act as the manager of the relevant business.
- (4) A character reference must be in the form set out in Schedule 1 Form 1.
- (5) For the purposes of section 7(4) of the Act, an application for a licence must be advertised at least once in a newspaper circulating generally throughout the State.
- (6) For the purposes of section 7(8) of the Act, the period of 1 month is prescribed.

## 7—Application for renewal of licence

For the purposes of section 9(2) of the Act, the prescribed number of days is 14.

## 8—Notice of employment agent's scale of fees

The form of a notice under section 19(1) of the Act is as set out in Schedule 1 Form 2.

## 9—Prescribed form for statement

The prescribed form for a statement under section 20(4) of the Act is as set out in Schedule 1 Form 3.

## 10—Exemption of premises from Act

Premises that are—

- (a) located at a place of business of an employer in order to facilitate the employment of people to work at that place; and
- (b) used by an employment agent on a temporary basis only, or that are only staffed by an employment agent on a part-time or casual basis,

are exempted from the operation of sections 16, 17 and 19 of the Act.

## 11—Fees

The fees payable for the purposes of the Act are set out in Schedule 2.

## Schedule 1—Forms

### Form 1—Character reference

#### *Employment Agents Registration Act 1993, section 7*

This reference relates to an application for a licence as an employment agent under section 7 of the *Employment Agents Registration Act 1993*.

Name of applicant for licence:

Describe how you know the applicant and your relationship to him or her (if any):

The applicant is required (under section 7 of the Act) to be a fit and proper person to hold a licence. Specify any details within your knowledge relating to the applicant's conduct and character that you consider may be relevant to this requirement:

The applicant or a person employed by the applicant is required (under section 7 of the Act) to have sufficient knowledge and experience for the purpose of properly operating or managing the business of an employment agent. Specify any details within your knowledge relating to the applicant's knowledge and experience that you consider may be relevant to this requirement:

Specify any other details that you consider may be relevant to the application:

Your details:

Name:

Address:

Occupation:

Signature:

Date:

*Note to person completing this form: Please make sure you are not disqualified from providing a character reference for an applicant (see regulation 6(1) of the Employment Agents Registration Regulations 2010).*

### Form 2—Notice of employment agent's scale of fees

#### *Employment Agents Registration Act 1993, section 19*

Name of employment agent:

The fees to be charged by this employment agent in procuring workers for a person who desires to employ or engage others in any kind of work are as follows: *[specify scale of fees]*

The fees to be charged by this employment agent in procuring employment for a person who desires to be employed or engaged by others in any kind of work are—

- (a) as follows *[specify scale of fees]\**; or
- (b) as negotiated between the employment agent and the person\*.

Signature of employment agent\*\*:

Date:

*\*Delete whichever of paragraph (a) or (b) is not applicable.*

*\*\*If the employment agent is a body corporate, the signature must be that of the natural person acting as the manager of the business carried on by the employment agent.*

### **Form 3—Prescribed form for statement**

#### ***Employment Agents Registration Act 1993, section 20(4)***

Name and business address of employer\*:

*\*"Employer" is defined in the Act as a person by whom a worker is employed under an employment contract, or for whom work is done by a worker under an employment contract.*

Location at which worker must first attend for purposes of employment:

Indicate whether the *Workers Rehabilitation and Compensation Act 1986* will apply in relation to the worker YES/NO

Indicate whether the following types of insurance will be paid by the employer in relation to the worker:

Workers compensation YES\*/NO

Public liability YES\*/NO

Car insurance YES\*/NO

Other YES\*/NO

*\* If "YES", please specify details*

Indicate whether the worker will pay income tax through the employer (ie PAYE) YES/NO *[if "NO", please specify details of arrangements]*

Indicate whether the worker will be covered by the following kinds of awards or agreements:

Federal award YES\*/NO

State award YES\*/NO

Enterprise agreement YES\*/NO

*\* If "YES", please specify name of award or agreement*

Indicate whether superannuation benefits will be paid by the employer YES/NO *[if "YES", please specify details of scheme including whether it is a Commonwealth or State scheme]*

Indicate whether the worker will be entitled to any of the following types of paid leave that will accrue during the employment:

Annual leave YES\*/NO

Sick leave YES\*/NO

Parental leave YES\*/NO

Other YES\*/NO

*\* If "YES", please specify details including yearly entitlement*

Indicate whether any expenses will be reimbursed by the employer in relation to the worker YES/NO  
*[if "YES", please specify details including amounts]:*

Details of person completing this statement:

Name:

Signature:

Date:

*Note to worker: It is recommended that you verify the information contained in this statement with your employer.*

## **Schedule 2—Fees**

The following fees are payable:

1	Application for licence (section 7(1)(d) of Act)	\$12.40
2	Application for renewal of licence (section 9(1)(c) of Act)	\$12.40
3	Late application fee (section 9(3) of Act)	\$12.40

## **Schedule 3—Revocation of *Employment Agents Registration Regulations 1995***

The *Employment Agents Registration Regulations 1995* are revoked.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 183 of 2010

MIR10-017CS

South Australia

## Land Valuers Regulations 2010

under the *Land Valuers Act 1994*

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### Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Qualifications required to be held by land valuers

### Schedule 1—Revocation of *Land Valuers Regulations 1995*

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#### 1—Short title

These regulations may be cited as the *Land Valuers Regulations 2010*.

#### 2—Commencement

These regulations will come into operation on 1 September 2010.

#### 3—Interpretation

- (1) In these regulations—

*Act* means the *Land Valuers Act 1994*.

- (2) For the purposes of these regulations, a reference to a qualification or subject conferred or offered by a particular institution includes a reference to a qualification or subject of a different name conferred or offered by that institution and certified by that institution to be an equivalent qualification or subject.

#### 4—Qualifications required to be held by land valuers

For the purposes of sections 5(a) and 6(a) of the Act, a natural person must hold at least 1 of the following qualifications:

- (a) degree of Bachelor of Business (Property) conferred by the University of South Australia, including satisfactory completion of (or status granted in) the following subjects:
  - (i) Statutory Valuations; and
  - (ii) Valuation of Investment Properties or Advanced Property Valuation;
- (b) Graduate Diploma in Property, or degree of Master of Business in Property or degree of Master of Business (Property), conferred by the University of South Australia, including satisfactory completion of (or status granted in) the following subjects:
  - (i) —
    - (A) Property Law 1G and 2G; or
    - (B) Property Law 2M; or

- (C) Law of Property G; and
- (ii) —
  - (A) Property Case Studies, Real Estate Valuation 1, Real Estate Valuation 2, Real Estate Valuation 3 and Valuation Case Studies; or
  - (B) Statutory Valuation G and Valuation of Investment Property G; or
  - (C) Statutory Valuation G and Advanced Property Valuation G;
- (c) degree of Bachelor of Business in Property conferred by the University of South Australia, including satisfactory completion of (or status granted in) the following subjects:
  - (i) Valuation 1 and 2; and
  - (ii) Valuation Field Work 1 and 2;
- (d) membership as a provisional associate, graduate, associate, technical associate, fellow or life fellow of the Australian Property Institute;
- (e) membership as an intermediate member, associate, fellow or life member of the Property Institute of New Zealand;
- (f) membership as an associate or fellow member of the Royal Institution of Chartered Surveyors (General Practice Division).

## **Schedule 1—Revocation of *Land Valuers Regulations 1995***

The *Land Valuers Regulations 1995* are revoked.

### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 184 of 2010

09MCA0024CS

South Australia

## **Conveyancers Regulations 2010**

under the *Conveyancers Act 1994*

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### **Contents**

1	Short title
2	Commencement
3	Interpretation
4	Fees
5	Annual fee and return
6	Notification of change in circumstances
7	Return of certificate of registration
8	Approved professional indemnity insurance scheme
9	Exemption from trust account provisions for third party cheques
10	Payment of interest on trust accounts to Commissioner
11	General duty with respect to records
12	Receipt of trust money
13	Payment of trust money
14	Keeping of records
15	Cash books
16	Separate trust ledger accounts
17	Reconciliation statements
18	Transfer of money from trust account to office account
19	Audit of trust accounts
20	Conveyancer's statement
21	Audit when conveyancer ceases to carry on business
22	Audit and report etc for firm operates for each partner
23	Certain persons may not audit accounts and records of conveyancer
24	Indemnity fund
25	Establishment and determination of claims
26	Claimant's entitlement to compensation and interest

### Schedule 1—Fees

### Schedule 2—Revocation and transitional provision

#### Part 1—Revocation of *Conveyancers Regulations 1995*

1	Revocation of regulations
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#### Part 2—Transitional provision

2	Approved schemes
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### **1—Short title**

These regulations may be cited as the *Conveyancers Regulations 2010*.

## 2—Commencement

These regulations will come into operation on 1 September 2010.

## 3—Interpretation

In these regulations—

*Act* means the *Conveyancers Act 1994*;

*approved scheme* means the professional indemnity insurance scheme approved by the Commissioner for the purposes of these regulations;

*professional indemnity insurance* means insurance against civil liability arising in connection with carrying on business as a conveyancer (whether the liability arises from an act or omission on the part of the insured conveyancer or some other person).

## 4—Fees

- (1) The fees fixed by Schedule 1 are payable to the Commissioner for the purposes set out in that Schedule.
- (2) The Commissioner may waive, reduce or refund a fee (or part of a fee) payable under these regulations if satisfied that it is appropriate to do so in a particular case.

## 5—Annual fee and return

- (1) For the purposes of section 8(2) of the Act, a registered conveyancer must pay the fee and lodge the return on or before—
  - (a) in the case of a registered conveyancer who held a licence as a land broker under the *Land Agents, Brokers and Valuers Act 1973* immediately before the commencement of the revoked regulations—
    - (i) the last day of the month in each year nominated in writing to the conveyancer by the Commissioner; or
    - (ii) if the Commissioner does not nominate a month—31 May in each year;
  - (b) in the case of any other registered conveyancer—
    - (i) the last day of the month in each year nominated in writing to the conveyancer by the Commissioner; or
    - (ii) if the Commissioner does not nominate a month—the last day of the month in each year that is the same month as the month in which the conveyancer's registration was granted.
- (2) For the purposes of section 8(3) of the Act, the penalty for default in paying the annual fee or lodging the annual return is as set out in Schedule 1.
- (3) A conveyancer must, on or before the date for lodging an annual return, provide the Commissioner with evidence to the Commissioner's satisfaction that the conveyancer—
  - (a) will be insured to the extent required by these regulations for the 12 month period following that date; or
  - (b) will not, for the 12 month period following that date, be required under these regulations to be insured.

Maximum penalty: \$2 500.

- (4) In this regulation—

*revoked regulations* means the *Conveyancers Regulations 1995*.

## 6—Notification of change in circumstances

- (1) If there is any change in—

- (a) the residential address of a registered conveyancer; or
- (b) the business or trading name under which a registered conveyancer carries on business; or
- (c) the address at which a registered conveyancer carries on business; or
- (d) the address of the registered corporate office of a registered conveyancer that is a company,

the conveyancer must, within 14 days after that change, give written notice to the Commissioner of the new address or name (as the case may be).

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) A registered conveyancer who is not required to be insured under the approved scheme must, before a change occurs in his or her circumstances that would require the conveyancer to be so insured during the course of the 12 month period following the date for lodging an annual return, provide the Commissioner with evidence to the Commissioner's satisfaction that the conveyancer will be insured to the extent required by these regulations for the balance of that 12 month period.

Maximum penalty: \$2 500.

- (3) A registered conveyancer must, within 14 days after ceasing to carry on business as a conveyancer, give written notice to the Commissioner of that fact.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (4) A registered conveyancer must, within 14 days after entering into partnership to carry on business as a conveyancer or ceasing to be in such a partnership, give written notice to the Commissioner of that fact, together with the names of the members of the new or former partnership.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (5) If a person is appointed as a director of a company that is a registered conveyancer, the conveyancer must, within 14 days after the appointment—

- (a) notify the Commissioner in the manner and form approved by the Commissioner of the appointment of the new director; and
- (b) provide the Commissioner with any information required by the Commissioner for the purposes of determining whether the new director meets the requirements for directors under section 7(2) of the Act.

Maximum penalty: \$2 500.

Expiation fee: \$160.

## **7—Return of certificate of registration**

- (1) If registration of a person as a conveyancer is surrendered, suspended or cancelled, the person must, at the direction of the Court or the Commissioner, return the certificate of registration to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) If, on an application under section 6 of the Act, a certificate of registration as a conveyancer has been issued to a person but the fee payable in respect of the application has not been paid (whether because of the dishonouring of a cheque or otherwise), the person must, at the direction of the Commissioner, return the certificate of registration to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (3) The Commissioner may issue to a registered conveyancer a certificate of registration in replacement of a current certificate of registration if satisfied that—

- (a) the current certificate has been lost, destroyed or damaged; or
- (b) any particulars appearing on the current certificate are incorrect.

- (4) If the Commissioner issues to a registered conveyancer a replacement certificate of registration, the conveyancer must, at the direction of the Commissioner, return the original (or previous duplicate) certificate of registration to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

## **8—Approved professional indemnity insurance scheme**

- (1) For the purposes of section 9(1) of the Act, the Commissioner may approve a scheme to provide professional indemnity insurance, to an extent provided by the scheme, for the benefit of conveyancers.

- (2) The approved scheme—

- (a) must provide for insurance indemnity under a master policy negotiated with the insurer or insurers participating in the scheme; and
- (b) must provide for all persons carrying on business as a conveyancer, or a class or classes of conveyancers, as specified in the scheme, to obtain coverage under the scheme; and
- (c) may provide for the determination and settlement of claims against conveyancers covered by the scheme; and
- (d) may impose on conveyancers covered by the scheme obligations to pay premiums, levies, fees or other charges (which may vary according to factors stipulated in the scheme); and
- (e) may impose, or provide for the imposition of, penalties, sanctions and remedies against conveyancers who fail to comply with their obligations under the scheme; and
- (f) may make any other provision reasonably necessary for, or incidental to, the administration or enforcement of the scheme.

- (3) The approved scheme (as amended from time to time with the approval of the Commissioner) is binding on—
  - (a) the conveyancers covered by the scheme; and
  - (b) the insurer or insurers and other persons to whom the scheme applies.
- (4) The Commissioner must keep a copy of the approved scheme (including any amendments to the scheme approved by the Commissioner) available for inspection at the Commissioner's office and must, on request for a copy of the scheme or amendment and payment of the fee, provide such a copy.
- (5) In this regulation—

*conveyancer* includes a former conveyancer.

### **9—Exemption from trust account provisions for third party cheques**

A conveyancer is exempt from the operation of Part 4 Division 2 of the Act and regulations 13(2) and 20(1)(d) in respect of the receipt and delivery of a cheque by the conveyancer if the cheque—

- (a) is a crossed cheque expressed to be payable to a person or persons not being or including the conveyancer (whether or not it is also expressed to be payable to bearer); and
- (b) is held by the conveyancer for the purpose of delivery to a person to whom the cheque is expressed to be payable (or such a person's agent), and is so delivered.

### **10—Payment of interest on trust accounts to Commissioner**

For the purposes of section 17 of the Act, interest that an ADI is liable to pay in respect of trust money held in a trust account must be paid by the ADI to the Commissioner on—

- (a) 15 January, 15 April, 15 July and 15 October in each year; or
- (b) the 15th day of each month in each year.

### **11—General duty with respect to records**

If a conveyancer uses a computer program to keep records under Part 4 Division 2 of the Act, the conveyancer must ensure that—

- (a) an electronic copy of all the records is made within 24 hours of any alteration of the records; and
- (b) at least once in each week, an electronic copy of all the records is made and kept in a safe place at a location other than the premises where the computer program is operating; and
- (c) before any information is deleted from the computer records, a hard copy of the information is made and kept by the conveyancer as part of the conveyancer's records; and
- (d) an up-to-date electronic copy of the computer program is made and kept in a safe place at a location other than the premises where the computer program is operating.

Maximum penalty: \$2 500.

## 12—Receipt of trust money

- (1) For the purposes of section 23(2)(a) of the Act, the receipt that a conveyancer must make available to a person making a payment of trust money—
  - (a) must be legibly written on a form comprised in a series of consecutively pre-numbered duplicate receipt forms marked with the name of the conveyancer and the words "Trust Account"; and
  - (b) must contain the following information:
    - (i) —
      - (A) in the case of a payment made by electronic transfer of funds into a conveyancer's trust account—the date on which the conveyancer makes out the receipt; or
      - (B) in any other case—the date of the payment;
    - (ii) the name of the person making the payment;
    - (iii) whether the payment is by cash, cheque, bank cheque or electronic transfer of funds into the conveyancer's trust account and, if the payment is by cheque or bank cheque, the name of the drawer of the cheque;
    - (iv) the name of the person for whom the money is received;
    - (v) brief particulars of the purpose of the payment;
    - (vi) the amount of the payment.
- (2) A conveyancer must make out a receipt in accordance with section 23(2) of the Act and this regulation—
  - (a) in the case of a payment made by electronic transfer of funds into a conveyancer's trust account—immediately the conveyancer receives official confirmation that the payment has been made (whether that is by way of receipt by the conveyancer of an ADI statement or some other way, whichever occurs sooner); or
  - (b) in any other case—immediately on receipt of the payment.

Maximum penalty: \$2 500.

- (3) A conveyancer need not comply with subregulation (1)(a) or section 23(2)(b) of the Act if the conveyancer uses a computer program to make out the receipt and the program—
  - (a) automatically produces in chronological sequence consecutively numbered receipts marked with the name of the conveyancer and the words "Trust Account"; and
  - (b) automatically makes a separate contemporaneous record of the receipt so that, at any time, a hard copy of the receipt may be produced; and
  - (c) requires input in each field of a data entry screen intended to receive information for the purposes of producing the receipt so that each receipt contains all of the information required by subregulation (1)(b).

## 13—Payment of trust money

- (1) A conveyancer must not make a payment of trust money in cash.

Maximum penalty: \$2 500.

- (2) When a conveyancer makes a payment of trust money by cheque, the conveyancer—
- (a) must ensure that the cheque is marked with the name of the conveyancer and the words "Trust Account"; and
  - (b) must—
    - (i) cause the cheque to be crossed and endorsed "Not negotiable"; or
    - (ii) obtain from the person receiving the cheque a receipt that complies with subregulation (4) and keep the receipt as part of the conveyancer's records.

Maximum penalty: \$2 500.

- (3) When a conveyancer makes a payment of trust money by cheque, the conveyancer must prepare and keep as part of the conveyancer's records a cheque stub or voucher containing the following information:
- (a) the date and reference number of the cheque;
  - (b) the name of the payee;
  - (c) the client name or reference and brief particulars of the purpose of the payment;
  - (d) the amount of the cheque.
- (4) The receipt must be legible and contain the following information:
- (a) the date and reference number of the cheque;
  - (b) particulars identifying the trust account against which the cheque is drawn;
  - (c) the name of the payee;
  - (d) brief particulars of the purpose of the payment;
  - (e) the amount of the cheque.
- (5) When a conveyancer authorises the payment of trust money by electronic transfer of funds, the conveyancer—
- (a) must prepare and keep as part of the conveyancer's records the following information:
    - (i) the date and reference number of the payment;
    - (ii) the name of the payee;
    - (iii) the client name or reference and brief particulars of the purpose of the payment;
    - (iv) the name or style of the ADI account to which the payment is made, its number and the identifying numbers of the receiving ADI and its branch;
    - (v) the amount of the payment; and
  - (b) must, on receiving official written confirmation that the payment has been made, keep that confirmation as part of the conveyancer's records.

## 14—Keeping of records

For the purposes of section 23(1)(c) of the Act, the detailed accounts of receipts and disbursements of trust money to be compiled by a conveyancer must comply with regulations 15, 16 and 17.

## 15—Cash books

- (1) A conveyancer must keep as part of the conveyancer's records—
  - (a) a cash receipts book in which the conveyancer records the following information in respect of each receipt of trust money:
    - (i) the date and reference number of the receipt;
    - (ii) the name of the person from whom the money is received;
    - (iii) the client name or reference to which the transaction relates;
    - (iv) brief particulars of the purpose of the receipt;
    - (v) the amount of the receipt; and
  - (b) a cash payments book in which the conveyancer records the following information in respect of each payment of trust money:
    - (i) the date and reference number of the cheque or electronic transfer of funds by which the payment was made;
    - (ii) the name of the payee;
    - (iii) the client name or reference to which the transaction relates;
    - (iv) brief particulars of the purpose of the payment;
    - (v) the amount of the cheque or electronic transfer of funds.
- (2) A conveyancer need not keep a cash receipts book or a cash payments book as required by subregulation (1) if the conveyancer uses a computer program to record the information referred to in that subregulation in respect of each receipt or payment of trust money and the program—
  - (a) requires input in each field of a data entry screen intended to receive information in respect of a receipt or payment so that all of the information referred to in subregulation (1) is recorded in respect of each receipt and payment; and
  - (b) is capable, at any time, of producing—
    - (i) a report of the information in respect of receipts of trust money in the order in which they were received; and
    - (ii) a report of the information in respect of payments of trust money in the order in which they were made.
- (3) A conveyancer who uses a computer program as referred to in subregulation (2) must ensure that—
  - (a) at the end of each month, hard copies of each of the following reports are produced:
    - (i) a report of the information in respect of receipts of trust money received during that month in the order in which they were received;
    - (ii) a report of the information in respect of payments of trust money made during that month in the order in which they were made; and
  - (b) those hard copies are kept as part of the conveyancer's records.
- (4) The records of receipts and payments must be made by the conveyancer in accordance with this regulation in the order in which they are received or made, each such record being made within 2 working days after the receipt or payment in question.

- (5) Subregulation (4) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the conveyancer receives official confirmation that the transfer has occurred.

## **16—Separate trust ledger accounts**

- (1) A conveyancer must ensure that the conveyancer's trust ledger accounts are kept separately—
- (a) in respect of each of the conveyancer's clients; and
  - (b) if the conveyancer performs services for a client in respect of a number of transactions between different parties—in respect of each such transaction.
- (2) The conveyancer must record in each of the separate accounts the following details:
- (a) the name and address of the client to whom the accounts relate;
  - (b) a brief description of the service provided and the transaction to which the accounts relate;
  - (c) in respect of each receipt or disbursement of trust money—
    - (i) the date and reference number of the receipt or disbursement; and
    - (ii) the name of the person from whom the money is received or to whom the money is disbursed; and
    - (iii) brief particulars of the purpose of the receipt or disbursement; and
    - (iv) the amount received or disbursed.
- (3) The conveyancer must ensure that any changes in the details referred to in subregulation (2)(a) or (b) are recorded in a manner that enables the changes and the order in which they occurred to be identified.
- (4) If the conveyancer transfers money between any of the separate accounts, the transfer must be clearly recorded—
- (a) in both accounts; and
  - (b) in a transfer journal,
- in sufficient detail that the transfer may be clearly understood.
- (5) The records of receipts, disbursements and transfers must be made by the conveyancer in accordance with this regulation in the order in which the receipts, disbursements or transfers are received or made, each such record being made within 2 working days after the receipt, disbursement or transfer in question.
- (6) Subregulation (5) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the conveyancer receives official confirmation that the transfer has occurred.
- (7) If a conveyancer uses a computer program to keep trust ledger accounts or a transfer journal, the conveyancer must ensure that—
- (a) the program is incapable of—
    - (i) recording a transaction that would result in a debit balance in a trust ledger account unless a separate contemporaneous record of the transaction is also made so that, at any time, a hard copy may be produced of all such transactions in chronological order; and

- (ii) deleting from its records the information relating to a trust ledger account unless—
  - (A) the balance of the account is zero; and
  - (B) a hard copy of all of the information required under these regulations relating to the account has been produced; and
- (iii) changing existing information relating to a transaction otherwise than by making a further entry showing a separate transaction to effect the change; and
- (b) the program automatically inserts consecutive page numbers into any hard copy report produced by use of the program; and
- (c) the program requires input in each field of a data entry screen intended to receive information for the purposes of a trust ledger account or transfer journal so that the entry contains all of the information required by this regulation.

Maximum penalty: \$2 500.

- (8) If a conveyancer uses a computer program to keep trust ledger accounts or a transfer journal, the conveyancer must, within 2 working days of a request from the Commissioner or the conveyancer's auditor, produce hard copies of the trust ledger accounts or transfer journal.

Maximum penalty: \$2 500.

### **17—Reconciliation statements**

- (1) A conveyancer must, at the end of each month, prepare and keep as part of the conveyancer's records—
  - (a) a statement reconciling the balance of the conveyancer's cash books, or equivalent computer records, kept under regulation 15 with the balance of the conveyancer's trust account; and
  - (b) a statement reconciling the balances of the ledgers comprised in the conveyancer's trust ledger accounts with the balance of the conveyancer's trust account.
- (2) The conveyancer is not required to set out a list of individual balances, or the names of the clients on whose behalf money is held, when preparing the statement referred to in subregulation (1)(b).

### **18—Transfer of money from trust account to office account**

A conveyancer who becomes entitled to money held in the conveyancer's trust account in or towards satisfaction of the conveyancer's commission, fees, costs or disbursements must, as soon as practicable and in any event within 3 months, transfer the money to an account maintained by the conveyancer for receipts other than trust money.

Maximum penalty: \$2 500.

### **19—Audit of trust accounts**

- (1) For the purposes of section 24(1)(a) of the Act, the audit period in respect of which a conveyancer must have the accounts and records audited is the period from—
  - (a) the end of the conveyancer's last audit period; or
  - (b) in the case of a conveyancer being granted registration—the date of registration, until—

- (c) 2 months before the date next occurring on which the conveyancer must lodge an annual return; or
  - (d) if the Commissioner fixes some other date at the request of the conveyancer—the date next occurring fixed by the Commissioner.
- (2) In carrying out an audit, the auditor must—
- (a) make checks that will enable the auditor to give an opinion as to whether the conveyancer has, during the period covered by the audit, complied with the Act and these regulations relating to the conveyancer's accounts and records; and
  - (b) ascertain whether a trust account under Part 4 Division 2 of the Act was kept by the conveyancer during that period; and
  - (c) make a general test examination of any trust account kept by the conveyancer and of the pass books and statements relating to any such account during that period; and
  - (d) make a comparison as to no fewer than 2 dates (1 to be the last day of the period of the audit and 1 other to be a date within that period selected by the auditor) between—
    - (i) the liabilities of the conveyancer to the conveyancer's clients as shown by the conveyancer's trust ledger accounts and the records kept under these regulations; and
    - (ii) the aggregate of the balances standing to the credit of the conveyancer's trust account; and
  - (e) ask for such information and explanations as the auditor may require for the purposes of this regulation.
- (3) For the purposes of section 24(1)(b) of the Act, the statement relating to the audit must be prepared by the auditor and must include all matters relating to the conveyancer's accounts and records that should, in the auditor's opinion, be communicated to the Commissioner and, in particular, deal with each of the following matters:
- (a) whether the accounts and records appear to have been kept regularly and properly written up at all times;
  - (b) whether the accounts and records have been ready for examination at the periods appointed by the auditor;
  - (c) whether the conveyancer has complied with the auditor's requirements;
  - (d) whether, at any time during the period of the audit, the conveyancer's trust account was overdrawn and, if so, the full explanation for that given by the conveyancer;
  - (e) whether the conveyancer has, or has had, any debit balances in his or her trust account and the explanation or reason for such a debit given by the conveyancer;
  - (f) whether the auditor has received and examined the notice given to the auditor under regulation 20 and the result of that examination;
  - (g) whether the conveyancer has complied with section 15 of the Act;
  - (h) if the conveyancer uses a computer program to keep the conveyancer's accounts and records—whether the program allows for the accounts and records to be conveniently and properly audited.

- (4) The auditor must attach to the auditor's statement a copy of the conveyancer's notice delivered to the auditor under regulation 20(1).
- (5) The auditor must verify the statement by statutory declaration and give a signed copy of the statement to the conveyancer.
- (6) If the auditor in the course of auditing the conveyancer's accounts and records discovers—
  - (a) that they are not kept in a manner that enables them to be properly audited; or
  - (b) a matter that appears to the auditor to involve dishonesty or a breach of the law by the conveyancer; or
  - (c) a loss or deficiency of trust money or a failure to pay or account for trust money; or
  - (d) a failure to comply with the Act or these regulations,the auditor must, as soon as possible, give a report in respect of the discovery to the Commissioner and the conveyancer concerned.  
Maximum penalty: \$2 500.
- (7) For the purposes of section 24(3)(b) of the Act, a conveyancer must lodge an audit statement or declaration within 2 months after the end of each audit period.
- (8) For the purposes of section 24(4) of the Act, the civil penalty for default in lodging the audit statement or declaration within the time allowed is as set out in Schedule 1.

## **20—Conveyancer's statement**

- (1) A conveyancer who is required to have accounts and records audited under Part 4 Division 2 of the Act must, before the completion of the audit, certify—
  - (a) under his or her hand; or
  - (b) in the case of a firm of conveyancers—under the hands of not less than 2 partners of the firm; or
  - (c) in the case of a conveyancer that is a company—under the hands of not less than 2 directors of the company or, if the company has only 1 director, under the hand of that director,

and deliver to the auditor a notice setting out in detail, as of the last day of the period to which the audit relates, particulars of—

- (d) the names of all persons on whose behalf the conveyancer is holding trust money and the amount of the credit of each such person; and
- (e) all negotiable or bearer securities or deposit receipts in the name of the conveyancer which represent money drawn from the conveyancer's trust account and which were held by the conveyancer on that day; and
- (f) —
  - (i) the names of the trust accounts in which the balance of the conveyancer's trust money is lodged and the balances on that date of those accounts; and
  - (ii) if the trust account balances are not in agreement with the balances of the conveyancer's ledger accounts—a statement reconciling those balances.

Maximum penalty: \$2 500.

- (2) The notice must be verified by statutory declaration—
  - (a) of the conveyancer; or

- (b) in the case of a firm of conveyancers—of not less than 2 of the partners of the firm; or
  - (c) in the case of a conveyancer that is a company—of not less than 2 directors of the company or, if the company has only 1 director, of that director.
- (3) The conveyancer must give the auditor making the next succeeding audit of the conveyancer's accounts and records—
- (a) at the request of the auditor, a copy of the notice, together with a signed copy of the auditor's statement of the last preceding audit of the conveyancer's accounts and records; or
  - (b) if the conveyancer's accounts and records are being audited for the first time or, if for any other reason a copy of the notice cannot be produced for the purpose of the audit—before completion of the audit, a notice containing the same particulars as to money, negotiable or bearer securities and deposit receipts held on the first day of the period to which the audit relates.

Maximum penalty: \$2 500.

## **21—Audit when conveyancer ceases to carry on business**

- (1) If a conveyancer ceases to carry on business as a conveyancer, the conveyancer, or, if the conveyancer has died, the conveyancer's personal representative, must—
- (a) cause the conveyancer's accounts and records kept under Part 4 Division 2 of the Act to be audited and reported on by an auditor for the period from the previous audit up to the date on which the conveyancer's affairs are wound up; and
  - (b) submit a copy of the auditor's statement to the Commissioner within 4 months of the winding up of the conveyancer's affairs or within such further period as the Commissioner may allow.

Maximum penalty: \$2 500.

- (2) The relevant provisions of the Act and these regulations apply (subject to such modifications as may be necessary) to the audit and statement required by this regulation.
- (3) The conveyancer, or his or her personal representative, must continue to comply with the Act and these regulations as if the conveyancer had not ceased to carry on business until the conveyancer's affairs (so far as they relate to trust money and other matters required to be recorded under these regulations) are properly and finally wound up.

Maximum penalty: \$2 500.

- (4) The preceding provisions of this regulation do not apply to a conveyancer who, before ceasing to carry on business, was a member of a firm if all continuing members of the firm and (unless the conveyancer is dead) the conveyancer certify to the Commissioner that the trust money and other matters in respect of which records are required to be kept under these regulations are under the proper administration and control of the continuing partners or some of them.
- (5) In this regulation—
- conveyancer* includes a former conveyancer.

## **22—Audit and report etc for firm operates for each partner**

An audit of accounts and records kept by a firm of conveyancers and the auditor's statement and attached notice relating to the firm's accounts and records will be taken to operate as an audit, statement and notice in respect of each conveyancer who is a member of the firm.

## **23—Certain persons may not audit accounts and records of conveyancer**

A person must not audit the accounts and records of a conveyancer if the person—

- (a) is, or has been within 2 years, an employee or partner of the conveyancer; or
- (b) is an employee of another conveyancer actually carrying on business as a conveyancer; or
- (c) is, himself or herself, a conveyancer carrying on business as a conveyancer.

Maximum penalty: \$2 500.

## **24—Indemnity fund**

For the purposes of section 31(2) of the Act, money standing to the credit of the indemnity fund may be applied in payment of amounts approved by the Minister towards the cost of—

- (a) the advisory service relating to trust accounts conducted by the Australian Institute of Conveyancers South Australian Division Inc for the benefit of conveyancers, including the preparation and publication of manuals and other materials as part of that service;
- (b) the advisory service relating to conveyancing conducted by the Australian Institute of Conveyancers South Australian Division Inc for the benefit of members of the public, including the preparation and publication of brochures and other materials as part of that service;
- (c) the educational program known as the Professional Development Program conducted by the Australian Institute of Conveyancers South Australian Division Inc for the benefit of conveyancers;
- (d) a review of the curriculum of the Land Broking Certificate course offered by the Department for Further Education, Employment, Science and Technology.

## **25—Establishment and determination of claims**

- (1) For the purposes of section 34(2)(a) of the Act, written notice of the claim (citing a unique reference number by which the claim may be identified) must be given to the claimant and conveyancer or former conveyancer informing them of the Commissioner's receipt of the claim and including—
  - (a) in the case of a notice given to the conveyancer or former conveyancer—details of the claimant's name and any other contact details made available by the claimant for that purpose;
  - (b) in all cases, an explanation of—
    - (i) the parties' rights to make submissions as to the claim under section 34(2)(b) of the Act; and
    - (ii) the parties' rights of appeal under section 37 of the Act against a determination of the claim by the Commissioner.

- (2) For the purposes of section 34(5) of the Act, the Commissioner must—
- (a) within 6 months after a claim is made, provide the claimant with a report as to the progress of the claim; and
  - (b) provide the claimant with subsequent progress reports, each within 6 months after the previous such report, until such time as the claim is determined.

## 26—Claimant's entitlement to compensation and interest

For the purposes of section 39(2) of the Act, the rate of interest by which a claimant's entitlement to compensation is to be increased is 5% per annum.

## Schedule 1—Fees

1	Application fee for registration (section 6(1)(b) of the Act)	\$237.00
2	Registration fee—payable before registration under Part 2 of the Act—	
	(a) for a natural person	\$290.00
	(b) for a body corporate	\$436.00

If the period between the grant of the registration and the next date for payment of a fee under section 8 of the Act is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the additional fee by applying the proportion that the length of that period bears to 12 months.

3	Annual fee (section 8(2)(a) of the Act)—	
	(a) for a natural person	\$290.00
	(b) for a body corporate	\$436.00

If the period between a date for payment of a fee under section 8 of the Act and the next date for payment of the fee under that section (as nominated by the Commissioner) is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the length of that period bears to 12 months.

4	Default penalty (section 8(3) of the Act)	\$145.00
5	Civil penalty for default (section 24(4) of the Act)	\$302.00
6	Fee for replacement of certificate of registration	\$22.30

## Schedule 2—Revocation and transitional provision

### Part 1—Revocation of *Conveyancers Regulations 1995*

#### 1—Revocation of regulations

The *Conveyancers Regulations 1995* are revoked.

### Part 2—Transitional provision

#### 2—Approved schemes

An approved scheme within the meaning of the *Conveyancers Regulations 1995* (as in force immediately before the commencement of these regulations) will be taken to be an approved scheme within the meaning of these regulations.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 185 of 2010

09MCA0056CS

South Australia

## **Land Agents Regulations 2010**

under the *Land Agents Act 1994*

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### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Fees—payment, waiver, reduction and refund

#### **Part 2—Registration and management of agent's business**

- 5 Entitlement to be registered as sales representative subject to conditions relating to training and supervision
- 6 Annual fee and return
- 7 Notification of change in circumstances
- 8 Return or replacement of certificate of registration and card
- 9 Each of agent's places of business to be properly managed and supervised
- 10 Regulations relating to proper management and supervision

#### **Part 3—Trust accounts and indemnity fund**

##### **Division 1—Preliminary**

- 11 Interpretation of Part 3
- 12 Exemptions

##### **Division 2—Trust accounts**

- 13 Electronic records relating to trust accounts
- 14 Payment of interest on trust accounts to Commissioner
- 15 Receipt of trust money
- 16 Payment of trust money
- 17 Keeping of records
- 18 Cash books
- 19 Separate trust ledger accounts
- 20 Reconciliation statements
- 21 Transfer of money from trust account to office account
- 22 Audit of trust accounts
- 23 Agent's statement
- 24 Audit when agent ceases to carry on business
- 25 Audit and report etc for firm operates for each partner
- 26 Certain persons may not audit accounts and records of agent

##### **Division 3—Indemnity fund**

- 27 Indemnity fund
- 28 Establishment and determination of claims
- 29 Claimant's entitlement to compensation and interest

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## Schedule 1—Fees

## Schedule 2—Revocation of *Land Agents Regulations 1995*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Land Agents Regulations 2010*.

#### **2—Commencement**

These regulations will come into operation on 1 September 2010.

#### **3—Interpretation**

In these regulations—

*Act* means the *Land Agents Act 1994*.

#### **4—Fees—payment, waiver, reduction and refund**

- (1) The fees fixed by Schedule 1 are payable to the Commissioner for the purposes set out in Schedule 1.
- (2) The Commissioner may waive, reduce or refund a fee (or part of a fee) payable under these regulations if satisfied that it is appropriate to do so in a particular case.

### **Part 2—Registration and management of agent's business**

#### **5—Entitlement to be registered as sales representative subject to conditions relating to training and supervision**

For the purposes of section 8B(4) of the Act, a sales representative will not be taken to be properly supervised unless the supervision is provided by a person who is a registered agent or registered sales representative (other than a sales representative registered under section 8B of the Act) and has carried on or managed the business of an agent, or been a sales representative (other than a sales representative registered under section 8B of the Act) for an agent, for at least 2 years or a total of at least 2 years.

#### **6—Annual fee and return**

- (1) For the purposes of section 9(2) of the Act, a registered person must pay the fee and lodge the return on or before—
  - (a) in the case of a registered person who, immediately before the commencement of the Act, held a licence as a land agent, or was registered as a manager, under the *Land Agents, Brokers and Valuers Act 1973*—
    - (i) the last day of the month in each year nominated in writing to the person by the Commissioner; or
    - (ii) if the Commissioner does not nominate a month—31 May in each year;
  - (b) in the case of any other registered person—

- (i) the last day of the month in each year nominated in writing to the person by the Commissioner; or
  - (ii) if the Commissioner does not nominate a month—the last day of the month in each year that is the same month as the month in which the person's registration was granted.
- (2) For the purposes of section 9(3) of the Act, the penalty for default in paying the annual fee or lodging the annual return is as set out in Schedule 1.

## **7—Notification of change in circumstances**

- (1) If there is any change in—

- (a) the residential address of a registered agent; or
- (b) the business or trading name under which a registered agent carries on business; or
- (c) the address at which a registered agent carries on business; or
- (d) the address of the registered corporate office of a registered agent that is a body corporate,

the agent must, within 14 days after that change, give written notice to the Commissioner of the new address or name (as the case may be).

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) If there is a change in the residential address of a registered sales representative, the sales representative must, within 14 days after that change, give written notice to the Commissioner of the new address.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (3) A registered agent must, within 14 days after ceasing to carry on business as an agent, give written notice to the Commissioner of that fact.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (4) A registered sales representative must, within 14 days after ceasing to be or becoming a sales representative for an agent, give written notice to the Commissioner of that fact and the name and business address of the agent.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (5) A registered agent must, within 14 days after entering into partnership to carry on business as an agent or ceasing to be in such a partnership, give written notice to the Commissioner of that fact, together with the names of the members of the new or former partnership.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (6) If a person is appointed as a director of a body corporate that is a registered agent, the agent must, within 14 days after the appointment—

- (a) notify the Commissioner in the manner and form approved by the Commissioner of the appointment of the new director; and

- (b) provide the Commissioner with any information required by the Commissioner for the purposes of determining whether the new director meets the requirements for directors under section 8(2) of the Act.

Maximum penalty: \$2 500.

Expiation fee: \$160.

### **8—Return or replacement of certificate of registration and card**

- (1) If a person's registration is surrendered, suspended or cancelled, the person must, at the direction of the Court or the Commissioner, return the certificate of registration and any registration card to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) If, on an application under section 7 of the Act, a registration certificate or card has been issued to a person but the fee payable in respect of the application has not been paid (whether because of the dishonouring of a cheque or otherwise), the person must, at the direction of the Commissioner, return the certificate or card to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (3) The Commissioner may issue to a registered person a registration certificate or card in replacement of a current registration certificate or card if satisfied that—

- (a) the current certificate or card has been lost, destroyed or damaged; or
- (b) any particulars appearing on the current certificate or card are incorrect.

- (4) If the Commissioner issues to a registered person a replacement registration certificate or card, the person must, at the direction of the Commissioner, return the original (or previous duplicate) registration certificate or card to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

### **9—Each of agent's places of business to be properly managed and supervised**

For the purposes of section 11 of the Act, a place of business of an agent will be properly managed and supervised by a natural person nominated to the Commissioner if—

- (a) the person is a registered sales representative; and
- (b) the person has been nominated in a form approved by the Commissioner; and
- (c) the Commissioner has approved the person as a person qualified to be nominated to manage and supervise a place of business of an agent.

### **10—Regulations relating to proper management and supervision**

- (1) For the purposes of section 11A of the Act, a registered agent will not be taken to properly manage and supervise a business or place of business referred to in that section unless—
  - (a) the agent makes written procedures readily available to all employees who handle trust money instructing those employees in the proper handling of such money; and
  - (b) the agent, in respect of each place of business managed and supervised by a person other than a registered agent ensures that—

- (i) a registered agent who is a natural person is responsible for managing the trust accounts; and
  - (ii) the person nominated to manage and supervise the place of business and all other persons employed at the place of business are instructed as to their obligations under the Act, these regulations and any other relevant laws; and
  - (iii) procedures are in place to enable the agent to ascertain whether the person nominated to manage and supervise the place of business is managing and supervising the place of business properly and with due care and diligence (including inspection by a registered agent who is a natural person, at least once per month, of the place of business and of previously uninspected prescribed business documents of the agent held at the place of business).
- (2) In this regulation—

*prescribed business documents* of an agent means documents or copies of documents relating to the sale or purchase of land or a business in respect of which the agent has been authorised to act and includes—

- (a) sales agency agreements; and
- (b) auction records; and
- (c) trust account records.

## **Part 3—Trust accounts and indemnity fund**

### **Division 1—Preliminary**

#### **11—Interpretation of Part 3**

For the purposes of paragraph (b) of the definition of *auditor* in section 12 of the Act, a person meets the prescribed requirements if the person—

- (a) holds a degree in commerce, accounting, business studies or a related field from an Australian university or from another university approved by the Commissioner; and
- (b) is a member of—
  - (i) The Institute of Chartered Accountants in Australia; or
  - (ii) CPA Australia; and
- (c) meets the requirements of a body referred to in paragraph (b) to practise as a public accountant; and
- (d) has been continuously engaged for at least 3 years in practice as a public accountant in this State (whether or not as an employee of a public accountant).

#### **12—Exemptions**

- (1) An agent is exempt from the operation of Part 3 Division 2 of the Act and regulations 16(2) and 23(1)(d) in respect of the receipt and delivery of a cheque by the agent if the cheque—
  - (a) is a crossed cheque expressed to be payable to a person or persons not being or including the agent (whether or not it is also expressed to be payable to bearer); and

- (b) is held by the agent for the purpose of delivery to a person to whom the cheque is expressed to be payable (or such a person's agent), and is so delivered.
- (2) An agent is exempt from the operation of section 21(2) of the Act in respect of the receipt of payments of rent (within the meaning of the *Residential Tenancies Act 1995*) into the agent's trust account.

## **Division 2—Trust accounts**

### **13—Electronic records relating to trust accounts**

If an agent uses a computer program to keep records under Part 3 Division 2 of the Act, the agent must ensure that, in addition to any other requirements relating to the making or keeping of electronic records under this Division—

- (a) an electronic copy of all the records is made within 24 hours of any alteration of the records; and
- (b) at least once in each week, an electronic copy of all the records is made and kept in a safe place at a location other than the premises where the computer program is operating; and
- (c) before any information is deleted from the computer records, a hard copy of the information is made and kept by the agent as part of the agent's records; and
- (d) an up-to-date electronic copy of the computer program is made and kept in a safe place at a location other than the premises where the computer program is operating.

Maximum penalty: \$2 500.

### **14—Payment of interest on trust accounts to Commissioner**

For the purposes of section 15 of the Act, interest that an ADI is liable to pay in respect of trust money held in a trust account must be paid by the ADI to the Commissioner on—

- (a) 15 January, 15 April, 15 July and 15 October in each year; or
- (b) the 15th day of each month in each year.

### **15—Receipt of trust money**

- (1) For the purposes of section 21(2)(a) of the Act, the receipt that an agent must make available to a person making a payment of trust money—
- (a) must be legibly written on a form comprised in a series of consecutively pre-numbered duplicate receipt forms marked with the name of the agent and the words "Trust Account"; and
  - (b) must contain the following information:
    - (i) —
      - (A) in the case of a payment made by electronic transfer of funds into an agent's trust account—the date on which the agent makes out the receipt; or
      - (B) in any other case—the date of the payment;
    - (ii) the name of the person making the payment;

- (iii) whether the payment is by cash, cheque, bank cheque or electronic transfer of funds into the agent's trust account and, if the payment is by cheque or bank cheque, the name of the drawer of the cheque;
  - (iv) the name of the person for whom the money is received;
  - (v) brief particulars of the purpose of the payment;
  - (vi) the amount of the payment.
- (2) An agent must make out a receipt in accordance with section 21(2) of the Act and this regulation—
- (a) in the case of a payment made by electronic transfer of funds into an agent's trust account—immediately the agent receives official confirmation that the payment has been made (whether that is by way of receipt by the agent of an ADI statement or some other way, whichever occurs sooner); or
  - (b) in any other case—immediately on receipt of the payment.
- Maximum penalty: \$2 500.
- (3) An agent need not comply with subregulation (1)(a) or section 21(2)(b) of the Act if the agent uses a computer program to make out the receipt and the program—
- (a) automatically produces in chronological sequence consecutively numbered receipts marked with the name of the agent and the words "Trust Account"; and
  - (b) automatically makes a separate contemporaneous record of the receipt so that, at any time, a hard copy of the receipt may be produced; and
  - (c) requires input in each field of a data entry screen intended to receive information for the purposes of producing the receipt so that each receipt contains all of the information required by subregulation (1)(b).

## **16—Payment of trust money**

- (1) An agent must not make a payment of trust money in cash.  
Maximum penalty: \$2 500.
- (2) When an agent makes a payment of trust money by cheque, the agent—
- (a) must ensure that the cheque is marked with the name of the agent and the words "Trust Account"; and
  - (b) must—
    - (i) cause the cheque to be crossed and endorsed "Not negotiable"; or
    - (ii) obtain from the person receiving the cheque a receipt that complies with subregulation (4) and keep the receipt as part of the agent's records.
- Maximum penalty: \$2 500.
- (3) When an agent makes a payment of trust money by cheque, the agent must prepare and keep as part of the agent's records a cheque stub or voucher containing the following information:
- (a) the date and reference number of the cheque;
  - (b) the name of the payee;
  - (c) the client name or reference and brief particulars of the purpose of the payment;
  - (d) the amount of the cheque.

- (4) The receipt must be legible and contain the following information:
- (a) the date and reference number of the cheque;
  - (b) particulars identifying the trust account against which the cheque is drawn;
  - (c) the name of the payee;
  - (d) brief particulars of the purpose of the payment;
  - (e) the amount of the cheque.
- (5) When an agent authorises the payment of trust money by electronic transfer of funds, the agent—
- (a) must prepare and keep as part of the agent's records the following information:
    - (i) the date and reference number of the payment;
    - (ii) the name of the payee;
    - (iii) the client name or reference and brief particulars of the purpose of the payment;
    - (iv) the name or style of the ADI account to which the payment is made, its number and the identifying numbers of the receiving ADI and its branch;
    - (v) the amount of the payment; and
  - (b) must, on receiving official written confirmation that the payment has been made, keep that confirmation as part of the agent's records.

### **17—Keeping of records**

For the purposes of section 21(1)(c) of the Act, the detailed accounts of receipts and disbursements of trust money to be compiled by an agent must comply with regulations 18, 19 and 20.

### **18—Cash books**

- (1) An agent must keep as part of the agent's records—
- (a) a cash receipts book in which the agent records the following information in respect of each receipt of trust money:
    - (i) the date and reference number of the receipt;
    - (ii) the name of the person from whom the money is received;
    - (iii) the client name or reference to which the transaction relates;
    - (iv) brief particulars of the purpose of the receipt;
    - (v) the amount of the receipt; and
  - (b) a cash payments book in which the agent records the following information in respect of each payment of trust money:
    - (i) the date and reference number of the cheque or electronic transfer of funds by which the payment was made;
    - (ii) the name of the payee;
    - (iii) the client name or reference to which the transaction relates;
    - (iv) brief particulars of the purpose of the payment;
    - (v) the amount of the cheque or electronic transfer of funds.

- (2) An agent need not keep a cash receipts book or a cash payments book as required by subregulation (1) if the agent uses a computer program to record the information referred to in that subregulation in respect of each receipt or payment of trust money and the program—
  - (a) requires input in each field of a data entry screen intended to receive information in respect of a receipt or payment so that all of the information referred to in subregulation (1) is recorded in respect of each receipt and payment; and
  - (b) is capable, at any time, of producing—
    - (i) a report of the information in respect of receipts of trust money in the order in which they were received; and
    - (ii) a report of the information in respect of payments of trust money in the order in which they were made.
- (3) An agent who uses a computer program as referred to in subregulation (2) must ensure that—
  - (a) at the end of each month, hard copies of each of the following reports are produced:
    - (i) a report of the information in respect of receipts of trust money received during that month in the order in which they were received;
    - (ii) a report of the information in respect of payments of trust money made during that month in the order in which they were made; and
  - (b) those hard copies are kept as part of the agent's records.
- (4) The records of receipts and payments must be made by the agent in accordance with this regulation in the order in which they are received or made, each such record being made within 2 working days after the receipt or payment in question.
- (5) Subregulation (4) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.

## **19—Separate trust ledger accounts**

- (1) An agent must ensure that the agent's trust ledger accounts are kept separately—
  - (a) in respect of each of the agent's clients; and
  - (b) if the agent performs services for a client in respect of a number of transactions between different parties—in respect of each such transaction.
- (2) The agent must record in each of the separate accounts the following details:
  - (a) the name and address of the client to whom the accounts relate;
  - (b) a brief description of the service provided and the transaction to which the accounts relate;
  - (c) in respect of each receipt or disbursement of trust money—
    - (i) the date and reference number of the receipt or disbursement; and
    - (ii) the name of the person from whom the money is received or to whom the money is disbursed; and
    - (iii) brief particulars of the purpose of the receipt or disbursement; and
    - (iv) the amount received or disbursed.

- (3) The agent must ensure that any changes in the details referred to in subregulation (2)(a) or (b) are recorded in a manner that enables the changes and the order in which they occurred to be identified.
- (4) If the agent transfers money between any of the separate accounts, the transfer must be clearly recorded—
- (a) in both accounts; and
  - (b) in a transfer journal,
- in sufficient detail that the transfer may be clearly understood.
- (5) The records of receipts, disbursements and transfers must be made by the agent in accordance with this regulation in the order in which the receipts, disbursements or transfers are received or made, each such record being made within 2 working days after the receipt, disbursement or transfer in question.
- (6) Subregulation (5) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the agent receives official confirmation that the transfer has occurred.
- (7) If an agent uses a computer program to keep trust ledger accounts or a transfer journal, the agent must ensure that—
- (a) the program is incapable of—
    - (i) recording a transaction that would result in a debit balance in a trust ledger account unless a separate contemporaneous record of the transaction is also made so that, at any time, a hard copy may be produced of all such transactions in chronological order; and
    - (ii) deleting from its records the information relating to a trust ledger account unless—
      - (A) the balance of the account is 0; and
      - (B) a hard copy of all of the information required under these regulations relating to the account has been produced; and
    - (iii) changing existing information relating to a transaction otherwise than by making a further entry showing a separate transaction to effect the change; and
  - (b) the program automatically inserts consecutive page numbers into any hard copy report produced by use of the program; and
  - (c) the program requires input in each field of a data entry screen intended to receive information for the purposes of a trust ledger account or transfer journal so that the entry contains all of the information required by this regulation.

Maximum penalty: \$2 500.

- (8) If an agent uses a computer program to keep trust ledger accounts or a transfer journal, the agent must, within 2 working days of a request from the Commissioner or the agent's auditor, produce hard copies of the trust ledger accounts or transfer journal.

Maximum penalty: \$2 500.

## 20—Reconciliation statements

- (1) An agent must, at the end of each month, prepare and keep as part of the agent's records—
  - (a) a statement reconciling the balance of the agent's cash books, or equivalent computer records, kept under regulation 18 with the balance of the agent's trust account; and
  - (b) a statement reconciling the balances of the ledgers comprised in the agent's trust ledger accounts with the balance of the agent's trust account.
- (2) The agent is not required to set out a list of individual balances, or the names of the clients on whose behalf money is held, when preparing the statement referred to in subregulation (1)(b).

## 21—Transfer of money from trust account to office account

An agent who becomes entitled to money held in the agent's trust account in or towards satisfaction of the agent's commission, fees, costs or disbursements must, as soon as practicable and in any event within 3 months, transfer the money to an account maintained by the agent for receipts other than trust money.

Maximum penalty: \$2 500.

## 22—Audit of trust accounts

- (1) For the purposes of section 22(1)(a) of the Act, the audit period in respect of which an agent must have the accounts and records audited is the period from—
  - (a) the end of the agent's last audit period (whether under the Act or the repealed *Land Agents, Brokers and Valuers Act 1973*); or
  - (b) in the case of an agent being granted registration—the date of registration, until—
  - (c) 2 months before the date next occurring on which the agent must lodge an annual return; or
  - (d) if the Commissioner fixes some other date at the request of the agent—the date next occurring fixed by the Commissioner.
- (2) In carrying out an audit, the auditor must—
  - (a) make checks that will enable the auditor to give an opinion as to whether the agent has, during the period covered by the audit, complied with the Act and these regulations relating to the agent's accounts and records; and
  - (b) ascertain whether a trust account under Part 3 Division 2 of the Act was kept by the agent during that period; and
  - (c) make a general test examination of any trust account kept by the agent and of the pass books and statements relating to any such account during that period; and
  - (d) make a comparison as to no fewer than 2 dates (1 to be the last day of the period of the audit and 1 other to be a date within that period selected by the auditor) between—
    - (i) the liabilities of the agent to the agent's clients as shown by the agent's trust ledger accounts and the records kept under these regulations; and

- (ii) the aggregate of the balances standing to the credit of the agent's trust account; and
  - (e) ask for such information and explanations as the auditor may require for the purposes of this regulation.
- (3) For the purposes of section 22(1)(b) of the Act, the statement relating to the audit must be prepared by the auditor and must include all matters relating to the agent's accounts and records that should, in the auditor's opinion, be communicated to the Commissioner and, in particular, deal with each of the following matters:
  - (a) whether the accounts and records appear to have been kept regularly and properly written up at all times;
  - (b) whether the accounts and records have been ready for examination at the periods appointed by the auditor;
  - (c) whether the agent has complied with the auditor's requirements;
  - (d) whether, at any time during the period of the audit, the agent's trust account was overdrawn and, if so, the full explanation for that given by the agent;
  - (e) whether the agent has, or has had, any debit balances in his or her trust account and the explanation or reason for such a debit given by the agent;
  - (f) whether the auditor has received and examined the notice given to the auditor under regulation 23 and the result of that examination;
  - (g) whether the agent has complied with section 13 of the Act;
  - (h) if the agent uses a computer program to keep the agent's accounts and records—whether the program allows for the accounts and records to be conveniently and properly audited.
- (4) The auditor must attach to the auditor's statement a copy of the agent's notice delivered to the auditor under regulation 23(1).
- (5) The auditor must verify the statement by statutory declaration and give a signed copy of the statement to the agent.
- (6) If the auditor in the course of auditing the agent's accounts and records discovers—
  - (a) that they are not kept in a manner that enables them to be properly audited; or
  - (b) a matter that appears to the auditor to involve dishonesty or a breach of the law by the agent; or
  - (c) a loss or deficiency of trust money or a failure to pay or account for trust money; or
  - (d) a failure to comply with the Act or these regulations,the auditor must, as soon as possible, give a report in respect of the discovery to the Commissioner and the agent concerned.

Maximum penalty: \$2 500.
- (7) For the purposes of section 22(3)(b) of the Act, an agent must lodge an audit statement or declaration within 2 months after the end of each audit period.
- (8) For the purposes of section 22(4) of the Act, the civil penalty for default in lodging the audit statement or declaration within the time allowed is as set out in Schedule 1.

**23—Agent's statement**

- (1) An agent who is required to have accounts and records audited under Part 3 Division 2 of the Act must, before the completion of the audit, certify—
- (a) under his or her hand; or
  - (b) in the case of a firm of agents—under the hands of not less than 2 partners of the firm; or
  - (c) in the case of a body corporate agent—under the hands of not less than 2 directors of the body or, if the body corporate has only 1 director, under the hand of that director,

and deliver to the auditor a notice setting out in detail, as of the last day of the period to which the audit relates, particulars of—

- (d) the names of all persons on whose behalf the agent is holding trust money and the amount of the credit of each such person; and
- (e) all negotiable or bearer securities or deposit receipts in the name of the agent which represent money drawn from the agent's trust account and which were held by the agent on that day; and
- (f) —
  - (i) the names of the trust accounts in which the balance of the agent's trust money is lodged and the balances on that date of those accounts; and
  - (ii) if the trust account balances are not in agreement with the balances of the agent's ledger accounts—a statement reconciling those balances.

Maximum penalty: \$2 500.

- (2) The notice must be verified by statutory declaration—
- (a) of the agent; or
  - (b) in the case of a firm of agents—of not less than 2 of the partners of the firm; or
  - (c) in the case of a body corporate agent—of not less than 2 directors of the body or, if the body corporate has only 1 director, of that director.
- (3) The agent must give the auditor making the next succeeding audit of the agent's accounts and records—
- (a) at the request of the auditor, a copy of the notice, together with a signed copy of the auditor's statement of the last preceding audit of the agent's accounts and records; or
  - (b) if the agent's accounts and records are being audited for the first time or, if for any other reason a copy of the notice cannot be produced for the purpose of the audit—before completion of the audit, a notice containing the same particulars as to money, negotiable or bearer securities and deposit receipts held on the first day of the period to which the audit relates.

Maximum penalty: \$2 500.

## **24—Audit when agent ceases to carry on business**

- (1) If an agent ceases to carry on business as an agent, the agent, or, if the agent has died, the agent's personal representative, must—
  - (a) cause the agent's accounts and records kept under Part 3 Division 2 of the Act to be audited and reported on by an auditor for the period from the previous audit up to the date on which the agent's affairs are wound up; and
  - (b) submit a copy of the auditor's statement to the Commissioner within 4 months of the winding up of the agent's affairs or within such further period as the Commissioner may allow.

Maximum penalty: \$2 500.

- (2) The relevant provisions of the Act and these regulations apply (subject to such modifications as may be necessary) to the audit and statement required by this regulation.
- (3) The agent, or his or her personal representative, must continue to comply with the Act and these regulations as if the agent had not ceased to carry on business until the agent's affairs (so far as they relate to trust money and other matters required to be recorded under these regulations) are properly and finally wound up.

Maximum penalty: \$2 500.

- (4) The preceding provisions of this regulation do not apply to an agent who, before ceasing to carry on business, was a member of a firm if all continuing members of the firm and (unless the agent is dead) the agent certify to the Commissioner that the trust money and other matters in respect of which records are required to be kept under these regulations are under the proper administration and control of the continuing partners or some of them.
- (5) In this regulation—

*agent* includes a former agent.

## **25—Audit and report etc for firm operates for each partner**

An audit of accounts and records kept by a firm of agents and the auditor's statement and attached notice relating to the firm's accounts and records will be taken to operate as an audit, statement and notice in respect of each agent who is a member of the firm.

## **26—Certain persons may not audit accounts and records of agent**

A person must not audit the accounts and records of an agent if the person—

- (a) is, or has been within 2 years, an employee or partner of the agent; or
- (b) is an employee of another agent actually carrying on business as an agent; or
- (c) is, himself or herself, an agent carrying on business as an agent.

Maximum penalty: \$2 500.

## **Division 3—Indemnity fund**

### **27—Indemnity fund**

- (1) For the purposes of section 29(2) of the Act, money constituting, or forming part of, the indemnity fund may be invested as authorised by the Minister.

- (2) For the purposes of section 29(4) of the Act, money standing to the credit of the indemnity fund may be applied in payment of amounts approved by the Minister towards the cost of—
- (a) the educational program known as the Professional Development Program conducted by the Real Estate Institute of South Australia Incorporated for the benefit of agents and sales representatives;
  - (b) the advisory service relating to the real estate industry conducted by the Real Estate Institute of South Australia Incorporated for the benefit of members of the public, including the preparation and publication of brochures and other materials as part of that service;
  - (c) the education program known as SA HomeBuyers Free Information Seminars conducted by SA HomeBuyers Incorporated for the benefit of members of the public;
  - (d) the educational program relating to the provisions contained in the *Statutes Amendment (Real Estate Industry Reform) Act 2007* conducted by or on behalf of the Commissioner for the benefit of agents, sales representatives and members of the public.

## 28—Establishment and determination of claims

- (1) For the purposes of section 32(2)(a) of the Act, written notice of the claim (citing a unique reference number by which the claim may be identified) must be given to the claimant and agent or former agent informing them of the Commissioner's receipt of the claim and including—
- (a) in the case of a notice given to the agent or former agent—details of the claimant's name and any other contact details made available by the claimant for that purpose;
  - (b) in all cases, an explanation of—
    - (i) the parties' rights to make submissions as to the claim under section 32(2)(b) of the Act; and
    - (ii) the parties' rights of appeal under section 35 of the Act against a determination of the claim by the Commissioner.
- (2) For the purposes of section 32(5) of the Act, the Commissioner must—
- (a) within 6 months after a claim is made, provide the claimant with a report as to the progress of the claim; and
  - (b) provide the claimant with subsequent progress reports, each within 6 months after the previous such report, until such time as the claim is determined.

## 29—Claimant's entitlement to compensation and interest

For the purposes of section 37(2) of the Act, the rate of interest by which a claimant's entitlement to compensation is to be increased is 5% per annum.

## Schedule 1—Fees

- |   |  |          |
|---|--|----------|
| 1 | Application fee for registration (section 7 of Act)— |          |
|   | (a) as an agent                                      | \$237.00 |
|   | (b) as an agent and auctioneer                       | \$237.00 |
|   | (c) as a sales representative                        | \$237.00 |

	(d) as a sales representative and auctioneer	\$237.00
	(e) as an auctioneer	\$99.00
2	Registration fee (payable on grant of registration under Part 2 of Act)—	
	(a) for an agent who is a natural person	\$290.00
	(b) for an agent that is a body corporate	\$436.00
	(c) for a sales representative	\$186.00
	If the period between the grant of the registration and the next date for payment of a fee under section 9 of the Act is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the additional fee by applying the proportion that the length of that period bears to 12 months.	
3	Application for variation or revocation of condition of registration (section 8B of Act)	\$99.00
4	Annual fee (section 9 of Act)—	
	(a) for an agent who is a natural person	\$290.00
	(b) for an agent that is a body corporate	\$436.00
	(c) for a sales representative	\$186.00
	If the period between a date for payment of a fee under section 9 of the Act and the next date for payment of the fee under that section (as nominated by the Commissioner) is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the length of that period bears to 12 months.	
5	Default penalty (section 9(3) of the Act)	\$145.00
6	Civil penalty for default (section 22(4) of the Act)	\$302.00
7	Fee for replacement of certificate of registration	\$22.30

## **Schedule 2—Revocation of *Land Agents Regulations 1995***

The *Land Agents Regulations 1995* are revoked.

### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 186 of 2010

09MCA0056CS

South Australia

## **Plumbers, Gas Fitters and Electricians Regulations 2010**

under the *Plumbers, Gas Fitters and Electricians Act 1995*

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### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Exemptions

#### **Part 2—Licensed contractors**

- 5 Entitlement to be licensed as contractor—qualifications
- 6 Annual fee and return
- 7 Notification of change in circumstance
- 8 Return etc of licence

#### **Part 3—Registered workers**

- 9 Entitlement to be registered as worker—qualifications
- 10 Periodic fee and return
- 11 Notification of changes in circumstances
- 12 Return etc of certificate of registration

#### **Part 4—Miscellaneous**

- 13 Provisions relating to fees

#### **Schedule 1—Fees**

#### **Schedule 2—Revocation of *Plumbers, Gas Fitters and Electricians Regulations 1995***

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Plumbers, Gas Fitters and Electricians Regulations 2010*.

#### **2—Commencement**

These regulations will come into operation on 1 September 2010.

#### **3—Interpretation**

- (1) In these regulations—

*Act* means the *Plumbers, Gas Fitters and Electricians Act 1995*.

- (2) For the purposes of these regulations, a reference to a *qualification, course or subject conferred or offered* by a particular institution includes a reference to a qualification, course or subject of a different name conferred or offered by that institution and certified by that institution to be an equivalent qualification, course or subject.

#### 4—Exemptions

- (1) A person who—

- (a) carries on business as a builder, building contractor or architect; or
- (b) carries on another business the principal purpose of which is the construction, installation, alteration, repair or maintenance of a building, structure, plant or equipment,

is exempt from the requirement to be licensed under the Act as a contractor subject to the condition that any plumbing, gas fitting or electrical work performed by the person is performed in the ordinary course of the business by a person authorised by licence or registration under the Act to perform or carry out work of that kind.

- (2) A person carrying out electrical work relating to electricity infrastructure owned or operated by an electricity entity that is required to have a safety and technical management plan by condition of licence, or by the regulations, under the *Electricity Act 1996* is exempt from the requirement to be registered under the Act as an electrical worker.
- (3) An employee of The Smith's Snackfood Company Ltd (ACN 057 976 940) (the *Company*) is exempt from the requirement to be registered under the Act as a plumbing worker in respect of cold water plumbing carried out in the course of his or her employment in relation to any food processing plant or associated pipes or equipment downstream from a secondary testable backflow prevention device that is downstream from the primary testable backflow prevention device connecting the Company's pipes and equipment at the Company's site at 553-567 South Road, Regency Park, 5010 to the public water supply system.
- (4) A licensed contractor is exempt from the application of section 12 of the Act in relation to work performed in the course of the contractor's business by a person exempted from the requirement to be registered under the Act in relation to that work.
- (5) The following work is exempt from the application of the Act:
- (a) plumbing—
    - (i) consisting of the installation, alteration, repair, maintenance or disconnection of a cold water pipe not exceeding 25 mm in diameter except where the pipe is in or on a building;
    - (ii) consisting of the installation, alteration, repair, maintenance or disconnection of a non-testable backflow prevention device;
    - (iii) consisting of the replacement, alteration, repair, maintenance or disconnection of domestic tapware;
    - (iv) consisting of the clearing of blockages in pipes not exceeding 50 mm in diameter (or associated traps) installed to convey wastewater to sanitary drains;
    - (v) relating to stormwater drainage pipes—
      - (A) consisting of work on pipes not exceeding 90 mm in diameter; or

- (B) consisting of work carried out under the supervision of a professional civil engineer;
  - (b) gas fitting—
    - (i) consisting of connecting or disconnecting a gas cylinder and portable equipment that utilises gas contained in the cylinder; or
    - (ii) in respect of which a permit is required under the *Dangerous Substances Regulations 2002* if carried out by the holder of such a permit;
  - (c) electrical work—
    - (i) consisting of the oiling, greasing, cleaning or painting of an electrical installation;
    - (ii) consisting of the installation, alteration, repair or maintenance of an electrical installation—
      - (A) that is situated outside of a municipality or township if the installation is used in connection with the carrying on of the business of primary production;
      - (B) the purpose of which is to transmit television or radio programs from a television or radio station;
    - (iii) consisting of the installation, alteration, repair or maintenance of any system or equipment connected or intended to be connected to and beyond an electrical outlet socket at which fixed wiring terminates, but not including the alteration, repair or maintenance of an electrical connection of a rating above low voltage (as defined in AS/NZS 3000:2007 Australian/New Zealand Standard for Wiring Rules);
    - (iv) consisting of the replacement of a fuse, switch or two-point outlet socket other than any such equipment or device belonging to a person or body that supplies electricity to the public;
    - (v) involved in the manufacture or assembling of new equipment;
    - (vi) consisting of the repair of used equipment for resale when carried out at a workshop of a retailer or wholesaler of equipment of that kind under the supervision (which must include personal checking and approval of each item before resale) of a registered electrical worker authorised by registration to carry out electrical work of that kind without supervision;
  - (d) any work involved in educational courses or in scientific research or experiments.
- (6) In this regulation—
- business of primary production*** has the same meaning as in the *Land Tax Act 1936*;
- electricity entity*** means—
- (a) the holder of a licence under the *Electricity Act 1996* authorising the generation of electricity or the operation of a transmission or distribution network; or
  - (b) a person exempted from the requirement to hold such a licence;
- electricity infrastructure*** has the same meaning as in the *Electricity Act 1996*;
- municipality*** and ***township*** have the same meanings as in the *Local Government Act 1934*.

## Part 2—Licensed contractors

### 5—Entitlement to be licensed as contractor—qualifications

For the purposes of section 9(1) of the Act—

- (a) to be entitled to be granted a plumbing contractors licence (not subject to conditions limiting the work that may be performed under the authority of the licence) a natural person must—
  - (i) hold a Certificate of Competency in Sanitary Plumbing or a Certificate of Competency—Advanced Plumbing issued by the Sanitary Plumbers Examining Board and have completed—
    - (A) 6 years of plumbing including at least 2 years as—
      - the holder of a certificate of registration as a sanitary plumber issued by the Sanitary Plumbers Examining Board; or
      - a registered plumbing worker; or
    - (B) 7 years of plumbing including at least 18 months as—
      - the holder of a certificate of registration as a sanitary plumber issued by the Sanitary Plumbers Examining Board; or
      - a registered plumbing worker; or
  - (ii) hold a Certificate of Proficiency and a Certificate of Competency in Sanitary Plumbing, Draining and Water Plumbing issued by the Regency Institute of TAFE and have successfully completed subjects relating to business administration approved by the Commissioner;
- (b) to be entitled to be granted a gas fitting contractors licence (not subject to conditions limiting the work that may be performed under the authority of the licence) a natural person must—
  - (i) hold a Certificate of Competency in Gas Fitting issued by the Gas Fitters Examining Board; or
  - (ii) hold a Certificate of Proficiency and a Certificate of Competency in Gas Fitting issued by the Regency Institute of TAFE, including successful completion of subjects relating to business administration approved by the Commissioner;
- (c) to be entitled to be granted an electrical contractors licence (not subject to conditions limiting the work that may be performed under the authority of the licence) a natural person must hold a Certificate in Electrical Stream 3212 issued by a training provider approved by the Commissioner (including passes in modules required by the Commissioner) and—
  - (i) a Certificate of Competency in Electrical Mechanics; or
  - (ii) a Certificate of Competency in Electrical Fitting; or
  - (iii) a Certificate of Competency in Engineering Tradesperson (Electrical/Electronic),

issued by the Industrial and Commercial Training Commission and have successfully completed subjects relating to business administration approved by the Commissioner.

## **6—Annual fee and return**

- (1) For the purposes of section 11(2) of the Act, a licensed contractor must pay the fee and lodge the return on or before—
  - (a) the last day of the month in each year nominated in writing to the contractor by the Commissioner; or
  - (b) if the Commissioner does not nominate a month—the last day of the month in each year that is the same month as the month in which the contractor's licence was granted or, if the contractor holds more than 1 licence under the Act, the month in which the contractor was granted the first of those licences.
- (2) For the purposes of section 11(3) of the Act, the penalty for default in paying the fee or lodging the return is set out in Schedule 1.

## **7—Notification of change in circumstance**

- (1) If there is any change in—
  - (a) the residential address of a licensed contractor; or
  - (b) the business or trading name under which a licensed contractor carries on business; or
  - (c) the address at which a licensed contractor carries on business; or
  - (d) the address of the registered corporate office of a licensed contractor that is a body corporate,

the contractor must, within 14 days after that change, give written notice to the Commissioner of the new address or name (as the case may be).

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) A licensed contractor must, within 14 days after ceasing to carry on business as a contractor, give written notice to the Commissioner of that fact.  
Maximum penalty: \$2 500.  
Expiation fee: \$160.
- (3) A licensed contractor must, within 14 days after entering into partnership to carry on business as a contractor or ceasing to be in such a partnership, give written notice to the Commissioner of that fact, together with the names of the members of the new or former partnership.  
Maximum penalty: \$2 500.  
Expiation fee: \$160.
- (4) If a person is appointed as a director of a body corporate that is a licensed contractor, the contractor must, within 14 days after the appointment—
  - (a) notify the Commissioner in the manner and form approved by the Commissioner of the appointment of the new director; and

- (b) provide the Commissioner with any information required by the Commissioner for the purposes of determining whether the new director meets the requirements for directors under section 9(2) of the Act.

Maximum penalty: \$2 500.

Expiation fee: \$160.

## **8—Return etc of licence**

- (1) If a contractor's licence is surrendered, suspended or cancelled, the contractor must, at the direction of the Court or the Commissioner, return the licence to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (2) If, on an application under section 8 of the Act, a licence has been issued to a contractor but the fee payable in respect of the application has not been paid (whether because of the dishonouring of a cheque or otherwise), the contractor must, at the direction of the Commissioner, return the licence to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (3) The Commissioner may issue to a licensed contractor a licence in replacement of a current licence if satisfied that—

- (a) the current licence has been lost, destroyed or damaged; or
- (b) any photograph of the contractor on the current licence should be replaced with a more recent photograph of the contractor; or
- (c) any particulars appearing on the current licence are incorrect.

- (4) If the Commissioner issues to a licensed contractor a replacement licence, the contractor must, at the direction of the Commissioner, return the original (or previous duplicate) licence to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

## **Part 3—Registered workers**

### **9—Entitlement to be registered as worker—qualifications**

For the purposes of section 16 of the Act—

- (a) to be entitled to be granted plumbing workers registration (not subject to conditions limiting the work that may be carried out under the authority of the registration) a person must—

- (i) hold a Certificate of Competency in Sanitary Plumbing or a Certificate of Competency in Advanced Plumbing issued by the Sanitary Plumbers Examining Board and have completed—

(A) 6 years of plumbing including at least 2 years as—

- the holder of a certificate of registration as a sanitary plumber issued by the Sanitary Plumbers Examining Board; or

- a registered plumbing worker; or
- (B) 7 years of plumbing including at least 18 months as—
  - the holder of a certificate of registration as a sanitary plumber issued by the Sanitary Plumbers Examining Board; or
  - a registered plumbing worker; or
- (ii) hold a Certificate of Proficiency and a Certificate of Competency in Sanitary Plumbing, Draining and Water Plumbing issued by the Regency Institute of TAFE;
- (b) to be entitled to be granted gas fitting workers registration (not subject to conditions limiting the work that may be carried out under the authority of the registration) a person must—
  - (i) hold a Certificate of Competency in Gas Fitting issued by the Gasfitters Examining Board; or
  - (ii) hold a Certificate of Proficiency and a Certificate of Competency in Gas Fitting issued by the Regency Institute of TAFE;
- (c) to be entitled to be granted electrical workers registration (not subject to conditions limiting the work that may be carried out under the authority of the registration) a person must hold a Certificate in Electrical Stream 3212 issued by a training provider approved by the Commissioner (including passes in modules required by the Commissioner) and—
  - (i) a Certificate of Competency in Electrical Mechanics; or
  - (ii) a Certificate of Competency in Electrical Fitting; or
  - (iii) a Certificate of Competency in Engineering Tradesperson (Electrical/Electronic),issued by the Industrial and Commercial Training Commission.

## 10—Periodic fee and return

- (1) For the purposes of section 18(2) of the Act, a registered worker must pay the fee and lodge the return in every third year on or before—
  - (a) the last day of the month nominated in writing to the worker by the Commissioner; or
  - (b) if the Commissioner does not nominate a month—the last day of the month that is the same month as the month in which the worker's registration was granted or, if the worker holds more than 1 registration under the Act, the month in which the worker was granted the first of those registrations.
- (2) However, a registered worker who is also a licensed contractor—
  - (a) must, instead of lodging the return as required by subregulation (1), lodge the return in each year at the same time that he or she lodges a return under regulation 6; and
  - (b) is, on payment of a fee under regulation 6, exempt from paying the fee referred to in subregulation (1).
- (3) For the purposes of section 18(3) of the Act, the penalty for default in paying the fee or lodging the return is set out in Schedule 1.

## **11—Notification of changes in circumstances**

If there is any change in the name or residential address of a registered worker, the worker must, within 14 days after that change, give written notice to the Commissioner of the new name or address (as the case requires).

Maximum penalty: \$1 250.

Expiation fee: \$80.

## **12—Return etc of certificate of registration**

- (1) If registration of a person as a worker is surrendered, suspended or cancelled, the worker must, at the direction of the Court or the Commissioner, return the certificate of registration to the Commissioner.

Maximum penalty: \$1 250.

Expiation fee: \$80.

- (2) If, on an application under section 15 of the Act, a certificate of registration has been issued to a worker but the fee payable in respect of the application has not been paid (whether because of the dishonouring of a cheque or otherwise), the worker must, at the direction of the Commissioner, return the certificate of registration to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

- (3) The Commissioner may issue to a registered worker a certificate of registration in replacement of a current certificate of registration if satisfied that—

- (a) the current certificate has been lost, destroyed or damaged; or
- (b) any photograph of the worker on the current certificate should be replaced with a more recent photograph of the worker; or
- (c) any particulars appearing on the current certificate are incorrect.

- (4) If the Commissioner issues to a registered worker a replacement certificate of registration, the worker must, at the direction of the Commissioner, return the original (or previous duplicate) certificate to the Commissioner.

Maximum penalty: \$2 500.

Expiation fee: \$160.

## **Part 4—Miscellaneous**

### **13—Provisions relating to fees**

- (1) The Commissioner may waive, reduce or refund a fee (or part of a fee) payable under these regulations if satisfied that it is appropriate to do so in a particular case.
- (2) A contractor who applies at any 1 time for more than 1 licence under the Act is required to pay only 1 application fee regardless of the number of applications.
- (3) A licensed contractor under the Act who applies for a further licence under the Act must pay the application fee in respect of each such application.
- (4) A contractor who holds more than 1 licence under the Act is required to pay only 1 periodic fee regardless of the number of such licences held.

- (5) A worker who applies at any 1 time for more than 1 registration under the Act is required to pay only 1 application fee regardless of the number of applications.
- (6) A registered worker under the Act who applies for a further registration under the Act must pay the application fee in respect of each such application.
- (7) A worker who holds more than 1 registration under the Act is required to pay only 1 periodic fee regardless of the number of such registrations held.

## Schedule 1—Fees

1	Application fee for licence (section 8(1)(b) of the Act)	\$168.00
2	Licence fee—payable before the grant of a licence under Part 2 of the Act—	
	(a) for a natural person	\$299.00
	(b) for a body corporate	\$442.00
	If the period between the grant of the licence and the next date for payment of a fee under section 11 of the Act is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the additional fee by applying the proportion that the length of that period bears to 12 months.	
3	Periodic fee for licence (section 11(2)(a) of the Act)—	
	(a) for a natural person	\$299.00
	(b) for a body corporate	\$442.00
	If the period between a date for payment of a fee under section 11 of the Act and the next date for payment of the fee under that section (as nominated by the Commissioner) is less than or more than 12 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the length of that period bears to 12 months.	
4	Default penalty (section 11(3) of the Act)	\$143.00
5	Application fee to vary or revoke a licence condition (section 7(2)(b) of the Act)	\$100.00
6	Application fee for registration (section 15(1)(b) of the Act)	\$168.00
7	Registration fee—payable before the grant of registration under Part 3 of the Act	\$209.00
	If the period between the grant of the registration and the next date for payment of a fee under section 18 of the Act is less than or more than 36 months, a pro rata adjustment is to be made to the amount of the additional fee by applying the proportion that the length of that period bears to 36 months.	
8	Periodic fee for registration (section 18(2)(a) of the Act)	\$209.00
	If the period between a date for payment of a fee under section 18 of the Act and the next date for payment of the fee under that section (as nominated by the Commissioner) is less than or more than 36 months, a pro rata adjustment is to be made to the amount of the fee by applying the proportion that the length of that period bears to 36 months.	
9	Default penalty (section 18(3) of the Act)	\$54.00
10	Application fee to vary or revoke a condition of registration (section 14(2)(b) of the Act)	\$100.00
11	Fee for replacement of licence or certificate of registration	\$22.30

## **Schedule 2—Revocation of *Plumbers, Gas Fitters and Electricians Regulations 1995***

The *Plumbers, Gas Fitters and Electricians Regulations 1995* are revoked.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 187 of 2010

09MCA0056CS

South Australia

## **Residential Tenancies Regulations 2010**

under the *Residential Tenancies Act 1995*

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### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Interpretation

#### **Part 2—General provisions**

- 4 Provision of information and inspection sheets by landlord
- 5 Short fixed term tenancies (section 4 of Act)
- 6 Exempted agreements (section 5 of Act)
- 7 Other amounts recoverable by landlord (section 53 of Act)
- 8 Limit of amount of bond—rent level (section 61 of Act)
- 9 Transmission of bond to Commissioner (section 62 of Act)
- 10 Security bond—third party payments and guarantees (section 63 of Act)
- 11 Items for which a housing co-operative is not responsible (section 68 of Act)
- 12 Prescribed limit—water rates (section 73 of Act)
- 13 Notice of termination—landlords (Part 5 Division 2 of Act)
- 14 Notice of termination—tenants (Part 5 Division 3 of Act)
- 15 Abandoned goods (section 97 of Act)

#### **Part 3—Provisions relating to Tribunal**

- 16 Conferral of jurisdiction—registrars (section 16 of Act)
- 17 Application to Tribunal (section 25 of Act)
- 18 Seal
- 19 Fees

#### **Schedule 1—Forms**

#### **Schedule 2—Fees**

#### **Schedule 3—Revocation of regulations**

- 1 Revocation of *Residential Tenancies (General) Regulations 1995*
  - 2 Revocation of *Residential Tenancies (Water Rates) Regulations 1995*
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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Residential Tenancies Regulations 2010*.

## 2—Commencement

These regulations will come into operation on 1 September 2010.

## 3—Interpretation

In these regulations—

*Act* means the *Residential Tenancies Act 1995*.

## Part 2—General provisions

### 4—Provision of information and inspection sheets by landlord

At the time that a residential tenancy agreement is entered into, the landlord (or his or her agent) must—

- (a) furnish the tenant with an information brochure in a form determined by the Minister; and
- (b) complete and provide to the tenant 2 signed copies of an inspection sheet in a form determined by the Minister, or in a form that satisfies the requirements of the form determined by the Minister, and that in particular—
  - (i) provides for the premises the subject of a residential tenancy agreement to be identified; and
  - (ii) provides comprehensive details of fixtures, furniture and other contents in the premises; and
  - (iii) provides for the condition of the premises and the fixtures, furniture and other contents of the premises to be described by both the landlord and tenant, both at the time of commencement and termination of the agreement; and
  - (iv) provides for the signature of the parties of the agreement both at the time of commencement and termination of the agreement; and
  - (v) advises the tenant that if a dispute arises about the condition of the premises, the tenant may contact the Tenancies Branch of the Office of Consumer and Business Affairs about the matter.

**Note—**

The form should be used for a comparison check when the tenant vacates the premises.

Maximum penalty: \$250.

### 5—Short fixed term tenancies (section 4 of Act)

- (1) A notice given by a landlord to a tenant for the purposes of section 4(1)(b)(i) of the Act must be in the form set out in Part A of Form 1 in Schedule 1.
- (2) A statement signed by a tenant for the purposes of section 4(1)(b)(ii) of the Act must be in the form set out in Part B of Form 1 in Schedule 1.

## **6—Exempted agreements (section 5 of Act)**

- (1) Pursuant to section 5(1)(h) of the Act, the Act does not apply to—
- (a) an agreement genuinely entered into on a short-term, temporary basis, for the occupation of a serviced apartment if the serviced apartment will not, while so occupied, constitute the principal place of residence of the occupant; or
  - (b) an agreement that relates to residential premises that—
    - (i) form part of a building in which other premises are let by the landlord to the tenant for the purposes of a trade, profession or business carried on by the tenant; or
    - (ii) are situated on land which is let by the landlord to the tenant for the purposes of a trade, profession or business (including agriculture) carried on by the tenant; or
    - (iii) are situated in the township of Leigh Creek South and are the subject of a tenancy agreement to which an electricity entity (within the meaning of the *Electricity Act 1996*) is a party as landlord.
- (2) For the purposes of subregulation (1)(a), an agreement conferring a right to occupy a serviced apartment for a fixed term of 60 days or longer will be taken, in the absence of proof to the contrary, not to have been genuinely entered into on a short-term, temporary basis.
- (3) In this regulation—

*serviced apartment* means an apartment or unit in respect of which the person who grants the right of occupancy provides, on an on-going basis, various services associated with the occupation of the apartment or unit.

## **7—Other amounts recoverable by landlord (section 53 of Act)**

Pursuant to section 53(2)(c) of the Act, a landlord is also authorised to require or receive payments for the provision of electricity, gas or telephone services at the premises if the accounts for those items are in the name of the landlord.

## **8—Limit of amount of bond—rent level (section 61 of Act)**

For the purposes of section 61(3)(a) and (b) of the Act, the amount of \$250 per week is prescribed.

## **9—Transmission of bond to Commissioner (section 62 of Act)**

For the purposes of section 62(2) of the Act, the following period is allowed for the payment to the Commissioner of an amount paid by way of security:

- (a) if the person who receives the amount is a registered agent—30 days after the receipt of the amount;
- (b) in any other case—7 days after the receipt of the amount.

## **10—Security bond—third party payments and guarantees (section 63 of Act)**

- (1) For the purposes of section 63(7) of the Act, the South Australian Housing Trust is prescribed as a third party.

- (2) For the purposes of section 63(7)(b) of the Act, a third party may give the Commissioner notice of the third party's interest by making an endorsement indicating the third party's interest on the form furnished to the Commissioner at the time that the relevant security is paid to the Commissioner under section 62 of the Act, or in some other manner determined by the Minister for the purposes of this regulation.
- (3) For the purposes of section 63(9) of the Act—
  - (a) the South Australian Housing Trust is prescribed as a third party; and
  - (b) the prescribed circumstances are where the South Australian Housing Trust is acting as guarantor for a tenant.

### **11—Items for which a housing co-operative is not responsible (section 68 of Act)**

Pursuant to section 68(2)(b) of the Act, if the landlord is a registered housing co-operative, the landlord is not required to comply with section 68(1) of the Act in relation to the following items:

- (a) air conditioners;
- (b) antennas;
- (c) ceiling fans;
- (d) washing machines;
- (e) dishwashers;
- (f) external blinds;
- (g) floor coverings;
- (h) garden sheds;
- (i) internal blinds and curtains;
- (j) light fittings;
- (k) rain water tanks, other than where the tank is the only source of water for the premises;
- (l) refrigeration units;
- (m) room heaters;
- (n) spa bath motors;
- (o) swimming pools and associated plant or equipment;
- (p) waste disposal units;
- (q) water pumps, other than where the water pumped is the only water supplied to the premises;
- (r) window treatments.

### **12—Prescribed limit—water rates (section 73 of Act)**

For the purposes of section 73(3) of the Act, the limit up to which the landlord will bear rates and charges for water supply in the absence of an agreement on the matter under section 73(2) of the Act is fixed at—

- (a) the supply charge for the premises under Part 5 of the *Waterworks Act 1932*; and

- (b) the water rate for the supply to the premises of 136 kilolitres of water for each financial year.

### **13—Notice of termination—landlords (Part 5 Division 2 of Act)**

- (1) A notice given by a landlord to a tenant under section 80 of the Act (including a notice that provides for the termination of the tenancy) must be in the form set out in Form 2 in Schedule 1.
- (2) A notice of termination given by a landlord to a tenant (other than under section 80 of the Act) must be in the form set out in Form 3 in Schedule 1.

### **14—Notice of termination—tenants (Part 5 Division 3 of Act)**

- (1) A notice given by a tenant to a landlord under section 85 of the Act (including a notice that provides for the termination of the tenancy) must be in the form set out in Form 4 in Schedule 1.
- (2) A notice of termination given by a tenant to a landlord (other than under section 85 of the Act) must be in the form set out in Form 5 in Schedule 1.

### **15—Abandoned goods (section 97 of Act)**

For the purposes of section 97(3) of the Act, the notice set out in Form 6 in Schedule 1 is prescribed.

## **Part 3—Provisions relating to Tribunal**

### **16—Conferral of jurisdiction—registrars (section 16 of Act)**

Pursuant to section 16(b) of the Act, the registrar or a deputy registrar may exercise the jurisdiction of the Tribunal—

- (a) to give a notice under section 25(2) of the Act;
- (b) to refer contested proceedings to a conference of the parties under section 26 of the Act;
- (c) to decline to entertain an application, or to adjourn a hearing, under section 32(1)(b) of the Act;
- (d) to extend a period prescribed by or under the Act under section 32(1)(e) of the Act;
- (e) to adjourn a hearing under section 32(1)(g) of the Act;
- (f) to allow the amendment of an application under section 32(1)(h) of the Act;
- (g) to order pursuant to section 32(1)(l) of the Act that an application be struck out with the consent of the applicant;
- (h) to allow the South Australian Co-operative Housing Authority to intervene in proceedings before the Tribunal under section 32(3) of the Act;
- (i) to appoint a mediator under section 34 of the Act;
- (j) to grant an authorisation under section 43 of the Act.

## **17—Application to Tribunal (section 25 of Act)**

- (1) Pursuant to section 25(1)(b) of the Act, an application to the Tribunal under the Act by a landlord or a tenant must contain the following particulars:
  - (a) the name and address of the applicant and whether the application is made as landlord or tenant;
  - (b) the name and last known address of the other party;
  - (c) the address of the premises the subject of the residential tenancy agreement;
  - (d) the order or determination sought by the applicant;
  - (e) the grounds on which the application is made.
- (2) The application referred to in subregulation (1) may be in the form set out in Form 7 in Schedule 1.
- (3) If the tenancy has been terminated by notice of termination under the Act or under the agreement and the applicant is applying to the Tribunal for an order for possession of the premises, the application must be accompanied by a copy of the notice of termination.
- (4) Pursuant to section 25(1)(b) of the Act, an application to the Tribunal under section 90 of the Act by an interested person (not being a landlord) must contain the following particulars:
  - (a) the name and address of the applicant;
  - (b) the address of the relevant premises;
  - (c) the name of the tenant (if known) and the name and address of the landlord (if known);
  - (d) the grounds on which the application is made (see section 90 of the Act).
- (5) The application referred to in subregulation (4) may be in the form set out in Form 8 in Schedule 1.

## **18—Seal**

- (1) The Tribunal will have a seal (and may have more than 1 seal).
- (2) The seal of the Tribunal will be fixed on such process or orders of the Tribunal as the Presiding Member may direct.

## **19—Fees**

Pursuant to section 46(1) of the Act, the fees set out in Schedule 2 are prescribed.

## **Schedule 1—Forms**

### **Form 1—Short fixed term tenancies**

#### ***Residential Tenancies Act 1995***

*The landlord must complete Part A of this form in duplicate and give both copies to the tenant to sign. The tenant should then complete Part B and return 1 copy to the landlord.*

#### **Part A—Notice to be given to tenant by landlord**

**To:** *[insert name of tenant]*

- 1 I give you notice under section 4 of the *Residential Tenancies Act 1995* that the residential tenancy agreement you have entered into is a short fixed term tenancy of *[insert relevant number of days between 1 and 90]* days.  
*A short fixed term tenancy is a tenancy for a term of 90 days or less.*
- 2 **You are warned that the term of your tenancy will come to an end at the completion of this period and that you should not expect to continue in possession of the premises after that time.**
- 3 Details of relevant residential tenancy agreement  
Name of landlord:  
Address of rented premises:  
Commencement date:  
Last day of tenancy:

Signature of landlord/agent:

Date:

Address of landlord/agent:

### **Part B—Statement to be signed by tenant**

*The landlord should have completed Part A of this form and given you 2 copies. You should complete Part B and return 1 copy to the landlord.*

- 1 I *[insert name of tenant]* understand that I have entered a short fixed term tenancy of 90 days or less—  
starting on: *[insert commencement date]*  
and finishing on: *[insert end date]*
- 2 **I acknowledge receipt of a notice (Part A of this form) from the landlord about this tenancy.**
- 3 In accordance with section 4 of the *Residential Tenancies Act 1995*, I acknowledge that I do not expect to continue possession of the premises at *[insert address of rented premises]* after the end of the term stated in the agreement.

Signature of tenant:

Date:

### **Form 2—Notice by landlord to tenant to remedy breach of agreement— Notice of termination**

#### ***Residential Tenancies Act 1995***

*Form 3 should be used for a notice of termination where no breach of agreement is alleged.*

**To:** *[insert name of tenant]*

**Address of premises:** *[insert address of rented premises]*

- A I give you notice that you are in breach of the residential tenancy agreement that relates to the premises referred to above.

The breach is as follows:

*[include enough details so that the tenant will know exactly what the breach is]*

You must remedy the breach as follows:

*[include enough details so that the tenant will know exactly what has to be done to remedy the breach]*

- B You must remedy the breach within *[insert number of days—see information for landlord below]* days from the date on which this notice is given to you.
- C If the breach is not remedied within this period, then—
- (a) the tenancy is terminated by force of this notice; and
  - (b) you must give up possession of the premises on or before *[insert date—see information for landlord below]*.

Signature of landlord/agent:

Date:

Full name of landlord:

Address of landlord:

### **Service of notice**

This notice was served on *[insert date]* by:

*[Tick 1 box.]*

- personally handing it to the tenant
- mailing it to the tenant
- placing it in the tenant's letterbox
- other *[please specify]*

### **Information for the tenant**

- 1 You may at any time after receiving this notice, while remaining in possession of the premises, apply to the Residential Tenancies Tribunal for an order—
  - (a) declaring that you are not in breach of your residential tenancy agreement;
  - (b) declaring that you have remedied the breach within the notice period;
  - (c) reinstating the tenancy.
- 2 If you do not remedy a specified breach, or do not apply to the Tribunal, the tenancy will be terminated on the basis of the breach by force of this notice. The landlord is then entitled to vacant possession of the premises. If you do not give vacant possession, the landlord can apply to the Tribunal for an order that you vacate the premises.
- 3 When you vacate the premises, you should—
  - (a) leave the premises in reasonable condition and in a reasonably clean state. If you do not, the landlord may recover from the security bond, or from you directly, the costs of cleaning the premises, removing any rubbish, and so on;

- (b) contact the landlord or agent and arrange to meet him or her at the premises at an agreed time. With the landlord or agent, you can then inspect the premises and note on the Inspection Sheet (which you filled in and received at the start of the tenancy) the state of the cleanliness of the premises and any damage that has occurred during the tenancy. You can then decide with the landlord or agent how much of the security bond should be paid to you and to the landlord (respectively);
- (c) if possible, agree on how the security bond should be paid. If you agree, both of you should complete and sign the Refund of Bond form and lodge it with the Office of Consumer and Business Affairs. Make sure that your forwarding address is included on the form so that all or part of the security bond, or any future correspondence, can be sent to you. If agreement cannot be reached, you should contact the Tenancies Branch of the Office of Consumer and Business Affairs;
- (d) ensure that you leave all the keys with the landlord or agent, and notify the relevant electricity, gas, postal and telephone entities so that the new tenants do not use gas, electricity and the telephone on your accounts, and so that mail can be forwarded to you.

### Information for the landlord

- 1 If the **breach on which this notice is based is solely failure to pay rent** under a residential tenancy agreement—
  - (a) the rent (or part of the rent) must have remained unpaid for at least 14 days before the landlord can give this notice to the tenant; and
  - (b) the period allowed under **Item B** to remedy the breach by paying the outstanding rent must be at least 7 clear days after the day on which this notice is received, or is expected to be received, by the tenant; and
  - (c) the date specified (in **Item C**) for the tenant to give up possession of the premises can be any day after the period given to remedy the breach (which is specified in Item B). In specifying this date you should not include the day on which the notice was received or expected to be received by the tenant as part of the period to remedy the breach.

**Examples—**

Form 2 notice served personally on Wednesday 1 March; 7 days to remedy the breach (ie 2 - 8 March); the earliest date for possession is 9 March.

Form 2 notice posted on Wednesday 1 March; if posted in the metropolitan area it would be received by the tenant on 2 March; 7 days to remedy the breach (ie 3 - 9 March); the earliest date for possession is 10 March.
- 2 If the **breach on which this notice is based is a ground other than failure to pay rent** under a residential tenancy agreement—
  - (a) the period allowed under **Item B** to remedy the breach must be at least 7 clear days after the day on which this notice is received or is expected to be received by the tenant; and
  - (b) the date specified in **Item C** for the tenant to give up possession of the premises must be at least 8 days after the day specified in Item B.
- 3 If the tenancy is terminated by this notice because the tenant does not comply with the requirements of this notice, you cannot enter the premises to take possession, unless—

- 
- (a) the tenant has abandoned the premises, or voluntarily given up possession of the premises; or
    - (b) you are authorised to take possession of the premises by an order of a court or the Residential Tenancies Tribunal. (To seek an order of the Tribunal for vacant possession, it will be necessary to lodge a Form 7 application with the Tribunal).
  - 4 You may serve this notice on the tenant (or on an agent of the tenant)—
    - (a) personally; or
    - (b) by sending it by post addressed to the person at his or her last known place of residence, employment or business; or
    - (c) by leaving it in a letterbox or other place where it is likely to come to his or her attention at his or her last known place of residence, employment or business.
  - 5 If the whereabouts of the tenant is unknown, the notice may be given by publishing it in a newspaper circulating generally throughout the State.
  - 6 You should retain a copy of this notice.

**Form 3—Notice of termination by landlord (General form for periodic tenancy)****Notice of termination by housing co-operative (For fixed term or periodic agreement)*****Residential Tenancies Act 1995***

*This form may be used by a registered housing co-operative to terminate a fixed term tenancy or a periodic tenancy.*

*This form may be used by any other landlord to terminate a periodic tenancy. To terminate a fixed term tenancy, a landlord who is not a registered housing co-operative must make an application to the Residential Tenancies Tribunal.*

**To:** *[insert name of tenant]*

**Address of premises:** *[insert address of rented premises]*

I give you notice to deliver up vacant possession of the premises referred to above on *[insert date on which tenant is required to vacate premises]*, being a date that is—

*[tick 1 of the 3 main boxes]*

- not less than 90 days

*A landlord may terminate a periodic tenancy by giving the tenant at least 90 days' notice without specifying a ground of termination.*

- not less than *[insert number]* days, this notice being given on the following grounds:

*The period of notice given on these grounds must be at least 60 days or if, under the terms of the periodic tenancy, rent is payable at intervals of greater than 60 days, that greater period.*

*[you may tick more than 1 of the following boxes]*

- the landlord requires possession of the premises for demolition
- the landlord requires possession of the premises for repairs or renovations that cannot be carried out conveniently while the tenant remains in possession of the premises
- the landlord requires possession of the premises for the landlord's own occupation, or occupation by the landlord's spouse, child or parent, or occupation by the spouse of the landlord's child or parent
- the landlord requires possession for the landlord to give vacant possession to a purchaser of the premises as they have entered into a contract of sale dated: *[insert date of contract of sale]*

- not less than 28 days, this notice being given on the following grounds:

*[you may tick more than 1 of the following boxes]*

- you have ceased to be a member of the housing co-operative
- you no longer satisfy a condition or conditions specified by the tenancy agreement with the housing co-operative as essential to the continuation of the tenancy, namely *[state condition(s) no longer satisfied by the tenant]*

Signature of landlord/agent:

Date:

Full name of landlord:

Address of landlord:

### Information for the landlord

- 1 If the landlord is a registered housing co-operative and the tenant has ceased to be a member of the co-operative or no longer satisfies an essential requirement to remain as a tenant, the period of notice can be 28 days.
- 2 Except where the landlord is a registered housing co-operative, this notice cannot be used if the tenancy has been entered into for a fixed term.
- 3 It is a criminal offence under the *Residential Tenancies Act 1995* to state a false ground of termination in this notice.
- 4 If the premises are subject to a housing improvement notice or are subject (or potentially subject) to rent control, the Tribunal must give its authorisation to this notice before it is effective.
- 5 This notice may be served on the tenant (or on an agent of the tenant)—
  - (a) personally; or
  - (b) by sending it by post addressed to the person at his or her last known place of residence, employment or business; or
  - (c) by leaving it in a letterbox or other place where it is likely to come to his or her attention at his or her last known place of residence, employment or business.

If the whereabouts of the tenant is unknown, the notice may be given by publishing it in a newspaper circulating generally throughout the State.

- 6 You should retain a copy of this notice.

### Information for the tenant

- 1 If your tenancy agreement is for a periodic tenancy and you wish to leave the rented premises before the date on which the landlord has indicated vacant possession of the premises is required, you may do so by serving a notice of termination (Form 5) on the landlord at least 21 days before leaving, or a period equivalent to a single rental period of your tenancy (whichever is longer).

**Example—**

If you pay rent per calendar month, instead of giving 21 days' notice, you would be required to give 1 calendar month's notice.

- 2 When you vacate the premises, you should leave them in a reasonable condition and in a reasonably clean state. If you do not, the landlord may recover from the security bond, or from you directly, the costs of cleaning the premises, removing any rubbish, and so on.
- 3 You should contact the landlord or agent and arrange to meet him or her at the premises at an agreed time. With the landlord or agent, you can then inspect the premises and note on the Inspection Sheet (which you filled in and received at the start of the tenancy) the state of cleanliness of the premises and any damage that has occurred during the tenancy. You can then decide with the landlord or agent how much of the security bond should be paid to you and to the landlord (respectively).

- 4 If possible you should agree on how the security bond should be paid. If you agree, both of you should complete and sign the Refund of Bond form and lodge it with the Office of Consumer and Business Affairs. Make sure that your forwarding address is included on the form so that all or part of the security bond, or any future correspondence, can be sent to you. If agreement cannot be reached, you should contact the Tenancies Branch of the Office of Consumer and Business Affairs.
- 5 When you vacate the premises, ensure that you leave all the keys with the landlord or agent, and notify the relevant electricity, gas, postal and telephone entities so that the new tenants do not use gas, electricity and the telephone on your accounts, and so that mail can be forwarded to you.

#### **Form 4—Notice by tenant to landlord to remedy breach of agreement—Notice of termination**

##### ***Residential Tenancies Act 1995***

*Form 5 should be used for a notice of termination where no breach of agreement is alleged.*

**To:** *[insert name of landlord/agent]*

**Address of premises:** *[insert address of rented premises]*

- A I give notice that the landlord is in breach of the residential tenancy agreement that relates to the premises referred to above.

The breach is as follows:

*[include enough details so that the landlord will know exactly what the breach is]*

You must remedy the breach as follows:

*[include enough details so that the landlord will know exactly what has to be done to remedy the breach]*

- B You must remedy the breach within *[insert number of days—see information for tenant below]* days from the date on which this notice is given to you.

- C If the breach is not remedied within this period, the tenancy is terminated by force of this notice from the following date:  
*[insert date]*

Signature of tenant:

Date:

Full name of tenant:

Address of tenant:

#### **Service of notice**

This notice was served on *[insert date]* by:

*[Tick 1 box.]*

- personally handing it to the landlord
- mailing it to the landlord
- placing it in the landlord's letterbox
- other *[please specify]*

### Information for the tenant

- 1 The period allowed under **Item B** to remedy the breach must be at least 7 clear days from the day on which this notice is received or is expected to be received by the landlord.
- 2 The date specified in **Item C** for the end of the tenancy must be at least 8 days after the end of the period specified in Item B.
- 3 You may serve this notice on the landlord, or on an agent of the landlord—
  - (a) personally; or
  - (b) by sending it by post addressed to the person at his or her last known place of residence, employment or business; or
  - (c) by leaving it in a letterbox or other place where it is likely to come to his or her attention at his or her last known place of residence, employment or business.
- 4 If the whereabouts of the landlord/agent is unknown, the notice may be given by publishing it in a newspaper circulating generally throughout the State.
- 5 You should retain a copy of this notice.

### Information for the landlord

You may, within the time period fixed under this notice for termination of the tenancy, or before the tenant gives up possession of the premises, apply to the Residential Tenancies Tribunal for an order—

- (a) declaring that you are not in breach of the residential tenancy agreement;
- (b) declaring that you have remedied the breach within the notice period;
- (c) reinstating the tenancy.

### Termination information

- 1 When the tenant vacates the premises, he/she should leave them in a reasonable condition and in a reasonably clean state. If they are not, the landlord may recover from the security bond, or from the tenant directly, the costs of cleaning the premises, removing any rubbish, and so on.
- 2 The tenant and landlord (or an agent) should arrange to meet at the premises at an agreed time. You can then inspect the premises and note on the Inspection Sheet (which you filled in and received at the start of the tenancy) the state of cleanliness of the premises and any damage that has occurred during the tenancy. You can then decide how much of the security bond should be paid to each of you.
- 3 If possible, you should agree on how the security bond should be paid. If you do agree, both of you should complete and sign the Refund of Bond form and lodge it with the Office of Consumer and Business Affairs. Make sure that the tenant's forwarding address is included on the form so that all or part of the security bond, or any future correspondence, can be sent there. If agreement cannot be reached, you should contact the Tenancies Branch of the Office of Consumer and Business Affairs.
- 4 When the tenant vacates the premises, the tenant should ensure that the tenant leaves all the keys with the landlord or agent, and notifies the relevant electricity, gas, postal and telephone entities so that the new tenants do not use gas, electricity and the telephone on the tenant's accounts, and so that mail can be forwarded.

**Form 5—Notice of termination by tenant for a periodic tenancy*****Residential Tenancies Act 1995***

*A tenant cannot use this form to terminate a fixed term tenancy—for that purpose an application must be made to the Residential Tenancies Tribunal.*

**To:** *[insert name and address of landlord/agent]*

**Address of premises:** *[insert address of rented premises]*

- 1 I give notice of termination of a residential tenancy agreement between me as tenant and you as landlord in respect of the premises referred to above.
- 2 I will deliver up possession of the premises to you on *[insert hand-over date]*.

**Note—**

*The hand-over date must be at least 21 days from the date of this notice, or a period equivalent to a single rental period of your tenancy (whichever is longer).*

**Example—**

*If you pay rent per calendar month, instead of giving 21 days' notice, you would be required to give 1 calendar month's notice.*

Signature of tenant:

Date:

Full name of tenant:

Address of tenant:

**Information for the tenant**

- 1 You may serve this notice on the landlord, or on an agent of the landlord—
  - (a) personally; or
  - (b) by sending it by post addressed to the person at his or her last known place of residence, employment or business; or
  - (c) by leaving it in a letterbox or other place where it is likely to come to his or her attention at his or her last known place of residence, employment or business.
- 2 If the whereabouts of the landlord is unknown, the notice may be given by publishing it in a newspaper circulating generally throughout the State.
- 3 You should retain a copy of this notice.

**Termination information**

- 1 When the tenant vacates the premises, he/she should leave them in a reasonable condition and in a reasonably clean state. If they are not, the landlord may recover from the security bond, or from the tenant directly, the costs of cleaning the premises, removing any rubbish, and so on.
- 2 The tenant and landlord (or an agent) should arrange to meet at the premises at an agreed time. You can then inspect the premises and note on the Inspection Sheet (which you filled in and received at the start of the tenancy) the state of cleanliness of the premises and any damage that has occurred during the tenancy. You can then decide how much of the security bond should be paid to each of you.

- 3 If possible you should agree on how the security bond should be paid. If you agree, both of you should complete and sign the Refund of Bond form and lodge it with the Office of Consumer and Business Affairs. Make sure that the tenant's forwarding address is included on the form so that all or part of the security bond, or any future correspondence, can be sent there. If agreement cannot be reached, you should contact the Tenancies Branch of the Office of Consumer and Business Affairs.
- 4 When the tenant vacates the premises, the tenant should ensure that he/she leaves all the keys with the landlord or agent, and notifies the relevant electricity, gas, postal and telephone entities so that the new tenants do not use gas, electricity and the telephone on the tenant's accounts, and so that mail can be forwarded.

### **Form 6—Notice by landlord of storage of goods**

#### ***Residential Tenancies Act 1995***

**To:** *[insert name and address of person to whom notice is addressed]*

*This notice must be sent to—*

- (a) *if the tenant has left a forwarding address—the tenant; and*
- (b) *if another person has, to the knowledge of the landlord, an interest in the goods and the person's name and address are known to, or are reasonably ascertainable by, the landlord—that person.*

*Notice of the storage of the goods must also be published in a newspaper circulating generally throughout the State.*

#### **Re: Goods left at residential premises at the following address:**

*[insert address of rented premises]*

- 1 Details of relevant residential tenancy agreement:
  - Name of tenant:
  - Date tenancy commenced:
  - Date tenancy terminated:
- 2 The following goods were left on the premises:
  - [insert description of goods]*
  - Perishable foodstuffs and goods of a value that is less than a fair estimate of the cost of their removal, storage and sale may be removed and destroyed or disposed of under section 97(1)(a) of the Residential Tenancies Act 1995 and need not be included in this notice.*
- 3 These goods have been stored in a safe place and manner. If you are entitled to possession of the goods, you may reclaim the goods by paying to me—
  - (a) the reasonable costs of removing and storing the goods; and
  - (b) the reasonable costs of publishing a notice of the storage of goods in a newspaper circulating generally throughout the State; and
  - (c) any other reasonable costs incurred by me as a result of the goods being left on the premises.

- 4 If the goods are not reclaimed on or before *[insert date]* (being 60 days after the day on which I removed and stored the goods), the goods will be sold by public auction. I will then retain from the proceeds of sale—
- (a) the reasonable costs of removing, storing and selling the goods; and
  - (b) the reasonable costs associated with publishing the newspaper notice; and
  - (c) any other reasonable costs incurred by the landlord as a result of the goods being left on the premises; and
  - (d) any amounts owed to the landlord under the residential tenancy agreement.

The balance must be paid to the owner of the goods or, if his or her identity is not known to, or reasonably ascertainable by, the landlord, to the Commissioner for Consumer Affairs.

Signature of landlord/agent:

Date:

Full name of landlord/agent:

Address of landlord/agent:

### **Form 7—Application to Residential Tenancies Tribunal by party to residential tenancy or rooming house agreement**

#### ***Residential Tenancies Act 1995***

This application must be accompanied by the fee fixed by regulation. **Applications will not be accepted without payment of the fee.** Further information about the amount required to be paid and payment options is attached.

*Please fill out form in clear print using black pen.*

#### **1 Details of each person making application**

Full name:

Postal address for service of notices:

Home telephone number:

Work telephone number:

The applicant is:

*[Tick 1 box]*

- a landlord
- an agent
- a tenant or resident

#### **2 Details of each other party against whom applicant is seeking order or determination**

Full name of other party:

Address of other party:

Home telephone number:

Work telephone number:

#### **3 Type of agreement involved**

*[Tick 1 box]*

- residential tenancy agreement
- rooming house agreement

**4 Order or determination sought from Residential Tenancies Tribunal**

I (We) apply to the Residential Tenancies Tribunal for an order or determination to the following effect:

*[set out details of order or determination sought]*

**5 Grounds of application**

The grounds on which the application is made are as follows:

*[set out brief details of dispute and why order/determination is sought]*

**6 Details of the residential tenancy or rooming house agreement involved**

Address of rented premises:

If fixed term tenancy:

commencement date:

end date:

If periodic tenancy:

commencement date:

Has the tenancy ended?

Yes  on: *[insert date tenancy ended]*

No

Was a termination notice served?

Yes

No

Weekly rental: \$

Rental paid to:

Signature of applicant:

Date:

Residential/Business address of applicant if different from postal address:

If applicant is agent, full name of landlord:

**Notes—**

- 1 Please forward any paperwork that will support your claim; eg: rent receipts, inspection sheet, copies of any quotes for work to be carried out on the premises, or accounts or receipts for work carried out on the premises.
- 2 If there is a written tenancy agreement, a copy should accompany this application.
- 3 If you have served a notice of termination on the other party, or if you have received a notice of termination from the other party, a copy of that notice should accompany this application.

**A copy of this application and any attachments will be sent to the other party by the Tribunal with notice of the Tribunal hearing.**

**Form 8—Application to Residential Tenancies Tribunal for termination of tenancy where tenant's conduct unacceptable—section 90*****Residential Tenancies Act 1995***

This application must be accompanied by the fee fixed by regulation. **Applications will not be accepted without payment of the fee.** Further information about the amount required to be paid and payment options is attached.

*Please fill out form in clear print using black pen.*

**1 Details of each person making application**

Full name:

Postal address for service of notices:

Home telephone number:

Work telephone number:

*The applicant must be the landlord or a person who has been adversely affected by the conduct of the tenant on which the application is based.*

**2 Details of residential tenancy that applicant is seeking to terminate**

Address of rented premises:

Name of tenant:

Name of landlord (or agent) if not applicant:

Address of landlord (or agent) if not applicant:

**3 Grounds of application**

I (We) make application to the Tribunal for the termination of the residential tenancy on the following grounds:

*[insert details of grounds—see note below]*

Signature of applicant:

Date:

**Note—**

*The Tribunal may make an order for the termination of a tenancy on the basis of this type of application if it is satisfied that the tenant has—*

- (a) *used the relevant premises, or caused or permitted the relevant premises to be used, for an illegal purpose; or*
- (b) *caused or permitted a nuisance; or*
- (c) *caused or permitted an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the relevant premises.*

**A copy of this application and any attachments will be sent to all parties by the Tribunal with notice of the Tribunal hearing.**

## **Schedule 2—Fees**

Application to Tribunal

\$35

## **Schedule 3—Revocation of regulations**

### **1—Revocation of *Residential Tenancies (General) Regulations 1995***

The *Residential Tenancies (General) Regulations 1995* are revoked.

### **2—Revocation of *Residential Tenancies (Water Rates) Regulations 1995***

The *Residential Tenancies (Water Rates) Regulations 1995* are revoked.

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 188 of 2010

09MCA0056CS

South Australia

## **Health Practitioner Regulation National Law (South Australia) (Amendment of Act) Regulations 2010**

under the *Health Practitioner Regulation National Law (South Australia) Act 2010*

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### **Contents**

- 1 Short title
- 2 Commencement
- 3 Insertion of Schedule in Act

### Schedule 2—Health Practitioner Regulation National Law

#### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Objectives and guiding principles
- 4 How functions to be exercised
- 5 Definitions
- 6 Interpretation generally
- 7 Single national entity
- 8 Extraterritorial operation of Law
- 9 Trans-Tasman mutual recognition principle
- 10 Law binds the State

#### Part 2—Ministerial Council

- 11 Policy directions
- 12 Approval of registration standards
- 13 Approvals in relation to specialist registration
- 14 Approval of endorsement in relation to scheduled medicines
- 15 Approval of areas of practice for purposes of endorsement
- 16 How Ministerial Council exercises functions
- 17 Notification and publication of directions and approvals

#### Part 3—Australian Health Workforce Advisory Council

- 18 Establishment of Advisory Council
- 19 Function of Advisory Council
- 20 Publication of advice
- 21 Powers of Advisory Council
- 22 Membership of Advisory Council

#### Part 4—Australian Health Practitioner Regulation Agency

##### Division 1—National Agency

- 23 National Agency
- 24 General powers of National Agency
- 25 Functions of National Agency
- 26 Health profession agreements

- 27 Co-operation with participating jurisdictions and Commonwealth
- 28 Office of National Agency

### Division 2—Agency Management Committee

- 29 Agency Management Committee
- 30 Functions of Agency Management Committee

## Part 5—National Boards

### Division 1—National Boards

- 31 Establishment of National Boards
- 32 Powers of National Board
- 33 Membership of National Boards
- 34 Eligibility for appointment

### Division 2—Functions of National Boards

- 35 Functions of National Boards
- 36 State and Territory Boards
- 37 Delegation of functions

### Division 3—Registration standards and codes and guidelines

- 38 National Board must develop registration standards
- 39 Codes and guidelines
- 40 Consultation about registration standards, codes and guidelines
- 41 Use of registration standards, codes or guidelines in disciplinary proceedings

## Part 6—Accreditation

### Division 1—Preliminary

- 42 Definition

### Division 2—Accreditation authorities

- 43 Accreditation authority to be decided
- 44 National Agency may enter into contracts with external accreditation entities
- 45 Accreditation processes to be published

### Division 3—Accreditation functions

- 46 Development of accreditation standards
- 47 Approval of accreditation standards
- 48 Accreditation of programs of study
- 49 Approval of accredited programs of study
- 50 Accreditation authority to monitor approved programs of study
- 51 Changes to approval of program of study

## Part 7—Registration of health practitioners

### Division 1—General registration

- 52 Eligibility for general registration
- 53 Qualifications for general registration
- 54 Examination or assessment for general registration
- 55 Unsuitability to hold general registration
- 56 Period of general registration

## Division 2—Specialist registration

- 57 Eligibility for specialist registration
- 58 Qualifications for specialist registration
- 59 Examination or assessment for specialist registration
- 60 Unsuitability to hold specialist registration
- 61 Period of specialist registration

## Division 3—Provisional registration

- 62 Eligibility for provisional registration
- 63 Unsuitability to hold provisional registration
- 64 Period of provisional registration

## Division 4—Limited registration

- 65 Eligibility for limited registration
- 66 Limited registration for postgraduate training or supervised practice
- 67 Limited registration for area of need
- 68 Limited registration in public interest
- 69 Limited registration for teaching or research
- 70 Unsuitability to hold limited registration
- 71 Limited registration not to be held for more than one purpose
- 72 Period of limited registration

## Division 5—Non-practising registration

- 73 Eligibility for non-practising registration
- 74 Unsuitability to hold non-practising registration
- 75 Registered health practitioner who holds non-practising registration must not practise the profession
- 76 Period of non-practising registration

## Division 6—Application for registration

- 77 Application for registration
- 78 Power to check applicant's proof of identity
- 79 Power to check applicant's criminal history
- 80 Boards' other powers before deciding application for registration
- 81 Applicant may make submissions about proposed refusal of application or imposition of condition
- 82 Decision about application
- 83 Conditions of registration
- 84 Notice to be given to applicant
- 85 Failure to decide application

## Division 7—Student registration

### Subdivision 1—Persons undertaking approved programs of study

- 86 Definitions
- 87 National Board must register persons undertaking approved program of study
- 88 National Board may ask education provider for list of persons undertaking approved program of study
- 89 Registration of students
- 90 Period of student registration

### Subdivision 2—Other persons to be registered as students

91 Education provider to provide lists of persons

### Subdivision 3—General provisions applicable to students

92 Notice to be given if student registration suspended or condition imposed

93 Report to National Board of cessation of status as student

## Division 8—Endorsement of registration

### Subdivision 1—Endorsement in relation to scheduled medicines

94 Endorsement for scheduled medicines

### Subdivision 2—Endorsement in relation to nurse practitioners

95 Endorsement as nurse practitioner

### Subdivision 3—Endorsement in relation to midwife practitioners

96 Endorsement as midwife practitioner

### Subdivision 4—Endorsement in relation to acupuncture

97 Endorsement for acupuncture

### Subdivision 5—Endorsements in relation to approved areas of practice

98 Endorsement for approved area of practice

### Subdivision 6—Application for endorsement

99 Application for endorsement

100 Boards' other powers before deciding application for endorsement

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

102 Decision about application

103 Conditions of endorsement

104 Notice of decision to be given to applicant

105 Period of endorsement

106 Failure to decide application for endorsement

## Division 9—Renewal of registration

107 Application for renewal of registration or endorsement

108 Registration taken to continue in force

109 Annual statement

110 National Board's powers before making decision

111 Applicant may make submissions about proposed refusal of application for renewal or imposition of condition

112 Decision about application for renewal

## Division 10—Title and practice protections

### Subdivision 1—Title protections

113 Restriction on use of protected titles

114 Use of title "acupuncturist"

115 Restriction on use of specialist titles

116 Claims by persons as to registration as health practitioner

117 Claims by persons as to registration in particular profession or division

118 Claims by persons as to specialist registration

119 Claims about type of registration or registration in recognised specialty

120 Registered health practitioner registered on conditions

#### Subdivision 2—Practice protections

121 Restricted dental acts

122 Restriction on prescription of optical appliances

123 Restriction on spinal manipulation

### Division 11—Miscellaneous

#### Subdivision 1—Certificates of registration

124 Issue of certificate of registration

#### Subdivision 2—Review of conditions and undertakings

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

126 Changing conditions on Board's initiative

127 Removal of condition or revocation of undertaking

#### Subdivision 3—Obligations of registered health practitioners and students

128 Continuing professional development

129 Professional indemnity insurance arrangements

130 Registered health practitioner or student to give National Board notice of certain events

131 Change in principal place of practice, address or name

132 National Board may ask registered health practitioner for employer's details

#### Subdivision 4—Advertising

133 Advertising

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

134 Evidence of identity

135 Criminal history check

#### Subdivision 6—General

136 Directing or inciting unprofessional conduct or professional misconduct

137 Surrender of registration

## Part 8—Health, performance and conduct

### Division 1—Preliminary

138 Part applicable to persons formerly registered under this Law

139 Part applicable to persons formerly registered under corresponding prior Act in certain circumstances

### Division 2—Mandatory notifications

140 Definition of notifiable conduct

141 Mandatory notifications by health practitioners

142 Mandatory notifications by employers

143 Mandatory notifications by education providers

### Division 3—Voluntary notifications

144 Grounds for voluntary notification

145 Who may make voluntary notification

#### Division 4—Making a notification

- 146 How notification is made
- 147 National Agency to provide reasonable assistance to notifier

#### Division 5—Preliminary assessment

- 148 Referral of notification to National Board or co-regulatory authority
- 149 Preliminary assessment
- 150 Relationship with health complaints entity
- 151 When National Board may decide to take no further action
- 152 National Board to give notice of receipt of notification

#### Division 6—Other matters

- 153 National Board may deal with notifications about same person together
- 154 National Boards may deal with notifications collaboratively

#### Division 7—Immediate action

- 155 Definition
- 156 Power to take immediate action
- 157 Show cause process
- 158 Notice to be given to registered health practitioner or student about immediate action
- 159 Period of immediate action

#### Division 8—Investigations

##### Subdivision 1—Preliminary

- 160 When investigation may be conducted
- 161 Registered health practitioner or student to be given notice of investigation
- 162 Investigation to be conducted in timely way

##### Subdivision 2—Investigators

- 163 Appointment of investigators
- 164 Identity card
- 165 Display of identity card

##### Subdivision 3—Procedure after investigation

- 166 Investigator's report about investigation
- 167 Decision by National Board

#### Division 9—Health and performance assessments

- 168 Definition
- 169 Requirement for health assessment
- 170 Requirement for performance assessment
- 171 Appointment of assessor to carry out assessment
- 172 Notice to be given to registered health practitioner or student about assessment
- 173 Assessor may require information or attendance
- 174 Inspection of documents
- 175 Report from assessor
- 176 Copy of report to be given to health practitioner or student
- 177 Decision by National Board

## Division 10—Action by National Board

- 178 National Board may take action
- 179 Show cause process
- 180 Notice to be given to health practitioner or student and notifier

## Division 11—Panels

- 181 Establishment of health panel
- 182 Establishment of performance and professional standards panel
- 183 List of approved persons for appointment to panels
- 184 Notice to be given to registered health practitioner or student
- 185 Procedure of panel
- 186 Legal representation
- 187 Submission by notifier
- 188 Panel may proceed in absence of registered health practitioner or student
- 189 Hearing not open to the public
- 190 Referral to responsible tribunal
- 191 Decision of panel
- 192 Notice to be given about panel's decision

## Division 12—Referring matter to responsible tribunals

- 193 Matters to be referred to responsible tribunal
- 194 Parties to the proceedings
- 195 Costs
- 196 Decision by responsible tribunal about registered health practitioner
- 197 Decision by responsible tribunal about student
- 198 Relationship with Act establishing responsible tribunal

## Division 13—Appeals

- 199 Appellable decisions
- 200 Parties to the proceedings
- 201 Costs
- 202 Decision
- 203 Relationship with Act establishing responsible tribunal

## Division 14—Miscellaneous

- 204 Notice from adjudication body
- 205 Implementation of decisions
- 206 National Board to give notice to registered health practitioner's employer
- 207 Effect of suspension

## Part 9—Finance

- 208 Australian Health Practitioner Regulation Agency Fund
- 209 Payments into Agency Fund
- 210 Payments out of Agency Fund
- 211 Investment of money in Agency Fund
- 212 Financial management duties of National Agency and National Boards

## Part 10—Information and privacy

### Division 1—Privacy

- 213 Application of Commonwealth Privacy Act

## Division 2—Disclosure of information and confidentiality

- 214 Definition
- 215 Application of Commonwealth FOI Act
- 216 Duty of confidentiality
- 217 Disclosure of information for workforce planning
- 218 Disclosure of information for information management and communication purposes
- 219 Disclosure of information to other Commonwealth, State and Territory entities
- 220 Disclosure to protect health or safety of patients or other persons
- 221 Disclosure to registration authorities

## Division 3—Registers in relation to registered health practitioner

- 222 National Registers
- 223 Specialists Registers
- 224 Way registers are to be kept
- 225 Information to be recorded in National Register
- 226 National Board may decide not to include or to remove certain information in register
- 227 Register about former registered health practitioners
- 228 Inspection of registers

## Division 4—Student registers

- 229 Student registers
- 230 Information to be recorded in student register

## Division 5—Other records

- 231 Other records to be kept by National Boards
- 232 Record of adjudication decisions to be kept and made publicly available

## Division 6—Unique identifier

- 233 Unique identifier to be given to each registered health practitioner

## Part 11—Miscellaneous

### Division 1—Provisions relating to persons exercising functions under Law

- 234 General duties of persons exercising functions under this Law
- 235 Application of Commonwealth Ombudsman Act
- 236 Protection from personal liability for persons exercising functions
- 237 Protection from liability for persons making notification or otherwise providing information

### Division 2—Inspectors

- 238 Functions and powers of inspectors
- 239 Appointment of inspectors
- 240 Identity card
- 241 Display of identity card

### Division 3—Legal proceedings

- 242 Proceedings for offences
- 243 Conduct may constitute offence and be subject of disciplinary proceedings
- 244 Evidentiary certificates

### Division 4—Regulations

- 245 National regulations
- 246 Parliamentary scrutiny of national regulations

247 Effect of disallowance of national regulation

#### Division 5—Miscellaneous

248 Combined notice may be given

249 Fees

#### Part 12—Transitional provisions

##### Division 1—Preliminary

250 Definitions

251 References to registered health practitioners

##### Division 2—Ministerial Council

252 Directions given by Ministerial council

253 Accreditation functions exercised by existing accreditation entities

254 Health profession standards approved by Ministerial Council

255 Accreditation standards approved by National Board

##### Division 3—Advisory Council

256 Members of Advisory Council

##### Division 4—National Agency

257 Health profession agreements

258 Service agreement

##### Division 5—Agency Management Committee

259 Members of Agency Management Committee

##### Division 6—Staff, consultants and contractors of National Agency

260 Chief executive officer

261 Staff

262 Consultants and contractors

##### Division 7—Reports

263 Annual report

##### Division 8—National Boards

264 Members of National Boards

265 Committees

266 Delegation

##### Division 9—Agency Fund

267 Agency Fund

##### Division 10—Offences

268 Offences

##### Division 11—Registration

269 General registration

270 Specialist registration

271 Provisional registration

272 Limited registration

- 273 Limited registration (public interest-occasional practice)
- 274 Non-practising registration
- 275 Registration for existing registered students
- 276 Registration for new students
- 277 Other registrations
- 278 Endorsements
- 279 Conditions imposed on registration or endorsement
- 280 Expiry of registration and endorsement
- 281 Protected titles for certain specialist health practitioners
- 282 First renewal of registration or endorsement
- 283 Programs of study
- 284 Exemption from requirement for professional indemnity insurance arrangements for midwives practising private midwifery

#### Division 12—Applications for registration and endorsement

- 285 Applications for registration
- 286 Applications for endorsement
- 287 Disqualifications and conditions relevant to applications for registration

#### Division 13—Complaints, notifications and disciplinary proceedings

- 288 Complaints and notifications made but not being dealt with on participation day
- 289 Complaints and notifications being dealt with on participation day
- 290 Effect of suspension
- 291 Undertakings and other agreements
- 292 Orders
- 293 List of approved persons

#### Division 14—Local registration authority

- 294 Definition
- 295 Assets and liabilities
- 296 Records relating to registration and accreditation
- 297 Financial and administrative records
- 298 Pharmacy businesses and premises
- 299 Members of local registration authority

#### Division 15—Staged commencement for certain health professions

- 300 Application of Law to relevant health profession between commencement and 1 July 2012
- 301 Ministerial Council may appoint external accreditation entity
- 302 Application of Law to appointment of first National Board for relevant professions
- 303 Qualifications for general registration in relevant profession
- 304 Relationship with other provisions of Law

#### Division 16—Savings and transitional regulations

- 305 Savings and transitional regulations

### Schedule 1—Constitution and procedure of Advisory Council

#### Part 1—General

- 1 Definitions

#### Part 2—Constitution

- 2 Terms of office of members

- 3 Remuneration
- 4 Vacancy in office of member
- 5 Extension of term of office during vacancy in membership
- 6 Disclosure of conflict of interest

### Part 3—Procedure

- 7 General procedure
- 8 Quorum
- 9 Presiding member
- 10 Transaction of business outside meetings or by telecommunication
- 11 First meeting

## Schedule 2—Agency Management Committee

### Part 1—General

- 1 Definitions

### Part 2—Constitution

- 2 Terms of office of members
- 3 Remuneration
- 4 Vacancy in office of member
- 5 Vacancies to be advertised
- 6 Extension of term of office during vacancy in membership
- 7 Members to act in public interest
- 8 Disclosure of conflict of interest

### Part 3—Procedure

- 9 General procedure
- 10 Quorum
- 11 Chief executive officer may attend meetings
- 12 Presiding member
- 13 Voting
- 14 Transaction of business outside meetings or by telecommunication
- 15 First meeting
- 16 Defects in appointment of members

## Schedule 3—National Agency

### Part 1—Chief executive officer

- 1 Chief executive officer
- 2 Functions of chief executive officer
- 3 Delegation and subdelegation by chief executive officer
- 4 Vacancy in office

### Part 2—Staff, consultants and contractors

- 5 Staff of National Agency
- 6 Staff seconded to National Agency
- 7 Consultants and contractors

### Part 3—Reporting obligations

- 8 Annual report
- 9 Reporting by National Boards

## Schedule 4—National Boards

### Part 1—General

- 1 Definitions

### Part 2—Constitution

- 2 Terms of office of members
- 3 Remuneration
- 4 Vacancy in office of member
- 5 Vacancies to be advertised
- 6 Extension of term of office during vacancy in membership
- 7 Members to act in public interest
- 8 Disclosure of conflict of interest

### Part 3—Functions and powers

- 9 Requirement to consult other National Boards
- 10 Boards may obtain assistance
- 11 Committees

### Part 4—Procedure

- 12 General procedure
- 13 Quorum
- 14 Presiding member
- 15 Voting
- 16 Transaction of business outside meetings or by telecommunication
- 17 First meeting
- 18 Defects in appointment of members

## Schedule 5—Investigators

### Part 1—Power to obtain information

- 1 Powers of investigators
- 2 Offence for failing to produce information or attend before investigator
- 3 Inspection of documents

### Part 2—Power to enter places

- 4 Entering places
- 5 Application for warrant
- 6 Issue of warrant
- 7 Application by electronic communication
- 8 Procedure before entry under warrant
- 9 Powers after entering places
- 10 Offences for failing to comply with requirement under clause 9
- 11 Seizure of evidence
- 12 Securing seized things
- 13 Receipt for seized things
- 14 Forfeiture of seized thing
- 15 Dealing with forfeited things
- 16 Return of seized things
- 17 Access to seized things

### Part 3—General matters

- 18 Damage to property
- 19 Compensation
- 20 False or misleading information
- 21 False or misleading documents
- 22 Obstructing investigators
- 23 Impersonation of investigators

### Schedule 6—Inspectors

#### Part 1—Power to obtain information

- 1 Powers of inspectors
- 2 Offence for failing to produce information or attend before inspector
- 3 Inspection of documents

#### Part 2—Power to enter places

- 4 Entering places
- 5 Application for warrant
- 6 Issue of warrant
- 7 Application by electronic communication
- 8 Procedure before entry under warrant
- 9 Powers after entering places
- 10 Offences for failing to comply with requirement under clause 9
- 11 Seizure of evidence
- 12 Securing seized things
- 13 Receipt for seized things
- 14 Forfeiture of seized thing
- 15 Dealing with forfeited things
- 16 Return of seized things
- 17 Access to seized things

#### Part 3—General matters

- 18 Damage to property
- 19 Compensation
- 20 False or misleading information
- 21 False or misleading documents
- 22 Obstructing inspectors
- 23 Impersonation of inspectors

### Schedule 7—Miscellaneous provisions relating to interpretation

#### Part 1—Preliminary

- 1 Displacement of Schedule by contrary intention

#### Part 2—General

- 2 Law to be construed not to exceed legislative power of Legislature
- 3 Every section to be a substantive enactment
- 4 Material that is, and is not, part of this Law
- 5 References to particular Acts and to enactments
- 6 References taken to be included in Act or Law citation etc
- 7 Interpretation best achieving Law's purpose
- 8 Use of extrinsic material in interpretation

- 9 Effect of change of drafting practice and use of examples
- 10 Use of examples
- 11 Compliance with forms

### Part 3—Terms and references

- 12 Definitions
- 13 Provisions relating to defined terms and gender and number
- 14 Meaning of “may” and “must” etc
- 15 Words and expressions used in statutory instruments
- 16 Effect of express references to bodies corporate and individuals
- 17 Production of records kept in computers etc
- 18 References to this jurisdiction to be implied
- 19 References to officers and holders of offices
- 20 Reference to certain provisions of Law
- 21 Reference to provisions of this Law or an Act is inclusive

### Part 4—Functions and powers

- 22 Performance of statutory functions
- 23 Power to make instrument or decision includes power to amend or repeal
- 24 Matters for which statutory instruments may make provision
- 25 Presumption of validity and power to make
- 26 Appointments may be made by name or office
- 27 Acting appointments
- 28 Powers of appointment imply certain incidental powers
- 29 Delegation of functions
- 30 Exercise of powers between enactment and commencement

### Part 5—Distance, time and age

- 31 Matters relating to distance, time and age

### Part 6—Effect of repeal, amendment or expiration

- 32 Time of Law ceasing to have effect
- 33 Repealed Law provisions not revived
- 34 Saving of operation of repealed Law provisions
- 35 Continuance of repealed provisions
- 36 Law and amending Acts to be read as one

### Part 7—Instruments under Law

- 37 Schedule applies to statutory instruments

### Part 8—Application to coastal sea

- 38 Application

---

## 1—Short title

These regulations may be cited as the *Health Practitioner Regulation National Law (South Australia) (Amendment of Act) Regulations 2010*.

## 2—Commencement

These regulations come into operation on the day on which they are made.

### 3—Insertion of Schedule in Act

Pursuant to section 4(3) of the *Health Practitioner Regulation National Law (South Australia) Act 2010* the following Schedule is inserted into that Act after Schedule 1.

## Schedule 2—Health Practitioner Regulation National Law

### Part 1—Preliminary

#### 1—Short title

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

#### 2—Commencement

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

#### 3—Objectives and guiding principles

- (1) The object of this Law is to establish a national registration and accreditation scheme for—
  - (a) the regulation of health practitioners; and
  - (b) the registration of students undertaking—
    - (i) programs of study that provide a qualification for registration in a health profession; or
    - (ii) clinical training in a health profession.
- (2) The objectives of the national registration and accreditation scheme are—
  - (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and
  - (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and
  - (c) to facilitate the provision of high quality education and training of health practitioners; and
  - (d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and
  - (e) to facilitate access to services provided by health practitioners in accordance with the public interest; and
  - (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.
- (3) The guiding principles of the national registration and accreditation scheme are as follows—
  - (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
  - (b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;

- (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

#### **4—How functions to be exercised**

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

#### **5—Definitions**

In this Law—

**accreditation authority** means—

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

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

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

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

**adjudication body** means—

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

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

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

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

**appropriate professional indemnity insurance arrangements**, in relation to a registered health practitioner, means professional indemnity insurance arrangements that comply with an approved registration standard for the health profession in which the practitioner is registered.

**approved accreditation standard** means an accreditation standard—

- (a) approved by a National Board under section 47(3); and
- (b) published on the Board's website under section 47(6).

**approved area of practice**, for a health profession, means an area of practice approved under section 15 for the profession.

**approved program of study**, for a health profession or for endorsement of registration in a health profession, means an accredited program of study—

- (a) approved under section 49(1) by the National Board established for the health profession; and
- (b) included in the list published by the National Agency under section 49(5).

**approved qualification**—

- (a) for a health profession, means a qualification obtained by completing an approved program of study for the profession; and
- (b) for endorsement of registration in a health profession, means a qualification obtained by completing an approved program of study relevant to the endorsement.

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

- (a) approved by the Ministerial Council under section 12; and
- (b) published on the website of the National Board that developed the standard.

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

- (a) is admitted to the legal profession under the law of a State or Territory; and
- (b) holds a current practising certificate under a law of a State or Territory authorising the person to practise the legal profession.

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

**Note**—

A copy of the COAG Agreement is available on the Council of Australian Governments' website.

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

**co-regulatory jurisdiction** means a participating jurisdiction in which the Act applying this Law declares that the jurisdiction is not participating in the health, performance and conduct process provided by Division 3 to Division 12 of Part 8.

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

- (a) was in force before the day on which the jurisdiction became a participating jurisdiction; and
- (b) established an entity having functions that included—
  - (i) the registration of persons as health practitioners; or
  - (ii) health, conduct or performance action.

**criminal history**, of a person, means the following—

- (a) every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;

- (b) every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;
- (c) every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

**criminal history law** means a law of a participating jurisdiction that provides that spent or other convictions do not form part of a person's criminal history and prevents or does not require the disclosure of those convictions.

**CrimTrac** means the CrimTrac agency established under section 65 of the *Public Service Act 1999* of the Commonwealth.

**division**, of a health profession, means a part of a health profession for which a Division is included in the National Register kept for the profession.

**education provider** means—

- (a) a university; or
- (b) a tertiary education institution, or another institution or organisation, that provides vocational training; or
- (c) a specialist medical college or other health profession college.

**entity** includes a person and an unincorporated body.

**exercise** a function includes perform a duty.

**external accreditation entity** means an entity, other than a committee established by a National Board, that exercises an accreditation function.

**health assessment** means an assessment of a person to determine whether the person has an impairment and includes a medical, physical, psychiatric or psychological examination or test of the person.

**health complaints entity** means an entity—

- (a) that is established by or under an Act of a participating jurisdiction; and
- (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;
- (k) pharmacy;
- (l) physiotherapy;
- (m) podiatry;
- (n) psychology.

**Note—**

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

***health profession agreement*** has the meaning given by section 26.

***health program*** means a program providing education, prevention, early intervention, treatment or rehabilitation services relating to physical or mental impairments, disabilities, conditions or disorders, including substance abuse or dependence.

***health service*** includes the following services, whether provided as public or private services—

- (a) services provided by registered health practitioners;
- (b) hospital services;
- (c) mental health services;
- (d) pharmaceutical services;
- (e) ambulance services;
- (f) community health services;
- (g) health education services;
- (h) welfare services necessary to implement any services referred to in paragraphs (a) to (g);
- (i) services provided by dietitians, masseurs, naturopaths, social workers, speech pathologists, audiologists or audiometrists;
- (j) pathology services.

***health service provider*** means a person who provides a health service.

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

- (a) for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or
- (b) for a student, the student's capacity to undertake clinical training—
  - (i) as part of the approved program of study in which the student is enrolled; or
  - (ii) arranged by an education provider.

**local registration authority** means an entity having functions under a law of a State or Territory that include the registration of persons as health practitioners.

**mandatory notification** means a notification an entity is required to make to the National Agency under Division 2 of Part 8.

**medical practitioner** means a person who is registered under this Law in the medical profession.

**Ministerial Council** means the Australian Health Workforce Ministerial Council comprising Ministers of the governments of the participating jurisdictions and the Commonwealth with portfolio responsibility for health.

**National Agency** means the Australian Health Practitioner Regulation Agency established by section 23.

**National Board** means a National Health Practitioner Board established by section 31.

**National Register** means the Register kept by a National Board under section 222.

**national registration and accreditation scheme** means the scheme—

- (a) referred to in the COAG Agreement; and
- (b) established by this Law.

**notification** means—

- (a) a mandatory notification; or
- (b) a voluntary notification.

**notifier** means a person who makes a notification.

**panel** means—

- (a) a health panel; or
- (b) a performance and professional standards panel.

**participating jurisdiction** means a State or Territory—

- (a) that is a party to the COAG Agreement; and
- (b) in which—
  - (i) this Law applies as a law of the State or Territory; or
  - (ii) a law that substantially corresponds to the provisions of this Law has been enacted.

**performance and professional standards panel** means a panel established under section 182.

**performance assessment** means an assessment of the knowledge, skill or judgment possessed, or care exercised by, a registered health practitioner in the practice of the health profession in which the practitioner is registered.

**police commissioner** means the commissioner of the police force or police service of a participating jurisdiction or the Commonwealth.

**principal place of practice**, for a registered health practitioner, means the address declared by the practitioner to be the address—

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

**professional misconduct**, of a registered health practitioner, includes—

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

**program of study** means a program of study provided by an education provider.

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

**public health facility** includes—

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

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

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

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

**registration authority** means—

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

**registration standard** means a registration standard developed by a National Board under section 38.

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

- (a) any undertakings given by the applicant to a registration authority, whether before or after the commencement of this Law; and
- (b) any conditions previously imposed on the applicant's registration by a registration authority, whether before or after the commencement of this Law; and
- (c) any decisions made by a registration authority, a tribunal, a court or another entity having functions relating to the regulation of health practitioners about the applicant's practice of the profession, whether before or after the commencement of this Law; and
- (d) any investigation commenced by a registration authority or a health complaints entity into the applicant's conduct, performance or possible impairment but not finalised at the time of the application.

**relevant action**, for Division 10 of Part 8, see section 178.

**relevant fee**, for a service provided by a National Board, means the fee—

- (a) set under a health profession agreement between the Board and the National Agency for the service; and
- (b) published on the Board's website under section 26(3).

**responsible Minister** means a Minister responsible for the administration of this Law in a participating jurisdiction.

**responsible tribunal** means a tribunal or court that—

- (a) is declared, by the Act applying this Law in a participating jurisdiction, to be the responsible tribunal for that jurisdiction for the purposes of this Law as applied in that jurisdiction; or
- (b) is declared, by a law that substantially corresponds to this Law enacted in a participating jurisdiction, to be the responsible tribunal for that jurisdiction for the purposes of the law of that jurisdiction.

**review period**, for a condition or undertaking, means the period during which the condition may not be changed or removed, or the undertaking may not be changed or revoked, under section 125, 126 or 127.

**scheduled medicine** means a substance included in a Schedule to the current Poisons Standard within the meaning of the *Therapeutic Goods Act 1989* of the Commonwealth.

**specialist health practitioner** means a person registered under this Law in a recognised specialty.

**Specialists Register** means a register kept by a National Board under section 223.

**specialist title**, in relation to a recognised specialty, means a title that is approved by the Ministerial Council under section 13 as being a specialist title for that recognised specialty.

**State or Territory Board** has the meaning given by section 36.

**student** means a person whose name is entered in a student register as being currently registered under this Law.

**student register**, for a health profession, means a register kept under section 229 by the National Board established for the profession.

***unprofessional conduct***, of a registered health practitioner, means professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers, and includes—

- (a) a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention; 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.

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

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

## **6—Interpretation generally**

Schedule 7 applies in relation to this Law.

## **7—Single national entity**

- (1) It is the intention of the Parliament of this jurisdiction that this Law as applied by an Act of this jurisdiction, together with this Law as applied by Acts of the other participating jurisdictions, has the effect that an entity established by this Law is one single national entity, with functions conferred by this Law as so applied.
- (2) An entity established by this Law has power to do acts in or in relation to this jurisdiction in the exercise of a function expressed to be conferred on it by this Law as applied by Acts of each participating jurisdiction.

- (3) An entity established by this Law may exercise its functions in relation to—
  - (a) one participating jurisdiction; or
  - (b) 2 or more or all participating jurisdictions collectively.
- (4) In this section, a reference to this Law as applied by an Act of a jurisdiction includes a reference to a law that substantially corresponds to this Law enacted in a jurisdiction.

## **8—Extraterritorial operation of Law**

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

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

## **9—Trans-Tasman mutual recognition principle**

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

## **10—Law binds the State**

- (1) This Law binds the State.
- (2) In this section—

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

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

## **12—Approval of registration standards**

- (1) The Ministerial Council may approve a registration standard about—
  - (a) the registration, or renewal of registration, of persons in a health profession; or
  - (b) the endorsement, or renewal of the endorsement, of the registration of registered health practitioners.
- (2) The Ministerial Council may approve a registration standard for a health profession only if—
  - (a) its approval is recommended by the National Board established for the health profession; and
  - (b) it does not provide for a matter about which an accreditation standard may provide.

### **Note—**

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

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

## **13—Approvals in relation to specialist registration**

- (1) The following health professions, or divisions of health professions, are health professions for which specialist recognition operates under this Law—
  - (a) the medical profession;
  - (b) the dentists division of the dental profession;
  - (c) any other health profession approved by the Ministerial Council, on the recommendation of the National Board established for the profession.

- (2) If a health profession is a profession for which specialist recognition operates, the Ministerial Council may, on the recommendation of the National Board established for the profession—
  - (a) approve a list of specialties for the profession; and
  - (b) approve one or more specialist titles for each specialty in the list.
- (3) In making a recommendation to the Ministerial Council for the purposes of subsection (1)(c) or (2), a National Board established for a health profession may have regard to any relevant advice provided by—
  - (a) an accreditation authority for the profession; or
  - (b) a specialist college for the profession.
- (4) The Ministerial Council may provide guidance to a National Board established for a health profession for which specialist recognition will operate in relation to the criteria for the approval of specialties for the profession by the Council.

#### **14—Approval of endorsement in relation to scheduled medicines**

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

**Note—**

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

- (2) An approval under subsection (1) is to specify—
  - (a) the class of health practitioners registered by the Board to which the approval relates; and
  - (b) whether the National Board may endorse the registration of the class of health practitioners as being qualified in relation to a particular scheduled medicine or a class of scheduled medicines; and
  - (c) whether the National Board may endorse the registration of the class of health practitioners in relation to administering, obtaining, possessing, prescribing, selling, supplying or using the scheduled medicine or class of scheduled medicines.

#### **15—Approval of areas of practice for purposes of endorsement**

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

**Note—**

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

#### **16—How Ministerial Council exercises functions**

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

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

### **17—Notification and publication of directions and approvals**

- (1) A copy of any direction given by the Ministerial Council to the National Agency—
  - (a) is to be given to the Chairperson of the Agency Management Committee; and
  - (b) must be published by the National Agency on its website as soon as practicable after being received by the Chairperson.
- (2) A copy of a direction or approval given by the Ministerial Council to a National Board—
  - (a) is to be given to the Chairperson of the National Board; and
  - (b) if the direction is given under section 11(3)(d), is to include reasons for the direction; and
  - (c) must be published by the National Board on its website as soon as practicable after being received by the Chairperson.
- (3) A copy of a direction or approval given by the Ministerial Council to the National Agency or to a National Board is to be published in the annual report of the National Agency.

## **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.

## **22—Membership of Advisory Council**

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

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

## **Division 1—National Agency**

### **23—National Agency**

- (1) The Australian Health Practitioner Regulation Agency is established.
- (2) The National Agency—
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) may sue and be sued in its corporate name.
- (3) The National Agency represents the State.
- (4) Schedule 3 sets out provisions relating to the National Agency.

### **24—General powers of National Agency**

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

- (a) enter into contracts; and
- (b) acquire, hold, dispose of, and deal with, real and personal property; and
- (c) do anything necessary or convenient to be done in the exercise of its functions.

### **25—Functions of National Agency**

The functions of the National Agency are as follows—

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

- (b) in consultation with the National Boards, to develop and administer procedures for the purpose of ensuring the efficient and effective operation of the National Boards;
- (c) to establish procedures for the development of accreditation standards, registration standards and codes and guidelines approved by National Boards, for the purpose of ensuring the national registration and accreditation scheme operates in accordance with good regulatory practice;
- (d) to negotiate in good faith with, and attempt to come to an agreement with, each National Board on the terms of a health profession agreement;
- (e) to establish and administer an efficient procedure for receiving and dealing with applications for registration as a health practitioner and other matters relating to the registration of registered health practitioners;
- (f) in conjunction with the National Boards, to keep up-to-date and publicly accessible national registers of registered health practitioners for each health profession;
- (g) in conjunction with the National Boards, to keep up-to-date national registers of students for each health profession;
- (h) to keep an up-to-date and publicly accessible list of approved programs of study for each health profession;
- (i) to establish an efficient procedure for receiving and dealing with notifications against persons who are or were registered health practitioners and persons who are students, including by establishing a national process for receiving notifications about registered health practitioners in all professions;
- (j) to provide advice to the Ministerial Council in connection with the administration of the national registration and accreditation scheme;
- (k) if asked by the Ministerial Council, to give to the Ministerial Council the assistance or information reasonably required by the Ministerial Council in connection with the administration of the national registration and accreditation scheme;
- (l) any other function given to the National Agency by or under this Law.

## 26—Health profession agreements

- (1) The National Agency must enter into an agreement (a *health profession agreement*) with a National Board that makes provision for the following—
  - (a) the fees that will be payable under this Law by health practitioners and others in respect of the health profession for which the Board is established (including arrangements relating to refunds of fees, waivers of fees and additional fees for late payment);
  - (b) the annual budget of the National Board (including the funding arrangements for its committees and accreditation authorities);
  - (c) the services to be provided to the National Board by the National Agency to enable the National Board to carry out its functions under this Law.
- (2) If the National Agency and a National Board are unable to agree on a matter relating to a health profession agreement or a proposed health profession agreement, the Ministerial Council may give directions to the National Agency and National Board about how the dispute is to be resolved.

- (3) Each National Board must publish on its website the fees for which provision has been made in a health profession agreement between the Board and the National Agency.

## **27—Co-operation with participating jurisdictions and Commonwealth**

- (1) The National Agency may exercise any of its functions in co-operation with or with the assistance of a participating jurisdiction or the Commonwealth, including in co-operation with or with the assistance of any of the following—
  - (a) a government agency of a participating jurisdiction or of the Commonwealth;
  - (b) a local registration authority;
  - (c) a co-regulatory authority;
  - (d) a health complaints entity;
  - (e) an educational body or other body established by or under a law of a participating jurisdiction or the Commonwealth.
- (2) In particular, the National Agency may—
  - (a) ask an entity referred to in subsection (1) for information that the Agency requires to exercise its functions under this Law; and
  - (b) use the information to exercise its functions under this Law.
- (3) An entity referred to in subsection (1) that receives a request for information from the National Agency is authorised to give the information to the National Agency.

## **28—Office of National Agency**

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

## **Division 2—Agency Management Committee**

### **29—Agency Management Committee**

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

### 30—Functions of Agency Management Committee

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

<b>Name of Board</b>	<b>Health profession</b>
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
Osteopathy Board of Australia	osteopathy
Pharmacy Board of Australia	pharmacy
Physiotherapy Board of Australia	physiotherapy
Podiatry Board of Australia	podiatry
Psychology Board of Australia	psychology

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

### **32—Powers of National Board**

- (1) Subject to subsection (2), a National Board has the powers necessary to enable it to exercise its functions.
- (2) A National Board does not have power to—
  - (a) enter into contracts; or
  - (b) employ staff; or
  - (c) acquire, hold, dispose of, and deal with, real property.
- (3) The National Board may exercise any of its functions in co-operation with or with the assistance of a participating jurisdiction or the Commonwealth, including in co-operation with or with the assistance of any of the following—
  - (a) a government agency of a participating jurisdiction or of the Commonwealth;
  - (b) a local registration authority;
  - (c) a co-regulatory authority;
  - (d) a health complaints entity;
  - (e) an educational body or other body established by or under a law of a participating jurisdiction or the Commonwealth.
- (4) In particular, the National Board may—
  - (a) ask an entity referred to in subsection (3) for information that the Board requires to exercise its functions under this Law; and
  - (b) use the information to exercise its functions under this Law.
- (5) An entity referred to in subsection (3) that receives a request for information from the National Board is authorised to give the information to the National Board.

### **33—Membership of National Boards**

- (1) A National Board is to consist of members appointed in writing by the Ministerial Council.
- (2) Members of a National Board are to be appointed as practitioner members or community members.
- (3) Subject to this section, the Ministerial Council may decide the size and composition of a National Board.
- (4) At least half, but not more than two-thirds, of the members of a National Board must be persons appointed as practitioner members.
- (5) The practitioner members of a National Board must consist of—
  - (a) at least one member from each large participating jurisdiction; and
  - (b) at least one member from a small participating jurisdiction.

- (6) At least 2 of the members of a National Board must be persons appointed as community members.
- (7) At least one of the members of a National Board must live in a regional or rural area.
- (8) A person cannot be appointed as a member of a National Board if the person is a member of the Agency Management Committee.
- (9) One of the practitioner members of the National Board is to be appointed as Chairperson of the Board by the Ministerial Council.
- (10) Schedule 4 sets out provisions relating to a National Board.
- (11) In this section—

*large participating jurisdiction* means any of the following States that is a participating jurisdiction—

- (a) New South Wales;
- (b) Queensland;
- (c) South Australia;
- (d) Victoria;
- (e) Western Australia.

*small participating jurisdiction* means any of the following States or Territories that is a participating jurisdiction—

- (a) the Australian Capital Territory;
- (b) the Northern Territory;
- (c) Tasmania.

### **34—Eligibility for appointment**

- (1) In deciding whether to appoint a person as a member of a National Board, the Ministerial Council is to have regard to the skills and experience of the person that are relevant to the Board's functions.
- (2) A person is eligible to be appointed as a practitioner member only if the person is a registered health practitioner in the health profession for which the Board is established.
- (3) A person is eligible to be appointed as a community member of a National Board only if the person—
  - (a) is not a registered health practitioner in the health profession for which the Board is established; and
  - (b) has not at any time been registered as a health practitioner in the health profession under this Law or a corresponding prior Act.
- (4) A person is not eligible to be appointed as a member of a National Board if—
  - (a) in the case of appointment as a practitioner member, the person has ceased to be registered as a health practitioner in the health profession for which the Board is established, whether before or after the commencement of this Law, as a result of the person's misconduct, impairment or incompetence; or

- (b) in any case, the person has, at any time, been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Ministerial Council, renders the person unfit to hold the office of member.

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

### **35—Functions of National Boards**

- (1) The functions of a National Board established for a health profession are as follows—
  - (a) to register suitably qualified and competent persons in the health profession and, if necessary, to impose conditions on the registration of persons in the profession;
  - (b) to decide the requirements for registration or endorsement of registration in the health profession, including the arrangements for supervised practice in the profession;
  - (c) to develop or approve standards, codes and guidelines for the health profession, including—
    - (i) the approval of accreditation standards developed and submitted to it by an accreditation authority; and
    - (ii) the development of registration standards for approval by the Ministerial Council; and
    - (iii) the development and approval of codes and guidelines that provide guidance to health practitioners registered in the profession;
  - (d) to approve accredited programs of study as providing qualifications for registration or endorsement in the health profession;
  - (e) to oversee the assessment of the knowledge and clinical skills of overseas trained applicants for registration in the health profession whose qualifications are not approved qualifications for the profession, and to determine the suitability of the applicants for registration in Australia;
  - (f) to negotiate in good faith with, and attempt to come to an agreement with, the National Agency on the terms of a health profession agreement;
  - (g) to oversee the receipt, assessment and investigation of notifications about persons who—
    - (i) are or were registered as health practitioners in the health profession under this Law or a corresponding prior Act; or
    - (ii) are students in the health profession;
  - (h) to establish panels to conduct hearings about—
    - (i) health and performance and professional standards matters in relation to persons who are or were registered in the health profession under this Law or a corresponding prior Act; and
    - (ii) health matters in relation to students registered by the Board;
  - (i) to refer matters about health practitioners who are or were registered under this Law or a corresponding prior Act to responsible tribunals for participating jurisdictions;

- (j) to oversee the management of health practitioners and students registered in the health profession, including monitoring conditions, undertaking and suspensions imposed on the registration of the practitioners or students;
  - (k) to make recommendations to the Ministerial Council about the operation of specialist recognition in the health profession and the approval of specialties for the profession;
  - (l) in conjunction with the National Agency, to keep up-to-date and publicly accessible national registers of registered health practitioners for the health profession;
  - (m) in conjunction with the National Agency, to keep an up-to-date national register of students for the health profession;
  - (n) at the Board's discretion, to provide financial or other support for health programs for registered health practitioners and students;
  - (o) to give advice to the Ministerial Council on issues relating to the national registration and accreditation scheme for the health profession;
  - (p) if asked by the Ministerial Council, to give to the Ministerial Council the assistance or information reasonably required by the Ministerial Council in connection with the national registration and accreditation scheme;
  - (q) to do anything else necessary or convenient for the effective and efficient operation of the national registration and accreditation scheme;
  - (r) any other function given to the Board by or under this Law.
- (2) For the purposes of subsection (1)(g)-(j), the Board's functions do not include receiving notifications and taking action referred to in those paragraphs in relation to behaviour by a registered health practitioner or student that occurred, or is reasonably believed to have occurred, in a co-regulatory jurisdiction.

### **36—State and Territory Boards**

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

#### **Example—**

- (a) The Pharmacy Board of Australia decides to establish a State or Territory Board for New South Wales. The State or Territory Board will be known as the New South Wales Board of the Pharmacy Board of Australia. The members of the State or Territory Board will be appointed by the responsible Minister for New South Wales.
- (b) The Podiatry Board of Australia decides to establish a State or Territory Board for Queensland and the Northern Territory. The State or Territory Board will be known as the Queensland and Northern Territory Board of the Podiatry Board of Australia. The members of the State or Territory Board will be appointed jointly by the responsible Ministers for Queensland and the Northern Territory.

- (4) In deciding whether to appoint a person as a member of a State or Territory Board, the responsible Minister is to have regard to the skills and experience of the person that are relevant to the Board's functions.
- (5) At least half, but not more than two-thirds, of the members of a State or Territory Board must be persons appointed as practitioner members.
- (6) At least 2 of the members of a State or Territory Board must be persons appointed as community members.

**Note—**

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

- (7) Before a responsible Minister appoints a member of a State or Territory Board the vacancy to be filled is to be publicly advertised.
- (8) The National Agency may assist a responsible Minister in the process of appointing members of a State or Territory Board, including in the advertising of vacancies.
- (9) It is not necessary to advertise a vacancy in the membership of a State or Territory Board before appointing a person to act in the office of a member.

**Note—**

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

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

**Note—**

Clause 11 of Schedule 4 confers power for the establishment of other committees.

### **37—Delegation of functions**

- (1) A National Board may delegate any of its functions, other than this power of delegation, to—
  - (a) a committee; or
  - (b) the National Agency; or
  - (c) a member of the staff of the National Agency; or
  - (d) a person engaged as a contractor by the National Agency.
- (2) The National Agency may subdelegate any function delegated to the National Agency by a National Board to a member of the staff of the National Agency.

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

### **38—National Board must develop registration standards**

- (1) A National Board must develop and recommend to the Ministerial Council one or more registration standards about the following matters for the health profession for which the Board is established—
  - (a) requirements for professional indemnity insurance arrangements for registered health practitioners registered in the profession;

- (b) matters about the criminal history of applicants for registration in the profession, and registered health practitioners and students registered by the Board, including, the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the profession;
  - (c) requirements for continuing professional development for registered health practitioners registered in the profession;
  - (d) requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession;
  - (e) requirements in relation to the nature, extent, period and recency of any previous practice of the profession by applicants for registration in the profession.
- (2) Subject to subsection (3), a National Board may also develop, and recommend to the Ministerial Council, one or more registration standards about the following—
- (a) the physical and mental health of—
    - (i) applicants for registration in the profession; and
    - (ii) registered health practitioners and students;
  - (b) the scope of practice of health practitioners registered in the profession;
  - (c) any other issue relevant to the eligibility of individuals for registration in the profession or the suitability of individuals to competently and safely practise the profession.
- (3) A registration standard may not be about a matter for which an accreditation standard may provide.

**Note—**

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

### **39—Codes and guidelines**

A National Board may develop and approve codes and guidelines—

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

**Example—**

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

### **40—Consultation about registration standards, codes and guidelines**

- (1) If a National Board develops a registration standard or a code or guideline, it must ensure there is wide-ranging consultation about its content.
- (2) A contravention of subsection (1) does not invalidate a registration standard, code or guideline.

- (3) The following must be published on a National Board's website—
- (a) a registration standard developed by the Board and approved by the Ministerial Council;
  - (b) a code or guideline approved by the National Board.
- (4) An approved registration standard or a code or guideline takes effect—
- (a) on the day it is published on the National Board's website; or
  - (b) if a later day is stated in the registration standard, code or guideline, on that day.

#### **41—Use of registration standards, codes or guidelines in disciplinary proceedings**

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

## **Part 6—Accreditation**

### **Division 1—Preliminary**

#### **42—Definition**

In this Part—

*accreditation function* means—

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

**Note—**

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

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

### **44—National Agency may enter into contracts with external accreditation entities**

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

### **45—Accreditation processes to be published**

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

## **Division 3—Accreditation functions**

### **46—Development of accreditation standards**

- (1) An accreditation standard for a health profession may be developed by—
  - (a) an external accreditation entity for the health profession; or
  - (b) an accreditation committee established by the National Board established for the health profession.
- (2) In developing an accreditation standard for a health profession, an accreditation authority must undertake wide-ranging consultation about the content of the standard.

### **47—Approval of accreditation standards**

- (1) An accreditation authority must, as soon as practicable after developing an accreditation standard for a health profession, submit it to the National Board established for the health profession.
- (2) As soon as practicable after a National Board receives an accreditation standard under subsection (1), the Board must decide to—
  - (a) approve the accreditation standard; or
  - (b) refuse to approve the accreditation standard; or
  - (c) ask the accreditation authority to review the standard.

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

#### **48—Accreditation of programs of study**

- (1) An accreditation authority for a health profession may accredit a program of study if, after assessing the program, the authority is reasonably satisfied—
  - (a) the program of study, and the education provider that provides the program of study, meet an approved accreditation standard for the profession; or
  - (b) the program of study, and the education provider that provides the program of study, substantially meet an approved accreditation standard for the profession and the imposition of conditions on the approval will ensure the program meets the standard within a reasonable time.
- (2) If the accreditation authority decides to accredit a program of study, with or without conditions, it must give to the National Board established for the health profession a report about the authority’s accreditation of the program.
- (3) If the accreditation authority decides to refuse to accredit a program of study it must give written notice of the decision to the education provider that provides the program of study.
- (4) The notice must state—
  - (a) the reasons for the decision; and
  - (b) that, within 30 days after receiving the notice, the education provider may apply to the accreditation authority for an internal review of the decision; and
  - (c) how the education provider may apply for the review.
- (5) An education provider given a notice under subsection (3) may apply, as stated in the notice, for an internal review of the accreditation authority’s decision to refuse to accredit the program of study.

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

#### **49—Approval of accredited programs of study**

- (1) If a National Board is given a report by an accreditation authority about the authority's accreditation of a program of study, the Board may approve, or refuse to approve, the accredited program of study as providing a qualification for the purposes of registration in the health profession for which the Board is established.
- (2) An approval under subsection (1) may be granted subject to the conditions the National Board considers necessary or desirable in the circumstances.
- (3) If the National Board decides to approve the accredited program of study it must give written notice of the approval to—
  - (a) the National Agency for inclusion of the program of study in the list under subsection (5); and
  - (b) the accreditation authority that submitted the program to the Board.
- (4) If the National Board decides to refuse to approve the accredited program of study—
  - (a) it must give written notice of the refusal, including the reasons for the refusal, to the accreditation authority that submitted the program; and
  - (b) the accreditation authority is entitled to publish any information or advice it gave the Board about the program.
- (5) A list of the programs of study approved by a National Board as providing a qualification for registration in the health profession for which the Board is established must be published on the National Agency's website.
- (6) The list of approved programs of study published under subsection (5) must include, for each program of study, the name of the university, specialist medical or other college or other education provider that provides the approved program of study.
- (7) An approval under subsection (1) does not take effect until the program of study is included in the list published under subsection (5).

#### **50—Accreditation authority to monitor approved programs of study**

- (1) The accreditation authority that accredited an approved program of study must monitor the program and the education provider that provides the program to ensure the authority continues to be satisfied the program and provider meet an approved accreditation standard for the health profession.
- (2) If the accreditation authority reasonably believes the program of study and education provider no longer meet an approved accreditation standard for the health profession, the accreditation authority must—
  - (a) decide to—
    - (i) impose the conditions on the accreditation that the accreditation authority considers necessary to ensure the program of study will meet the standard within a reasonable time; or
    - (ii) revoke the accreditation of the program of study; and
  - (b) give the National Board that approved the accredited program of study written notice of the accreditation authority's decision.

## **51—Changes to approval of program of study**

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

## **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

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

#### **54—Examination or assessment for general registration**

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

#### **55—Unsuitability to hold general registration**

- (1) A National Board may decide an individual is not a suitable person to hold general registration in a health profession if—
  - (a) in the Board's opinion, the individual has an impairment that would detrimentally affect the individual's capacity to practise the profession to such an extent that it would or may place the safety of the public at risk; or
  - (b) having regard to the individual's criminal history to the extent that is relevant to the individual's practice of the profession, the individual is not, in the Board's opinion, an appropriate person to practise the profession or it is not in the public interest for the individual to practise the profession; or
  - (c) the individual has previously been registered under a relevant law and during the period of that registration proceedings under Part 8, or proceedings that substantially correspond to proceedings under Part 8, were started against the individual but not finalised; or
  - (d) in the Board's opinion, the individual's competency in speaking or otherwise communicating in English is not sufficient for the individual to practise the profession; or
  - (e) the individual's registration (however described) in the health profession in a jurisdiction that is not a participating jurisdiction, whether in Australia or elsewhere, is currently suspended or cancelled on a ground for which an adjudication body could suspend or cancel a health practitioner's registration in Australia; or
  - (f) the nature, extent, period and recency of any previous practice of the profession is not sufficient to meet the requirements specified in an approved registration standard relevant to general registration in the profession; or

- (g) the individual fails to meet any other requirement in an approved registration standard for the profession about the suitability of individuals to be registered in the profession or to competently and safely practise the profession; or
  - (h) in the Board's opinion, the individual is for any other reason—
    - (i) not a fit and proper person for general registration in the profession; or
    - (ii) unable to practise the profession competently and safely.
- (2) In this section—
- relevant law* means—
- (a) this Law or a corresponding prior Act; or
  - (b) the law of another jurisdiction, whether in Australia or elsewhere.

### **56—Period of general registration**

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

## **Division 2—Specialist registration**

### **57—Eligibility for specialist registration**

- (1) An individual is eligible for specialist registration in a recognised specialty in a health profession if—
  - (a) the individual is qualified for registration in the specialty; and
  - (b) the individual has successfully completed—
    - (i) any period of supervised practice in the specialty 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 specialty; and
  - (c) the individual is a suitable person to hold 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 specialty; and
  - (e) the individual meets any other requirements for registration stated in an approved registration standard for the specialty.
- (2) Without limiting subsection (1), the National Board may decide the individual is eligible for registration in the recognised specialty by imposing conditions on the registration under section 83.

### 58—Qualifications for specialist registration

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

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

### 59—Examination or assessment for specialist registration

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

### 60—Unsuitability to hold specialist registration

- (1) Section 55 applies to the making of a decision by a National Board that an individual is not a suitable person to hold specialist registration in a recognised specialty.
- (2) For the purposes of subsection (1), a reference in section 55 to—
  - (a) general registration in the health profession is taken to be a reference to specialist registration in a recognised specialty; and
  - (b) the health profession is taken to be a reference to the recognised specialty.

### 61—Period of specialist registration

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

### **Division 3—Provisional registration**

#### **62—Eligibility for provisional registration**

- (1) An individual is eligible for provisional registration in a health profession, to enable the individual to complete a period of supervised practice that the individual requires to be eligible for general registration in the health profession, if—
  - (a) the individual is qualified for general registration in the profession; and
  - (b) the individual is a suitable person to hold provisional registration in the profession; and
  - (c) the individual is not disqualified under this Law or a law of a co-regulatory jurisdiction from applying for, or being registered in, the profession; and
  - (d) 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 provisional registration in the health profession by imposing conditions on the registration under section 83.

#### **63—Unsuitability to hold provisional registration**

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

#### **64—Period of provisional registration**

- (1) The period of registration (the *registration period*) that is to apply to a health practitioner granted provisional registration in a health profession is—
  - (a) the period decided by the National Board established for the profession, but not more than 12 months, and published on the Board’s website; or
  - (b) the longer period prescribed by a regulation.
- (2) If the National Board decides to register a health practitioner in the health profession during a registration period, the registration—
  - (a) starts when the Board makes the decision; and
  - (b) expires at the end of the last day of the registration period.
- (3) Provisional registration may not be renewed more than twice.

**Note—**

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

## **Division 4—Limited registration**

### **65—Eligibility for limited registration**

- (1) An individual is eligible for limited registration in a health profession if—
  - (a) the individual is not qualified for general registration in the profession or specialist registration in a recognised speciality in the profession; and
  - (b) the individual is qualified under this Division for limited registration; and
  - (c) the individual is a suitable person to hold limited registration in the 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 registration in the profession by imposing conditions on the registration under section 83.

### **66—Limited registration for postgraduate training or supervised practice**

- (1) An individual may apply for limited registration to enable the individual to undertake a period of postgraduate training or supervised practice in a health profession, or to undertake assessment or sit an examination, approved by the National Board established for the profession.
- (2) The individual is qualified for the limited registration applied for if the National Board is satisfied the individual has completed a qualification that is relevant to, and suitable for, the postgraduate training, supervised practice, assessment or examination.

### **67—Limited registration for area of need**

- (1) An individual may apply for limited registration to enable the individual to practise a health profession in an area of need decided by the responsible Minister under subsection (5).
- (2) The individual is qualified for the limited registration applied for if the National Board is satisfied the individual's qualifications and experience are relevant to, and suitable for, the practice of the profession in the area of need.
- (3) The National Board must consider the application but is not required to register the individual merely because there is an area of need.
- (4) If the National Board grants the individual limited registration to enable the individual to practise the profession in the area of need, the individual must not practise the profession other than in the area of need specified in the individual's certificate of registration.
- (5) A responsible Minister for a participating jurisdiction may decide there is an area of need for health services in the jurisdiction, or part of the jurisdiction, if the Minister considers there are insufficient health practitioners practising in a particular health profession in the jurisdiction or the part of the jurisdiction to provide services that meet the needs of people living in the jurisdiction or the part of the jurisdiction.
- (6) If a responsible Minister decides there is an area of need under subsection (5), the responsible Minister must give the National Board established for the health profession written notice of the decision.

- (7) A responsible Minister may delegate the Minister's power under this section to an appropriately qualified person.
- (8) In this section—

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

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

### **68—Limited registration in public interest**

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

### **69—Limited registration for teaching or research**

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

### **70—Unsuitability to hold limited registration**

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

### **71—Limited registration not to be held for more than one purpose**

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

### **72—Period of limited registration**

- (1) The period of registration that is to apply to a health practitioner granted limited registration in a health profession is the period (the *registration period*), not more than 12 months, decided by the National Board established for the profession and published on the Board's website.
- (2) If the National Board decides to register a health practitioner in the health profession during a registration period, the registration—
  - (a) starts when the Board makes the decision; and
  - (b) expires at the end of the last day of the registration period.
- (3) Limited registration may not be renewed more than 3 times.

**Note—**

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

**Division 5—Non-practising registration****73—Eligibility for non-practising registration**

An individual is eligible for non-practising registration in a health profession if—

- (a) the individual—
  - (i) holds or has held general registration in the health profession under this Law; or
  - (ii) holds or has held specialist registration in a recognised speciality in the health profession under this Law; or
  - (iii) held registration in the health profession under a corresponding prior Act that was equivalent to general registration or specialist registration in the health profession under this Law;
- (b) the individual is a suitable person to hold non-practising registration in the profession.

**74—Unsuitability to hold non-practising registration**

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

- (a) having regard to the individual's criminal history to the extent that is relevant to the individual's practise of the profession, the individual is not, in the Board's opinion, an appropriate person to hold registration in the profession or it is not in the public interest for the individual to hold registration in the profession; or
- (b) in the Board's opinion, the individual is for any other reason not a fit and proper person to hold non-practising registration in the profession.

**75—Registered health practitioner who holds non-practising registration must not practise the profession**

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

**76—Period of non-practising registration**

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

- (2) If the National Board decides to register a health practitioner in the health profession during a registration period, the registration—
  - (a) starts when the Board makes the decision; and
  - (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.

### **78—Power to check applicant's proof of identity**

- (1) If an applicant for registration gives a National Board a document as evidence of the applicant's identity under this section, the Board may, by written notice, ask the entity that issued the document—
  - (a) to confirm the validity of the document; or
  - (b) to give the Board other information relevant to the applicant's identity.

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

### **79—Power to check applicant’s criminal history**

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

### **80—Boards’ other powers before deciding application for registration**

- (1) Before deciding an application for registration, a National Board may—
  - (a) investigate the applicant, including, for example, by asking an entity—
    - (i) to give the Board information about the applicant; or
    - (ii) to verify information or a document that relates to the applicant;

#### **Examples—**

If the applicant is or has been registered by another registration authority, the National Board may ask the registration authority for information about the applicant’s registration status.

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

- (b) by written notice given to the applicant, require the applicant to give the Board, within a reasonable time stated in the notice, further information or a document the Board reasonably requires to decide the application; and
  - (c) by written notice given to the applicant, require the applicant to attend before the Board, within a reasonable time stated in the notice and at a reasonable place, to answer any questions of the Board relating to the application; and
  - (d) by written notice given to the applicant, require the applicant to undergo an examination or assessment, within a reasonable time stated in the notice and at a reasonable place, to assess the applicant’s ability to practise the health profession in which registration is sought; and
  - (e) by written notice given to the applicant, require the applicant to undergo a health assessment, within a reasonable time stated in the notice and at a reasonable place.
- (2) The National Board may require the information or document referred to in subsection (1)(b) to be verified by a statutory declaration.

- (3) If the National Board requires an applicant to undertake an examination or assessment under subsection (1)(d) to assess the applicant's ability to practise the health profession—
  - (a) the examination or assessment must be conducted by an accreditation authority for the health profession, unless the Board decides otherwise; and
  - (b) the National Agency may require the applicant to pay the relevant fee.
- (4) A notice under subsection (1)(d) or (e) must state—
  - (a) the reason for the examination or assessment; and
  - (b) the name and qualifications of the person appointed by the National Board to conduct the examination or assessment; and
  - (c) the place where, and the day and time at which, the examination or assessment is to be conducted.
- (5) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement under subsection (1).

### **81—Applicant may make submissions about proposed refusal of application or imposition of condition**

- (1) If, after considering an application for registration, a National Board is proposing to refuse to register the applicant or to register the applicant subject to a condition, the Board must give the applicant written notice of the proposal.
- (2) The notice must—
  - (a) state the reasons for the proposal; and
  - (b) invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal.

### **82—Decision about application**

- (1) After considering an application for registration and any submissions made in accordance with a notice under section 81, a National Board established for a health profession must—
  - (a) decide to grant the applicant the type of registration in the health profession applied for if the applicant is eligible for that type of registration under a relevant section; or
  - (b) decide to grant the applicant a type of registration in the health profession, other than the type of registration applied for, for which the applicant is eligible under a relevant section; or
  - (c) decide to refuse to grant the applicant registration in the health profession if—
    - (i) the applicant is ineligible for registration in the profession under a relevant section because the applicant—
      - (A) is not qualified for registration; or
      - (B) has not completed a period of supervised practice in the health profession, or an examination or assessment required by the Board to assess the individual's ability to practise the profession; or
      - (C) is not a suitable person to hold registration; or

- (D) is disqualified under this Law from applying for registration, or being registered, in the health profession; or
  - (E) does not meet a requirement for registration stated in an approved registration standard for the profession; or
  - (ii) it would be improper to register the applicant because the applicant or someone else gave the National Board information or a document in relation to the application that was false or misleading in a material particular.
- (2) In this section—  
*relevant section* means section 52, 57, 62, 65 or 73.

### **83—Conditions of registration**

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

**Note—**

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

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

### **84—Notice to be given to applicant**

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

### **85—Failure to decide application**

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

## **Division 7—Student registration**

### **Subdivision 1—Persons undertaking approved programs of study**

#### **86—Definitions**

In this Subdivision—

*approved program of study*, for a health profession, does not include an approved program of study that provides a qualification for endorsement of registration in the profession but does not qualify a person for registration in the profession.

*particulars* means particulars required to be included in the student register.

#### **87—National Board must register persons undertaking approved program of study**

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

#### **88—National Board may ask education provider for list of persons undertaking approved program of study**

- (1) For the purposes of registering persons as required by section 87, a National Board may, at any time by written notice given to an education provider, ask the provider for the following—
  - (a) the particulars of all persons who are undertaking an approved program of study for the health profession for which the Board is established;
  - (b) the particulars of all persons who will be undertaking the part of the approved program of study specified in the notice.
- (2) An education provider given a notice under subsection (1) must not fail, without reasonable excuse, to comply with the notice.
- (3) A contravention of subsection (2) does not constitute an offence.

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

### **89—Registration of students**

- (1) On receipt of the particulars of persons undertaking an approved program of study, or part of an approved program of study, under section 88—
- (a) the National Board may register the persons as students in the health profession by entering the persons' particulars in the student register kept by the Board; or
  - (b) the National Board may—
    - (i) by written notice given to each person, require the person to complete an application for registration as a student in the form approved by the National Board; and
    - (ii) on receipt of the person's application form, register the person as a student in the health profession by entering the person's particulars in the student register kept by the Board.
- (2) The National Board must not register a person as a student if the person is undertaking an approved program of study for a health profession in which the person already holds registration under Division 6.
- (3) The National Board must not require a person to pay a fee for registration as a student.
- (4) As soon as practicable after registering a person as a student, a National Board must give written notice of the registration to—
- (a) the education provider that provided the student's particulars to the Board; and
  - (b) if the Board required the person to complete an application form for registration, the student.
- (5) As soon as practicable after receiving notice that a student has been registered under subsection (1)(a), the education provider must give written notice of the registration to the student.

### **90—Period of student registration**

The period of registration for a student—

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

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

#### **91—Education provider to provide lists of persons**

- (1) If an education provider arranges clinical training in a health profession for a person who is not enrolled in an approved program of study for the profession, the education provider must give the National Board established for the profession written notice about the arrangement.

- (2) Subsection (1) does not apply if the person is a registered health practitioner who is registered in the health profession in which the clinical training is being undertaken.
- (3) A notice under subsection (1) must include—
  - (a) the particulars of the person undertaking the clinical training; and
  - (b) particulars of the arrangement for the person to undertake the clinical training.
- (4) On receipt of a notice under subsection (1)—
  - (a) the National Board may register the persons as students in the health profession by entering the persons' particulars in the student register kept by the Board; or
  - (b) the National Board may—
    - (i) by written notice given to each person, require the person to complete an application for registration as a student in the form approved by the National Board; and
    - (ii) on receipt of the person's application form, register the person as a student in the health profession by entering the person's particulars in the student register kept by the Board.
- (5) As soon as practicable after registering a person as a student under subsection (4), a National Board must give written notice of the registration to the education provider that provided the student's particulars to the Board.
- (6) The National Board must not require a person to pay a fee for registration as a student.
- (7) A student's period of registration under this section—
  - (a) starts when the student is registered under subsection (4); and
  - (b) expires at the end of the day on which the person completes, or otherwise ceases to undertake, the period of clinical training.

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

#### **92—Notice to be given if student registration suspended or condition imposed**

- (1) This section applies if, at any time, any of the following events occurs—
  - (a) a person's registration as a student under this Law is suspended;
  - (b) a condition is imposed on a person's registration as a student under this Law or a condition to which a person's registration is subject is changed or removed;
  - (c) a National Board accepts an undertaking from a person who is a student.
- (2) The National Board that registered the person must, as soon as practicable after the event occurs, give written notice of the event to the education provider with which the person is undertaking the approved program of study.
- (3) If an education provider is given a notice under subsection (2) about a person, the education provider must, as soon as practicable after receiving the notice, give notice of the event to any entity with whom the person is undertaking training as part of the approved program of study.

**93—Report to National Board of cessation of status as student**

- (1) This section applies if—
  - (a) a student completes, or otherwise ceases to be enrolled in, an approved program of study for a health profession provided by an education provider; or
  - (b) a student completes, or otherwise ceases to undertake, clinical training in a health profession arranged by an education provider.
- (2) The education provider must give written notice of the student ceasing to be enrolled in the program of study, or to undertake the clinical training, to the National Board established for the health profession within 60 days of it occurring.
- (3) A contravention of subsection (2) does not constitute an offence.
- (4) However, if an education provider contravenes subsection (2)—
  - (a) the National Board must publish details of the contravention on the Board's website; and
  - (b) the National Agency may, on the recommendation of the National Board, include a statement about the contravention in the Agency's annual report.

**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
  - (c) if the endorsement is for a limited period, the date the endorsement expires.

## **Subdivision 2—Endorsement in relation to nurse practitioners**

### **95—Endorsement as nurse practitioner**

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

## **Subdivision 3—Endorsement in relation to midwife practitioners**

### **96—Endorsement as midwife practitioner**

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

**Subdivision 4—Endorsement in relation to acupuncture****97—Endorsement for acupuncture**

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

**Subdivision 5—Endorsements in relation to approved areas of practice****98—Endorsement for approved area of practice**

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

**Subdivision 6—Application for endorsement****99—Application for endorsement**

- (1) An individual may apply to a National Board for endorsement of the individual’s registration.
- (2) The 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 any other information reasonably required by the Board.
- (3) For the purposes of subsection (2)(c), the information a National Board may require an applicant to provide includes—
- (a) evidence of the qualifications in the health profession the applicant believes qualifies the applicant for endorsement; and
  - (b) evidence of successful completion of any period of supervised practice required by an approved registration standard; and
  - (c) if the applicant is required to complete an examination or assessment set by or on behalf of the Board, evidence of the successful completion of the examination or assessment.

### **100—Boards’ other powers before deciding application for endorsement**

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

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

- (1) If, after considering an application for endorsement of a registration, a National Board is proposing to refuse to endorse the applicant’s registration or to endorse the applicant’s registration subject to a condition, the Board must give the applicant written notice of the proposal.
- (2) The notice must—
- (a) state the reasons for the proposal; and
  - (b) invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal.

**102—Decision about application**

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

*relevant section* means section 94, 95, 96, 97 or 98.

**103—Conditions of endorsement**

- (1) If a National Board decides to endorse the applicant's registration under section 102, the Board may decide to impose on the endorsement the conditions the Board considers necessary or desirable in the circumstances.

**Note—**

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

- (2) If the National Board decides to impose a condition on the endorsement, the Board must also decide a review period for the condition.

**104—Notice of decision to be given to applicant**

- (1) As soon as practicable after making the decision under section 102, the National Board must—
  - (a) give the applicant written notice of the Board's decision; and
  - (b) if the Board decides to endorse the applicant's registration, give the applicant a new certificate of registration.
- (2) If the Board decides not to endorse the applicant's registration or decides to endorse the applicant's registration subject to a condition, the notice under subsection (1)(a) must state—
  - (a) the reasons for the decision; and
  - (b) that the applicant may appeal against the decision; and
  - (c) how an application for appeal may be made and the period within which the application must be made.

**105—Period of endorsement**

If a National Board decides to endorse a registered health practitioner's registration, the endorsement—

- (a) starts when the Board makes the decision; and
- (b) expires when the practitioner's registration ends.

**106—Failure to decide application for endorsement**

If a National Board fails to decide an application for endorsement within 90 days after its receipt, or the longer period agreed between the Board and the applicant, the failure by the Board to make a decision is taken to be a decision to refuse to endorse the applicant's registration.

**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.
- (2) If a health practitioner does not apply to renew the practitioner's registration before the practitioner's period of registration ends, the registration, including any endorsement of the registration, is taken to continue in force until—
  - (a) the end of the day that is one month after the day the period of registration would, apart from this subsection, have ended; or
  - (b) if the health practitioner applies for renewal of the registration not later than one month after the practitioner's period of registration ends, the day referred to in subsection (1)(a) or (b).
- (3) Subsection (1) or (2) does not apply if the registration is earlier cancelled under this Law.

**109—Annual statement**

- (1) An application for renewal of registration must include or be accompanied by a statement that includes the following—
- (a) a declaration by the applicant that—
    - (i) the applicant does not have an impairment; and
    - (ii) the applicant has met any recency of practice requirements stated in an approved registration standard for the health profession; and
    - (iii) the applicant has completed the continuing professional development the applicant was required by an approved registration standard to undertake during the applicant's preceding period of registration; and
    - (iv) the applicant has not practised the health profession during the preceding period of registration without appropriate professional indemnity insurance arrangements being in place in relation to the applicant; and
    - (v) if the applicant's registration is renewed the applicant will not practise the health profession unless appropriate professional indemnity insurance arrangements are in place in relation to the applicant;
  - (b) details of any change in the applicant's criminal history that occurred during the applicant's preceding period of registration;

**Note—**

See the definition of *criminal history* which applies to offences in participating jurisdictions and elsewhere, including outside Australia.

- (c) if the applicant's right to practise at a hospital or another facility at which health services are provided was withdrawn or restricted during the applicant's preceding period of registration because of the applicant's conduct, professional performance or health, details of the withdrawal or restriction of the right to practise;
  - (d) if the applicant's billing privileges were withdrawn or restricted under the *Medicare Australia Act 1973* of the Commonwealth during the applicant's preceding period of registration because of the applicant's conduct, professional performance or health, details of the withdrawal or restriction of the privileges;
  - (e) details of any complaint made about the applicant to a registration authority or another entity having functions relating to professional services provided by health practitioners or the regulation of health practitioners;
  - (f) any other information required by an approved registration standard.
- (2) Subsection (1)(a)(ii), (iii) and (iv), (c) and (e) does not apply to an applicant who is applying for the renewal of non-practising registration.

**110—National Board's powers before making decision**

Before deciding an application for renewal of registration, a National Board may exercise a power under section 80 as if the application were an application for registration made under section 77.

**111—Applicant may make submissions about proposed refusal of application for renewal or imposition of condition**

- (1) If, after considering an application for renewal of registration, a National Board is proposing to refuse to renew the applicant's registration or to renew the applicant's registration subject to a new condition, the Board must give the applicant written notice of the proposal.
- (2) The notice must—
  - (a) state the reasons for the proposal; and
  - (b) invite the applicant to make a written or verbal submission to the Board by the date stated in the notice, being not less than 30 days after the day the notice is given to the applicant, about the proposal.

**112—Decision about application for renewal**

- (1) After considering an application for renewal of registration and any submissions made in accordance with a notice under section 111, a National Board may decide to renew, or refuse to renew, the applicant's registration or the endorsement.
- (2) The National Board may refuse to renew the applicant's registration or any endorsement on the applicant's registration—
  - (a) on any ground on which the Board could refuse to grant the registration or endorsement under section 82 or 102 if the application were for a grant of registration or endorsement; or
  - (b) if the applicant contravened any condition to which the applicant's previous registration or endorsement was subject; or
  - (c) if, during the applicant's previous period of registration, the applicant failed to have appropriate professional indemnity insurance arrangements or failed to complete the continuing professional development required by an approved registration standard for the profession; or
  - (d) if a statement made by the applicant in the applicant's annual statement was false or misleading in a material particular; or
  - (e) if the application is for the renewal of provisional registration and the applicant's provisional registration has previously been renewed twice; or
  - (f) if the application is for the renewal of limited application and the applicant's limited registration has previously been renewed 3 times.
- (3) If the National Board renews a registration, including any endorsement on the registration, the registration or endorsement is subject to—
  - (a) any condition to which the registration was subject immediately before the renewal; and
  - (b) any condition the Board considers necessary or desirable in the circumstances.

**Note—**

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

- (4) If the National Board decides to renew a registered health practitioner's registration or an endorsement of the registration subject to a condition under subsection (3)(b), the Board must decide a review period for the condition.

- (5) If a National Board decides to refuse to renew an applicant's registration or the endorsement of the applicant's registration, or to renew the registration or the endorsement subject to a condition under subsection (3)(b), the Board must give the applicant a notice that states—
  - (a) the decision made by the Board; and
  - (b) the reasons for the decision; and
  - (c) that the applicant may appeal against the decision; and
  - (d) how an application for appeal may be made and the period within which the application must be made.
- (6) A registration, including any endorsement of the registration, renewed under this Division—
  - (a) starts on the day immediately after the applicant's previous period of registration ends or ended; and
  - (b) expires at the end of the day that is 12 months after the day it starts.

## **Division 10—Title and practice protections**

### **Subdivision 1—Title protections**

#### **113—Restriction on use of protected titles**

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

Maximum penalty:

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

Maximum penalty:

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

**Table—Protected Titles**

<b>Profession</b>	<b>Title</b>
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
Pharmacy	pharmacist, pharmaceutical chemist
Physiotherapy	physiotherapist, physical therapist
Podiatry	podiatrist, chiropodist
Psychology	psychologist

**114—Use of title “acupuncturist”**

- (1) A registered health practitioner whose registration is endorsed under section 97 by a National Board as being qualified to practise as an acupuncturist does not commit an offence against section 113(1)(a) merely because the individual takes or uses the title “acupuncturist”.
- (2) A person does not commit an offence against section 113(2)(a) merely because the person takes or uses the title “acupuncturist” in relation to another person who is a registered health practitioner whose registration is endorsed under section 97 by a National Board as being qualified to practise as an acupuncturist.

**115—Restriction on use of specialist titles**

- (1) A person must not knowingly or recklessly take or use—
  - (a) the title “dental specialist” unless the person is registered under this Law in a recognised specialty in the dentists division of the dental profession; or
  - (b) the title “medical specialist” unless the person is registered in a recognised specialty in the medical profession; or
  - (c) a specialist title for a recognised specialty unless the person is registered under this Law in the specialty.

Maximum penalty:

- (a) in the case of an individual—\$30,000; or
  - (b) in the case of a body corporate—\$60,000.
- (2) A person must not knowingly or recklessly take or use—
- (a) the title “dental specialist” in relation to another person unless the other person is registered under this Law in a recognised specialty in the dentists division of the dental profession; or
  - (b) the title “medical specialist” in relation to another person unless the person is registered in a recognised specialty in the medical profession; or
  - (c) a specialist title for a recognised specialty in relation to another person unless the person is registered under this Law in the specialty.

Maximum penalty:

- (a) in the case of an individual—\$30,000; or
  - (b) in the case of a body corporate—\$60,000.
- (3) Subsection (1) applies whether or not the title is taken or used with or without any other words and whether in English or any other language.

### **116—Claims by persons as to registration as health practitioner**

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

Maximum penalty:

- (a) in the case of an individual—\$30,000; or
  - (b) in the case of a body corporate—\$60,000.
- (2) A person must not knowingly or recklessly—
- (a) take or use the title of “registered health practitioner”, whether with or without any other words, in relation to another person who is not a registered health practitioner; or
  - (b) take or use a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—
    - (i) another person is a health practitioner if the other person is not a health practitioner; or

- (ii) another person is authorised or qualified to practise in a health profession if the other person is not a registered health practitioner in that health profession; or
- (c) claim another person is registered under this Law, or hold the other person out as being registered under this Law, if the other person is not registered under this Law; or
- (d) claim another person is qualified to practise as a health practitioner if the other person is not a registered health practitioner.

Maximum penalty:

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

### **117—Claims by persons as to registration in particular profession or division**

- (1) A registered health practitioner must not knowingly or recklessly—
  - (a) claim to be registered under this Law in a health profession or a division of a health profession in which the practitioner is not registered, or hold himself or herself out as being registered in a health profession or a division of a health profession if the person is not registered in that health profession or division; or
  - (b) claim to be qualified to practise as a practitioner in a health profession or a division of a health profession in which the practitioner is not registered; or
  - (c) take or use any title that could be reasonably understood to induce a belief the practitioner is registered under this Law in a health profession or a division of a health profession in which the practitioner is not registered.
- (2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (3) A person must not knowingly or recklessly—
  - (a) claim another person is registered under this Law in a health profession or a division of a health profession in which the other person is not registered, or hold the other person out as being registered in a health profession or a division of a health profession if the other person is not registered in that health profession or division; or
  - (b) claim another person is qualified to practise as a health practitioner in a health profession or division of a health profession in which the other person is not registered; or
  - (c) take or use any title in relation to another person that could be reasonably understood to induce a belief the other person is registered under this Law in a health profession or a division of a health profession in which the person is not registered.

Maximum penalty:

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

**Note—**

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

**118—Claims by persons as to specialist registration**

(1) A person who is not a specialist health practitioner must not knowingly or recklessly—

- (a) take or use the title of “specialist health practitioner”, whether with or without any other words; or
- (b) take or use a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—
  - (i) the person is a specialist health practitioner; or
  - (ii) the person is authorised or qualified to practise in a recognised specialty; or
- (c) claim to be registered under this Law in a recognised specialty or hold himself or herself out as being registered under this Law in a recognised specialty; or
- (d) claim to be qualified to practise as a specialist health practitioner.

Maximum penalty:

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

(2) A person must not knowingly or recklessly—

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

Maximum penalty:

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

**Note—**

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

**119—Claims about type of registration or registration in recognised specialty**

- (1) A registered health practitioner must not knowingly or recklessly—
  - (a) claim to hold a type of registration or endorsement under this Law that the practitioner does not hold or hold himself or herself out as holding a type of registration or endorsement if the practitioner does not hold that type of registration; or
  - (b) claim to be qualified to hold a type of registration or endorsement the practitioner does not hold; or
  - (c) claim to hold specialist registration under this Law in a recognised specialty in which the practitioner does not hold specialist registration or hold himself or herself out as holding specialist registration in a recognised specialty if the person does not hold specialist registration in that specialty; or
  - (d) claim to be qualified to practise as a specialist health practitioner in a recognised specialty in which the practitioner is not registered.
- (2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (3) A person must not knowingly or recklessly—
  - (a) claim another person holds a type of registration or endorsement under this Law that the other person does not hold or hold the other person out as holding a type of registration or endorsement if the practitioner does not hold that type of registration or endorsement; or
  - (b) claim another person is qualified to hold a type of registration or endorsement that the other person does not hold; or
  - (c) claim another person holds specialist registration under this Law in a recognised specialty which the other person does not hold or hold the other person out as holding specialist registration in a recognised specialty if the other person does not hold specialist registration in that specialty; or
  - (d) claim another person is qualified to practise in a recognised specialty in which the other person is not registered.

**Maximum penalty:**

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

**Note—**

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

**120—Registered health practitioner registered on conditions**

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

**Subdivision 2—Practice protections****121—Restricted dental acts**

- (1) A person must not carry out a restricted dental act unless the person—
  - (a) is registered in the dental profession or medical profession and carries out the restricted dental act in accordance with any requirements specified in an approved registration standard; or
  - (b) is a student who carries out the restricted dental act in the course of activities undertaken as part of—
    - (i) an approved program of study for the dental profession or medical profession; or
    - (ii) clinical training in the dental profession or medical profession; or
  - (c) carries out the restricted dental act in the course of carrying out technical work on the written order of a person registered in the dentists or dental prosthetists division of the dental profession; or
  - (d) is a person, or a member of a class of persons, prescribed under a regulation as being authorised to carry out the restricted dental act or restricted dental acts generally.

Maximum penalty: \$30,000.

- (2) In this section—

***restricted dental act*** means any of the following acts—

- (a) performing any irreversible procedure on the human teeth or jaw or associated structures;
- (b) correcting malpositions of the human teeth or jaw or associated structures;
- (c) fitting or intra-orally adjusting artificial teeth or corrective or restorative dental appliances for a person;
- (d) performing any irreversible procedure on, or the giving of any treatment or advice to, a person that is preparatory to or for the purpose of fitting, inserting, adjusting, fixing, constructing, repairing or renewing artificial dentures or a restorative dental appliance.

***technical work*** means the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances.

**122—Restriction on prescription of optical appliances**

- (1) A person must not prescribe an optical appliance unless—
- (a) the person is an optometrist or medical practitioner; or
  - (b) the appliance is spectacles and the person is an orthoptist who—
    - (i) prescribes the spectacles in the course of carrying out duties at a public health facility; or
    - (ii) prescribes the spectacles under the supervision of an optometrist or medical practitioner; or
    - (iii) prescribes the spectacles, on the written referral of an optometrist or medical practitioner, to a person who has had, within the 12 months before the referral, an ocular health examination conducted by an optometrist or medical practitioner; or
  - (c) the person is a person, or a member of a class of persons, prescribed under a regulation as being authorised to prescribe an optical appliance of that type or to prescribe optical appliances generally.

Maximum penalty: \$30,000.

- (2) In this section—

***optical appliance*** means—

- (a) any appliance designed to correct, remedy or relieve any refractive abnormality or defect of sight, including, for example, spectacle lenses; or
- (b) contact lenses, whether or not designed to correct, remedy or relieve any refractive abnormality or defect of sight.

***optometrist*** means a person registered in the optometry profession.

***orthoptist*** means a person whose name is recorded in the Register of Orthoptists kept by the Australian Orthoptists Registration Body Pty Ltd (ACN 095 11 7 678).

**123—Restriction on spinal manipulation**

- (1) A person must not perform manipulation of the cervical spine unless the person—
- (a) is registered in an appropriate health profession; or
  - (b) is a student who performs manipulation of the cervical spine in the course of activities undertaken as part of—
    - (i) an approved program of study in an appropriate health profession; or
    - (ii) clinical training in an appropriate health profession; or
  - (c) is a person, or a member of a class of persons, prescribed under a regulation as being authorised to perform manipulation of the cervical spine.

Maximum penalty: \$30,000.

- (2) In this section—

***appropriate health profession*** means any of the following health professions—

- (a) chiropractic;
- (b) osteopathy;

- (c) medical;
- (d) physiotherapy.

*manipulation of the cervical spine* means moving the joints of the cervical spine beyond a person's usual physiological range of motion using a high velocity, low amplitude thrust.

## **Division 11—Miscellaneous**

### **Subdivision 1—Certificates of registration**

#### **124—Issue of certificate of registration**

- (1) This section applies if—
  - (a) a National Board decides to register an individual in the health profession for which the Board is established; or
  - (b) a National Board decides to renew an individual's registration in the health profession for which the Board is established; or
  - (c) a National Board or an adjudication body decides to impose, change or remove a condition on a registered health practitioner's registration or otherwise change the practitioner's registration in a material way; or
  - (d) a National Board or an adjudication body decides to accept an undertaking from a registered health practitioner or to change or revoke an undertaking given by the practitioner; or
  - (e) a National Board decides to endorse a health practitioner's registration.
- (2) The National Board must, as soon as practicable after the decision is made, give the registered health practitioner a certificate of registration in the form decided by the Board.
- (3) A certificate of registration must include the following—
  - (a) the name of the registered health practitioner;
  - (b) the type of registration granted and, if the registration is endorsed, the type of endorsement granted;
  - (c) the date the registration or endorsement was granted;
  - (d) the division of the register, if any, in which the practitioner is registered;
  - (e) any condition to which the registration or endorsement is subject;
  - (f) any undertaking given by the practitioner to the National Board;
  - (g) the date the registration expires;
  - (h) any other information the Board considers appropriate.

### **Subdivision 2—Review of conditions and undertakings**

#### **125—Changing or removing conditions or undertaking on application by registered health practitioner or student**

- (1) A registered health practitioner or student may apply to a National Board that registered the practitioner or student—
  - (a) for a registered health practitioner—

- (i) to change or remove a condition imposed on the practitioner's registration or endorsement; or
  - (ii) to change or revoke an undertaking given by the practitioner; or
- (b) for a student—
  - (i) to change or remove a condition imposed on the student's registration; or
  - (ii) to change or revoke an undertaking given by the student to the Board.
- (2) However, the registered health practitioner or student may not make an application—
  - (a) during a review period applying to the condition or undertaking, unless the practitioner or student reasonably believes there has been a material change in the practitioner's or student's circumstances; or
  - (b) for a condition imposed by an adjudication body for a co-regulatory jurisdiction, unless the adjudication body decided, when imposing the condition, that this Subdivision applied to the condition.
- (3) An application under subsection (1) must—
  - (a) be in the form approved by the National Board; and
  - (b) be accompanied by any other information reasonably required by the Board.
- (4) For the purposes of deciding the application, the National Board may exercise a power under section 80 as if the application were an application for registration as a registered health practitioner.
- (5) The National Board must decide to grant the application or refuse to grant the application.
- (6) As soon as practicable after making the decision under subsection (5), the National Board must give the registered health practitioner or student written notice of the Board's decision.
- (7) If the National Board decides to refuse to grant the application, the notice must state—
  - (a) the decision made by the Board; and
  - (b) that the registered health practitioner or student may appeal against the decision; and
  - (c) how an application for appeal may be made and the period within which the application must be made.

### **126—Changing conditions on Board's initiative**

- (1) This section applies if a National Board reasonably believes it is necessary to change a condition imposed on the registration of a registered health practitioner or student registered by the Board.
- (2) The National Board must give the registered health practitioner or student a written notice stating—
  - (a) that the Board proposes to change the condition; and
  - (b) how the Board proposes to change the condition; and
  - (c) the reason for the proposed change; and
  - (d) that the practitioner or student may, within 30 days after receipt of the notice, make written or verbal submissions to the Board about why the condition should not be changed.

- (3) However, the condition may not be changed—
  - (a) during a review period applying to the condition, unless the National Board reasonably believes there has been a material change in the registered health practitioner's or student's circumstances; or
  - (b) if the condition was imposed by an adjudication body for a co-regulatory jurisdiction, unless the adjudication body decided, when imposing the condition, that this Subdivision applied to the condition.
- (4) The registered health practitioner or student may make written or verbal submissions about the proposed change to the condition as stated in the notice.
- (5) The National Board must consider any submissions made under subsection (4) and decide whether or not to change the condition.
- (6) As soon as practicable after making its decision the National Board must give written notice of the decision to the registered health practitioner or student.
- (7) If the National Board decides to change the condition, the notice must state—
  - (a) the decision made by the Board; and
  - (b) that the registered health practitioner or student may appeal against the decision; and
  - (c) how an application for appeal may be made and the period within which the application must be made.

### **127—Removal of condition or revocation of undertaking**

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

### **Subdivision 3—Obligations of registered health practitioners and students**

#### **128—Continuing professional development**

- (1) A registered health practitioner must undertake the continuing professional development required by an approved registration standard for the health profession in which the practitioner is registered.
- (2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (3) In this section—  
*registered health practitioner* does not include a registered health practitioner who holds non-practising registration in the profession.

#### **129—Professional indemnity insurance arrangements**

- (1) A registered health practitioner must not practise the health profession in which the practitioner is registered unless appropriate professional indemnity insurance arrangements are in force in relation to the practitioner's practice of the profession.
- (2) A National Board may, at any time by written notice, require a registered health practitioner registered by the Board to give the Board evidence of the appropriate professional indemnity insurance arrangements that are in force in relation to the practitioner's practice of the profession.
- (3) A registered health practitioner must not, without reasonable excuse, fail to comply with a written notice given to the practitioner under subsection (2).
- (4) A contravention of subsection (1) or (3) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (5) In this section—  
*registered health practitioner* does not include a registered health practitioner who holds non-practising registration in the profession.

#### **130—Registered health practitioner or student to give National Board notice of certain events**

- (1) A registered health practitioner or student must, within 7 days after becoming aware that a relevant event has occurred in relation to the practitioner or student, give the National Board that registered the practitioner or student written notice of the event.
- (2) A contravention of subsection (1) by a registered health practitioner or student does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (3) In this section—  
*relevant event* means—
  - (a) in relation to a registered health practitioner—
    - (i) the practitioner is charged, whether in a participating jurisdiction or elsewhere, with an offence punishable by 12 months imprisonment or more; or

- (ii) the practitioner is convicted of or the subject of a finding of guilt for an offence, whether in a participating jurisdiction or elsewhere, punishable by imprisonment; or
  - (iii) appropriate professional indemnity insurance arrangements are no longer in place in relation to the practitioner's practice of the profession; or
  - (iv) the practitioner's right to practise at a hospital or another facility at which health services are provided is withdrawn or restricted because of the practitioner's conduct, professional performance or health; or
  - (v) the practitioner's billing privileges are withdrawn or restricted under the *Medicare Australia Act 1973* of the Commonwealth because of the practitioner's conduct, professional performance or health; or
  - (vi) the practitioner's authority under a law of a State or Territory to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines is cancelled or restricted; or
  - (vii) a complaint is made about the practitioner to an entity referred to in section 219(1)(a) to (e); or
  - (viii) the practitioner's registration under the law of another country that provides for the registration of health practitioners is suspended or cancelled or made subject to a condition or another restriction; or
- (b) in relation to a student—
- (i) the student is charged with an offence punishable by 12 months imprisonment or more; or
  - (ii) the student is convicted of or the subject of a finding of guilt for an offence punishable by imprisonment; or
  - (iii) the student's registration under the law of another country that provides for the registration of students has been suspended or cancelled.

### **131—Change in principal place of practice, address or name**

- (1) A registered health practitioner must, within 30 days of any of the following changes happening, give the National Board that registered the practitioner written notice of the change and any evidence providing proof of the change required by the Board—
- (a) a change in the practitioner's principal place of practice;
  - (b) a change in the address provided by the registered health practitioner as the address the Board should use in corresponding with the practitioner;
  - (c) a change in the practitioner's name.
- (2) A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.

### **132—National Board may ask registered health practitioner for employer's details**

- (1) A National Board may, at any time by written notice given to a health practitioner registered by the Board, ask the practitioner to give the Board the following information—
- (a) information about whether the practitioner is employed by another entity;

- (b) if the practitioner is employed by another entity—
  - (i) the name of the practitioner's employer; and
  - (ii) the address and other contact details of the practitioner's employer.
- (2) The registered health practitioner must not, without reasonable excuse, fail to comply with the notice.
- (3) A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.

## **Subdivision 4—Advertising**

### **133—Advertising**

- (1) A person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that—
  - (a) is false, misleading or deceptive or is likely to be misleading or deceptive; or
  - (b) offers a gift, discount or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms and conditions of the offer; or
  - (c) uses testimonials or purported testimonials about the service or business; or
  - (d) creates an unreasonable expectation of beneficial treatment; or
  - (e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) A person does not commit an offence against subsection (1) merely because the person, as part of the person's business, prints or publishes an advertisement for another person.
  - (3) In proceedings for an offence against this section, a court may have regard to a guideline approved by a National Board about the advertising of regulated health services.
  - (4) In this section—

*regulated health service* means a service provided by, or usually provided by, a health practitioner.

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

### **134—Evidence of identity**

- (1) A National Board may, at any time, require a registered health practitioner to provide evidence of the practitioner's identity.
- (2) A requirement under subsection (1) must be made by written notice given to the registered health practitioner.
- (3) The registered health practitioner must not, without reasonable excuse, fail to comply with the notice.

- (4) A contravention of subsection (3) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
- (5) If a registered health practitioner gives a National Board a document as evidence of the practitioner's identity under this section, the Board may, by written notice, ask the entity that issued the document—
  - (a) to confirm the validity of the document; or
  - (b) to give the Board other information relevant to the practitioner's identity.
- (6) An entity given a notice under subsection (5) is authorised to provide the information requested.

### **135—Criminal history check**

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

### **Subdivision 6—General**

#### **136—Directing or inciting unprofessional conduct or professional misconduct**

- (1) A person must not direct or incite a registered health practitioner to do anything, in the course of the practitioner's practice of the health profession, that amounts to unprofessional conduct or professional misconduct.

Maximum penalty:

- (a) in the case of an individual—\$30,000; or
  - (b) in the case of a body corporate—\$60,000.
- (2) Subsection (1) does not apply to a person who is the owner or operator of a public health facility.

#### **137—Surrender of registration**

- (1) A registered health practitioner may, by written notice given to the National Board that registered the practitioner, surrender the practitioner's registration.
- (2) The surrender of the registration takes effect on—
  - (a) the day the National Board receives the notice under subsection (1); or
  - (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 Division 2 and Division 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 Division 2 and Division 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—Definition of 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.

- (3) A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which action may be taken under this Part.
- (4) For the purposes of subsection (1), the first health practitioner does not form the reasonable belief in the course of practising the profession if—
  - (a) the first health practitioner—
    - (i) is employed or otherwise engaged by an insurer that provides professional indemnity insurance that relates to the second health practitioner or student; and
    - (ii) forms the reasonable belief the second health practitioner has behaved in a way that constitutes notifiable conduct, or the student has an impairment, as a result of a disclosure made by a person to the first health practitioner in the course of a legal proceeding or the provision of legal advice arising from the insurance policy; or
  - (b) the first health practitioner forms the reasonable belief in the course of providing advice in relation to the notifiable conduct or impairment for the purposes of a legal proceeding or the preparation of legal advice; or
  - (c) the first health practitioner is a legal practitioner and forms the reasonable belief in the course of providing legal services to the second health practitioner or student in relation to a legal proceeding or the preparation of legal advice in which the notifiable conduct or impairment is an issue; or
  - (d) the first health practitioner—
    - (i) forms the reasonable belief in the course of exercising functions as a member of a quality assurance committee, council or other body approved or authorised under an Act of a participating jurisdiction; and

- (ii) is unable to disclose the information that forms the basis of the reasonable belief because a provision of that Act prohibits the disclosure of the information; or
- (e) the first health practitioner knows, or reasonably believes, the National Agency has been notified of the notifiable conduct or impairment that forms the basis of the reasonable belief.

#### **142—Mandatory notifications by employers**

- (1) If an employer of a registered health practitioner reasonably believes the health practitioner has behaved in a way that constitutes notifiable conduct, the employer must notify the National Agency of the notifiable conduct.

**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.

- (2) If the National Agency becomes aware that an employer of a registered health practitioner has failed to notify the Agency of notifiable conduct as required by subsection (1), the Agency must give a written report about the failure to the responsible Minister for the participating jurisdiction in which the notifiable conduct occurred.
- (3) As soon as practicable after receiving a report under subsection (2), the responsible Minister must report the employer's failure to notify the Agency of the notifiable conduct to a health complaints entity, the employer's licensing authority or another appropriate entity in that participating jurisdiction.
- (4) In this section—

*employer*, of a registered health practitioner, means an entity that employs the health practitioner under a contract of employment or a contract for services.

*licensing authority*, of an employer, means an entity that under a law of a participating jurisdiction is responsible for licensing, registering or authorising the employer to conduct the employer's business.

#### **143—Mandatory notifications by education providers**

- (1) An education provider must notify the National Agency if the provider reasonably believes—
  - (a) a student enrolled in a program of study provided by the provider has an impairment that, in the course of the student undertaking clinical training as part of the program of study, may place the public at substantial risk of harm; or
  - (b) a student for whom the education provider has arranged clinical training has an impairment that, in the course of the student undertaking the clinical training, may place the public at substantial risk of harm.

**Note—**

See section 237 which provides protection from civil, criminal and administrative liability for persons who make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred.

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

### **Division 3—Voluntary notifications**

#### **144—Grounds for voluntary notification**

- (1) A voluntary notification about a registered health practitioner may be made to the National Agency on any of the following grounds—
  - (a) that the practitioner's professional conduct is, or may be, of a lesser standard than that which might reasonably be expected of the practitioner by the public or the practitioner's professional peers;
  - (b) that the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the practitioner's health profession is, or may be, below the standard reasonably expected;
  - (c) that the practitioner is not, or may not be, a suitable person to hold registration in the health profession, including, for example, that the practitioner is not a fit and proper person to be registered in the profession;
  - (d) that the practitioner has, or may have, an impairment;
  - (e) that the practitioner has, or may have, contravened this Law;
  - (f) that the practitioner has, or may have, contravened a condition of the practitioner's registration or an undertaking given by the practitioner to a National Board;
  - (g) that the practitioner's registration was, or may have been, improperly obtained because the practitioner or someone else gave the National Board information or a document that was false or misleading in a material particular.
- (2) A voluntary notification about a student may be made to the National Agency on the grounds that—
  - (a) the student has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or
  - (b) the student has, or may have, an impairment; or
  - (c) that the student has, or may have, contravened a condition of the student's registration or an undertaking given by the student to a National Board.

#### **145—Who may make voluntary notification**

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

**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.

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

### **149—Preliminary assessment**

- (1) A National Board must, within 60 days after receipt of a notification, conduct a preliminary assessment of the notification and decide—
  - (a) whether or not the notification relates to a person who is a health practitioner or a student registered by the Board; and
  - (b) whether or not the notification relates to a matter that is a ground for notification; and

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

### **150—Relationship with health complaints entity**

- (1) If the subject matter of a notification would also provide a ground for a complaint to a health complaints entity under a law of a participating jurisdiction, the National Board that received the notification must, as soon as practicable after its receipt—
  - (a) notify the health complaints entity that the Board has received the notification; and
  - (b) give to the health complaints entity—
    - (i) a copy of the notification or, if the notification was not made in writing, a copy of the National Agency's record of the details of the notification; and
    - (ii) any other information the Board has that is relevant to the notification.
- (2) If a health complaints entity receives a complaint about a health practitioner, the health complaints entity must, as soon as practicable after its receipt—
  - (a) notify the National Board established for the practitioner's health profession that the health complaints entity has received the complaint; and
  - (b) give to the National Board—
    - (i) a copy of the complaint or, if the complaint was not made in writing, a copy of the health complaints entity's record of the details of the complaint; and
    - (ii) any other information the health complaints entity has that is relevant to the complaint.
- (3) The National Board and the health complaints entity must attempt to reach agreement about how the notification or complaint is to be dealt with, including—
  - (a) whether the Board is to deal with the notification or complaint, or part of the notification or complaint, or to decide to take no further action in relation to it; and
  - (b) if the Board is to deal with the notification or complaint or part of the notification or complaint, the action the Board is to take.
- (4) If the National Board and the health complaints entity are not able to reach agreement on how the notification or complaint, or part of the notification or complaint, is to be dealt with, the most serious action proposed by either must be taken.

- (5) If an investigation, conciliation or other action taken by a health complaints entity raises issues about the health, conduct or performance of a registered health practitioner, the health complaints entity must give the National Board that registered the practitioner written notice of the issues.
- (6) If a notification, or part of a notification, received by a National Board is referred to a health complaints entity, the Board may decide to take no further action in relation to the notification or the part of the notification until the entity gives the Board written notice that the entity has finished dealing with it.
- (7) If a National Board or an adjudication body takes health, conduct or performance action in relation to a registered health practitioner, the Board that registered the practitioner must give written notice of the action to the health complaints entity for the participating jurisdiction in which the behaviour that provided the basis for the action occurred.
- (8) A written notice under subsection (5) or (7) must include—
  - (a) sufficient particulars to identify the registered health practitioner; and
  - (b) details of—
    - (i) the issues raised about the health, conduct or performance of the registered health practitioner; or
    - (ii) the health, conduct or performance action taken in relation to the registered health practitioner.

### **151—When National Board may decide to take no further action**

- (1) A National Board may decide to take no further action in relation to a notification if—
  - (a) the Board reasonably believes the notification is frivolous, vexatious, misconceived or lacking in substance; or
  - (b) given the amount of time that has elapsed since the matter the subject of the notification occurred, it is not practicable for the Board to investigate or otherwise deal with the notification; or
  - (c) the person to whom the notification relates has not been, or is no longer, registered by the Board and it is not in the public interest for the Board to investigate or otherwise deal with the notification; or
  - (d) the subject matter of the notification has already been dealt with adequately by the Board; or
  - (e) the subject matter of the notification is being dealt with, or has already been dealt with, adequately by another entity.
- (2) A decision by a National Board to decide to take no further action in relation to a notification does not prevent a National Board or adjudication body taking the notification into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.
- (3) If a National Board decides to take no further action in relation to a notification it must give written notice of the decision to the notifier.
- (4) A notice under subsection (3) must state—
  - (a) that the National Board has decided to take no further action in relation to the notification; and
  - (b) the reason the Board has decided to take no further action.

**152—National Board to give notice of receipt of notification**

- (1) A National Board must, as soon as practicable after receiving a notification about a registered health practitioner or student, give written notice of the notification to the practitioner or student.
- (2) The notice must advise the registered health practitioner or student of the nature of the notification.
- (3) Despite subsection (1), the National Board is not required to give the registered health practitioner or student notice of the notification if the Board reasonably believes doing so would—
  - (a) prejudice an investigation of the notification; or
  - (b) place at risk a person's health or safety or place a person at 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—Definition**

In this Division—

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

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

**156—Power to take immediate action**

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

**157—Show cause process**

- (1) If a National Board is proposing to take immediate action that consists of suspending, or imposing a condition on, a registered health practitioner’s or student’s registration under section 156, the Board must—
  - (a) give the practitioner or student notice of the proposed immediate action; and
  - (b) invite the practitioner or student to make a submission to the Board, within the time stated in the notice about the proposed immediate action.
- (2) A notice given to a registered health practitioner or student under subsection (1), and any submissions made by the practitioner or student in accordance with the notice, may be written or verbal.
- (3) The National Board must have regard to any submissions made by the registered health practitioner or student in accordance with this section in deciding whether to take immediate action in relation to the practitioner or student.

**158—Notice to be given to registered health practitioner or student about immediate action**

- (1) Immediately after deciding to take immediate action in relation to a registered health practitioner or student, the National Board must—
  - (a) give written notice of the Board’s decision to the health practitioner or student; and
  - (b) take the further action under this Part the Board considers appropriate, including, for example, investigating the practitioner or student or requiring the practitioner or student to undergo a health or performance assessment.
- (2) The notice must state—
  - (a) the immediate action the National Board has decided to take; and
  - (b) the reasons for the decision to take the immediate action; and
  - (c) the further action the National Board proposes to take under this Part in relation to the health practitioner or student; and
  - (d) that the registered health practitioner or student may appeal against the decision to take the immediate action if the action is to suspend, or impose a condition on, the practitioner’s or student’s registration; and
  - (e) how an application for appeal may be made and the period within which the application must be made.

**159—Period of immediate action**

- (1) The decision by the National Board to take immediate action in relation to the registered health practitioner or student takes effect on—
  - (a) the day the notice is given to the practitioner or student; or
  - (b) the later day stated in the notice.
- (2) The decision continues to have effect until the earlier of the following occurs—
  - (a) the decision is set aside on appeal;
  - (b) for the suspension of, or imposition of conditions on, the registered health practitioner’s or student’s registration, the suspension is revoked, or the conditions are removed, by the National Board; or
  - (c) for an undertaking, the National Board and the registered 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—
  - (A) the way the practitioner practises the profession is or may be unsatisfactory; or
  - (B) 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) 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, within as soon as practicable after making the decision, give the practitioner or student written notice about the investigation.
- (2) The notice must advise the registered health practitioner or student of the nature of the matter being investigated.
- (3) Also, the National Board must, at not less than 3 monthly intervals, give the written notice of the progress of the investigation to—
  - (a) the registered health practitioner or student; and
  - (b) if the investigation relates to a notification made about the registered health practitioner or student, the notifier.
- (4) However, the National Board need not give the registered health practitioner or student a notice under subsection (1) or (3) if the Board reasonably believes giving the notice may—
  - (a) seriously prejudice the investigation; or
  - (b) place at risk a person's health or safety; or
  - (c) place a person at risk of harassment or intimidation.

### **162—Investigation to be conducted in timely way**

The National Board must ensure an investigator it directs to conduct an investigation conducts the investigation as quickly as practicable, having regard to the nature of the matter to be investigated.

## **Subdivision 2—Investigators**

### **163—Appointment of investigators**

- (1) A National Board may appoint the following persons as investigators—
  - (a) members of the National Agency's staff;
  - (b) contractors engaged by the National Agency.
- (2) An investigator holds office on the conditions stated in the instrument of appointment.
- (3) If an investigator's appointment provides for a term of appointment, the investigator ceases holding office at the end of the term.

- (4) An investigator may resign by signed notice of resignation given to the National Board which appointed the investigator.
- (5) Schedule 5 sets out provisions relating to the powers of an investigator.

### **164—Identity card**

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

### **165—Display of identity card**

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

### **Subdivision 3—Procedure after investigation**

#### **166—Investigator's report about investigation**

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

#### **167—Decision by National Board**

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

- (a) to take no further action in relation to the matter; or

- (b) to do either or both of the following—
  - (i) take the action the Board considers necessary or appropriate under another Division;
  - (ii) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.

## **Division 9—Health and performance assessments**

### **168—Definition**

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 believes, because of a notification or for any other reason, that the practitioner or student has, or may have, an impairment.

### **170—Requirement for performance assessment**

A National Board may require a registered health practitioner to undergo a performance assessment if the Board reasonably believes, because of a notification or for any other reason, that the way the practitioner practises the profession is or may be unsatisfactory.

### **171—Appointment of assessor to carry out assessment**

- (1) If the National Board requires a registered health practitioner or student to undergo an assessment, the National Agency must appoint an assessor chosen by the Board to carry out the assessment.
- (2) The assessor must be—
  - (a) for a health assessment, a medical practitioner or psychologist who is not a member of the National Board; or
  - (b) for a performance assessment, a registered health practitioner who is a member of the health profession for which the National Board is established but is not a member of the Board.
- (3) The assessor may ask another health practitioner to assist the assessor in carrying out the assessment of the registered health practitioner or student.
- (4) The assessor's fee for carrying out the assessment is to be paid out of the National Board's budget.

### **172—Notice to be given to registered health practitioner or student about assessment**

- (1) A requirement by a National Board for a registered health practitioner or student to undergo an assessment must be made by written notice given to the practitioner or student.

- (2) The written notice must state—
- (a) that the registered health practitioner or student is required to undergo a health assessment or performance assessment; and
  - (b) the nature of the assessment to be carried out; and
  - (c) the name and qualifications of the registered health practitioner who is to carry out the assessment; and
  - (d) that if the registered health practitioner or student does not undergo the assessment the National Board may continue to take proceedings in relation to the practitioner or student under this Part.

### **173—Assessor may require information or attendance**

For the purposes of conducting an assessment of a registered health practitioner or student, an assessor may, by written notice given to the practitioner or student, require the practitioner or student to—

- (a) give stated information to the assessor within a stated reasonable time and in a stated reasonable way; or
- (b) attend before the assessor at a stated time and a stated place to undergo the assessment.

#### **Example of stated place—**

The registered health practitioner's principal place of practice.

### **174—Inspection of documents**

- (1) If a document is produced to an assessor, the assessor may—
- (a) inspect the document; and
  - (b) make a copy of, or take an extract from, the document; and
  - (c) keep the document while it is necessary for the assessment.
- (2) If the assessor keeps the document, the assessor must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the assessor.

### **175—Report from assessor**

The assessor must, as soon as practicable after carrying out the assessment, give to the National Board a report about the assessment.

### **176—Copy of report to be given to health practitioner or student**

- (1) The National Board must, as soon as practicable after receiving the assessor's report, give a copy of the report to—
- (a) the registered health practitioner or student to whom it relates; or
  - (b) if the report contains information the Board considers may, if disclosed to the practitioner or student, be prejudicial to the practitioner's or student's physical or mental health or wellbeing, to a medical practitioner or psychologist nominated by the practitioner or student.

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

### **177—Decision by National Board**

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

- (a) take the action the Board considers necessary or appropriate under another Division; or
- (b) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action; or
- (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
    - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
    - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
    - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
    - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
    - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
  - (d) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.
- (3) If the National Board decides to impose a condition on the registered health practitioner's or student's registration, the Board must also decide a review period for the condition.

### **179—Show cause process**

- (1) If a National Board is proposing to take relevant action in relation to a registered health practitioner or student, the Board must—
  - (a) give the practitioner or student written notice of the proposed relevant action; and
  - (b) invite the practitioner or student to make a written or verbal submission to the Board, within the reasonable time stated in the notice, about the proposed relevant action.
- (2) After considering any submissions made by the registered health practitioner or student in accordance with this section, the National Board must decide to—
  - (a) take no action in relation to the matter; or
  - (b) do either or both of the following—
    - (i) take the proposed relevant action or other relevant action;
    - (ii) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.
- (3) This section does not apply if—
  - (a) a National Board is proposing to take relevant action in relation to a registered health practitioner or student; and

- (b) the National Board has, in relation to the matter that forms the basis for the relevant action—
  - (i) investigated the registered health practitioner or student under Division 8; or
  - (ii) conducted a health assessment or performance assessment of the registered health practitioner or student under Division 9.

### **180—Notice to be given to health practitioner or student and notifier**

- (1) As soon as practicable after making a decision under section 179(2), the National Board must give written notice of the decision to—
  - (a) the registered health practitioner or student; and
  - (b) if the decision was the result of a notification, the notifier.
- (2) The notice given to the notifier must include information about the decision made by the Board only to the extent the information is available on the National Board's register.

## **Division 11—Panels**

### **181—Establishment of health panel**

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

**182—Establishment of performance and professional standards panel**

- (1) A National Board may establish a performance and professional standards panel if—
  - (a) the Board reasonably believes, because of a notification or for any other reason, that—
    - (i) the way a registered health practitioner practises the health profession is or may be unsatisfactory; or
    - (ii) the registered health practitioner's professional conduct is or may be unsatisfactory; and
  - (b) the Board decides it is necessary or appropriate for the matter to be referred to a panel.
- (2) A performance and professional standards panel must consist of at least 3 members.
- (3) In choosing members of the panel, the National Board must, if possible, choose a member from the jurisdiction in which the matter the subject of the hearing occurred.
- (4) At least half, but no more than two-thirds, of the members of the panel must be persons who are registered health practitioners in the health profession for which the Board is established, and chosen from a list approved under section 183.
- (5) At least one member must be a person who represents the community and chosen from a list approved under section 183.
- (6) A person may not be appointed to the panel if the person has been involved in any proceedings relating to the matter the subject of the hearing by the panel.

**183—List of approved persons for appointment to panels**

- (1) A National Board may appoint individuals to a list of persons approved to be appointed as members of panels.
- (2) To the extent practicable, individuals appointed under subsection (1) should not—
  - (a) for registered health practitioners, be individuals whose principal place of practice is in a co-regulatory jurisdiction; or
  - (b) otherwise, be individuals who live in a co-regulatory jurisdiction.

**184—Notice to be given to registered health practitioner or student**

- (1) A panel must give notice of its hearing of a matter to the registered health practitioner or student the subject of the hearing.
- (2) The notice must state—
  - (a) the day, time and place at which the hearing is to be held; and
  - (b) the nature of the hearing and the matters to be considered at the hearing; and
  - (c) that the registered health practitioner or student is required to attend the hearing; and
  - (d) that the registered health practitioner may be accompanied at the hearing by an Australian legal practitioner or other person; and

- (e) that if the registered health practitioner or student fails to attend the hearing the hearing may continue, and the panel may make a decision, in the practitioner's or student's absence; and
- (f) the types of decision the panel may make at the end of the hearing.

### **185—Procedure of panel**

- (1) Subject to this Division, a panel may decide its own procedures.
- (2) A panel is required to observe the principles of natural justice but is not bound by the rules of evidence.
- (3) A panel may have regard to—
  - (a) a report prepared by an assessor about the registered health practitioner or student; and
  - (b) any other information the panel considers relevant to the hearing of the matter.

### **186—Legal representation**

- (1) At a hearing of a panel, the registered health practitioner or student the subject of the hearing may be accompanied by an Australian legal practitioner or another person.
- (2) An Australian legal practitioner or other person accompanying the registered health practitioner or student may appear on behalf of the practitioner or student only with the leave of the panel.
- (3) The panel may grant leave for an Australian legal practitioner or other person to appear on behalf of the registered health practitioner or student only if the panel considers it appropriate in the particular circumstances of the hearing.

### **187—Submission by notifier**

If a matter the subject of a hearing before a panel relates to a notification, the notifier may, with the leave of the panel, make a submission to the panel about the matter.

### **188—Panel may proceed in absence of registered health practitioner or student**

At a hearing, a panel may proceed in the absence of the registered health practitioner or student the subject of the proceedings if the panel reasonably believes the practitioner or student has been given notice of the hearing.

### **189—Hearing not open to the public**

A hearing before a panel is not open to the public.

### **190—Referral to responsible tribunal**

A panel must stop hearing a matter and require the National Board that established the panel to refer the matter to a responsible tribunal under section 193 if, at any time—

- (a) the practitioner or student the subject of the hearing asks the panel for the matter to be referred to a responsible tribunal under section 193; or
- (b) if the subject of the hearing is a registered health practitioner—
  - (i) the panel reasonably believes the evidence demonstrates the practitioner may have behaved in a way that constitutes professional misconduct; or

- (ii) the panel reasonably believes the evidence demonstrates the practitioner's registration may have been improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

### **191—Decision of panel**

- (1) After hearing a matter about a registered health practitioner, a panel may decide—
  - (a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or
  - (b) one or more of the following—
    - (i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;
    - (ii) the practitioner has behaved in a way that constitutes unprofessional conduct;
    - (iii) the practitioner has an impairment;
    - (iv) the matter must be referred to a responsible tribunal under section 193;
    - (v) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action.
- (2) After hearing a matter about a student, a health panel may decide—
  - (a) the student has an impairment; or
  - (b) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action; or
  - (c) the student has no case to answer and no further action is to be taken in relation to the matter.
- (3) If a panel decides a registered health practitioner or student has an impairment, or that a practitioner has behaved in a way that constitutes unsatisfactory professional performance or unprofessional conduct, the panel may decide to do one or more of the following—
  - (a) impose conditions on the practitioner's or student's registration, including, for example, in relation to a practitioner—
    - (i) a condition requiring the practitioner to complete specified further education or training within a specified period; or
    - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
    - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
    - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
    - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
    - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;

- (b) for a health panel, suspend the practitioner's or student's registration;
  - (c) for a performance and professional standards panel, caution or reprimand the practitioner.
- (4) If a panel decides to impose a condition on a registered health practitioner's or student's registration, the panel must also decide a review period for the condition.
- (5) A decision by a panel that a registered health practitioner has no case to answer in relation to a matter does not prevent a National Board or adjudication body taking the matter into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.

### **192—Notice to be given about panel's decision**

- (1) As soon as practicable after making a decision under section 191, a panel must give notice of its decision to the National Board that established it.
- (2) The National Board must, within 30 days after the panel makes its decision, give written notice of the decision to—
- (a) the registered health practitioner or student the subject of the hearing; and
  - (b) if the hearing related to a notification, the notifier.
- (3) The notice given to the registered health practitioner or student must state—
- (a) the decision made by the panel; and
  - (b) the reasons for the decision; and
  - (c) that the registered health practitioner or student may appeal against the decision; and
  - (d) how an application for appeal may be made and the period within which the application must be made.
- (4) The notice to the notifier must include information about the decision made by the panel but only to the extent the information is available on the National Board's register.

## **Division 12—Referring matter to responsible tribunals**

### **193—Matters to be referred to responsible tribunal**

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

- (2) The National Board must—
- (a) refer the matter to—
    - (i) the responsible tribunal for the participating jurisdiction in which the behaviour the subject of the matter occurred; or
    - (ii) if the behaviour occurred in more than one jurisdiction, the responsible tribunal for the participating jurisdiction in which the practitioner's principal place of practice is located; and
  - (b) give written notice of the referral to the registered health practitioner or student to whom the matter relates.

### **194—Parties to the proceedings**

The parties to proceedings relating to a matter being heard by a responsible tribunal are—

- (a) the registered health practitioner or student who is the subject of the proceedings; and
- (b) the National Board that referred the matter to the tribunal.

### **195—Costs**

The responsible tribunal may make any order about costs it considers appropriate for the proceedings.

### **196—Decision by responsible tribunal about registered health practitioner**

- (1) After hearing a matter about a registered health practitioner, a responsible tribunal may decide—
- (a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or
  - (b) one or more of the following—
    - (i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;
    - (ii) the practitioner has behaved in a way that constitutes unprofessional conduct;
    - (iii) the practitioner has behaved in a way that constitutes professional misconduct;
    - (iv) the practitioner has an impairment;
    - (v) the practitioner's registration was improperly obtained because the practitioner or someone else gave the National Board that registered the practitioner information or a document that was false or misleading in a material particular.
- (2) If a responsible tribunal makes a decision referred to in subsection (1)(b), the tribunal may decide to do one or more of the following—
- (a) caution or reprimand the practitioner;
  - (b) impose a condition on the practitioner's registration, including, for example—

- (i) a condition requiring the practitioner to complete specified further education or training, or to undergo counselling, within a specified period; or
  - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
  - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
  - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
  - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
  - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
- (c) require the practitioner to pay a fine of not more than \$30,000 to the National Board that registers the practitioner;
  - (d) suspend the practitioner's registration for a specified period;
  - (e) cancel the practitioner's registration.
- (3) If the responsible tribunal decides to impose a condition on the practitioner's registration, the tribunal must also decide a review period for the condition.
- (4) If the tribunal decides to cancel a person's registration under this Law or the person does not hold registration under this Law, the tribunal may also decide to—
- (a) disqualify the person from applying for registration as a registered health practitioner for a specified period; or
  - (b) prohibit the person from using a specified title or providing a specified health service.

### **197—Decision by responsible tribunal about student**

- (1) After hearing a matter about a student, a responsible tribunal may decide—
- (a) the student has an impairment; or
  - (b) the student has no case to answer and no further action is to be taken in relation to the matter.
- (2) If the responsible tribunal decides the student has an impairment, the tribunal may decide—
- (a) impose a condition on the student's registration; or
  - (b) suspend the student's registration.

### **198—Relationship with Act establishing responsible tribunal**

This Division applies despite any provision to the contrary of the Act that establishes the responsible tribunal but does not otherwise limit that Act.

## Division 13—Appeals

### 199—Appellable decisions

- (1) A person who is the subject of any of the following decisions (an *appellable decision*) may appeal against the decision to the appropriate responsible tribunal for the appellable decision—
  - (a) a decision by a National Board to refuse to register the person;
  - (b) a decision by a National Board to refuse to endorse the person’s registration;
  - (c) a decision by a National Board to refuse to renew the person’s registration;
  - (d) a decision by a National Board to refuse to renew the endorsement of the person’s registration;
  - (e) a decision by a National Board to impose or change a condition on a person’s registration or the endorsement of the person’s registration, other than—
    - (i) a condition relating to the person’s qualification for general registration in the health profession; and
    - (ii) a condition imposed by section 112(3)(a);
  - (f) a decision by a National Board to refuse to change or remove a condition imposed on the person’s registration or the endorsement of the person’s registration;
  - (g) a decision by a National Board to refuse to change or revoke an undertaking given by the person to the Board;
  - (h) a decision by a National Board to suspend the person’s registration;
  - (i) a decision by a panel to impose a condition on the person’s registration;
  - (j) a decision by a health panel to suspend the person’s registration;
  - (k) a decision by a performance and professional standards panel to reprimand the person.
- (2) For the purposes of subsection (1), the appropriate responsible tribunal for an appellable decision is—
  - (a) for a decision to take health, conduct or performance action in relation to a registered health practitioner or student—
    - (i) the responsible tribunal for the participating jurisdiction in which the behaviour the subject of the decision occurred; or
    - (ii) if the behaviour the subject of the decision occurred in more than one jurisdiction, the responsible tribunal for the participating jurisdiction in which the practitioner’s principal place of practice is located; or
  - (b) for another decision in relation to a registered health practitioner, the responsible tribunal for the participating jurisdiction in which the practitioner’s principal place of practice is located; or
  - (c) for another decision in relation to a student, the responsible tribunal for the participating jurisdiction in which the student is undertaking the approved program of study or clinical training; or

- (d) for a decision in relation to another person—
  - (i) the responsible tribunal for the participating jurisdiction in which the person lives; or
  - (ii) if the person does not live in a participating jurisdiction, the responsible tribunal for the participating jurisdiction nominated by the National Board that made the appellable decision and specified in the notice given to the person of the appellable decision.

## **200—Parties to the proceedings**

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

- (a) the person who is the subject of the appellable decision; and
- (b) the National Board that—
  - (i) made the appellable decision; or
  - (ii) established the panel that made the appellable decision.

## **201—Costs**

The responsible tribunal may make any order about costs it considers appropriate for the proceedings.

## **202—Decision**

- (1) After hearing the matter, the responsible tribunal may—
  - (a) confirm the appellable decision; or
  - (b) amend the appellable decision; or
  - (c) substitute another decision for the appellable decision.
- (2) In substituting another decision for the appellable decision, the responsible tribunal has the same powers as the entity that made the appellable decision.

## **203—Relationship with Act establishing responsible tribunal**

This Division applies despite any provision to the contrary of the Act that establishes the responsible tribunal but does not otherwise limit that Act.

## **Division 14—Miscellaneous**

### **204—Notice from adjudication body**

- (1) If an adjudication body, other than a court, makes a decision in relation to a health practitioner or student registered in a health profession, it must give written notice of the decision to the National Board established for the profession.
- (2) The notice must state—
  - (a) the decision made by the adjudication body; and
  - (b) the reasons for the decision; and
  - (c) the date the decision takes effect; and
  - (d) any action the National Board must take to give effect to the decision.

**205—Implementation of decisions**

- (1) A National Board must give effect to a decision of an adjudication body unless the decision is stayed on appeal.
- (2) Without limiting subsection (1), the National Board must, if the notice given to the Board states that a health practitioner's or student's registration is cancelled, remove the practitioner's or student's name from the appropriate register kept by the Board.

**206—National Board to give notice to registered health practitioner's employer**

- (1) This section applies if—
  - (a) a National Board—
    - (i) decides to take health, conduct or performance action against a registered health practitioner; or
    - (ii) receives notice from an adjudication body that the adjudication body has decided to take health, conduct or performance action against a registered health practitioner; or
    - (iii) receives notice from a co-regulatory authority that an adjudication body in the co-regulatory jurisdiction has decided to take health, conduct or performance action against a registered health practitioner; and
  - (b) the National Board has been advised by the registered health practitioner that the practitioner is employed by another entity.

**Note—**

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

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

**207—Effect of suspension**

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

**Part 9—Finance****208—Australian Health Practitioner Regulation Agency Fund**

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

**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.
- (2) Any money paid into the Agency Fund under subsection (1) for or on behalf of a National Board must be paid into the Board's account kept within the Agency Fund.

**210—Payments out of Agency Fund**

- (1) Payments may be made from the Agency Fund for the purpose of—
  - (a) paying any costs or expenses, or discharging any liabilities, incurred in the administration or enforcement of this Law; and
  - (b) making payments to co-regulatory authorities; and
  - (c) any other payments recommended by the National Board or National Agency and approved by the Ministerial Council.
- (2) Without limiting subsection (1)(a), a payment may be made from the Agency Fund to a responsible tribunal to meet the expenses of the responsible tribunal in performing functions under this Law.
- (3) A payment under subsection (1) may be made from a National Board's account kept within the Agency Fund only if the payment is in accordance with the Board's budget or otherwise approved by the Board.

**211—Investment of money in Agency Fund**

- (1) Subject to this section, the National Agency may invest money in the Agency Fund in the way it considers appropriate.
- (2) The National Agency may invest money in a National Board's account kept within the Agency Fund only if the Agency has consulted the Board about the investment.
- (3) An investment under this section must be—
  - (a) in Australian money; and
  - (b) undertaken in Australia.
- (4) The National Agency must use its best efforts to invest money in the Agency Fund in a way it considers is most appropriate in all the circumstances.

- (5) The National Agency must keep records that show it has invested in the way most appropriate in the circumstances.
- (6) A security, safe custody acknowledgment or other document evidencing title accepted, guaranteed or issued for an investment arrangement must be held by the National Agency.

## **212—Financial management duties of National Agency and National Boards**

- (1) The National Agency must—
  - (a) ensure that its operations are carried out efficiently, effectively and economically; and
  - (b) keep proper books and records in relation to the Agency Fund; and
  - (c) ensure that expenditure is made from the Agency Fund for lawful purposes only and, as far as possible, reasonable value is obtained for moneys expended from the Fund; and
  - (d) ensure that its procedures, including internal control procedures, afford adequate safeguards with respect to—
    - (i) the correctness, regularity and propriety of payments made from the Agency Fund; and
    - (ii) receiving and accounting for payments made to the Agency Fund; and
    - (iii) prevention of fraud or mistake; and
  - (e) take any action necessary to ensure the preparation of accurate financial statements in accordance with Australian Accounting Standards for inclusion in its annual report; and
  - (f) take any action necessary to facilitate the audit of those financial statements in accordance with this Law; and
  - (g) arrange for any further audit by a qualified person of the books and records kept by the National Agency in relation to the Agency Fund, if directed to do so by the Ministerial Council.
- (2) A National Board must—
  - (a) ensure that its operations are carried out efficiently, effectively and economically; and
  - (b) take any action necessary to ensure that the National Agency is able to comply with this section in relation to the funding of the National Board in exercising its functions.

## **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* of the Commonwealth, as in force from time to time.

## Division 2—Disclosure of information and confidentiality

### 214—Definition

In this Division—

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

### 215—Application of Commonwealth FOI Act

- (1) The FOI Act applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.
- (2) The regulations under this Law may modify the FOI Act for the purposes of this Law.
- (3) Without limiting subsection (2), the regulations may—
- (a) provide that the FOI Act applies under subsection (1) as if a provision of the FOI Act specified in the regulations were omitted; or
  - (b) provide that the FOI Act applies under subsection (1) as if an amendment to the FOI Act made by a law of the Commonwealth, and specified in the regulations, had not taken effect; or
  - (c) confer jurisdiction on a tribunal or court of a participating jurisdiction.
- (4) In this section—
- FOI Act* means the *Freedom of Information Act* of the Commonwealth, as in force from time to time.

### 216—Duty of confidentiality

- (1) A person who is, or has been, a person exercising functions under this Law must not disclose to another person protected information.
- Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) However, subsection (1) does not apply if—
- (a) the information is disclosed in the exercise of a function under, or for the purposes of, this Law; or
  - (b) the disclosure—
    - (i) is to a co-regulatory authority; or
    - (ii) is authorised or required by any law of a participating jurisdiction; or
  - (c) the disclosure is otherwise required or permitted by law; or
  - (d) the disclosure is with the agreement of the person to whom the information relates; or
  - (e) the disclosure is in a form that does not identify the identity of a person; or
  - (f) the information relates to proceedings before a responsible tribunal and the proceedings are or were open to the public; or
  - (g) the information is, or has been, accessible to the public, including because it is or was recorded in a National Register; or
  - (h) the disclosure is otherwise authorised by the Ministerial Council.

### **217—Disclosure of information for workforce planning**

- (1) The Ministerial Council may, by written notice given to a National Board, ask the Board for information required by the Council for planning the workforce of health practitioners, or a class of practitioners, in Australia or a part of Australia.
- (2) If a National Board receives a request under subsection (1), the Board may, by written notice given to health practitioners registered by the Board, ask the practitioners for information relevant to the request.
- (3) A registered health practitioner who is asked to provide information under subsection (2) may, but is not required to, provide the information.
- (4) The National Board—
  - (a) must give information received from a registered health practitioner to the Ministerial Council in a way that does not identify any registered health practitioner; and
  - (b) must not use information received under this section that identifies a registered health practitioner for any other purpose.
- (5) The Ministerial Council must publish information it receives under this section in a way that is timely and ensures it is accessible to the public.

### **218—Disclosure of information for information management and communication purposes**

- (1) A person may disclose protected information to an information management agency if the disclosure is in accordance with an authorisation given by the Ministerial Council under subsection (2).

- (2) The Ministerial Council may authorise the disclosure of protected information to an information management agency if the Council is satisfied—
- (a) the protected information will be collected, stored and used by the information management agency 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 information management agency is necessary to enable the agency to exercise its functions.
- (3) An authorisation under subsection (2)—
- (a) may apply to protected information generally or a class of protected information; and
  - (b) may be subject to conditions.
- (4) In this section—

**information management agency** means a Commonwealth, State or Territory agency that has functions relating to the identification of health practitioners for information management and communication purposes, including, for example, the National E-health Transition 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* of the Commonwealth;
  - (b) an entity performing functions under the *Health Insurance Act 1973* of the Commonwealth;
  - (c) the Secretary within the meaning of the *National Health Act 1953* of the Commonwealth;
  - (d) the Secretary to the Department in which the *Migration Act 1958* of the 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**

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

<b>Name of Board</b>	<b>Name of public national register</b>	<b>Divisions of public national register</b>
Nursing and Midwifery Board of Australia	Register of Nurses  Register of Midwives	Registered nurses (Division 1), Enrolled nurses (Division 2)
Occupational Therapy Board of Australia	Register of Occupational Therapists	
Optometry Board of Australia	Register of Optometrists	
Osteopathy Board of Australia	Register of Osteopaths	
Pharmacy Board of Australia	Register of Pharmacists	
Physiotherapy Board of Australia	Register of Physiotherapists	
Podiatry Board of Australia	Register of Podiatrists	
Psychology Board of Australia	Register of Psychologists	

### **223—Specialists Registers**

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

- (a) a public national specialists register that includes the names of all specialist health practitioners currently registered by the Board; and
- (b) a public national register that includes the names of all specialist health practitioners whose registration has been cancelled by an adjudication body.

### **224—Way registers are to be kept**

Subject to this Division, a register a National Board is required to keep under this Division must be kept—

- (a) in a way that ensures it is up-to-date and accurate; and
- (b) otherwise in the way the National Agency considers appropriate.

### **225—Information to be recorded in National Register**

A National Register or Specialists Register must include the following information for each registered health practitioner whose name is included in the register—

- (a) the practitioner's sex;
- (b) the suburb and postcode of the practitioner's principal place of practice;
- (c) the registration number or code given to the practitioner by the National Board;
- (d) the date on which the practitioner was first registered in the health profession in Australia, whether under this Law or a corresponding prior Act;
- (e) the date on which the practitioner's registration expires;
- (f) the type of registration held by the practitioner;
- (g) if the register includes divisions, the division in which the practitioner is registered;

- (h) if the practitioner holds specialist registration, the recognised specialty in which the practitioner is registered;
- (i) if the practitioner holds limited registration, the purpose for which the practitioner is registered;
- (j) if the practitioner has been reprimanded, the fact that the practitioner has been reprimanded;
- (k) if a condition has been imposed on the practitioner's registration or the National Board has entered into an undertaking with the practitioner—
  - (i) if section 226(1) applies, the fact that a condition has been imposed or an undertaking accepted; or
  - (ii) otherwise, details of the condition or undertaking;
- (l) if the practitioner's registration is suspended, the fact that the practitioner's registration has been suspended and, if the suspension is for a specified period, the period during which the suspension applies;
- (m) if the practitioner's registration has been endorsed, details of the endorsement;
- (n) details of any qualifications relied on by the practitioner to obtain registration or to have the practitioner's registration endorsed;
- (o) if the practitioner has advised the National Board the practitioner fluently speaks a language other than English, details of the other language spoken;
- (p) any other information the National Board considers appropriate.

**226—National Board may decide not to include or to remove certain information in register**

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

**227—Register about former registered health practitioners**

A register kept by a National Board under section 222(2) or 223(b) must include the following information for each health practitioner whose registration was cancelled by an adjudication body—

- (a) the fact that the practitioner's registration was cancelled by an adjudication body;
- (b) the grounds on which the practitioner's registration was cancelled;
- (c) if the adjudication body's hearing of the matter was open to the public, details of the conduct that formed the basis of the cancellation.

**228—Inspection of registers**

- (1) The National Agency—
  - (a) must keep each register kept by a National Board under this Division open for inspection, free of charge, by members of the public—
    - (i) at its national office and each of its local offices during ordinary office hours; and
    - (ii) on the Agency's website; and
  - (b) must give a person an extract from the register on payment of the relevant fee; and
  - (c) may give a person a copy of the register on payment of the relevant fee.
- (2) The National Agency may give a person a copy of the register under subsection (1)(c) only if the Agency is satisfied it would be in the public interest to do so.
- (3) The National Agency may waive, wholly or partly, the payment of a fee by a person under subsection (1)(b) or (c) if the Agency considers it appropriate in the circumstances.

**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 program of study being undertaken by the student;

- (f) the date on which the student was first registered, whether under this law or a corresponding prior Act;
- (g) the date on which the student started the approved program of study;
- (h) the date on which the student is expected to complete the approved program of study;
- (i) if the student has completed or otherwise ceased to be enrolled in the approved program of study, the date of the completion or cessation;
- (j) if a condition has been imposed on the student's registration, details of the condition;
- (k) if the Board accepts an undertaking from the student, details of the undertaking;
- (l) any other information the Board considers appropriate.

## **Division 5—Other records**

### **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
  - (b) provide that the Ombudsman Act applies under subsection (1) as if an amendment to the Ombudsman 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—

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

### **236—Protection from personal liability for persons exercising functions**

- (1) A protected person is not personally liable for anything done or omitted to be done in good faith—
- (a) in the exercise of a function under this Law; or
  - (b) in the reasonable belief that the act or omission was the exercise of a function under this Law.
- (2) Any liability resulting from an act or omission that would, but for subsection (1), attach to a protected person attaches instead to the National Agency.

- (3) In this section—

*protected person* means any of the following—

- (a) a member of the Advisory Council;
- (b) a member of the Agency Management Committee;
- (c) a member of a National Board or a committee of the National Board;
- (d) a member of an external accreditation entity;
- (e) a member of the staff of the National Agency;
- (f) a consultant or contractor engaged by the National Agency;
- (g) a person appointed by the National Agency to conduct an examination or assessment for a National Board;
- (h) a person employed or engaged by an external accreditation entity to assist it with its accreditation function.

### **237—Protection from liability for persons making notification or otherwise providing information**

- (1) This section applies to a person who, in good faith—
- (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.
- (2) An inspector holds office on the conditions stated in the instrument of appointment.
- (3) If an inspector's appointment provides for a term of appointment, the inspector ceases holding office at the end of the term.
- (4) An inspector may resign by signed notice of resignation given to the National Board that appointed the inspector.

### **240—Identity card**

- (1) A National Board must give an identity card to each inspector it appoints.
- (2) The identity card must—
  - (a) contain a recent photograph of the inspector; and
  - (b) be signed by the inspector; and
  - (c) identify the person as an inspector appointed by the National Board; and
  - (d) include an expiry date.
- (3) This section does not prevent the issue of a single identity card to a person—
  - (a) if the person is appointed as an inspector for this Law by more than one National Board; or
  - (b) if the person is appointed as an inspector and investigator for this Law by a National Board; or
  - (c) for this Law and other Acts.

- (4) A person who ceases to be an inspector must give the person's identity card to the National Board that appointed the person within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.

### **241—Display of identity card**

- (1) An inspector may exercise a power in relation to someone else (the *other person*) only if the inspector—
  - (a) first produces the inspector's identity card for the other person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

## **Division 3—Legal proceedings**

### **242—Proceedings for offences**

A proceeding for an offence against this Law is to be by way of a summary proceeding before a court of summary jurisdiction.

### **243—Conduct may constitute offence and be subject of disciplinary proceedings**

- (1) If a person's behaviour constitutes an offence against this Law or another Act and constitutes professional misconduct, unsatisfactory professional performance or unprofessional conduct under this Law—
  - (a) the fact that proceedings for an offence have been taken in relation to the behaviour does not prevent proceedings being taken before an adjudication body under this Law for the same behaviour; and
  - (b) the fact that proceedings have been taken before an adjudication body under this Law in relation to the conduct does not prevent proceedings for an offence being taken for the same behaviour.
- (2) If a person's behaviour may be dealt with by a health complaints entity under the law of a participating jurisdiction and constitutes professional misconduct, unsatisfactory professional performance or unprofessional conduct under this Law—
  - (a) the fact that the behaviour has been dealt with by the health complaints entity does not prevent proceedings being taken before an adjudication body under this Law for the same behaviour; and
  - (b) the fact that proceedings have been taken before an adjudication body under this Law in relation to the behaviour does not prevent action being taken by the health complaints entity under the law of the participating jurisdiction for the same behaviour.

### **244—Evidentiary certificates**

A certificate purporting to be signed by the chief executive officer of the National Agency and stating any of the following matters is prima facie evidence of the matter—

- (a) a stated document is one of the following things made, given, issued or kept under this Law—
  - (i) an appointment, approval or decision;

- (ii) a notice, direction or requirement;
  - (iii) a certificate of registration;
  - (iv) a register, or an extract from a register;
  - (v) a record, or an extract from a record;
- (b) a stated document is another document kept under this Law;
  - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b);
  - (d) on a stated day, or during a stated period, a stated person was or was not a registered health practitioner or a student;
  - (e) on a stated day, or during a stated period, a registration or endorsement was or was not subject to a stated condition;
  - (f) on a stated day, a registration was suspended or cancelled;
  - (g) on a stated day, or during a stated period, an appointment as an investigator or inspector was, or was not, in force for a stated person;
  - (h) on a stated day, a stated person was given a stated notice or direction under this Law;
  - (i) on a stated day, a stated requirement was made of a stated 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) The regulations are to be published by the Victorian Government Printer in accordance with the arrangements for the publication of the making of regulations in Victoria.
- (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).
- (5) In this section—

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

### **246—Parliamentary scrutiny of national regulations**

- (1) A regulation made under this Law may be disallowed in a participating jurisdiction by a House of the Parliament of that jurisdiction—
  - (a) in the same way that a regulation made under an Act of that jurisdiction may be disallowed; and
  - (b) as if the regulation had been tabled in the House on the first sitting day after the regulation was published by the Victorian Government Printer.
- (2) A regulation disallowed under subsection (1) does not cease to have effect in the participating jurisdiction, or any other participating jurisdiction, unless the regulation is disallowed in a majority of the participating jurisdictions.

- (3) If a regulation is disallowed in a majority of the participating jurisdictions, it ceases to have effect in all participating jurisdictions on the date of its disallowance in the last of the jurisdictions forming the majority.
- (4) In this section—  
*regulation* includes a provision of a regulation.

### **247—Effect of disallowance of national regulation**

- (1) The disallowance of a regulation in a majority of jurisdictions has the same effect as a repeal of the regulation.
- (2) If a regulation ceases to have effect under section 246 any law or provision of a law repealed or amended by the regulation is revived as if the disallowed regulation had not been made.
- (3) The restoration or revival of a law under subsection (2) takes effect at the beginning of the day on which the disallowed regulation by which it was amended or repealed ceases to have effect.
- (4) In this section—  
*regulation* includes a provision of a regulation.

## **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
- (b) waive, in whole or in part, a relevant fee payable for a service provided by the Board; or
- (c) require a person who pays a relevant fee late to pay an additional fee.

## **Part 12—Transitional provisions**

### **Division 1—Preliminary**

#### **250—Definitions**

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* of Queensland.

## **251—References to registered health practitioners**

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

## **Division 2—Ministerial Council**

### **252—Directions given by Ministerial council**

A direction given by the Ministerial Council to the National Agency or a National Board under the repealed Law, and in force immediately before the commencement day, is taken from the commencement day to be a direction given by the Ministerial Council under this Law.

### **253—Accreditation functions exercised by existing accreditation entities**

- (1) This section applies to an entity that, immediately before the commencement day, was an entity appointed by the Ministerial Council under the repealed Law to exercise functions with respect to accreditation for a health profession under the national registration and accreditation scheme.
- (2) From the commencement day, the entity is taken to have been appointed under this Law to exercise the functions for the health profession.
- (3) An accreditation standard approved by the entity for a health profession, and in force immediately before the commencement day, is taken to be an approved accreditation standard for the health profession under this Law.

- (4) The National Board established for the health profession must, not later than 3 years after the commencement day, review the arrangements for the exercise of accreditation functions for the health profession.
- (5) The National Board must ensure the process for the review includes wide-ranging consultation about the arrangements for the exercise of the accreditation functions.
- (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.

#### **254—Health profession standards approved by Ministerial Council**

A health profession standard approved by the Ministerial Council under the repealed Law is taken from the commencement day to be an approved registration standard under this Law.

#### **255—Accreditation standards approved by National Board**

An accreditation standard approved by a National Board under the repealed Law is taken from the commencement day to be an approved accreditation standard under this Law.

### **Division 3—Advisory Council**

#### **256—Members of Advisory Council**

- (1) A person who was, immediately before the commencement day, a member of the Australian Health Workforce Advisory Council under the repealed Law is taken to be a member of the Advisory Council under this Law.
- (2) Without limiting subsection (1), a member of the Advisory Council continues to hold office—
  - (a) on the same terms and conditions that applied to the member's appointment under the repealed Law; and
  - (b) until the day the member's term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.
- (3) The person who, immediately before the commencement day, held office as Chairperson of the Australian Health Workforce Advisory Council under the repealed Law continues to hold office as Chairperson of the Advisory Council under this Law.

### **Division 4—National Agency**

#### **257—Health profession agreements**

From the commencement day, a health profession agreement entered into by the Australian Health Practitioner Regulation Agency and in force immediately before the commencement day is taken to be a health profession agreement entered into by the National Agency under this Law.

#### **258—Service agreement**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction—
  - (a) a local registration authority in that jurisdiction exercised functions in relation to related health professionals; or

- (b) a local registration authority in that jurisdiction was a party to a service agreement for an entity to provide administrative or operational support to the authority and the entity also provided support under a service agreement to an authority that registers related health professionals.
- (2) From the participation day for the participating jurisdiction, the National Agency may enter into an agreement with the authority that is responsible for registering the related health professionals to provide services to the authority.
- (3) In this section—  
*related health professionals* means persons who practise a profession providing health services that is not a health profession under this Law.

## **Division 5—Agency Management Committee**

### **259—Members of Agency Management Committee**

- (1) A person who was, immediately before the commencement day, a member of the Australian Health Practitioner Regulation Agency Management Committee under the repealed Law is taken to be a member of the Agency Management Committee appointed under this Law.
- (2) Without limiting subsection (1), a member of the Agency Management Committee continues to hold office—
  - (a) on the same terms and conditions that applied to the person’s appointment under the repealed Law; and
  - (b) until the day the member’s term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.
- (3) The person who, immediately before the commencement day, held office as Chairperson of the Australian Health Practitioner Regulation Agency Management Committee under the repealed Law continues to hold office as Chairperson of the Agency Management Committee under this Law.

## **Division 6—Staff, consultants and contractors of National Agency**

### **260—Chief executive officer**

The person who, immediately before the commencement day, held office as chief executive officer of the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been appointed as the chief executive officer of the National Agency under this Law on the same terms and conditions that applied to the person’s appointment under the repealed Law.

### **261—Staff**

- (1) A person who, immediately before the commencement day, was employed by the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been employed by the National Agency under this Law.
- (2) A secondment arrangement in force immediately before the commencement day is taken, from the commencement day, to have been made by the National Agency under this Law.

- (3) In this section—

*secondment arrangement* means an arrangement made under the repealed Law by the Australian Health Practitioner Regulation Agency for the services of any staff of a government agency of a participating jurisdiction or the Commonwealth.

## **262—Consultants and contractors**

A person who, immediately before the commencement day, was a consultant or contractor engaged by the Australian Health Practitioner Regulation Agency under the repealed Law is taken, from the commencement day, to have been engaged by the National Agency under this Law.

## **Division 7—Reports**

### **263—Annual report**

Sections 35 and 36 of the repealed Law continue to apply to the preparation and submission of the first annual report of the Australian Health Practitioner Regulation Agency as if this Law had not commenced.

## **Division 8—National Boards**

### **264—Members of National Boards**

- (1) A person who was, immediately before the commencement day, a member of a National Health Practitioner Board under the repealed Law is taken to be a member of the National Board of the same name under this Law.
- (2) Without limiting subsection (1), a member of a National Board holds office—
  - (a) on the same terms and conditions that applied to the person's appointment under the repealed Law; and
  - (b) until the day the member's term of appointment under the repealed Law would have ended or the earlier day the member otherwise vacates office under this Law.
- (3) A person who, immediately before the commencement day, held office as Chairperson of a National Health Practitioner Board is taken, from the commencement day, to hold office as Chairperson of the National Board of the same name.

### **265—Committees**

- (1) From the commencement day, a committee established by a National Health Practitioner Board under the repealed Law and in existence immediately before the commencement day is taken to be a committee established under this Law by the National Board of the same name.
- (2) A person who, immediately before the commencement day, held office as a member of a committee established by a National Health Practitioner Board under the repealed Law is taken, from the commencement day, to hold office as a member of the committee as continued in existence under subsection (1).

## 266—Delegation

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

## Division 9—Agency Fund

### 267—Agency Fund

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

## Division 10—Offences

### 268—Offences

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

## Division 11—Registration

### 269—General registration

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held general registration (however described) in a health profession under the law of that jurisdiction.
- (2) From the participation day, the person is taken to hold general registration under this Law in the health profession.
- (3) In this section—

*general registration* includes—

  - (a) full registration, unconditional registration and registration without conditions; and
  - (b) enrolment, unconditional enrolment and enrolment without conditions.

### 270—Specialist registration

- (1) This section applies if—
  - (a) immediately before the participation day for a participating jurisdiction, a person was a specialist health practitioner in a specialty in a health profession under the law of that jurisdiction; and
  - (b) from the participation day—

- (i) the specialty is a recognised specialty in the health profession under this Law; or
  - (ii) a recognised specialty in the health profession under this Law includes, or is equivalent to, the specialty.
- (2) From the participation day, the person is taken to hold specialist registration in the recognised specialty in the health profession under this Law.

- (3) In this section—

*corresponding purpose* means a purpose that is equivalent to, or substantially equivalent to, a purpose for which limited registration may be granted under this Law.

*specialist health practitioner*, in a specialty in a health profession, means a person who held specialist registration in, or was endorsed or otherwise authorised to practise, the specialty in the health profession but does not include a person who held registration to practise the profession only for a corresponding purpose.

### **271—Provisional registration**

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

### **272—Limited registration**

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held a type of registration (however described) in a health profession under the law of that jurisdiction that was granted for the practice of the health profession only for a corresponding purpose.
- (2) From the participation day, the person is taken to hold limited registration in the health profession for that purpose under this Law.
- (3) In this section—

*corresponding purpose* means a purpose that is equivalent to, or substantially equivalent to, a purpose for which limited registration may be granted under this Law.

### **273—Limited registration (public interest-occasional practice)**

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held a type of registration (however described) in a health profession under the law of that jurisdiction that was granted—
  - (a) subject to the following conditions limiting the scope of the person's practise of the profession—
    - (i) the person must not practise the profession other than—
      - (A) to refer a person to another registered health practitioner; or
      - (B) to prescribe scheduled medicines in specified circumstances; and
    - (ii) the person must not receive a fee or other benefit for providing a service referred to in subparagraph (i); or

- (b) on the basis the person had indicated the person was retired from regular practise and intended only to practise on an occasional basis.
- (2) From the participation day, the person is taken to hold limited registration in the public interest under this Law for the limited scope that applied to the person's practise of the health profession immediately before the participation day.

#### **274—Non-practising registration**

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction, held a type of registration (however described) in a health profession under the law of that jurisdiction that was granted subject to the condition that the person must not practise the profession.
- (2) From the participation day, the person is taken to hold non-practising registration in the health profession under this Law.

#### **275—Registration for existing registered students**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, a person held registration as a student in a health profession under the law of that jurisdiction.
- (2) From the participation day, the person is taken to hold student registration in the health profession under this Law.

#### **276—Registration for new students**

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

#### **277—Other registrations**

- (1) This section applies if—
  - (a) immediately before the participation day for a participating jurisdiction, a class of persons held a type of registration in, or was endorsed or otherwise authorised to practise, a health profession under the law of that jurisdiction; and
  - (b) from the participation day, persons in that class are not registered, endorsed or otherwise authorised to practise the profession by another provision of this Division.
- (2) From the participation day, persons in that class are taken to hold the type of registration in the health profession that is specified for the class of persons in the registration transition plan prepared under subsection (3) by the National Board established for that profession.

- (3) Before the participation day, each National Board must prepare a registration transition plan that includes details of the type of registration that is to be held under this Law by a class of persons referred to in subsection (1).
- (4) In preparing a registration transition plan, a National Board must—
  - (a) comply with any directions given by the Ministerial Council that are relevant to the transitional arrangements for the registration of the class of persons; and
  - (b) have regard to the principle that persons in the class are to be given the widest possible scope of practice of the profession that is consistent with—
    - (i) the authority the class of persons had to practise the profession before the participation day; and
    - (ii) the protection of the safety of the public.

### **278—Endorsements**

- (1) This section applies to a person who, immediately before the participation day for a participating jurisdiction—
  - (a) held a type of registration in that jurisdiction in a health profession for a corresponding purpose; or
  - (b) held general registration in that jurisdiction in a health profession that had been endorsed for a corresponding purpose.
- (2) From the participation day, the person is taken to hold general registration in the health profession that has been endorsed under this Law for the purpose that is equivalent to, or substantially equivalent to, the corresponding purpose.
- (3) In this section—

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

### **279—Conditions imposed on registration or endorsement**

- (1) This section applies if—
  - (a) a person is taken to be registered under this Law, or the person's registration under this Law is taken to be endorsed, because of the person's registration or endorsement under the law of a participating jurisdiction before the participation day for the jurisdiction; and
  - (b) the person's registration or endorsement under the law of that jurisdiction was, immediately before the participation day, subject to a condition—
    - (i) whether described as a condition, restriction or otherwise; and
    - (ii) whether imposed by or under an Act of that jurisdiction.
- (2) From the participation day, the person's registration or endorsement under this Law is taken to be subject to the same condition.

### **280—Expiry of registration and endorsement**

- (1) This section applies if, under this Division, a person is taken to be registered under this Law because of the person's registration or endorsement under the law of a participating jurisdiction.

- (2) The person's registration, and any endorsement of the registration, expires on—
- (a) if the person was registered in more than one participating jurisdiction, the end of the latest day on which under the law of a participating jurisdiction—
    - (i) any of the registrations would have expired; or
    - (ii) an annual registration fee for any of the registrations would have become payable; or
  - (b) otherwise, at the end of the day on which under the law of the participating jurisdiction—
    - (i) the registration would have expired; or
    - (ii) an annual registration fee for the registration would have become payable.
- (3) Subsection (2) does not prevent a National Board suspending or cancelling the person's registration under this Law.

### **281—Protected titles for certain specialist health practitioners**

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

### **282—First renewal of registration or endorsement**

- (1) This section applies if—
- (a) a health practitioner's registration or endorsement expires under section 280; and
  - (b) the National Board decides to renew the health practitioner's registration or endorsement under section 112.
- (2) Despite section 112(6), the National Board may decide that the period for which the registration or endorsement is renewed is a period of not more than 2 years.

### **283—Programs of study**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, a program of study provided a qualification for registration in a health profession in that jurisdiction.

- (2) From the participation day, the program of study is taken to be an approved program of study for that health profession as if it had been approved under this Law.
- (3) The National Agency must, as soon as practicable after the participation day, include an approved program of study under subsection (2) in the list published under section 49(5).

#### **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 practise occurs in a participating jurisdiction in which, immediately before the participation day for that jurisdiction, a person was not prohibited from attending homebirths in the course of practising midwifery unless professional indemnity insurance arrangements were in place; and
  - (b) informed consent has been given by the woman in relation to whom the midwife is practising private midwifery; and
  - (c) the midwife complies with any requirements set out in a code or guideline approved by the National Board under section 39 about the practise of private midwifery, including—
    - (i) any requirement in a code or guideline about reports to be provided by midwives practising private midwifery; and
    - (ii) any requirement in a code or guideline relating to the safety and quality of the practise of private midwifery.
- (2) A midwife who practises private midwifery under this section is not required to include in an annual statement under section 109 a declaration required by subsection (1)(a)(iv) and (v) of that section in relation to the midwife's practise of private midwifery during a period of registration that is within the transition period.
- (3) For the purposes of this section, the transition period—
  - (a) starts on 1 July 2010; and
  - (b) ends on the prescribed day.
- (4) If the National Board decides appropriate professional indemnity arrangements are available in relation to the practice of private midwifery, the Board may recommend to the Ministerial Council that the transition period, and the exemption provided by this section during the transition period, should end.
- (5) In this section—

**homebirth** means a birth in which the mother gives birth at her own home or another person's home.

**informed consent** means written consent given by a woman after she has been given a written statement by a midwife that includes—

- (a) a statement that appropriate professional indemnity insurance arrangements will not be in force in relation to the midwife's practise of private midwifery; and
- (b) any other information required by the National Board.

**midwife** means a person whose name is included in the Register of Midwives kept by the National Board.

*National Board* means the Nursing and Midwifery Board of Australia.

*private midwifery* means practising the nursing and midwifery profession—

- (a) in the course of attending a homebirth; and
- (b) without appropriate professional indemnity insurance arrangements being in force in relation to that practise; and
- (c) other than as an employee of an entity.

*transition period* means the period referred to in subsection (3).

## **Division 12—Applications for registration and endorsement**

### **285—Applications for registration**

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

### **286—Applications for endorsement**

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

### **287—Disqualifications and conditions relevant to applications for registration**

- (1) This section applies if—
  - (a) under a corresponding prior Act or another law of a participating jurisdiction, a person's registration in a health profession had been cancelled in that jurisdiction by an entity; and
  - (b) in cancelling the person's registration the entity also made any of the following decisions—
    - (i) a decision to set a period during which the person was disqualified from applying for registration, or being registered, in a health profession in the participating jurisdiction;
    - (ii) a decision to set conditions under which the person might reapply for registration in the profession;
    - (iii) a decision to set conditions that must be imposed on any future registration of the person in the profession; and
  - (c) immediately before the participation day, the decision was still in force.
- (2) From the participation day, the decision continues as if it had been made under this Law by the responsible tribunal for the participating jurisdiction.

## **Division 13—Complaints, notifications and disciplinary proceedings**

### **288—Complaints and notifications made but not being dealt with on participation day**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, a local registration authority for the jurisdiction had received but not started dealing with a complaint or notification about a person registered in a health profession by the authority.
- (2) From the participation day, the complaint or notification is taken to be a notification made under this Law to the National Agency.
- (3) This section does not apply to a co-regulatory jurisdiction.

### **289—Complaints and notifications being dealt with on participation day**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, a local registration authority for the jurisdiction had started but not completed dealing with a complaint or notification about a person registered in a health profession by the authority.
- (2) From the participation day—
  - (a) the complaint or notification is taken to be a notification made under this Law and is to be dealt with by the National Board for the health profession; and
  - (b) the notification is to continue to be dealt with under the Act of the participating jurisdiction under which it was made, and any proceedings or appeal relating to the notification may be dealt with, as if that Act had not been repealed.
- (3) For the purposes of this section, the Act of the participating jurisdiction applies—
  - (a) as if a reference to the local registration authority were a reference to the National Board; and
  - (b) with any other changes that are necessary or convenient.
- (4) The National Board must give effect to a decision made on an inquiry, investigation, proceeding or appeal completed under the Act of the participating jurisdiction as if it were a decision under this Law.
- (5) This section does not apply to a co-regulatory jurisdiction.

### **290—Effect of suspension**

- (1) This section applies if—
  - (a) because of another provision of this Part, a person is taken to be registered under this Law; and
  - (b) immediately before the participation day for the participating jurisdiction in which the person was registered under a corresponding prior Act, the person's registration was suspended under a law of that jurisdiction.
- (2) From the participation day, the person's registration is taken to have been suspended under this Law.

### **291—Undertakings and other agreements**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, an undertaking or other agreement between a person registered under a corresponding prior Act and the local registration authority for a health profession was in force.
- (2) From the participation day, the undertaking or other agreement is taken to have been entered into under this Law between the person and the National Board established for the health profession.

### **292—Orders**

- (1) This section applies if—
  - (a) under a corresponding prior Act of a participating jurisdiction, an adjudication body had, at the end of a proceeding before the adjudication body about a health practitioner's practice or conduct, ordered the health practitioner to do, or refrain from doing, something; and
  - (b) immediately before the participation day, the order was still in force.
- (2) From the participation day, the order continues in force as if it had been made under this Law.
- (3) In this section—

*adjudication body* means a court, tribunal, panel or local registration authority.

### **293—List of approved persons**

- (1) This section applies if, immediately before the participation day for a participating jurisdiction, a person was appointed as a member of a list of persons approved to be appointed as members of a body that exercised functions that correspond to a panel for a health profession.
- (2) From the participation day, the person is taken to have been appointed by the National Board established for the health profession to the list kept by that Board under section 183.

## **Division 14—Local registration authority**

### **294—Definition**

In this Division—

*transfer 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.

**295—Assets and liabilities**

- (1) From the transfer day for a participating jurisdiction—
  - (a) the assets and liabilities of a local registration authority for a health profession in a participating jurisdiction are taken to be assets and liabilities of the National Agency and are to be paid into or out of the account kept in the Agency Fund for the National Board established for the profession; and
  - (b) any contract, other than an employment contract, entered into by or on behalf of the local registration authority and all guarantees, undertakings and securities given by or on behalf of the authority, in force immediately before the participation day, are taken to have been entered into or given by or to the National Agency and may be enforced against or by the Agency; and
  - (c) any property that, immediately before the participation day, was held on trust, or subject to a condition, by the local registration authority continues to be held by the National Agency on the same trust, or subject to the same condition and is to be paid into the account kept in the Agency Fund for the National Board.
- (2) In this section—

*employment contract* means either of the following under which a person is employed—

  - (a) a contract of employment;
  - (b) a contract for services.

**296—Records relating to registration and accreditation**

- (1) This section applies to a record of a local registration authority for a health profession in a participating jurisdiction that relates to the authority's functions in relation to the following—
  - (a) the registration of individuals;
  - (b) complaints and notifications about, and proceedings against, individuals who are or were registered;
  - (c) accreditation of courses that qualify individuals for registration.
- (2) From the transfer day for the participating jurisdiction, the record is taken to be a record of the National Board for the health profession.

**297—Financial and administrative records**

- (1) This section applies to a record of a local registration authority in a participating jurisdiction that relates to the authority's financial or administrative functions.
- (2) From the transfer day for the participating jurisdiction, the record is taken to be a record of the National Agency.

**298—Pharmacy businesses and premises**

Sections 295 to 297 do not apply to an asset, liability, contract, property or record of a local registration authority that relates to the regulation of a pharmacy business, pharmacy premises, a pharmacy department or any other pharmacy-related entity that is not an individual.

**299—Members of local registration authority**

- (1) This section applies if, in anticipation of a jurisdiction becoming a participating jurisdiction, a National Board established for a health profession establishes a State or Territory Board for the jurisdiction.
- (2) A person who, immediately before the State or Territory Board was established, was a member of the local registration authority for the profession in the participating jurisdiction is taken to be a member of the State or Territory Board.
- (3) Section 36(5) and (6) do not apply to the membership of a State or Territory Board for a jurisdiction for 12 months after the jurisdiction becomes a participating jurisdiction.

**Note—**

Section 36(5) and (6) provide requirements for the number of practitioner members and community members required by a State or Territory Board.

**Division 15—Staged commencement for certain health professions****300—Application of Law to relevant health profession between commencement and 1 July 2012**

- (1) This Law does not apply with respect to a relevant health profession during the period starting on the commencement day and ending on 30 June 2011.
- (2) The following Parts of this Law do not apply with respect to a relevant health profession during the period starting on 1 July 2011 and ending on 30 June 2012—
  - (a) Part 7, other than Division 10;
  - (b) Part 8 to Part 11.
- (3) Despite subsection (2)(a), a person does not commit an offence against a provision of Division 10 of Part 7 merely because, before 1 July 2012, the person—
  - (a) takes or uses a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate that the person is authorised or qualified to practise in a relevant health profession; or
  - (b) uses a title that is listed in the Table to section 113 opposite a relevant health profession.

**301—Ministerial Council may appoint external accreditation entity**

- (1) The Ministerial Council may appoint an entity, other than a committee established by a National Board, to exercise an accreditation function for a relevant health profession.
- (2) Without limiting subsection (1), an entity that accredited courses for the purposes of registration in a relevant health profession under a corresponding prior Act may be appointed to exercise an accreditation function for the profession under this Law.
- (3) The National Board established for the health profession must, not later than 1 July 2015, review the arrangements for the exercise of the accreditation functions for the health profession.
- (4) The National Board must ensure the process for the review includes wide-ranging consultation about the arrangements for the exercise of the accreditation functions.

- (5) If an entity is appointed under subsection (1) to exercise an accreditation function for a health profession, the National Board established for the profession must not, before 1 July 2015, end that entity's appointment.

### **302—Application of Law to appointment of first National Board for relevant professions**

Despite section 34(2), a person is eligible for appointment as a practitioner member of the first National Board for a relevant health profession if the person—

- (a) is registered in the profession under a law of a participating jurisdiction; or
- (b) holds a qualification that entitles the person to registration in the profession under a law of a participating jurisdiction; or
- (c) is otherwise eligible to apply for or hold registration in the profession under the law of a participating jurisdiction.

### **303—Qualifications for general registration in relevant profession**

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

### **304—Relationship with other provisions of Law**

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

## **Division 16—Savings and transitional regulations**

### **305—Savings and transitional regulations**

- (1) The regulations may contain provisions (*savings and transitional provisions*) of a savings or transitional nature—
- (a) consequent on the enactment of this Law in a participating jurisdiction; or
  - (b) to otherwise allow or facilitate the change from the operation of a law of the participating jurisdiction relating to health practitioners to the operation of this Law.
- (2) Savings and transitional provisions may have retrospective operation to a day not earlier than the participation day for that participating jurisdiction.
- (3) This section and any savings and transitional provisions expire on 30 June 2015.

## Schedule 1—Constitution and procedure of Advisory Council

(Section 22)

### Part 1—General

#### 1—Definitions

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 the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or
  - (b) the member ceases to be a registered health practitioner as a result of the member's misconduct, impairment or incompetence; or
  - (c) the Advisory Council recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member's functions as a member.
- (3) In addition, the Chairperson of the Ministerial Council may remove the Chairperson of the Advisory Council from office as a member if the Chairperson of the Advisory Council becomes a registered health practitioner.

## **5—Extension of term of office during vacancy in membership**

- (1) If the office of a member becomes vacant because the member has completed the member's term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) However, this clause ceases to apply to the member if—
  - (a) the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or
  - (b) the Chairperson of the Ministerial Council determines that the services of the member are no longer required.
- (3) The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months.

## **6—Disclosure of conflict of interest**

- (1) If—
  - (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the Advisory Council; and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Council.

- (2) Particulars of any disclosure made under this clause must be recorded by the Advisory Council in a book kept for the purpose.
- (3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Ministerial Council or the Advisory Council otherwise determines—
  - (a) be present during any deliberation of the Advisory Council with respect to the matter; or
  - (b) take part in any decision of the Advisory Council with respect to the matter.
- (4) For the purposes of the making of a determination by the Advisory Council under subclause (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—
  - (a) be present during any deliberation of the Advisory Council for the purpose of making the determination; or
  - (b) take part in the making of the determination by the Advisory Council.
- (5) A contravention of this clause does not invalidate any decision of the Advisory Council.

## **Part 3—Procedure**

### **7—General procedure**

The procedure for the calling of meetings of the Advisory Council and for the conduct of business at those meetings is, subject to this Law, to be as determined by the Advisory Council.

## 8—Quorum

The quorum for a meeting of the Advisory Council is a majority of its members for the time being.

## 9—Presiding member

The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Advisory Council who are present at a meeting of the Advisory Council) is to preside at a meeting of the Advisory Council.

## 10—Transaction of business outside meetings or by telecommunication

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

## 11—First meeting

The Chairperson may call the first meeting of the Advisory Council in any manner the Chairperson thinks fit.

# Schedule 2—Agency Management Committee

(Section 29)

## Part 1—General

### 1—Definitions

In this Schedule—

*Chairperson* means the Chairperson of the Committee.

*Committee* means the Agency Management Committee.

*member* means a member of the Committee.

## **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 Committee, from 3 or more consecutive meetings of the Committee of which reasonable notice has been given to the member personally or by post; or
  - (e) 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 the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or
  - (b) the member ceases to be a registered health practitioner as a result of the member's misconduct, impairment or incompetence; or
  - (c) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit; or
  - (d) the Committee recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member's functions as a member.
- (3) In addition, the Chairperson of the Ministerial Council may remove the Chairperson of the Committee from office as a member if the Chairperson of the Committee becomes a registered health practitioner.

### **5—Vacancies to be advertised**

- (1) Before the Ministerial Council appoints a member of the Committee, the vacancy to be filled is to be publicly advertised.
- (2) It is not necessary to advertise a vacancy in the membership of the Committee before appointing a person to act in the office of a member.

**Note—**

The general interpretation provisions applicable to this Law under section 6 confer power to appoint acting members of the Agency Management Committee.

**6—Extension of term of office during vacancy in membership**

- (1) If the office of a member becomes vacant because the member has completed the member's term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) However, this clause ceases to apply to the member if—
  - (a) the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or
  - (b) the Chairperson of the Ministerial Council determines that the services of the member are no longer required.
- (3) The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months.

**7—Members to act in public interest**

- (1) A member of the Committee is to act impartially and in the public interest in the exercise of the member's functions as a member.
- (2) Accordingly, a member of the Committee is to put the public interest before the interests of particular health practitioners or any body or organisation that represents health practitioners.

**8—Disclosure of conflict of interest**

- (1) If—
  - (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the Committee; and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.

- (2) Particulars of any disclosure made under this clause must be recorded by the Committee in a book kept for the purpose.
- (3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Ministerial Council or the Committee otherwise determines—
  - (a) be present during any deliberation of the Committee with respect to the matter; or
  - (b) take part in any decision of the Committee with respect to the matter.
- (4) For the purposes of the making of a determination by the Committee under subclause (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—
  - (a) be present during any deliberation of the Committee for the purpose of making the determination; or
  - (b) take part in the making of the determination by the Committee.
- (5) A contravention of this clause does not invalidate any decision of the Committee.

## **Part 3—Procedure**

### **9—General procedure**

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Law, to be as determined by the Committee.

### **10—Quorum**

The quorum for a meeting of the Committee is a majority of its members for the time being.

### **11—Chief executive officer may attend meetings**

The chief executive officer of the National Agency may attend meetings of the Committee and may participate in discussions of the Committee, but is not entitled to vote at a meeting.

### **12—Presiding member**

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

### **13—Voting**

A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

### **14—Transaction of business outside meetings or by telecommunication**

- (1) The Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Committee.
- (2) The Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (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 Committee.
- (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.

### **15—First meeting**

The Chairperson may call the first meeting of the Committee in any manner the Chairperson thinks fit.

## **16—Defects in appointment of members**

A decision of the Committee is not invalidated by any defect or irregularity in the appointment of any member (or acting member) of the Committee.

## **Schedule 3—National Agency**

(Section 23)

### **Part 1—Chief executive officer**

#### **1—Chief executive officer**

- (1) The Agency Management Committee is to appoint a person as chief executive officer of the National Agency.
- (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.
- (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.

#### **2—Functions of chief executive officer**

- (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.
- (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.

#### **3—Delegation and subdelegation by chief executive officer**

- (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.
- (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.

#### **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.
- (2) The terms and conditions of engagement of consultants or contractors are as decided by the National Agency from time to time.

## **Part 3—Reporting obligations**

### **8—Annual report**

- (1) The National Agency must, within 3 months after the end of each financial year, submit an annual report for the financial year to the Ministerial Council.
- (2) The annual report must include—
  - (a) a financial statement for the National Agency, and each National Board, for the period to which the report relates; and
  - (b) a report about the Agency's performance of its functions under this Law during the period to which the annual report relates.
- (3) The financial statement is to be prepared in accordance with Australian Accounting Standards.
- (4) The financial statement is to be audited by a public sector auditor and a report is to be provided by the auditor.
- (5) The Ministerial Council is to make arrangements for the tabling of the annual report of the National Agency, and the report of the public sector auditor with respect to the financial statement in the report, in the Parliament of each participating jurisdiction and the Commonwealth.
- (6) The Ministerial Council may extend, or further extend, the period for submission of an annual report to the Council by a total period of up to 3 months.

- (7) In this clause—
- public sector auditor** means—
- (a) the Auditor-General (however described) of a participating jurisdiction; or
  - (b) an auditor employed, appointed or otherwise engaged by an Auditor-General of a participating jurisdiction.

## **9—Reporting by National Boards**

- (1) A National Board must, if asked by the National Agency, give the National Agency the information the National Agency requires to compile its annual report, including—
  - (a) a report about the National Board's performance of its functions under this Law during the period to which the annual report relates; and
  - (b) a statement of the income and expenditure of the National Board for the period to which the annual report relates, presented by reference to the budget of the National Board for that period.
- (2) The information provided by the National Board is to be incorporated in the relevant annual report for the National Agency.

## **Schedule 4—National Boards**

(Section 33)

### **Part 1—General**

#### **1—Definitions**

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
  - (e) 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 the Chairperson of the Ministerial Council, renders the member unfit to continue to hold the office of member; or
  - (b) the member ceases to be a registered health practitioner as a result of the member's misconduct, impairment or incompetence; or
  - (c) the member ceases to be eligible for appointment to the office that the member holds on the National Board; or
  - (d) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with member's creditors or makes an assignment of the member's remuneration for their benefit; or
  - (e) the National Board recommends the removal of the member, on the basis that the member has engaged in misconduct or has failed or is unable to properly exercise the member's functions as a member.

### **5—Vacancies to be advertised**

- (1) Before the Ministerial Council appoints a member of a National Board, the vacancy to be filled is to be publicly advertised.
- (2) The National Agency may assist the Ministerial Council in the process of appointing members of a National Board, including in the advertising of vacancies.
- (3) It is not necessary to advertise a vacancy in the membership of a National Board before appointing a person to act in the office of a member.

#### **Note—**

The general interpretation provisions applicable to this Law under section 6 confer power to appoint acting members of a National Board.

### **6—Extension of term of office during vacancy in membership**

- (1) If the office of a member becomes vacant because the member has completed the member's term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) However, this clause ceases to apply to the member if—
  - (a) the member resigns the member's office by instrument in writing addressed to the Chairperson of the Ministerial Council; or
  - (b) the Chairperson of the Ministerial Council determines that the services of the member are no longer required.

- (3) The maximum period for which a member is taken to continue to be a member under this clause after completion of the member's term of office is 6 months.

### **7—Members to act in public interest**

- (1) A member of a National Board is to act impartially and in the public interest in the exercise of the member's functions as a member.
- (2) Accordingly, a member of a National Board is to put the public interest before the interests of particular health practitioners or any entity that represents health practitioners.

### **8—Disclosure of conflict of interest**

- (1) If—
  - (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the National Board; and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the National Board.

- (2) Particulars of any disclosure made under this clause must be recorded by the National Board in a book kept for the purpose.
- (3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Ministerial Council or the National Board otherwise determines—
  - (a) be present during any deliberation of the National Board with respect to the matter; or
  - (b) take part in any decision of the National Board with respect to the matter.
- (4) For the purposes of the making of a determination by the National Board under subclause (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—
  - (a) be present during any deliberation of the National Board for the purpose of making the determination; or
  - (b) take part in the making of the determination by the National Board.
- (5) A contravention of this clause does not invalidate any decision of the National Board.
- (6) This clause applies to a member of a committee of a National Board and the committee in the same way as it applies to a member of the National Board and the National Board.

## **Part 3—Functions and powers**

### **9—Requirement to consult other National Boards**

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

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

## **10—Boards may obtain assistance**

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

## **11—Committees**

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

- (a) to develop registration standards for the health profession for which the Board is established;
- (b) to develop codes or guidelines for the health profession for which the Board is established;
- (c) to exercise any other functions of the Board or to provide assistance or advice to the Board in the exercise of its functions.

## **Part 4—Procedure**

### **12—General procedure**

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

### **13—Quorum**

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

### **14—Presiding member**

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

### **15—Voting**

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

### **16—Transaction of business outside meetings or by telecommunication**

- (1) The National Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the National Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the National Board.
- (2) The National Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

- (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 National Board.
- (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.

### **17—First meeting**

The Chairperson may call the first meeting of the National Board in any manner the Chairperson thinks fit.

### **18—Defects in appointment of members**

A decision of the National Board or of a committee of the National Board is not invalidated by any defect or irregularity in the appointment of any member (or acting member) of the National Board or of a committee of the National Board.

## **Schedule 5—Investigators**

(Section 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.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) A person 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.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (3) For the purposes of subclauses (1) and (2), it is a reasonable excuse for an individual to fail to give stated information, answer a question or to produce a document, if giving the information, answering the question or producing the document might tend to incriminate the individual.

### **3—Inspection of documents**

- (1) If a document is produced to an investigator, the investigator may—
- (a) inspect the document; and
  - (b) make a copy of, or take an extract from, the document; and
  - (c) keep the document while it is necessary for the investigation.
- (2) If the investigator keeps the document, the investigator must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the investigator.

## **Part 2—Power to enter places**

### **4—Entering places**

For the purposes of conducting an investigation, an investigator may enter a place if—

- (a) its occupier consents to the entry of the place; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant.

### **5—Application for warrant**

- (1) An investigator may apply to a magistrate of a participating jurisdiction for a warrant for a place.
- (2) The investigator must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

### **6—Issue of warrant**

- (1) The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting there is evidence about a matter being investigated by the investigator at the place.
- (2) The warrant must state—
- (a) that a stated investigator may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the investigator's powers under this Part; and

- (b) the matter for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

### 7—Application by electronic communication

- (1) An investigator may apply for a warrant by phone, facsimile, email, radio, video conferencing or another form of communication if the investigator considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including the investigator's remote location.
- (2) The application—
  - (a) may not be made before the investigator prepares the written application under clause 5(2); but
  - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
  - (a) it was necessary to make the application under subclause (1); and
  - (b) the way the application was made under subclause (1) was appropriate.
- (4) After the magistrate issues the original warrant—
  - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the investigator, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the investigator; or
  - (b) otherwise—
    - (i) the magistrate must tell the investigator the date and time the warrant is issued and the other terms of the warrant; and
    - (ii) the investigator must complete a form of warrant including by writing on it—
      - (A) the magistrate's name; and
      - (B) the date and time the magistrate issued the warrant; and
      - (C) the other terms of the warrant.
- (5) The copy of the warrant referred to in subclause (4)(a), or the form of warrant completed under subclause (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (6) The investigator must, at the first reasonable opportunity, send to the magistrate—
  - (a) the written application complying with clause 5(2) and (3); and
  - (b) if the investigator completed a form of warrant under subclause (4)(b), the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subclause (6), file the original warrant and documents in the court.

- (8) Despite subclause (5), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this clause; and
  - (b) the original warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This clause does not limit clause 5.

### **8—Procedure before entry under warrant**

- (1) Before entering a place under a warrant, an investigator must do or make a reasonable attempt to do the following—
- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the investigator's identity card or another document evidencing the investigator's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the investigator is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the investigator immediate entry to the place without using force.
- (2) However, the investigator need not comply with subclause (1) if the investigator reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

### **9—Powers after entering places**

- (1) This clause applies if an investigator enters a place under clause 4.
- (2) The investigator may for the purposes of the investigation do the following—
- (a) search any part of the place;
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
  - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing;
  - (d) copy, or take an extract from, a document, at the place;
  - (e) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under this Part;
  - (f) require the occupier of the place, or a person at the place, to give the investigator reasonable help to exercise the investigator's powers under paragraphs (a) to (e);
  - (g) require the occupier of the place, or a person at the place, to give the investigator information to help the investigator in conducting the investigation.
- (3) When making a requirement referred to in subclause (2)(f) or (g), the investigator must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

## **10—Offences for failing to comply with requirement under clause 9**

- (1) A person required to give reasonable help under clause 9(2)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) A person of whom a requirement is made under clause 9(2)(g) must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty:
- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (3) It is a reasonable excuse for an individual not to comply with a requirement under clause 9(2)(f) or (g) that complying with the requirement might tend to incriminate the individual.

## **11—Seizure of evidence**

- (1) An investigator who enters a public place when the place is open to the public may seize a thing at the place if the investigator reasonably believes the thing is evidence that is relevant to the investigation being conducted by the investigator.
- (2) If an investigator enters a place with the occupier's consent, the investigator may seize a thing at the place if—
  - (a) the investigator reasonably believes the thing is evidence that is relevant to the investigation being conducted by the investigator; and
  - (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the occupier's consent.
- (3) If an investigator enters a place with a warrant, the investigator may seize the evidence for which the warrant was issued.
- (4) For the purposes of subclauses (2) and (3), the investigator may also seize anything else at the place if the investigator reasonably believes—
  - (a) the thing is evidence that is relevant to the investigation; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.

## **12—Securing seized things**

Having seized a thing, an investigator may—

- (a) move the thing from the place where it was seized; or
- (b) leave the thing at the place where it was seized but take reasonable action to restrict access to it.

## **13—Receipt for seized things**

- (1) As soon as practicable after an investigator seizes a thing, the investigator must give a receipt for it to the person from whom it was seized.

- (2) However, if for any reason it is not practicable to comply with subclause (1), the investigator must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally the seized thing and its condition.
- (4) This clause does not apply to a thing if it is impracticable or would be unreasonable to give the receipt given the thing's nature, condition and value.

#### **14—Forfeiture of seized thing**

- (1) A seized thing is forfeited to the National Agency if the investigator who seized the thing—
  - (a) cannot find its owner, after making reasonable inquiries; or
  - (b) cannot return it to its owner, after making reasonable efforts.
- (2) In applying subclause (1)—
  - (a) subclause (1)(a) does not require the investigator to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subclause (1)(b) does not require the investigator to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) Regard must be had to a thing's nature, condition and value in deciding—
  - (a) whether it is reasonable to make inquiries or efforts; and
  - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

#### **15—Dealing with forfeited things**

- (1) On the forfeiture of a thing to the National Agency, the thing becomes the Agency's property and may be dealt with by the Agency as the Agency considers appropriate.
- (2) Without limiting subclause (1), the National Agency may destroy or dispose of the thing.

#### **16—Return of seized things**

- (1) If a seized thing has not been forfeited, the investigator 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 investigator must immediately return a thing seized as evidence to its owner if the investigator is no longer satisfied its continued retention as evidence is necessary.

#### **17—Access to seized things**

- (1) Until a seized thing is forfeited or returned, an investigator must allow its owner to inspect it and, if it is a document, to copy it.
- (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 investigator damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction of an investigator damages property.
- (2) The investigator must promptly give written notice of particulars of the damage to the person who appears to the investigator to be the owner of the property.
- (3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator's or other person's control, the investigator must state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subclause (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This clause does not apply to damage the investigator reasonably believes is trivial.
- (6) In this clause—

*owner*, of property, includes the person in possession or control of it.

### 19—Compensation

- (1) A person may claim compensation from the National Agency if the person incurs loss or expense because of the exercise or purported exercise of a power under this Schedule by the investigator.
- (2) Without limiting subclause (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under this Schedule.
- (3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.

### 20—False or misleading information

A person must not state anything to an investigator that the person knows is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.

### 21—False or misleading documents

- (1) A person must not give an investigator a document containing information the person knows is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.

- (2) Subclause (1) does not apply to a person who, when giving the document—
  - (a) informs the investigator, to the best of the person's ability, how it is false or misleading; and
  - (b) gives the correct information to the investigator if the person has, or can reasonably obtain, the correct information.

## **22—Obstructing investigators**

- (1) A person must not obstruct an investigator in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) If a person has obstructed an investigator and the investigator decides to proceed with the exercise of the power, the investigator must warn the person that—
  - (a) it is an offence to obstruct the investigator, unless the person has a reasonable excuse; and
  - (b) the investigator considers the person's conduct is an obstruction.
- (3) In this clause—

*obstruct* includes hinder and attempt to obstruct or hinder.

## **23—Impersonation of investigators**

A person must not pretend to be an investigator.

Maximum penalty: \$5,000.

## **Schedule 6—Inspectors**

(Section 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.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) A person 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
  - (d) produce a document the person is required to produce by the notice.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (3) For the purposes of subclauses (1) and (2), it is a reasonable excuse for an individual to fail to give stated information, answer a question or to produce a document, if giving the information, answering the question or producing the document might tend to incriminate the individual.

### **3—Inspection of documents**

- (1) If a document is produced to an inspector, the inspector may—
- (a) inspect the document; and
  - (b) make a copy of, or take an extract from, the document; and
  - (c) keep the document while it is necessary for the investigation.
- (2) If the inspector keeps the document, the inspector must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and place decided by the inspector.

## **Part 2—Power to enter places**

### **4—Entering places**

An inspector may enter a place if—

- (a) its occupier consents to the entry of the place; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant.

### **5—Application for warrant**

- (1) An inspector may apply to a magistrate of a participating jurisdiction for a warrant for a place.
- (2) The inspector must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.

- (4) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

## 6—Issue of warrant

- (1) The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence against this Law at the place.
- (2) The warrant must state—
  - (a) that a stated inspector may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the inspector’s powers under this Part; and
  - (b) the matter for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant’s issue, the warrant ends.

## 7—Application by electronic communication

- (1) An inspector may apply for a warrant by phone, facsimile, email, radio, video conferencing or another form of communication if the inspector considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including the inspector’s remote location.
- (2) The application—
  - (a) may not be made before the inspector prepares the written application under clause 5(2); but
  - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
  - (a) it was necessary to make the application under subclause (1); and
  - (b) the way the application was made under subclause (1) was appropriate.
- (4) After the magistrate issues the original warrant—
  - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the inspector; or
  - (b) otherwise—
    - (i) the magistrate must tell the inspector the date and time the warrant is issued and the other terms of the warrant; and
    - (ii) the inspector must complete a form of warrant including by writing on it—
      - (A) the magistrate’s name; and
      - (B) the date and time the magistrate issued the warrant; and
      - (C) the other terms of the warrant.

- (5) The copy of the warrant referred to in subclause (4)(a), or the form of warrant completed under subclause (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (6) The inspector must, at the first reasonable opportunity, send to the magistrate—
  - (a) the written application complying with clause 5(2) and (3); and
  - (b) if the inspector completed a form of warrant under subclause (4)(b), the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subclause (6), file the original warrant and documents in the court.
- (8) Despite subclause (5), if—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this clause; and
  - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This clause does not limit clause 5.

## **8—Procedure before entry under warrant**

- (1) Before entering a place under a warrant, an inspector must do or make a reasonable attempt to do the following—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the inspector's identity card or another document evidencing the inspector's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the inspector is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.
- (2) However, the inspector need not comply with subclause (1) if the inspector reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **9—Powers after entering places**

- (1) This clause applies if an inspector enters a place under clause 4.
- (2) The inspector may for the purposes of the investigation do the following—
  - (a) search any part of the place;
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
  - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing;
  - (d) copy, or take an extract from, a document, at the place;
  - (e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this Part;

- (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e);
  - (g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Law is being complied with.
- (3) When making a requirement referred to in subclause (2)(f) or (g), the inspector must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

### **10—Offences for failing to comply with requirement under clause 9**

- (1) A person required to give reasonable help under clause 9(2)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.

- (2) A person of whom a requirement is made under clause 9(2)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.

- (3) It is a reasonable excuse for an individual not to comply with a requirement under clause 9(2)(f) or (g) that complying with the requirement might tend to incriminate the individual.

### **11—Seizure of evidence**

- (1) An inspector who enters a public place when the place is open to the public may seize a thing at the place if the inspector reasonably believes the thing is evidence that is relevant to the investigation being conducted by the inspector.
- (2) If an inspector enters a place with the occupier's consent, the inspector may seize a thing at the place if—
- (a) the inspector reasonably believes the thing is evidence that is relevant to the investigation being conducted by the inspector; and
  - (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the occupier's consent.
- (3) If an inspector enters a place with a warrant, the inspector may seize the evidence for which the warrant was issued.
- (4) For the purposes of subclauses (2) and (3), the inspector may also seize anything else at the place if the inspector reasonably believes—
- (a) the thing is evidence that is relevant to the investigation; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.

### **12—Securing seized things**

Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized; or

- (b) leave the thing at the place where it was seized but take reasonable action to restrict access to it.

### **13—Receipt for seized things**

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subclause (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally the seized thing and its condition.
- (4) This clause does not apply to a thing if it is impracticable or would be unreasonable to give the receipt given the thing's nature, condition and value.

### **14—Forfeiture of seized thing**

- (1) A seized thing is forfeited to the National Agency if the inspector who seized the thing—
  - (a) cannot find its owner, after making reasonable inquiries; or
  - (b) cannot return it to its owner, after making reasonable efforts.
- (2) In applying subclause (1)—
  - (a) subclause (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subclause (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) Regard must be had to a thing's nature, condition and value in deciding—
  - (a) whether it is reasonable to make inquiries or efforts; and
  - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

### **15—Dealing with forfeited things**

- (1) On the forfeiture of a thing to the National Agency, the thing becomes the Agency's property and may be dealt with by the Agency as the Agency considers appropriate.
- (2) Without limiting subclause (1), the National Agency may destroy or 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.
- (5) This clause does not apply to damage the inspector reasonably believes is trivial.
- (6) In this clause—  
*owner*, of property, includes the person in possession or control of it.

### **19—Compensation**

- (1) A person may claim compensation from the National Agency if the person incurs loss or expense because of the exercise or purported exercise of a power under this Schedule by the inspector.
- (2) Without limiting subclause (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under this Schedule.
- (3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.

### **20—False or misleading information**

A person must not state anything to an inspector that the person knows is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.

## 21—False or misleading documents

- (1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) Subclause (1) does not apply to a person who, when giving the document—
- (a) informs the inspector, to the best of the person's ability, how it is false or misleading; and
  - (b) gives the correct information to the inspector if the person has, or can reasonably obtain, the correct information.

## 22—Obstructing inspectors

- (1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
  - (b) in the case of a body corporate—\$10,000.
- (2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—
- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
  - (b) the inspector considers the person's conduct is an obstruction.
- (3) In this clause—
- obstruct* includes hinder and attempt to obstruct or hinder.

## 23—Impersonation of inspectors

A person must not pretend to be an inspector.

Maximum penalty: \$5,000.

## Schedule 7—Miscellaneous provisions relating to interpretation

(Section 6)

### Part 1—Preliminary

#### 1—Displacement of Schedule by contrary intention

The application of this Schedule may be displaced, wholly or partly, by a contrary intention appearing in this Law.

## **Part 2—General**

### **2—Law to be construed not to exceed legislative power of Legislature**

- (1) This Law is to be construed as operating to the full extent of, but so as not to exceed, the legislative power of the Legislature of this jurisdiction.
- (2) If a provision of this Law, or the application of a provision of this Law to a person, subject matter or circumstance, would, but for this clause, be construed as being in excess of the legislative power of the Legislature of this jurisdiction—
  - (a) it is a valid provision to the extent to which it is not in excess of the power; and
  - (b) the remainder of this Law, and the application of the provision to other persons, subject matters or circumstances, is not affected.
- (3) This clause applies to this Law in addition to, and without limiting the effect of, any provision of this Law.

### **3—Every section to be a substantive enactment**

Every section of this Law has effect as a substantive enactment without introductory words.

### **4—Material that is, and is not, part of this Law**

- (1) The heading to a Part, Division or Subdivision into which this Law is divided is part of this Law.
- (2) A Schedule to this Law is part of this Law.
- (3) Punctuation in this Law is part of this Law.
- (4) A heading to a section or subsection of this Law does not form part of this Law.
- (5) Notes included in this Law (including footnotes and endnotes) do not form part of this Law.

### **5—References to particular Acts and to enactments**

In this Law—

- (a) an Act of this jurisdiction may be cited—
  - (i) by its short title; or
  - (ii) by reference to the year in which it was passed and its number; and
- (b) a Commonwealth Act may be cited—
  - (i) by its short title; or
  - (ii) in another way sufficient in a Commonwealth Act for the citation of such an Act;together with a reference to the Commonwealth; and
- (c) an Act of another jurisdiction may be cited—
  - (i) by its short title; or
  - (ii) in another way sufficient in an Act of the jurisdiction for the citation of such an Act;together with a reference to the jurisdiction.

## 6—References taken to be included in Act or Law citation etc

- (1) A reference in this Law to an Act includes a reference to—
  - (a) the Act as originally enacted, and as amended from time to time since its original enactment; and
  - (b) if the Act has been repealed and re-enacted (with or without modification) since the enactment of the reference—the Act as re-enacted, and as amended from time to time since its re-enactment.
- (2) A reference in this Law to a provision of this Law or of an Act includes a reference to—
  - (a) the provision as originally enacted, and as amended from time to time since its original enactment; and
  - (b) if the provision has been omitted and re-enacted (with or without modification) since the enactment of the reference—the provision as re-enacted, and as amended from time to time since its re-enactment.
- (3) Subclauses (1) and (2) apply to a reference in this Law to a law of the Commonwealth or another jurisdiction as they apply to a reference in this Law to an Act and to a provision of an Act.

## 7—Interpretation best achieving Law’s purpose

- (1) In the interpretation of a provision of this Law, the interpretation that will best achieve the purpose or object of this Law is to be preferred to any other interpretation.
- (2) Subclause (1) applies whether or not the purpose is expressly stated in this Law.

## 8—Use of extrinsic material in interpretation

- (1) In this clause—

*extrinsic material* means relevant material not forming part of this Law, including, for example—

- (a) material that is set out in the document containing the text of this Law as printed by the Government Printer; and
- (b) a relevant report of a Royal Commission, Law Reform Commission, commission or committee of inquiry, or a similar body, that was laid before the Parliament of this jurisdiction before the provision concerned was enacted; and
- (c) a relevant report of a committee of the Parliament of this jurisdiction that was made to the Parliament before the provision was enacted; and
- (d) a treaty or other international agreement that is mentioned in this Law; and
- (e) an explanatory note or memorandum relating to the Bill that contained the provision, or any relevant document, that was laid before, or given to the members of, the Parliament of this jurisdiction by the member bringing in the Bill before the provision was enacted; and
- (f) the speech made to the Parliament of this jurisdiction by the member in moving a motion that the Bill be read a second time; and
- (g) material in the Votes and Proceedings of the Parliament of this jurisdiction or in any official record of debates in the Parliament of this jurisdiction; and

- (h) a document that is declared by this Law to be a relevant document for the purposes of this clause.

**ordinary meaning** means the ordinary meaning conveyed by a provision having regard to its context in this Law and to the purpose of this Law.

- (2) Subject to subclause (3), in the interpretation of a provision of this Law, consideration may be given to extrinsic material capable of assisting in the interpretation—
  - (a) if the provision is ambiguous or obscure—to provide an interpretation of it; or
  - (b) if the ordinary meaning of the provision leads to a result that is manifestly absurd or is unreasonable—to provide an interpretation that avoids such a result; or
  - (c) in any other case—to confirm the interpretation conveyed by the ordinary meaning of the provision.
- (3) In determining whether consideration should be given to extrinsic material, and in determining the weight to be given to extrinsic material, regard is to be had to—
  - (a) the desirability of a provision being interpreted as having its ordinary meaning; and
  - (b) the undesirability of prolonging proceedings without compensating advantage; and
  - (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—Definitions

- (1) In this Law—

*Act* means an Act of the Legislature of this jurisdiction.

*adult* means an individual who is 18 or more.

*affidavit*, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

*amend* includes—

- (a) omit or omit and substitute; or
- (b) alter or vary; or
- (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.

*country* includes—

- (a) a federation; or
- (b) a state, province or other part of a federation.

***date of assent***, in relation to an Act, means the day on which the Act receives the Royal Assent.

***definition*** means a provision of this Law (however expressed) that—

- (a) gives a meaning to a word or expression; or
- (b) limits or extends the meaning of a word or expression.

***document*** includes—

- (a) any paper or other material on which there is writing; or
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; or
- (c) any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being reproduced (with or without the aid of another article or device).

***electronic communication*** means—

- (a) a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both; or
- (b) a communication of information in the form of sound by means of guided or unguided electromagnetic energy, or both, where the sound is processed at its destination by an automated voice recognition system.

***estate*** includes easement, charge, right, title, claim, demand, lien or encumbrance, whether at law or in equity.

***expire*** includes lapse or otherwise cease to have effect.

***external Territory*** means a Territory, other than an internal Territory, for the government of which as a Territory provision is made by a Commonwealth Act.

***fail*** includes refuse.

***financial year*** means a period of 12 months beginning on 1 July.

***foreign country*** means a country (whether or not an independent sovereign State) outside Australia and the external Territories.

***function*** includes a power, authority or duty.

***Gazette*** means the Government Gazette of this jurisdiction.

***gazetted*** means published in the Gazette.

***Gazette notice*** means notice published in the Gazette.

***Government Printer*** means the Government Printer of this jurisdiction, and includes any other person authorised by the Government of this jurisdiction to print an Act or instrument.

***individual*** means a natural person.

***information system*** means a system for generating, sending, receiving, storing or otherwise processing electronic communications.

***insert***, in relation to a provision of this Law, includes substitute.

***instrument*** includes a statutory instrument.

**interest**, in relation to land or other property, means—

- (a) a legal or equitable estate in the land or other property; or
- (b) a right, power or privilege over, or in relation to, the land or other property. **internal Territory** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

**internal Territory** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

**Jervis Bay Territory** means the Territory mentioned in the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

**make** includes issue or grant.

**minor** means an individual who is under 18.

**modification** includes addition, omission or substitution.

**month** means a calendar month.

**named month** means 1 of the 12 months of the year.

**Northern Territory** means the Northern Territory of Australia.

**number** means—

- (a) a number expressed in figures or words; or
- (b) a letter; or
- (c) a combination of a number so expressed and a letter.

**oath**, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration or promise.

**office** includes position.

**omit**, in relation to a provision of this Law or an Act, includes repeal.

**party** includes an individual or a body politic or corporate.

**penalty** includes forfeiture or punishment.

**person** includes an individual or a body politic or corporate.

**power** includes authority.

**prescribed** means prescribed by, or by regulations made or in force for the purposes of or under, this Law.

**printed** includes typewritten, lithographed or reproduced by any mechanical means.

**proceeding** means a legal or other action or proceeding.

**property** means any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes things in action.

**provision**, in relation to this Law or an Act, means words or other matter that form or forms part of this Law or the Act, and includes—

- (a) a Chapter, Part, Division, Subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or Schedule of or to this Law or the Act; or

- (b) a section, clause, subclause, item, column, table or form of or in a Schedule to this Law or the Act; or
- (c) the long title and any preamble to the Act.

**record** includes information stored or recorded by means of a computer.

**repeal** includes—

- (a) revoke or rescind; or
- (b) repeal by implication; or
- (c) abrogate or limit the effect of this Law or instrument concerned; or
- (d) exclude from, or include in, the application of this Law or instrument concerned any person, subject matter or circumstance.

**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.

### **15—Words and expressions used in statutory instruments**

- (1) Words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in this Law, or relevant provisions of this Law, under or for the purposes of which the instrument is made or in force.
- (2) This clause has effect in relation to an instrument except so far as the contrary intention appears in the instrument.

### **16—Effect of express references to bodies corporate and individuals**

In this Law, a reference to a person generally (whether the expression “person”, “party”, “someone”, “anyone”, “no-one”, “one”, “another” or “whoever” or another expression is used)—

- (a) does not exclude a reference to a body corporate or an individual merely because elsewhere in this Law there is particular reference to a body corporate (however expressed); and
- (b) does not exclude a reference to a body corporate or an individual merely because elsewhere in this Law there is particular reference to an individual (however expressed).

### **17—Production of records kept in computers etc**

If a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under this Law—

- (a) to produce the information or a document containing the information to a court, tribunal or person; or
- (b) to make a document containing the information available for inspection by a court, tribunal or person;

then, unless the court, tribunal or person otherwise directs—

- (c) the requirement obliges the person to produce or make available for inspection, as the case may be, a document that reproduces the information in a form capable of being understood by the court, tribunal or person; and
- (d) the production to the court, tribunal or person of the document in that form complies with the requirement.

### **18—References to this jurisdiction to be implied**

In this Law—

- (a) a reference to an officer, office or statutory body is a reference to such an officer, office or statutory body in and for this jurisdiction; and
- (b) a reference to a locality or other matter or thing is a reference to such a locality or other matter or thing in and of this jurisdiction.

### **19—References to officers and holders of offices**

In this Law, a reference to a particular officer, or to the holder of a particular office, includes a reference to the person for the time being occupying or acting in the office concerned.

## **20—Reference to certain provisions of Law**

If a provision of this Law refers—

- (a) to a Part, section or Schedule by a number and without reference to this Law—the reference is a reference to the Part, section or Schedule, designated by the number, of or to this Law; or
- (b) to a Schedule without reference to it by a number and without reference to this Law—the reference, if there is only one Schedule to this Law, is a reference to the Schedule; or
- (c) to a Division, Subdivision, subsection, paragraph, subparagraph, sub-subparagraph, clause, subclause, item, column, table or form by a number and without reference to this Law—the reference is a reference to—
  - (i) the Division, designated by the number, of the Part in which the reference occurs; and
  - (ii) the Subdivision, designated by the number, of the Division in which the reference occurs; and
  - (iii) the subsection, designated by the number, of the section in which the reference occurs; and
  - (iv) the paragraph, designated by the number, of the section, subsection, Schedule or other provision in which the reference occurs; and
  - (v) the paragraph, designated by the number, of the clause, subclause, item, column, table or form of or in the Schedule in which the reference occurs; and
  - (vi) the subparagraph, designated by the number, of the paragraph in which the reference occurs; and
  - (vii) the sub-subparagraph, designated by the number, of the subparagraph in which the reference occurs; and
  - (viii) the section, clause, subclause, item, column, table or form, designated by the number, of or in the Schedule in which the reference occurs;

as the case requires.

## **21—Reference to provisions of this Law or an Act is inclusive**

In this Law, a reference to a portion of this Law or an Act includes—

- (a) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of this Law or the Act referred to that forms the beginning of the portion; and
- (b) a reference to the Chapter, Part, Division, Subdivision, section, subsection or other provision of this Law or the Act referred to that forms the end of the portion.

### **Example—**

A reference to “sections 5 to 9” includes both section 5 and section 9. It is not necessary to refer to “sections 5 to 9 (both inclusive)” to ensure that the reference is given an inclusive interpretation.

## **Part 4—Functions and powers**

### **22—Performance of statutory functions**

- (1) If this Law confers a function or power on a person or body, the function may be performed, or the power may be exercised, from time to time as occasion requires.
- (2) If this Law confers a function or power on a particular officer or the holder of a particular office, the function may be performed, or the power may be exercised, by the person for the time being occupying or acting in the office concerned.
- (3) If this Law confers a function or power on a body (whether or not incorporated), the performance of the function, or the exercise of the power, is not affected merely because of vacancies in the membership of the body.

### **23—Power to make instrument or decision includes power to amend or repeal**

If this Law authorises or requires the making of an instrument or decision—

- (a) the power includes power to amend or repeal the instrument or decision; and
- (b) the power to amend or repeal the instrument or decision is exercisable in the same way, and subject to the same conditions, as the power to make the instrument or decision.

### **24—Matters for which statutory instruments may make provision**

- (1) If this Law authorises or requires the making of a statutory instrument in relation to a matter, a statutory instrument made under this Law may make provision for the matter by applying, adopting or incorporating (with or without modification) the provisions of—
  - (a) an Act or statutory instrument; or
  - (b) another document (whether of the same or a different kind);as in force at a particular time or as in force from time to time.
- (2) If a statutory instrument applies, adopts or incorporates the provisions of a document, the statutory instrument applies, adopts or incorporates the provisions as in force from time to time, unless the statutory instrument otherwise expressly provides.
- (3) A statutory instrument may—
  - (a) apply generally throughout this jurisdiction or be limited in its application to a particular part of this jurisdiction; or
  - (b) apply generally to all persons, matters or things or be limited in its application to—
    - (i) particular persons, matters or things; or
    - (ii) particular classes of persons, matters or things; or
  - (c) otherwise apply generally or be limited in its application by reference to specified exceptions or factors.
- (4) A statutory instrument may—
  - (a) apply differently according to different specified factors; or
  - (b) otherwise make different provision in relation to—
    - (i) different persons, matters or things; or
    - (ii) different classes of persons, matters or things.

- (5) A statutory instrument may authorise a matter or thing to be from time to time determined, applied or regulated by a specified person or body.
- (6) If this Law authorises or requires a matter to be regulated by statutory instrument, the power may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter.
- (7) If this Law authorises or requires provision to be made with respect to a matter by statutory instrument, a statutory instrument made under this Law may make provision with respect to a particular aspect of the matter despite the fact that provision is made by this Law in relation to another aspect of the matter or in relation to another matter.
- (8) A statutory instrument may provide for the review of, or a right of appeal against, a decision made under the statutory instrument, or this Law, and may, for that purpose, confer jurisdiction on any court, tribunal, person or body.
- (9) A statutory instrument may require a form prescribed by or under the statutory instrument, or information or documents included in, attached to or given with the form, to be verified by statutory declaration.

## **25—Presumption of validity and power to make**

- (1) All conditions and preliminary steps required for the making of a statutory instrument are presumed to have been satisfied and performed in the absence of evidence to the contrary.
- (2) A statutory instrument is taken to be made under all powers under which it may be made, even though it purports to be made under this Law or a particular provision of this Law.

## **26—Appointments may be made by name or office**

- (1) If this Law authorises or requires a person or body—
  - (a) to appoint a person to an office; or
  - (b) to appoint a person or body to exercise a power; or
  - (c) to appoint a person or body to do another thing;the person or body may make the appointment by—
  - (d) appointing a person or body by name; or
  - (e) appointing a particular officer, or the holder of a particular office, by reference to the title of the office concerned.
- (2) An appointment of a particular officer, or the holder of a particular office, is taken to be the appointment of the person for the time being occupying or acting in the office concerned.

## **27—Acting appointments**

- (1) If this Law authorises a person or body to appoint a person to act in an office, the person or body may, in accordance with this Law, appoint—
  - (a) a person by name; or
  - (b) a particular officer, or the holder of a particular office, by reference to the title of the office concerned;to act in the office.
- (2) The appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment.

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

## **28—Powers of appointment imply certain incidental powers**

- (1) If this Law authorises or requires a person or body to appoint a person to an office—
  - (a) the power may be exercised from time to time as occasion requires; and
  - (b) the power includes—
    - (i) power to remove or suspend, at any time, a person appointed to the office; and
    - (ii) power to appoint another person to act in the office if a person appointed to the office is removed or suspended; and
    - (iii) power to reinstate or reappoint a person removed or suspended; and
    - (iv) power to appoint a person to act in the office if it is vacant (whether or not the office has ever been filled); and

- (v) power to appoint a person to act in the office if the person appointed to the office is absent or is unable to discharge the functions of the office (whether because of illness or otherwise).
- (2) The power to remove or suspend a person under subclause (1)(b) may be exercised even if this Law provides that the holder of the office to which the person was appointed is to hold office for a specified period.
- (3) The power to make an appointment under subclause (1)(b) may be exercised from time to time as occasion requires.
- (4) An appointment under subclause (1)(b) may be expressed to have effect only in the circumstances specified in the instrument of appointment.

## **29—Delegation of functions**

- (1) If this Law authorises a person or body to delegate a function, the person or body may, in accordance with this Law and any other applicable law, delegate the function to—
  - (a) a person or body by name; or
  - (b) a specified officer, or the holder of a specified office, by reference to the title of the office concerned.
- (2) The delegation may be—
  - (a) general or limited; and
  - (b) made from time to time; and
  - (c) revoked, wholly or partly, by the delegator.
- (3) The delegation, or a revocation of the delegation, must be in, or evidenced by, writing signed by the delegator or, if the delegator is a body, by a person authorised by the body for the purpose.
- (4) A delegated function may be exercised only in accordance with any conditions to which the delegation is subject.
- (5) The delegate may, in the performance of a delegated function, do anything that is incidental to the delegated function.
- (6) A delegated function that purports to have been exercised by the delegate is taken to have been properly exercised by the delegate unless the contrary is proved.
- (7) A delegated function that is properly exercised by the delegate is taken to have been exercised by the delegator.
- (8) If, when exercised by the delegator, a function is dependent on the delegator's opinion, belief or state of mind, then, when exercised by the delegate, the function is dependent on the delegate's opinion, belief or state of mind.
- (9) If—
  - (a) the delegator is a specified officer or the holder of a specified office; and
  - (b) the person who was the specified officer or holder of the specified office when the delegation was made ceases to be the holder of the office;then—
  - (c) the delegation continues in force; and

- (d) the person for the time being occupying or acting in the office concerned is taken to be the delegator for the purposes of this section.
- (10) If—
- (a) the delegator is a body; and
  - (b) there is a change in the membership of the body;
- then—
- (c) the delegation continues in force; and
  - (d) the body as constituted for the time being is taken to be the delegator for the purposes of this section.
- (11) If a function is delegated to a specified officer or the holder of a specified office—
- (a) the delegation does not cease to have effect merely because the person who was the specified officer or the holder of the specified office when the function was delegated ceases to be the officer or the holder of the office; and
  - (b) the function may be exercised by the person for the time being occupying or acting in the office concerned.
- (12) A function that has been delegated may, despite the delegation, be exercised by the delegator.
- (13) The delegation of a function does not relieve the delegator of the delegator's obligation to ensure that the function is properly exercised.
- (14) Subject to subsection (15), this clause applies to a subdelegation of a function in the same way as it applies to a delegation of a function.
- (15) If this Law authorises the delegation of a function, the function may be subdelegated only if the Law expressly authorises the function to be subdelegated.

### **30—Exercise of powers between enactment and commencement**

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

- (c) to do another thing;
- then—
- (d) the power may be exercised; and
  - (e) anything may be done for the purpose of enabling the exercise of the power or of bringing the appointment, instrument or other thing into effect;
- before the empowering provision commences.
- (3) If—
- (a) this Law has commenced and confers a power to make a statutory instrument (the *basic instrument-making power*); and
  - (b) a provision of a Queensland Act that does not commence on its enactment would, had it commenced, amend this Law so as to confer additional power to make a statutory instrument (the *additional instrument-making power*);
- then—
- (c) the basic instrument-making power and the additional instrument-making power may be exercised by making a single instrument; and
  - (d) any provision of the instrument that required an exercise of the additional instrument-making power is to be treated as made under subclause (2).
- (4) If an instrument, or a provision of an instrument, is made under subclause (1) or (2) that is necessary for the purpose of—
- (a) enabling the exercise of a power mentioned in the subclause; or
  - (b) bringing an appointment, instrument or other thing made or done under such a power into effect;
- the instrument or provision takes effect—
- (c) on the making of the instrument; or
  - (d) on such later day (if any) on which, or at such later time (if any) at which, the instrument or provision is expressed to take effect.
- (5) If—
- (a) an appointment is made under subclause (1) or (2); or
  - (b) an instrument, or a provision of an instrument, made under subclause (1) or (2) is not necessary for a purpose mentioned in subclause (4);
- the appointment, instrument or provision takes effect—
- (c) on the commencement of the relevant empowering provision; or
  - (d) on such later day (if any) on which, or at such later time (if any) at which, the appointment, instrument or provision is expressed to take effect.
- (6) Anything done under subclause (1) or (2) does not confer a right, or impose a liability, on a person before the relevant empowering provision commences.
- (7) After the enactment of a provision mentioned in subclause (2) but before the provision's commencement, this clause applies as if the references in subclauses (2) and (5) to the commencement of the empowering provision were references to the commencement of the provision mentioned in subclause (2) as amended by the empowering provision.

- (8) In the application of this clause to a statutory instrument, a reference to the enactment of the instrument is a reference to the making of the instrument.

## **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.

## **Part 6—Effect of repeal, amendment or expiration**

### **32—Time of Law ceasing to have effect**

If a provision of this Law is expressed—

- (a) to expire on a specified day; or
- (b) to remain or continue in force, or otherwise have effect, until a specified day;

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

### **33—Repealed Law provisions not revived**

If a provision of this Law is repealed or amended by a Queensland Act, or a provision of a Queensland Act, the provision is not revived merely because the Queensland Act or the provision of the Queensland Act—

- (a) is later repealed or amended; or
- (b) later expires.

### **34—Saving of operation of repealed Law provisions**

- (1) The repeal, amendment or expiry of a provision of this Law does not—
  - (a) revive anything not in force or existing at the time the repeal, amendment or expiry takes effect; or
  - (b) affect the previous operation of the provision or anything suffered, done or begun under the provision; or
  - (c) affect a right, privilege or liability acquired, accrued or incurred under the provision; or
  - (d) affect a penalty incurred in relation to an offence arising under the provision; or
  - (e) affect an investigation, proceeding or remedy in relation to such a right, privilege, liability or penalty.
- (2) Any such penalty may be imposed and enforced, and any such investigation, proceeding or remedy may be begun, continued or enforced, as if the provision had not been repealed or amended or had not expired.

### **35—Continuance of repealed provisions**

If a Queensland Act repeals some provisions of this Law and enacts new provisions in substitution for the repealed provisions, the repealed provisions continue in force until the new provisions commence.

### **36—Law and amending Acts to be read as one**

This Law and all Queensland Acts amending this Law are to be read as one.

## **Part 7—Instruments under Law**

### **37—Schedule applies to statutory instruments**

- (1) This Schedule applies to a statutory instrument, and to things that may be done or are required to be done under a statutory instrument, in the same way as it applies to this Law, and things that may be done or are required to be done under this Law, except so far as the context or subject matter otherwise indicates or requires.
- (2) The fact that a provision of this Schedule refers to this Law and not also to a statutory instrument does not, by itself, indicate that the provision is intended to apply only to this Law.

## **Part 8—Application to coastal sea**

### **38—Application**

This Law has effect in and relation to the coastal sea of this jurisdiction as if that coastal sea were part of this jurisdiction.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 12 August 2010

No 189 of 2010

HEAC-2010-00036

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## CITY OF SALISBURY

*Road Name Change*

NOTICE is hereby given, pursuant to section 219 of the Local Government Act 1999, the City of Salisbury, resolved the following at its meeting held on 26 July 2010:

‘Council endorse ‘Happy Home Drive’ as the preferred name to formally name the un-named road depicted in Attachment A’.

S. HAINS, City Manager

## CITY OF SALISBURY

*Portion of Road Name Change*

NOTICE is hereby given, pursuant to section 219 of the Local Government Act 1999, the City of Salisbury, resolved the following at its meeting held on 26 July 2010:

‘Deposited Plan 72398 be amended to show portion of Annesley Close, Salisbury Heights as Taylor Avenue (as shown on the Plan 09/0013 dated 12 March 2009) and the necessary statutory notifications take place in accordance with section 219 of the Local Government Act.’

S. HAINS, City Manager

## TOWN OF GAWLER

*Adoption of Valuation and Declaration of Rates*

NOTICE is hereby given that pursuant to section 167 (2) (a) of the Local Government Act 1999, the Town of Gawler, at its meeting held on Tuesday, 27 July 2010 and for the fiscal year ending 30 June 2011, adopted for rating purposes, the most recent valuations of the Valuer-General available to Council, of the capital value of land within the area of the Council totalling \$2 932 168 720.

*Declaration of General Rates*

1. That pursuant to sections 153 (1) (b) and 156 (1) (a) of the Local Government Act 1999 and Regulation 10 (2) of the Local Government (General) Regulations 1999, Council declares the following differential general rates in respect of all rateable land in the Council’s area for the year ending 30 June 2011 on the basis of the use of land:

- (a) Residential—0.3974 cents in the dollar.
- (b) Commercial (Shop)—0.4060 cents in the dollar.
- (c) Commercial (Office)—0.4060 cents in the dollar.
- (d) Commercial (Other)—0.4060 cents in the dollar.
- (e) Industry (Light)—0.3900 cents in the dollar.
- (f) Industry (Other)—0.3900 cents in the dollar.
- (g) Primary Production—0.4012 cents in the dollar.
- (h) Vacant Land—0.4745 cents in the dollar.
- (i) Other—0.3600 cents in the dollar.

2. That pursuant to section 158 (1) of the Local Government Act 1999, for the year ending 30 June 2011, a minimum amount payable by way of rates of \$728 be fixed in respect of all rateable land in the Council area.

*Service Charges*

3. That pursuant to section 155 of the Local Government Act 1999, for the year ending 30 June 2011, Council impose an annual waste management service charge of \$132 for the prescribed service of waste management on each separate assessment, of occupied land to which the service is provided.

*Separate Rates*

4. That pursuant to section 154 of the Local Government Act 1999, for the year ending 30 June 2011, Council declares a separate differential rate for business development and marketing in respect of all rateable land within the hatched area ‘A’ defined in map on page 46 of the 2010-2011 Budget/Business Plan, for

land uses—Category 2 (Commercial—Shop), Category 3 (Commercial—Office), Category 4 (Commercial—Other), Category 5 (Industry—Light) and Category 6 (Industry—Other) of 0.06592 cents in the dollar.

5. That pursuant to section 154 of the Local Government Act 1999, for the year ending 30 June 2011, Council declares a separate differential rate for business development in respect of all rateable land within the Gawler township excluding the hatched area ‘A’ as defined in the map on page 46 of the 2010-2011 Budget/Business Plan on land uses—Category 2 (Commercial—Shop), Category 3 (Commercial—Office), Category 4 (Commercial—Other), Category 5 (Industry—Light) and Category 6 (Industry—Other) of 0.03501 cents in the dollar.

6. That pursuant to section 154 of the Local Government Act 1999, for the year ending 30 June 2011, Council declares a separate rate for the provision of additional car parking in respect of all rateable land within the hatched area ‘A’ defined in map on page 46 of the 2010-2011 Budget/Business Plan, for land uses—Category 2 (Commercial—Shop), Category 3 (Commercial—Office), Category 4 (Commercial—Other), Category 5 (Industry—Light) and Category 6 (Industry—Other) of 0.27 cents in the dollar.

*Natural Resources Management Levy*

7. That pursuant to section 95 of the Natural Resources Management Act 2004 and section 154 of the Local Government Act 1999, for the year ending 30 June 2011, in order to reimburse to the Council the amount of \$246 105 to be contributed to the Adelaide and Mount Lofty Ranges Natural Resources Management Board, a separate rate of 0.0086 cents in the dollar based upon the capital value of land, is declared on all rateable land in the Council’s area and within the Adelaide and Mount Lofty Ranges Natural Resources Management Board area.

*Rebate to Cap Residential Rate Increase*

8. Pursuant to section 153 (3) of the Local Government Act 1999, for the year ending 30 June 2011, the Council will grant a rebate on application to the principal ratepayer in respect of any rateable land with a land use of Category 1 (Residential) where the general rates have increased by more than 20% of those general rates paid in the previous year (or 10% for self-funded retirees of those ratepayers whose primary income source is fixed government benefits), the rebate being equivalent to the amount by which those rates exceed the relevant percentage increase, where that increase is as a result of significant valuation movements except where:

- Significant capital improvements have been made to the property.
- The basis for rating or rebates has changed from the previous year.
- New building work and/or development activity has occurred on the land.
- Changes in land use, wholly or partially have occurred.
- Changes in zoning have occurred.
- The ownership of the rateable property has changed from the previous year.
- The property is no longer the principal place of residence of the principal ratepayer.
- A correction to a previously undervalued property by the Valuer-General.
- The property is owned by a company or incorporated body.

*Payment of Rates*

9. That pursuant to section 181 (2) (a) of the Local Government Act 1999, Council determine that all rates and services charges will be payable in four equal or approximately equal instalments, falling due on 17 September 2010, 3 December 2010, 4 March 2011 and 3 June 2011.

S. KERRIGAN, Chief Executive Officer

## TOWN OF WALKERVILLE

*Adoption of Valuations and Declaration of Rates*

NOTICE is hereby given that at a meeting of Council held on Monday, 9 August 2010 and for the year ending 30 June 2011, it has resolved to adopt the capital values (of all land) made by the Valuer-General in relation to the area of the Council totalling \$2 392 749 000.

*Declaration of Rates*

Council declared the following differential general rates:

- (a) Residential—0.2135 cents in the dollar.
- (b) Commercial (Shop)—0.3311 cents in the dollar.
- (c) Commercial (Office)—0.3311 cents in the dollar.
- (d) Commercial (Other)—0.3311 cents in the dollar.
- (e) Industry (Light)—0.3311 cents in the dollar.
- (f) Industry (Other)—0.3311 cents in the dollar.
- (g) Primary Production—0.3311 cents in the dollar.
- (h) Vacant Land—0.3311 cents in the dollar.
- (i) Other—0.3311 cents in the dollar.

*Declaration of Minimum Rate*

Council fixed a minimum amount payable by way of general rates of \$875.

*Declaration of Separate Rate—  
Natural Resources Management Levy*

Council declared a separate rate of 0.0083 cents in the dollar, in order to recover the amount payable to the Adelaide and Mount Lofty Ranges Natural Resources Management Board.

K. MAGRO, Chief Executive Officer

## DISTRICT COUNCIL OF THE COPPER COAST

## DEVELOPMENT ACT 1993

*Athena Drive Residential—Walleroo Development Plan  
Amendment—Public Consultation*

NOTICE is hereby given that the District Council of the Copper Coast, pursuant to sections 24 and 25 of the Development Act 1993, has prepared a Development Plan Amendment Report (DPA) to amend its Development Plan.

The Amendment will change the Development Plan by proposing to:

- rezone the area bounded by Lehman Road, Kadina Road, Athena Drive, Rucioch Road and Bowmans Road from General Farming to Residential; and
- insert a concept plan to guide development within the proposed Residential zone on the affected land.

The DPA report will be on public consultation from Thursday, 12 August 2010 until Friday, 8 October 2010.

Copies of the DPA report are available for viewing or purchase during normal office hours at the Council Offices, 51 Taylor Street, Kadina, Blanche Terrace, Moonta and 5 John Terrace, Wallaroo or can be downloaded from the Council website:

[www.coppercoast.sa.gov.au](http://www.coppercoast.sa.gov.au)

Written submissions regarding the DPA should be submitted no later than 5 p.m. on Friday, 8 October 2010. All submissions should be addressed to the Chief Executive Officer, District Council of the Copper Coast, 51 Taylor Street, Kadina, S.A 5554 and should clearly indicate whether you wish to be heard in support of your submission at the public hearing. If you wish to lodge your submission electronically, please email it to:

[info@coppercoast.sa.gov.au](mailto:info@coppercoast.sa.gov.au)

Copies of all submissions will be available for inspection at the Council Offices from Friday, 8 October 2010 until the conclusion of the public hearing.

A public hearing will be held on Tuesday, 12 October 2010 at 7 p.m. in the Council Chambers, 51 Taylor Street, Kadina, at which time interested persons may be heard in relation to the DPA and the submissions. The public hearing will not be held if no submissions are received or if no submission makes a request to be heard.

If you would like further information about the DPA, please contact Council's Planning Consultant David Hutchison, Access Planning on 8364 1956.

Dated 12 August 2010.

P. DINNING, Chief Executive Officer

## THE FLINDERS RANGES COUNCIL

*Temporary Road Closure*

NOTICE is hereby given that pursuant to section 33 of the Road Traffic Act 1961, Kingswood Bore Road, between Whitehead Road and Bury Road, be closed to all vehicles excluding Council, Australian Driving Institute and emergency vehicles on Wednesday, 18 August 2010, between the hours of 8 a.m. and 4 p.m. for the purpose of Australian Driver Institute Training for Quorn Area School students.

C. J. DAVIES, Chief Executive Officer

## REGIONAL COUNCIL OF GOYDER

*Road Name Changes*

NOTICE is hereby given that pursuant to section 219 of the Local Government Act 1999, as amended, Council at its meeting of 15 December 2009, resolved that:

Florieton Road in the Hundred of Bunday be renamed Salford Road.

Eudunda Truro Road in the Hundreds of Dutton and Neales be renamed Eudunda Road.

The new names will take effect from 1 September 2010.

J. P. BRAK, Chief Executive Officer

## DISTRICT COUNCIL OF GRANT

*Change of Road Names*

NOTICE is hereby given that Council, at a meeting held on 2 August 2010, resolved to change the name of Youngs Road (from McLeans Road to Old Boundary Road, Mount Schank) to Aldridge Road.

The renaming of this road is a result of the Local Government and State Government's Rural Property Addressing Program.

R. J. PEATE, Chief Executive Officer

## REMARK PARINGA COUNCIL

## BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

*By-law No. 1 of 2010—Permits and Penalties By-Law*

A by-law to create a permit system for Council by-laws, to fix maximum and continuing penalties for offences and for the construction of Council by-laws.

## PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Permits and Penalties By-law 2010 and is By-law No. 1 of the Renmark Paringa Council.

2. *Authorising law*

This By-law is made under section 246 of the Act and sections 667 (1) 3.LIV and 9.XVI of the Local Government Act 1934, as amended.

### 3. Purpose

The objects of this by-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1 creating a permit system for Council by-laws;
- 3.2 providing for the enforcement of breaches of Council by-laws and fixing penalties; and
- 3.3 clarifying the construction of Council by-laws.

### 4. Commencement, Revocation and Expiry

- 4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:
  - 4.1.1 By-law No. 1—Permits and Penalties 2003.<sup>2</sup>
- 4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

### 5. Application

- 5.1 This by-law applies throughout the Council area.

### 6. Interpretation

In this by-law, unless the contrary intention appears;

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *Council* means Renmark Paringa Council;
- 6.3 *person* includes a body corporate.

Note:

Section 14 of the Interpretation Act 1915 provides that an expression used in this by-law has, unless the contrary intention appears, the same meaning as in the Act.

### 7. Construction of By-laws Generally

- 7.1 Every by-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2 In any by-law of the Council, unless the contrary intention appears permission means permission of the Council, granted in writing prior to the act, event or activity to which it relates.

#### PART 2—PERMITS AND PENALTIES

### 8. Permits

- 8.1 Where a by-law requires that permission be obtained any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2 The Council may attach such conditions as it thinks fit to a grant of permission and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 8.3 A person granted permission must comply with every such condition.
- 8.4 The Council may suspend or revoke a grant of permission at any time by notice in writing to the person granted permission.

### 9. Offences and Penalties

- 9.1 A person who commits a breach of any by-law of the Council is guilty of an offence and is liable to a maximum penalty being the maximum penalty referred to in the Act that may be fixed by a by-law for any breach of a by-law.

- 9.2 A person who commits a breach of a by-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a by-law for a breach of a by-law of a continuing nature.

Note:

The maximum penalty for a breach of a by-law is currently \$750, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50—see section 246 (3) (g) of the Act.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

#### RENMARK PARINGA COUNCIL

#### BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

#### *By-law No. 2 of 2010—Local Government Land By-Law*

A by-law to regulate the access to and use of Local Government Land (other than roads) and certain public places.

#### PART 1—PRELIMINARY

### 1. Title

This by-law may be cited as the Local Government Land By-law 2010 and is By-law No. 2 of the Renmark Paringa Council.

### 2. Authorising Law

This by-law is made under sections 238 and 246 of the Act and sections 667 (1) 4.1 and 9.XVI of the Local Government Act 1934, as amended.

### 3. Purpose

The objects of this by-law are to regulate the access to and use of Local Government Land (other than roads) and certain public places:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to prevent damage to Local Government Land;
- 3.3 to protect the convenience, comfort and safety of members of the public;
- 3.4 to enhance the amenity of the Council area; and
- 3.5 for the good rule and government of the area.

### 4. Commencement, Revocation and Expiry

- 4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:
  - 4.1.1 By-Law No. 4—Local Government Land 2003 and By-Law No. 7—Cemeteries 2003.<sup>2</sup>
- 4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

### 5. Application

- 5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.
- 5.2 Subject to Clauses 5.3, this by-law applies throughout the Council area.

- 5.3 Clauses 9.3, 9.9.1, 9.9.3, 9.9.5, 9.13.1, 9.25.3, 10.3 and 10.9.3 of this by-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246 (3) (e) of the Act.

## 6. Interpretation

In this by-law, unless the contrary intention appears:

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *animal or animals* includes birds and insects but does not include a dog;
- 6.3 *boat* includes a raft, pontoon, houseboat, personal watercraft or other similar device;
- 6.4 *camp* includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 6.5 *cemetery* means any fenced premises within the Council area, constructed, set aside and dedicated by the Council as a place for the interment of deceased persons;
- 6.6 *children's playground* means an enclosed area in which there is equipment or other devices installed for the purpose of children's play (or within 3 m of such devices if there is no enclosed area);
- 6.7 *Council* means Renmark Paringa Council;
- 6.8 *electoral matter* has the same meaning as in the Electoral Act 1985 provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.9 *effective control* means a person exercising effective control of an animal either:
- 6.9.1 by means of a physical restraint; or
- 6.9.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.10 *emergency worker* has the same meaning as in the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999;
- 6.11 *foreshore* means land extending from the edge of any navigable waterway or body of water in the Council's area to the nearest road or section boundary or for a distance of 50 m (whichever is the lesser);
- 6.12 *liquor* has the same meaning as in the Liquor Licensing Act 1997;
- 6.13 *Local Government Land* means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.14 *motor home* means a recreational self-contained vehicle which is not a caravan but includes electrical and plumbing facilities;
- 6.15 *offensive* includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.16 *open container* means a container which:
- (a) after the contents of the container have been sealed at the time of manufacture:
- (i) being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
- (ii) being a can, it has been opened or punctured;
- (iii) being a cask, it has had its tap placed in a position to allow it to be used;
- (iv) being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
- (v) is a flask, glass, mug or other container able to contain liquid.
- 6.17 *tobacco product* has the same meaning as in the Tobacco Products Regulation Act 1997;

- 6.18 *vehicle* has the same meaning as in the Road Traffic Act 1961;
- 6.19 *waters* includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council.

Note:

Section 14 of the Interpretation Act 1915 provides that an expression used in a by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law was made.

## PART 2—ACCESS TO LOCAL GOVERNMENT LAND

### 7. Access

Note:

Pursuant to section 238 (7) of the Act, if a Council makes a by-law about access to or use of a particular piece of Local Government Land (under section 238), the Council must erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the by-law applies.

The Council may:

- 7.1 close, or regulate or restrict access to, any part of Local Government Land to the public for specified times and days; and
- 7.2 fix charges or fees payable for entry onto any part of Local Government Land.

### 8. Closed Lands

A person must not without permission, enter or remain on any Local Government Land:

- 8.1 which has been closed, or in respect of which access by the public is regulated or restricted in accordance with Clause 7.1;
- 8.2 where entry fees or charges are payable, without paying those fees or charges; or
- 8.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked.

## PART 3—USE OF LOCAL GOVERNMENT LAND

### 9. Activities Requiring Permission

Note:

Pursuant to section 238 (7) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council must erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the by-law applies.

A person must not without the permission of the Council, do any of the following on Local Government Land:

#### 9.1 Advertising

Subject to Clause 14.2, display, paint or erect any sign or hoarding for the purpose of commercial advertising or any other purpose.

#### 9.2 Aircraft

Subject to the Civil Aviation Act 1988, land any aircraft on, or take off any aircraft from the land.

#### 9.3 Alcohol

Consume, carry or be in possession or in charge of any liquor on Local Government Land comprising parks or reserves to which the Council has determined this paragraph applies.

#### 9.4 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of broadcasting sound, or magnifying sound, to an audience.

#### 9.5 Animals

##### 9.5.1 on Local Government Land:

- (a) cause or allow an animal to stray onto, move over, graze or be left unattended on Local Government Land; or
- (b) cause or allow an animal to enter, swim, bathe or remain in any waters located on Local Government Land; or

- (c) lead, herd or exercise an animal, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided that the animal or animals are under effective control.

#### 9.6 Annoyance

Do anything likely to offend or unreasonably interfere with any other person:

- (a) using that land; or  
(b) occupying nearby premises;  
by making a noise or creating a disturbance.

#### 9.7 Attachments

Subject to Clause 14.2, attach anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government Land.

#### 9.8 Bees

Place a hive of bees on such land, or allow it to remain thereon.

#### 9.9 Boats and Mooring

Subject to the provisions of the Harbors and Navigation Act 1993:

- 9.9.1 launch or retrieve a boat to or from any waters where the Council has determined that this subclause applies;  
9.9.2 launch or retrieve a boat from the foreshore without using a boat ramp or thoroughfare constructed or set aside by the Council for that purpose;  
9.9.3 propel, float or otherwise use a boat on or in any waters to which the Council has determined this Clause applies;  
9.9.4 hire out a boat or otherwise use a boat for commercial purposes;  
9.9.5 moor any boat on or to Local Government Land to which the Council has determined this Clause applies; or  
9.9.6 moor any boat on or to Local Government Land other than in accordance with such time limits and other conditions determined by resolution of the Council and contained in any signage erected thereon.

#### 9.10 Bridge Jumping

Jump or dive from a bridge on Local Government Land.

#### 9.11 Buildings

Use a building, or structure on Local Government Land for a purpose other than its intended purpose.

#### 9.12 Burials and Memorials

- 9.12.1 Bury, inter or spread the ashes of any human or animal remains.  
9.12.2 Erect any memorial or monument.

#### 9.13 Camping and Tents

- 9.13.1 Erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation on Local Government Land to which the Council has determined this sub-clause applies.  
9.13.2 Camp or sleep overnight on Local Government Land:  
(a) unless in a caravan park on Local Government Land, the proprietor of which has been given permission to operate the caravan park on that land; or  
(b) other than on an area which has been designated and set aside by the Council for that purpose and in accordance with such time limits and other conditions determined by resolution of the Council and contained in any signage erected thereon.

- 9.13.3 Subject to this Clause, camp in a motor home on Local Government Land other than:

- (a) on an area which has been designated and set aside by the Council for that purpose; and  
(b) in accordance with any conditions determined by resolution of the Council and contained in the signage erected thereon.

#### 9.14 Canvassing

Convey any advertising, religious or other message to any bystander, passer-by or other.

#### 9.15 Cemeteries

On Local Government Land comprising a cemetery:

- 9.15.1 remain in a cemetery outside of the hours that it is open to the public as displayed at the entrance(s) to the cemetery;  
9.15.2 erect or place upon any part of the cemetery any monument, cover, railing, or other improvement;  
9.15.3 deface or cause damage to any structure, monument or attachment upon the land;  
9.15.4 disturb or interrupt a funeral service;  
9.15.5 drive into or cause any vehicle to enter a cemetery;  
9.15.6 cause or allow any animal or dog to enter a cemetery.

Note:

It is the intention of the Council that Clause 9.15 applies to Local Government Land comprising a cemetery in addition to the restrictions set out under Clauses 9 and 10 in relation to Local Government Land generally.

#### 9.16 Defacing Property

Deface, remove, paint, spray, write upon, cut names, letters or make marks on any tree, rock, gate, fence, object, monument, building, sign, bridge or property of the Council.

#### 9.17 Distribution

Subject to Clause 14.2, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person.

#### 9.18 Donations

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

#### 9.19 Entertainment and Busking

- 9.19.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.  
9.19.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

#### 9.20 Equipment

Use an item of equipment, facilities or property belonging to the Council if that person is of or over the age indicated by a sign or notice as the age limit for using such equipment, facility or property.

#### 9.21 Fires

Subject to the Fire and Emergency Services Act 2005 light a fire except:

- 9.21.1 in a place provided by the Council for that purpose; or  
9.21.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least 4 m.

9.22 *Fireworks*

Ignite or discharge any fireworks.

9.23 *Flora and Fauna*

Subject to the Native Vegetation Act 1991 and the National Parks and Wildlife Act 1972:

9.23.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon;

9.23.2 cause or allow an animal to stand or walk on any flower bed or garden plot;

9.23.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

9.23.4 take, interfere with, tease, harm or disturb any animal, bird or marine creature or the eggs or young of any animal, bird or marine creature;

9.23.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

9.23.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

9.23.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or marine creature; or

9.23.8 burn any timber or dead wood.

9.24 *Foreshore*

On Local Government Land comprising the foreshore:

9.24.1 drive or propel a vehicle onto or from the foreshore other than by a ramp or thoroughfare constructed or set aside by the Council for that purpose;

9.24.2 drive or propel a vehicle on the foreshore except on an area or road that is constructed or set aside by the Council for that purpose;

9.24.3 allow a vehicle to remain stationary on a boat ramp longer than is necessary to launch or retrieve a boat; or

9.24.4 hire out a boat on or from the foreshore.

9.25 *Games*

9.25.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play.

9.25.2 Play or practise any game which involves kicking, hitting or throwing a ball or other object on Local Government Land which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.

9.25.3 Play or practise the game of golf on Local Government Land to which the Council has resolved this subclause applies.

9.26 *Litter*

9.26.1 Throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose.

9.26.2 Deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.

9.27 *Marine Life*

Introduce any marine life to any waters located on Local Government Land.

9.28 *Model Aircraft, Boats and Cars*

Fly or operate a model aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land.

9.29 *Overhanging Articles or Displaying Personal Items*

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on Local Government Land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

9.30 *Playing Area*

Use or occupy a playing area:

9.30.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);

9.30.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

9.30.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

9.31 *Pontoons*

Install or maintain a pontoon or jetty in any waters.

9.32 *Posting of Bills*

Subject to Clause 14.2, post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on Local Government Land or in a public place.

9.33 *Preaching*

Preach, harangue or solicit for religious purposes.

9.34 *Ropes*

Place a buoy, cable, chain, hawser, rope or net in or across any waters.

9.35 *Swimming*

Subject to the provisions of the Harbors and Navigation Act 1993 swim in, bathe or enter any waters on Local Government Land except:

9.35.1 in an area which the Council has designated and set aside for such purposes; and

9.35.2 in accordance with any conditions that the Council may have determined by resolution apply to such use, which are exhibited on any signage on land adjoining the body of water.

9.36 *Trading*

9.36.1 sell, buy, offer or display anything for sale;

9.36.2 carry on any business or promote or advertise the same.

9.37 *Vehicles*

9.37.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.

9.37.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.

9.37.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.

9.38 *Weddings, Functions and Special Events*

9.38.1 Hold, conduct or participate in a marriage ceremony, funeral service or special event.

9.38.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral service or special event.

9.38.3 Hold or conduct any filming where the filming is for a commercial purpose.

10. *Prohibited Activities*

A person must not do any of the following on Local Government Land:

10.1 *Animals*

- 10.1.1 Cause or allow any animal to enter, swim, bathe or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming.
- 10.1.2 Cause or allow an animal to damage a flowerbed, garden plot, tree, lawn or like thing or place.
- 10.1.3 Lead, herd or exercise a horse in such manner as to cause a nuisance or endanger the safety of a person.

10.2 *Equipment*

Use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

10.3 *Fishing*

Fish in any waters to which the Council has determined this subclause applies.

10.4 *Glass*

Wilfully break any glass, china or other brittle material.

10.5 *Interference with Land*

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 10.5.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 10.5.2 erecting or installing a structure in, on, across, under or over the land;
- 10.5.3 changing or interfering with the construction, arrangement or materials of the land;
- 10.5.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 10.5.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

10.6 *Interference with Permitted Use*

Interrupt, disrupt or interfere with any other person's use of Local Government Land which is permitted or for which permission has been granted.

10.7 *Nuisance*

Behave in such a manner as to cause discomfort, inconvenience, annoyance or offence to any other person including by using profane, indecent or obscene language.

10.8 *Playing Games*

Play or practise a game:

- 10.8.1 which is likely to cause damage to the land or anything on it; or
- 10.8.2 in any area where a sign indicates that the game is prohibited.

10.9 *Smoking*

Smoke, hold or otherwise have control over an ignited tobacco product:

- 10.9.1 in any building;
- 10.9.2 in any children's playground; or
- 10.9.3 on any land to which the Council has determined this subclause applies.

10.10 *Throwing Objects*

Throw, roll, project or discharge a stone, substance or other missile, excluding sport and recreational equipment designed to be used in that way.

10.11 *Toilets*

In any public convenience on Local Government Land:

- 10.11.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 10.11.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 10.11.3 use it for a purpose for which it was not designed or constructed;
- 10.11.4 enter a toilet that is set aside for use of the opposite sex except:
  - (a) where a child under the age of eight years is accompanied by an adult parent or guardian of that sex;
  - (b) to provide assistance to a disabled person; or
  - (c) in the case of a genuine emergency.

10.12 *Solicitation*

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

10.13 *Waste*

10.13.1 Deposit or leave thereon:

- (a) anything obnoxious or offensive;
- (b) any offal, dead animal, dung or filth; or
- (c) any mineral, mineral waste, industrial waste or bi-products.

10.13.2 Foul or pollute any waters situated thereon.

10.13.3 Deposit any rubbish other than in receptacles provided by the Council for that purpose.

10.13.4 Deposit in a receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

## PART 4—ENFORCEMENT

11. *Directions*

11.1 A person on Local Government Land must comply with a reasonable direction from an authorised person relating to:

- 11.1.1 that person's use of the land;
- 11.1.2 that person's conduct and behaviour on the land;
- 11.1.3 that person's safety on the land; or
- 11.1.4 the safety and enjoyment of other persons on the land.

11.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this by-law must immediately comply with a direction of an authorised person to leave that part of Local Government Land.

12. *Orders*

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this by-law, the Council may recover its costs of any action taken under section 262 (3) of the Act from the person to whom the order was directed.

Note:

Section 262 (1) of the Act states:

(1) If a person (*the offender*) engages in conduct that is a contravention of this Act or a by-law under this Act, an authorised person may order the offender:

- (a) if the conduct is still continuing—to stop the conduct; and

- (b) whether or not the conduct is still continuing—to take specified action to remedy the contravention.

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government Land;
- remove an object or structure encroaching on Local Government Land;
- dismantle and remove a structure erected on Local Government Land without permission.

### 13. Removal of Animals and Objects

An authorised person may remove an animal or object that is on Local Government Land in breach of a by-law if no person is in charge of, or apparently in charge of, the animal or object.

#### PART 5—MISCELLANEOUS

### 14. Exemptions

- 14.1 The restrictions in this by-law do not apply to a Police Officer, Emergency Worker, Council Officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer.
- 14.2. The restrictions in Clauses 9.1, 9.7, 9.17 and 9.32 of this by-law do not apply to electoral matter authorised by a candidate and which is:
- 14.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 14.2.2 related to an election under the Act or the Local Government (Elections) Act 1999 and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- 14.2.3 related to and occurs during the course of and for the purpose of a referendum.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

#### RENMARK PARINGA COUNCIL

#### BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

#### *By-law No. 3 of 2010—Roads By-Law*

A by-law to regulate certain activities on roads in the Council area.

#### PART 1—PRELIMINARY

### 1. Title

This by-law may be cited as the Roads By-law 2010 and is By-law No. 3 of the Renmark Paringa Council.

### 2. Authorising Law

This by-law is made under sections 239 and 246 of the Act, Regulation 13 (1) (c) of the Local Government (Implementation) Regulations 1999 and sections 667 (1), 4.I, 5.VII, 7.II and 9.XVI of the Local Government Act 1934, as amended.

### 3. Purpose

The objects of this by-law are to manage and regulate the prescribed uses of roads in the Council area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; and
- 3.4 for the good rule and government of the Council area.

### 4. Commencement, Revocation and Expiry

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:

4.1.1 By-Law No.3—Roads 2003.<sup>2</sup>

4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

### 5. Application

5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.

5.2 This by-law applies throughout the Council area.

### 6. Interpretation

In this by-law, unless the contrary intention appears:

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *animal* includes birds, insects and poultry but does not include a dog or a cat;
- 6.3 *camp* includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 6.4 *Council* means Renmark Paringa Council;
- 6.5 *effective control* means a person exercising effective control of an animal either:
  - 6.5.1 by means of a physical restraint; or
  - 6.5.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.6 *electoral matter* has the same meaning as in the Electoral Act 1995 provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;
- 6.7 *emergency worker* has the same meaning as in the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999;
- 6.8 *vehicle* has the same meaning as in the Road Traffic Act 1961.

Note:

Section 14 of the Interpretation Act 1915, provides that an expression used in this by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law was made.

#### PART 2—USE OF ROADS

### 7. Activities Requiring Permission

A person must not do any of the following activities on a road without the permission of the Council:

#### 7.1 Amplification

Use an amplifier or other device whether mechanical or electrical for the purpose of broadcasting announcements or advertisements.

#### 7.2 Animals

7.2.1 Cause or allow an animal to stray onto, move over, or graze on a road except where the Council has set aside a track or other area for use by or in connection with an animal of that kind and provided the animal or animals are under effective control.

7.2.2 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

### 7.3 *Camping and Tents*

7.3.1 Erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

#### 7.3.2 *Camp or Sleep Overnight*

7.3.3 Park a motor home on any road for the purposes of camping or sleeping overnight other than:

- (a) on any area of the road which has been designated and set aside by the Council for that purpose; and
- (b) in accordance with any conditions determined by the Council and contained in any signage erected thereon.

### 7.4 *Donations*

Ask for or receive or indicate a desire for a donation of money or any other thing, or otherwise solicit for religious or charitable purposes.

### 7.5 *Obstructions*

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road or footway, water-channel, or watercourse in a road.

### 7.6 *Posting of Bills*

Subject to Clause 11.2, post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on a road.

### 7.7 *Preaching*

Preach, harangue or solicit for religious purposes.

### 7.8 *Public Exhibitions and Displays*

7.8.1 Sing, busk, play a recording or use a music instrument or perform similar activities.

7.8.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity.

7.8.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

7.8.4 Cause any public exhibitions or displays.

### 7.9 *Vehicles*

Repair, wash, paint, panel beat or perform other work of a similar nature to a vehicle, except for running repairs in the case of a vehicle breakdown.

Note:

Movable signs on roads are regulated by sections 226 and 227 of the Act and the Council's Moveable Signs By-law (if any).

#### PART 3—ENFORCEMENT

### 8. *Directions*

A person who, in the opinion of an authorised person is committing or has committed a breach of this by-law, must immediately comply with a direction of an authorised person to leave that part of the road.

### 9. *Orders*

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this by-law, the Council may recover its costs of any action taken under section 262 (3) of the Act from the person to whom the order was directed.

Note:

Section 262 (1) of the Act states:

- (1) If a person (*the offender*) engages in conduct that is a contravention of this Act or a by-law under this Act, an authorised person may order the offender:
  - (a) if the conduct is still continuing—to stop the conduct; and
  - (b) whether or not the conduct is still continuing—to take specified action to remedy the contravention.

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath;
- remove bills posted on a structure on a road;
- dismantle and remove a tent from a road.

### 10. *Removal of Animals and Objects*

An authorised person may remove an animal or object that is on a road in breach of a by-law if no person is in charge, or apparently in charge, of the animal or object.

#### PART 4—MISCELLANEOUS

### 11. *Exemptions*

11.1 The restrictions in this by-law do not apply to a Police Officer, Emergency Worker, Council Officer or employee acting in the course and within the scope of that person's normal duties or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer.

11.2 The restrictions in Clause 7.5 of this by-law do not apply to electoral matter authorised by a candidate and which is:

11.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day;

11.2.2 related to an election under the Act or the Local Government (Elections) Act 1999 and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

11.2.3 related to, and occurs during the course of and for the purpose of a referendum.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

#### RENMARK PARINGA COUNCIL

#### BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

#### *By-law No. 4 of 2010—Moveable Signs By-Law*

A by-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs.

#### PART 1—PRELIMINARY

#### 1. *Title*

This by-law may be cited as the Moveable Signs By-law 2010 and is By-law No. 4 of the Renmark Paringa Council.

#### 2. *Authorising Law*

This by-law is made under sections 239 and 246 of the Act, and sections 667 (1), 4.1 and 9.XVI of the Local Government Act 1934, as amended.

#### 3. *Purpose*

The object of this by-law is to set standards for moveable signs on roads:

- 3.1 to protect the comfort and safety of road users and members of the public;
- 3.2 to enhance the amenity of roads and surrounding parts of the Council area;
- 3.3 to prevent nuisances occurring on roads;
- 3.4 to prevent unreasonable interference with the use of a road; and
- 3.5 for the good rule and government of the Council area.

#### 4. Commencement, Revocation and Expiry

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:

4.1.1 By-Law No. 2—Moveable Signs 2003.<sup>2</sup>

4.2 This by-law will expire on 1st January 2018.<sup>3</sup>

Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

#### 5. Application

5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.

5.2 This by-law applies throughout the Council area.

#### 6. Interpretation

In this by-law, unless the contrary intention appears:

6.1 *Act* means the Local Government Act 1999;

6.2 *business premises* means premises from which a business is being conducted;

6.3 *Council* means Renmark Paringa Council;

6.4 *footpath area* means:

6.4.1 that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;

6.4.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;

6.5 *vehicle* has the same meaning as in the Road Traffic Act 1961.

Note:

Section 14 of the Interpretation Act 1915, provides that an expression used in this by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law was made.

### PART 2—MOVEABLE SIGNS

#### 7. Construction and Design

A moveable sign placed on a footpath area must:

7.1 be of kind known as an 'A' frame or sandwich board sign, an inverted 'T' sign, or a flat sign or, with the permission of the Council, a sign of some other kind;

7.2 be designed, constructed and maintained in good quality and condition;

7.3 be of strong construction and sufficiently stable or securely fixed so as to keep its position in adverse weather conditions;

7.4 have no sharp or jagged edges or corners;

7.5 not be unsightly or offensive in appearance or content;

7.6 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;

7.7 not exceed 900 mm in height, 600 mm in width and 600 mm in depth;

7.8 in the case of an 'A' frame or sandwich board sign:

7.8.1 be hinged or joined at the top;

7.8.2 be of such construction that its sides are securely fixed or locked in position when erected; and

7.8.3 not have a base area in excess of 0.6 m<sup>2</sup>;

7.9 in the case of an inverted 'T' sign, not contain struts or members that run between the display area and the base of the sign.

#### 8. Placement

A moveable sign must not be:

8.1 placed on any part of a road apart from the footpath area;

8.2 placed on a footpath that is less than 2.5 m wide;

8.3 placed closer than 2 m from another structure, fixed object, tree, bush or plant;

8.4 placed within 1 m of an entrance to any business premises;

8.5 placed on the sealed part of a footpath, if there is an unsealed part on which the sign can be placed in accordance with this by-law;

8.6 placed so as to interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed;

8.7 placed closer than 1.2 m to the kerb (or, if there is no kerb, to the edge of the carriageway of a road or the shoulder of the road, which ever is the greater);

8.8 placed on a landscaped area, other than landscaping that comprises only lawn;

8.9 placed within 10 m of an intersection of two or more roads;

8.10 placed on a footpath area with a minimum height clearance from a structure above it of less than 1.5 m;

8.11 placed on a designated parking area or within 1 m of an entrance to premises;

8.12 tied, fixed or attached to any other structure, object or thing (including another moveable sign);

8.13 displayed during the hours of darkness unless it is clearly lit; or

8.14 placed in such a position or in such circumstances that the safety of a user of the footpath area or road is at risk.

#### 9. Banners

A person must not erect or display a banner on a building or structure on a road without the Council's permission.

Note:

A person must not erect or display a banner on a public road for a business purpose without a permit from the Council issued under section 222 of the Local Government Act 1999.

#### 10. Restrictions

10.1 The owner or operator of a business must not without the permission of the Council, cause or allow more than one moveable sign for each business premises to be displayed on the footpath area of a road at any time.

10.2 A person must not, without the Council's permission, display a moveable sign on or attached to or adjacent to a vehicle that is parked on Local Government Land (including roads) primarily for the purpose of advertising or offering for sale a product (including the vehicle) or business to which the sign relates.

10.3 A person must not without the permission of the Council, cause or allow a moveable sign to be placed on a footpath area unless:

10.3.1 it only displays material which advertises a business being conducted on premises adjacent to the moveable sign or the goods and services available from that business; and

10.3.2 the business premises to which it relates is open to the public.

10.4 If in the opinion of the Council a footpath area is unsafe for a moveable sign to be displayed, the Council may prohibit or restrict the display of a moveable sign on such conditions as the Council thinks fit.

#### 11. Exemptions

11.1 Subclauses 10.1 and 10.3.1 of this by-law do not apply to a moveable sign which:

- 11.1.1 advertises a garage sale taking place from residential premises; and
- 11.1.2 is a directional sign to an event run by a community organisation or charitable body.
- 11.2 A requirement of this by-law will not apply where the Council has granted permission for the moveable sign to be displayed contrary to that requirement.

## Note:

This by-law does not apply to moveable signs placed and maintained on a road in accordance with section 226 (3) of the Act, which includes any sign:

- placed there pursuant to an authorisation under another Act;
- designed to direct people to the open inspection of any land or building that is available for purchase or lease;
- related to a State or Commonwealth election and is displayed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day;
- related to an election held under this Act or the Local Government (Elections) Act 1999 and is displayed during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- the sign is of a prescribed class.

## PART 3—ENFORCEMENT

## 12. Removal of Moveable Signs

- 12.1 A person must immediately comply with the order of an authorised person to remove a moveable sign made pursuant to section 227 (1) of the Act.
- 12.2 The owner of or other person entitled to recover a moveable sign removed by an authorised person pursuant to section 227 (2) of the Act, may be required to pay to the Council any reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign before being entitled to recover the moveable sign.
- 12.3 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:
- 12.3.1 if, in the opinion of an authorised person, and not withstanding compliance with this by-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or
- 12.3.2 for the purpose of special events, parades, roadworks or in any other circumstances which, in the opinion of the authorised person, require relocation or removal of the moveable sign to protect public safety or to protect or enhance the amenity of a particular locality.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

## RENMARK PARINGA COUNCIL

## BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

*By-law No. 5 of 2010—Dogs By-law*

A by-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council area.

## PART 1—PRELIMINARY

## 1. Title

This by-law may be cited as the Dog By-law 2010 and is By-law No. 5 of the Renmark Paringa Council.

## 2. Authorising Law

This by-law is made under section 90 (5) of the Dog and Cat Management Act 1995, sections 238 and 246 of the Act, and sections 667 (1), 9.XVI of the Local Government Act 1934, as amended.

## 3. Purpose

The objects of this by-law are to control and manage dogs in the Council area:

- 3.1 to reduce the incidence of environmental nuisance caused by dogs;
- 3.2 to promote responsible dog ownership;
- 3.3 to protect the convenience, comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council area.

## 4. Commencement, Revocation and Expiry

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:

4.1.1 By-law No. 5—Dogs 2003.<sup>2</sup>

4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

## Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

## 5. Application

- 5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.
- 5.2 Subject to Clauses 5.3, this by-law applies throughout the Council area.
- 5.3 Clauses 9.1.1 and 10.1.2, of this by-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246 (3) (e) of the Act.

## 6. Interpretation

In this by-law, unless the contrary intention appears:

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *approved kennel establishment* means a building, structure or area approved by a relevant authority, pursuant to the Development Act 1993, for the keeping of dogs on a temporary or permanent basis;
- 6.3 *children's playground* means an enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 m of such devices if there is no enclosed area);
- 6.4 *Council* means Renmark Paringa Council;
- 6.5 *detached dwelling*, *row dwelling* and *semi-detached dwelling* have the same meanings as in the Development Act 1993;
- 6.6 *dog* (except for in Clause 7.1) has the same meaning as in the Dog and Cat Management Act 1995;
- 6.7 *effective control* means a person exercising effective control of a dog either:
  - 6.7.1 by means of a physical restraint; or
  - 6.7.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.8 *keep* includes the provision of food or shelter;
- 6.9 *premises* includes land, whether used or occupied for domestic or non-domestic purposes, except an approved kennel establishment;
- 6.10 *small dwelling* means a self-contained residence that is:
  - 6.10.1 a residential flat building;
  - 6.10.2 contained in a separate strata unit;
  - 6.10.3 on an allotment less than 400 m<sup>2</sup> in area; or
  - 6.10.4 without a secure yard of at least 100 m<sup>2</sup> in area;
- 6.11 *working dog* means a dog used principally for droving or tending livestock.

## Note:

Section 14 of the Interpretation Act 1915, provides that an expression used in this by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law was made.

## PART 2—LIMITS ON DOG NUMBERS

7. *Limits on Dog Numbers in Private Premises*

- 7.1 Subject to Clauses 7.3 and 7.5, a person must not, without the Council's permission keep:
- 7.1.1 in a township, more than one dog in a small dwelling;
  - 7.1.2 in a township, more than two dogs in premises other than a small dwelling;
  - 7.1.3 outside of a township, more than two dogs (other than working dogs);
- 7.2 For the purposes of Clause 7.1, 'dog' means a dog that is three months of age or older or, a dog that has lost its juvenile teeth.
- 7.3 Clause 7.1 does not apply to:
- 7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or
  - 7.3.2 any business involving dogs provided that the business is registered in accordance with the Dog and Cat Management Act 1995.
- 7.4 The Council may require that premises which are the subject of an application for permission to keep additional dogs, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.
- 7.5 No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

## PART 3—DOG CONTROLS

8. *Dog Exercise Areas*

- 8.1 Subject to Clauses 9 and 10 of this by-law, a person may enter a park in the Council area for the purpose of exercising a dog under his or her effective control.
- 8.2 A person entering a dog exercise area designated by the Council must ensure that any dog under that person's control, charge or authority is under effective control at all times.

9. *Dog on Leash Areas*

- 9.1 A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an accredited guide dog, hearing dog or disability dog that is required to remain off-lead in order to fulfil its functions) to be or remain:
- 9.1.1 on Local Government Land or public place to which the Council has resolved that this subclause applies; and
  - 9.1.2 on any park or reserve during times when organised sport is being played;
- Unless the dog is secured by a strong leash not exceeding 2 m in length which is either tethered securely to a fixed object capable of securing the dog or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

10. *Dog Prohibited Areas*

- 10.1 A person must not allow a dog under that person's control, charge or authority (except an accredited guide dog, hearing dog or disability dog) to enter or remain:
- 10.1.1 on any children's playground on Local Government Land;
  - 10.1.2 on any other Local Government Land or public place to which the Council has determined that this subclause applies.

11. *Dog Faeces*

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government Land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under section 45 A (6) of the Dog and Cat Management Act 1995).

## PART 4—ENFORCEMENT

12. *Orders*

- 12.1 If a person engages in conduct that is in contravention of this by-law, an authorised person may order that person:
- 12.1.1 if the conduct is still continuing—to stop the conduct; and
  - 12.1.2 whether or not the conduct is still continuing—to take specified action to remedy the contravention.
- 12.2 A person must comply with an order under this Clause.
- 12.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may recover its costs of any action so taken from the person to whom the order was directed.
- 12.4 However, an authorised person may not use force against a person under this section.

## Note:

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of dogs on that person's premises; or
- remove a dog from a dog prohibited area.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

B. HURST, Chief Executive Officer

## RENMARK PARINGA COUNCIL

## BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

*By-law No. 6 of 2010—Cats By-Law*

A by-law to limit the number of cats kept on premises and for the management and control of cats in the Council area.

## PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Cats By-law 2010 and is By-law No. 6 of the Renmark Paringa Council.

2. *Authorising Law*

This by-law is made under section 90 (5) of the Dog and Cat Management Act 1995, section 246 of the Act and sections 667 (1), 4.1 and 9.XVI of the Local Government Act 1934, as amended.

3. *Purpose*

The objects of this by-law are to control and manage cats in the Council area:

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of the public and environmental nuisance caused by cats;
- 3.3 to protect the comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council area.

4. *Commencement, Revocation and Expiry*

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:

- 4.1.1 Cats By-law No. 8—2007.<sup>2</sup>
- 4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

## Note:

- <sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.
- <sup>2</sup> Section 253 of the Act provides that the revocation of a by-law by another by-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.
- <sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* of the by-law.

## 5. Application

- 5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.
- 5.2 This by-law applies throughout the Council area.

## 6. Interpretation

In this by-law, unless the contrary intention appears;

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *approved cattery* means a building, structure or area approved by a relevant authority, pursuant to the Development Act 1993 for the keeping of cats on a temporary or permanent basis;
- 6.3 *cat* means an animal of the species *felis cactus*;
- 6.4 *Council* means Renmark Paringa Council;
- 6.5 *identified cat* means a cat identified in the manner set out in Regulation 9 of the Dog and Cat Management Regulations 1995, being a cat that has:
- 6.5.1 a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of its owner; or
- 6.5.2 a microchip implanted in its body containing information that may be used to obtain the current address or telephone number of its owner and has the letter 'M' tattooed on the inside of either of its ears.
- 6.6 *keep* includes the provision of food or shelter;
- 6.7 *nuisance* means:
- 6.7.1 unreasonably interfering with the peace, comfort or convenience of a person;
- 6.7.2 injurious to a person's real or personal property; or
- 6.7.3 obnoxious, offensive or hazardous to health;
- 6.8 *premises* includes land whether used or occupied for domestic or non-domestic purposes except an approved cattery.
- 6.9 *Township* means:
- 6.9.1 any government township and any land laid out as a township where plans of the township have been deposited in the Lands Title Registration Office, the General Registry Officer or the Surveyor-General's office; or
- 6.9.2 any part of the area of the Council that contains at least 20 residences and that is defined as a township by the Council by notice in the *Gazette*.
- 6.10 *Site* means the area of land on which a building is built, or proposed to be built, including the cartilage of the building, or in the case of a building comprising more than one separate occupancy, the area of land on which each occupancy is built or proposed to be built, together with its cartilage.

## Note:

Section 14 of the Interpretation Act 1915, provides that an expression used in this by-law has, unless the contrary intention appears, the same meaning as in the Acts under which the by-law is made.

## 7. Request for Cats to be Identified

No person shall keep in any premises a cat over the age of three months unless the cat is an identified cat.

## PART 2—LIMITS ON CAT NUMBERS

## 8. Limits on Cat Numbers

- 8.1 Subject to the provisions of Clause 8.5 of this by-law, the limit on the number of cats to be kept on any premises within a township shall be:
- 8.1.1 in the case of premises with a site area of 300m<sup>2</sup> or less, one cat; and
- 8.1.2 in the case of premises with a site area greater than 300m<sup>2</sup>, two cats.
- 8.2 Subject to the provisions of Clause 8.3 of this by-law outside a township the limit on the number of cats to be kept on any premises shall be two cats.
- 8.3 No person shall, without obtaining written permission of the Council, keep any cat on any premises where the number of cats exceeds the limit prescribed by Clauses 8.1 and 8.2 of this by-law unless the Council has exempted the premises from compliance with those clauses by granting them an exemption in writing.
- 8.4 Permission under Clause 8.3 may be given if the Council is satisfied that:
- 8.4.1 no insanitary condition exists on the premises as a result of the keeping of cats; and
- 8.4.2 a nuisance is not caused to any neighbour as a result of the keeping of cats on the premises.
- 8.5 No cats shall be kept on any premises where:
- 8.5.1 an insanitary condition exists on the premises as a result of the keeping of a cat;
- 8.5.2 a nuisance is caused to any neighbour as a result of the keeping of a cat on the premises.

## 9. Cats not to be a Nuisance

- 9.1 If a cat or cats kept or allowed to remain on premises cause a nuisance by reason of:
- 9.1.1 noise or odour created by the cat or cats;
- 9.1.2 wandering from the land; or
- 9.1.3 the aggressive nature of the cat or cats;
- the owner or occupier of the premises acts in breach of this by-law.

## PART 3—ENFORCEMENT

## 10. Orders

- 10.1 If a person engages in conduct that is a contravention of this by-law, an authorised person may order that person:
- 10.1.1 if the conduct is still continuing—to stop the conduct; and
- 10.1.2 whether or not the conduct is still continuing—to take specified action to remedy the contravention.
- 10.2 A person must comply with an order under this clause.
- 10.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may recover its costs of any action so taken from the person to whom the order was directed.
- 10.4 However, an authorised person may not use force against a person under this section.

## Note:

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of cats on that person's premises; or
- take the necessary steps to mitigate a nuisance caused by howling cats.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

## RENMARK PARINGA COUNCIL

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

*By-law No. 7 of 2010—Nuisances Caused by Building Sites By-Law*

TO prevent and suppress certain kinds of nuisances caused by rubbish escaping from land on which building work is being undertaken.

## PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Nuisances Caused by Building Sites By-law 2010 and is By-law No. 7 of the Renmark Paringa Council.

2. *Authorising Law*

This by-law is made under section 667 (1) 4.1 of the Local Government Act 1934, as amended.

3. *Purpose*

The objects of this by-law are to:

- 3.1 prevent and suppress nuisances;
- 3.2 to protect the convenience, comfort and safety of members of the public;
- 3.3 to enhance the amenity of the Council area; and
- 3.4 for the good rule and government of the Council area.

4. *Operation and Revocation*

4.1 The following by-laws previously made by the Council are revoked from the day on which this by-law comes into operation<sup>1</sup>:

4.1.1 Nuisances Caused by Building Sites By-law 2003.<sup>2</sup>

4.2 This by-law will expire on 1 January 2018.<sup>3</sup>

Note:

<sup>1</sup> Generally a by-law comes into operation four months after the day on which it is *gazetted*: Section 249 (5) of the Act.

<sup>2</sup> Section 253 of the Act provides that the revocation of a by-law does not affect certain resolutions such as those applying a by-law to a part or parts of the Council area.

<sup>3</sup> Pursuant to section 251 of the Act, a by-law will expire on 1 January following the seventh anniversary of the *gazetted* by-law.

5. *Application*

5.1 This by-law applies throughout the Council area and is subject to the Council's Permits and Penalties By-law 2010.

6. *Interpretation*

In this by-law, unless the contrary intention appears:

- 6.1 *authorised person* has the same meaning as in the Local Government Act 1999;
- 6.2 *building work* has the same meaning as in the Development Act 1993.
- 6.3 *Council* means Renmark Paringa Council.

Note:

Section 14 of the Interpretation Act 1915, provides that an expression used in a by-law has, unless the contrary intention appears, the same meaning as in the Act.

## PART 2—PREVENTION AND REMOVAL OF DISCHARGE

7. *No Unauthorised Discharge*

7.1 The person in charge of building work on land must ensure that all paper, plastic or other building materials (not including soil, sand or stones) on the land associated with the building work is secure so that it does not blow from land in a wind.

7.2 Clause 7.1 does not extend to the prevention of materials blowing from land in a wind of such velocity and nature that similar materials from other properties in the area generally are blown from those properties, provided that reasonable steps have been taken to secure the materials on the land.

8. *Removal of Discharge*

8.1 If paper, plastic or other building materials (not including soil, sand or stones) blows from the land, the person in charge of the building work must remove all such materials from any nearby land at the request in writing of an authorised person.

8.2 If the person in charge of building work on land fails to comply with Clause 8.1 then the Council may undertake the work itself and recover the cost of doing so from that person.

This by-law was duly made and passed at a meeting of the Renmark Paringa Council held on 27 July 2010 by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

B. HURST, Chief Executive Officer

## RENMARK PARINGA COUNCIL

*Resolutions*

NOTICE is hereby given that pursuant to section 247 of the Local Government Act 1999, Council hereby gives notice of the following resolutions passed by its members at the Council meeting of 27 July 2010, which evidence Council's determination of the areas to which specific provisions of its by-laws apply:

1. That pursuant to the power contained in section 246 (3) (e) of the Local Government Act 1999, Council resolves that Clause 9.1.1 of By-law No. 5—Dogs, which requires dogs to be on-leash in specified places, applies to the following areas:

- (a) all Riverfront Reserves between Tolarno Street and the Tower Tavern;
- (b) Bert Dix Park, Lock 5 Road, Paringa;
- (c) Plush's Bend Recreation Area, Plush's Bend Road, Renmark;
- (d) Darnley Taylor Park, Renmark Avenue, Renmark;
- (e) Madigan Reserve, Wattle Drive, Renmark; and
- (f) Ellen Park, Thayne Terrace, Lyrup.

2. That pursuant to the power contained in section 246 (3) (e) of the Local Government Act 1999, Council resolves that Clause 10.1.2 of By-law No. 5—Dogs, which addresses dog-prohibited areas, applies to the following areas:

- (a) Renmark Swimming Pool, Cowra Street, Renmark;
- (b) Playing Surfaces of Renmark Ovals No. 1, 2 and 3, Paringa Street, Renmark;
- (c) Paringa Oval Playing Surface, Sturt Highway, Renmark; and
- (d) Lyrup Oval Playing Surface, Downer Street, Lyrup.

3. That, pursuant to the power contained in section 246 (3) (e) of the Local Government Act 1999, Council resolves that Clause 9.9.5 of By-law No. 2—Local Government Land, which provides that a person must obtain permission from the Council to moor a boat to specified land, applies to:

- (a) Ral Ral Creek Moorings;
- (b) Lock 5, Marina; and
- (c) The Riverfront mooring sites between the P.S. Industry Museum and Tolarno Street.

4. That, for the purposes of Clause 9.9.6 of By-law No. 2—Local Government Land, Council resolves that the condition to be contained in signage on Local Government Land with which a person who moors a boat on or to Local Government Land without Council permission must comply is:

'Council Permission is required to moor a boat on or to Local Government Land within this area for more than 48 hours in any 7 day period'.

5. That pursuant to the power contained in section 246 (3) (e) of the Local Government Act 1999, Council resolves that Clause 9.13.1 of By-law No. 2—Local Government Land, which provides that a person must obtain permission from the Council to camp on specified land, applies to all Local Government Land in the Council's area except:

- (a) Plush's Bend Recreation Area, Plush's Bend Road; and  
 (b) Headings Recreation Area, Headings Road.

6. That, for the purposes of Clause 9.13.2 (b) of By-law No. 2—Local Government Land, which permits camping on designated Local Government Land providing any person who camps in those areas complies with certain conditions, the Council resolves that:

- (a) Plush's Bend Recreation Area, Plush's Bend Road and Headings Recreation Area, Headings Road are designated areas for camping; and  
 (b) the condition to be contained in signage on designated Local Government Land with which a person who camps on that land must comply is 'Council Permission is required to camp within this area for more than 7 days within any 28 day period'.

7. That, for the purposes of Clause 9.13.3 (a) of By-law No. 2—Local Government Land, which permits camping in a motor home on designated Local Government Land, the Council resolves that the following are designated areas:

- (a) the portion of land within the Renmark Swimming Pool, Cowra Street, Renmark, outlined in the attached map marked as Appendix 'A';  
 (b) the portion of land within Price Park, Renmark Avenue, Renmark, outlined in the attached map marked as Appendix 'B';  
 (c) the portion of land within Ellen Park, Thayne Terrace, Lyrup, outlined in the attached map marked as Appendix 'C'; and  
 (d) the portion of land within Bert Dix Park, Lock 5 Road, Paringa, outlined in the attached map marked as Appendix 'D'.

8. That, for the purposes of Clause 9.13.3 (b) of By-law No. 2—Local Government Land, which requires persons who camp in a motor home on designated Local Government Land to comply with certain conditions, Council resolves that the condition to be contained in signage on designated Local Government Land with which a person who camps in a motor home on that land must comply is 'Council Permission is required to camp in a motor home within this area for more than 24 hours'.

9. That, pursuant to the power contained in section 246 (3) (e) of the Local Government Act 1999, Council resolves that Clause 9.25.3 of By-law No. 2—Local Government Land, which provides that a person must obtain permission from the Council to play or practice the game golf on specified land, applies to all Local Government Land within the Council's area.

The appendices referred to in paragraph 7 above are available for inspection at the Council's Offices, 61 Eighteenth Street, Renmark and on the Council's website.

B. HURST, Chief Executive Officer

IN the matter of the estates of the undermentioned deceased persons:

- Andrews, Patricia Dawn*, late of 60 States Road, Morphett Vale, of no occupation, who died on 16 December 2009.  
*Brewster, Evelyn*, late of 360 Senate Road, Risdon Park, of no occupation, who died on 5 May 2010.  
*Budwilowicz, Felix Herman*, late of 17 River Street, Marden, of no occupation, who died on 20 March 2010.  
*Campbell, William Tinto*, late of 571 Portrush Road, Glenunga, retired technical officer, who died on 10 January 2010.  
*Feriancz, Elizabeth*, late of 7 Lancelot Drive, Daw Park, retired chef, who died on 7 February 2010.

*Gatt, Connie*, late of 410 Henley Beach Road, Lockleys, of no occupation, who died on 8 June 2010.

*Greenwood, Roma*, late of 65 Goodman Street, Whyalla, home duties, who died on 3 June 2010.

*Lawrence, Phyllis Eileen*, late of 55-59 Ferguson Avenue, Myrtle Bank, retired school teacher librarian, who died on 15 June 2010.

*Matic, Milan*, late of Goldsworthy Street, Coober Pedy, of no occupation, who died on 21 February 2010.

*Matulick, William Arthur*, late of 6 Booth Avenue, Linden Park, of no occupation, who died on 14 March 2010.

*Otten, Lamberdina*, late of 206 Sir Donald Bradman Drive, Cowandilla, of no occupation, who died on 10 July 2009.

*Pine, Jessie Myrl*, late of 18 Trafford Street, Angle Park, of no occupation, who died on 9 May 2010.

*Syer, Alice Eileen*, late of 160 Walkerville Terrace, Walkerville retired hairdresser, who died on 10 May 2010.

*Tindale, Michael Henry Donnison*, late of Shackleton Avenue, Ingle Farm, retired paymaster, who died on 12 March 2010.

*Verran, Cassy Blanche*, late of 86 Oaklands Road, Glengowrie, of no occupation, who died on 30 April 2010.

*Wark, Albert Alexander*, late of 8 Elmgrove Road, Salisbury North, retired transport officer, who died on 13 June 2010.

*Wright, Doris*, late of 34 Molesworth Street, North Adelaide, retired housekeeper, who died on 20 November 2009.

Notice is hereby given pursuant to the Trustee Act 1936, the Inheritance (Family Provision) Act 1972, and the Family Relationships Act 1975, that all creditors, beneficiaries, and other persons having claims against any of the said estates are required to send, in writing, to the Public Trustee, G.P.O. Box 1338, Adelaide, S.A. 5001, full particulars and proof of such claims, on or before 10 September 2010, otherwise they will be excluded from the distribution of the said estates; and notice is also hereby given that all persons who are indebted to the said estates are required to pay the amount of their debts to the Public Trustee or proceedings will be taken for the recovery thereof; and all persons having any property belonging to the said estates are forthwith to deliver the same to the Public Trustee.

Dated 12 August 2010.

M. I. BODYCOAT, Public Trustee

#### SALE OF PROPERTY

Auction Date: Friday, 20 August 2010 at 11 a.m.

Location: Unit 18/197 Anzac Highway, Plympton.

NOTICE is hereby given that on the above date at the time and place stated, by virtue of the Warrant of Sale issued out of the Magistrates Court, Action No. AMCCI 6919 of 2006 directed to the Sheriff of South Australia in an action wherein Strata Corporation 2302 Inc. is the Plaintiff and Gareth Samuel Taylor is the Defendant, I, Mark Stokes, Sheriff of the State of South Australia, will by my auctioneers, Professionals Real Estate, make sale of the estate, right, title or interest whatsoever it may be of the Defendant Gareth Samuel Taylor as the registered proprietor of an estate in fee simple in the following:

That piece of land situated in the area named Plympton, being Unit 18/197 Anzac Highway, Plympton in the Area named Plympton, Hundred of Adelaide, being the property comprised in certificate of title register book volume 5061, folio 578.

Further particulars from the auctioneers:

Griffin Real Estate  
 8 Greenhill Road  
 Wayville, S.A. 5034  
 Telephone (08) 8372 7872

# ATTENTION

CUSTOMERS requiring a proof of their notice for inclusion in the *Government Gazette*, please note that the onus is on you to inform **Government Publishing SA** of any subsequent corrections by **10 a.m. on Thursday**, which is our publication deadline.

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