

Instrument of Delegation

Delegation of National Board functions under the Health Practitioner Regulation National Law as in force in each State and Territory and Trans-Tasman Mutual Recognition Act 1997 to Committees of the Board and the Australian Health Practitioner Regulation Agency

Preliminary

- 1.1 The Dental Board (the Board), pursuant to s 37 of the National Law, resolved to delegate its functions as specified in this instrument of delegation (instrument) on May 2017.
- 1.2 This instrument is a complete record of the Board's resolutions with respect to the delegation of its functions. The Board resolved to revoke all prior delegations on May 2017.
- 1.3 The Board resolved to authorise the Chair of the Board to sign this instrument as evidence of the Board's decision to delegate its functions in compliance with Clause 29(3) to Schedule 7 of the National Law.

Definitions

2.1 **National Law** means:

- 2.1.1 the Health Practitioner Regulation National Law (Queensland) in Queensland
- 2.1.2 the Health Practitioner Regulation National Law (ACT) in the Australian Capital Territory
- 2.1.3 the Health Practitioner Regulation National Law (Victoria) in Victoria
- 2.1.4 the Health Practitioner Regulation National Law (South Australia) in South Australia
- 2.1.5 the Health Practitioner Regulation National Law (NT) in the Northern Territory
- 2.1.6 the Health Practitioner Regulation National Law (Tasmania) in Tasmania
- 2.1.7 the Health Practitioner Regulation National Law (NSW) in New South Wales
- 2.1.8 the Health Practitioner Regulation National Law (Western Australia) in Western Australia.

2.2 **ACT Act** means the Health Practitioner Regulation National Law (ACT)

- 2.3 **NSW Act** means the *Health Practitioner Regulation National Law (NSW)*
- 2.4 **Qld Act** means the *Health Practitioner Regulation National Law (Qld)*
- 2.5 **SA Act** means the *Health Practitioner Regulation National Law (South Australia)*
- 2.6 **WA Act** means the *Health Practitioner Regulation National Law (Western Australia) Act 2010*
- 2.7 **Tas Act** means the *Health Practitioner Regulation National Law (Tasmania) Act 2010*
- 2.8 **Trans-Tasman Mutual Recognition Act** means the *Trans-Tasman Mutual Recognition Act 1997 (Cth)*.
- 2.9 To avoid doubt, any section cited in this instrument refers to the section in the National Law in force in each jurisdiction unless:
- 2.9.1 the section is contained within Part 8 of the NSW Act; or
 - 2.9.2 it is otherwise indicated by this instrument that the National Law specific to a particular participating jurisdiction applies; or
 - 2.9.3 it is otherwise indicated by this instrument that the section is in the Trans-Tasman Mutual Recognition Act.
- 2.10 **AHPRA** means the Australian Health Practitioner Regulation Agency, established by section 23 of the National Law.
- 2.11 **National Board (Board)** means the Dental Board of Australia, established by the section 31 of the National Law.
- 2.12 **Participating jurisdiction** has the same meaning as in section 5 of the National Law.
- 2.13 **State or Territory Registration and Notification Committee** means the committee established by the Board in a participating jurisdiction pursuant to clause 11 of Schedule 4 to the National Law constituted according to its terms of reference.
- 2.14 **National Accreditation Committee** means the committee established by the Board pursuant to Clause 11 of Schedule 4 to the National Law constituted according to its terms of reference.
- 2.15 **Immediate Action Committee** means the committee established by the Board pursuant to Clause 11 of Schedule 4 to the National Law constituted according to the Immediate Action Committee's terms of reference.
- 2.16 **Appellable decision** has the same meaning as in section 199 of the National Law meaning:
- 2.16.1 a decision to refuse to register the person;

- 2.16.2 a decision to refuse to endorse the person's registration;
- 2.16.3 a decision to refuse to renew the person's registration;
- 2.16.4 a decision to refuse to renew the endorsement of the person's registration;
- 2.16.5 a decision 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);
- 2.16.6 a decision to refuse to change or remove a condition imposed on the person's registration or the endorsement of the person's registration;
- 2.16.7 a decision to refuse to change or revoke an undertaking given by the person to the Board;

- 2.16.8 a decision to suspend the person's registration.

Delegation of Board functions

- 3.1 Principles of delegation:
 - 3.1.1 The purpose of this instrument is to allow the Board to discharge its functions as set out in s 35 of the National Law and the Trans-Tasman Mutual Recognition Act.
 - 3.1.2 To the extent that the Board's functions are capable of being delegated, the Board delegates its functions to AHPRA and the committees of the Board as set out below.
 - 3.1.3 A delegate may in the performance of a delegated function do anything that is incidental to the delegated function.
 - 3.1.4 A delegation does not derogate from the power of the Board to act itself in the matter, so long as the delegate has not yet exercised the function or power.
 - 3.1.5 A delegate may only exercise a function, or make a decision, subject to the limitations imposed on the delegated function. If the decision to be made is not within the limitation which applies to the delegated function, or the delegate is not sure what the decision should be, the delegate must not make the decision. The delegate may, however, make recommendations to the National Board or another delegate.

- 3.2 Powers and functions that have not been delegated by the Board are in Column C to Schedule 1.

- 3.3 The Board delegates to the State or Territory Registration and Notification Committees the following functions of the Board:
 - 3.3.1 The functions listed in Column D to Schedule 1, subject to the limitations (if any) in Column G of Schedule 1.
 - 3.3.2 All functions delegated to AHPRA.

- 3.4 The Board delegates to the Immediate Action Committee the following functions of the Board:
 - 3.4.1 The functions listed in Column E to Schedule 1.

- 3.5 The Board delegates to AHPRA the following functions of the Board:

- 3.5.1 The provision of notice(s), whether or not expressly provided for in this instrument and whether from the Board or a committee of the Board, to any entity or person; and,
 - 3.5.2 The publishing of information on the website, whether or not expressly provided for in this instrument
 - 3.5.3 The functions listed in Column F to Schedule 1, subject to the limitations (if any) in Column G to Schedule 1.
 - 3.5.4 The functions listed in Column B to Schedule 2, subject to the limitations (if any) in Column D to Schedule 2.
 - 3.5.5 AHPRA may not exercise any function that is an appellable decision unless specified otherwise. Where there is a decision which is appealed AHPRA must seek the advice from the National Board and ensure that appropriate advice and expertise is obtained in order to appropriately manage the appeal.
- 3.6 The Board delegates to National Accreditation Committee the function of the Board under section 49(1) (Approval of accredited programs of study). However, the delegation to the Committee is limited to circumstances where: the program of study is an existing program of study, previously accredited by the Australian Dental Council (ADC); and ADC has now re-accredited the program of study.
- 3.7 The National Accreditation Committee must report all approvals or refusals to approve programs of study to the National Board.
- 3.8 To avoid doubt, the National Accreditation Committee is not delegated the power under section 49(1) in relation to: new programs of study that have only been accredited by the ADC for the first time; and existing programs of study that have been re-accredited by the ADC subject to a condition or conditions.

Signature

As signed

John Lockwood

Chair, Dental Board of Australia

Date: 12 May 2017

Schedule 1 – National Law delegations

Registration functions

| A | B | C | D | E | F | G |
|-----------------------------|-----------------------------|---|--|----------------------------|-------|---|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| Part 6 Accreditation | | | | | | |
| Div 3 | Accreditation functions | 47(1) 47(2) 49(1) 49(2) 52(2) | | | | |
| Part 7 Registration | | | | | | |
| Div 1 | General registration | 56 | 54 | | | |
| Div 2 | Specialist registration | 59 61 | 58(b), (c) or (d) | | | Assessments under section 59 only authorised by the National Board. |
| Div 3 | Provisional registration | 64 | | | | |
| Div 4 | Limited registration | 67(2) and (3), 72 | 66(2), 68(2), 69(2) | | | In accordance with National Board Registration Standards and Policy |
| Div 5 | Non-practising registration | 76 | | | | |

| A | B | C | D | E | F | G |
|-------------------|------------------------------|---------------------------------|---|----------------------------|---|---|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| Div 6 | Application for registration | | 78(1) 79 80(1)(a)(i) 80(1)(a)(ii) 80(1)(b) 80(1)(c) 80(1)(d) 80(1)(e) 80(2) 80(3) 81(1) 82(1)(a) 82(1)(b) 82(1)(c) 83 | | 77(2) 78(1) 79 80(1)(a)(i) 80(1)(a)(ii) 80(1)(b) 80(2) 81(1) 82(1)(a) 82(1)(c) 83 84 85 | <p>AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form.</p> <p>AHPRA may only register an applicant if the applicant is: eligible, qualified, suitable and meets all requirements for registration in the applicable registration standards.</p> <p>Eligible means the applicant meets all the requirements in s 52 or 57 or 62 or 65 or 73.</p> <p>Qualified means the applicant meets the requirements in s 53 or 58</p> <p>Suitable means the applicant is not an unsuitable person within the meaning of s 55 or 60 or 63 or 70 or 74.</p> |

| A | B | C | D | E | F | G |
|-------------------|-------------------------|---------------------------------|--|----------------------------|-------|---|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>AHPRA may not decide an application for limited registration unless the application is for limited registration for supervised practice to undertake an approved Australian Dental Council (ADC) exam and attendance at training program or other course before undertaking the ADC exam only. AHPRA may only approve such an application if it is in accordance with the National Board Registration Standard and Policy.</p> <p>Only the National Board may decide applications for limited registration for area of need (s 67)</p> <p>AHPRA is delegated the power to refuse an application for registration only in the following</p> |

| A | B | C | D | E | F | G |
|-------------------|-------------------------|---------------------------------|--|----------------------------|-------|--|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>circumstances:</p> <ul style="list-style-type: none"> • the applicant has been given notice of a proposal to refuse registration under s.81; and • the applicant has not made any submissions in response to that notice, or has indicated that he or she agrees with the proposed refusal decision. <p>AHPRA is delegated the power to impose a condition on registration only in the following circumstances:</p> <ul style="list-style-type: none"> • the applicant has been given notice of a proposal to impose the condition on registration under s.81; and • the applicant has not made any submissions in response to that |

| A | B | C | D | E | F | G |
|-------------------|---|---------------------------------|--|----------------------------|--|---|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | notice, or has indicated that he or she agrees with the proposed imposition of the condition. |
| Div 7/1 | Student registration | 87 88(4) 89(4) | | | 88(1) 89(1)(a) 89(1)(b) 89(4) | An application must be in the form approved by the National Board The National Board is to be notified of any contravention of an education provider to give particulars of students |
| Div 7/2 | Other persons | | | | 91(4) | An application must be in the form approved by the National Board |
| Div 7/3 | General provisions re students | 93(4) | | | 92(2) | An application must be in the form approved by the National Board |
| Div 8/1 | Endorsement of registration – scheduled medicines | 94 | | | | |
| Div 8/2 | Endorsement for nurse practitioner | N/A | N/A | N/A | N/A | |
| Div 8/3 | Endorsement for midwifery | N/A | N/A | N/A | N/A | |

| A | B | C | D | E | F | G |
|-------------------|----------------------------------|---------------------------------|--|----------------------------|--|--|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| Div 8/4 | Endorsement for acupuncture | N/A | N/A | N/A | N/A | |
| Div 8/5 | Endorsement for area of practice | | 98(1) | | 98(1) | AHPRA can grant the endorsement if the applicant holds an approved qualification and complies with an approved registration standard and any additional Guideline or Policy set by the National Board.. AHPRA must not make a decision if there are any concerns or professional advice is required. |
| Div 8/6 | Application for endorsement | | 100(1) 101 102 103 | | 99(2) 100(1)(a) 100(1)(b) 100(1)(c) 102(1) | AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form. The Registration Committee may only refuse to endorse the registration of an applicant if the applicant is not qualified for the endorsement.. |

| A | B | C | D | E | F | G |
|-------------------|-------------------------|---------------------------------|---|----------------------------|--|--|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>AHPRA is delegated the power to refuse an application for endorsement only in the following circumstances:</p> <ul style="list-style-type: none"> the applicant has been given notice of a proposal to refuse registration under s.101; and the applicant has not made any submissions in response to that notice, or has indicated that he or she agrees with the proposed refusal decision. |
| Div 9 | Renewal of registration | | 110 (functions corresponding to 80(1)(a)(i) 80(1)(a)(ii) 80(1)(b) 80(1)(c) 80(1)(d) 80(1)(e) 80(2) 80(3) (non delegable) 111(1) 112 | | 107(4)(a) 110 (functions corresponding to 80(1)(a)(i) 80(1)(a)(ii) 80(1)(b) 80(1)(c) 80(2) 112(1) 112(3) | <p>AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form.</p> <p>AHPRA may only renew a practitioner's registration if s 111 does not apply, but this does not prevent</p> |

| A | B | C | D | E | F | G |
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| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>AHPRA from imposing a condition on registration as set out below.</p> <p>AHPRA is delegated the power to refuse an application for renewal of registration, or to impose a new condition on registration, only in the following circumstances:</p> <ul style="list-style-type: none"> • the applicant has been given notice of a proposal to refuse registration or to impose a new condition on registration under s.111; and • the applicant has not made any submissions in response to that notice, or has indicated that he or she agrees with the proposed refusal decision or imposition of the new condition. |

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| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>Limited registration (categories s 66, 68 and 69) can be renewed only if in accordance with National Board Registration Standards and policy.</p> <p>The Registration Committee may only refuse to renew a practitioner's registration on the basis of s 112(2)(a) on the grounds available to it under s 82.</p> |
| Div 10 | Title and practice protections | | | | | |
| Div 11/1 | Certificate of registration | | | | 124 | |
| Div 11/2 | Review of conditions and undertakings | | 125(4) 125(5) 126(1) 126(5) 127 | 126(1) 126(5) 127 | 125(3) 125(4) 125(5) 125(6) 126(2) | <p>AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form.</p> <p>s 125(7) sets out the contents of a notice to refuse to grant an application.</p> |

| A | B | C | D | E | F | G |
|-------------------|-------------------------|---------------------------------|--|----------------------------|-------|---|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>Delegation of s. 125(4) and (5) to AHPRA limited to matters where conditions were imposed in response to a breach of s. 133 (Advertising offences).</p> <p>AHPRA can only grant applications under s. 125(5) where the practitioner has:</p> <ul style="list-style-type: none"> • complied with conditions on their registration regarding the breach of s. 133 (re advertising); and • provided material to AHPRA to demonstrate that they clearly understand the advertising requirements in the |

| A | B | C | D | E | F | G |
|-------------------|---|---------------------------------|--|----------------------------|------------------|--|
| Part and Division | Description of Division | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | <p>National Law.</p> <p>If advertising is assessed as continuing to be non-compliant, a decision to refuse to remove the conditions remains with the Registration and Notification Committee, and is not delegated to AHPRA.</p> |
| Div 11/3 | Obligations of registered health practitioners and students | | 129(2) | | 129(2) 132(1) | |
| Div 11/5 | Boards powers to check identity and criminal history | | | | 134 135(1) | |
| Div 116 | General | | 137 | | 137 | |

Notification functions

| A | B | C | D | E | F | G |
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| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| Part 8 | | | | | | |
| Notifications | | | | | | |
| Div 1 | Persons formerly registered under this Law | | | | | |
| Div 2 | Mandatory Notifications | | | | | |
| Div3 | Voluntary notifications | | | | | |
| Div4 | Making a Notification | | | | | |
| Div 5 | Preliminary assessment | | 149(1)(a), (b) and (c), 149(3) (excl Qld Act) 150 (excl Qld Act) 151 152 (excl Qld Act) 150(1)(a) and (b) (Qld Act) 150(3) (Qld Act) | 149(1)(a), (b) and (c) (excl Qld Act) 150(1)(a) and (b) (Qld Act) | 149(1)(a),(b),(c) 149(3) (excl Qld Act) 150 (excl Qld Act) 151(1)(e) (excl Qld Act) 152 (excl Qld Act) 150(1)(a) and (b) (Qld Act) 150(3) (Qld Act) | AHPRA may not decide that a notification/referred matter does not relate to a ground for a notification Delegation of s.151(1)(e) to AHPRA limited to situations where the Board's delegate and the health complaints entity ('HCE') have agreed that the HCE will deal with the subject matter of the notification, under s.150(3). |
| Div 6 | Other matters | | 153 154(2) | 153 154(2) | | |

| A | B | C | D | E | F | G |
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| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| Div 7 | Immediate action | | 159(2)(b) & (c) | 156 157(3) 158(1)(b) 159(2)(b) & (c) | 157(1) 158(1)(a) | |
| Div 8 | Investigations | | 160 166(3) (ACT) | 160 161(4) | 160(1) 160(2) 161(1),(2),(3) & (4) 81(1) (SA Act) | Delegation of s 160(1) to AHPRA limited to situations where: <ul style="list-style-type: none"> • s 150(4) applies to require an investigation; or • where a notification is made to AHPRA or the Board without patient consent to obtain records relevant to the notification. |
| Div 8 | Investigators | | | | 163, 164(1) | |
| Div 8 | Procedure after investigation | | 167 167(1) (ACT) 167(3) (ACT) | | | |
| Div 9 | Health and performance assessments | | 169 170 171(1) 176(1)(b) 176(3) 177 (note: in Qld Act, s.177 applies subject to Div 12, Subdiv 1 of Part 8) | 169 170 | | |
| | | | | | 171(1) 172(1) 176(1)(a) 176(3) | AHPRA may only provide a copy of the report once the Chair or the nominee of the Chair of the relevant Committee or State |

| A | B | C | D | E | F | G |
|-------------------|--------------------------|---------------------------------|--|----------------------------|--|---|
| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | 177 (1), (2), (4) (ACT) | | | <p>Board has determined whether s 176(1)(b) applies.</p> <p>AHPRA is to discuss the nomination with the Chair or another relevant member of the State or Territory Registration and Notification Committee or Professional Officer (Dental) (where available)</p> |
| Div 10 | Action by National Board | | 178 178(4) (ACT) 179 | | 178(2)(c) 179(1) 179(2)(a) 180(1) | <p>AHPRA is limited to deciding to propose action to impose conditions that relate to an apparent breach of s. 133 (advertising offences).</p> <p>AHPRA is limited to proposing standard conditions in relation to apparent breaches of s. 133 (advertising offences).</p> <p>AHPRA may only decide to take no further action under s. 179(2)(a) in relation to</p> |

| A | B | C | D | E | F | G |
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| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | | apparent breaches of s. 133 (advertising offences). |
| Div 11 | Panels | 183 | 181 182 192 | | 181(1) 182(1) 184(3) (ACT) 192(2) | <p>AHPRA may only select persons to be on the panel and may not establish the panel.</p> <p>AHPRA limited to maintaining the list of approved persons. AHPRA does not have power to approve people.</p> <p>AHPRA to give notice at the direction of panel members</p> <p>AHPRA to give notice to reflect the Panel's decision</p> |
| Div 12 | Referring matter to tribunal | | 193 (excl Qld Act) 193 (Qld Act) 193A(1),(2) and (4) (Qld Act) 193B(1), (2) and (3) (Qld Act) | | 193(2)(b) (excl Qld Act) | |
| Div 13 | Appeals | | | | | |
| Div 14 | Miscellaneous | | | | 205, 206 206A(2) (Qld Act) | |

| A | B | C | D | E | F | G |
|-------------------|---|---------------------------------|--|----------------------------|---------------------------------|---|
| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | | | | | 206B(3) (Qld Act) | |
| Div 14B (NSW Act) | Health, performance and conduct (Miscellaneous) | | | | 176B (NSW Act) | |
| Part 10 | | | | | | |
| Div 2 | Disclosure of information and confidentiality | | 220 | | 217, 220 | |
| Div 3 | Registers (registered health practitioners) | | 226 (2) & (3) | 226 (2) & (3) | 222 223 225 226 227 | The function under s 226 to be exercised in accordance with National Board policy or per the decision of the State or Territory Registration and Notification Committees or the National Board Registration and Notification Committee. |
| Div 4 | Registers (students) | | | | 229, 230 | |
| Div 5 | Other records | | | | 231, 232 | |
| Div 6 | Unique identifier | | | | 233 | |
| Part 11 | | | | | | |
| Div 2 | Inspectors | | | | 239 81(2) (SA Act) 240 | |
| Part 12 | | | | | | |
| Div 13 | Complaints, notifications, | | 289 291 | | 289 291 | AHPRA may only give notice under this |

| A | B | C | D | E | F | G |
|-------------------|--------------------------|---------------------------------|--|----------------------------|-----------------------------|---------------------------|
| Part and Division | Description | Not delegated by National Board | State or Territory Registration and Notification Committee | Immediate Action Committee | AHPRA | Limitations on delegation |
| | disciplinary proceedings | | 17(WA Act) 18 (Tas Act) | | 17 (WA Act) 18 (Tas Act) | division. |
| Part 13 | | | | | | |
| N/A | Transitional (Qld) | | | | 310(1) and (2) (Qld Act) | |

Schedule 2 – Trans-Tasman Mutual Recognition Act delegations

| A | B | C | D |
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| Part and Division | AHPRA | Description of section | Limits on delegation |
| Part 3 Division 2 – Occupations – Entitlement to registration | s.18(1) | Receive lodgement of written notice seeking registration. | |
| | s.18(6) | Discretion to allow amendment to registration application | |
| | s.19(2) | Grant of registration in equivalent occupation | |
| | s.19(5) | Imposition of conditions on registration | Section 19(5) limits conditions that may be imposed. Section 39(1) provides that the power to impose conditions must be used to promote the Trans-Tasman mutual recognition principle. |
| | s.20(3) | Postponement of registration | Circumstances in which National Board may postpone registration set out in s.21(1). Time limit on postponement under s.21(3). |
| | s.20(3) | Refusal of registration | Circumstances in which National Board may refuse registration set out in s.22(1) Subsection 22(2) regulates when a refusal to register (on ground not an equivalent occupation) takes effect. |
| | s.20(4) | Automatic registration where National Board has not granted, refused or postponed registration within 1 month of application lodgement | |
| | s.23 | Issuing notice of decision to grant, refuse or postpone registration | Section 33(3) requires that notice of decision must include information about right to apply to Australian Tribunal for review. |
| Part 3 Division 3 – Interim arrangements | s.25(5) | Cancellation of deemed registration (on application of registered person) | |

| A | B | C | D |
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| Part and Division | AHPRA | Description of section | Limits on delegation |
| | s.26(4) and s.32(2) | Waiver of condition imposed under NZ law, or undertaking to NZ local registration authority. | |
| | s.26(5) | Imposition of conditions on deemed registration | Section 26(5) limits conditions that may be imposed. Section 39(1) provides that the power to impose conditions must be used to promote the Trans-Tasman mutual recognition principle. |
| Part 3 Division 4 – Equivalent occupations | s.28(2) | Imposition of conditions on registration to achieve equivalence between occupations in different participating jurisdictions. | Section 19(5) limits conditions that may be imposed. Section 39(1) provides that the power to impose conditions must be used to promote the Trans-Tasman mutual recognition principle. |
| | s.30(5) | Giving effect to decisions on review (by Australian Tribunal) | |
| | s.31(4) | Giving effect to declaration by Minister | |
| Part 3 Division 5 – General provisions | s.32(2) | Reinstatement of cancelled or suspended registration | |
| | s.37(1) (Obligation is subject to s.37(2)). | Providing information required by local registration authority of another participating jurisdiction. | |
| | s.39(2) | Duty to prepare and make available guidelines and information regarding operation of this part in relation to the occupations for which it is responsible. | Section 39(3) - guidelines to be made available within 6 months of commencement of s 39. |
| | s.40(1) | Power to impose fees for substantive or deemed registration under Part 3 of TTMR Act | |
| | s 40(3) | Power to impose a condition that registration under Part 3 of the TTMR Act does not take effect till fee or other payment paid. | |

Change table

| Part and Division | Description | Change | Date change made |
|-------------------|---------------------------------------|---|------------------|
| Part 7, Div 11/2 | Review of conditions and undertakings | <p>Insert the delegation of s. 125(4) and 125(5) to AHPRA.</p> <p>Insert the following limitation:</p> <p>Delegation of s. 125(4) and (5) to AHPRA limited to matters where conditions were imposed in response to a breach of s. 133 (Advertising offences).</p> <p>AHPRA can only grant applications under s. 125(5) where the practitioner has:</p> <ul style="list-style-type: none"> • complied with the conditions on their registration regarding the breach of s. 133 (re advertising); and • provided material to AHPRA to demonstrate that they clearly understand the advertising requirements in the National Law. <p>If advertising is assessed as continuing to be non-compliant, a decision to refuse to remove the condition remains with the Registration and Notification Committee, and is not delegated to AHPRA.</p> | May 2017 |
| Part 8, Div 10 | Action by National Boards | <p>Insert the delegation of s. 178(2)(c) to AHPRA.</p> <p>Insert the following limitations:</p> <p>AHPRA is limited to deciding to propose action to impose conditions that relate to an apparent breach of s. 133 (advertising</p> | May 2017 |

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| | | <p>offences).</p> <p>AHPRA is limited to proposing standard conditions in relation to apparent breaches of s. 133 (advertising offences).</p> <p>Insert the delegation of s. 179(2)(a) to AHPRA.</p> <p>Insert the following limitation:</p> <p>AHPRA may only decide to take no further action under s. 179(2)(a) in relation to apparent breaches of s. 133 (advertising offences).</p> | |
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