

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 Nursing and Midwifery Board (the '**Board**'), pursuant to s 37 of the National Law, resolved to delegate its functions as specified in this instrument of delegation ('**instrument**') with effect on and from 1 March 2018, or such date as a proclamation is made for commencement of amendments to sections 56, 125, 126, 127A, 151, 156, 181(1A), 191, 191A, 191B and 220 under the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017* (Qld) ('**Commencement Date**').
- 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 with effect on the Commencement Date.
- 1.3 The Board resolved to authorise the Presiding Member 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 Nursing and Midwifery Board of Australia, established by the section 31 of the National Law.
- 2.12 **New South Wales State Board** means the State Board established by the Board for New South Wales pursuant to section 36 of the National Law.
- 2.13 **Participating jurisdiction** has the same meaning as in section 5 of the National Law.
- 2.14 **State or Territory Board** means the committee established by the Board in a participating jurisdiction pursuant to section 36 of the National Law.
- 2.15 **Registration Committee** means the committee established by the Board pursuant to Clause 11 of Schedule 4 to the National Law constituted according to the Registration Committee's terms of reference.

- 2.16 **Notifications Committee** means the committee established by the Board pursuant to Clause 11 of Schedule 4 to the National Law constituted according to the Notifications Committee's terms of reference.
- 2.17 **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.
- 2.18 **Program Approval Committee** means the committee established by the Board pursuant to Clause 11 of Schedule 4 to the National Law constituted according to the Committee's terms of reference.
- 2.19 **Appellable decision** has the same meaning as in section 199 of the National Law meaning:
- 2.19.1 a decision to refuse to register the person;
 - 2.19.2 a decision to refuse to endorse the person's registration;
 - 2.19.3 a decision to refuse to renew the person's registration;
 - 2.19.4 a decision to refuse to renew the endorsement of the person's registration;
 - 2.19.5 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);
 - 2.19.6 a decision to refuse to change or remove a condition imposed on the person's registration or the endorsement of the person's registration;
 - 2.19.7 a decision to refuse to change or revoke an undertaking given by the person to the Board;
 - 2.19.8 a decision to suspend the person's registration.
- 2.20 **Relevant Event** means any health, performance or conduct notification action taken against the registrant in relation to an adverse disclosure on renewal of registration, new information returned on a criminal history check, a confirmed breach of restrictions, or where the practitioner has been the subject of action under Part 8 of the National Law or its equivalent in a co-regulatory jurisdiction. This includes receipt of any new notification irrespective of whether action was taken.
- 2.21 **Western Australia Matter** means a matter to which the National Law applies that relates to the health, conduct or performance of a registered health practitioner, student or an application for registration by an applicant:
- 2.21.1 whose principal place of practice (or for an applicant his or her proposed principal place of practice) is in Western Australia; or
 - 2.21.2 whose principal place of practice is in another state or territory, but who provides health services in Western Australia.

Western Australia Matter is deemed to include a matter that the relevant decision maker under the National Law, acting in good faith, regards as a Western Australia Matter, but which after further inquiry the relevant decision maker discovers does not relate to Western Australia.

Note: to avoid doubt, in this definition the words:

- (i) 'health, conduct or performance'; and
- (ii) 'registered health practitioner', 'student' and applicant for registration,

have the same meaning, and incorporate the same concepts, as those words as used in Part 8 of the National Law (WA).

Note: where the * symbol appears next to a power or function specified in Schedule 1, the delegation of that power will not apply to Western Australia Matters.

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 Board the following functions of the Board:

- 3.3.1 The functions listed in Column D to Schedule 1.
- 3.3.2 All functions delegated to AHPRA, the Registration Committee, Notifications Committee, and Immediate Action Committee.

3.4 The Board delegates to the Notifications Committee the following functions of the Board:

- 3.4.1 The functions listed in Column E to Schedule 1, subject to the limitations (if any) in Column J to Schedule 1.
- 3.4.2 All functions delegated to AHPRA.
- 3.5 The Board delegates to the Registration Committee the following functions of the Board:
 - 3.5.1 The functions listed in Column F to Schedule 1, subject to the limitations (if any) in Column J to Schedule 1.
 - 3.5.2 All functions delegated to AHPRA.
- 3.6 The Board delegates to the Immediate Action Committee the following functions of the Board:
 - 3.6.1 The functions listed in Column G to Schedule 1, subject to the limitations (if any) in Column J to Schedule 1.
- 3.7 The Board delegates to the Program Approval Committee the following functions of the Board:
 - 3.7.1 The functions listed in Column H to Schedule 1, subject to the limitations (if any) in Column J to Schedule 1.
- 3.8 The Board delegates to AHPRA the following functions of the Board:
 - 3.8.1 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,
 - 3.8.2 The publishing of information on the website, whether or not expressly provided for in this instrument
 - 3.8.3 The functions listed in Column I to Schedule 1, subject to the limitations (if any) in Column J to Schedule 1.
 - 3.8.4 The functions listed in Column B to Schedule 2, subject to the limitations (if any) in Column D to Schedule 2.
 - 3.8.5 AHPRA may not exercise any function that is an appellable decision unless specified otherwise.

Signature

As signed

Lynette Cusack

Chair, Nursing and Midwifery Board of Australia

Date: 22 February 2018

Schedule 1 – National Law delegations

Accreditation Functions

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
Part 6 Accreditation									
Div 3	Accreditation Functions	47(1) 47(2) 47(6) 51(2)					49(1) 49(2) 49(3)		
									<p>The Program Approval Committee must report programs and major changes approval to the following National Board meeting.</p> <p>The Program Approval Committee cannot refuse to approve a program of study or to change a condition that applies to a program of study.</p>

Registration functions

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
Part 7 Registration									
Div 1	General registration	56(1)* 56 (WA Matter only) 54	54					56(2)(a)(ii)*	
Div 2	Specialist registration	61 59	59						
Div 3	Provisional registration	64							
Div 4	Limited registration	72							
Div 5	Non-practising registration	76							
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) 81(1) 82(1)(a) 81(1) 82(1)(a) 82(1)(b) 82(1)(c) 83		80(1)(a)(i) 80(1)(a)(ii) 80(1)(b) 80(1)(c) 80(1)(d) 80(1)(e) 80(2) 81(1) 82(1)(a) 82(1)(b) 82(1)(c)(i)(A), (B), (D), (E) ¹ 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	AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form. Registrations AHPRA may only register an applicant if the applicant is: eligible, qualified, suitable and

¹ 82(1)(c)(i)(I), (II), (IV), (V) in WA Act.

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>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> <p>AHPRA may not grant limited registration.</p>

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>Refusals of registration AHPRA is delegated the power to refuse an application for registration only in the following three situations.</p> <p>Situation 1:</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 in the time provided, or has indicated that he or she agrees

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>with the proposed refusal decision</p> <p>Situation 2:</p> <ul style="list-style-type: none"> • the applicant is an internationally qualified nurse or midwife; and • he or she meets criteria 1, 4, 5 and 7 but does not meet one or more of criteria 2, 3, 6 or 8 of the <i>Nursing and Midwifery Board IQNM qualification assessment criteria (as in force from time to time and</i>

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p><i>published on the Board's website); and</i></p> <p>- in making a decision in Situation 2, the delegate must have regard to Board policy.</p> <p>Situation 3:</p> <ul style="list-style-type: none"> • the applicant is an internationally qualified nurse or midwife from the United Kingdom or the Republic of Ireland; and • he or she meets all criteria except criterion 4 of the <i>Nursing</i>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p><i>and Midwifery Board IQNM qualification assessment criteria (as in force from time to time and published on the Board's website);</i></p> <ul style="list-style-type: none"> • he or she holds a qualification at AQF level 6; and • in making a decision, the delegate must have regard to Board policy. <p>Conditions on registration AHPRA is delegated the power to impose a condition on registration</p>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>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 notice, or has indicated that he or she agrees with the proposed imposition of the condition. <p>Limited registration</p>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>for teaching and research The only delegate that may grant limited registration for teaching and research is the New South Wales State Board. That Board may only grant limited registration for practitioners who are eligible, qualified and comply with any applicable registration standards.</p> <p>In making a decision on an application for limited registration for teaching or research, the New South Wales State Board must have regard to Board policy</p>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									regarding that form of registration. (To avoid doubt, this power is not delegated to any other delegate)
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
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							92(2)	An application must be in the form approved by the National Board
Div 8/1	Endorsement of registration – scheduled medicines		94		94			94	AHPRA may endorse the registration of a registered health practitioner registered by the Board as being qualified to administer, obtain, possess,

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines only if the practitioner is qualified and complies with any approved registration standard relevant to the endorsement.</p> <p>Qualified means the practitioner meets the requirements in s 94(1)(a) and (b).</p>
Div 8/2	Endorsement for nurse practitioner		95		95			95	AHPRA 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

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									nurse practitioner only if the practitioner is qualified and complies with any approved registration standard relevant to the endorsement. Qualified means the practitioner meets the requirements in s 95(1)(a) and (b).
Div 8/3	Endorsement for midwifery	96							
Div 8/4	Endorsement for acupuncture	N/A	N/A	N/A	N/A	N/A		N/A	
Div 8/5	Endorsement for area of practice		98(1)		98(1)				
Div 8/6	Application for endorsement		100(1) 101 102 103		100(1) 101 102(1) 102(2)(a) 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.

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>The Registration Committee may only refuse to endorse the registration of an applicant if the applicant is not qualified for the endorsement.</p> <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 endorsement under s.101; and • the applicant has not

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									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) 111(1) 112		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) 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)	AHPRA to seek the approval of the Chair of the Board (or a nominee of the Chair) when approving a form. AHPRA may only renew a practitioner's registration if s 111 does not apply, but this does not prevent AHPRA from imposing a condition on

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>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 renewal, or to impose a new condition on registration , under s.111; and • the applicant has not made any submissions in

A	B	C	D	E	F	G	H	I	J
Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>response to that notice, or has indicated that he or she agrees with the proposed refusal decision or imposition of the new condition.</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	125(4) 125(5) 126(1) 126(5) 127	125(4) 125(5) 126(1) 126(5) 127	125(4) 125(5) 126(1) 126(5) 127		125(3) 125(4) 125(5) 125(6) (WA Matter only)	AHPRA to seek the approval of the Chair of the Board (or a

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
			125(6)* 126(6)*	125(6)* 126(6)*	125(6)* 126(6)*	125(6)* 126(6)*		125(6A)* 126(2) 126(6) (WA Matter only) 126(6A)* 127A(2)*	<p>nominee of the Chair) when approving a form.</p> <p>Limited to those situations where the IAC has decided to take immediate action, and where the IAC is amending the conditions already imposed or undertakings elected into by the practitioner upon immediate action.</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>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<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

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<p>understand the advertising requirements in the 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> <p>s 125(7) sets out the contents of a notice to refuse to grant an application.</p>

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Part and Division	Description of Division	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
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	

Notification functions

A	B	C	D	E	F	G	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval 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), (excl Qld Act) 149(3) (excl Qld Act)	149(1)(a),(b) and(c), (excl Qld Act) 149(3) (excl Qld Act)		149(1)(a), (b) and (c), (excl Qld Act) 150(1)(a) and (b) (Qld Act)		149(1)(a), (b), (c) (excl Qld Act)	AHPRA may not decide that a notification/referred matter does not relate

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Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
			150(excl Qld Act) 151 152(excl Qld Act) 150(1)(a) and (b) (Qld Act) 150(3) (Qld Act)	150(excl Qld Act) 151 152(excl Qld Act) 150(1)(a) and (b) (Qld Act) 150(3) (Qld Act)				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)	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)		153 154(2)			
Div 7	Immediate action		156 157(3) 158(1)(b) 159(2)(b) & (c)	159(2)(b) & (c)		156 157(3) 158(1)(b) 159(2)(b) & (c)		157(1) 158(1)(a)	
Div 8	Investigations		160 161(4)	160 161(4)		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

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Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									investigation; or <ul style="list-style-type: none"> 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		166(3) (ACT) 167(1) (ACT) 167(3) (ACT) 167	166(3) (ACT) 167(1) (ACT) 167(3) (ACT) 167				166(3) (ACT) 167(1) (ACT)	
Div 9	Health and performance assessments		169 170 171(1) 172 176(1)(b) 176(3) 177(note: in Qld Act, s.177 applies subject to Div 12, Subdiv 1 of Part 8). 177(1) (ACT) 177(2) (ACT) 177(4) (ACT)	169 170 171 172 176(1)(b) 176(3) 177(note: in Qld Act, s.177 applies subject to Div 12, Subdiv 1 of Part 8). 177(1) (ACT) 177(2) (ACT) 177(4) (ACT)		169 170		171(1) 172(1) 175(2) (ACT) 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 Board

A	B	C	D	E	F	G	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									has determined whether s 176(1)(b) applies.
Div 10	Action by National Board		178 178(4) (ACT) 179	178 179				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.</p>

A	B	C	D	E	F	G	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									179(2)(a) in relation to apparent breaches of s. 133 (advertising offences).
Div 11	Panels	183	181 182 192	181 182 192				181(1) 181(1A)* 182(1) 184(3) (ACT) 192(2) 192(3A) (ACT) .	<p>AHPRA may only select persons to be on the panel and may not establish a panel unless it is a panel established under s. 181(1A), following a panel decision under s. 191(4A). This limitation does not apply for WA Matters.</p> <p>For WA Matters only: AHPRA may only select persons to be on the panel and may not establish the panel.</p>

A	B	C	D	E	F	G	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									<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		<p>193(excl Qld Act)</p> <p>193 (Qld Act) 193A(1),(2) and (4) (Qld Act) 193B(1), (2) and (3) (Qld Act)</p>					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	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval 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	220				217, 220	
Div 3	Registers (registered health practitioners)		226 (2) & (3)	226		226		222 223 225 226 227	AHPRA able to suppress information on register until a decision is made by State Board or registration, notification or IA committees AHPRA is only delegated the power to decide to remove information that a registered health practitioner has been reprimanded from the National Register or

A Part and Division	B Description	C Not delegated by National Board	D State or Territory Board	E Notifications Committee	F Registration Committee	G Immediate Action Committee	H Program Approval Committee	I AHPRA	J Limitations on delegation
									Specialists Register under s. 226(3) where: <ul style="list-style-type: none"> - the reprimand has been published for 5 years or longer; and - there has not been a 'Relevant Event' in the preceding 5 years regarding the practitioner.

A Part and Division	B Description	C Not delegated by National Board	D State or Territory Board	E Notifications Committee	F Registration Committee	G Immediate Action Committee	H Program Approval Committee	I AHPRA	J Limitations on delegation
									<p>AHPRA is only delegated the power to refuse a request to remove a reprimand under s. 226(3) where the Board or a duly authorised Committee (as the case may be) has issued a written notice to the registered health practitioner proposing to refuse to remove the reprimand and the practitioner does not provide a response in the time required by the notice or indicates they intend to make no submission</p>

A	B	C	D	E	F	G	H	I	J
Part and Division	Description	Not delegated by National Board	State or Territory Board	Notifications Committee	Registration Committee	Immediate Action Committee	Program Approval Committee	AHPRA	Limitations on delegation
									in relation to the notice.
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, disciplinary proceedings		289 291 17 (WA Act) 18 (Tas Act)	289 291 17 (WA Act) 18 (Tas Act)				289 291 17(WA Act) 18 (Tas Act)	AHPRA may only give notice under this division.
Part 13 (Qld Act)									
	Transitional (Qld)							310(1) and (2) (Qld Act)	

Schedule 2 – Trans-Tasman Mutual Recognition Act delegations

A Part and Division	B AHPRA	C Description of section	D Limits on delegation
<u>Part 3 Division 2 – Occupations – Entitlement to registration</u>	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.

A	B	C	D
Part and Division	AHPRA	Description of section	Limits on delegation
Part 3 Division 3 – Interim arrangements	s.25(5)	Cancellation of deemed registration (on application of registered person)	
	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
Clause 2.21	Definition of Western Australia Matter	<p>Insert the following definition:</p> <p>Western Australia Matter means a matter to which the National Law applies that relates to the health, conduct or performance of a registered health practitioner, student or an application for registration by an applicant:</p> <ul style="list-style-type: none"> • whose principal place of practice (or for an applicant his or her proposed principal place of practice) is in Western Australia; or • whose principal place of practice is in another state or territory, but who provides health services in Western Australia. <p>Western Australia Matter is deemed to include a matter that the relevant decision maker under the National Law, acting in good faith, regards as a Western Australia Matter, but which after further inquiry the relevant decision maker discovers does not relate to Western Australia.</p> <p>Note: to avoid doubt, in this definition the words:</p> <ul style="list-style-type: none"> • 'health, conduct or performance'; and • 'registered health practitioner', 'student' and applicant for registration, 	March 2018

		<p>have the same meaning, and incorporate the same concepts, as those words as used in Part 8 of the National Law (WA).</p> <p>Note: where the * symbol appears next to a power or function specified in Schedule 1, the delegation of that power will not apply to Western Australia Matters.</p>	
Part 7, Div 1	General registration	<p>Clarify that s. 56(1)* and s.56 (WA Matter only) are not delegated by National Board.</p> <p>Delegate s. 56(2)(a)(ii)* to AHPRA.</p>	March 2018
Part 7, Div 9	Renewal of registration	Delegate s. 112 to Registration Committee.	March 2018
Part 7, Div 11/2	Review of conditions and undertakings	<p>Delegate 125(6)* and 126(6)* to State or Territory Board, Notifications Committee, Registration Committee and Immediate Action Committee.</p> <p>Delegate s. 125(4), 125(5), 126(1), 126(5) and 127 to Immediate Action Committee.</p> <p>Delegate s. 125(6) (WA Matter only), 125(6A)*, 126(6) (WA Matter only), 126(6A)* and 127A(2)* to AHPRA.</p>	March 2018
Part 8, Div 11	Panels	<p>Delegate 181(1A)* to AHPRA subject to the following limitations:</p> <p>AHPRA may only select persons to be on the panel and may not establish a panel unless it is a panel established under s 181(1A), following a panel decision under s. 191(4A). This limitation does not apply for WA Matters.</p> <p>For WA Matters only:</p>	March 2018

		AHPRA may only select persons to be on the panel and may not establish the panel.	