



**Occupational
Therapy Board**
Ahpra

Occupational Therapy Board of Australia

Instrument of Delegation

Corporate Legal, National Legal Practice
27 April 2021

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Instrument of Delegation

Delegation of the Occupational Therapy Board of Australia's 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

1. Preliminary

- 1.1 The Occupational Therapy Board of Australia (the Board), pursuant to section 37 of the Health Practitioner Regulation National Law Act 2009 (the National Law), resolved to delegate its functions as specified in this Instrument of Delegation (Instrument) on 27 April 2021.
- 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 and authorisations with effect on **the date of signature of the Board Chair**.
- 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.
- 1.4 This Instrument does not take effect until the date of the signature of the Chair of the Board unless specified otherwise. The effective date of this Instrument is **the date of signature of the Board Chair**.

2. Definitions

- 2.1 **ACT Act** means the *Health Practitioner Regulation National Law (ACT)*.
- 2.2 **Ahpra** means the Australian Health Practitioner Regulation Agency, established by section 23 of the National Law.
- 2.3 **Appellable decision** has the same meaning as in section 199 of the National Law meaning:
 - 2.3.1 a decision to refuse to register the person;
 - 2.3.2 a decision to refuse to endorse the person's registration;

- 2.3.3 a decision to refuse to renew the person's registration;
- 2.3.4 a decision to refuse to renew the endorsement of the person's registration;
- 2.3.5 a decision to impose or change a condition on a person's registration or the endorsement of the person's registration, other than
 - 2.3.5.1 a condition relating to the person's qualification for general registration in the health profession; and
 - 2.3.5.2 a condition imposed by section 112(3)(a);
- 2.3.6 a decision to refuse to change or remove a condition imposed on the person's registration or the endorsement of the person's registration;
- 2.3.7 a decision to refuse to change or revoke an undertaking given by the person to the Board; and
- 2.3.8 a decision to suspend the person's registration.

2.4 **Immediate Action Committee** means the committee established by the Board pursuant to clause 11 of Schedule 4 to the National Law to exercise functions set out in section 35 of the National Law under delegation pursuant to section 37 of the National Law, constituted according to the Immediate Action Committee's terms of reference.

2.5 **National Board (Board)** means the Occupational Therapy Board of Australia, established by the section 31 of the National Law.

2.6 **National Law** means:

- 2.6.1 the Health Practitioner Regulation National Law (Queensland) in Queensland;
- 2.6.2 the Health Practitioner Regulation National Law (ACT) in the Australian Capital Territory;
- 2.6.3 the Health Practitioner Regulation National Law (Victoria) in Victoria;
- 2.6.4 the Health Practitioner Regulation National Law (South Australia) in South Australia;
- 2.6.5 the Health Practitioner Regulation National Law (NT) in the Northern Territory;
- 2.6.6 the Health Practitioner Regulation National Law (Tasmania) in Tasmania;
- 2.6.7 the Health Practitioner Regulation National Law (NSW) in New South Wales; and
- 2.6.8 the Health Practitioner Regulation National Law (Western Australia) in Western Australia.

To avoid doubt, any section cited in this Instrument refers to the section in the National Law in force in each jurisdiction unless:

- 2.6.9 the section is contained within Part 8 of the NSW Act;
- 2.6.10 it is otherwise indicated by this Instrument that the National Law specific to a particular participating jurisdiction applies; or
- 2.6.11 it is otherwise indicated by this Instrument that the section is in the Trans-Tasman Mutual Recognition Act.
- 2.7 **NSW Act** means the Health Practitioner Regulation National Law (NSW).
- 2.8 **NT Act** means the Health Practitioner Regulation National Law (NT).
- 2.9 **Participating jurisdiction** has the same meaning as in section 5 of the National Law.
- 2.10 **Qld Act** means the *Health Practitioner Regulation National Law* (Qld).
- 2.11 **Registration and/or Notifications Committee** means a committee established by the Board pursuant to clause 11 of Schedule 4 to the National Law to exercise functions set out in section 35 of the National Law under delegation pursuant to section 37 of the National Law, constituted according to its terms of reference, including:
- 2.11.1 Registration and Notifications Committees;
- 2.11.2 Registration Committees; and
- 2.11.3 Notifications Committees.
- 2.12 **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.
- 2.13 **SA Act** means the *Health Practitioner Regulation National Law* (South Australia).
- 2.14 **Tas Act** means the *Health Practitioner Regulation National Law* (Tasmania) Act 2010.
- 2.15 **Trans-Tasman Mutual Recognition Act** means the *Trans-Tasman Mutual Recognition Act 1997* (Cth).
- 2.16 **VIC Act** means the *Health Practitioner Regulation National Law* (VIC).
- 2.17 **WA Act** means the *Health Practitioner Regulation National Law* (Western Australia) Act 2010.
- 2.18 **WA 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:

- 2.18.1 whose principal place of practice (or for an applicant his or her proposed principal place of practice) is in Western Australia; or
- 2.18.2 whose principal place of practice is in another state or territory, but who provides health services in Western Australia.

WA Matter is deemed to include a matter that the relevant decision maker under the National Law, acting in good faith, regards as a WA 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 2 of this Instrument, the delegation of that power will not apply to WA Matters.

3. 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 section 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 in Schedules 2 and 3 of this Instrument.
- 3.1.3 The delegations in Schedule 2 of this Instrument are subject to any conditions placed on the delegations made under s 37(1) by the National Boards. These conditions are set out in Column E of Schedule 2 of this Instrument and describe the legal conditions that have an effect on the delegable power.
- 3.1.4 The delegations in Schedule 3 of this Instrument are subject to any conditions placed on the delegations made under s 37(1) by the National Boards. These conditions are set out in Column E of Schedule 3 of this Instrument and describe the legal conditions that have an effect on the delegable power.
- 3.1.5 A delegate may in the performance of a delegated function do anything that is incidental to the delegated function.

- 3.1.6 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.
- 3.1.7 A delegate may only exercise a function, or make a decision, subject to the conditions imposed on the delegated function. If the decision to be made is not within the condition 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.
- 3.1.8 The underlying intention in establishing such delegation is to facilitate the effective and efficient operation of the national accreditation and registration scheme.
- 3.2 Powers and functions that can only be exercised by the Board are detailed in Schedule 1 of this Instrument.

Registration and/or Notifications Committee

- 3.3 The Board delegates to the Registration and/or Notifications Committee the following functions of the Board:
 - 3.3.1 The functions listed in Column B of Schedule 2 of this Instrument, subject to the conditions (if any) in Column E of Schedule 2 of this Instrument.
 - 3.3.2 The functions listed in Column B of Schedule 3 of this Instrument, subject to the conditions (if any) in Column E to of Schedule 3 of this Instrument.
 - 3.3.3 All functions delegated to the Immediate Action Committee and/or Ahpra, as listed in Columns C and D of Schedules 2 and 3 of this Instrument.
 - 3.3.3.1 Where a condition applies to either the Immediate Action Committee or to Ahpra, as detailed in Column E of Schedules 2 or 3 of this Instrument, this condition would not apply to the Registration and/or Notifications Committee unless specifically stated in Column E of Schedules 2 or 3 of this Instrument.

Immediate Action Committee

- 3.4 The Board delegates to the Immediate Action Committee the following functions of the Board:
 - 3.4.1 The functions listed in Column C of Schedule 2 of this Instrument, subject to the conditions (if any) in Column E of Schedule 2 of this Instrument.
 - 3.4.2 The functions listed in Column C of Schedule 3 of this Instrument, subject to the conditions (if any) in Column E of Schedule 3 of this Instrument.

3.4.3 For completeness, the functions which are delegated to Ahpra and listed in Column D of Schedules 2 and 3 of this Instrument are not delegated to the Immediate Action Committee.

Australian Health Practitioner Regulation Agency

3.5 The Board delegates to Ahpra the following functions of the Board:

3.5.1 The functions listed in Column D of Schedule 2 of this Instrument, subject to the conditions (if any) in Column E of Schedule 2 of this Instrument;

3.5.2 The functions listed in Column D of Schedule 3 of this Instrument, subject to the conditions (if any) in Column E of Schedule 3 of this Instrument;

3.5.3 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;

3.5.4 The publishing of information on the Board's and/or Ahpra's website, whether or not expressly provided for in this Instrument; and

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 Board and ensure that appropriate advice and expertise is obtained in order to appropriately manage the appeal.

3.6 To avoid doubt, despite the description of division and the conditions listed in Columns A and E respectively of Schedules 2 or 3 of this Instrument the delegate must refer back to the applicable section(s) of the National Law and/or the Trans-Tasman Mutual Recognition Act that is being exercised.

3.7 The Board's decision, including any delegate decision must be consistent with the National Board guidelines and/or policies that are in force from time to time.

Signature

As signed

Ms Julie Brayshaw

Chair, Occupational Therapy Board of Australia

Date: 29 April 2021

Schedule 1 – Functions only exercised by the National Board

A	B	C	D
Part and Division	Section	Description of Division	Directions
Part 5 – National Boards			
Div 3	38	Board must develop and recommend to the Ministerial Council registration standards for the health profession.	
	39	Board may develop and approve of codes and guidelines as guidance to health practitioners and about matters relevant to the exercise of its functions.	
Part 6 - Accreditation			
Div 2	43(1)	Board must decide whether an accreditation function for the health profession is to be exercised by an external accreditation entity or a committee established by the Board.	
	47(2)	Board must decide to approve, refuse or request review of an accreditation standard.	
	49(1)	Board may approve or refuse to approve the accredited program of study as providing a qualification for the purposes of registration.	
	49(2)	Board may approve an accredited program of study under s 49(1), subject to condition that it considers necessary or desirable.	
	51(2)	Board may decide to impose conditions on the approval of an accredited program of study if it considers necessary or desirable or cancel its approval of an accredited program of study.	Notice from the accreditation authority must be received pursuant to s 50(2)(b), prior to Board's decision.
Part 7 - Registration			
	56(1) 61(1) 64(1)(a) 72(1) 76(1)	Board's decision as to the registration period for general, specialist, provisional, limited and non-practising registration	
Div 7	87(1)	Board must decide to register a person undertaking an approved program of study for the entire period of study or only part of the period of enrolment.	

A	B	C	D
Part and Division	Section	Description of Division	Directions
	88(4)(a)	Board must publish details of the failure of the education provider to comply with a notice given to the education provider under s 88(1) on the Board's website.	
	93(4)(a)	Board must publish details of a failure of an education provider to give notice within 60 days of a student ceasing to be enrolled in the program of study or the clinical placement as detailed in s 93(2) on its website.	
Part 8 - Notifications			
Div 2	143(3)(a)	Board must publish details of a failure of an education provider to comply with a notice under s 143(1) on its website.	
Div 11	183(1)	Board may appoint individuals to a list of approved persons to be appointed as members of panels.	
Part 10 - Information and privacy			
Div 3	225(p)	Board may add other information to the National Register or the Specialists Register that it considers appropriate.	

Schedule 2 – Decisions delegated by the National Board

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Part 7 - Registration				
Division 6				
Board to approve the form used by an individual in their application for registration in the health profession.			77(2)(a)	The delegation to Ahpra to approve the application form is limited to stylistic and minor changes only. Stylistic and minor changes include changes to the design of the form, dates and logo. If there is a substantive change – for instance, changes to the questions - those decisions remain with the Board.
Board may by written notice ask an entity that issued the applicant's proof of identity document to confirm the validity or provide further information relevant to the applicant's identity.			78(1)	
Board may obtain a written report about the criminal history of an applicant from the entities listed in s 79(2)(a), (b) or (c).			79	
Board may decide to investigate the applicant before deciding an application for registration.		80(1)(a)	80(1)(a)	The IAC is limited in its use of s 80(1)(a) to the situations where the IAC is exercising the functions as described in s 125(4).
Board may decide to require the applicant to provide further information or documentation before deciding an application for registration.		80(1)(a)	80(1)(b)	The IAC is limited in its use of s 80(1)(b) to the situations where the IAC is exercising the functions as described in s 125(4).
Board may decide to require the applicant before deciding an application for registration to: <ul style="list-style-type: none"> attend before the Board to answer questions, 	80(1)(c) 80(1)(d)	80(1)(c) 80(1)(d)		The IAC is limited in its use of ss 80(1)(c), (d) and (e) to the situations where the IAC is exercising the functions as described in s 125(4).

¹ By virtue of clause 3.3.3 of the preamble, any function delegated to Ahpra is also a function of the Registration and/or Notifications Committee.

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
<ul style="list-style-type: none"> • undertake an examination or assessment, and • undergo a health assessment. 	80(1)(e)	80(1)(e)		
Board decides to grant the application for registration in the type of registration applied for by the applicant.			82(1)(a)	<p>Ahpra can decide to grant an application for registration in the type of registration applied for by the applicant, unless there is a condition (described below) on that exercise of power.</p> <p>An application for limited registration must go to the Registration and/or Notifications Committee, unless:</p> <ol style="list-style-type: none"> 1. the application is for limited registration post graduate training or supervised practice which falls under the eligibility requirements as outlined in section 66, and 2. the applicant has applied for limited registration for the purposes of undertaking supervised practice as part of Stage 2 of the Occupational Therapy Council of Australia's assessment process for qualifications and skills of internationally qualified practitioners. <ol style="list-style-type: none"> i.
Board decides to grant an application for registration, other than the type of registration applied for by the applicant.			82(1)(b)	<p>Ahpra can grant a registration other than a type of registration applied for where:</p> <ol style="list-style-type: none"> 1. the grant of registration is consistent with the Board's proposal; 2. the applicant has been given notice of the Board's proposal to grant registration other than a type of registration applied for under s 81; and 3. either (a) or (b) apply: <ol style="list-style-type: none"> a. the applicant accepts the Board's proposal to grant registration of a type other than that applied for; or b. the applicant has not made a submission in response to the Board's proposal despite being provided with a reasonable opportunity to do so.
Board decides to refuse to grant the application for registration.			82(1)(c)	<p>Ahpra can only refuse an application for registration where:</p> <ol style="list-style-type: none"> 1. the refusal of an application is consistent with the Board's proposal;

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				2. the applicant has been given notice of the Board's proposal to refuse their registration application under s 81; and 3. either (a) or (b) apply: <ol style="list-style-type: none"> a. the applicant has not made any submissions in response to the notice, or b. the applicant has indicated that he or she agrees with the proposed decision.
Board decides to register a person in the health profession, the registration is subject to any conditions that the Board considers necessary or desirable.			83(1)	Ahpra may only impose a condition on registration in circumstances where: <ol style="list-style-type: none"> 1. the imposition of conditions is consistent with the Board's proposal to impose conditions; 2. the applicant has been given notice of the proposal to impose condition(s) on registration under s 81; and 3. the applicant has indicated that he or she agrees with the proposed imposition of the condition(s).
Division 7				
Board to ask education provider for list of persons undertaking approved program of study.			88(1)	Ahpra to notify the Board of any contravention of an education provider to give particulars of students.
Board may register the person as a student in the health profession on the student register on receipt of the particulars under s 88 or following completion of an application form.			89(1)	
Board to approve the form used by a person in their application for registration as a student.			89(1)(b)(i) 91(4)(b)(i)	The delegation to Ahpra to approve the application form is limited to stylistic and minor changes only. Stylistic and minor changes include changes to the design of the form, dates and logo. If there is a substantive change – for instance, changes to the questions - those decisions remain with the Board.
Board may register the person as a student in the health profession on the student register who is undertaking clinical training but not enrolled in an approved program of study or following completion of an application form.			91(4)(a)	

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Division 9				
Board to approve the form used by a registered health practitioner in their application for renewal of registration or endorsement.			107(4)(a)	The delegation to Ahpra to approve the application form is limited to stylistic and minor changes only. Stylistic and minor changes include changes to the design of the form, dates and logo. If there is a substantive change – for instance, changes to the questions - those decisions remain with the Board.
Board may exercise power under s 80 in deciding an application for renewal of registration.			110	Corresponding functions under s 80 (as listed above) apply to the Registration and/or Notifications Committee, IAC and Ahpra.
Board may decide to renew or refuse to renew, the applicant's registration or the endorsement.			112(1)	<p>Ahpra can only decide to renew a practitioner's registration in the following three scenarios:</p> <p>SCENARIO 1</p> <ol style="list-style-type: none"> 1. section 111 does not apply (i.e. a practitioner has not received a notice to propose to refuse or propose to impose conditions on the renewal of their registration); or <p>SCENARIO 2</p> <ol style="list-style-type: none"> 2. in relation to a breach of section 133 (advertising offences) where: 3. there has been a proposal to refuse to renew a registration or a proposal to impose conditions on a registration has been made; 4. the practitioner has received a notice under section 111(1); and 5. the practitioner has amended their advertising to be compliant with the requirements of section 133 following this proposal. <p>SCENARIO 3</p> <ol style="list-style-type: none"> 6. an applicant has applied to renew their limited registration relating to postgraduate training or supervised practice where the purposes of the registration is to undertake a Stage 2 Supervised Practice administered by the Occupational Therapy Council of Australia.

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				<p>Ahpra may only refuse an application for renewal of registration where:</p> <ol style="list-style-type: none"> 7. the Board has proposal to refuse to renew a registration; 8. the applicant has been given reasonable notice of the proposal to refuse their application for renewal of registration; and 9. either (a) or (b) applies: 10. the applicant submitted that they accept the proposed decision; or 11. the applicant has not made a submission in response to the proposal.
<p>Board decides to renew a registration, including any endorsement on registration, the registration or the endorsement subject to any conditions the registration was subject to immediately before the renewal and any condition the Board considers necessary or desirable.</p>			112(3)	<p>Ahpra may only propose to impose conditions on a renewal of registration where:</p> <ol style="list-style-type: none"> 1. conditions relate to a breach of s 133 (advertising offences); and 2. the proposed condition is standard worded conditions in accordance with the National Restrictions Library. <p>Ahpra may only impose conditions on an application for renewal of registration where:</p> <ol style="list-style-type: none"> 1. the Board has proposed to impose conditions following an application on a renewal of registration on registration; 2. the applicant has been given reasonable notice of the proposal to impose conditions following an application on a renewal of registration; and 3. either (a) or (b) applies: <ol style="list-style-type: none"> a. the applicant submitted that they accept the proposed decision; or b. the applicant has not made a submission in response to the proposal.
Division 11, subdivision 2				
<p>Board to approve the form used by a registered health practitioner or student in their application to change or remove conditions or undertaking.</p>			125(3)(a)	<p>The delegation to Ahpra to approve the application form is limited to stylistic and minor changes only. Stylistic and minor changes include changes to the design of the form, dates and logo. If there is a substantive change – for instance, changes to the questions - those decisions remain with the Board.</p>
<p>Board may exercise a power under s 80 before deciding the application to change or remove conditions and/or undertaking on application by a registered health practitioner or student.</p>		125(4)	125(4)	<p>Corresponding functions under s 80 (as listed above) apply to the Registration and/or Notifications Committee, IAC and Ahpra.</p>

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				Limited to those situations where the IAC had first decided to take the immediate action, and where the IAC is amending the conditions already imposed or undertakings entered into by the practitioner upon immediate action.
Board must decide to grant or refuse to grant the application to change or remove conditions or undertaking on a registered health practitioner's or student's registration.		125(5)	125(5)	<p>Limited to those situations where the IAC had first decided to take the immediate action, and where the IAC is amending the conditions already imposed or undertakings entered into by the practitioner upon immediate action.</p> <p>Ahpra's delegation is only in relation to deciding to grant a s 125(5) application in the following scenarios:</p> <p>SCENARIO 1</p> <ol style="list-style-type: none"> 1. conditions were imposed in response to a breach of s 133 (Advertising offences), and 2. information has been submitted to demonstrate compliance with the conditions; or <p>Where there is non-compliance with the s 133 conditions, the decision to refuse remains with the Registration and/or Notifications Committee and is not delegated to Ahpra..</p> <p>SCENARIO 2</p> <ol style="list-style-type: none"> 1. A practitioner has submitted evidence to the delegate that they have complied with their conditions on their registration, and 2. Clinical advice is not required to determine the practitioner's compliance with their conditions. <p>Where clinical advice is sought the matter must be presented to the next available Registration and/or Notifications Committee meeting.</p>
Board must decide whether to change the condition(s) on a registered health practitioner's or student's registration on its own initiative.		126(5)	126(5)	Limited to those situations where the IAC had first decided to take the immediate action, and where the IAC is amending the conditions already imposed or undertakings entered into by the practitioner upon immediate action.

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				<p>Provided that the delegate reasonably believes it is necessary to change a condition imposed on a registered health practitioner's or student's registration (s 126(1)).</p> <p>Ahpra can decide to change a condition only in the following three scenarios.</p> <p>SCENARIO 1</p> <ol style="list-style-type: none"> 1. Committee has proposed to change the condition; 2. subsections 126(2) and 126(4) have been complied with; and 3. practitioner or student: <ol style="list-style-type: none"> a. submitted that they accept the proposed change; or b. have not made a submission and 4. the delegate agrees that the condition should be changed for the reasons proposed by the Board; and 5. no additional information has come into possession that may be relevant in making a decision. <p>If Ahpra changes the conditions, it must advise the Committee who proposed to change the condition of the outcome.</p> <p>SCENARIO 2</p> <ol style="list-style-type: none"> 1. conditions were imposed in response to a breach of s 133 (Advertising offences), and 2. information has been submitted to demonstrate compliance with the conditions; or <p>Where there is non-compliance with the s 133 conditions, the decision to refuse remains with the Registration and/or Notifications Committee and is not delegated to Ahpra.</p> <p>SCENARIO 3</p>

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				<ol style="list-style-type: none"> 1. A practitioner has submitted evidence to the delegate that they have complied with their conditions on their registration, and 2. Clinical advice is not required to determine the practitioner's compliance with their conditions. <p>Where clinical advice is sought the matter must be presented to the next available Registration and/or Notifications Committee meeting.</p>
<p>Board may decide to remove the condition or revoke the undertaking if it reasonably believes the condition(s) imposed or undertaking given is no longer necessary.</p>		127(2)	127(2)	<p>Limited to those situations where the IAC had first decided to take the immediate action, and where the IAC is amending the conditions already imposed or undertakings entered into by the practitioner upon immediate action.</p> <p>Relevant delegate reasonably believes its necessary to remove the condition or revoke the undertaking (s 127(1)).</p> <p>Ahpra can make a s 127(2) decision in the following scenarios:</p> <p>SCENARIO 1</p> <ol style="list-style-type: none"> 1. conditions were imposed in response to a breach of s 133 (Advertising offences), and 2. information has been submitted to demonstrate compliance with the conditions; or <p>Where there is non-compliance with the s 133 conditions, the decision to refuse remains with the Registration and/or Notifications Committee and is not delegated to Ahpra.</p> <p>SCENARIO 2</p> <ol style="list-style-type: none"> 1. A practitioner has submitted evidence to the delegate that they have complied with their conditions on their registration, and 2. Clinical advice is not required to determine the practitioner's compliance with their conditions.

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				Where clinical advice is sought the matter must be presented to the next available Registration and/or Notifications Committee meeting.
Board may decide that any change, removal or revocation may be decided by the review body of a co-regulatory jurisdiction.			127A(2)	
Division 11, subdivision 3				
Board requires, at any time, evidence of the appropriate professional indemnity insurance arrangements.			129(2)	
Board may ask, at any time, practitioner to give the Board their practice information.			132(1)	
Division 11, subdivision 5				
Board may require, at any time, a registered health practitioner to provide evidence of their identity.			134(1)	
Board may obtain a written report about a registered health practitioner's criminal history from the entities listed in the section.			135(1)	
Part 8 – Notifications				
Division 5				
Board must decide whether notification: (a) relates to a health practitioner or student, (b) relates to a ground, and (c) could also be made to a Health Complaints Entity (HCE)		149(1)(a), (b), (c) (excl Qld Act) 150(1)(a), (b) (Qld Act)	149(1)(a), (b), (c) (excl Qld Act) 150(1)(a), (b) (Qld Act)	
Board decides that the notification relates to a person who is not registered in a health profession established for the Board but may be registered in another profession the Board must refer the notification to the other Board.			149(3) (excl Qld Act) 150(3) (Qld Act)	

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Board and HCE must attempt to reach agreement about how a notification is to be dealt with.			150(3) (excl Qld Act)	
Board decides to take no further action in relation to a notification: <ul style="list-style-type: none"> a. frivolous, vexatious, misconceived or lacking in substance b. amount of time elapsed, c. the person is no longer registered, d. subject matter already been dealt with e. being dealt with by another entity or been referred by Board to another entity, or f. registered health practitioner has taken appropriate steps to remedy the subject matter of notification. 	151(1)		151(1)(e)	Delegation of s 151(1)(e) to Ahpra only applies where the Board's delegate and the HCE have agreed that the HCE will deal with the subject matter of the notification, under s 150(3).
Division 6				
Board may deal with more than one notification about a registered health practitioner or student together.	153	153		
Board may deal with notification in conjugation with other Board(s), if a registered health practitioner or student is registered in more than one health profession.	154(2)	154(2)		
Division 7				
Board may take immediate action in relation to a registered health practitioner or student if one of the grounds as detailed in ss 156(1)(a) to (e) are met.		156(1)	156(1)	Ahpra may only make a decision if: <ol style="list-style-type: none"> 1. the decision to take immediate action is consistent with the Board's proposal; 2. s 157 has been complied with; 3. the practitioner or student has either: <ul style="list-style-type: none"> a. accepted the proposed action; or b. not made submissions in response to the proposed immediate action; 4. the delegate agrees that immediate action should be taken for the reasons proposed by the Board; and

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				<p>5. no additional information has come into possession that may be relevant in the making an interim decision.</p> <p>Ahpra must advise the relevant Committee of the outcome of its proposal.</p>
Board must take the further action under Part 8 that is appropriate.	158(1)(b)	158(1)(b)		
Division 8				
Board may decide to investigate a registered health practitioner or student if it is necessary or appropriate.		160(1)	160(1)	<p>Ahpra to commence an investigation under s 160(1)(a) or (b) where:</p> <ol style="list-style-type: none"> s 150(4) applies to require an investigation; or further information is necessary to progress the management of a matter and it is impractical in the circumstances to await a Committee meeting. <p>Ahpra may commence a compliance investigation under s160(1)(c) where:</p> <ol style="list-style-type: none"> an instrument imposing an obligation through a registration condition or undertaking does not empower Ahpra to collect information necessary to monitor compliance; and the information sought through an investigation is necessary to assure compliance with a registration condition or undertaking. <p>The relevant Committee must be notified following a s 160(1) decision made by Ahpra.</p>
Board must direct an appropriate investigator to conduct the investigation.			160(2)	
Board does not have to give the registered health practitioner or student a notice under s 161(3) if it reasonably believes that it would seriously prejudice the investigation, place a person's health or safety at risk, or place a person at risk of harassment or intimidation.		161(4)	161(4)	

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Board may appoint persons as investigators.			163(1) 81(1)(SA Act)	
Board must decide, following investigation, either to take no further action, or take action and/or refer the matter to another entity.	167 167(2) (ACT Act)			
Division 9				
Board may require a registered health practitioner or student to undergo a health assessment because reasonably believes that they have, or may have an impairment.	169	169		
Board may require a registered health practitioner to undergo a performance assessment because the Board reasonably believes that they practise or may practise the profession unsatisfactorily.	170	170		
Board to choose an assessor to carry out the assessment.			171(1)	Ahpra can appoint an assessor from a list of approved assessors maintained by the Board and updated from time to time.
Board to provide a copy of the assessor's report to the registered health practitioner or student to whom it relates to, unless the Board considers that it may be prejudicial to the practitioner's or student's physical or mental health or wellbeing, then to a nominated medical practitioner or psychologist.			176(1)	Ahpra must not release the assessor's report in a manner contrary to any recommendations made by the appointed assessor.
Board to nominate a person to discuss the report with a registered health practitioner or student and discuss ways of dealing with the adverse findings in the report.			176(3)	
Board may decide following consideration of the assessor's report and discussions held under s 176(3), to take the action the Board considers necessary or appropriate, refer the matter to another entity or take no further action .	177 177(3) (ACT Act)			

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
	NB/ Qld Act - s 177 applies subject to Div 12, Subdiv 1 of Part 8			
Division 10				
Board may decide to take relevant action in relation to a registered health practitioner or student.			178(2) 178(4) (ACT Act)	<p>The relevant delegate holds a reasonable belief (s 178(1)(a)).</p> <p>Ahpra may only make a decision under s 178(2) if:</p> <ol style="list-style-type: none"> 1. s 179(1) has been complied with or, if s 179(1) does not apply, the practitioner / student has been afforded a reasonable opportunity to show cause as to why relevant action should not be taken; and 2. practitioner or student has: <ol style="list-style-type: none"> a. submitted that they accept the action proposed; or b. not made a submission in response to the proposed relevant action; and 3. delegate agrees that relevant action should be taken for the reasons proposed by the Board and holds the reasonable belief (s 178(1)(a)); and 4. no additional information has come into possession that may be relevant in making a determinative decision. <p>Ahpra must advise the Committee who proposed the relevant action of the outcome of its proposal.</p> <p>Notwithstanding the limitation above, Ahpra may only propose conditions under s 178(2)(c) where:</p> <ol style="list-style-type: none"> 1. conditions relate to a breach of s133 (advertising offences), and 2. the proposed condition must be standard worded conditions in accordance with the National Restrictions Library.

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Board must decide to take no action or to take relevant action and/or refer the matter to another entity in relation to a registered health practitioner or student.			179(2)	<p>Ahpra may only decide to take no further action under s 179(2)(a):</p> <ol style="list-style-type: none"> 1. in relation to breaches of s 133 (advertising offences). <p>The relevant delegate holds a reasonable belief (s 178(1)(a)).</p> <p>Ahpra may only make a decision under s 179(2)(b)(i) if:</p> <ol style="list-style-type: none"> 1. s 179(1) has been complied with or, if s 179(1) does not apply, the practitioner / student has been afforded a reasonable opportunity to show cause as to why relevant action should not be taken; 2. practitioner or student has: <ol style="list-style-type: none"> a. submitted that they accept the action proposed; or b. not made a submission in response to the proposed relevant action; 3. delegate agrees that relevant action should be taken for the reasons proposed by the Board; and 4. no additional information has come into possession that may be relevant in making a determinative decision. <p>Ahpra must advise the relevant Committee of the outcome of its proposal.</p>
Division 11				
Board may establish a health panel if it reasonably believes and it is necessary or appropriate that the matter be referred to a panel.	181(1)			
Board may establish a performance and professional standards panel if it reasonably believes a registered health practitioner practises unsatisfactorily or their professional conduct is or may be unsatisfactory.	182(1)			
Division 12				
Board must refer a matter about a registered health practitioner or student to a responsible tribunal if it reasonably	193(1)			

A	B ¹	C	D	E
Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
believes that the practitioner/student has behaved in a way that constitutes professional misconduct, their registration was improperly obtained or if it is referred from a panel.				
Board must notify the Health Ombudsman if the Board forms a reasonable belief that the behaviour is professional misconduct or another ground for suspension or cancellation or a panel notified the Board of the panel's belief.	193(1) (Qld Act)			
Board must refer a matter to the Health Ombudsman if requested to do so by the health ombudsman and if a panel has notified the Board that the matter is to be referred the responsible tribunal.	193A(1) and (2) (Qld Act)			
Board may refer another matter about a practitioner or student to the health ombudsman with their agreement.	193A(4) (Qld Act)			
Board's referral to Tribunal at panel's or ombudsman's request.	193B(1) and (2) (Qld Act)			
Part 10 – Information and Privacy				
Division 2				
Following a request under s 217(1) made by the Ministerial Council, the Board may by written notice ask the practitioner for information relevant to the request.			217(2)	
Board may make a disclosure to protect health or safety of patients or other persons to an entity of the Commonwealth or State or Territory that the Board considers may be required to take action in relation to the risk.			220* 220 (WA Matter)	
Division 3				
Board may decide not to include or remove information from the public register in relation to a registered health practitioner.	226(2)	226 (1) and (2)	226(1) and (3)	Ahpra is only delegated the power to decide to remove information that a registered health practitioner has been reprimanded from the register under s 226(3) where:

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Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
				<ol style="list-style-type: none"> 1. the reprimand has been published for 5 years or longer; and 2. there has not been a 'Relevant Event' in the preceding 5 years. <p>Ahpra is only delegated the power to refuse a request to remove a reprimand under s 226(3) where:</p> <ol style="list-style-type: none"> 1. the Committee has issued a written notice to the registered health practitioner proposing to refuse to remove the reprimand, and 2. the practitioner has not provided a response to the notice or has indicated they intend not to make submissions.
Part 11 - Miscellaneous				
Board may appoint persons as inspectors.			239(1) 81(2) (SA Act)	

Schedule 3 – Trans-Tasman Mutual Recognition Act delegations

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Description of Division	Registration and/or Notifications Committee	Immediate Action Committee	Ahpra	Conditions on Delegation
Part 2 Division 3- Entitle to registration				
Local registration authority may permit the notice under s 18(1) to be amended after it is lodged.			18(6)	
Local registration authority may grant registration and may grant renewals.			19(2)	
Local registration authority may impose conditions on registration.			19(5)	
Local registration authority may: <ul style="list-style-type: none"> • postpone or refuse to grant of registration, or • refuse to grant registration. 			20(3)	
Local registration authority may cancel a person's deemed registration (on application of registered person).			25(5)	
Local registration authority may waive any conditions imposed or an undertaking accepted under the law of New Zealand if it thinks appropriate.			26(4)	
Local registration authority may impose conditions on deemed registration.			26(5)	
Local registration authority may reinstate any cancelled or suspended registration or waive any such condition if it's appropriate in the circumstances.			32(2)	
Local registration authority to prepare and make available guidelines and information regarding operation of this Part.			39(2)	
Local registration authority may impose fees in relation to substantive or deemed registration or continuance of registration.			40(1)	

Document control

Document Owner	Corporate Counsel			
Document Number	OTBAinstD-02			
Date Approved	27 April 2021			
Date Commenced	1 January 2021			
Date Last Amended	<Insert date of signature of Board Chair>			
Date for Review	Two (2) years from document implementation			
Document Sponsor	Occupational Therapy Board of Australia			
Document Contact	Corporate Counsel			
Amendment History	Part and Division	Description	Change	Date Change Made
	Preamble: Preliminary: Clause 1.2	Clause 1.2 read: <i>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 and authorisations with effect on 1 January 2021.</i>	Amend the effective date to "the date of the signature of the Chair of the Board."	27 April 2021
	Preamble: Preliminary: Clause 1.4	Clause 1.4 read: <i>This Instrument does not take effect until the date of the signature of the Chair of the</i>	Amend the effective date to "the date of the signature of the Chair of the Board."	27 April 2021

		<i>Board unless specified otherwise. The effective date of this Instrument is 1 January 2021.</i>		
	82(1)(a)	<p>The condition read:</p> <p><i>An application for limited registration must go to the Registration and/or Notifications Committee, unless the following applies:</i></p> <ol style="list-style-type: none"> 1. <i>Ahpra may grant an application for limited registration in the following circumstances only:</i> <ol style="list-style-type: none"> a. <i>an applicant has applied for limited registration relating to postgraduate training or supervised practice which falls under the eligibility requirements as outlined in section 66, where:</i> b. <i>the applicant has applied for limited registration for the purposes of undertaking a Stage 3 Supervised Practice administered by the OTC.</i> 	<p>Amend last dot points to read:</p> <p><i>An application for limited registration must go to the Registration and/or Notifications Committee, unless:</i></p> <ol style="list-style-type: none"> 1. <i>the application is for limited registration post graduate training or supervised practice which falls under the eligibility requirements as outlined in section 66, and</i> 2. <i>the applicant has applied for limited registration for the purposes of undertaking supervised practice as part of Stage 2 of the Occupational Therapy Council of Australia's assessment process for qualifications and skills of internationally qualified practitioners.</i> 	27 April 2021
	82(1)(c)	<p>The condition read:</p> <p><i>Ahpra can only refuse an application for registration where:</i></p> <ol style="list-style-type: none"> 1. <i>the refusal of an application is consistent with the Board's proposal;</i> 2. <i>the applicant has been given notice of the Board's proposal to refuse their registration application under s 81; and</i> 3. <i>either (a) or (b) apply:</i> <ol style="list-style-type: none"> a. <i>the applicant has not made any submissions in response to the notice, or</i> b. <i>the applicant has indicated that he or she agrees with the proposed imposition of conditions.</i> 	<p>Amend last dot point to read:</p> <ol style="list-style-type: none"> b. <i>the applicant has indicated that he or she agrees with the proposed decision.</i> 	27 April 2021
	S 91(4)(b)(i)	S 91(4)(a)(i)	Amend to s 91(4)(b)(i)	27 April 2021
	S 112(1)	<p>The condition read:</p> <p>Scenario 3</p> <ol style="list-style-type: none"> 3. <i>an applicant has applied to renew their limited registration relating to postgraduate training or supervised practice where the purposes of the registration is to undertake a Stage 3</i> 	<p>Amend scenario 3 to read:</p> <p>SCENARIO 3</p> <ol style="list-style-type: none"> 3. <i>an applicant has applied to renew their limited registration relating to postgraduate training or supervised practice where the</i> 	27 April 2021

		<i>Supervised Practice administered by the OTC.</i>	<i>purposes of the registration is to undertake a Stage 2 Supervised Practice administered by the Occupational Therapy Council of Australia.</i>	
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