



Australian Capital Territory

# **Board of Senior Secondary Studies Act 1997 No 87**

## **Republication No 2**

Republication date: 16 April 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Board of Senior Secondary Studies Act 1997* as in force on 16 April 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Board of Senior Secondary Studies Act 1997

## Contents

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	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title	2
2	Definitions for Act	2
3	Declaration of national agreement	3
<b>Part 2</b>	<b>Board of Senior Secondary Studies</b>	
4	Establishment of board	4
5	Functions of board	4
6	Powers of board	7
7	Ministerial directions	7

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## Contents

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	Page	
8	Membership of board	8
9	Functions of board not affected by vacancies	9
10	Terms of appointment	9
11	Alternates of appointed members	9
12	Function of alternates	10
12A	Representative of chief executive	10
13	Disclosure of interest	10
14	Resignation	11
15	Termination of appointment	11
16	Procedures of board	12
17	Delegations	13
19	Staff	13
20	Protection of members	13
<b>Part 3</b>	<b>Administration</b>	
<b>Division 3.1</b>	<b>Accreditation and registration of courses</b>	
21	Accreditation of courses on application	14
22	Accreditation of courses without application	14
23	Review of refusal to accredit	14
24	Considerations relating to accreditation of courses	15
25	Registration of courses	15
<b>Division 3.2</b>	<b>Certificates of attainment</b>	
26	Issue of certificates of attainment	16
27	Review of failure to issue certificate	17
<b>Part 4</b>	<b>Miscellaneous</b>	
28	Provision of information	18
29	Register	18
30	Approved forms	19
31	Transitional	19

<b>Endnotes</b>		Page
1	About the endnotes	21
2	Abbreviation key	21
3	Legislation history	22
4	Amendment history	22
5	Earlier republications	23

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# **Board of Senior Secondary Studies Act 1997**

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An Act to establish a board of senior secondary studies

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Board of Senior Secondary Studies Act 1997*.

### 2 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***accredited course*** means—

- (a) a course accredited under section 21, 22 or 23; or
  - (b) a course to the accreditation of which section 30 (2) applies;
- while the accreditation is in effect.

***alternate*** means a person holding an appointment under section 11 or 12.

***appointed member*** means a member appointed by the Minister.

***board*** means the Board of Senior Secondary Studies established by section 4.

***course*** means a course of study for senior secondary students.

***member*** means a member of the board, and includes the chairperson.

***national agreement*** means an agreement that—

- (a) is entered into by the Territory, the Commonwealth, the States and the Northern Territory; and
- (b) deals with the provision of vocational education; and

- (c) is declared by the Minister under section 3 to be a national agreement for this Act.

*recognised educational institution* means an educational institution that is established or registered under an Act or a law of the Commonwealth, a State or another Territory that provides, or offers to provide, courses that are suitable for senior secondary education.

*registered course* means—

- (a) a course registered under section 25; or  
(b) a course to the registration of which section 30 (2) applies.

*senior secondary education* means the education normally provided to students in the final 2 years of full-time secondary schooling.

### **3 Declaration of national agreement**

- (1) The Minister may, in writing, declare that an agreement is a national agreement.
- (2) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.



## **Part 2                      Board of Senior Secondary    Studies**

### **4        Establishment of board**

- (1) There is hereby established a board to be known as the Board of Senior Secondary Studies.
- (2) The board—
  - (a) is a body corporate, with perpetual succession; and
  - (b) shall have a common seal.

### **5        Functions of board**

- (1) The principal functions of the board are—
  - (a) to accredit or register courses taught by recognised educational institutions; and
  - (b) to approve, consistently with national agreements, recognised educational institutions for teaching vocational education courses; and
  - (c) to establish guidelines for the development of courses by the board or by a recognised educational institution; and
  - (d) to establish principles and procedures for the assessment of attainments of students and the moderation of those assessments; and
  - (e) to provide, to persons who have undertaken courses or units of courses, certificates and transcripts of their attainments; and
  - (f) to provide information on—
    - (i) the performance of students and former students; and
    - (ii) the policies and procedures of the board; and

- (g) to review from time to time its own operations and the operation of this Act; and
  - (h) to advise the Minister on any matter referred to in this section.
- (2) For subsection (1) (a), the board has the following additional functions:
- (a) to establish guidelines for the accreditation of courses, including vocational education courses;
  - (b) to ensure, if appropriate, the application of national agreements in relation to the accreditation of vocational education and training courses;
  - (c) to identify the minimum resources necessary for the satisfactory provision of the courses that the board determines.
- (3) For subsection (1) (d), the board has the following additional functions:
- (a) to prepare guidelines and requirements for the assessment of students' attainments;
  - (b) to make arrangements for the administration by recognised educational institutions of the test known as the Australian Scaling Test, or any other test instead of the Australian Scaling Test that is approved by the board;
  - (c) to develop and implement procedures for the moderation of students' assessments;
  - (d) to develop procedures for—
    - (i) the review by recognised educational institutions of the assessments of their students;
    - (ii) the review by the board of procedures applied by a recognised educational institution in assessing a student or reviewing such an assessment; and

- (iii) the review, by recognised educational institutions or by the board, of disciplinary action taken by the institutions in connection with the assessment of a student.
- (4) For subsection (1) (e), the board has the following additional functions:
  - (a) to prepare guidelines for the issue of certificates of attainment;
  - (b) to make the arrangements that the board deems fit to ensure to the greatest extent possible that certificates issued by the board are recognised by employers and providers of further training or higher education;
  - (c) to consult with institutions that provide tertiary education or vocational education or training for the purpose of reviewing from time to time the effect of their requirements and procedures for the admission of students and to provide appropriate guidance to those institutions;
  - (d) to issue, consistently with national agreements, certificates or other evidence of the achievements of vocational education or training qualifications.
- (5) For subsection (1) (f), the board has the following additional functions:
  - (a) to collect and record information about the performances of students;
  - (b) to provide, to institutions that provide tertiary education or vocational education or training, information on applicants for admission to those institutions;
  - (c) to publicise the guidelines, requirements, procedures and standards for assessments, certification and accreditation used by the board;
  - (d) to make available, as determined by the board, statistical information about—
    - (i) senior secondary education in the ACT; and

- (ii) the functions of the board;
- (e) if appropriate, to recognise secondary educational attainments obtained outside the ACT and provide statements of equivalence where requested.

## **6 Powers of board**

- (1) The board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1), the board has power to—
  - (a) appoint the committees and advisory panels that it deems necessary; or
  - (b) issue, to persons who have undertaken courses or units of courses, certificates stating their academic attainments.

## **7 Ministerial directions**

- (1) The Minister may, in writing, give directions to the board in relation to the exercise of its functions.
- (2) The Minister may not give a direction that relates to a particular student or a particular assessment.
- (3) The board shall give effect to a direction under this section.
- (4) A report by the board for the *Annual Reports (Government Agencies) Act 1995*, section 8 shall include, in relation to the reporting period—
  - (a) a copy of any direction given to the board by the Minister during the period; and
  - (b) particulars of—
    - (i) the measures taken to give effect to any direction given during the period; and
    - (ii) any measures not disclosed in a previous report taken to give effect to a direction given during a previous period.

- (5) A direction is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## **8 Membership of board**

- (1) The board shall consist of the following members:
- (a) a chairperson;
  - (b) 1 person appointed after consultation with the Canberra Institute of Technology;
  - (c) 1 person appointed after consultation with the Vocational Education and Training Authority;
  - (d) 1 person appointed after consultation with the Australian National University;
  - (e) 1 person appointed after consultation with the University of Canberra;
  - (f) 1 person appointed after consultation with the body known as the Association of Independent Schools;
  - (g) 1 person appointed after consultation with the Australian Capital Territory branch of the Australian Education Union;
  - (h) 1 person appointed after consultation with the body known as the Catholic Education Commission;
  - (i) 1 person appointed after consultation with the body known as the Secondary College Principals' Association;
  - (j) 1 person appointed after consultation with the body known as the ACT Council of Parents and Citizens Associations;
  - (k) 1 person appointed after consultation with the Association of Parents and Friends of the ACT Schools Inc.;
  - (l) 1 person appointed after consultation with the ACT and Region Chamber of Commerce and Industry;

- (m) 1 person appointed after consultation with the ACT Trades and Labour Council;
  - (n) the chief executive.
- (2) A member referred to in subsections (1) (a) to (m) shall be appointed by the Minister in writing.
- (3) The Minister shall not appoint a person to be a member of the board unless satisfied that the person has qualifications and expertise relevant to the functions of the board.

## **9 Functions of board not affected by vacancies**

The performance of a function by the board is not affected by reason only of there being a vacancy or vacancies in its membership.

## **10 Terms of appointment**

An appointed member holds office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for reappointment.

## **11 Alternates of appointed members**

- (1) The Minister may, by the instrument by which an appointed member, other than the chairperson, is appointed or by another instrument, appoint an alternate of that member.
- (2) The alternate of a member appointed on the written nomination of a person or body shall be appointed on the written nomination of the person or body entitled to nominate the member.
- (3) The Minister shall not appoint a person under this section unless satisfied that the person has qualifications and expertise relevant to the functions of the board.
- (4) An alternate holds office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for reappointment.

- (5) A member is not eligible to be appointed under this section.
- (6) An appointment under this section ceases under this subsection if the appointee becomes a member.

## **12 Function of alternates**

- (1) An alternate may participate in a meeting of the board in the absence of the member whose alternate he or she is.
- (2) If a member in respect of whom an alternate has been appointed ceases to be a member, the alternate—
  - (a) continues in office subject to this Act in accordance with the terms of the instrument of his or her appointment; and
  - (b) may participate in meetings of the board until another person becomes a member in place of the firstmentioned member; and
  - (c) on another person's becoming a member in place of the firstmentioned member, shall be taken to be the alternate of the new member.

## **12A Representative of chief executive**

- (1) The chief executive may appoint a representative to attend a meeting or meetings of the board on his or her behalf.
- (2) A representative appointed under subsection (1) may participate in a meeting of the board in the absence of the chief executive.

## **13 Disclosure of interest**

- (1) A member who—
  - (a) has a direct or indirect personal or pecuniary interest in a matter being considered or about to be considered by the board; and
  - (b) intends to attend, or attends, the meeting of the board at which the matter is likely to be, or is, considered;

shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the board.

- (2) A disclosure shall be recorded in the minutes of the meeting and, unless the board otherwise determines, the member shall not—
- (a) be present during any deliberation of the board with respect to that matter; or
  - (b) take part in any decision of the board with respect to that matter.
- (3) A member referred to in subsection (1) shall not—
- (a) be present during any deliberation of the board for the purpose of considering whether to make a determination under subsection (2) in relation to that member; or
  - (b) take part in the making by the board of such a determination.
- (4) In this section:
- member* includes—
- (a) an alternate appointed under section 11 (1); and
  - (b) a representative appointed under section 12A (1).

## 14 Resignation

An appointed member or alternate of an appointed member may resign his or her office by written notice signed by the member or alternate, as the case requires, and given to the Minister.

## 15 Termination of appointment

The Minister shall terminate the appointment of an appointed member or of an alternate of an appointed member if—

- (a) for a member—he or she is absent, without the approval of the chairperson, from 3 consecutive meetings of the board; or



- (b) for an alternate—he or she is absent, without the approval of the chairperson, from 3 consecutive meetings of the board in which he or she is eligible to participate; or
- (c) the member or alternate fails, without reasonable excuse, to comply with section 13; or
- (d) the member or alternate is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

## 16 Procedures of board

- (1) The chairperson shall call the meetings of the board that he or she considers necessary for the exercise of its functions.
- (2) The chairperson shall preside at all meetings at which he or she is present.
- (3) At a meeting of the board a quorum consists of 8 members.
- (4) If the chairperson is not present at a meeting or part of a meeting, the members present shall elect 1 of their number to preside at the meeting or part.
- (5) Questions arising at a meeting shall be decided by a majority of votes of members present and voting.
- (6) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes on a question, a casting vote.
- (7) Subject to this Act, the procedures of the board shall be as determined by the chairperson or, if a presiding member has been appointed under subsection (4), by that member.
- (8) The board shall keep written minutes of its proceedings.
- (9) In this section:
  - member* includes—
  - (a) an alternate appointed under section 11 (1); and
  - (b) a representative appointed under section 12A (1).

**17 Delegations**

- (1) The board may, either generally or otherwise as provided by resolution, by instrument under its common seal, delegate any of its powers under this Act, other than this power of delegation, to—
  - (a) a member; or
  - (b) a member of the staff of the board.
- (2) A certificate signed by the chairperson stating any matter with respect to a delegation under this section is evidence of that matter.
- (3) A document purporting to be a certificate referred to in subsection (2) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

**19 Staff**

- (1) The board may make arrangements with the chief executive for the use of the services of public servants in the administrative unit under the chief executive's control.
- (2) The *Public Sector Management Act 1994* applies in relation to the management by the board of public servants who are the subject of an arrangement under this section.

**20 Protection of members**

- (1) No action or other proceeding, civil or criminal, lies against a person who is or has been a member of the board in relation to an act done or omitted to be done in good faith in the exercise, or purported exercise, of a function under this Act.
- (2) Nothing in subsection (1) shall be taken to affect any liability that the Territory would, apart from that subsection, have in respect of an act or omission mentioned in that subsection.

## **Part 3 Administration**

### **Division 3.1 Accreditation and registration of courses**

#### **21 Accreditation of courses on application**

- (1) A recognised educational institution, or a person on behalf of a recognised education institution, may apply to the board for the accreditation of a course to be taught at the institution.
- (2) On receipt of an application under subsection (1), the board shall—
  - (a) accredit the course; or
  - (b) refuse to accredit the course.
- (3) An accreditation is effective for the period of time and may be subject to the conditions that the board determines.

#### **22 Accreditation of courses without application**

- (1) Subject to the relevant guidelines, the board may, on its own initiative, accredit a course.
- (2) An accreditation under this section may be subject to the conditions that the board determines.

#### **23 Review of refusal to accredit**

- (1) If the board, under section 21—
  - (a) accredits a course subject to a condition; or
  - (b) refuses to accredit a course;

the applicant may, within 1 month of being advised of the decision, by written notice to the chairperson, request the board to review the decision.

- (2) Within 1 month of the receipt of a request under subsection (1), the chairperson of the board shall establish a committee for the purpose of advising the board in relation to the request.
- (3) As soon as practicable after receiving the advice of the committee referred to in subsection (2), the board shall review the original decision and affirm it or replace it with another decision of the kind that the board may make under section 21.
- (4) The board shall cause the applicant to be advised in writing of its decision under subsection (3).

## **24 Considerations relating to accreditation of courses**

In making a decision under section 21, 22 or 23, the board shall have regard to the following:

- (a) the coherence of the course;
- (b) the appropriateness of the course;
- (c) the clarity of the course;
- (d) how it is intended to teach the course;
- (e) the relevant guidelines of the board;
- (f) the policies of the board.

## **25 Registration of courses**

- (1) A recognised educational institution, or a person on behalf of a recognised educational institution, may apply to the board for the registration of a course to be taught at the institution.
- (2) On receipt of an application under subsection (1), the board shall—
  - (a) if the application complies with subsection (3)—register the course; or
  - (b) if the application does not comply with subsection (3)—refuse to register the course.

- (3) An application complies with this subsection if it is accompanied by the documents and information that satisfy the board that the course to which the application relates complies with the relevant guidelines of the board.
- (4) A registration under subsection (2) (a) is effective for the period of time, and is subject to the conditions, that the board determines.
- (5) The board shall cause the applicant to be advised in writing of its decision under subsection (2).

## **Division 3.2 Certificates of attainment**

### **26 Issue of certificates of attainment**

- (1) Subject to this section, the board shall issue to a person who has satisfactorily completed a course or a unit of a course at a recognised educational institution a certificate that shows his or her attainments.
- (2) The board shall not issue a certificate under subsection (1) in respect of a course or unit of a course unless it is satisfied that—
  - (a) the course has been taught in accordance with the guidelines that relate to its accreditation and any conditions that the accreditation is subject to; and
  - (b) any guidelines and requirements of the board relating to the teaching of the course and the assessment of students have been observed by the recognised educational institution.
- (3) For the purpose of satisfying itself for subsection (2) the board is entitled to rely on information contained in a certificate provided to it by or on behalf of a recognised educational institution.
- (4) A certificate under subsection (1) may state any information that is available from the records of the board and appears to the board to be connected with the person's studies.

- (5) In this section:

*course* means an accredited course or a registered course.

## **27 Review of failure to issue certificate**

- (1) In this section:

*certificate* means a certificate of any kind ordinarily issued by the board to a person who has completed the studies to which the certificate relates, and includes a certificate referred to in section 26.

- (2) A person aggrieved by the refusal of the board to issue a certificate may apply in writing to the board for a review of the refusal.
- (3) The application shall—
- (a) disclose the grounds on which the review is sought; and
  - (b) be lodged within 1 month after the day specified by the board as the day when the certificate that is the subject of the application would have been issued.
- (4) Within 1 month after the receipt of an application under subsection (2), the chairperson of the board shall establish a committee for the purpose of advising the board in relation to the application.
- (5) As soon as practicable after receiving the advice of the committee referred to in subsection (3), the board shall review its decision and—
- (a) affirm it; or
  - (b) issue the required certificate.
- (6) The board shall cause the applicant to be advised in writing of its decision under subsection (5).



### 30 Approved forms

- (1) The board may, in writing, approve forms for this Act.
- (2) If the board approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

### 31 Transitional

- (1) In this section:

*commencement day* means the day when section 4 commences.

*former board* means the unincorporated body known as the ACT Board of Senior Secondary Studies established by the Minister and in existence immediately before the commencement day.

- (2) The accreditation or registration of a course granted or extended by the former board and in effect immediately before the commencement day continues, under this subsection, to have effect according to its tenor for the remainder of the period of time for which it had been granted or extended, as the case requires.
- (3) This Act applies to, and in relation to, a certificate or other document issued by the former board as if it had been issued by the board.
- (4) A person aggrieved by the refusal of the former board—
  - (a) to accredit a course; or
  - (b) to issue a certificate;

may apply in writing to the board for a review of the refusal and such an application shall be dealt with under section 23 or 27, as the case requires, as if the refusal had been made by the board.



- (5) An application made to the former board before the commencement day and not finally dealt with by that board before that day, being an application of a kind that, under this Act, may be made to the board, may be dealt with, or continue to be dealt with, by the board as if it had been made to it under this Act.
- (6) On the commencement day the registers, records and documents of the former board become the property of the board and shall be taken to be incorporated with the registers, records or documents kept by the board.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Board of Senior Secondary Studies Act 1997 No 87**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
remainder commenced 1 January 1998 (s 2 (2) and Gaz 1997  
No S398)

as amended by

#### **Board of Senior Secondary Studies (Amendment) Act 1998 No 44**

notified 30 October 1998 (Gaz 1998 No S204)  
commenced 30 October 1998 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 38**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 38 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

### 4 Amendment history

#### **Definitions for Act**

s 2 orig s 2 om R1 LRA  
(prev s 3) renum 2001 No 44 amdt 1.372  
def **executive officer** om 1998 No 44 s 4  
def **national agreement** am 2001 No 44 amdt 1.371  
def **recognised educational institution** sub 1998 No 44 s 4

#### **Declaration of national agreement**

s 3 ins 2001 No 44 amdt 1.373

#### **Ministerial directions**

s 7 am 2001 No 44 amdt 1.374, amdt 1.375

#### **Membership of board**

s 8 am 1998 No 44 s 5

#### **Representative of chief executive**

s 12A ins 1998 No 44 s 6

#### **Disclosure of interest**

s 13 am 1998 No 44 s 7

#### **Procedures of board**

s 16 am 1998 No 44 s 8

#### **Executive officer**

s 18 om 1998 No 44 s 9

**Accreditation and registration of courses**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

**Review of refusal to accredit**

s 23 am 1998 No 44 s 10

**Certificates of attainment**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R2 LA

**Register**

s 29 am 1998 No 44 s 11; ss renum R2 LA

**Approved forms**

s 30 ins 2001 No 44 amdt 1.377

**Transitional**

s 31 (prev s 30) renum 2001 No 44 amdt 1.376

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	Act 1998 No 44	3 November 2000

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