

# **.au DOMAIN ADMINISTRATION RULES**

## **LICENSING**

### **PART 1 INTRODUCTION**

#### **1.1 OVERVIEW**

The following is an overview of this Part:

- Registrants and Registrars must comply with these auDA Rules
- The commencement dates for these auDA Rules and the Direct Implementation Rules are specified
- The objects of the auDA Rules are set out
- Definitions are specified which include terms such as: 'Australian community', 'Australian presence', 'enforcement body', 'enforcement related activities', 'Internationalised Domain Names', 'Person', and 'State and Territory groups'

1.1.1 These .au Domain Administration Rules (auDA Rules) have been made by .au Domain Administration Limited (ABN 38 079 009 340) (.au Domain Administration) in its capacity as the administrator of, and Australian self-regulatory policy body for the .au country-code Top Level Domain (ccTLD).

1.1.2 The auDA Rules form part of the terms and conditions relating to a Licensing Agreement with a Registrar.

1.1.3 A Registrant and a Registrar must comply with these auDA Rules, as amended from time to time by .au Domain Administration. If there is an inconsistency between the auDA Rules and the Licensing Agreement, then the .auDA Rules will prevail to the extent of that inconsistency.

#### **1.2 COMMENCEMENT**

- 1.2.1 The auDA Rules (with the exception of those Rules relating to direct registration implementation and edu.au namespace and the edu.au child zones), will commence on [to be advised].
- 1.2.2 The auDA Rules relating to direct registration implementation in the .au namespace, will commence on [to be advised].
- 1.2.3 The auDA Rules relating to the edu.au namespace and the edu.au child zones will commence on a date to be set by the .au Domain Administration Board.

### **1.3 OBJECTS**

- 1.3.1 The objects of the auDA Rules are to ensure that a Licensing system is established which:
  - (1) is transparent, responsive, accountable, accessible, and efficient;
  - (2) improves the utility of the .au ccTLD for all Australians;
  - (3) promotes consumer protection, fair trading and competition;
  - (4) provides those protections necessary to maintain the integrity, stability, utility and public confidence in the .au ccTLD;
  - (5) expresses licence terms and conditions in objective and not subjective terms;
  - (6) implements clear, predictable and reliable complaint processes; and
  - (7) preserves the fundamental principles of no proprietary rights in a domain name, first come, first served, and no hierarchy of rights.

### **1.4 DEFINITIONS**

In these auDA Rules:

**.au ccTLD** means the .au country code Top Level Domain for Australia.

**.au Domain Administration Limited** (ABN 38 079 009 340) means the licensing body for .au namespaces.

**.auDRP** means the .auDA Dispute Resolution Policy.

**ABN** (Australian Business Number) means has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999 (Cth)*.

**Acronym** means an abbreviation formed from the initial letters of other words and pronounced as a word.

**Association** means an incorporated or unincorporated association formed within the limits of an Australian State or Territory, or an Australian external territory.

***Australian community*** means natural Persons and legal entities domiciled in Australia and its external territories.

***Australian law*** means:

- (1) an Act of the Commonwealth or State or Territory; or
- (2) regulations, or any other legislative instrument made under such an Act; or
- (3) a Norfolk Island enactment; or
- (4) a rule of common law.

***Australian presence*** means:

- (1) an *Australian resident* who is an Australian citizen or a permanent resident visa holder;
- (2) a company registered under the *Corporations Act 2001* (Cth);
- (3) a *Registrable Body* means a registrable Australian body or a foreign company under the *Corporations Act 2001* (Cth) which has an Australian Registered Body Number (ARBN);
- (4) an Incorporated Association under State or Territory legislation.
- (5) an entity issued with an Australian Business Number under the *A New Tax System (Australian Business Number) Act 1999* (Cth).
- (6) an *Indigenous Corporation* registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) on the Register of Aboriginal and Torres Strait Islander Corporations;
- (7) a *Registered Organisation* that is:
  - (a) an association of employers;
  - (b) an association of employees (union); or
  - (c) an enterprise association;registered under the *Fair Work (Registered Organisations) Act 2009* (Cth) and which appears on the Register of Organisations;
- (8) a *Cooperative* registered under State or Territory legislation and which appears on the State or Territory register of cooperatives;
- (9) a *Charity* registered under the *Australian Charities and Not-for-Profits Act 2012* (Cth), and which appears on the Australian Charities and Not-for-Profits Commission's Charities and Not-for-Profits Register;

- (10) a *Political Party* registered under the *Commonwealth Electoral Commission Act 2012* and which appears on the Register of Political Parties;
- (11) a *Partnership* under the relevant Australian State or Territory law where at least 60% of the partners are Australian citizens or permanent resident visa holders or an Australian body corporate;
- (12) an *Unincorporated Association* formed in an Australian State or Territory with at least its management committee being Australian citizens or permanent resident visa holders;
- (13) a *Trust* where the trustee must be an Australian citizen or the trustee is an Australian body corporate;
- (14) an *Educational Institution* regulated under an Australian State, Territory or Commonwealth law;
- (15) *Government*, being either the Crown or a Commonwealth, State or Territory statutory agency;
- (16) a *Commonwealth entity* as defined in section 10 of the *Public Governance, Performance and Accountability Act 2013* (Cth);
- (17) an Australian Trademark application or registration in circumstances where a Person does not meet any other Australian Presence requirements but who has applied for or registered a word mark under the *Trade Marks Act 1995* (Cth), and who thereby may apply to register a domain name that is an exact match of the word mark applied for or registered.

***Business name*** means a name used or to be used, in relation to a business and is recorded on the Business Names Register established under the *Business Names Registration Act 2011* (Cth).

***CEO*** means the Chief Executive Officer of .au Domain Administration or that Person's delegate.

***Commercial entity*** means:

- (1) a company under the *Corporations Act 2001* (Cth);
- (2) a Commonwealth entity as defined in section 10 of the *Public Governance, Performance and Accountability Act 2013* (Cth);
- (3) a Registrable Body under the *Corporations Act 2001* (Cth);
- (4) an Incorporated Association under State or Territory legislation;

- (5) an entity or natural Person issued with an Australian Business Number under the *A New Tax System (Australian Business Number) Act 1999(Cth)* .
- (6) a Statutory Body under Commonwealth, State or Territory legislation that engages in trade or commerce;
- (7) a Trust issued with an Australian Business Number, but does not include a charitable trust or a public or private ancillary fund;
- (8) an Incorporated limited partnership under State and Territory legislation;
- (9) a Trading Cooperative under State and Territory legislation; or
- (10) a foreign legal entity or natural person who holds or has applied for an Australian registered trademark.

**Community group** means a group of people who reside in a geographically defined area that has a geographical name within the limits of a State or Territory and who provide services to residents of that area.

*NOTE: For example: A community group living in a suburb of a capital city who want to establish a website to share information and improve access and connections to services for people living there, such as carlton.vic.au.*

**Complaint** means an expression of dissatisfaction made to a Registrar by a Person in relation to its application of these .auDA Rules, where a response or resolution is explicitly or implicitly expected by that Person.

**Cooling off period** means three calendar days commencing immediately after a Person enters into a Licensing Agreement.

**Court Order** means an order, direction or other instrument made by:

- (1) a court;
- (2) a tribunal;
- (3) a judge; or
- (4) a magistrate; and

includes an order, direction or other instrument that is of an interim or interlocutory nature.

**Company limited by guarantee** has the same meaning as section 9 of the *Corporations Act 2001(Cth)*.

**Domain name** means a unique identifier consisting of a string of alphanumeric characters registered in a designated namespace and recorded in WHOIS data.

**Domain Name Monetisation** means an application for a licence by a Person with the sole purpose of selling, leasing or holding the applied for Domain Name to generate revenue. Domain Name Monetisation includes warehousing and registering a licence for the sole purpose of transferring the licence to another Person.

*NOTE: For example:*

- (1) *Affiliate websites where a domain name is chosen and developed as a keyword for websites and advertisements;*
- (2) *Pay-per-click websites where revenue is earned through the use of proprietary advertising systems;*
- (3) *Domain parking where advertising is published on the parked domain name;*
- (4) *Domain leasing where the domain name is rented to advertisers or other interested parties;*
- (5) *Domain purchasing and resale where a domain name's value can increase over time and it is sold once its value has increased.*

**edu.au child zones** means qld.edu.au, tas.edu.au, nsw.edu.au, eq.edu.au, act.edu.au, vic.edu.au, sa.edu.au, wa.edu.au, nt.edu.au, catholic.edu.au, schools.nsw.edu.au, and education.tas.edu.au namespaces.

**edu.au Registrar** means a Registrar which is authorised by .au Domain Administration under the Registrar Accreditation Agreement to provide Licensing service for the edu.au namespace and edu.au child zones.

**Enforcement body** has the same meaning as in section 6 of the *Privacy Act 1988* (Cth).

**Enforcement related activities** has the same meaning as in section 6 of the *Privacy Act 1988* (Cth).

**Exact match** means that the domain name being applied for is identical to the entity's legal name, business name or trademark or a natural Person's legal name. The following are not included:

- (1) commercial status identifiers such as 'Pty Ltd';
- (2) DNS identifiers such as com.au;
- (3) pronouns such as 'a', 'the', 'and' or 'of'.

**First come, first served** means that the first Person who applies for a licence with a domain name will be entitled to use the Domain Name System with that domain name, subject to its availability and the Person satisfying eligibility criteria.

**Foreign company** means a company incorporated outside Australia and which is registered with the Australian Securities Investment Commission to carry on business in Australia.

**Foreign officer** means an officer (however described), of an agency that has responsibility for:

- (1) law enforcement in a foreign country;
- (2) intelligence gathering for a foreign country; or
- (3) the security of a foreign country.

**Geographically defined area** means a suburb, city, town or local government area.

**Geographical name** means a name that appears in the Gazetteer of Australia 2012.

**Goods** has the same meaning as under section 2 of the Australian Consumer Law.

**Immediate family** has the same meaning as section 9 of the *Corporations Act 2001* (Cth).

**Intelligence agency** means:

- (1) the Office of National Intelligence;
- (2) the Australian Security Intelligence Organisation;
- (3) the Australian Secret Intelligence Service;
- (4) the Australian Signals Directorate;
- (5) the Defence Intelligence Organisation;
- (6) the Australian Geospatial - Intelligence Organisation.

**Internationalised Domain Name** means domain names containing characters not included in the traditional DNS preferred form ('LDH').

**LDH** means 'Letter, Digit, Hyphen' and relates to domain names containing only letters (a-z), numbers (0-9) and hyphens (-), or a combination of these.

**Legal name** means the name that appears on all official documents or legal papers.

*NOTE: For example: A natural Person's legal name is the name that appears on their Birth Certificate or Change of Name Certificate (Deed Poll).*

**Licence** means a non-exclusive, non-transferable, revocable licence issued by .au Domain Administration, to a Person to use the Domain Name System (DNS) with a unique identifier of their choice. A licence does not create a proprietary interest in the Domain Name System or a domain name.

**Licence fee** means a fee paid by the Registrant which incorporates two components:

- (1) a wholesale amount charged by the Registry Operator; and
- (2) a retail amount charged by the Registrar.

***Licence period*** means a period of 1, 2, 3, 4 or 5 years.

***Licensing Agreement*** means the agreement to be entered into between the Registrar and Registrant in relation to a licence.

***Namespaces*** means the following: .au (direct registration), com.au, net.au, org.au, asn.au, id.au, edu.au, qld.edu.au, nsw.edu.au, eq.edu.au, act.edu.au, vic.edu.au, sa.edu.au, wa.edu.au, nt.edu.au, catholic.edu.au, schools.nsw.edu.au, education.tas.edu.au, tas.edu.au, sa.au, wa.au, nt.au, qld.au, nsw.au, vic.au, tas.au and act. au or as varied from time to time by .au Domain Administration.

***Nickname*** means a familiar or humorous name given to a Person but does not include the name of a company, trademark, profession or service.

***No hierarchy of rights*** means that a person has no better entitlement to a name in a namespace than any other person and that no namespace is of greater or lesser value than another namespace.

*NOTE: For example, a trademark holder has no better entitlement to the same name in a namespace than any other person.*

***Non-eligibility event*** means the date from which a Registrant is no longer eligible to hold a licence under these .auDA Rules and includes the death of a natural Person licence holder.

***No proprietary rights in a domain name*** means a Registrant has a licence to use the Domain Name System with a unique identifier (a domain name) for a specified period in a specific namespace, subject to terms and conditions. A Person may dispose of a licence by transferring it to an eligible third party, cancelling the licence or failing to renew it. A Person does not legally 'own' a domain name.

***Not for Profit entity*** means:

- (1) an Incorporated association;
- (2) a Company limited by guarantee;
- (3) a Non-distributing co-operative;
- (4) an Indigenous corporation;
- (5) a Registered Organisation;
- (6) a Charitable trust endorsed by the Australian Taxation Office as a Deductible Gift Recipient;



- (7) a Non-trading cooperative under State or Territory legislation;
- (8) a Public or Private Ancillary Fund endorsed by the Australian Taxation Office as a Deductible Gift Recipient;
- (9) an unincorporated association that appears on the Register of Charities established under the *Australian Charities and Not for Profit Commission Act 2012* (Cth);
- (10) a Political Party registered under the *Commonwealth Electoral Act 1918* (Cth) or State or Territory Electoral Act and which appears on the Register of Political Parties or as otherwise named.

**Occupation** means a profession or trade subject to Commonwealth, State or Territory professional standards legislation.

**Peak State or Territory body** means a not for profit entity that represents:

- (a) not for profit societies, associations or clubs, established for community service (but not political or lobbying) purposes;
- (b) not for profit societies, associations or clubs established for the encouragement of art, literature or music;
- (c) not for profit societies, associations or clubs established for the encouragement of animal racing or a game or a sport or recreational activity;

within that State or Territory.

*NOTE: For example, a peak Victorian body for sport and recreation is Football Federation Victoria. A peak New South Wales body for community service organisations is Carers NSW. A peak Western Australia body for the arts is Propel Youth Arts WA.*

**Person** means:

- (1) a Commonwealth, State or Territory Minister;
- (2) a Commonwealth, State or Territory statutory authority;
- (3) a Commonwealth entity;
- (4) an Australian company;
- (5) a Registrable Body;
- (6) an Incorporated association;
- (7) an Indigenous corporation;
- (8) a Registered Organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth);

- (9) an Incorporated limited partnership under State or Territory legislation;
- (10) a Cooperative under State or Territory legislation, and which appears on the State or Territory register of cooperatives; or
- (11) a Natural Person who is 18 years or older.

A Person does not include a privacy or proxy service.

**Privacy service** means a service which lists alternative, reliable contact information (such as an address or telephone number) in WHOIS, while keeping the domain name registered to its beneficial user as the Registrant.

**Proprietary company** means a company registered under section 45A of *Corporations Act 2001(Cth)*.

**Proxy service** means a service which registers the domain name itself and licenses the use of the domain name to its customer.

**Public interest** means a concern common to the public at large or a significant portion of the public, which may or may not involve the personal or proprietary rights of individual people.

**Published Policies** means policies as approved by the .au Domain Administration Board, which are published on the .au Domain Administration website.

*NOTE: For example: These auDA Rules are Published Policies.*

**Registrable body** means a registrable Australian body or foreign company under the *Corporations Act 2001 (Cth)*.

**Registrant** means a Person who is issued a licence to use the DNS with a unique identifier (domain name) and is recorded as the 'Registrant' in the Registry Data.

**Registrar** means a Person that is:

- (1) accredited by .au Domain Administration as a Registrar; or
- (2) authorised by .au Domain Administration to process Registry Data on behalf of Registrants in regard to a particular namespace.

**Registrar of Record** means the Registrar recorded as the Registrar for the licence in the WHOIS data.

**Registry** means the primary and secondary nameservers and WHOIS servers, a database containing the Registry Data and a mechanism for accessing that data, in relation to a namespace.

**Registry data** means all data maintained in electronic form in the Registry, including:

- (1) Registrant contact information;

- (2) technical and administrative contact information;
- (3) WHOIS data;
- (4) all other data submitted by Registrars in electronic form; and
- (5) any other data concerning particular registrations or nameservers maintained in electronic form in the Registry data base.

**Registry Operator** means a Person who has been accredited or licensed by .au Domain Administration to maintain a Registry or to provide registry services in relation to the Registry.

**Related Australian Body Corporate** has the same meaning as section 50 of the *Corporations Act 2001(Cth)*.

**Reserved names** means names which are withheld from the DNS and are not available for registration by any Person, except in certain circumstances.

**Restoration fee** means the fee charged by the Registrar and Registry Operator to restore a cancelled licence.

**Service** has the same meaning as services in section 2 of the Australian Consumer Law.

**State and Territory namespaces** means wa.au, nt.au, sa.au, qld.au, nsw.au, act.au, vic.au and tas.au.

**Sub-domain** means a domain which is part of a larger domain under the DNS hierarchy.

*NOTE: For example: 123.auda.org.au is a sub-domain of auda.org.au*

**Suspension** means that the licence will be withheld from the DNS.

**Synonym** means a word or phrase that means exactly or nearly the same thing as another word in the English language. Whether a word or phrase is a synonym will be determined by reference to the *Oxford Australian Dictionary* or *Oxford Australian Thesaurus*.

**Transfer** means a novation of the transferor Person's licence and a new licence agreement being entered into by the transferee Person.

**Unique Identifier** means an alphanumerical string that comprises a unique identifier, commonly referred to as a 'domain name'.

**WHOIS data** means an extract of the domain namespace data which is made available to the public through a WHOIS service provided by the Registry Operator.

**Writing** includes the recording of words or data in any way (including electronically) or the display of such by any form of communication if at the time of recording it was reasonable to

expect that the words or data would be readily accessible so as to be useable for subsequent reference.

*NOTE: For example, A Registrar may use an online application form for the purpose of providing Registrar services to a Person, as the data is useable for the WHOIS Service.*

## **PART 2 LICENCES**

### **2.1 OVERVIEW**

The following is an overview of this Part which includes specifying:

- the procedures for applying for a licence
- the reasons for issuing a licence
- the eligibility and allocation criteria for namespaces
- domain name availability, reserved name, and syntax requirements
- internationalised domain name requirements
- the collection, use and disclosure of information
- the warranties and obligations which must be adhered to by the Registrant
- authorisation code obligations
- the processes for licence transfers and renewals
- the criteria for licence suspensions and cancellations, including the use of a 'public interest' test by .au Domain Administration in deciding whether to suspend or cancel a licence

### **2.2 APPLICATION**

2.2.1 A Person must apply to a Registrar for a licence and must use the Registrar's form.

2.2.2 An application must include:

- (1) the legal name of the Person applying;
- (2) contact details for the Person, including telephone, email and address for service of documents;
- (3) details of the administrative and technical contacts including full postal, phone and email addresses;

- (4) evidence that the Person satisfies the Australian presence requirement and any applicable eligibility and allocation criteria;
- (5) the domain name being applied for;
- (6) the licence period applied for;
- (7) agreement to the licence terms and conditions; and
- (8) the payment of the licence fee.

2.2.3 A Person must not use a proxy or privacy service to apply for a licence.

### **Agents**

2.2.4 A Person may use an agent to make an application.

2.2.5 An agent making an application on behalf of a Person, warrants and represents to the Registrar and .au Domain Administration, that they have been granted the requisite authority by the Person to make an application and bind that Person to the terms and conditions of the Licensing Agreement and the .auDA Rules.

2.2.6 An agent must ensure that the Person on whose behalf they are applying is recorded as the Registrant in the registry data.

2.2.7 A Registrar must not act as an agent for a Person making an application.

### **Related Body Corporate**

2.2.8 A Person that is a proprietary company or a company limited by guarantee may apply for a licence on behalf of a related body corporate, where that related body corporate has an Australian presence.

2.2.9 A Person who is applying for a licence on behalf of a related body corporate must record their corporate name as it appears on the register of companies under the *Corporations Act 2001* as the Registrant.

*NOTE: For example, Company X is the holding company for Company Y and Company Z. Company X may apply for licences on behalf of Company Y and Company Z. Company X may register CompanyY.com.au.*

2.2.10 The related body corporate rule only applies to licences in the .au, com.au and net.au namespaces.

2.2.11 The related body corporate exception does not apply to a Person that is a Registrar.

2.2.12 The related body corporate exception does not apply to the edu.au, qld.edu.au, nsw.edu.au, eq.edu.au, act.edu.au, vic.edu.au, sa.edu.au, wa.edu.au, nt.edu.au, tas.edu.au, catholic.edu.au, schools.nsw.edu.au, and education.tas.edu.au namespaces.

## **2.3 DECISION TO ISSUE A LICENCE**

2.3.1 .au Domain Administration will issue a licence to a Person, where the Registrar is satisfied that:

- (1) the identity of the Person has been validated;
- (2) the Person is eligible to apply for the licence;
- (3) the domain name complies with any allocation criteria for the namespace;
- (4) the domain name is available;
- (5) the Person has agreed to the licence terms and conditions;
- (6) the licence period has been specified; and
- (7) the licence fee has been paid.

2.3.2 A licence will be issued on a first come, first served basis. Where there are competing applications for a licence with the same domain name in a namespace, it will be the first complete application received by the Registry that will be accepted. The date and time of receipt by the Registry shall be the sole reference point.

2.3.3 A licence does not confer any proprietary interest in the domain name.

## **2.4 ELIGIBILITY AND ALLOCATION CRITERIA**

2.4.1 A Person applying for a licence must:

- (1) have an Australian presence; and
- (2) satisfy any eligibility and allocation criteria for the namespace being applied for as specified in paragraphs 2.4.3 to 2.4.8.

2.4.2 Where a Person is applying for a licence on behalf of a related body corporate, the related body corporate must satisfy the Australian presence requirement.

### ***.au namespace***

2.4.3 There are no eligibility and domain name allocation criteria for the .au namespace other than an Australian presence.

### ***com.au and net.au namespace***

2.4.4 A Person applying for a licence in the com.au and net.au namespaces must be a commercial entity. There are no domain name allocation criteria for the com.au and net.au namespaces.

### ***org.au* namespace**

2.4.5 A Person applying for a licence in the org.au namespace must be:

- (1) a not for profit entity; and
- (2) the domain name applied for must be:
  - (a) an exact match to or synonym of the name of:
    - (i) a service that the Person provides;
    - (ii) a program that the Person administers;
    - (iii) an event that the Person registers or sponsors;
    - (iv) an activity that the Person facilitates, teaches or trains;
    - (v) a premise which the Person operates;
    - (vi) an occupation that its members practise; or
    - (vii) a trust of which the Person is trustee;and which that Person is providing at the time of the application; or
  - (b) an exact match of the Person's legal name, business or statutory name or the name of the unincorporated association;
  - (c) an acronym of the Person's legal name, business name, or statutory name; or
  - (d) an exact match of a registered or pending Australian trademark.

### ***asn.au* namespace**

2.4.6 A Person applying for a licence in the asn.au namespace must be:

- (1) a not for profit entity or unincorporated association; and
- (2) the domain name being applied for must be:
  - (a) an exact match to or synonym of the name of:
    - (i) a service that the Person provides;
    - (ii) a program that the Person administers;
    - (iii) an event that the Person registers or sponsors;
    - (iv) an activity that the Person facilitates, teaches or trains;
    - (v) a premise which the Person operates; or
    - (vi) an occupation that its members practice;and which that Person is providing at the time of the application; or



- b) an exact match of the Person's legal name, business or statutory name or the name of the unincorporated association;
- (c) an acronym of the Person's legal name, business name, statutory name or the name of the unincorporated association; or
- (d) an exact match of a registered or pending Australian trademark.

***id.au namespace***

2.4.7 A Person applying for a licence in the id.au namespace must be:

- (1) a natural Person; and
- (2) the domain name being applied for must be:
  - (a) an exact match to a Person's legal name, first name or family name;
  - (b) an acronym or abbreviation of the Person's legal name, first name or family name; or
  - (c) a nickname of the Person.

***State and Territory namespaces***

2.4.8 A Person applying for a licence in a State or Territory namespaces must be:

- (1) a not for profit entity; and
- (2) a peak State or Territory body formed and operating within the limits of the State or Territory to which the namespace relates; or
- (3) act on behalf of a community group residing in a locality in the State or Territory to which the namespace relates.
- (4) the domain name applied for must be:
  - (a) an exact match of the Person's legal name, business name or statutory name;
  - (b) an acronym of the Person's legal name, business name or statutory name; or
  - (c) if a community group, the geographical name of the place in which the community resides.

2.4.9 A Person who is a not for profit entity can apply for and hold a licence on behalf of a community group that is not a Peak State or Territory body.

***edu.au namespace***

2.4.10 A Person applying for a licence in the edu.au namespace or an edu.au child zone must satisfy the eligibility and allocation rules in Schedule 1 of these auDA Rules.

2.4.11 A reference to edu.au namespace in these auDA Rules should be read as including the edu.au child zones, unless otherwise specified.

### **Prohibition on Domain Name Monetisation**

2.4.12 Domain Name Monetisation is prohibited in the org.au, asn.au, id.au, edu.au and the State and Territory namespaces.

2.4.13 A Person must not apply for a licence in the org.au, asn.au, edu.au and the State and Territory namespaces for the sole purpose of transferring that licence to another Person.

## **2.5 DOMAIN NAME AVAILABILITY**

2.5.1 A domain name will be available where:

- (1) it is not already registered as a domain name in the namespace applied for;
- (2) it is not a reserved name; and
- (3) it complies with the syntax criteria for domain names in the namespace.

2.5.2 A Person must not apply to register a name which is deceptively similar to a namespace in the .au ccTLD.

2.5.3 A domain name is deceptively similar to a namespace if it so nearly resembles that namespace that it is likely to deceive or cause confusion to users of the Internet.

2.5.4 A name is deceptively similar to a namespace, where the name omits or repeats a letter contained in the name of a second level namespace in the .au ccTLD.

*NOTE: For example: comm.au is deceptively similar to the name of the com.au namespace and co.au is also deceptively similar to com.au.*

## **2.6 RESERVED NAMES**

2.6.1 The following categories of reserved domain names are not available to be registered as a domain name:

- (1) a word, acronym or abbreviation that is restricted or prohibited under an Australian law;
- (2) a name or abbreviation of an Australian state or territory, including the word 'Australia'; and
- (3) names that may pose a risk to the security, stability and integrity of the .au and global Domain Name System.

- 2.6.2 A Person may apply for the registration of a name whose use is prohibited under Australian law, if:
- (1) the Person is a statutory authority for whom the name has been restricted for their use;
  - (2) the Person has Ministerial consent to use the name and a copy of that consent is provided to .au Domain Administration; or
  - (3) the Person is not captured by the relevant prohibition.
- 2.6.3 The registration of a reserved name may result in the suspension or cancellation of a licence depending upon the circumstances.
- 2.6.4 .au Domain Administration may reserve names:
- (1) that pose a risk to the operational security, integrity and utility of the .au domain;
  - (2) where it is necessary for the proper administration of government; and
  - (3) for future use by the administrator of the .au ccTLD for operational purposes or as second level domains.
- NOTE: The names specified under subparagraph 2.6.4(2) may be used to provide official services as the administrator of .au ccTLD.*
- 2.6.5 .au Domain Administration must not approve any name for use as a future second level domain where the name is already registered in the .au namespace.
- 2.6.6 .au Domain Administration must publish all the names which are proposed to be reserved for future use on the .au Domain Administration website for a minimum period of 21 calendar days.
- 2.6.7 .au Domain Administration will publish on its website, all those reserved names which pose a risk to the integrity, stability and security of the .au DNS, once those names have been blocked at the Registry.

## **2.7 SYNTAX REQUIREMENTS**

- 2.7.1 A domain name must comply with the following syntax requirements:
- (1) be at least two characters long;
  - (2) contain only letters (a-z), numbers (0-9) and hyphens (-), or a combination of these;
  - (3) start and end with a number or a letter, not a hyphen; and
  - (4) not contain hyphens in the third and fourth position (for example, ab—cd.com.au).

## **2.8 INTERNATIONALISED DOMAIN NAME**

2.8.1 A Person may apply to register an Internationalised Domain Name in the .au namespace using the syntax requirements set out in the applicable IDN Tables. The initial scripts supported are:

- (1) Chinese (Simplified);
- (2) Korean;
- (3) Japanese;
- (4) Arabic; and
- (5) Vietnamese.

2.8.2 A domain name within .au must be at least two letters long

*NOTE: For example, ~~例~~.au (xn—fsq.au) will not be allowed.*

## **2.9 COLLECTION, USE AND DISCLOSURE**

2.9.1 A Person consents to the collection, use and disclosure of information provided in their application by the Registrar, Registry Operator and .au Domain Administration for the following purposes:

- (1) assessment of an application for a licence;
- (2) maintaining complete and accurate registry data of all licences issued to Registrants;
- (3) providing a WHOIS service that provides accurate and up to date information to the public about the Registrant and their technical and administrative contacts;
- (4) to monitor a Registrant's compliance with their licence terms and conditions;
- (5) to assist law enforcement agencies and intelligence agencies with matters relating to cyber incidents and cyber-crime;
- (6) to assist with and resolve complaints relating to a licence;
- (7) supporting alternative dispute resolution or court proceedings;
- (8) to comply with its obligations under an Australian law, including a court order.

2.9.2 A Person consents to the collection, use and disclosure of the licence information by .au Domain Administration for the purpose of enabling data analytics to be carried out

on the registry data to identify issues and solutions to inform policy development, registry management and service delivery.

- 2.9.3 Where a Person is unable to obtain the consent of the other party in relation to the technical and administrative contacts, the Person must instead use role-based descriptions for those contacts.

*NOTE: For example, the administrative contact name for .au Domain Administration is 'CEO' and the email address is: [auDA.domains@auda.org.au](mailto:auDA.domains@auda.org.au).*

## **2.10 WARRANTIES**

- 2.10.1 A Person makes the following warranties to .au Domain Administration and the Registrar, when applying for or renewing a licence:

- (1) that the information provided by the Person to the Registrar is true, accurate, and complete;
- (2) that the Person meets, and will continue to meet, the eligibility and allocation criteria specified in these .auDA Rules, for the duration of the licence;
- (3) that the name, abbreviation or acronym used as a domain name is not a reserved name;
- (4) that the name is not deceptively similar to the name of the namespace in the .au ccTLD;
- (5) that the Person is not providing a proxy or privacy service;
- (6) that the Person will not, and does not, use the licence for any purpose that is unlawful, illegal or fraudulent under Australian law; and
- (7) the Person acknowledges that the licence will be suspended or cancelled by the Registrar or .au Domain Administration if any of the warranties specified in subparagraph 2.10.1(1 to 6) are found to be untrue, inaccurate or incomplete;
- (8) the Person agrees that the use of the Licensing Service is solely at their own risk.

## **2.11 REGISTRANT OBLIGATIONS**

### **Contractual Capacity**

- 2.11.1 A Registrant must continue to be a Person to hold a licence.

- 2.11.2 A licence is deemed to be cancelled by the .au Domain Administration, from the date the Person ceases to exist.

*NOTE: For example, if the Registrant is a company and the company is deregistered, then the cancellation date of the licence is the date of deregistration.*

2.11.3 A Person cannot transfer a licence on or after the date the licence is deemed to be cancelled by .au Domain Administration.

#### **Australian Presence**

2.11.4 A Person must continue to have an Australian presence throughout the licence period.

2.11.5 A licence will be cancelled by the Registrar or .au Domain Administration, where a Person no longer has an Australian presence.

*NOTE: For example: A foreign natural person whose Australian trade mark registration has lapsed, no longer has an Australian presence, and the licence will be cancelled.*

#### **Namespace Eligibility**

2.11.6 A Person must remain eligible to hold the licence for a namespace throughout the licence period. If the Person is no longer eligible, the licence may be suspended or cancelled by the Registrar or .au Domain Administration.

#### **Accurate registry data**

2.11.7 A Person must ensure that their information is complete, true and accurate throughout the licence period.

2.11.8 A Person must inform the Registrar of any changes to the information used to apply for or renew a licence and which is recorded in the registry data within 14 calendar days after becoming aware of that change.

#### **Sub-domains**

2.11.9 A Person may create sub-domains under its licence, subject to the Person ensuring that:

- (1) any party using the sub-domain name meets the Australian presence, and any eligibility criteria applying to that licence;
- (2) the sub-domain is not used for any illegal, unlawful or fraudulent conduct; or
- (3) the sub-domain is not sold or leased under its licence to any Person.

2.11.10 Where a Person creates a sub-domain under their licence and that sub-domain contravenes paragraph 2.11.9, .au Domain Administration may suspend or cancel that Person's licence where it is in the public interest.

*NOTE: Further details about the 'public interest test' are specified in paragraph 2.17.*

### **Third Party Use**

2.11.11 A Person must not rent, lease, sub-licence or permit the use of the licence by another Person, unless that Person is a related body corporate with an Australian presence.

*Note: For example, auDA Pty Ltd is the holding company for auDA 2.0 Pty Ltd. auDA Pty Ltd may permit auDA 2.0 Pty Ltd to use the licence auDA.com.au.*

2.11.12 A Person must not grant or purport to grant a security interest in their licence or the associated domain name.

### **Complaints and Disputes**

2.11.13 Any Person holding a licence must:

- (1) agree to participate in and abide by a decision made under the complaints process set out in Part 3 (Complaints) of these auDA Rules; and
- (2) agree to participate in and be bound by a decision made under the .au DRP Policy.

2.11.14 Paragraph 2.11.13 does not limit the right of a Person to pursue a cause of action under Australian law.

### **Prohibited uses**

2.11.15 A Person must not use the licence to facilitate any conduct which is illegal, unlawful or fraudulent under Australian law.

2.11.16 A Person must not use or inadvertently allow their domain name to be used to compromise the integrity, stability and security of the .au and global DNS.

2.11.17 The licence will be cancelled where:

- (1) the Registrant is convicted of a criminal offence under an Australian law; and
- (2) the licence using that domain name was instrumental in committing that offence.

2.11.18 .au Domain Administration, in its sole discretion, may suspend or cancel a licence or take any other action necessary on the request of an:

- (1) enforcement body; or
- (2) intelligence agency;

where .au Domain Administration considers it is in the public interest to do so.

*NOTE: Further details about the 'public interest test' are specified in paragraph 2.17.*

## **2.12 AUTHORISATION CODE**

2.12.1 Section 2.12 specifies the process, procedures and obligations on a Registrant relating to domain name licence authorisation codes (authorisation code).

### **On Registration**

2.12.2 The Registrant may choose between two authorisation code options, either:

- (1) accept the Registrar generated authorisation code; or
- (2) choose an authorisation code themselves at the time of registration.

2.12.3 A Registrant may change the authorisation code at any time during the licence term by informing the Registrar.

### **Form of Authorisation Code**

2.12.4 An authorisation code must contain:

- (1) between 13 and 32 characters;
- (2) have at least one letter (a-z) and one number (0-9); and
- (3) have no dictionary words.

### **Obligations on Registrant for use of an Authorisation Code**

2.12.5 The Registrant must:

- (1) take all reasonable measures to secure the authorisation code ; and
- (2) report to the Registrar any lost or stolen authorisation codes, or if the Registrant believes that another Person has knowledge of the authorisation code.



- 2.12.6 A Registrant must provide the authorisation code to the Registrar when:
- (1) requesting a licence transfer; and
  - (2) authenticating any communications with the Registrar.
- 2.12.7 A Registrant must change their authorisation code within 2 calendar days if they have transferred their licence to a new Registrar.
- 2.12.8 If the Registrant has not changed their authorisation code as required by paragraph 2.12.7, then the new Registrar may reset the authorisation code.
- 2.12.9 The new authorisation code must be provided by the Registrar to the Registrant within 24 hours of being reset.

### **Retrieval of Authorisation Code**

- 2.12.10 The following process is specified in circumstances where a Registrant requests a copy of their authorisation code from the Registrar:
- (1) the Registrant must make the request to the Registrar in writing;
  - (2) the Registrar must be satisfied that the Registrant has authorised the request before providing the authorisation code to the Registrant;
  - (3) the Registrar must provide the authorisation code only to the relevant Registrant contact listed in the registry data;
- except in circumstances where,
- (4) the Registrant has provided written authorisation to the Registrar that the authorisation code can be provided to a third party, and the Registrar is satisfied that that authorisation has been made by the Registrant.

- 2.12.11 A Registrant may also retrieve their authorisation code and check the creation or expiry data of their domain name, by using the registry authorisation code recovery tool.

## **2.13 LICENCE TRANSFERS**

### **Transfers - Change of Registrant**

- 2.13.1 A Registrant may transfer their licence through a Registrar to a Person provided that:
- (1) the Registrant is eligible to hold the licence at the date of transfer;
  - (2) the Person meets the Australian presence requirement and any applicable eligibility and allocation criteria;

- (3) the transfer request by the Registrant is in writing to the Registrar;
- (4) the licence is not subject to any dispute resolution or court proceedings; and
- (5) the licence term has not expired.

2.13.2 The Person to whom the licence is being transferred must:

- (1) at the date of the transfer, satisfy the Australian presence and any eligibility and allocation criteria for the namespace;
- (2) enter into a new Licensing Agreement with the Registrar;
- (3) specify the new licence period; and
- (4) pay the new licence fee.

2.13.3 The Registrar must:

- (1) before transferring the licence, determine that the Registrant remains eligible to hold the licence and the Person to whom the licence is being transferred satisfies the Australian presence and any eligibility and allocation criteria;
- (2) transfer the licence within 2 calendar days of the request; and
- (3) do so in accordance with the .au Domain Administration Registrar rules.

2.13.4 On transfer, the Registrant's licence agreement is terminated, and the Person to whom the licence is being transferred must enter into a new Licensing Agreement for the licence.

2.13.5 A Registrant must request a transfer of the licence to a Person within 28 calendar days from the date that a contract or agreement for the transfer of the licence is entered into by the parties.

2.13.6 Failure to transfer the licence in accordance with paragraphs 2.13.1 to 2.13.3 will result in the cancellation of the licence.

2.13.7 A fraudulent transfer of a licence will result in the licence transfer being cancelled by the Registrar or .au Domain Administration.

### **Transfers – Change of registrar of record**

2.13.8 A Registrant has the right to transfer a licence between Registrars provided:

- (1) that the Registrant is eligible to hold the licence at the date of the transfer;
- (2) the transfer request is in writing from the Registrant;
- (3) the Registrant provides a valid authorisation code for the licence; and

(4) the licence is not subject to any dispute resolution or court proceedings.

2.13.9 A Registrant is not required to pay a fee for the transfer of a licence between Registrars.

2.13.10 A Registrant is not permitted to transfer a licence in the edu.au namespace from the edu.au Registrar to another Registrar.

### **Domain Synchronisation**

2.13.11 If a Registrant has multiple licences with different expiry dates, then the Registrant may alter the expiry dates to one date by reducing the licence term.

*NOTE: For example, if the Registrant has two licences with expiry dates of 10 January 2020 and 28 September 2020 respectively, then they may be synchronised by reducing the licence term of the latter to 10 January 2020.*

2.13.12 A Registrant is not entitled to a refund of the licence fee if the term of the licence is reduced under paragraph 2.13.11.

### **2.14 LICENCE RENEWAL**

2.14.1 A Registrant may apply to the Registrar to renew the licence prior to expiry provided that the Registrant:

- (1) continues to be a Person eligible for the licence and domain name allocation;
- (2) agrees to the licence terms and conditions;
- (3) nominates the new licence period; and
- (4) pays the required licence fee.

2.14.2 .au Domain Administration will renew the licence, where the Registrar is satisfied that the Person continues to meet the eligibility and allocation criteria for a licence in the namespace.

2.14.3 Where a Registrant renews a licence prior to the expiry, the term of the new licence will commence on the date that the licence was renewed.

### **Expired Licences**

2.14.4 A Registrant whose licence has expired may apply to the Registrar to renew the licence within 30 calendar days from the licence expiry date provided that the Registrant:

- (1) continues to be a Person eligible for the licence and domain name allocation;

- (2) agrees to the licence terms and conditions;
  - (3) nominates the new licence period; and
  - (4) pays the required licence fee.
- 2.14.5 If a licence is not renewed before the expiry of the 30 calendar day period, the domain name will become available to the public on a first come, first served basis.
- 2.14.6 The term of the new licence will commence on the expiry date of the old licence.

*NOTE: For example, if a licence was due to expire on 30 June 2018 and was renewed on 28 May 2018 for a five year term, the new expiry date will be 30 June 2023.*

## **2.15 CANCELLING AND RESTORING A LICENCE**

### **Cancelling a Licence**

- 2.15.1 A Registrant may cancel its licence at any time during the licence period by giving written notice to the Registrar.
- 2.15.2 A Registrant or Registrar is not entitled to a refund of the wholesale licence fee for the remainder of the licence period when the licence is cancelled outside the cooling off period.
- 2.15.3 A Registrar must cancel the licence within two calendar days of receiving the written notification from the Registrant.

### **Cooling off period**

- 2.15.4 A Registrant, after entering into a Licensing Agreement, may cancel its licence within the cooling off period by giving the Registrar written notice.
- 2.15.5 A Registrar may cancel a Person's licence during the cooling off period if the following circumstances apply:
- (1) the Person has not paid the required fee;
  - (2) the Person is not eligible for the licence;
  - (3) the Person has provided inaccurate, incomplete or fraudulent details.
- 2.15.6 The Registry Operator will refund the wholesale licence fee to the Registrar.

### **Restoring a licence**

- 2.15.7 Where a Registrant cancels a licence, then the Registrant may request that a Registrar restore a cancelled licence within two calendar days from the date the licence was cancelled by the Registry Operator.

2.15.8 A licence is deemed to be cancelled when it appears on the Deleted Domain List maintained by the Registry Operator.

2.15.9 The Registrant must pay the Registrar the required restoration fee.

## **2.16 AUDIT AND COMPLIANCE MONITORING (.au DOMAIN ADMINISTRATION AND REGISTRARS)**

2.16.1 .au Domain Administration, from time to time, may undertake compliance monitoring activities in order to ensure that Registrants' comply with these .auDA Rules in respect to their licences.

2.16.2 These compliance activities include:

- (1) audits of the registry data;
- (2) review of complaints or complaint data; and
- (3) undertaking searches of the Registry data on request of an enforcement body or an intelligence agency.

### **Licence Suspension and Cancellation**

2.16.3 .au Domain Administration or a Registrar, may suspend or cancel a licence where:

- (1) any of the warranties made by the Registrant at the time of applying for or renewing a licence are found to be untrue, inaccurate or incomplete;
- (2) the Registrant has failed to comply with these Registrant obligations;
- (3) it is in the public interest; or
- (4) .au Domain Administration or the Registrar must comply with a court order or an instrument made under Australian law.

### **Licence Suspension**

2.16.4 A Registrant's licence will be suspended in the following circumstances:

- (1) the information provided at the time of applying for or renewing a licence is incomplete;
- (2) where a reserved name has been registered;
- (3) where the Registrant information has not been updated within 14 calendar days of the Registrant becoming aware of the requirement for a change;

- (4) where a sub-domain under the licence does not comply with these .auDA Rules;
- (5) where the Registrant has not complied with these .auDA Rules and the non-compliance is not of a severity that warrants the cancellation of a licence;
- (6) where it is in the public interest; or
- (7) in order to comply with a court order or Australian law.

2.16.5 A licence which has been suspended will not resolve in the DNS and the licence cannot be transferred.

2.16.6 A Registrant whose licence has been suspended has 30 calendar days to rectify the information deficit or non-compliance issue.

2.16.7 Where a Registrant fails to rectify the information deficit or non-compliance issue within 30 calendar days, the licence will be cancelled.

2.16.8 Where a licence is suspended on the grounds of public interest or to comply with a court order or an Australian law:

- (1) .au Domain Administration or the Registrar are not required to provide notice to the Registrant; and
- (2) there is no rectification period for the Registrant as specified in paragraph 2.16.6.

2.16.9 A Registrant will not be able to update the information in the Registry data or renew or transfer a licence that is suspended on public interest grounds.

### **Licence Cancellation**

2.16.10 A Registrant's licence will be cancelled in the following circumstances:

- (1) the information provided at the time of registration or renewal of a licence is untrue;
- (2) the Registrant is not eligible to hold the licence;
- (3) the licence is being used to facilitate conduct which is illegal, unlawful or fraudulent under Australian law;
- (4) the name registered is a reserved name and the Person is not entitled to use that name;
- (5) the Registrant has permitted the use of the licence to a Person who is not a related Australian body corporate;

- (6) where it is in the public interest;
- (7) to comply with a decision made under a dispute resolution process;
- (8) the licence or domain name poses a risk to the security, stability or integrity of the .au domain; or
- (9) to comply with a court order.

2.16.11 A cancelled licence cannot be transferred or updated.

2.16.12 .au Domain Administration reserves the right to restore a licence which has been cancelled. There is no fee payable where .au Domain Administration restores a cancelled licence.

## **2.17 PUBLIC INTEREST TEST (SUBJECT TO FURTHER CONSULTATION)**

2.17.1 The .au Domain Administration CEO may suspend or cancel a licence or take any necessary action, when it is in the public interest.

2.17.2 Before undertaking any action specified in paragraph 2.17.1, the CEO must believe on reasonable grounds that the action is in the public interest.

2.17.3 'Public interest' is:

- (1) the proper administration of government;
- (2) the judicial system;
- (3) public health and safety;
- (4) national security;
- (5) the prevention and detection of crime and fraud;
- (6) consumer protection;
- (7) the economic wellbeing of Australia;
- (8) complying with Australia's obligations under international law;
- (9) the integrity, stability or security of the Domain Name System.

2.17.4 An enforcement body or intelligence agency must provide a written affidavit to the CEO which sets out:

- (1) the grounds for why the suspension or cancellation of the licence or the requested action is in the public interest;

- (2) why .au Domain Administration is considered the appropriate body to determine the request;
  - (3) why the requested action cannot be undertaken by another statutory body or under an Australian law;
  - (4) the licence suspension period or the period for which any other action is required; and
  - (5) any other matter considered relevant to the request.
- 2.17.5 The CEO may rely upon a written affidavit from an enforcement body or intelligence agency, and (as appropriate) court orders, as proof of matters in determining whether a licence should be suspended or cancelled on public interest grounds.
- 2.17.6 The CEO may rely upon documents produced by .au Domain Administration's audits and analysis of the Registry data, or complaints investigations.
- 2.17.7 Any request to the CEO must be made by a senior officer of the requesting agency.
- 2.17.8 The CEO may suspend, cancel or otherwise deal with a matter relating to a licence in the public interest, without giving notice to the Registrant.
- 2.17.9 As a result of action specified in paragraph 2.17.1, the CEO may advise the Registrar of the action and the reasons for suspending or cancelling a licence.
- 2.17.10 If the notification to the Registrar may compromise an investigation, then the CEO has the discretion to dispense with the notification specified in paragraph 2.17.9.
- 2.17.11 The CEO must specify the period of time that the licence will be suspended.

## **2.18 ACCESSING REGISTRY DATA**

- 2.18.1 Schedules A to C of these auDA Rules specify relevant forms for section 2.18.

### **By the Registrant**

#### *Correction of Registrant Information*

- 2.18.2 A Registrant may request that a Registrar correct information relating to the Person recorded as the Registrant in the Registry data.
- 2.18.3 A Registrant may only request such a correction where:
- (1) the inaccuracy has arisen through a genuine error made in good faith by the Registrant in supplying information to the Registrar; or
  - (2) the inaccuracy has arisen through a genuine error made in good faith by the Registrar in recording the Registrant information;



and only in the following circumstances:

- (3) the Registrant submitted or through error the Registrar recorded, inaccurate data at the time of registration;
- (4) the licence was incorrectly registered by the Registrar to the wrong party;
- (5) the licence was incorrectly registered by the Registrar in the name of the reseller or other agent who arranged the registration; or
- (6) where otherwise authorised by .au Domain Administration.

2.18.4 Any request must be made within 14 calendar days of the licence being recorded in the Registry data.

#### *Updating of Registry Data*

2.18.5 A Registrant may request a Registrar to update other information, which is not Registrant information, relating to their licence at any time, providing that the request is in writing and indicates the relevant field which must be updated.

2.18.6 The Registrar must update the Registry data within two calendar days of receiving the request from the Registrant.

2.18.7 A Registrant may apply to .au Domain Administration for a registry search of licences issued using the Registrant's details.

2.18.8 The Registrant must use the 'Request for domain name search' form in making the request.

#### **By other Persons**

2.18.9 A Registrar and .au Domain Administration will provide registry information to another Person, but only in circumstances where access to that information is authorised or requested under Australian law.

2.18.10 .au Domain Administration may provide information on the date that a licence was issued or created:

- (1) for the purpose of a claim under .auDRP; or
- (2) as a result of court proceedings.

2.18.11 A request to access Registry data must be made on the form approved by .au Domain Administration as published on the website.

2.18.12 A fee is charged by .au Domain Administration for the provision of the information.

#### **Disclosure and use of data – WHOIS Information**

2.18.13 Schedule C of these auDA Rules specifies the information that is disclosed on the public WHOIS service for licences in the .au domain.

#### **Disclosure and use of data – prohibited uses**

2.18.14 The following are prohibited:

- (1) the use of WHOIS data to support an automated electronic query process; and
- (2) bulk access to WHOIS data, in contrast to a user sending individual queries to the data-base.

2.18.15 .au Domain Administration restricts the number of queries users can send to WHOIS, as stated on the WHOIS website: <https://whois.auda.org.au/>

#### **2.19 LIMITATION OF LIABILITIES AND INDEMNITY**

2.19.1 To the fullest extent permitted by law, .au Domain Administration or the Registry Operator will not be liable to the Registrant for any direct, indirect, consequential, special, punitive or exemplary losses or damages of any kind (including, without limitation, loss of use, loss of profit, loss or corruption of data, business interruption or indirect costs) suffered by the Registrant arising from, as the result of, or otherwise in connection with, any act or omission whatsoever of .au Domain Administration or Registry Operators, its employees, agents or contractors.

2.19.2 The Registrant agrees to indemnify, keep indemnified and hold .au Domain Administration and the Registry Operator, its employees, agents and contractors harmless from all and any claims or liabilities, arising from as a result of, or otherwise in connection with, the Registrant's registration or use of its .au domain name.

2.19.3 Nothing in these auDA Rules is intended to exclude the operation of the *Competition and Consumer Act 2010* (Cth).

## **PART 3 COMPLAINTS**

### **3.1 OVERVIEW**

The following is an overview of this Part which includes specifying:

- the objects of the complaints process
- the application process for complaints
- the review of Registrar decisions
- the review of au Domain Administration decisions
- the outcome resulting from a review
- the rights of a Person to pursue an action under law regarding a complaint

### **3.2 OBJECTS**

3.2.1 The objects of the .auDA Rules relating to complaints are to establish a process that:

- (1) enhances public confidence in the .au namespace by ensuring that complaints are managed in a consistent, systematic and responsive manner;
- (2) is transparent, accessible and effective;
- (3) is committed to continuous improvement of the administration of the .au ccTLD through the analysis, evaluation and auditing of complaints; and
- (4) reduces the likelihood of complaints escalating into disputes.

### **3.3 COMPLAINTS AND REVIEW OF DECISIONS**

3.3.1 Paragraphs 3.4.1 to 3.4.6 specify the applicable process relating to complaints.

3.3.2 Paragraphs 3.5.1 to 3.7.3 specify the applicable process relating to a review of a decision.

### **3.4 COMPLAINTS**

#### **Application Process**

3.4.1 The Person must:

- (1) make the complaint to the Registrar of Record;
- (2) ensure that the complaint only relates to the responsibilities or obligations of a Registrant or Registrar under the auDA Rules; and
- (3) make the complaint in the manner or form as required by the relevant Registrar.

- 3.4.2 A licence which is deemed to be cancelled under paragraph 2.11.2 of the auDA Rules (Contractual Capacity) cannot be the subject matter of a complaint under paragraph 3.4.1 of these .auDA Rules.
- 3.4.3 Any decision made by .au Domain Administration under paragraph 2.17 of these auDA Rules (the ‘Public Interest Test’) in relation to the suspension or cancellation of a licence, cannot be the subject of a complaint under paragraph 3.4.1.

### **Registrar Obligations**

- 3.4.4 A Registrar has 30 calendar days to resolve the complaint unless the Registrar advises the Person that the complaint cannot be resolved in that period.
- 3.4.5 Where paragraph 3.4.4 applies, the Registrar must advise the Person of the new time frame for resolution.
- 3.4.6 A Registrar must, as soon as practicable after making a decision about the complaint, provide written notice to the Person, setting out:
- (1) the decision;
  - (2) the reasons for that decision; and
  - (3) the Person’s right of appeal to .au Domain Administration to have the decision reviewed.

### **3.5 REVIEW OF REGISTRAR DECISIONS**

- 3.5.1 A Person may apply to .au Domain Administration for the review of a decision made by, or the action or conduct of a Registrar, under these auDA Rules.
- 3.5.2 A Person must not apply to .au Domain Administration unless all avenues of redress with the Registrar have been exhausted.
- 3.5.3 An application for review must be lodged with .au Domain Administration within the following timelines:
- (1) a decision to cancel a licence – 5 calendar days from the date the Registrar made the decision;
  - (2) a decision to suspend a licence – within 28 calendar days from the date the Registrar made the decision; and
  - (3) for all other matters – 28 calendar days from the date the Registrar made the decision or failed to make a decision or to rectify an act or engaged in conduct which is the subject matter of the complaint.

### **Extension of Lodgement Period**

- 3.5.4 The Person may request that the CEO extend the 28 calendar day period specified in subparagraphs 3.5.3(2)(3).
- 3.5.5 The CEO has the discretion to either extend or not extend the lodgement period for an additional 28 calendar days from the expiry date of the initial lodgement period.
- 3.5.6 The CEO must not extend the five calendar day application period as specified in subparagraph 3.5.3(1).

### **Form of Application**

- 3.5.7 The application for review must:
- (1) provide the name and contact details of the Person seeking the review;
  - (2) attach the original complaint as submitted to the Registrar;
  - (3) attach the written decision of the Registrar;
  - (4) set out the Person's reasons for making the application;
  - (5) set out the avenues of redress undertaken by the Person in regard to the complaint as required by paragraph 3.5.2;
  - (6) set out the remedies which the Person is seeking; and
  - (7) be in the approved form as specified by .au Domain Administration.

### **Receipt of Application**

- 3.5.8 .au Domain Administration will acknowledge receipt of an application for review of a Registrar's decision within three business days.
- 3.5.9 If the application meets the requirements specified in paragraph 3.5.7, .au Domain Administration must place on hold any actions taken by a Registrar, until .au Domain Administration makes a decision in respect of that application.

*NOTE: For example, a Person has made an application to .au Domain Administration for review of a Registrar's decision to cancel a licence. The licence cancellation process has commenced and is midway through the cancellation cycle. The cancellation cycle will be temporarily placed on hold until .au Domain Administration makes a decision.*

- 3.5.10 .au Domain Administration may at its sole discretion not accept an application for review that is frivolous, vexatious, or not made in good faith.

## **Outcome of review**

3.5.11 .au Domain Administration must make a decision within 28 days of receiving a valid application for review, unless .au Domain Administration has notified the Person of a revised time frame for making the decision.

3.5.12 After reviewing the decision made by the Registrar, .au Domain Administration may:

- (1) affirm the decision;
- (2) vary the decision;
- (3) revoke the decision; or
- (4) remit a decision to the Registrar for reconsideration.

3.5.13 .au Domain Administration must, as soon as practicable after making a decision under paragraph 3.5.12, provide written notice to the applicant of:

- (1) the decision;
- (2) the reasons for the decision; and
- (3) the Person's right to seek an internal review of a decision made by .au Domain Administration.

3.5.14 If .au Domain Administration affirms a Registrar's decision, .au Domain Administration must remove the hold placed on the actions of the Registrar.

*NOTE: For example, a licence has a 14 day cancellation period before it is purged from the Registry data. .au Domain Administration places a hold on a cancelled licence at seven days into the cancellation period for the purpose of reviewing the Registrar's decision. .au Domain Administration affirms the Registrar's decision and removes the hold on the cancellation of the licence. The cancellation period will resume on day eight and the licence will be purged six days after the hold is removed.*

## **3.6 REVIEW OF .au DOMAIN ADMINISTRATION DECISION**

3.6.1 A Person affected by a decision made by .au Domain Administration may apply for an internal review of that decision by .au Domain Administration.

3.6.2 A decision made by .au Domain Administration includes a review of a decision of the Registrar made under paragraph 3.5.

3.6.3 An application relating to a decision by .au Domain Administration to cancel a licence (other than a suspension or cancellation subject to the public interest test under Section 2.17 of these .auDA Rules), must be lodged with the CEO within 48 hours of the time the decision was made and communicated to the Person.

3.6.4 For all other cases, the application must be lodged with the CEO within 28 calendar days of the date of the decision.

#### **.au Domain Administration Review Officer**

3.6.5 An application for the review of an .au Domain Administration decision to suspend or cancel a licence must be reviewed by either:

- (1) the Chief Executive Officer (CEO); or
- (2) the Chief Operating Officer (COO).

3.6.6 In any other case, the review must be undertaken by a delegate of the CEO who:

- (1) was not involved in making the decision which is being reviewed; and
- (2) occupies a position in .au Domain Administration which is senior to the Person who made the decision which is the subject of review.

#### **Form of Application**

3.6.7 The application for review must:

- (1) provide the name and contact details of the Person seeking the review;
- (2) attach the original complaint as submitted to .au Domain Administration;
- (3) attach the written decision of .au Domain Administration;
- (4) attach any correspondence from .au Domain Administration or the Registrar regarding the suspension or cancellation of a licence (if applicable);
- (5) attach the written reasons for that decision as made by .au Domain Administration;
- (6) set out the Person's reasons for making the application;
- (7) set out the remedies which the Person is seeking; and
- (8) be in the approved form as specified by .au Domain Administration.

#### **Receipt of Application**

3.6.8 .au Domain Administration will acknowledge receipt of an application for an internal review of a .au Domain Administration decision within one business day.

3.6.9 If the application meets the requirements specified in paragraph 3.6.7, the .au Domain Administration Review Officer must place on hold any actions taken by .au Domain Administration, until the internal review is completed.

- 3.6.10 The .au Domain Administration Review Officer must advise the Person making the application, a date for when the internal review will be completed.
- 3.6.11 .au Domain Administration may at its sole discretion not accept an application for an internal review that is frivolous, vexatious, or not made in good faith.

### **3.7 OUTCOME OF RECONSIDERATION**

- 3.7.1 After reconsidering the decision made by .au Domain Administration, the CEO or their delegate may:
- (1) affirm the decision;
  - (2) vary the decision; or
  - (3) revoke the decision.
- 3.7.2 .au Domain Administration must, as soon as practicable after making a decision under paragraph 3.7.1, provide written notice to the applicant of:
- (1) the decision;
  - (2) the reasons for the decision; and
  - (3) the Person's right of appeal to the Licence Review Panel to have the decision reviewed.
- 3.7.3 A Person affected by and dissatisfied with the final decision of .au Domain Administration may apply for an external review of the decision by the Licence Review Panel under paragraph 3.8 of these .auDA Rules.

### **3.8 EXTERNAL REVIEW**

- 3.8.1 A Person affected by a decision made by .au Domain Administration may apply for external review of that decision by the Licence Review Panel.
- 3.8.2 A Person must not apply for external review of a decision of .au Domain Administration unless an internal review of the decision has been completed under paragraph 3.6 of these .auDA Rules.
- 3.8.3 Any decision made by .au Domain Administration under paragraph 2.17 of these Licensing Rules (the 'Public Interest Test') cannot be the subject of an external review under paragraph 3.8.1 of these Licensing Rules.
- 3.8.4 A Person must make an application for external review within 10 calendar days after a decision is made by .au Domain Administration under paragraph 3.7 of these Licensing Rules.

### **Form of Application**



3.8.5 The application for external review must:

- (1) provide the name and contact details of the Person seeking the review;
- (2) attach the original complaint as submitted to .au Domain Administration;
- (3) attach the written decision of .au Domain Administration;
- (4) attach any correspondence from .au Domain Administration or the Registrar regarding the suspension or cancellation of a licence (if applicable);
- (5) attach the written reasons for that decision as made by .au Domain Administration under paragraph 3.7.2 of these Licensing Rules;
- (6) set out the Person's reasons for making the application;
- (7) set out the remedies which the Person is seeking; and
- (8) be in the approved form as specified by .au Domain Administration.

3.8.6 A Person must pay the external review fee within three business days of .au Domain Administration acknowledging receipt of application.

3.8.7 If a Person fails to pay the external review fee in accordance with paragraph 3.8.6, the application will lapse.

3.8.8 .au Domain Administration will publish the fee for external review on the .au Domain Administration website.

#### Receipt of Application

3.8.9 .au Domain Administration will acknowledge receipt of the application for external review within seven calendar days.

3.8.10 If the application complies with the requirements of paragraph 3.8.5, .au Domain Administration must:

- (a) place on hold any actions taken by .au Domain Administration; and
- (b) prevent the licence from being updated, transferred or deleted;

until the Licence Review Panel makes a decision in respect of the application.

3.8.11 .au Domain Administration must provide the application to the Licence Review Panel within three calendar days of the receipt of the application.

#### Licence Review Panel

3.8.12 .au Domain Administration may appoint Persons with appropriate qualifications or experience to the Licence Review Panel, from time to time.

- 3.8.13 The following Persons are not eligible to be appointed to the Licence Review Panel:
- (a) a director or employee of, or consultant to .au Domain Administration; and
  - (b) a director or employee of, or consultant to, a Registrar.
- 3.8.14 A Person is appointed to the Licence Review Panel for a period of three years, which may be extended by .au Domain Administration for another three year period with the agreement of the Panel member.
- 3.8.15 .au Domain Administration will publish a list of Licence Review Panel members on its website
- 3.8.16 .au Domain Administration will assign an application to a Panel member on a rotational basis.
- NOTE: For example, If Panel member A is assigned a matter, then Panel member B will be assigned the next application for external review, and so on.*
- 3.8.17 The Panel member must review the decision based on the material before them, and may not take into consideration any information, or document that was not provided to .au Domain Administration at the time of making the reviewable decision.
- 3.8.18 A Panel member may:
- (a) affirm the decision
  - (b) set aside the decision and
    - (i) make a decision in substitution or
    - (ii) remit the matter for reconsideration by .au Domain Administration
- 3.8.19 A Panel member must make a decision and provide written reasons for that decision to the Person and .au Domain Administration within 10 calendar days of being appointed to review that decision.

### **3.9 RIGHTS OF APPLICANT**

- 3.9.1 Part 3 of these auDA Rules does not prohibit a Person from pursuing a course of action under Australian law in regard to a complaint made to a Registrar or .au Domain Administration.
- 3.9.2 Any initiation of a legal proceeding by a Person in regard to a complaint applicable under Part 3 of these auDA Rules, will:
- (1) bar the bringing of a complaint under Part 3;
  - (2) cease any proceedings which have been commenced by the Person under Part 3;

- (3) bar the revival of any complaint previously brought under Part 3 but was not resolved because of the legal proceedings in respect to that complaint.

## **PART 4 AMENDMENTS AND TRANSITIONAL PROVISIONS**

### **4.1 OVERVIEW**

The following is an overview of this Part:

- .au Domain Administration may amend the auDA Rules and the licence terms and conditions from time to time
- any amendments will be published on the .au Domain Administration website for a period before they come into effect, except in certain circumstances

### **4.2 AMENDMENT TO THE .auDA Rules AND LICENCE TERMS AND CONDITIONS**

4.2.1 .au Domain Administration has the power to:

- (1) amend the auDA Rules; and
- (2) amend licence terms and conditions;

from time to time.

4.2.2 .au Domain Administration must not amend Schedule 1 of these auDA Rules without consultation with the appropriate education bodies and the .edu.au Registrar.

4.2.3 Any finalised amendments made under paragraph 4.2.1 will be publicly available on the .au Domain Administration website ([www.ada.org.au](http://www.ada.org.au)) at least 21 calendar days before the amendments come into effect.

4.2.4 In circumstances where an amendment is required to:

- (1) protect the integrity, stability or utility of the .au domain; or
- (2) prevent licences being issued for abusive or speculative reasons;

then the 21 calendar day notice period as specified in paragraph 4.2.2 will not be applicable.

4.2.5 The amended auDA Rules or licence terms and conditions, will be those that apply to a licence when:

- (1) the licence was issued; or

(2) the licence was renewed.

### **4.3 TRANSITIONAL ARRANGEMENTS**

4.3.1 These auDA Rules (Licensing) will apply to a Person where that Person has:

(1) applied for a licence; or

(2) renewed a licence; or

(3) transferred a licence;

on or after the commencement date specified in paragraph 1.2.1.

4.3.2 A Person whose licence was issued or renewed prior to commencement date as specified by paragraph 1.2.1, will be subject to the auDA Published Policies in existence at that date.

*NOTE: For example, a person whose licence was issued by .au Domain Administration on 10 April 2017 will be subject to the Domain Eligibility and Allocation Policy rules for Open 2LDs (2012-04).*

## **SCHEDULE A - FORM**

### **Standard Transfer Confirmation Message**

#### **DOMAIN NAME TRANSFER - REQUEST FOR CONFIRMATION**

Attention: <insert Registrant contact name>

Re: Transfer of <insert domain name>

The current registrar of record for this domain name is <insert name of losing registrar>

We have received a request from <insert name of Person requesting transfer> for us to become the new registrar of record.

You have received this message because you are listed as the Registrant contact for this domain name in the WHOIS database.

Please read the following important information about transferring your domain name:

- You must agree to enter into a new Licensing Agreement with us. You can review the full terms and conditions of the Agreement at <insert URL>
- Once you have entered into the Agreement, the transfer will take place within 2 calendar days.
- The transfer will not change the expiry date of your domain name, which is <insert expiry date>.

If you wish to proceed with the transfer, please contact us <insert gaining registrar contact details> with the following message:

"I confirm that I have read the Domain Name Transfer - Request for Confirmation Message.

I confirm that I wish to proceed with the transfer of <insert domain name> from <insert name of losing registrar> to <insert name of gaining registrar>."

**SCHEDULE B - FORM**  
**Standard Transfer Audit Message**

**DOMAIN NAME TRANSFER**

Attention: <insert Registrant contact name>

Re: Transfer of <insert domain name>

We are the current registrar of record for this domain name.

We received notification on <insert date of notification> that you have requested a transfer to <insert name of gaining registrar>. This means that <insert name of gaining registrar> will become the new registrar of record for your domain name on <add 2 days to date of notification>.

If you have authorised this transfer, you are under no obligation to respond to this message.

If you did not authorise this transfer, please contact us <insert losing registrar contact details>.

## SCHEDULE C - FORM

### WHOIS FIELDS FOR .AU LICENCES

<b>Field Name</b>	<b>Field Description</b>
Domain Name	Registered domain name
Last Modified	Date the domain name record was last modified (includes renewal, transfer and update)
Status	Status of the domain name (e.g. "OK", "pendingTransfer", "pendingDelete")
Registrar Name	Name of the registrar of record
Reseller Name	Name of the recorded reseller (if applicable)
Registrant	Legal name of the Registrant entity (e.g. company name)
Registrant ID	ID number associated with the Registrant entity, if any (e.g. ACN for company)
Eligibility Type	Registrant's eligibility type (e.g. "Company")
Eligibility Name	Name used by the Registrant to establish eligibility, if different from their own legal name (e.g. registered business name or trademark)
Eligibility ID	ID number associated with the name used by the Registrant to establish eligibility (e.g. BN for registered business name, TM number for registered trademark)
Registrant Contact ID	Registry code used to identify the Registrant
Registrant Contact Name	Name of a contact Person for the Registrant
Registrant Contact Email	Contact email address for the Registrant
Tech Contact ID	Registry code used to identify the technical contact
Tech Contact Name	Name of a technical contact for the domain name (e.g. Registrar, reseller, webhost or ISP)
Tech Contact Email	Contact email address for the technical contact
Name Server	Name of computer used to resolve the domain name to Internet Protocol (IP) numbers (minimum of 2 name servers must be listed)
Name Server ID	IP number of the name server
DNSSEC	DNSSEC status (whether the domain name is signed or unsigned)



<b>Title</b>	Licensing Rules			
<b>Description</b>	The rules governing the issuing of licences for the use of domain names in the .au ccTLD and complaints handling			
<b>Created By</b>	Manager Policy and Strategy			
<b>Date Created</b>	19 September 2018			
<b>Maintained By</b>	Manager Policy and Strategy			
<b>Version Number</b>	<b>Modified By</b>	<b>Consultation</b>	<b>Date Modified</b>	<b>Status</b>
Version 1		Internal Consultation Only		
Version 2	CEO/COO	PRP, Focus Groups	8 Apr 2019	Board
Version 3	Manager Policy & Strategy	Public consultation	15 May 2019	20 May 2019
Version 4		Board Approved except Public Interest Test. Pending clarification from DOCA.	No modifications	17 June 2019