

.au DOMAIN ADMINISTRATION RULES

.au Namespace Implementation

1.1 OVERVIEW

On 18 April 2016, the Board of .au Domain Administration Limited approved second level domain name registration in the .au namespace. This will allow Australian users of the Internet to register a name directly before the dot in .au, for example, *auda.au*.

These .auDA Rules specify the process to be followed for the implementation of the .au namespace, including details on the:

- Commencement date
- Priority Status (Category 1&2)
- General Availability
- Resolution of multiple applications for the same domain name

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 ccTLD.

1.1.2. The .auDA namespace implementation Rules are binding on:

- (1) a Person who makes an application for Priority Status to register in the .au namespace; and
- (2) a Registrar under the Registrar Accreditation Agreement.

1.1.3 An application for a licence in the .au namespace is governed by the .auDA Licencing Rules.

1.2 OBJECTS

1.2.1 The objects of the .auDA .au Namespace Implementation Rules are to:

- (1) establish a transparent and equitable process for priority registration of licences in the .au namespace;

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- (2) provide protection to existing Registrants of eligible licences as recorded in the Registry Data in order to ensure public confidence and trust in .au; and
 - (3) implement an efficient and effective dispute process
- for the registration of licences in the .au namespace.

1.3 COMMENCEMENT

1.3.1 These .auDA Rules will commence on 1 October 2019.

1.3.2 The Commencement Table below specifies the relevant timings for the .au namespace implementation:

	Application Period	Priority Registration Ends
Priority Status (Category 1)	1 October 2019 to 1 April 2020	Ongoing
Priority Status (Category 2)	1 October 2019 to 1 April 2020	1 May 2020
General Availability	Not applicable	Not Applicable

1.3.3 .au Domain Administration must undertake a review of the .au Namespace Implementation Rules at 12 months, 18 months, 24 months and 30 months after the commencement date.

1.3.4 The Board of .au Domain Administration may, at its sole discretion, specify an end date for the Priority Registration of Priority Status (Category 1) domain names.

1.4 DEFINITIONS

In these .auDA Rules:

.au namespace means the registration of licences at the second level.

NOTE: For example: auDA.au

Application period means the 180 calendar day period after the commencement date, in which an eligible Person can make an application for Priority Status to the Registrar.

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);

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- (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 *Indigenous Corporation* registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) on the Register of Aboriginal and Torres Strait Islander Corporations;
- (5) 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;
- (6) a *Cooperative* registered under State or Territory legislation and which appears on the State or Territory register of cooperatives;
- (7) 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;
- (8) a *Political Party* registered under the *Commonwealth Electoral Commission Act 2012* and which appears on the Register of Political Parties;
- (9) 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;
- (10) an *Unincorporated Association* formed in an Australian State or Territory with at least its management committee being Australian citizens or permanent resident visa holders;
- (11) a *Trust* where the trustee must be an Australian citizen or the trustee is an Australian body corporate;
- (12) an *Educational Institution* regulated under an Australian State, Territory or Commonwealth law;
- (13) *Government*, being either the Crown or a Commonwealth, State or Territory statutory agency;
- (14) a *Commonwealth entity* as defined in section 10 of the *Public Governance, Performance and Accountability Act 2013* (Cth);

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- (15) 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.

Authorisation code has the same meaning as paragraph 2.12 of the auDA Licencing Rules.

Commencement date means the date, as determined by the Board of .au Domain Administration, when registrations in the .au namespace will commence.

Creation date means the creation date of the licence as recorded in the Registry.

Cut-off date means the date set by the Board of .au Domain Administration to determine eligibility for Priority Status.

Designated person means the Person who the multiple applicants for the same domain name, have agreed should be the sole Person to register that name in the .au namespace.

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

Eligible licence means a licence in the following namespaces: .com.au, net.au, org.au, asn.au, id.au, vic.au, nsw.au, qld.au, act.au, sa.au, tas.au, nt.au, wa.au, edu.au, vic.edu.au, nsw.edu.au, act.edu.au, eq.edu.au, qld.edu.au, sa.edu.au, catholic.edu.au, gov.au, vic.gov.au, nsw.gov.au, act.gov.au, sa.gov.au, and wa.gov.au; and recorded in the Registry. An eligible licence is assessed under the auDA Published Policies in effect immediately prior to the commencement date.

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

General Availability means the point in time after the commencement date, when applications to register a licence in the .au namespace may be received from any eligible Person on a first come, first served basis.

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.

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 rights holder has no better entitlement to the same name in a namespace than any other person.

COMMERCIAL IN CONFIDENCE

No proprietary rights in a domain name means a Registrant has a licence to use the Domain Name System (DNS) 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.

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.

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

- (1) Registrant contact information;

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- (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.

Reserved name means a name which is withheld from the DNS and is not available for registration by any Person, except in certain circumstances.

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.

1.5 IMPLEMENTATION PROCESS

1.5.1 The implementation of second level licences consists of:

- (1) Priority Status (Category 1)
- (2) Priority Status (Category 2)
- (3) General Availability

General Availability

1.5.2 A Person may apply to register a licence in the .au namespace from commencement date, subject to the availability of the domain name and satisfying the Australian Presence requirement.

1.5.3 A domain name will be available for registration where:

- (1) there is not an eligible licence with that domain name recorded in the Registry Data immediately prior to the commencement date; and
- (2) the name is not a reserved name under paragraph 2.6 of the .auDA Licencing Rules.

1.5.4 An application for and a granting of a licence in the .au namespace is governed by the .auDA Licencing Rules.

Priority Status Names

1.5.5 .au Domain Administration will reserve all domain names in the Registry Data, where a licence has a creation date:

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- (1) before or on the cut-off date (Category 1); and
- (2) after the cut-off date and immediately before commencement date (Category 2).

- 1.5.6 Where there is an eligible licence for the same domain name in Category 1 and Category 2, the domain name will be allocated to Category 1.

NOTE: For example, there are two eligible licences with the domain name 'auDA': auda.org.au and auda.com.au. The licence auda.org.au has a creation date of 12 October 2001 and the auda.com.au licence has a creation date of 10 March 2018. The domain name 'auDA' will be allocated exclusively to Category 1.

- 1.5.7 A domain name allocated to Category 1 in accordance with paragraph 1.5.6 will default to Category 2 where no applications for that domain name in Category 1 are received before the end of the Application period.

NOTE: For example: The domain name 'auDA' is allocated to Category 1 as the licence auda.org.au has a creation date of 12 October 2001. The Person holding the .auDA.org.au licence fails to make an application for that domain name before the end of the Application Period. The domain name 'auDA' will default to Category 2 as there is an eligible licence 'auda.com.au' with a creation date of 10 March 2018.

- 1.5.8 A domain name reserved under paragraph 1.5.5 will be available for registration by a Person with Priority Status for that name, subject to any requirements under these .auDA Rules and the .auDA Licencing Rules.

- 1.5.9 A Person will only have Priority Status for a domain name at the second level that is an exact match to the domain name of the eligible licence.

NOTE: For example, auDA Pty Ltd which holds the eligible 'auda.com.au' licence would have Priority Status to register 'auda.au' but not 'auda2.au' or 'aaua.au.'

1.6 PRIORITY STATUS ELIGIBILITY

- 1.6.1 If a Person holds an eligible licence:

- (a) which has a creation date before or on the cut-off date; and
- (b) which is recorded in the Registry Data,

the Person may apply for Priority Status (Category 1) to register the exact match of that domain name at the second level.

- 1.6.2 If a Person holds an eligible licence which:

- (a) has a creation date after the cut-off date and immediately prior to commencement date, and

COMMERCIAL IN CONFIDENCE

(b) is recorded in the Registry Data

the Person can apply for Priority Status (Category 2) to register the exact match of that domain name at the second level.

1.6.3 A Person whose licence is not recorded in the Registry Data is unable to apply for Priority Status.

NOTE: For example, justice.nt.gov.au is not recorded in the Registry Data, as the Department of Corporate manages the nt.gov.au sub-domains on behalf of the Northern Territory Government.

1.6.4 In order to apply for Priority Status, the Person must:

- (1) hold an eligible licence with a creation date
 - (a) before or on the cut-off date (Category 1); or
 - (b) after the cut-off date and immediately before commencement date (Category 2);
- (2) be eligible to hold that licence at the time of making the application under:
 - (a) .auDA Published Policies in existence immediately prior to the commencement date of these .auDA Rules;
 - (b) 2016-02 edu.au Registration Policy; or
 - (c) gov.au Domain Name Guidelines;
- (5) be eligible to register a licence in the .au namespace under the .auDA Licencing Rules;
- (6) not be subject to a dispute resolution or court proceeding in respect to the eligible licence; and
- (7) make the application to the Registrar by or on:
 - (a) 1 April 2020 for Category 1; or
 - (b) 1 August 2020 for Category 2.

1.7 APPLICATION PROCESS

1.7.1 A Person must make an application for Priority Status to the Registrar for their eligible licence using that Registrar's form.

1.7.2 A Person must apply for each eligible licence, in each relevant namespace, where the domain name is unique.

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NOTE: For example: .au Domain Administration LTD will make one application for auDA.org.au, auDA.com.au; auDA net.au, and auDA.asn.au as the same name is registered for multiple eligible licences. .

- 1.7.3 A Person must make an application for Priority Status to the Registrar before or on 1 April 2020.
- 1.7.4 A Registrar must reject an application by a Person for Priority Status which is received by the Registrar after 1 April 2020
- 1.7.5 An application must include:
- (1) the name of the Person applying;
 - (2) the details of the eligible licence or licences and the relevant domain name or names;
 - (3) evidence that the Person satisfies the eligibility criteria for a licence in the .au namespace;
 - (4) agreement to the Priority Status Terms and Conditions as specified in paragraph 1.10 of these .auDA Rules; and
 - (5) the payment of the application fee.
- 1.7.6 A Person making an application for Priority Status must provide the Registrar with the authorisation code for each eligible licence.
- 1.7.7 A Registrar must reject an application for Priority Registration where the Person has not provided the authorisation code for each eligible licence.
- 1.7.8 A Person's eligibility for Priority Status is determined by the Registrar at the date of making the application.
- 1.7.9 A Registrar must reject an application from the Person in the following circumstances:
- (a) the Person no longer satisfies the eligibility or allocation criteria to hold the eligible licence in the relevant namespace; or
 - (b) the Person does not satisfy the eligibility criteria to the register a licence in the .au namespace.
- 1.7.10 After making an application, the Person:
- (1) will not be able to update or change their Registrant information for the eligible licence in the Registry Data; and
 - (2) cannot transfer the eligible licence to another Person during the Application Period;

COMMERCIAL IN CONFIDENCE

but

- (3) will be able to renew (if applicable) the eligible licence during the Application Period.

1.8 PRIORITY STATUS

Decision to Grant Priority Status

1.8.1 .au Domain Administration will grant a Person Priority Status (Category 1 or 2), in circumstances where a Registrar has determined that:

- (1) the Person has provided the authorisation code for each eligible licence;
- (2) the Person meets the Priority Status (Category 1 or 2) eligibility criteria
- (3) the Person is eligible for a licence in the .au namespace;
- (3) the Person has agreed to the Priority Status Terms and Conditions as specified in Section 1.10 of these .auDA Rules; and
- (4) the Person has paid the application fee.

1.8.2 .au Domain Administration and the Registrar will:

- (1) determine Priority Status (Category 1 or 2) by reference to the creation date of the licence recorded in the Registry; and
- (2) use the Registry Data as the sole reference for its determination.

1.9 PRIORITY STATUS RIGHTS

Priority Status (Category 1)

No applications

1.9.1 If there are no applications for a domain name in Category 1 by the end of the Application Period, then the domain name will:

- (a) default to Category 2 where there is an eligible licence with the same domain name; or
- (b) where there is no eligible licence with that domain name in Category 2, the domain name will be available to the public on a first come, first served basis.

1.9.2 .au Domain Administration will publish on its website within three calendar days of the close of the Application Period for Category 1, any domain names which will be reallocated to Category 2.

Single

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1.9.3 If there are no other Persons with an eligible licence of the same domain name with Priority Status (Category 1) then:

- (1) that Person may apply to register the exact .au match of that domain name; and
- (2) must do so no later than 2 May 2020.

1.9.4 If the Person has not registered the licence in accordance with paragraph 1.9.1, then the name will be available for registration on a first come, first served basis.

Multiple

1.9.5 If there are multiple Persons with an eligible licence of the same domain name with Priority Status (Category 1), then:

- (1) those Persons may negotiate an agreement as to which, if any, will be the Designated Person to register the exact .au match of the same domain name in the .au namespace.

1.9.6 The Persons specified in paragraph 1.9.5 may contact each other by using the relevant contact details listed in WHOIS data.

If Agreement is Reached

1.9.7 If the Persons reach an agreement, then:

- (1) all other Persons must withdraw their applications for the domain name, by advising the relevant Registrar; and
- (2) the Designated Person may register the domain name no later than 30 days after the date the last application is withdrawn.

1.9.8 If the Designated Person has not registered the licence in accordance with subparagraph 1.9.5(2), then the domain name will become available on a first come, first served basis.

1.9.9 Once a Registrar is advised in accordance with subparagraph 1.9.7(1), then the Registrar must notify the Registry within 24 hours after receiving that advice.

If no agreement is reached

1.9.10 If the Persons fail to reach agreement under paragraph 1.9.7, then the Persons with an application for that domain name must pay an annual application renewal fee.

1.9.11 A Person's application for a domain name will automatically lapse where:

- (a) the Person fails to pay the annual application renewal fee; or
- (b) the Person no longer satisfies the eligibility and allocation criteria for the eligible

COMMERCIAL IN CONFIDENCE

licence or

(c) the Person is no longer eligible for a licence in the .au namespace.

1.9.12 If there are no other Persons with eligible licences with Priority Status, then the remaining Person must apply to register the domain name within 30 calendar days of the last application being withdrawn or having lapsed.

1.9.13 .au Domain Administration will publish on its website the annual application renewal fee.

Priority Status (Category 2)

No application

1.9.14 If there are no applications for the domain name in Category 2, then the domain name will be made available to the public on a first come, first served basis.

Single

1.9.15 If there are no other Persons with an eligible licence of the same domain name with Priority Status (Category 2) then:

- (1) that Person may apply to register the exact .au match of that domain name; and
- (2) must do so no later than 1 May 2020.

1.9.16 If the Person has not registered the domain name in accordance with paragraph 1.9.15, then the name will be available for registration on a first come, first served basis

Multiple

1.9.17 If there are multiple Persons with an eligible licence of the same domain name with Priority Status (Category 2), then the Person with the eligible licence with the earliest creation date:

- (a) may apply to register the exact .au match of that domain name; and
- (b) must do so no later than 1 May 2020.

1.9.18 If the Person has not registered the domain name in accordance with paragraph 1.9.17, then the name will be available for registration on a first come, first served basis.

NOTE: For example:

On 5 February 2018, Eric registered johnsmith.net.au.

On 8 February 2018, Frank registered johnsmith.com.au.

Both make an application for Priority Status (Category 2).

At the end of the Application Period, Eric can immediately register johnsmith.au.

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If Eric fails to register the domain name by 1 August 2020, then anyone (and not just Frank) can do so.

1.10 TERMS AND CONDITIONS

1.10.1 All applications made by Persons for Priority Status are subject to the following:

- (1) .auDA Published Policies (where applicable) in force immediately before the commencement date of the .auDA Licencing Rules;
- (2) the *2016-02 edu.au Registration Policy*
- (3) the *gov.au Domain Name Guidelines*; and
- (4) the .auDA Rules:
 - (a) .au Namespace Implementation; and
 - (b) Licencing.

1.10.2 Without limiting any Licencing Agreement or applicable .auDA Published Policies the following are deemed to have been warranted by the Person in making the application:

- (1) the Person has the authority to make the application;
- (2) the information provided in the application is current, complete and accurate;
- (3) the Registrant Contact information for the eligible licence is correct and up to date;
- (4) the Person meets and will continue to meet, the eligibility and allocation criteria for the eligible licence through the Priority Status Period under the (where applicable):
 - (a) *Domain Eligibility and Allocation Policy Rules for the Open 2LDs (2012-04)*; and
 - (b) *Guidelines on the Interpretation of Policy Rules for the Open 2LDs (2012-05)*;
 - (c) *Policy Rules and Guidelines for Community Geographic Domain Names (2008-04)*;
 - (d) *2016-02 edu.au Registration Policy*; or
 - (e) *gov.au Domain Name Guidelines*.
- (5) the eligible licence details recorded in WHOIS are current, complete and accurate;

COMMERCIAL IN CONFIDENCE

- (6) the Person is eligible for the licence in the .au namespace under the .auDA Licencing Rules;
- (7) the Person agrees that the information contained in the Registry is the sole reference for determining:
 - (a) eligible licences;
 - (b) the Person's eligibility to hold the eligible licence.
- (8) the Person acknowledges that an application for Priority Status does not guarantee that the licence in the .au namespace will be allocated to them;
- (9) the Person agrees that where multiple applications for Priority Status are received from different Persons with an eligible licence of the same domain name, then the resolution of competing claims is solely subject to the .auDA .au Namespace Implementation Rules;
- (10) the Person agrees that the resolution of competing claims between Persons, is solely a matter between those Persons with Priority Status, and .au Domain Administration has no role, responsibility or remit to assist Persons to resolve those claims;
- (11) the Person agrees to indemnify and keep .au Domain Administration and its employees indemnified from and against all suits, actions, claims, demands, losses, liabilities, damages, costs and expenses, that may be made, or bought against or suffered or incurred by .au Domain Administration, arising out of or in connection with the breach of any policy or agreement that the Person may have .au Domain Administration; and
- (12) the Person acknowledges that their eligible licence or Priority Status may be cancelled by the Registrar or .au Domain Administration if any of the warranties specified in paragraph 1.10.2(1-11) of these .auDA Rules, are untrue, inaccurate or incomplete.

1.11 COLLECTION, USE AND DISCLOSURE

Consent of Person

1.11.1 By making an application for Priority Status, it is deemed that the Person has consented to the collection, use and disclosure of information provided in that application, by the Registrar, Registry and .au Domain Administration for the following purposes:

- (1) assessment of an application for Priority Status;
- (2) the monitoring of a Person's compliance with the Terms and Conditions specified in section 1.8 of these .auDA Rules;

COMMERCIAL IN CONFIDENCE

- (3) to assist and resolve complaints relating to Priority Status and the registration of a licence in the .au namespace;
- (4) to provide a WHOIS service for resolution of competing claims;
- (5) to support alternative dispute resolution or court proceedings.

1.11.2 The Person acknowledges that the consent given under paragraph 1.11.1 of these .auDA Rules, is in addition to the consent provided by the Person at the time the Person applied to register a licence.

1.12 CANCELLATION OF LICENCES

Obligation of Person

- 1.12.1 A Person applying for Priority Status must be eligible, and remain eligible, for the eligible licence and a licence in the .au namespace, throughout the Priority Status period.
- 1.12.2 If the requirement specified in paragraph 1.10.1 is not satisfied, then .au Domain Administration or a Registrar must cancel the eligible licence.
- 1.12.3 If the eligible licence is cancelled under paragraph 1.10.2, then:
 - (1) the Person will not be granted or will no longer have Priority Status; and
 - (2) will be ineligible to register the licence in the .au namespace during the Priority Status period.

1.13 COMPLAINTS ABOUT ELIGIBILITY

General Availability

1.13.1 Complaints about a Person's eligibility for a licence in the .au namespace under paragraph 1.5.2 of these .auDA Rules (General Availability) must be made under Part 3 of the .auDA Licencing Rules.

Priority Status

- 1.13.2 A Person may make a complaint to the Registrar of Record or .au Domain Administration about:
 - (a) a Person's legal capacity to hold an eligible licence;
 - (b) a Person's eligibility for an eligible licence; and
 - (c) a Person's eligibility for a licence in the .au namespace.
- 1.13.3 A Person must make a complaint under paragraph 1.11.2 before the registration of the domain name in the .au namespace using the form provided by the Registrar or .au Domain Administration.

COMMERCIAL IN CONFIDENCE

- 1.13.4 The Registrar or .au Domain Administration must resolve a complaint within 28 calendar days, unless the Person is notified otherwise.
- 1.13.3 A complaint under sub-paragraph 1.11.2(a) and (b) must be resolved in accordance with (where applicable):
- (a) *Complaints Policy (2015-01)*;
 - (b) *Complaints (Registrant Eligibility) Policy (2004-01)*; or
 - (c) *2015-07 edu.au Complaints Policy*; or
 - (d) *gov.au Dispute Resolution Policy*.
- 1.13.4 A complaint made under sub-paragraph 1.11.2(c) must be resolved in accordance with Part 3 of the .auDA Licencing Rules.