1 PURPOSE

1.1 The purpose of this Instrument of Delegation is to delegate certain powers of the Victorian Registration and Qualifications Authority.

2 MEANING OF TERMS

2.1 In this Instrument of Delegation, unless inconsistent with the context or subject matter:

“Act” means the Education and Training Reform Act 2006 (Vic).

“AQTF” means the policy framework entitled “Australian Quality Training Framework” that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector endorsed by the ministerial council on 8 June 2001, and that policy framework as amended from time to time by the Ministerial Council.

“Authority” means the Victorian Registration and Qualifications Authority established under section 4.2.1 of the Act.

“Delegate” means the RTO referred to in clause 4 of this Instrument of Delegation.

“General Limitations and Conditions” means any limitation or condition set out in Part A of the Schedule to this Instrument of Delegation.

“National Register” means the National Training Information Service maintained by the Commonwealth to the extent that the Register consists of matters registered in accordance with the Act.

“RTO” means a training organisation registered on the State Register and National Register, and in the context of this Instrument, it is also a registered education and training organisation, being a person or body registered under Part 4.3 of the Act to deliver an accredited course or award or issue a registered qualification.

“State Register” means the State Register maintained under Part 4.6 of the Act.

“Vocational education and training” means:

(a) the education and training and qualifications and statements of attainment under the vocational education and training provisions under the AQTF; and

(b) that part of education and training which is directed towards the development of skills and knowledge in relation to work when it is provided by an adult education institution or a community based organisation which is not a TAFE institute, a commercial provider or industry provider.
2.2 Unless otherwise clear from the definitions above, the definitions in sections 1.1.3 and 4.1.1 of the Act apply to this Instrument of Delegation.

3 AUTHORITY

3.1 This Instrument of Delegation is made pursuant to section 4.2.7(2) and (3) of the Act, sections 41A, 42 and 42A of the Interpretation of Legislation Act 1984 (Vic) and all other enabling powers.

4 DELEGATIONS

4.1 Subject to clause 4.2, by this Instrument of Delegation the Authority delegates to the RTO specified in the column headed "Delegate" in Part B of the Schedule to this Instrument of Delegation, those of the Authority's powers set out in the column headed "Powers Delegated Under Sections of the Act" in Part B of the Schedule subject to the-

(a) General Limitations and Conditions set out in Part A of the Schedule; and

(b) Limitations and Conditions set out in Part B of the Schedule in the column headed "Limitations and Conditions".

4.2 The failure of the Delegate to observe or comply with any of the General Limitations and Conditions or any of the Limitations and Conditions set out in the "Limitations and Conditions" column in Part B of the Schedule does not for that reason only affect the validity of the exercise of the delegated powers.

4.3 In the interpretation of this Instrument of Delegation, the summaries of the sections set out in the column headed "Summary of Powers Delegated" in Part B of the Schedule to this Instrument of Delegation are for reference only and, unless a contrary intention is obvious, do not amend, substitute or delete any part of the corresponding provisions listed in the column headed "Powers Delegated under Sections of the Act" in Part B of the Schedule, or otherwise affect the generality of the powers that are delegated in those provisions.

5 DATES OF EFFECT AND EXPIRY

5.1 The delegations referred to in clause 4 of this Instrument of Delegation will:

(a) commence on 27 February 2008; and

(b) expire on 30 June 2009

Dated: 13 February 2008

The Common Seal of
the Victorian Qualifications
Authority was duly
affixed in the presence of:

[Seal]

Stuart Hamilton – Chair of the Authority

[Signature]

Board Member of the Authority
SCHEDULE – PART A

GENERAL LIMITATIONS AND CONDITIONS
TO INSTRUMENT OF DELEGATION DATED 13 FEBRUARY 2008 MADE UNDER
THE EDUCATION AND TRAINING REFORM ACT 2006 (VIC)

1. The Delegate must:

(a) be an RTO.

(b) conform with any limitations and/or conditions on the exercise of the delegated power imposed on the Authority by or under the Act.

(c) act in a manner consistent with the general duties and functions of the Authority under the Act and consistent with the objects and purposes of the Act.

(d) not take any action inconsistent with:

   (i) the Act; or

   (ii) any other Act or law.

(e) comply with the law in exercising delegated powers (in particular with the rules of administrative law). A Delegate should seek advice from the Authority’s legal advisers in any case where the Delegate is unclear as to legal requirements.

(f) comply with any Ministerial requirement, policy, guideline or direction given under section 5.2.1 of the Act.

(g) in investigating a course or part of a course to recommend whether it should be, or continue to be, registered as accredited, investigate:

   (i) the matters referred to in section 4.4.2 of the Act; and

   (ii) whether the course or part of a course complies with any AQTF standards for accreditation.

(h) in authorising itself to provide an accredited course in addition to any other course that it is registered under section 4.3.16 of the Act to provide, or in authorising itself to award or issue a registered qualification in addition to any other registered qualification that it is registered to award or issue, consider the matters referred to in section 4.2.11 of the Act.

(i) in relation to the powers delegated by this Instrument of Delegation to:

   (i) consider all relevant material and not consider irrelevant material; and

   (ii) comply with rules of natural justice, to the extent that they apply.

(j) exercise the Delegate’s own judgment and not act under dictation of another person or body but this does not derogate from any specific requirement imposed by the Act or the relevant delegation itself.

(k) subject to giving effect to the Delegate’s opinion on the merits of each case, have regard to:

   (i) established policy approved by the Minister for Education or the Authority;
(ii) any guidelines issued by the Authority to delegates on legal requirements.

(i) for the purpose of performing their functions, do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of the functions delegated to them.

(m) where an inconsistency within the meaning of section 4.3.13(2) of the Act exists, give effect to the provisions of Division 4 of Part 4.3 of the Act, rather than Division 3 of Part 4.3 of the Act, to the extent of the inconsistency.

2 The Delegate will assist and cooperate with:

(a) the Authority when it undertakes an annual investigation of the Delegate’s fitness and competence to continue to carry out the powers that have been delegated to it under this Instrument of Delegation; and

(b) any external audit of the Authority under the AQTF standards.

3 The Delegate will pay to the Authority an annual fee set by the Authority, on or before the Authority’s specified date.

4 The Delegate must provide to the Authority bi-monthly reports on accreditation activity and extension to scope activity, and any other reports that may be required under the AQTF by the National Quality Council.
### SCHEDULE – PART B

**TO INSTRUMENT OF DELEGATION DATED 13 FEBRUARY 2008 MADE UNDER THE EDUCATION AND TRAINING REFORM ACT 2006 (VIC)**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>POWERS DELEGATED UNDER SECTIONS OF THE ACT</th>
<th>DELEGATE</th>
<th>SUMMARY OF POWERS DELEGATED</th>
<th>LIMITATIONS AND CONDITIONS</th>
</tr>
</thead>
</table>
| 1    | The power in section 4.4.1(1) to investigate a course or part of a course | Holmesglen Institute of TAFE | To investigate any course or part of a course. | 1.1 This delegation is limited to the power to investigate—
|      |                                           |          |                            | (a) a vocational education and training course other than a vocational education and training course leading to the issue of a higher education award; |
|      |                                           |          |                            | (b) a further education course, other than a further education course leading to the issue of a higher education award; |
|      |                                           |          |                            | (c) any part of a course referred to in sub-paragraph (a) or (b)— |
|      |                                           |          |                            | that the Delegate as an RTO provides or proposes to provide to determine whether it should be registered as accredited. |
| 2    | The power in section 4.4.1(2) to investigate a course or part of | Holmesglen Institute of TAFE | To, on the application of a person or body that has applied for registration or is registered under Part 4.3 of the Act, investigate a course or part of a course. | 2.1 This delegation is limited to the power to investigate—
<p>|      |                                           |          |                            | (a) a vocational education and training course or a |</p>
<table>
<thead>
<tr>
<th>ITEM</th>
<th>POWERS DELEGATED UNDER SECTIONS OF THE ACT</th>
<th>DELEGATE</th>
<th>SUMMARY OF POWERS DELEGATED</th>
<th>LIMITATIONS AND CONDITIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>a course</td>
<td></td>
<td></td>
<td>sequence of vocational education and training other than a vocational education and training course leading to the issue of a higher education award; (b) a further education course, other than a further education course leading to the issue of a higher education award; (c) any part of a course referred to in sub-paragraph (a) or (b)— that the Delegate as an RTO provides or proposes to provide to determine whether it should be registered as accredited.</td>
</tr>
<tr>
<td>3</td>
<td>The power in section 4.4.1(3) to investigate a course or part of a course which is registered as accredited</td>
<td>Holmeefieln Institute of TAFE</td>
<td>To investigate a course or part of a course which is registered as accredited to determine whether it should continue to be registered as accredited.</td>
<td>2.2 This delegation is limited to the power to investigate, and does not include the power to determine whether a course or part of a course should be registered as accredited.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3.1 This delegation is limited to the power to investigate— (a) a vocational education and training course or a sequence of vocational education and training other than a vocational education and training course leading to the issue of a higher education award; (b) a further education course, other than a further education course leading to the issue of a higher education award; (c) any part of a course referred to in sub-paragraph</td>
</tr>
</tbody>
</table>

Page 6 of 9
<table>
<thead>
<tr>
<th>ITEM</th>
<th>POWERS DELEGATED UNDER SECTIONS OF THE ACT</th>
<th>DELEGATE</th>
<th>SUMMARY OF POWERS DELEGATED</th>
<th>LIMITATIONS AND CONDITIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(a) or (b)—</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>that the Delegate as an RTO provides or proposes to provide to determine whether it should continue to be registered as accredited.</td>
</tr>
<tr>
<td>4</td>
<td>The power in section 4.4.1(4) to prepare a written report</td>
<td>Holmesglen Institute of TAFE</td>
<td>To prepare a written report on the content and educational standard of the course investigated.</td>
<td>3.2 This delegation is limited to the power to investigate, and does not include the power to determine whether a course or part of a course should continue to be registered as accredited.</td>
</tr>
<tr>
<td>5</td>
<td>The power in section 4.4.1(7) to require any further information to investigate the course</td>
<td>Holmesglen Institute of TAFE</td>
<td>To require any further information from an applicant to investigate the course and decide the application.</td>
<td>5.1 This delegation is limited to the power to investigate— (a) a vocational education and training course or a sequence of vocational education and training other than a vocational education and training course leading to the issue of a higher education award; (b) a further education course, other than a further education course leading to the issue of a higher education award; (c) any part of a course referred to in sub-paragraph (a) or (b)— that the Delegate as an RTO provides or proposes to</td>
</tr>
<tr>
<td>ITEM</td>
<td>POWERS DELEGATED UNDER SECTIONS OF THE ACT</td>
<td>DELEGATE</td>
<td>SUMMARY OF POWERS DELEGATED</td>
<td>LIMITATIONS AND CONDITIONS</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------</td>
<td>----------</td>
<td>----------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>6</td>
<td>The power in section 4.3.10(2)(b) (as referred to in section 4.6.2(1)(a)) to authorise a registered education and training organisation to provide an accredited course</td>
<td>Holmesglen Institute of TAFE</td>
<td>To authorise a registered education and training organisation to provide an accredited course in addition to any other course that the organisation is registered on the State Register to provide.</td>
<td>5.2 This delegation is limited to the power to require further information to investigate the course or part of a course, and does not include the power to decide the application or determine whether the course or part of a course should be registered as accredited or continue to be registered as accredited, as the case may be. 6.1 This delegation is limited to — (a) the power to authorise the provision of an accredited vocational education and training course or part of such a course or a further education course, other than a further education course leading to the issue of a higher education award; and (b) courses or parts of courses that the Delegate as an RTO itself is to provide.</td>
</tr>
<tr>
<td>7</td>
<td>The power in section 4.3.10(2)(d) (as referred to in section 4.6.2(1)(a)) to authorise a registered education and training organisation to award, confer or issue a registered qualification in addition to any other registered qualification that the organisation is registered on the State Register to award or issue.</td>
<td>Holmesglen Institute of TAFE</td>
<td>To authorise a registered education and training organisation to award, confer or issue a registered qualification in addition to any other registered qualification that the organisation is registered on the State Register to award or issue.</td>
<td>7.1 This delegation is limited to — (a) the power to authorise the award, confer or issue of a registered vocational education and training qualification or a registered further education qualification, other than a further education qualification that is a higher education award; and (b) qualifications that the Delegate as an RTO itself is to provide.</td>
</tr>
<tr>
<td>ITEM</td>
<td>POWERS DELEGATED UNDER SECTIONS OF THE ACT</td>
<td>DELEGATE</td>
<td>SUMMARY OF POWERS DELEGATED</td>
<td>LIMITATIONS AND CONDITIONS</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------</td>
<td>----------</td>
<td>----------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td></td>
<td>training organisation to award, confer or issue a registered qualification.</td>
<td></td>
<td></td>
<td>to provide.</td>
</tr>
</tbody>
</table>