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**THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**DENTISTS (AMENDMENT) BILL 1996**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of the Minister for Health  
and Community Care  
Kate Carnell MLA**

## DENTISTS (AMENDMENT) BILL 1996

### EXPLANATORY MEMORANDUM

#### Outline

The Dentists (Amendment) Bill 1996 ("the Bill") amends the *Dentists Registration Act 1931* ("the Act") for the purpose of ensuring that the registration and certain other provisions of the Act are consistent with the requirements for registration of dentists as recommended by the Australian Health Ministers' Advisory Council (AHMAC) and agreed to by the Australian Health Ministers' Conference and is one of a series of Bills to amend the ACT's legislation regulating health professions for a similar purpose

#### *The Dentists Registration Act 1931*

The Act regulates the registration of persons as dentists and dental hygienists and, in particular, Parts III and IV, respectively, set out the qualifications and requirements for registration as a dentist or dental hygienist and provide that disciplinary action may be taken by the Dental Board established under Part II of the Act in respect of the conduct of a person registered under the Act

#### *The Dentists (Amendment) Bill 1994*

The Bill amends the Act to recognise and register specialist dentists and to ensure that the provisions relating to registration of dentists, specialist dentists and dental hygienists and disciplinary action which may be taken under the Act comply with the approach to these matters which has been agreed between the States and Territories.

In particular the Bill recognises the entitlement of a person who is registered as a dentist, specialist dentist or dental hygienist in a State or another Territory to registration in the ACT and provides for conditions which may be imposed upon such a person's registration in another jurisdiction or disciplinary action taken against the person in another jurisdiction to be applied in respect of the person's registration in the Territory

These provisions are intended to be consistent with the mutual recognition principle relating to occupations as set out in section 17 of the Commonwealth *Mutual Recognition Act 1992* ("the Mutual Recognition Act")

The application of that principle to the Territory and to other jurisdictions has given rise to the desirability of adopting agreed minimum requirements for registration as a dentist, specialist dentist or dental hygienist Unless all

jurisdictions where mutual recognition applies have the same standard for registration of a person as a dentist, specialist dentist or dental hygienist, a jurisdiction with a lower standard will provide a means for a person who satisfies that standard, but not the higher standards required in other jurisdictions, to gain registration in those other jurisdictions under the mutual recognition principle

The Bill provides for the duties of dental therapists who are public servants and the circumstances within which they may practice

The Bill also repeals provisions of the Act requiring the registration of dental assistants.

**Financial implications**

There are no financial implications arising from the Bill

**Details of the Bill are included in the Attachment.**

## ATTACHMENT

*Clauses 1 and 2 - Short title and commencement*

*Clauses 1 and 2* are formal provisions dealing with the short title and commencement of the Act, respectively.

*Clause 3 - Principal Act*

*Clause 3* is an interpretation provision which defines the term "Principal Act" to mean the *Dentists Registration Act 1931*

*Clause 4 - Long title*

*Clause 4* is an interpretation provision which amends the long title of the Act to reflect the increased ambit of the Act

*Clause 5 - Short title*

*Clause 5* amends section 1 of the Act so that the short title becomes the *Dentists Act 1931*

*Clause 6 - Interpretation*

*Clause 6* effects consequential and technical amendments to section 4 of the Act.

*Paragraphs 6(a), (b) and (c)* insert definitions in section 4 for a number of new terms including "Mutual Recognition Act" and replace the existing definitions for a number of terms including "registered dentist" which is newly defined to recognise that a person may be deemed to be registered under the Act by virtue of the operation of section 25 of the Mutual Recognition Act

*Paragraph 6(d)* repeals subsections 4(1A) and (2).

Subsection 4(2), which exempts dentists who practise dentistry in the performance of their duties as public servants and Defence Force personnel from the application of the Act, is repealed as it is intended that the Act bind the Crown in right of the Territory and there is no need for a provision to the effect that the Crown in right of the Commonwealth is not bound by the requirements of the Act

Subsection 4(1A) is repealed as it is redundant. All references in the Act to prescribed fees have been removed or replaced with references to determined fees

*Clause 7 - Insertion*

*Clause 7* is an interpretation provision which inserts **new sections 4A and 4B** in the Act which, respectively -

- . establish what is meant by the expression "to be competent to practise dentistry", and
- . establish what is meant by the expression "to suffer from an impairment"

*Clause 8 - Heading to Part III*

*Clause 8* effects a formal amendment to the heading to Part III of the Act to better reflect the ambit of that Part

*Clause 9- Substitution of new registration provisions*

*Clause 9* omits the heading to Division I of Part III of the Act and divides Part III into four new Divisions. New Divisions I and II comprise **proposed new sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18A, 18B, and 18C** dealing with requirements for registration including registration procedure

New Division I is headed "Qualifications for registration as a Dentist and Specialist Dentist" and comprises **new sections 7 to 16** inclusive

*Entitlement to registration as a dentist*

**New section 7** deals with the requirements for registration as a dentist where the applicant relies on his or her qualifications and training

**New subsection 7(1)** entitles a person to registration as a dentist if he or she -

- . is a graduate of a course of education or training in dentistry offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory, or
- has completed a course of education or training in dentistry at an overseas institution, being a course accredited by the Board, has passed such examinations as the Board requires and has, if required by the Board, undertaken training or gained experience in the practise of dentistry.

**New subsection 7(2)** prohibits the Board from accrediting a course offered by an overseas institution unless the course is substantially equivalent to a

course offered by an Australian institution, either accredited by the Board or approved by an interstate registration authority

*Entitlement to registration as a specialist dentist*

**New section 8** deals with the requirements for registration as a specialist dentist where the applicant relies on his or her qualifications and training

A person is entitled to such registration if the person is a registered dentist and -

- is qualified in a specialist branch of dentistry where the qualification is accredited by the Board or a State or other Territory registration authority; and

- has experience practising in that specialist branch of dentistry at a hospital approved by the Board or in practising in such circumstances as the Board considers warrants such registration

*Registration under mutual recognition principle*

**New section 9** entitles a person who is licensed or registered as a dentist or a specialist dentist in a State or another Territory that is a participating jurisdiction, within the meaning of the Mutual Recognition Act, to registration as a dentist or a specialist dentist, respectively under the Act (subsections 9(1) and 9(2)).

**New subsection 9(3)** entitles such a person to unconditional registration under this Act where that person's registration in the other State or Territory is unconditional

**New subsection 9(4)** qualifies the right of such a person to be registered under this Act by restricting registration under this Act to registration subject to the same conditions (if any) as apply to the person's registration in the other jurisdiction where the person is registered.

*Registration at the discretion of the Board*

**New section 10** provides the Board with a discretion to register a person in a range of circumstances, notwithstanding that the person is not entitled to registration pursuant to **new sections 7, 8 or 9**.

**New subsection 10(1)** enables the Board to register a person, who is a graduate of a course in dentistry that is neither accredited by the Board nor approved by an interstate registration authority, as a dentist, on a temporary basis, for the purpose of enabling the person to undertake a course of education or training

approved by the Board or to gain experience in the practise of dentistry

**New subsection 10(2)** enables the Board to register a person as a dentist for the purpose of enabling the person to fill a teaching or research position provided that the person has qualifications that the Board considers appropriate for the purpose and the person's application is supported, in writing, by the institution by which it is proposed that the person be engaged in the teaching or research position.

**New subsection 10(3)** enables the Board to register a person as a dentist, on a temporary basis, where the Board is satisfied that it is in the public interest to do so

**New subsection 10(4)** provides that the Board may impose such conditions upon registration under this section as the Board considers appropriate

#### *Interim registration*

**New section 11** provides for the interim registration of an applicant for registration

**New subsection 11(1)** enables the interim registration of an applicant -

- . in the case of a person entitled to registration under **new section 7**, where it is not practicable to wait for the Board to consider the application; or

where a person would be entitled to registration under **new section 7** but for the fact that a degree or award to which the person is entitled has not yet been conferred or granted by the institution concerned

**New subsection 11(2)** enables a person authorised by the Board to grant interim registration to an applicant for registration, in accordance with this section. This will enable a person nominated by the Board, such as a member of the Board, to grant interim registration to an applicant for registration in circumstances where it may be some time before the Board will find it possible to meet to consider the person's application

**New subsection 11(3)** provides that interim registration remains in force until the person to whom it is granted is given written notice that -

registration has been granted;

registration has been refused, or

the interim registration has been cancelled

**New subsection 11(4)** gives the Board the discretion to cancel a person's interim registration for any reason it considers proper and requires the Board to immediately notify the person, in writing, of the cancellation of his or her interim registration.

The effect of **new subsection 11(5)** is that a person who holds interim registration is taken to be a registered dentist.

*Conditions of registration in cases of impairment*

**New section 12** deals with conditions which may be imposed upon the registration of a person as a dentist where the person suffers from an impairment. The term impairment is defined in **new section 4B**, inserted by **clause 7**, to encompass physical or mental impairment, a disability or condition or disorder which detrimentally affects, or is likely to detrimentally affect, a person's physical or mental capacity to practise as a dentist or hygienist and it includes habitual drunkenness or addiction to a deleterious drug

**New subsection 12(1)** enables the Board to impose conditions upon a person's registration where the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

**New subsection 12(2)** enables the Board to review conditions imposed upon a person's registration and to alter or remove such conditions or impose new conditions where the Board is satisfied that the person no longer suffers from the impairment or where the degree of the impairment has reduced

*Refusal of registration where applicant convicted of offence*

**New section 13** gives the Board a discretion to refuse to register an applicant for registration as a dentist or specialist dentist if the applicant has been convicted of an offence in the Territory or convicted in a court elsewhere of an act or omission which, had it taken place in the Territory, would have constituted an offence, where the Board is of the opinion that the conviction renders the person unfit, in the public interest, to practise

**New subsection 13(2)** requires the Board to have regard to the nature of the offence and the circumstances in which it was committed in making its decision

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 13(3)** specifies that **new subsection 13(1)** does not apply in relation to a person who



is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act

*Refusal of registration where applicant deregistered outside Territory*

**New section 14** gives the Board a discretion to refuse to register an applicant for registration as a dentist or specialist dentist if the applicant's name has been removed from a register of dentists or specialist dentists, respectively, kept under the law of another country, State or another Territory for any reason relating to the conduct of the person as a dentist or specialist dentist or on any basis relating to the person's physical or mental capacity to practise (**subsections 14(1) and 14(2)**).

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 14(4)** specifies that **new subsections 14(1) and 14(2)** do not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act

*Applicants to be competent etc*

**New section 15** prohibits the Board from registering a person as a dentist unless the Board is satisfied that the person is competent to practise and has not engaged in conduct, within the period of 10 years preceding their application, which would if the person had been registered bring the profession into disrepute

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 15(2)** specifies that **new subsection 15(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act

*Restriction on registration of deregistered or suspended persons*

**New section 16** requires that applications for re-registration and termination of a suspension must be made under **new section 31E**. The requirement does not apply when:

- registration as a specialist dentist was cancelled under **new subsection 23A(1)** because the person's registration as a dentist has been cancelled **New section 23A(2)** provides for re-registration as a specialist dentist
- registration as a dentist was cancelled under **new section 23C** because of disciplinary action taken against the dentist in another

State or Territory or overseas. Re-registration in these circumstances is provided for in **new section 23C**.

- registration as a dentist or specialist dentist was cancelled under **new subsection 23FB(2)** because the person has not paid the annual registration fee. **New section 23FC** provides for the Board to consider re-registration if the fee is paid.
- where registration as a specialist dentist has been suspended under **new subsection 23B(1)** because the person's registration as a dentist has been suspended. **New subsection 23B(2)** provides for the automatic lifting of the suspension once the suspension as a dentist is lifted.
- where registration is suspended under **new subsection 31(2)** pending the holding of an inquiry under **new subsection 31(1)**.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 16(2)** specifies that **new subsection 16(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

New Division 2 is headed "Registration procedure for Dentists and Specialist Dentists" and comprises **new sections 17 to 18C** inclusive.

#### *Applications for registration*

**New section 17** applies to applications for registration as a dentist or specialist dentist other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

**New subsection 17(2)** requires that an application for registration be in a form approved by the Board and be accompanied by the determined fee.

#### *Applications to be considered and determined*

**New section 18** requires the Board to consider all applications for registration under **new section 17** and to determine them by either registering the applicant, unconditionally or otherwise, or by refusing the application

#### *Registration of applicants*

**New section 18A** requires that where a person who is applying for registration as a dentist or specialist dentist other than under the Mutual Recognition Act

applies for registration in accordance with **new section 17**, appears personally before the Board or its nominee if required to do so and is entitled to registration in accordance with the Act, the Board shall register the applicant as a dentist or specialist dentist.

*Fee for registration pursuant to Mutual Recognition Act*

**New section 18B** requires an applicant for registration pursuant to the Mutual Recognition Act to pay the determined fee

*Conditions of registration*

**New section 18C** provides that the conditions which the Board may impose upon registration at the time of registration relate to the duration of registration, the aspects of practice in which the person who is registered may be engaged and such other matters as the Board considers appropriate.

New Division 3 is headed "Registers of Dentists and Specialist Dentists" and comprises **new sections 19 to 23F** inclusive.

*Clause 10 - Register*

**Clause 10** amends section 19 of the Act, which requires the Board to keep a Register of Dentists, by specifying that the Register may be kept by electronic means.

*Clause 11- Register of Specialist Dentists*

**Clause 11** inserts a **new section 19A** which requires the Board to keep a Register of Specialist Dentists and specifies that it may be kept by electronic means.

*Clause 12 - Particulars to be entered in the Register of Dentists*

**Clause 12** amends section 20 of the Act which provides for registration to be effected by the entering in the Register of certain particulars so that particulars of the provision by virtue of which the applicant is registered, any conditions imposed upon the applicant's registration and any prescribed particulars must also be entered in the Register

**Clause 12** also removes several sexist terms from section 20 and, by omitting subsection 20(2), removes the requirement for the Chairperson or Deputy Chairperson of the Board to sign every entry in the Register

***Clause 13 - Substitution***

***Clause 13*** repeals sections 22 and 23A of the Act, dealing with qualifications for registration and payment of an annual fee, respectively. These provisions are redundant having been replaced by new sections 7, 8, 9, 23FA and 23FB.

***Clause 13*** inserts a new section 21 which details the particulars which are required to be entered in the Register of Specialist Dentists, these are -

- . the persons name;
- . the specialist branch of dentistry in which the person is registered;
- . the qualifications relevant to the specialist branch of dentistry;
- . date of registration;
- . the provision under which the person is registered;
- . any conditions on registration;
- . the registration number under the Register of Dentists; and
- . any prescribed particulars.

***Clause 13*** also inserts a new section 22 dealing with certificates of registration.

**New subsection 22(1)** requires the Board to issue a registration certificate where a person is registered as a dentist.

**New subsection 22(2)** requires that a certificate of registration indicates the provision of the Act by virtue of which the certificate holder is entitled to be registered and any conditions to which that person's registration is subject. Where the person is registered as a specialist dentist the certificate shall also indicate the branch of specialisation in which the person is registered.

**New subsection 22(3)** enables the Board to require a specialist dentist to whom a certificate is issued as a dentist to deliver the certificate to the Board within 14 days so as to endorse on it details of the registration as a specialist dentist

**New subsection 22(4)** provides that a certificate of registration is evidence of the registration of the person specified in the certificate

**New subsection 22(5)** requires that where a certificate of registration has been lost or destroyed the Board must issue a duplicate to a registered dentist, provided the determined fee is paid

**New subsection 22(6)** requires the Board to notify a dentist or specialist dentist, where registration has been suspended or cancelled, to deliver his or her certificate to the Board within 14 days.

**New subsection 22(7)** requires the Board, on receipt of the certificate of a specialist dentist whose registration is cancelled, to issue to the dentist a certificate of registration as a dentist.

**New subsection 22(8)** requires that where a person whose registration has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate for the duration of the suspension and return it to the person at the expiration of the period of suspension unless the person's registration is sooner cancelled.

**New subsection 22(9)** provides that where the registration of a specialist dentist is suspended and the certificate returned to the Board it must hold the certificate for the period of the suspension, issue a temporary certificate of registration as a dentist and then return the first certificate at the end of the suspension unless the person's registration as a dentist has been suspended or cancelled or the person's registration as a specialist dentist has been cancelled.

**New subsection 22(10)** enables the Board to request in writing that a certificate be delivered to the Board for the purpose of endorsing the certificate to indicate that conditions have been imposed upon the registration of the person to whom the certificate was issued or that conditions imposed upon the registration of that person have been varied.

**New subsection 22(11)** makes it an offence for a person to fail to comply with a notice under **new subsections 22(3), (6) or (10)** and provides a maximum penalty of 5 penalty units.

***Clause 14 - Change of address to be notified***

**Clause 14** amends section 23AA of the Act as a consequence of other changes made by the Bill, to effect a technical amendment, to correct a sexist term.

***Clause 15 - Repeal***

**Clause 15** repeals sections 23AB, 23AC, 23AD and 23AE of the Act which are redundant

***Clause 16 - Alteration of the Register***

**Clause 16** amends section 23AF of the Act by replacing subsection (1) with **new subsections (1) and (1A)** which oblige the Board to remove from the Register

of Dentists the name of a person who has died or whose registration has been cancelled and from the Register of Specialist Dentists the name of a person who has been removed from the Register of Dentists or whose registration as a specialist dentist has been cancelled.

*Clause 16* also makes 2 amendments of a consequential nature.

***Clause 17- Substitution***

*Clause 17* repeals Division 2 of Part III of the Act and substitutes **new sections 23A, 23B, 23C, 23D, and 23E** and a new Division comprising **new sections 23F, 23FA, 23FB, and 23FC**.

*Deregistration as a specialist dentist on basis of deregistration as a dentist*

**New section 23A** provides for the cancellation of a person's specialist registration where the person's name has been removed from the Register of Dentists. Where that occurs and the person's name is subsequently restored to the Register of Dentists and the person applies to be re-registered as a specialist the Board is required to re-register the person accordingly.

*Suspension as a specialist dentist on basis of suspension as a dentist*

**New subsection 23B(1)** similarly requires the Board to suspend the registration of a person as a specialist dentist where it has suspended his or her registration as a dentist.

Under **new subsection 23B(2)**, where the suspension as a dentist is terminated the Board is required to terminate the suspension of the registration of the person as a specialist.

*Deregistration on basis of disciplinary action under foreign law*

**New section 23C** provides for the deregistration of a person where that person's name has been removed from a register of dentists kept under a law of a State or another Territory or a law of another country.

**New subsection 23C(1)** requires that the Board cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register kept under a law of a State or another Territory for any reason relating to the conduct of the person as a dentist or on any basis relating to the person's physical or mental capacity to practise dentistry.

Where a person whose registration has been cancelled under **new subsections 23C(1)** has his or her name restored to the register for the removal from which the person's registration was cancelled and the person applies for re-

registration, **new subsection 23C(2)** requires the Board to re-register the person

**New subsection 22C(3)** gives the Board a discretion to cancel the registration of a person as a dentist where the Board is satisfied that the name of the person has been removed from a register or roll of dentists kept under a law of a place outside Australia for any reason relating to the conduct of the person as a dentist or on any basis relating to the person's physical or mental capacity to practise dentistry.

**New subsection 23C(4)** gives the Board a discretion to re-register a person whose registration has been cancelled under **new subsections 23C(3)** where the Board is satisfied that it is appropriate in the circumstances to re-register the person.

*Imposition of conditions imposed under foreign law*

**New section 23D** provides for the imposition of conditions upon the registration of a person where conditions are imposed upon the registration of that person in another jurisdiction.

**New subsection 23D(1)** requires that where conditions are imposed on the registration of a person as a dentist or specialist dentist under the law of a State or another Territory the Board must impose similar conditions on the registration of the person under this Act.

**New subsection 23D(2)** gives the Board a discretion to impose conditions similar to those it is satisfied have been imposed on the registration of a person as a dentist or specialist dentist under the law of a place outside Australia

*Cessation of registration*

**New section 23E** provides that a person ceases to be registered as a dentist or specialist dentist -

- when the Board gives the person notice that his or her registration has been cancelled in accordance with the Act, or
- if registration is conditional and the period of registration is specified in the condition - when the period expires

**New Division 4** is headed "Annual fees for Dentists and Specialist Dentists"

*Annual fee payable by registered dentist*

**New section 23F** provides for the payment of an annual fee by a registered dentist.

**New subsection 23F(1)** requires that on or before 1 July each year a registered dentist pay the determined fee.

**New subsection 23F(2)** requires that the Board send to each registered dentist, at least one month before the due date for payment, a notice requiring the dentist to pay the fee by the due date.

**New subsection 23F(3)** precludes a dentist from relying upon a failure of the Board to send such a notice as a basis for avoiding liability to pay the fee by the due date.

*Annual fee payable by registered specialist dentist*

**New section 23FA** is in similar terms to **new section 23F** and requires a registered specialist dentist to pay the determined fee.

*Registration to be cancelled for non-payment*

**New section 23FB** provides for the cancellation of the registration of a dentist or specialist dentist where the annual fee is not paid.

**New subsection 23FB(1)** requires that where a dentist or specialist dentist fails to pay the determined fee by the due date the Board must send a notice requiring him or her to pay the fee by a day specified in the notice and advising him or her that if the fee is not paid by that later date his or her registration will be cancelled.

**New subsection 23FB(2)** requires the Board to cancel the registration of a dentist or specialist dentist who fails to pay the fee by the day specified in the notice.

*Entitlement to re-registration if fee paid*

**New section 23FC** provides for the re-registration of a person where the person pays the determined fee.

**New subsection 23FC(1)** entitles a person, whose name has been removed from a Register for failure to pay the annual fee, to re-registration if he or she applies in the approved form and pays the determined fee.

**New subsection 23FC(2)** qualifies the entitlement of a person to re-registration by limiting it to a right to re-registration on the same terms and conditions (if any) as applied to the person's registration immediately prior to the removal



of the person's name from the Register

**New subsection 23FC(3)** gives the Board a discretion to refuse re-registration to a person where the Board is satisfied that the person is not competent to practise dentistry or has engaged in conduct, whether in practising or not, that brings the profession into disrepute

**New subsection 23FC(4)** provides that a person's right to re-registration is subject to the other provisions of the Act.

***Clause 18 - Substitution of headings***

**Clause 18** omits the heading to Division 3 of Part III of the Act and inserts a new Part and Division heading entitled

**"PART IIIA - REGISTRATION OF DENTAL HYGIENISTS**

**Division 1 - Preliminary"**

***Clause 19 - Interpretation***

**Clause 19** makes a technical amendment to section 23G of the Act.

***Clause 20 - Insertion***

**Clause 20** inserts a new Division 2 headed "Qualifications for registration as a Dental Hygienist" comprising new sections 23GA, 23GB, 23GC, 23GD, 23GE and 23GF.

***Entitlement to registration***

**New section 23GA** deals with the requirements for registration as a dental hygienist where the applicant relies on his or her qualifications and training

**New subsection 23GA(1)** entitles a person to registration as a dental hygienist if he or she -

is a graduate of a course of education or training as a dental hygienist offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; or

has completed a course of education or training as a dental hygienist at an overseas institution, being a course accredited by the Board, has passed such examinations as the Board requires and has, if required by the Board, undertaken training or gained experience as a dental

hygienist.

**New subsection 23GA(2)** prohibits the Board from accrediting a course offered by an overseas institution unless the course is substantially equivalent to a course offered by an Australian institution, either accredited by the Board or approved by an interstate registration authority.

*Registration under mutual recognition principle*

**New section 23GB** entitles a person who is licensed or registered as a dental hygienist in a State or another Territory that is a participating jurisdiction, within the meaning of the Mutual Recognition Act, to registration as a dental hygienist under the Act (**subsection 23GB(1)**).

**New subsection 23GB(2)** entitles such a person to unconditional registration under this Act where that person's registration in the other State or Territory is unconditional.

**New subsection 23GB(3)** qualifies the right of such a person to be registered under this Act by restricting registration under this Act to registration subject to the same conditions (if any) as apply to the person's registration in the other jurisdiction where the person is registered.

*Conditions of registration in cases of impairment*

**New section 23GC** deals with conditions which may be imposed upon the registration of a person as a dental hygienist where the person suffers from an impairment. The term impairment is defined in **new section 4B**, inserted by *clause 7*.

**New subsection 23GC(1)** enables the Board to impose conditions upon a person's registration where the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

**New subsection 23GC(2)** enables the Board to review conditions imposed upon a person's registration and to alter or remove such conditions or impose new conditions where the Board is satisfied that the person no longer suffers from the impairment or where the degree of the impairment has reduced.

*Refusal of registration where applicant deregistered outside Territory*

**New section 23GD** gives the Board a discretion to refuse to register an applicant for registration as a dental hygienist if the applicant's name has been removed from a register of dental hygienists kept under the law of

another country, State or another Territory for any reason relating to the conduct of the person as a dental hygienist or on any basis relating to the person's physical or mental capacity to practise (**subsection 23GD(1)**).

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 23GD(3)** specifies that **new subsection 23GD(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

*Applicants to be competent etc*

**New section 23GE** prohibits the Board from registering a person as a dental hygienist unless the Board is satisfied that the person is competent to practise and has not, within the period of 10 years prior to the application engaged in conduct which if he or she was registered would bring the profession into disrepute.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 23GE(2)** specifies that **new subsection 23GE(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

*Restriction on registration of deregistered or suspended persons*

**New section 23GF** requires that applications for re-registration and termination of a suspension must be made under **new section 31E**. The requirement does not apply when:

- registration as a dentist was cancelled under **new section 24** because of disciplinary action taken against the dentist in another State or Territory or overseas. Re-registration in these circumstances is provided for in **new section 24**.
- registration as a dentist or specialist dentist was cancelled under **new subsection 28(2)** because the person has not paid the annual registration fee. **New section 29** provides for the Board to consider re-registration if the fee is paid.

ration is suspended under **new subsection 31(2)**  
pending the holding of an inquiry under **new subsection 31(1)**.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 16(2)** specifies that **new subsection 16(1)** does not apply in relation to a person

who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

New Division 3 is headed "Registration procedure for Dental Hygienists" and comprises new sections 23GG, 23GH, 23GJ, 23GK and 23GL.

*Applications for registration*

**New section 23GG** applies to applications for registration as a dental hygienist other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

**New subsection 23GG(2)** requires that an application for registration be in a form approved by the Board and be accompanied by the determined fee.

*Applications to be considered and determined*

**New section 23GH** requires the Board to consider all applications for registration under **new section 23GG** and to determine them by either registering the applicant, unconditionally or otherwise, or by refusing the application.

*Registration of applicants*

**New section 23GJ** requires that where a person who is applying for registration as a dental hygienist other than under the Mutual Recognition Act applies for registration in accordance with **new section 23GG**, appears personally before the Board or its nominee if required to do so and is entitled to registration in accordance with the Act, the Board shall register the applicant as a dental hygienist.

*Fee for registration pursuant to Mutual Recognition Act*

**New section 23GK** requires an applicant for registration pursuant to the Mutual Recognition Act to pay the determined fee

*Conditions of registration*

**New section 23GL** provides that the conditions which the Board may impose upon registration at the time of registration relate to the duration of registration, the aspects of practice in which the person who is registered may be engaged and such other matters as the Board considers appropriate.

New Division 4 is headed "Register of Dental Hygienists" and comprises new sections 23GM, 23H, 23J, 23LA and 23LB

### *Register*

New section 23GM requires the Board to keep a Register of Dental Hygienists and stipulates that the Register may be kept by electronic means

### *Clause 21- Particulars to be entered in Register*

*Clause 21* amends section 23H of the Act which provides for registration to be effected by the entering in the Register of certain particulars so that particulars of the provision by virtue of which the applicant is registered, any conditions imposed upon the applicant's registration and any prescribed particulars must also be entered in the Register.

*Clause 21* also removes several sexist terms from section 23H and, by omitting subsection 23H(2), removes the requirement for the Chairperson or Deputy Chairperson of the Board to sign every entry in the Register

### *Clause 22 - Substitution*

*Clause 22* repeals sections 23J, 23K and 23L of the Act, dealing with qualifications for registration, registration of dental hygienists and payment of an annual fee, respectively. These provisions are redundant having been replaced by new sections 23GA, 23GB, 23GG, 23GH, 23GJ and 28.

*Clause 22* inserts a new section 23J dealing with certificates of registration

**New subsection 23J(1)** requires the Board to issue a registration certificate where a person is registered as a dental hygienist

**New subsection 23J(2)** requires that a certificate of registration indicates the provision of the Act by virtue of which the certificate holder is entitled to be registered and any conditions to which that person's registration is subject

**New subsection 23J(3)** provides that a certificate of registration is evidence of the registration of the person specified in the certificate

**New subsection 23J(4)** requires that where a certificate of registration has been lost or destroyed the Board must issue a duplicate to a registered dental hygienist, provided the determined fee is paid.

**New subsection 23J(5)** requires the Board to notify a dental hygienist, where registration has been suspended or cancelled, to deliver his or her certificate to the Board within 14 days

**New subsection 23J(6)** requires that where a person whose registration has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate for the duration of the suspension and return it to the person at the expiration of the period of suspension unless the person's registration is sooner cancelled.

**New subsection 23J(7)** enables the Board to request in writing that a certificate be delivered to the Board for the purpose of endorsing the certificate to indicate that conditions have been imposed upon the registration of the person to whom the certificate was issued or that conditions imposed upon the registration of that person have been varied.

**New subsection 23J(8)** makes it an offence for a person to fail to comply with a notice under **new subsections 23J(5) or (7)** and provides a maximum penalty of 5 penalty units.

***Clause 23 - Change of address to be notified***

**Clause 23** amends section 23LA of the Act as a consequence of other changes made by the Bill, to effect several technical amendments, to correct several sexist terms.

***Clause 24- Alteration of the Register***

**Clause 24** amends section 23LB of the Act by replacing subsection (l) with a new subsection (l) which obliges the Board to remove from the Register of Dental Hygienists the name of a person who has died or whose registration has been cancelled.

**Clause 24** also makes an amendment of a consequential nature.

***Clause 25 - Substitution***

**Clause 25** repeals Division 4 of Part III of the Act and substitutes **new sections 24, 25 and 26** and a new Division 5 comprising **new sections 27, 28 and 29**.

***Deregistration on basis of disciplinary action under foreign law***

**New section 24** provides for the deregistration of a person where that person's name has been removed from a register or roll of dental hygienists kept under a law of a State or another Territory or a law of another country

**New subsection 24(1)** requires that the Board cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register kept under a law of a State or another Territory for

any reason relating to the conduct of the person as a dental hygienist or on any basis relating to the person's physical or mental capacity to practise as a dental hygienist.

Where a person whose registration has been cancelled under **new subsection 24(1)** has his or her name restored to the register for the removal from which the person's registration was cancelled and the person applies for re-registration, **new subsection 24(2)** requires the Board to re-register the person

**New subsection 24(3)** gives the Board a discretion to cancel the registration of a person as a dental hygienist where the Board is satisfied that the name of the person has been removed from a register or roll of dental hygienists kept under a law of a place outside Australia for any reason relating to the conduct of the person as a dental hygienist or on any basis relating to the person's physical or mental capacity to practise as a dental hygienist

**New subsection 24(4)** gives the Board a discretion to re-register a person whose registration has been cancelled under **new subsections 24(3)** where the Board is satisfied that it is appropriate in the circumstances to re-register the person.

#### *Imposition of conditions imposed under foreign law*

**New section 25** provides for the imposition of conditions upon the registration of a person where conditions are imposed upon the registration of that person in another jurisdiction

**New subsection 25(1)** requires that where conditions are imposed on the registration of a person as a dental hygienist under the law of a State or another Territory the Board must impose similar conditions on the registration of the person under this Act.

**New subsection 25(2)** gives the Board a discretion to impose conditions similar to those it is satisfied have been imposed on the registration of a person as a dental hygienist under the law of a place outside Australia.

#### *Cessation of registration*

**New section 26** provides that a person ceases to be registered as a dental hygienist-

when the Board gives the person notice that his or her registration has been cancelled in accordance with the Act, or

if registration is conditional and the period of registration is specified in the condition - when that period expires

New Division 5 is headed "Annual fees for Dental Hygienists"

*Annual fee payable*

**New section 27** provides for the payment of an annual fee by a registered dental hygienist.

**New subsection 27(1)** requires that on or before 1 June each year a registered dental hygienist pay the determined fee.

**New subsection 27(2)** requires that the Board send to each registered dental hygienist, at least one month before the due date for payment, a notice requiring the dental hygienist to pay the fee by the due date.

**New subsection 27(3)** precludes a dental hygienist from relying upon a failure of the Board to send such a notice as a basis for avoiding liability to pay the fee by the due date

*Registration to be cancelled for non-payment*

**New section 28** provides for the cancellation of the registration of a dental hygienist where the annual fee is not paid.

**New subsection 28(1)** requires that where a dental hygienist fails to pay the determined fee by the due date the Board must send a notice requiring him or her to pay the fee by a day specified in the notice and advising him or her that if the fee is not paid by that later date his or her registration will be cancelled.

**New subsection 28(2)** requires the Board to cancel the registration of a dental hygienist who fails to pay the fee by the day specified in the notice.

*Entitlement to re-registration if fee paid*

**New section 29** provides for the re-registration of a person where the person pays the determined fee.

**New subsection 29(1)** entitles a person, whose name has been removed from the Register for failure to pay the annual fee, to re-registration if he or she applies in the approved form and pays the determined fee.

**New subsection 29(2)** qualifies the entitlement of a person to re-registration by limiting it to a right to re-registration on the same terms and conditions (if any) as applied to the person's registration immediately prior to the removal of the person's name from the Register.



**New subsection 29(3)** gives the Board a discretion to refuse re-registration to a person where the Board is satisfied that the person is not competent to practise as a dental hygienist or has engaged in conduct, whether in practising or not, that brings the profession into disrepute.

**New subsection 29(4)** provides that a person's right to re-registration is subject to the other provisions of the Act

***Clause 26 - Cancellation or suspension of registration***

**Clause 26** amends section 30 of the Act which deals with the cancellation and suspension of registration. The effect of the amendment is that the Board may cancel the registration of a person or order the suspension of the person's registration where the Board is satisfied that -

- . the registration of the person was obtained by fraud or misrepresentation,
- . the qualification of the person has been withdrawn or cancelled by the body which granted it;
- . the person has contravened the Act or the regulations,
- . the person has contravened a condition of his or her registration;
- . the person has been convicted of an offence punishable by imprisonment for more than one year or any offence which in the opinion of the Board renders the person unfit to practise,
- . the person has advertised with a view to procuring patients or practice or has sanctioned such advertisement;
- . the person has canvassed or engaged an agent to canvass to procure patients or practice;
- . the person is guilty of habitual drunkenness or addiction to a drug that renders the person unfit to practise,
- . the person has engaged in any conduct, whether occurring in the practise or not, that adversely affects the practise of the person or which brings the dental profession into disrepute,
- . the person has engaged any other improper or unethical conduct relating to the practice,
- . the person has failed to exercise adequate judgement or care in practise,

or

the person is not competent to practise

***Clause 27 - Substitution***

**Clause 27** repeals sections 30A and 31 of the Act and substitutes **new sections 30A, 30B, 30C, 30D and 31.**

***Cancellation, suspension or restriction of right of practise on health grounds***

**New section 30A** deals with the cancellation, suspension or restriction of a person's right to practise on health grounds

**New subsection 30A(1)** requires that subject to the provisions of **new subsection 30A(2)** the Board must cancel or order the suspension of the registration of a person where it is satisfied that the mental or physical condition of the person renders him or her unfit to practise

**New subsection 30A(2)** gives the Board the option of, instead of cancelling or suspending the registration of a person, directing by order, that the person not give or perform specified dental services where the Board is satisfied that the person remains fit to give or perform some services.

**New subsection 30A(3)** enables the Board, where it is requested to do so, to review the order and, where it is satisfied that the mental or physical condition of the person in respect of whom the order was made has changed, to amend or remove the order

**New subsection 30A(4)** deems a person upon whom the Board has served an order suspending or restricting practising rights and who provides a dental service in contravention of such an order to be other than a registered dentist, specialist dentist or dental hygienist.

***Practising when registration suspended***

**New subsection 30B** gives the Board a discretion to cancel or order the further suspension of a person whose registration has been suspended and who is convicted of an offence under section 34 of practising dentistry or holding himself or herself out as a dentist whilst the person is, by virtue of the suspension of his or her registration, deemed to be other than a registered dentist

*Power of Board to caution, reprimand, etc*

**New section 30C** provides the Board with a range of disciplinary or counselling options in addition to the options of cancellation, suspension or restriction of practising rights

It permits the Board to do one or more of the following in relation to the conduct of a registered dentist, specialist dentist or dental hygienist -

- . caution or reprimand the person;
- order the person to seek and undergo medical or psychiatric treatment or counselling,
- impose appropriate conditions upon the person's registration,
- order the person to complete specified educational courses,
- order that the person seek and follow advice in relation to his or her practise of dentistry from persons specified by the Board

However, in order to be consistent with the provisions of paragraph 20(4)(b) of the Mutual Recognition Act, **new subsection 30C(2)** specifies that **new paragraph 30C(1)(d)**, enabling the Board to order a person to complete specified educational courses, does not apply to a person who has obtained registration pursuant to that Act

*Power of Board to impose fines*

**New section 30D** provides the Board with a power to impose a fine upon a registered dentist, specialist dentist or dental hygienist

**New subsection 30D(1)** enables the Board to impose, by order, a fine, not exceeding \$1000, where the Board finds that a dentist has failed to comply with an order of the Board under **new section 30C**. However, this power is qualified by the operation of **new subsection 30D(2)** which prohibits the Board from imposing a fine in respect of conduct for which a court has already imposed a fine or other penalty

**New subsection 30D(3)** requires that a fine be paid to the Territory within the time specified in the order imposing the fine and **new subsection 30D(4)** empowers the Board to cancel or order the suspension of the registration of the person where he or she fails to comply with the order imposing the fine

*Inquiry by Board*

**New section 31** requires that the Board conduct an inquiry before taking certain disciplinary action.

**New subsection 31(1)** requires the Board to hold an inquiry prior to -

- cancelling the registration of a person, other than under new sections 23A, 23C(1), 23FB(2), 24(1) or 28(2);
- suspending the registration of a person other than under new subsection 23B(1),
- making an order under new subsection 30A(2), or
- taking action under subsection 30C(1),

however the Board may, by order, temporarily suspend the registration of a person pending the holding of an inquiry.

*Clause 28 - Publication of notice of decision*

**Clause 28** amends section 31B of the Act which enables the publication in the *Gazette* of a notice in respect of decisions of the Board or of the Administrative Appeals Tribunal, where the Tribunal reviews a decision of the Board.

The amendment applies the provision to decisions -

- cancelling registration,
- suspending registration, except under **new subsections 23B(1) or 31(2)**;
- imposing a condition on registration,
- directing a person to refrain from providing a specified dental service;
- ordering disciplinary or counselling action pursuant to **new section 30C**,
- and
- imposing a fine under **new section 30D**

*Clause 29 - Substitution*

**Clause 29** repeals sections 31C and 31D of the Act and inserts a **new section 31C** which explains that a registered dentist, specialist dentist or dental

hygienist whose registration is suspended shall be deemed not to be so registered during that period

Similarly, such a person who provides a dental service in contravention of a condition on his or her registration shall be deemed not to be so registered in respect of that service.

*Clause 30 - Application for re-registration*

*Clause 30* amends section 31E of the Act by omitting subsection (l) and inserting a new subsection 31E(l) to enable a person whose registration has been cancelled other than because his or her registration as a specialist has been removed from the Register of Dentists, because of his or her deregistration in another jurisdiction or for non-payment of an annual fee, or suspended otherwise than because his or her registration as a specialist has been suspended as a consequence of his or her suspension as a dentist or is suspended temporarily pending an inquiry by the Board to apply for re-registration or termination of the suspension, as the case may be, on the ground that by reason of a specified change in circumstances that has occurred since the date of the cancellation or suspension, it is just that the person should be re-registered or his or her suspension should be terminated

*Clause 31- Practising dentistry - registered dentists*

*Clause 31* amends section 34 of the Act to effect several consequential changes, to make some technical changes and to correct some sexist terms. The clause also provides a penalty of 50 penalty units or 6 months imprisonment or both for a breach of paragraph 34(1)(a) where an unregistered person gives or performs, for fee or reward, a dental service and a penalty of 30 penalty units for a breach of paragraph 31(1)(b) where a person holds himself or herself out as being registered

*Paragraph 31(e)* inserts new subsections 34(2), (3) and (4) which, respectively, create an offence, punishable by a fine of 30 penalty units, where a registered dentist holds himself or herself out as being a registered specialist dentist in a specialist branch of dentistry in which he or she is not registered; create an offence punishable by a fine of 50 penalty units or 6 months imprisonment or both in the case of an individual or 250 penalty units in the case of a corporation, where an employer permits an unregistered employee to provide a dental service or to provide a specialist dental service without specialist registration, and create an offence, punishable by a fine of 30 penalty units in the case of an individual or 150 penalty units in the case of a corporation, where an employer falsely holds out an employee as being a registered dentist or specialist

*Clause 32 - Insertion*

*Clause 32* inserts new sections 34A and 34B after section 34 of the Act

*Practising dentistry - dental therapists*

**New subsection 34A(1)** provides that a public servant who is a dental therapist or a person who is employed by the Territory or Territory Authority as a dental therapist, shall not carry out a procedure specified in subsection (4) except when under the direction of a registered dentist employed as such by the Territory or Territory Authority and when acting as a public servant. A penalty of 10 penalty units is provided.

**New subsection 34A(2)** ensures that a person referred to above shall only carry out a procedure on a person who is under the age of 17. The same level of penalty is provided.

**New subsection 34A(3)** explains what comprise direction and control for the purposes of subsection 34A(1).

**New subsection 34A(4)** sets out the various procedures which may be carried out for the purposes of subsection 34A(1).

*Practising dentistry - dental hygienists*

**New section 34B** creates an offence, punishable by a penalty 10 penalty units, where a dental hygienist carries out a range of procedures, otherwise than under the direction and control of a registered dentist (**subsection (1)**).

**New subsection 34B(2)** explains what comprise direction and control for the purposes of subsection 34B(1) and **new subsection 34B(3)** creates an offence, punishable by a penalty of 30 penalty units, where a servant, assistant, agent or manager permits any act or thing contrary to the section.

*Clause 33 - Medical practitioner may give dental services*

*Clause 33* makes 2 straightforward consequential amendments to section 36 of the Act.

*Clause 34 - Insertion*

*Clause 34* inserts a new Part IVAA headed "APPEALS" after Part IV of the Act. The clause inserts **new sections 39 and 39A** to provide for appeals against decisions of the Board and to require the notification of decisions to affected persons to reflect the altered discretionary powers of the Board.

*Review of decisions*

New section 39 enables a person to apply to the ACT Administrative Appeals tribunal in respect of a decision of the Board to -

- . impose conditions upon registration;
- . cancel interim registration;
- . refuse to review, alter or remove conditions upon registration,
- . alter or impose new conditions upon registration,
- refuse to register a person, refuse to re-register a person,
- cancel the registration of a person,
- suspend the registration of a person,
- direct a person not to provide a specified dental service,
- refuse to review, amend or revoke an order or to amend an order, directing a person not to provide a specified dental service,
- take one of the forms of disciplinary or counselling action under **new section 30C**;
- impose a fine,
- refuse to terminate the suspension of registration of a person,
- refuse to extend beyond 6 months the period during which the executor or executrix of a deceased registered dentist's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased,
- fix a period longer than 6 months during which the executor or executrix of a deceased registered dentist's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased, or
- certify what is a reasonable amount of fees for a dental service

*Notification of decisions*

New section 39A requires the Board to give written notice of particular

decisions of the Board, in respect of which an appeal may be made to the ACT Administrative Appeals Tribunal, to the person affected by the relevant decision

**New subsection 39B(1)** requires that a notice to a person of a decision referred to in **new subsection 39A** or under **new subsection 11(4)**, advising of the cancellation of interim registration, shall include a statement which complies with the Code of Practice under subsection 25B(1) of the *Administrative Appeals Tribunal Act 1989*

**New subsection 39B(2)** imposes a similar requirement in respect of a notice to a person in relation to an order suspending the person's registration, restricting the person's right to practise dentistry or fining the person.

**New subsection 39B(3)** prevents the validity of a decision of the Board dealt with in **new subsections 39B(1) and (2)** from being affected by a failure to comply with the notification requirements.

#### *Clause 35 - Substitution*

**Clause 35** repeals sections 38B and 39 of the Act and inserts a **new section 39C**.

#### *Inspection of registers*

**New subsection 39C(1)** entitles a person, on payment of the determined fee, to inspect and obtain a certified copy of an extract from the various registers and **new subsection 39B(2)** enables the Board to provide a copy to an external registration authority without payment of the fee.

#### *Clause 36 - Publication of registered dentists*

**Clause 36** amends section 40 of the Act by including **new subsections 40(2) and (3)** which require the Board, as soon as practicable after 1 July each year, to publish in the Gazette a list of registered specialist dentists and the specialist branch in which each is registered and a list of dental hygienists and the address of the person by whom each of them is employed.

#### *Clause 37 - Repeal*

**Clause 37** repeals the Schedule to the Act which is unnecessary following the repeal of section 22 of the Act by clause 13.

#### *Clause 38 - Further amendments*

**Clause 38** further amends the Act as detailed in the Schedule to the Bill. These amendments correct sexist terms and make various consequential and



technical changes.

## TRANSITIONAL AND SAVINGS PROVISIONS

### *Clause 39 - Register of Dental Hygienists continued*

The effect of *clause 39* is to make the Register of Dental Hygienists required to be kept under **new section 23GM** a continuation of the Register of Dental Hygienists required to be kept under repealed section 23G

### *Clause 40 - Continuation of registration*

*Clause 40* preserves the registration of persons who were registered, immediately before the commencement of the provisions of the Bill, under those provisions of the Act which are repealed by the Bill and replaced with new registration provisions.

### *Clause 41- Persons granted provisional registration*

*Clause 41* effects the conversion of the provisional registration held by a person prior to the repeal of section 23AB and the commencement of new section 11 to interim registration under **new section 11**

### *Clause 42 - Failure to pay annual fee under repealed provisions*

*Clause 42* has the effect of converting a failure to pay an annual fee under provisions which are repealed by the Bill to a failure to pay under the equivalent new provisions inserted in the Act.

*Subclause 42(1)* treats a failure to pay the annual fee under sections 23A or 23L, which are repealed by the Bill, as a failure to pay the annual fee under **new sections 23F or 27**, respectively

*Subclause 42(2)* treats the cancellation of a dentist's registration for a failure to pay an annual fee under sections 23A or 23L, which are repealed by the Bill, as a cancellation of registration for failure to pay an annual fee under the provisions of **new sections 23F or 27**, respectively, thus entitling the person to apply for re-registration under the provisions of **new sections 23FC or 29**, respectively

### *Clause 43 - Applications for registration*

*Clause 43* treats an application for registration under the provisions of the Act repealed by the Bill, which had not been determined prior to the commencement of the new registration provisions, as an application for registration under the new provisions

***Clause 44 - Continuation of inquiries and reviews***

***Subclause 44(1)*** preserves the application of the provisions of the Act in force immediately prior to the commencement of the amendments effected by the Bill in relation to any inquiry or review commenced under the Act and pending immediately before the commencement of the amendments.

***Subclause 44(2)*** treats an order, decision or determination resulting from an inquiry or review under the Act immediately prior to its amendment by the Bill as an order, decision or determination made under the Act as amended by the Bill and as having effect accordingly.

***Clause 45 - Complaints relating to previous conduct***

***Subclause 45(1)*** enables the holding of an inquiry under the Act, as amended by the Bill, with respect to conduct or any other matter or thing that occurred before, or partly before or partly after, the commencement of the amendments.

However ***subclause 45(2)*** qualifies this provision to the effect that such an inquiry may only be held if it is an inquiry which could have been held under the Act prior to the commencement of the amendments.

***Clause 46 - Existing orders***

***Clause 46*** converts an order which has effect under a provision of the Act repealed by the Bill to an equivalent order under the Act as amended

***Clause 47 - Renumbering of provisions***

***Clause 47*** is a technical provision which effects the renumbering of the Act as amended by the Bill. As a consequence of the numerous previous amendments made to the Act and the considerable number of amendments effected by the Bill the numbering of the provisions of the Act has become significantly disrupted. ***Clause 47*** renumbers the sections of the Act in a single series so that they bear consecutive numbers making the legislation more understandable