



AUSTRALIAN CAPITAL TERRITORY

Dentists (Amendment) Act 1996

No. 61 of 1996

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AUSTRALIAN CAPITAL TERRITORY

Dentists (Amendment) Act 1996

No. 61 of 1996

An Act to amend the *Dentists Registration Act 1931* and for related purposes

[Notified in ACT Gazette S321: 3 December 1996]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Dentists (Amendment) Act 1996*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

- (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Dentists Registration Act 1931*.¹

PART II—AMENDMENTS OF PRINCIPAL ACT

Long title

4. The long title of the Principal Act is amended by adding at the end “, and for other purposes”.

Short title

5. Section 1 of the Principal Act is amended by omitting “*Registration*”.

Interpretation

6. Section 4 of the Principal Act is amended—

(a) by omitting from subsection (1) the definition of “registered dentist” and substituting the following definition:

“ ‘registered dentist’ means a person—

(a) who is registered as a dentist under this Act; or

(b) who is to be deemed to be registered as a dentist under this Act by virtue of section 25 of the *Mutual Recognition Act*;”;

(b) by omitting from subsection (1) the definitions of “the Board”, “the Chairman”, “the Deputy Chairman” and “the Register”;

(c) by inserting in subsection (1) the following definitions:

“ ‘Board’ means the Dental Board established by section 5;

‘Chairperson’ means the Chairperson of the Board;

‘Deputy Chairperson’ means the Deputy Chairperson of the Board;

‘determined fee’ means the fee determined under section 41 for the purposes of the provision in which the expression occurs;

‘Mutual Recognition Act’ means the *Mutual Recognition Act 1992* of the Commonwealth;

‘registered’ means registered under this Act as a dentist, specialist dentist or dental hygienist, as the case may be;

‘registered dental hygienist’ means a person—

- (a) who is registered as a dental hygienist under this Act; or
- (b) who is to be deemed to be registered as a dental hygienist under this Act by virtue of section 25 of the Mutual Recognition Act;

‘registered medical practitioner’ means a person—

- (a) who is registered under the *Medical Practitioners Act 1930*; or
- (b) who is to be deemed to be registered under that Act by virtue of section 25 of the Mutual Recognition Act;

‘registered specialist dentist’ means a person—

- (a) who is registered in a specialist branch of dentistry under this Act; or
- (b) who is to be deemed to be registered in a specialist branch of dentistry under this Act by virtue of section 25 of the Mutual Recognition Act;

‘registration authority’ means a person or body empowered by a law of a place outside the Territory to register dentists or dental hygienists or otherwise authorise persons to practise as dentists or dental hygienists;

‘specialist branch of dentistry’ means one of the following:

- (a) dento maxillo-facial radiology;
- (b) endodontics;
- (c) oral and maxillo-facial surgery;
- (d) orthodontics;
- (e) paediatric dentistry;
- (f) periodontics;
- (g) prosthodontics;
- (h) any other prescribed branch of dentistry.”; and

(d) by omitting subsections (1A) and (2).

Insertion

7. After section 4 of the Principal Act the following sections are inserted in Part I:

Competence to practise as a dentist or dental hygienist

“4A. For the purposes of this Act, a person shall be taken to be competent to practise as a dentist or dental hygienist, as the case requires, only if the person has—

- (a) sufficient physical capacity, mental capacity and skill to practise as a dentist or dental hygienist, as the case requires; and
- (b) sufficient communication skills to practise as a dentist or dental hygienist, as the case requires, including an adequate command of the English language.

Impairment

“4B. (1) For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person’s physical or mental capacity to practise as a dentist or dental hygienist, as the case requires.

“(2) For the purposes of subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.”.

Heading to Part III

8. The heading to Part III of the Principal Act is amended by omitting “**AND QUALIFICATIONS**” and substituting “**OF DENTISTS**”.

Substitution

9. The heading to Division 1 of Part III of the Principal Act is omitted and the following Divisions and Division heading are substituted:

*“Division 1—Qualifications for registration as a Dentist or Specialist
Dentist*

Entitlement to registration as a dentist

“7. (1) A person is entitled to be registered as a dentist if—

- (a) the person 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

(b) the person has—

- (i) completed a course of education or training in dentistry in a place outside Australia, being a course that is accredited by the Board;
- (ii) passed such examinations as the Board requires; and
- (iii) undertaken such further education or training and gained such experience in practising dentistry, for such period not exceeding 12 months, as the Board determines.

“(2) The Board shall not accredit a course under subparagraph (1) (b) (i) unless the course is substantially equivalent to a course referred to in paragraph (1) (a).

Entitlement to registration as a specialist dentist

“8. A person is entitled to be registered as a specialist dentist if the person—

- (a) is registered as a dentist;
- (b) holds a qualification in a specialist branch of dentistry, being a qualification that is accredited by the Board or approved by a registration authority of a State or another Territory; and
- (c) has gained experience practising in that specialist branch of dentistry by holding an appointment in a hospital approved by the Board, or by practising in such circumstances as the Board considers warrants his or her being regarded as a specialist dentist.

Registration under mutual recognition principle

“9. (1) A person who is licensed or registered as a dentist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a dentist under this Act.

“(2) A person who is licensed or registered as a specialist dentist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a specialist dentist in the same specialist branch of dentistry under this Act.

“(3) If the person’s licence or registration in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

“(4) If the person’s licence or registration in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that licence or registration is subject or conditions appropriate to give effect to any restriction to which that licence or registration is subject.

Registration at discretion of Board

“10. (1) Where a person is a graduate of a course of education or training in dentistry that is not accredited by the Board or approved by a registration authority of a State or another Territory, the Board may register the person as a dentist on a temporary basis to enable him or her to—

- (a) undertake a course of education or training approved by the Board; or
- (b) gain experience in practising dentistry.

“(2) The Board may register a person as a dentist for the purpose of enabling the person to fill a teaching or research position if—

- (a) the person has qualifications that the Board considers appropriate for that purpose; and
- (b) the application is supported in writing by the hospital, professional association, university or other institution by which it is proposed that the person be engaged for that purpose.

“(3) The Board may register a person as a dentist on a temporary basis if satisfied that it is in the public interest to do so.

“(4) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

Interim registration

“11. (1) An applicant for registration as a dentist may be granted interim registration where the person—

- (a) is entitled to registration under section 7 but it is not practicable to wait until the Board can consider the application; or
- (b) would be entitled to registration under section 7 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

“(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant an applicant for registration interim registration in accordance with this section.

“(3) Interim registration granted to a person under this section remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- (a) granted him or her registration;
- (b) refused his or her application for registration; or
- (c) cancelled the interim registration.

“(4) The Board may cancel a person’s interim registration for any reason that it considers proper and shall immediately give the person notice in writing of the cancellation.

“(5) A person who holds interim registration is for all purposes to be taken to be a registered dentist.

Conditions of registration in cases of impairment

“12. (1) The Board may impose conditions on a person’s registration as a dentist if satisfied that—

- (a) the person suffers from an impairment; and
- (b) the conditions are reasonably required having regard to the impairment.

“(2) Where conditions have been imposed on a person’s registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if satisfied that—

- (a) the person no longer suffers from the impairment; or
- (b) the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

Refusal of registration where applicant convicted of offence

“13. (1) Subject to subsection (3), the Board may refuse an application for registration as a dentist or specialist dentist if—

- (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and
- (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise dentistry.

“(2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

“(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Refusal of registration where applicant deregistered under foreign law

“14. (1) Subject to subsection (4), the Board may refuse an application for registration as a dentist if the applicant’s name has been removed from a foreign register of dentists for any reason relating to conduct of the person as a dentist or on any basis relating to the person’s physical or mental capacity to practise dentistry.

“(2) Subject to subsection (4), the Board may refuse an application for registration as a specialist dentist if the applicant’s name has been removed from a foreign register of specialist dentists for any reason relating to conduct of the person as a specialist dentist or on any basis relating to the person’s physical or mental capacity to practise the branch of specialist dentistry in relation to which he or she has applied for registration.

“(3) A person’s name shall be taken to have been removed from a foreign register of dentists or specialist dentists if it is removed from any register or roll established or kept under any law of a State, another Territory or a place outside Australia providing for the registration or licensing of dentists or specialist dentists, as the case requires, or the authorisation of persons to practise dentistry or a specialist branch of dentistry, as the case requires.

“(4) Subsections (1) and (2) do not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Applicants to be competent etc

“15. (1) Subject to subsection (2), the Board shall not register a person as a dentist unless satisfied that he or she—

- (a) is competent to practise dentistry; and
- (b) has not, within the period of 10 years preceding the date of application for registration, engaged in any conduct that would, were he or she registered, bring the dental profession into disrepute.

“(2) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Restriction on registration of deregistered or suspended persons

“16. (1) Subject to subsection (2), a person whose registration as a dentist or specialist dentist has been cancelled (otherwise than under subsection 23A (1), section 23C or subsection 23FB (2)) or suspended (otherwise than under subsection 23B (1) or 31 (2)) may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 31E.

“(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

“Division 2—Registration procedure for Dentists and Specialist Dentists

Applications for registration

“17. (1) This section 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.

“(2) An application for registration to which this section applies shall be—

- (a) in a form approved by the Board; and
- (b) accompanied by the determined fee.

Applications to be considered and determined

“18. The Board shall consider each application under section 17 and shall determine the application by—

- (a) registering the applicant unconditionally or subject to conditions;
or
- (b) refusing the application.

Registration of applicants

“18A. Where a person who is applying for registration as a dentist or specialist dentist otherwise than under the Mutual Recognition Act—

- (a) complies with section 17;
- (b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so; and
- (c) is entitled to registration in accordance with this Act;

the Board shall, subject to this Act, cause the applicant to be registered as a dentist or specialist dentist, as the case requires.

Fee for registration pursuant to Mutual Recognition Act

“18B. A person who applies for registration as a dentist or specialist

dentist under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

Conditions of registration

“18C. The conditions that the Board may impose on registration at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be engaged and conditions relating to any other matters the Board considers appropriate.

“Division 3—Registers and related matters”.

Register of Dentists

10. Section 19 of the Principal Act is amended—

- (a) by omitting “ ‘The Register’ and substituting “the ‘Register’”; and
- (b) by adding at the end the following subsection:

“(2) The Register may be maintained by electronic means.”.

Insertion

11. After section 19 of the Principal Act the following section is inserted:

Register of Specialist Dentists

“19A. (1) The Board shall keep a Register to be called the ‘Register of Specialist Dentists’.

“(2) The Register may be maintained by electronic means.”.

Particulars to be entered in Register of Dentists

12. Section 20 of the Principal Act is amended—

- (a) by inserting in subsection (1) “of Dentists” after “Register”;
- (b) by inserting in paragraph (1) (b) “or she” after “he”;
- (c) by inserting in paragraph (1) (b) “or her” after “his”;
- (d) by omitting from paragraph (1) (d) “and”;
- (e) by adding at the end of subsection (1) the following paragraphs:
 - “(f) the provision by virtue of which the person is entitled to be registered;
 - (g) any condition to which the person’s registration is subject; and
 - (h) such other particulars, if any, as are prescribed.”; and
- (f) by omitting subsection (2).

Substitution

13. Sections 22 and 23A of the Principal Act are repealed and the following sections substituted:

Particulars to be entered in Register of Specialist Dentists

“21. The registration of a person as a specialist dentist shall be effected by entering in the Register of Specialist Dentists—

- (a) the name of the person;
- (b) the specialist branch of dentistry in which the person is being registered;
- (c) the qualifications of the person relevant to practising that specialist branch of dentistry;
- (d) the date of registration;
- (e) the provision by virtue of which the person is entitled to be registered;
- (f) any condition to which the person’s registration is subject;
- (g) the registration number allotted to the person in the Register of Dentists; and
- (h) such other particulars, if any, as are prescribed.

Certificate of registration

“22. (1) Where a person is registered as a dentist, the Board shall cause to be issued to the person a certificate of registration signed by the Chairperson or Deputy Chairperson.

“(2) A certificate of registration shall—

- (a) state the provision by virtue of which the person specified in the certificate is entitled to be registered as a dentist;
- (b) where the person is registered as a specialist dentist—state the specialist branch of dentistry in which the person is registered and the provision by virtue of which the person is entitled to be registered as a specialist dentist; and
- (c) set out any conditions to which his or her registration as a dentist or specialist dentist is subject.

“(3) The Board may, by notice in writing, require a person registered as a specialist dentist and to whom a certificate of registration as a dentist has been issued, to deliver his or her certificate of registration to the Board within 14 days after the date of receipt of the notice for the purpose of enabling the Board to endorse on the certificate details of the person’s registration as a specialist dentist.

“(4) A certificate of registration is evidence that the person specified in

the certificate was registered as a dentist and, if applicable, as a specialist dentist, on the date or dates specified in the certificate.

“(5) Where a person’s certificate of registration has been lost or destroyed the Board shall, on payment of the determined fee, cause a duplicate certificate to be issued to the person.

“(6) The Board may, by notice in writing, require a dentist or specialist dentist whose registration is cancelled or suspended to deliver his or her certificate of registration to the Board within 14 days after the date of receipt of the notice.

“(7) If the registration of a person as a specialist dentist is cancelled, the Board shall, on receipt of the certificate of registration in accordance with subsection (6), issue to the dentist a certificate of registration as a dentist.

“(8) Where a person whose registration as a dentist has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person’s registration as a dentist has sooner been cancelled.

“(9) Where the Board suspends the registration of a person as a specialist dentist, the Board shall, on receipt of the certificate of registration in accordance with subsection (6)—

- (a) retain the certificate during the period of the suspension;
- (b) cause a temporary certificate of registration as a dentist to be issued to the person for that period; and
- (c) return the first mentioned certificate to the person at the expiration of that period unless—
 - (i) the person’s registration as a dentist has sooner been suspended or cancelled; or
 - (ii) the person’s registration as a specialist dentist has sooner been cancelled.

“(10) Where, after a certificate of registration has been issued to a person—

- (a) conditions are imposed on the registration of the person as a dentist or specialist dentist; or
- (b) conditions imposed on the registration of the person as a dentist or specialist dentist are varied;

the Board may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days after the date of receipt of the notice for the purpose of enabling a statement of the conditions imposed, or the conditions as varied, to be endorsed on

the certificate.

“(11) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (3), (6) or (10).

Penalty: 5 penalty units.”.

Change of address to be notified

14. Section 23AA of the Principal Act is amended—

(a) by omitting paragraph (a) and substituting the following paragraph:

“(a) a change occurs in an address of a registered dentist shown in the Register of Dentists; or”; and

(b) by omitting “one” and “Chairman” and substituting “1” and “Chairperson”, respectively.

Repeal

15. Sections 23AB, 23AC, 23AD and 23AE of the Principal Act are repealed.

Alteration of Register

16. Section 23AF of the Principal Act is amended—

(a) by omitting subsection (1) and substituting the following subsections:

“(1) The Board shall cause to be removed from the Register of Dentists the name of—

(a) a registered dentist who has died; or

(b) a registered dentist whose registration as a dentist has been cancelled.

“(1A) The Board shall cause to be removed from the Register of Specialist Dentists, the name of—

(a) a registered specialist dentist whose name has been removed from the Register of Dentists; or

(b) a registered specialist dentist whose registration as a specialist dentist has been cancelled.”;

(b) by inserting in subsection (2) “of Dentists or the Register of Specialist Dentists” after “Register”;

(c) by inserting in subsection (3) “of Dentists or the Register of Specialist Dentists” after “Register”; and

(d) by omitting from subsection (3) “it is satisfied that the prescribed” and substituting “satisfied that the determined”.

Substitution

17. Division 2 of Part III of the Principal Act is repealed and the following sections and Division are substituted:

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

“23A. (1) Where the Board has removed from the Register of Dentists the name of a person who is registered as a specialist dentist, the Board shall cancel the registration of the person as a specialist dentist.

“(2) Where—

- (a) the name of a person whose registration as a specialist dentist has been cancelled under subsection (1), is restored to the Register of Dentists; and
- (b) the person applies to the Board to be re-registered as a specialist dentist;

the Board shall re-register the person as a specialist dentist.

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

“23B. (1) Where the Board has suspended the registration as a dentist of a person who is registered as a specialist dentist, the Board shall suspend the registration of the person as a specialist dentist during the same period.

“(2) Where the suspension of the registration as a dentist of a person referred to in subsection (1) is terminated, the Board shall terminate the suspension of the registration of the person as a specialist dentist.

Deregistration on basis of disciplinary action under foreign law

“23C. (1) Where the Board is satisfied that the name of a person who is registered as a dentist under this Act has been removed from a register or roll of dentists kept under a law of a State or another Territory for any reason relating to—

- (a) conduct of the person as a dentist; or
- (b) the physical or mental capacity of the person to practise dentistry;

the Board shall cancel the registration of the person as a dentist.

“(2) Where—

- (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register or roll referred to in that subsection; and
- (b) the person applies to the Board to be re-registered under this Act;

the Board shall re-register the person as a dentist or specialist dentist, as the case requires.

“(3) Where the Board is satisfied that the name of a person who is registered as a dentist under this Act has been removed from any register or roll of dentists kept under a law of a place outside Australia for any reason relating to—

- (a) conduct of the person as a dentist; or
- (b) the physical or mental capacity of the person to practise dentistry;

the Board may cancel the registration of the person as a dentist.

“(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

Imposition of conditions imposed under foreign law

“23D. (1) Where the Board is satisfied that after a person has been registered as a dentist under this Act a condition has been imposed on the registration of the person as a dentist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person as a dentist under this Act.

“(2) Where the Board is satisfied that after a person has been registered as a dentist under this Act a condition has been imposed on the registration of the person as a dentist under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person as a dentist under this Act.

Cessation of registration

“23E. A person who is registered as a dentist or specialist dentist ceases to be so registered—

- (a) when the Board gives the person notice that his or her registration as a dentist or specialist dentist has been cancelled in accordance with this Act; or
- (b) if registration is conditional and the period of registration is specified in a condition—when that period expires.

“Division 4—Annual fees for Dentists and Specialist Dentists

Annual fee payable by registered dentist

“23F. (1) A registered dentist shall, on or before 1 July in each year, pay the Territory the determined fee.

“(2) The Board shall cause to be sent to each registered dentist, not less than 1 month before 1 July in each year, a notice requiring him or her to comply with subsection (1).

“(3) The liability of a registered dentist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with

subsection (2).

Annual fee payable by registered specialist dentist

“23FA. (1) A registered specialist dentist shall, on or before 1 July in each year, pay the Territory the determined fee.

“(2) The Board shall cause to be sent to each registered specialist dentist, not less than 1 month before 1 July in each year, a notice requiring him or her to comply with subsection (1).

“(3) The liability of a registered specialist dentist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

Registration to be cancelled for non-payment

“23FB. (1) Where a person who is a registered dentist or registered specialist dentist does not comply with subsection 23F (1) or 23FA (1), the Board shall cause to be sent to the person a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration as a dentist or specialist dentist, as the case requires, will be cancelled.

“(2) The Board shall cancel the registration as a dentist or specialist dentist, as the case requires, of a person to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

Entitlement to re-registration if fee paid

“23FC. (1) A person whose name has been removed from the Register of Dentists or the Register of Specialist Dentists for failure to pay an annual fee is entitled to be re-registered if he or she—

- (a) makes application in a form approved by the Board; and
- (b) pays the determined fee.

“(2) The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions, if any, as applied to the person’s registration immediately before the removal of his or her name from the Register of Dentists or the Register of Specialist Dentists, as the case may be.

“(3) The Board may refuse to re-register a person under this section if satisfied that he or she—

- (a) is not competent to practise dentistry; and
- (b) has engaged in any conduct, whether occurring in practising as a dentist or specialist dentist or not, that brings the dental profession into disrepute.

“(4) An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person’s name is authorised or required to be removed from the Register of Dentists or the Register of Specialist Dentists.”.

Substitution of headings

18. The heading to Division 3 of Part III of the Principal Act is omitted and the following Part heading and Division heading are substituted:

“PART IIIA—REGISTRATION OF DENTAL HYGIENISTS

“Division 1—Preliminary”.

Interpretation

19. Section 23G of the Principal Act is amended by omitting “Division” and substituting “Part”.

Insertion

20. After section 23G of the Principal Act the following Divisions, Division heading and section are inserted:

“Division 2—Qualifications for registration as a Dental Hygienist

Entitlement to registration

“23GA. (1) A person is entitled to be registered as a dental hygienist if—

- (a) the person 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 by a registration authority of a State or another Territory; or
- (b) the person—
 - (i) has completed a course of education or training as a dental hygienist in a place outside Australia, being a course that is accredited by the Board;
 - (ii) has passed such examinations as the Board requires; and
 - (iii) has undertaken such further education or training and gained such experience in practising as a dental hygienist, for such period not exceeding 12 months, as the Board determines.

“(2) The Board shall not accredit a course under subparagraph (1) (b) (i) unless the course is substantially equivalent to a course referred to in paragraph (1) (a).

Registration under mutual recognition principle

“23GB. (1) A person who is licensed or registered as a dental hygienist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a dental hygienist under this Act.

“(2) If the person’s licence or registration in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

“(3) If the person’s licence or registration in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that licence or registration is subject or conditions appropriate to give effect to any restriction to which that licence or registration is subject.

Conditions of registration in cases of impairment

“23GC. (1) The Board may impose conditions on a person’s registration as a dental hygienist if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

“(2) Where conditions have been imposed on a person’s registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if satisfied—

- (a) that the person no longer suffers from the impairment; or
- (b) that the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

Refusal of registration where applicant deregistered under foreign law

“23GD. (1) Subject to subsection (3), the Board may refuse an application for registration as a dental hygienist if the applicant’s name has been removed from a foreign register of dental hygienists for any reason relating to 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.

“(2) A person’s name shall be taken to have been removed from a foreign register of dental hygienists if it is removed from any register or roll established or kept under any law of a State, another Territory or a place outside Australia providing for the registration or licensing of dental hygienists or the authorisation of persons to practise as dental hygienists.

“(3) Subsection (1) does not apply in relation to a person who is

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

Applicants to be competent etc.

“23GE. (1) Subject to subsection (2), the Board shall not register a person as a dental hygienist unless satisfied that he or she—

- (a) is competent to practise as a dental hygienist; and
- (b) has not, within the period of 10 years preceding the date of application for registration, engaged in any conduct that would, were he or she registered, bring the dental profession into disrepute.

“(2) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Restriction on registration of deregistered or suspended persons

“23GF. (1) Subject to subsection (2), a person whose registration as a dental hygienist has been cancelled (otherwise than under section 24 or subsection 28 (2)) or suspended (otherwise than under subsection 31 (2)) may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 31E.

“(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

“Division 3—Registration procedure for Dental Hygienists

Applications for registration

“23GG. (1) This section 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.

“(2) An application for registration to which this section applies shall—

- (a) be in a form approved by the Board; and
- (b) be accompanied by the determined fee.

Applications to be considered and determined

“23GH. The Board shall consider each application under section 23GG and shall determine the application by—

- (a) registering the applicant unconditionally or subject to conditions;
or
- (b) refusing the application.

Registration of applicants

“23GJ. Where a person who is applying for registration as a dental hygienist otherwise than under the Mutual Recognition Act—

- (a) complies with section 23GG;
- (b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so; and
- (c) is entitled to registration in accordance with this Act;

the Board shall, subject to this Act, cause the applicant to be registered as a dental hygienist.

Fee for registration pursuant to Mutual Recognition Act

“23GK. A person who applies for registration as a dental hygienist under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

Conditions of registration

“23GL. The conditions that the Board may impose on registration as a dental hygienist at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be engaged and conditions relating to any other matters the Board considers appropriate.

“Division 4—Register of Dental Hygienists

Register

“23GM. (1) The Board shall keep a Register to be called the ‘Register of Dental Hygienists’.

“(2) The Register may be maintained by electronic means.”.

Particulars to be entered in Register

21. Section 23H of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “one” and substituting “1”;
- (b) by inserting in paragraph (1) (b) “or she” after “he”;
- (c) by inserting in paragraph (1) (b) “or her” after “his”;
- (d) by omitting from paragraph (1) (d) “and”;
- (e) by adding at the end of subsection (1) the following paragraphs:
 - “(f) the provision by virtue of which the person is entitled to be registered;
 - (g) any condition to which the person’s registration is subject; and
 - (h) such other particulars, if any, as are prescribed.”; and

(f) by omitting subsection (2).

Substitution

22. Sections 23J, 23K and 23L of the Principal Act are repealed and the following section is substituted:

Certificate of registration

“23J. (1) Where a person is registered as a dental hygienist under this Act, the Board shall cause to be issued to the person a certificate of registration signed by the Chairperson or Deputy Chairperson.

“(2) A certificate of registration shall state the provision by virtue of which the person specified in the certificate is entitled to be registered as a dental hygienist and set out any conditions to which his or her registration is subject.

“(3) A certificate of registration is evidence that the person specified in the certificate was registered as a dental hygienist on the date specified in the certificate.

“(4) Where a person’s certificate of registration has been lost or destroyed the Board shall, on payment of the determined fee, cause a duplicate certificate to be issued to the person.

“(5) Where the registration of a person has been cancelled or suspended the Board shall, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days.

“(6) Where a person whose registration as a dental hygienist has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person’s registration has sooner been cancelled.

“(7) Where, after a certificate of registration has been issued to a person—

(a) conditions are imposed on the registration of the person; or

(b) conditions imposed on the registration of the person are varied;

the Board may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

“(8) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (5) or (7).

Penalty: 5 penalty units.”.

Change of address to be notified

23. Section 23LA of the Principal Act is amended—

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:
 - “(a) an address shown in the Register as an address of the person by whom a registered dental hygienist is employed ceases to be such an address; and”;
- (b) by omitting from subsection (1) “one” and “Chairman” and substituting “1” and “Chairperson”, respectively;
- (c) by inserting in subsection (1) “or she” after “he”;
- (d) by omitting from subsection (2) “he shall, within one” and substituting “he or she shall within 1”;
- (e) by omitting from subsection (2) “Chairman” and substituting “Chairperson”;
- (f) by inserting in subsection (2) “or her” after “his”;
- (g) by inserting in subsection (3) “or she” after “he” (wherever occurring); and
- (h) by omitting from subsection (3) “one” and “Chairman” and substituting “1” and “Chairperson”, respectively.

Alteration of Register

24. Section 23LB of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:
 - “(1) The Board shall cause to be removed from the Register the name of—
 - (a) a registered dental hygienist who has died; or
 - (b) a registered dental hygienist whose registration has been cancelled.”; and
- (b) by omitting from subsection (3) “it is satisfied that the prescribed” and substituting “satisfied that the determined”.

Substitution

25. Division 4 of Part III of the Principal Act is repealed and the following sections and Division are substituted:

Deregistration on basis of disciplinary action under foreign law

“24. (1) Where the Board is satisfied that the name of a person who is registered as a dental hygienist under this Act has been removed from a register or roll of dental hygienists kept under a law of a State or another

Territory for any reason relating to—

- (a) conduct of the person as a dental hygienist; or
- (b) the physical or mental capacity of the person to practise as a dental hygienist;

the Board shall cancel the registration of the person.

“(2) Where—

- (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register or roll referred to in that subsection; and
- (b) the person applies to the Board to be re-registered under this Act;

the Board shall re-register the person as a dental hygienist.

“(3) Where the Board is satisfied that the name of a person who is registered as a dental hygienist under this Act has been removed from any register or roll of dental hygienists kept under a law of a place outside Australia for any reason relating to—

- (a) conduct of the person as a dental hygienist; or
- (b) the physical or mental capacity of the person to practise as a dental hygienist;

the Board may cancel the registration of the person.

“(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

Imposition of conditions imposed under foreign law

“25. (1) Where the Board is satisfied that after a person has been registered as a dental hygienist under this Act a condition has been imposed on the registration of the person as a dental hygienist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

“(2) Where the Board is satisfied that after a person has been registered as a dental hygienist under this Act a condition has been imposed on the registration of the person as a dental hygienist under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person under this Act.

Cessation of registration

“26. A person who is registered as a dental hygienist ceases to be so registered—

- (a) when the Board gives the person notice that his or her registration has been cancelled in accordance with this Act; or
- (b) if registration is conditional and the period of registration is specified in a condition—when that period expires.

“Division 5—Annual fees for Dental Hygienists

Annual fee payable

“27. (1) A registered dental hygienist shall, on or before 1 July in each year, pay the Territory the determined fee.

“(2) The Board shall cause to be sent to each registered dental hygienist, not less than 1 month before 1 July in each year, a notice requiring him or her to comply with subsection (1).

“(3) The liability of a registered dental hygienist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

Registration to be cancelled for non-payment

“28. (1) Where a registered dental hygienist does not comply with subsection 27 (1), the Board shall cause to be sent to the dental hygienist a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

“(2) The Board shall cancel the registration of a dental hygienist to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

Entitlement to re-registration if fee paid

“29. (1) A person whose name has been removed from the Register for failure to pay an annual fee is entitled to be re-registered if he or she—

- (a) makes application in a form approved by the Board; and
- (b) pays the determined fee.

“(2) The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions, if any, as applied to the person’s registration immediately before the removal of his or her name from the Register.

“(3) The Board may refuse to re-register a person under this section if satisfied that he or she—

- (a) is not competent to practise as a dental hygienist; and

- (b) has engaged in any conduct, whether occurring in practising as a dental hygienist or not, that brings the dental profession into disrepute.

“(4) An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person’s name is authorised or required to be removed from the Register.”.

Cancellation or suspension of registration

26. Section 30 of the Principal Act is amended—

- (a) by omitting subsections (1), (2), (3), (4) and (5) and substituting the following subsection:

“(1) The Board may—

- (a) cancel the registration of a person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit;

if satisfied that—

- (c) the registration of the person was obtained by fraud or misrepresentation;
- (d) the qualification of the person which entitled him or her to registration has been withdrawn or cancelled by the body which granted it;
- (e) the person has contravened this Act or the regulations;
- (f) the person has contravened a condition to which his or her registration under this Act is subject;
- (g) the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the Board, renders him or her unfit to practise as a dentist or dental hygienist, as the case requires;
- (h) the person has advertised for the purpose of procuring patients or practice, or has sanctioned, or been associated with or employed by a person who sanctions, such an advertisement;
- (j) the person has canvassed or employed an agent or canvasser for the purpose of procuring patients or practice, or has sanctioned, or been associated with or employed by a person who sanctions, the employment of an agent or canvasser for that purpose;
- (k) the person is guilty of habitual drunkenness, or addiction to a deleterious drug, that renders him or her unfit to

practise as a dentist or dental hygienist, as the case requires;

- (m) the person has engaged in conduct, whether occurring in practising as a dentist, or dental hygienist or not, that—
 - (i) adversely affects the way the person practises as a dentist or dental hygienist, as the case requires; or
 - (ii) brings the dental profession into disrepute;
 - (n) the person has engaged in any improper or unethical conduct in relation to practising as a dentist or dental hygienist, as the case requires;
 - (o) the person has failed to exercise adequate judgment or care in practising as a dentist or dental hygienist, as the case requires; or
 - (p) the person is not competent to practise as a dentist or dental hygienist, as the case requires.”; and
- (b) by omitting from subsection (6) “subsection (5)” and substituting “paragraph (1) (h)”.

Substitution

27. Sections 30A and 31 of the Principal Act are repealed and the following sections substituted:

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

“30A. (1) Subject to subsection (2), the Board shall, if satisfied that the mental or physical condition of a person who is registered renders him or her unfit to practise—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

“(2) The Board may, instead of cancelling or suspending the registration of a person, if satisfied that the person is fit to give or perform some dental services and that it would not be contrary to the public interest to make an order under this subsection, by order served on the person, direct the person not to give or perform the dental services specified, whether individually or otherwise, in the order.

“(3) Where the Board has made an order under subsection (2) in relation to a person, it may, if so requested by the person, review the order and, if satisfied that the mental or physical condition of the person has changed since the order was made, amend or revoke the order.

“(4) A person on whom an order under paragraph (1) (b) or

subsection (2) has been served who gives or performs a dental service in contravention of that order shall, in giving or performing the service, be deemed to be a person who is not registered.

Practising when registration suspended

“30B. Where a person whose registration has been suspended is convicted of an offence against section 34, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such further period as the Board thinks appropriate.

Power of Board to caution, reprimand etc.

“30C. (1) Subject to subsection (2), the Board may do any 1 or more of the following in relation to the conduct of a person who is registered:

- (a) caution or reprimand the person;
- (b) order that the person seek and undergo medical or psychiatric treatment or counselling;
- (c) impose on the person’s registration such conditions as the Board considers appropriate relating to the person practising as a dentist, specialist dentist or dental hygienist, as the case requires;
- (d) order that the person complete specified educational courses;
- (e) order that the person seek and follow advice, in relation to his or her practice as a dentist from persons specified by the Board.

“(2) Paragraph (1) (d) does not apply in relation to a registered dentist or dental hygienist, as the case requires, who obtained registration under this Act pursuant to the Mutual Recognition Act.

Power of Board to impose fines

“30D. (1) Subject to subsection (2), where the Board finds that a person who is registered has failed to comply with an order under paragraph 30C (1) (b), (d) or (e) it may, by order served on the person, impose on him or her a fine not exceeding \$1,000.

“(2) The Board shall not impose a fine under subsection (1) in respect of conduct for which a court has already imposed a fine or other penalty.

“(3) A fine imposed under this section shall be paid to the Territory within the time specified in the order imposing the fine.

“(4) Where a person on whom the Board has imposed a fine under subsection (1) fails to pay the fine by the time specified in the order, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the

person for such period as the Board thinks fit.

Inquiry by Board

“31. (1) The Board shall hold an inquiry before—

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

“(2) Pending the holding of an inquiry under subsection (1), the Board may, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person.”.

Publication of notice of decision

28. Section 31B of the Principal Act is amended—

- (a) by omitting from subsection (1) “Chairman” and substituting “Chairperson”;
- (b) by inserting in subsection (1) “or she” after “he”; and
- (c) by omitting paragraphs (1) (a), (b) and (c) and substituting the following paragraphs:
 - “(a) cancelling the registration of a person;
 - (b) suspending, otherwise than under subsection 23B (1) or 31 (2), the registration of a person;
 - (c) imposing conditions on the registration of a person;
 - (d) making or amending an order under subsection 30A (2);
 - (e) taking any action under subsection 30C (1); or
 - (f) imposing a fine on a person under subsection 30D (1);”.

Substitution

29. Sections 31C and 31D of the Principal Act are repealed and the following section is substituted:

Effect of suspension and conditions

“31C. For the purposes of this Act, a registered dentist or registered dental hygienist whose registration is suspended shall be deemed, during the period of the suspension, not to be registered as a dentist or dental hygienist, as the case requires.”.

Application for re-registration

30. Section 31E of the Principal Act is amended—

(a) by omitting subsection (1) and substituting the following subsection:

“(1) A person whose registration—

- (a) has been cancelled, otherwise than under subsection 23A (2), section 23C, subsection 23FB (2), section 24 or subsection 28 (2); or
- (b) has been suspended, otherwise than under subsection 23B (1) or 31 (2);

may apply in writing to the Board 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, the person should be re-registered or the suspension should be terminated.”; and

(b) by omitting from subsection (2) “it is”.

Practising dentistry—registered dentists

31. Section 34 of the Principal Act is amended—

(a) by omitting from subsection (1) “A person” and substituting “Subject to sections 34A and 34B, a person”;

(b) by inserting in paragraph (1) (b) “or herself” after “himself”;

(c) by inserting in paragraph (1) (b) “or she” after “he” (wherever occurring);

(d) by adding at the foot of subsection (1) the following penalty provision:

“Penalty:

- (a) for a contravention of paragraph (1) (a)—50 penalty units or imprisonment for 6 months, or both;
- (b) for a contravention of paragraph (1) (b)—30 penalty units.”; and

(e) by omitting subsections (1B), (1C), (1D), (1E) and (2) and substituting the following subsections:

“(2) A registered dentist shall not, without reasonable excuse—

- (a) advertise or hold himself or herself out as being; or

- (b) in any manner pretend to be or to possess the status of, or take or use a name or title (alone or in conjunction with any other title, word or letter) implying, or that may be construed to imply that he or she is;

a person registered or entitled to be registered as a specialist dentist in a specialist branch of dentistry in relation to which he or she is not registered.

Penalty: 30 penalty units.

“(3) A person shall not, without reasonable excuse, in the course of a business carried on by the person, permit a person employed or engaged by him or her to provide, or offer to provide—

- (a) a dental service, unless that other person is a registered dentist; or
- (b) a dental service as a specialist dentist, unless that other person is registered as a specialist in the specialist branch of dentistry to which the service relates.

Penalty:

- (a) for a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) for a body corporate—250 penalty units.

“(4) A person shall not, without reasonable excuse, in the course of a business carried on by the person, by advertisement or otherwise, hold out a person employed or engaged by him or her as being a person who—

- (a) is qualified or authorised to practise dentistry;
- (b) practises dentistry; or
- (c) is a registered specialist dentist;

unless that other person is a registered dentist or registered specialist dentist, as the case requires.

Penalty:

- (a) for a natural person—30 penalty units;
- (b) for a body corporate—150 penalty units.

“(5) Subsection (2) and paragraphs (3) (b) and (4) (c) do not apply to a person—

- (a) who is registered pursuant to subsection 9 (1); and

- (b) who was not required by a law in force in the State or other Territory entitling him or her to registration under this Act to be registered as a specialist dentist.”.

Insertion

32. After section 34 of the Principal Act the following sections are inserted:

Practising dentistry—dental therapists

“34A. (1) A person who is—

- (a) a public servant designated as a dental therapist; or
- (b) otherwise employed or engaged by the Territory or a Territory authority as a dental therapist;

shall not carry out or perform an approved dental procedure on another person, except—

- (c) under the direction and control of a registered dentist employed or engaged by the Territory or a Territory authority as a registered dentist; and
- (d) as a public servant.

Penalty: 10 penalty units.

“(2) A person referred to in subsection (1) shall not carry out or perform an approved dental procedure on a person who has attained 17 years of age.

Penalty: 10 penalty units.

“(3) For the purposes of subsection (1), a dental therapist shall be taken to be under the direction and control of a registered dentist if the registered dentist would be available to the dental therapist within a reasonable time (having regard to the distance involved and the type of assistance required) to assist the dental therapist if assistance were required.

“(4) In this section—

‘approved dental procedure’ means—

- (a) the diagnosis and recording of dental caries or the planning and arrangement of appropriate treatment;
- (b) the assessment and recording of the status of oral hygiene, gingival and periodontal health, and noting of any abnormalities within the oro-facial environment;
- (c) the performance of other diagnostic services, including dental radiography;
- (d) the removal of plaque and calculus;
- (e) the placement of fissure sealants;

- (f) the re-contouring, cleaning and polishing of teeth and restorations;
- (g) the application of topical preparations;
- (h) the extraction of deciduous teeth not involving incisions or other surgical techniques;
- (j) the performance of pulpotomies and the placement of pulp dressings in deciduous teeth;
- (k) the preparation of cavities in deciduous and permanent teeth and the restoration (whether short or long term) of those teeth with suitable materials;
- (m) the administration of local analgesia using supra periosteal infiltration or inferior dental nerve block;
- (n) the application and removal of rubber dams;
- (o) the irrigation of the mouth;
- (p) the provision of dental health education;
- (q) the capping of an exposed pulp of a permanent tooth;
- (r) the protection of the exposed dentine of a fractured tooth; and
- (s) the re-implanting or repositioning and temporary stabilisation of an avulsed or loose permanent tooth;

‘dental therapist’ means a person who has successfully completed an Australian diploma course in dental therapy or its equivalent.

Practising dentistry—dental hygienists

“34B. (1) A dental hygienist shall not, except under the direction and control of a registered dentist, carry out or perform—

- (a) dental radiography;
- (b) the application and removal of rubber dams;
- (c) pre-operative and post-operative instruction of patients;
- (d) the irrigation of the mouth;
- (e) the removal of sutures;
- (f) the instruction of persons in oral hygiene and dental health measures;
- (g) the application of topical preparations;
- (h) the removal of supra and sub gingival plaque and calculus;
- (j) the cleaning and polishing of teeth and restorations;
- (k) the taking of impressions for study casts;
- (m) the insertion and removal of surgical packs and placement of

dental dressings;

- (n) the placement of fissure sealants;
- (o) the measurement and recording of periodontal conditions;
- (p) the removal of dental cements and overhangs;
- (q) the removal of orthodontic appliances, including orthodontic cements and resins;
- (r) the removal of orthodontic arch wires;
- (s) the placement and removal of non-metallic orthodontic separators;
and
- (t) the etching and sealing preparatory to placement of orthodontic brackets.

Penalty: 10 penalty units.

“(2) For the purposes of subsection (1), a dental hygienist shall be taken to be under the direction and control of a registered dentist if—

- (a) the service referred to in that subsection was specified in a direction given to the dental hygienist by the registered dentist as a service the dental hygienist was to carry out or perform;
- (b) the registered dentist was on the premises on which the service was being carried out or performed and was reasonably available to advise and assist the dental hygienist in the course of the carrying out or performance of that service; and
- (c) the registered dentist satisfies himself or herself, by examination, that the service the subject of the direction has been carried out or performed.

“(3) Any person who, without reasonable excuse, as assistant, servant, agent or manager, does or permits any act, matter or thing in contravention of this section is guilty of an offence punishable, on conviction, by a fine not exceeding 30 penalty units.”.

Medical practitioner may give dental services

33. Section 36 of the Principal Act is amended—

- (a) by omitting “medical practitioner who is registered under the *Medical Practitioners Registration Act 1930*” and substituting “registered medical practitioner”; and
- (b) by omitting “sections 39A and 39B of that Act” and substituting “section 51 of the *Medical Practitioners Act 1930*”.

Insertion

34. After Part IV of the Principal Act the following Part is inserted:

“PART IVAA—APPEALS

Review of decisions

“39. Application may be made to the Administrative Appeals Tribunal for review of a decision of the Board—

- (a) under subsection 10 (4), 12 (1), 23D (2), 23GC (1) or 25 (2) to impose conditions on the registration of a person;
- (b) under subsection 11 (4) to cancel the interim registration of a person;
- (c) under subsection 12 (2) or 23GC (2) to refuse to review conditions imposed on the registration of a person;
- (d) under subsection 12 (2) or 23GC (2) to refuse to alter or remove conditions imposed on the registration of a person;
- (e) under subsection 12 (2) or 23GC (2) to alter conditions imposed on the registration of a person;
- (f) under subsection 12 (2) or 23GC (2) to impose new conditions on the registration of a person;
- (g) under section 18 or 23GH to refuse to register a person;
- (h) under subsection 23C (3) or 24 (3) or paragraph 30 (1) (a), 30A (1) (a), 30B (a) or 30D (4) (a) to cancel the registration of a person;
- (j) under subsection 23C (4), 23FC (3), 24 (4), 29 (3) or 31E (2) to refuse to re-register a person;
- (k) under paragraph 30 (1) (b), 30A (1) (b), 30B (b) or 30D (4) (b) or subsection 31 (2) to suspend the registration of a person;
- (m) under subsection 30A (2) to make an order directing a person not to give or perform a dental service;
- (n) under subsection 30A (3) to refuse to review an order directing a person not to give or perform a dental service;
- (o) under subsection 30A (3) to refuse to amend or revoke an order directing a person not to give or perform a dental service;
- (p) under subsection 30A (3) to amend an order directing a person not to give or perform a dental service;
- (q) under subsection 30C (1) to take any action of a kind specified in that subsection in relation to a registered dentist, registered specialist dentist or registered dental hygienist;
- (r) under subsection 30D (1) to impose a fine on a registered dentist or registered dental hygienist;
- (s) under subsection 31E (2) to refuse to terminate the suspension of

the registration of a person;

- (t) under section 32A to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased dentist, or the administrator, administratrix or trustee of the estate of a deceased dentist, may continue the business of the dentist;
- (u) under section 32A to fix a period longer than 6 months during which the executor or executrix of the will of a deceased dentist, or the administrator, administratrix or trustee of the estate of a deceased dentist, may continue the business of the dentist; or
- (v) under subsection 38AA (2) to certify the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for a dental service.

Notification of decisions

“39A. Where a decision of the kind referred to in section 39 (other than paragraph (b), (k), (m) or (r)) is made, the Board shall give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 39 (a)—to the person on whose registration conditions have been imposed;
- (b) in the case of a decision referred to in paragraph 39 (c), (d) or (e)—to the person whose registration is subject to the conditions;
- (c) in the case of a decision referred to in paragraph 39 (f)—to the person on whose registration new conditions have been imposed;
- (d) in the case of a decision referred to in paragraph 39 (g)—to the person whose application for registration has been refused;
- (e) in the case of a decision referred to in paragraph 39 (h)—to the person whose registration has been cancelled;
- (f) in the case of a decision referred to in paragraph 39 (j)—to the person whose application for re-registration has been refused;
- (g) in the case of a decision referred to in paragraph 39 (n), (o) or (p)—to the person in relation to whom the order was made;
- (h) in the case of a decision referred to in paragraph 39 (q)—to the registered dentist, registered specialist dentist or registered dental hygienist in relation to whom the action has been taken;
- (j) in the case of a decision referred to in paragraph 39 (s)—to the person whose registration has been suspended;
- (k) in the case of a decision referred to in paragraph 39 (t) or (u)—to the executor or executrix of the will of the deceased dentist or the administrator, administratrix or trustee of the estate of the deceased dentist; or

- (m) in the case of a decision referred to in paragraph 39 (v)—to the person who requested the review of the account.

Contents of notice

“39B. (1) A notice under subsection 11 (4) or 39A shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

“(2) An order under paragraph 30 (1) (b) or 30A (1) (b), subsection 30A (2), paragraph 30B (b), subsection 30D (1), paragraph 30D (4) (b) or subsection 31 (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

“(3) The validity of a decision to which a notice or order referred to in subsection (1) or (2) relates is not to be taken to be affected by a failure to comply with that subsection.”.

Substitution

35. Sections 38B and 39 of the Principal Act are repealed and the following section is substituted:

Inspection of registers

“39C. (1) A person may, on payment of the determined fee—

- (a) inspect an entry in the Register of Dentists, the Register of Specialist Dentists or the Register of Dental Hygienists; or
- (b) obtain a certified copy of an entry in the Register of Dentists, the Register of Specialist Dentists or the Register of Dental Hygienists.

“(2) The Board may, on request by a registration authority of a place outside the Territory and without payment by the registration authority of a fee, forward a certified copy of the Register of Dentists, the Register of Specialist Dentists or the Register of Dental Hygienists to that registration authority.”.

Publication of registered dentists

36. Section 40 of the Principal Act is amended by adding at the end the following subsections:

“(2) The Board shall, as soon as practicable after 1 July in each year, cause to be published in the *Gazette* a notice containing the name of each specialist dentist registered under this Act on that day and the specialist branch of dentistry in which the specialist dentist is registered.

“(3) The Board shall, as soon as practicable after 1 July in each year, cause to be published in the *Gazette* a notice containing—

- (a) the name of each dental hygienist registered under this Act on that day; and
- (b) the professional address or 1 of the professional addresses of the person by whom the dental hygienist is employed as a dental hygienist.”.

Repeal

37. The Schedule to the Principal Act is repealed.

Further amendments

38. The Principal Act is amended as set out in the Schedule.

PART III—TRANSITIONAL AND SAVINGS PROVISIONS

Register of Dental Hygienists continued

39. The register of dental hygienists to be kept under section 23GM of the Principal Act as amended by this Act is a continuation of the Register of Dental Hygienists maintained by the Board under section 23G before the commencement of this Act.

Continuation of registration

40. A person who, immediately before the commencement of this Act, was registered as a dentist or dental hygienist under the Principal Act continues to be registered under the Principal Act as amended by this Act on the same terms and subject to the same conditions as applied to his or her registration immediately before the commencement of this Act.

Persons granted provisional registration

41. A person who, immediately before the repeal of section 23AB of the Principal Act by this Act, held provisional registration under that section shall, on the commencement of this Act, be taken to be a person who has been granted interim registration in accordance with section 11 of the Principal Act as amended by this Act.

Failure by dentist or dental hygienist to pay annual fee

42. (1) A failure by a registered dentist or dental hygienist to pay a fee that became payable by him or her under section 23A or 23L of the Principal Act as in force immediately before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 23F or 27, as the case requires, of the Principal Act as amended by this Act.

(2) A dentist or dental hygienist who was not registered under the

Principal Act immediately before the commencement of this Act because his or her registration was cancelled for a failure by the dentist or dental hygienist to pay a fee that had become payable by him or her under section 23A or 23L of the Principal Act as in force immediately before the commencement of this Act shall be taken to have had his or her registration cancelled for a failure to pay a fee which had become payable by him or her under section 23F or 27, as the case requires, of the Principal Act as amended by this Act.

Applications for registration

43. An application for registration under the Principal Act as in force immediately before the commencement of this Act that had not been determined before the commencement of this Act shall be taken to be an application for registration under the Principal Act as amended by this Act.

Continuation of inquiries and reviews

44. (1) The provisions of the Principal Act as in force immediately before the commencement of this Act continue to apply in relation to an inquiry or review commenced under the Principal Act and pending immediately before the commencement of this Act.

(2) Any order, decision or determination resulting from an inquiry or review to which this section applies shall be taken to have been made under the Principal Act as amended by this Act and to have effect accordingly.

Complaints relating to previous conduct

45. (1) Subject to subsection (2), an inquiry may be held under the Principal Act as amended by this Act with respect to conduct or any other matter or thing that occurred before, or partly before and partly after, the commencement of this Act.

(2) An inquiry referred to in subsection (1) may only be held if it is an inquiry that could have been held before the commencement of this Act.

Existing orders

46. An order having effect under a provision of the Principal Act repealed by this Act is, by this section, converted to an equivalent order under the Principal Act as amended by this Act.

PART IV—MISCELLANEOUS

Renumbering of provisions

47. (1) The amended Act is further amended as provided by this section.

(2) The Parts of the amended Act are renumbered in a single series so that they bear consecutive Roman numerals.

(3) The sections of the amended Act are renumbered in a single series

so that they bear consecutive Arabic numerals.

(4) Any provision of the amended Act that refers to a Part or section of that Act that has been renumbered by subsection (2) is amended by omitting that reference and substituting a reference to the Part or section as so renumbered.

(5) A reference in a provision of a law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a Part or section of the amended Act that has been renumbered by subsection (2) or (3) shall (except as regards the operation of the Part or section before it was so renumbered) be construed as a reference to that Part or section as so renumbered.

(6) In this section, “amended Act” means the Principal Act as amended by sections 4 to 38 (inclusive).

SCHEDULE
FURTHER AMENDMENTS

Paragraph 4 (3) (a)—

- (a) Omit “he”, substitute “the person”.
- (b) Insert “or her” after “his”.

Paragraph 4 (3) (b)—

Insert “or her” after “him” (wherever occurring).

Paragraph 4 (3) (c)—

Omit “he”, substitute “the person”.

Paragraph 6 (1) (a)—

Omit “Chairman”, substitute “Chairperson”.

Paragraph 6 (2) (a)—

Omit “he”, substitute “the person”.

Paragraph 6 (2) (b)—

- (a) Omit “he”, substitute “the person”.
- (b) Omit “his”, substitute “the”.

Subsection 6 (3)—

Omit “Chairman”, substitute “Chairperson”.

Paragraph 30 (6) (a)—

Insert “or she” after “he” (wherever occurring).

Paragraph 30 (6) (b)—

- (a) Insert “or she” after “he”.
- (b) Insert “or her” after “his”.

SCHEDULE—continued

Section 32A—

- (a) Omit “his” (first occurring).
- (b) Omit “, an executor, administrator or trustee of his estate”, substitute “or a specialist branch of dentistry, an executor or executrix of the will of the deceased dentist, or an administrator, administratrix or trustee of the estate of the deceased dentist,”.
- (c) Omit “administrator” (second occurring), substitute “executrix, administrator, administratrix”.
- (d) Add at the end “or a registered specialist dentist who is registered in relation to the same specialist branch of dentistry as the deceased dentist, as the case requires”.

Section 33—

- (a) Insert “, registered specialist dentist” after “dentist”.
- (b) Omit “dental assistant or” (wherever occurring).
- (c) Insert “or the specialist branch of dentistry” after “dentistry”.
- (d) Omit “, as the case may be,”.
- (e) Omit “he”, substitute “the person”.

Section 35—

Insert “or herself” after “himself”.

Subsection 38A (1)—

Insert “or she” after “he”.

Paragraph 38A (3) (a)—

- (a) Omit “he”, substitute “the dentist”.
- (b) Insert “or her” after “his”.

Subsection 38AA (1)—

Insert “or her” after “him”.

Subsection 38AA (2)—

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Paragraphs 38AA (7) (b) and (c)—

Insert “or she” after “he”.

Subsection 38AA (7A)—

- (a) Insert “or her” after “his” (wherever occurring).
- (b) Omit “one”, substitute “1”.

SCHEDULE—continued

NOTES

Principal Act

1. Reprinted as at 31 January 1994. See also Acts Nos. 60 and 81, 1994.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 29 August 1996]