

Australian Capital Territory

Physiotherapists Act 1977

A1977-60

Republication No 3 (RI)

Effective: 29 November 1994 – 8 December 1998

Republication date of printed version: 28 February 1995

Reissued electronically: 8 August 2011

Last amendment made by A1994-81

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

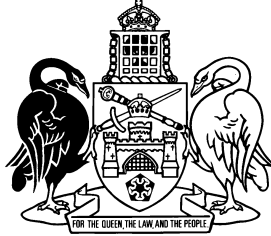
This is a republication of the *Physiotherapists Act 1977* effective 29 November 1994 to 8 December 1998.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.



Australian Capital Territory

PHYSIOTHERAPISTS ACT 1977

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Competence to practise physiotherapy
5. Impairment

PART II—THE PHYSIOTHERAPISTS BOARD

6. Establishment of Board
7. Constitution of Board

PART III—REGISTRATION

Division 1—Qualifications for registration

8. Entitlement to registration based on qualifications and training
9. Registration under mutual recognition principle
10. Registration at discretion of Board
11. Interim registration
12. Conditions of registration in cases of impairment
13. Refusal of registration where applicant convicted of offence
14. Refusal of registration where applicant deregistered under foreign law

Physiotherapists Act 1977

TABLE OF PROVISIONS—continued

Section

- 15. Applicants to be competent and of good character
- 16. Restriction on registration of deregistered or suspended persons

Division 2—Registration procedure

- 17. Applications for registration
- 18. Applications to be considered and determined
- 19. Registration of applicants
- 20. Fee for registration pursuant to Mutual Recognition Act
- 21. Conditions of registration

Division 3—Register of Physiotherapists

- 22. The Register
- 23. Particulars to be entered in the Register
- 24. Alteration of Register

Division 4—Annual fees

- 25. Annual fee payable
- 26. Registration to be cancelled for non-payment
- 27. Entitlement to re-registration if fee paid

Division 5—Miscellaneous

- 28. Certificate of registration
- 29. Change of address to be notified

**PART IV—THE CONDUCT OF THE PRACTICE OF
PHYSIOTHERAPY**

- 30. Cessation of registration
- 31. Disciplinary action under foreign law
- 32. Imposition of conditions imposed under foreign law
- 33. Cancellation or suspension of registration
- 34. Cancellation, suspension or restriction of right to practise on health grounds
- 35. Practising when registration suspended
- 36. Power of Board to caution, reprimand etc
- 37. Power of Board to impose fines
- 38. Inquiry by Board
- 39. Application for re-registration
- 40. Effect of suspension and conditions
- 41. Persons who may practise physiotherapy
- 42. Use of title of physiotherapist
- 43. Visiting physiotherapists
- 44. Unregistered person may not recover fees
- 45. Only registered physiotherapist may sue for fees etc.
- 46. Review of accounts for fees for physiotherapy services
- 47. Administration of estate of deceased physiotherapist

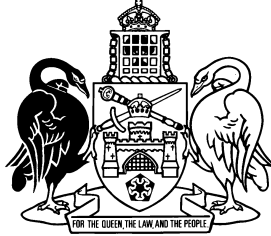
Physiotherapists Act 1977

TABLE OF PROVISIONS—continued

Section

PART V—APPEALS

- | | |
|-----|---|
| 48. | Review of decisions |
| 49. | Notification of decisions |
| 50. | Publication of notice of decision of Board or Administrative Appeals Tribunal |
| 51. | Publication of registered physiotherapists |
| 52. | Inspection of Register |
| 53. | Obstruction of members of Board |
| 54. | Determined fees |
| 55. | Regulations |



Australian Capital Territory

PHYSIOTHERAPISTS ACT 1977

An Act to provide for the Registration of Persons engaged in Physiotherapy,
and for other purposes

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Physiotherapists Act 1977*.¹

2. Commencement

This Act shall come into operation on a date to be fixed by the Minister of State for the Capital Territory by notice published in the *Gazette*.¹

3. Interpretation

(1) In this Act, unless the contrary intention appears—

“Board” means the Physiotherapists Board constituted under this Act;

“Chairperson” means the Chairperson of the Board;

“Deputy Chairperson” means the Deputy Chairperson of the Board;

“determined fee” means the fee determined under section 54 for the purposes of the provision in which the expression occurs;

Physiotherapists Act 1977

“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;

“member” means a member of the Board, and includes the Chairperson;

“Mutual Recognition Act” means the *Mutual Recognition Act 1992* of the Commonwealth;

“nurse” means a person—

- (a) who is registered or enrolled under the *Nurses Act 1988*; or
- (b) who is to be deemed to be registered or enrolled under that Act by virtue of section 25 of the Mutual Recognition Act;

“physiotherapy” means the application to the body, for the purpose of curing or alleviating any abnormal condition, of manipulation, massage, therapeutic exercise, electricity, heat, light or any prescribed treatment;

“Register” means the Register of Physiotherapists kept in accordance with section 22;

“registered” means registered under this Act;

“registered physiotherapist” means a person—

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

“registration authority” means a person or body empowered by or under a law of a State, Territory or place outside Australia to register or license physiotherapists or otherwise to authorize the practice of physiotherapy.

(2) Nothing in this Act applies to or in relation to the carrying on by a person, in accordance with the laws of the Territory, of the business or profession of beautician, chiropractor, masseur, medical practitioner, nurse, osteopath or podiatrist.

(3) For the purposes of this Act, a person shall be deemed to practise physiotherapy if—

- (a) he or she practises physiotherapy personally on his or her own account or as a member of a firm;

Physiotherapists Act 1977

- (b) in the course of a business carried on by him or her, a person or persons employed by him or her is or are engaged in the practice of physiotherapy; or
 - (c) he or she is engaged in the practice of physiotherapy as a person employed in a business carried on by another person (including a company) or by a firm.
- (4) Nothing in this Act applies to or in relation to a person who is practising as a physiotherapist under the supervision of a registered physiotherapist while undertaking a course of education or training referred to in subparagraph 8 (1) (a) (i).

4. Competence to practise physiotherapy

For the purposes of this Act, a person shall be taken to be competent to practise physiotherapy only if the person—

- (a) has sufficient physical capacity, mental capacity and skill to practise physiotherapy; and
- (b) has sufficient communication skills for practising physiotherapy, including an adequate command of the English language.

5. Impairment

(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 physiotherapy.

(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.

PART II—THE PHYSIOTHERAPISTS BOARD

6. Establishment of Board

(1) For the purposes of this Act, there shall be a Board to be known as the Physiotherapists Board.

7. Constitution of Board

- (1) The Board shall consist of—
- (a) a Chairperson, and 3 other members, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981*; and

- (b) 3 members elected, as occasion requires, in accordance with the *Health Professions Boards (Elections) Act 1980*.
- (2) A person is not eligible for appointment as a member unless—
 - (a) he or she is a registered physiotherapist; and
 - (b) he or she was, at all times during the period of 3 years immediately preceding his or her appointment, entitled, under the law of a State or Territory, to practise as a physiotherapist in that State or Territory.
- (3) The Chairperson shall be the executive officer of the Board.

PART III—REGISTRATION

Division 1—Qualifications for registration

8. Entitlement to registration based on qualifications and training

- (1) A person is entitled to be registered as a physiotherapist if—
 - (a) the person—
 - (i) is a graduate of a course of education or training in physiotherapy offered by an Australian educational institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; and
 - (ii) if required by the Board—has undertaken such further education or training, for such period not exceeding 6 months, as the Board determines; or
 - (b) the person—
 - (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in subparagraph (a) (i) and qualifies the person to practise as a physiotherapist in that place;
 - (ii) has undertaken such further education or training and gained such experience in practising physiotherapy, for such period not exceeding 12 months, as the Board determines; and
 - (iii) has passed such examinations as the Board requires.
- (2) The entitlement under this section is an entitlement to registration that is not subject to conditions.

9. Registration under mutual recognition principle

- (1) A person who is registered as a physiotherapist 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 physiotherapist under this Act.
- (2) If the person's 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 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 registration is subject or conditions appropriate to give effect to any restriction to which that registration is subject.

10. Registration at discretion of Board

- (1) Where a person is a graduate of a course of education or training in physiotherapy 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 physiotherapist 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 physiotherapy.
- (2) The Board may register a person as a physiotherapist for the purpose of enabling an unmet area of need to be met if the Board is satisfied that the person has suitable qualifications and experience to practise physiotherapy in that area of need.
- (3) The Board may register a person as a physiotherapist for the purpose of enabling the person to fill a teaching or research position in physiotherapy if—
 - (a) the person has qualifications that the Board considers appropriate for that purpose; and
 - (b) the application is supported in writing by the university, professional association, hospital or other institution, by which it is proposed that the person be engaged for that purpose.
- (4) The Board may register a person as a physiotherapist on a temporary basis if satisfied that it is in the public interest to do so.
- (5) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

11. Interim registration

(1) An applicant for registration may be granted interim registration where—

- (a) the applicant is entitled to registration under section 6 but it is not practicable to wait until the Board can consider the application; or
- (b) the applicant would be entitled to registration under section 6 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 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 physiotherapist.

12. Conditions of registration in cases of impairment

(1) The Board may impose conditions on a person's registration 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.

13. Refusal of registration where applicant convicted of offence

(1) Subject to subsection (3), the Board may refuse an application for registration 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 physiotherapy.

(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.

14. Refusal of registration where applicant deregistered under foreign law

(1) Subject to subsection (3), the Board may refuse an application for registration if the applicant's name has been removed from a foreign register of physiotherapists for any reason relating to—

- (a) the conduct of the person as a physiotherapist; or
- (b) the physical or mental capacity of the person to practise physiotherapy.

(2) A person's name shall be taken to have been removed from a foreign register of physiotherapists if removed from any register or roll established or kept under any law of a State or another Territory or a place outside Australia providing for the registration of physiotherapists or the authorisation of persons to practise physiotherapy.

(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.

15. Applicants to be competent and of good character

(1) Subject to subsection (2), the Board shall not register a person as a physiotherapist unless satisfied that the person is competent to practise physiotherapy and is of good character.

(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.

16. Restriction on registration of deregistered or suspended persons

(1) Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under subsection 26 (2) or section 31) or suspended (otherwise than under subsection 38 (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 39.

(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

17. Applications for registration

(1) This section applies to applications for registration 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;
- (b) be accompanied by the determined fee; and
- (c) be lodged with a person authorised by the Board for the purposes of this section.

18. Applications to be considered and determined

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.

19. Registration of applicants

Where a person who is applying for registration otherwise than under the Mutual Recognition Act—

- (a) complies with section 17;

Physiotherapists Act 1977

- (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.

20. Fee for registration pursuant to Mutual Recognition Act

A person who applies for registration under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

21. Conditions of registration

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—Register of Physiotherapists

22. The Register

- (1) The Board shall keep a Register called the “Register of Physiotherapists”.
- (2) The Register may be maintained by electronic means.

23. Particulars to be entered in the Register

The registration of a person shall be effected by entering in the Register—

- (a) the name of the person;
- (b) each professional address of the person in the Territory or, if the person has no professional address in the Territory, his or her residential address, whether within or outside the Territory;
- (c) particulars of the person’s qualifications relevant to practising physiotherapy;
- (d) the registration number allotted to the person;
- (e) the date of registration;
- (f) the provision by virtue of which the person is entitled to be registered under this Act;
- (g) any condition to which the person’s registration is subject; and
- (h) such other particulars (if any) as are prescribed.

24. Alteration of Register

- (1) The Board shall cause to be removed from the Register the name of—
- (a) a registered physiotherapist who has died; or
 - (b) a registered physiotherapist whose registration has been cancelled.
- (2) The Board may, from time to time, at the request of a person or of its own accord, make such other alterations to particulars in the Register as are necessary.
- (3) The Board shall not make an alteration to particulars in the Register at the request of a person unless satisfied that the determined fee has been paid.

Division 4—Annual fees

25. Annual fee payable

- (1) A registered physiotherapist shall, on or before 1 September in each year, pay the determined fee.
- (2) The Board shall cause to be sent to each registered physiotherapist, not less than 1 month before 1 September in each year, a notice requiring him or her to comply with subsection (1).
- (3) The liability of a registered physiotherapist 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).

26. Registration to be cancelled for non-payment

- (1) Where a registered physiotherapist does not comply with subsection 25 (1), the Board shall cause to be sent to the physiotherapist 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 physiotherapist 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.

27. Entitlement to re-registration if fee paid

- (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 the person is not competent to practise physiotherapy or is not of good character.

(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.

Division 5—Miscellaneous

28. Certificate of registration

(1) Where a person is registered as a physiotherapist, 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 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 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—

- (a) a person ceases to be registered; or
- (b) the registration of a person is 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 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: \$500.

29. Change of address to be notified

Where—

- (a) a change occurs in an address of a registered physiotherapist shown in the Register; or
- (b) a registered physiotherapist establishes a professional address, or an additional professional address, in the Territory;

the registered physiotherapist shall, within 1 month of the change or establishment, as the case may be, notify the Chairperson in writing accordingly.

Penalty: 5 penalty units.

PART IV—THE CONDUCT OF THE PRACTICE OF PHYSIOTHERAPY

30. Cessation of registration

A person who is registered as a physiotherapist ceases to be so registered—

- (a) when the Board gives the physiotherapist 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.

31. Disciplinary action under foreign law

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

- (a) the conduct of the person; or

- (b) the physical or mental capacity of the person to practise physiotherapy;

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.

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

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

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.

32. Imposition of conditions imposed under foreign law

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

33. Cancellation or suspension of registration

The Board may—

- (a) cancel the registration of a person as a physiotherapist; or
- (b) by order served on a physiotherapist, suspend his or her registration for such period as the Board considers appropriate;

if satisfied—

Physiotherapists Act 1977

- (c) that the registration of the person was obtained by fraud or misrepresentation;
- (d) that the physiotherapy qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) that the person has contravened this Act or the regulations;
- (f) that the person has contravened a condition to which his or her registration under this Act is subject;
- (g) that 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 physiotherapy;
- (h) that the person is guilty of habitual drunkenness or addiction to a deleterious drug that renders him or her unfit to practise as a physiotherapist;
- (j) that the person has engaged in conduct, whether in the practise of physiotherapy or not, that adversely affects the person's practise of physiotherapy;
- (k) that the person has engaged in any improper or unethical conduct relating to practising physiotherapy;
- (m) that the person has failed to exercise adequate judgment or care in practising physiotherapy; or
- (n) the person is not competent to practise physiotherapy.

34. Cancellation, suspension or restriction of right to practise on health grounds

(1) Subject to subsection (2), the Board shall, when satisfied that the physical or mental condition of a person who is registered as a physiotherapist renders him or her unfit to practise physiotherapy—

- (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, where satisfied that the person is fit to give or perform some physiotherapy 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 physiotherapy 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 physiotherapy service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered physiotherapist.

35. Practising when registration suspended

Where a person whose registration as a physiotherapist has been suspended is convicted of an offence against section 41 or 42, 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 fit.

36. Power of Board to caution, reprimand etc.

(1) Subject to subsection (2), the Board may do any 1 or more of the following in relation to the conduct of a registered physiotherapist:

- (a) caution or reprimand the physiotherapist;
- (b) order that the physiotherapist seek and undergo medical or psychiatric treatment or counselling;
- (c) impose on the physiotherapist's registration such conditions relating to his or her physiotherapy practice as the Board considers appropriate;
- (d) order that the physiotherapist seek and follow advice, in relation to the management of his or her physiotherapy practice, from persons specified by the Board;
- (e) order that the physiotherapist complete specified educational courses.

(2) Paragraph (1) (e) does not apply in relation to a registered physiotherapist who obtained registration under this Act pursuant to the Mutual Recognition Act.

37. Power of Board to impose fines

(1) Where the Board finds that a registered physiotherapist has failed to comply with an order of the Board under subsection 36 (1) it may, by order served on the physiotherapist, 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 physiotherapist 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 physiotherapist; or
- (b) by order served on the physiotherapist, suspend the registration of the physiotherapist for such period as the Board thinks fit.

38. Inquiry by Board

(1) The Board shall hold an inquiry before—

- (a) cancelling the registration of a person, other than under subsection 26 (2) or 31 (1);
- (b) suspending the registration of a person;
- (c) giving a direction under subsection 34 (2); or
- (d) taking any action under section 36.

(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.

39. Application for re-registration

(1) Where the registration of a person has been cancelled (otherwise than under subsection 26 (2) or section 31) or suspended (otherwise than under subsection 38 (2)) the person may 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 the circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or his or her suspension should be terminated.

(2) The Board shall, if satisfied that, by reason of the specified change in circumstances, the person should be re-registered or the suspension should be terminated, re-register the person or terminate the suspension, as the case requires.

40. Effect of suspension and conditions

(1) A person whose registration has been suspended shall, during the period of the suspension, be deemed not to be a registered physiotherapist.

(2) For the purposes of this Act, a registered physiotherapist who provides a physiotherapy service in contravention of a condition imposed on his or her registration shall, in providing that service, be deemed not to be a registered physiotherapist.

41. Persons who may practise physiotherapy

(1) A person other than a registered physiotherapist shall not practise physiotherapy.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(2) A registered physiotherapist shall not practise physiotherapy under a name other than the name under which the physiotherapist is registered.

Penalty: 50 penalty units.

(3) In proceedings for an offence against subsection (1) or (2), a certificate given by the Chairperson that—

- (a) the person named in the certificate is not a registered physiotherapist; or
- (b) the name of a person named in the certificate is the name under which that person is registered,

is evidence of that fact.

42. Use of title of physiotherapist

A person other than a registered physiotherapist shall not—

- (a) take or use, either alone or in combination with any other words or letters, the title of physiotherapist, physiotherapist, physical therapist, physical therapist, electrotherapist or a name, title, addition or description (including initials or letters placed after his or her name) indicating or implying that he or she is a registered physiotherapist or that he or she is a person who practises, or is qualified to practise physiotherapy; or
- (b) hold himself or herself out, by advertisement or otherwise, as being qualified or authorized to practice physiotherapy or as being a person who practises physiotherapy.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

43. Visiting physiotherapists

Subsection 41 (1) and section 42 do not apply to a person who—

- (a) is a resident of a place outside the Territory; and
- (b) provides a physiotherapy service to a member of a visiting sporting body, association or organisation from a place outside the Territory;

if the physiotherapy service—

- (c) is provided to a member of that visiting sporting body, association or organisation for the purpose of assisting the member to participate in a sporting event or sporting activity; and
- (d) is a service which the person could lawfully have provided in his or her place of residence.

44. Unregistered person may not recover fees

A person other than a registered physiotherapist is not entitled to sue or counterclaim for, or set-off or recover, a charge for remuneration for a service of physiotherapy rendered by the person.

45. Only registered physiotherapist may sue for fees etc.

(1) A registered physiotherapist is not entitled to commence an action for the recovery of fees or remuneration for a physiotherapy service unless he or she was the registered physiotherapist who gave the physiotherapy service.

(2) A registered physiotherapist who has given a physiotherapy service to a person is not entitled to commence an action for recovery from that person of fees or remuneration for that physiotherapy service unless—

- (a) he or she has served or caused to be served on that person by delivery to that person personally or by post addressed to that person at his or her last-known place of residence, an account for the fees or remuneration setting out the account claimed, a brief statement of the nature of the physiotherapy service given, the date or dates on which it was given and the person for whom it was given; and
- (b) a period of 6 months has elapsed since that service of the account and the account is unpaid at the end of that period.

(3) Notwithstanding subsection (2), an action for the recovery of fees or remuneration for a physiotherapy service may be commenced without the service of an account for those fees or that remuneration in accordance with that subsection or, if such an account has been so served, before the expiration of the period of 6 months from the service of the account, if the action is one in which an application could, but for that subsection, be made for an order under

Part II of the Arrest on Mesne Process Act, 1902 of the State of New South Wales in its application to the Territory.

46. Review of accounts for fees for physiotherapy services

(1) A person liable to pay fees or remuneration to a registered physiotherapist for a physiotherapy service may, within 6 months after service upon him or her of an account for the fees or remuneration in accordance with section 45 apply in writing to the Board to review the account.

(2) The Board shall, on receipt of an application under subsection (1), review the account and certify, under the hand of the Chairperson or the Deputy Chairperson, the amount which, in the Board's opinion, is a reasonable amount of fees or remuneration for the physiotherapy service.

(3) The Board shall, in a certificate referred to in subsection (2), set out the facts on which the certificate is based.

(4) The Board may request a person to furnish such information as it thinks necessary or desirable for the purpose of a review under this section and may fix a time within which the information should be furnished.

(5) If a person does not furnish information requested by the Board under subsection (4) within the time fixed by the Board under that subsection, the Board may proceed to review the account for fees or remuneration without that information.

(6) In reviewing an account for fees or remuneration under this section, the Board is not required to conduct a formal hearing, but the Board shall provide the parties to the application with any information furnished to the Board under subsection (4).

(7) In reviewing an account for fees or remuneration under this section, the Board shall have regard to the time occupied in giving, and the nature of, the physiotherapy service and any other circumstances submitted by the physiotherapist with respect to the provision of the physiotherapy service.

(8) In proceedings for the recovery of fees or remuneration in respect of a physiotherapy service, a certificate of the Board under subsection (2) in relation to that service is evidence that the amount certified in the certificate is a reasonable amount of fees or remuneration for the physiotherapy service.

(9) The Board shall cause a copy of a certificate of the Board under subsection (2) to be sent by post to the registered physiotherapist at his or her professional address, or at one of his or her professional addresses, as last recorded in the Register.

47. Administration of estate of deceased physiotherapist

Upon the death of a registered physiotherapist who was at the time of his or her death carrying on business as a physiotherapist, an executor or executrix of the will of the deceased physiotherapist, or an administrator, administratrix or trustee of the estate of the deceased physiotherapist, may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, executrix, administrator, administratrix or trustee, permits, if the practise of physiotherapy in the business is carried on by a registered physiotherapist.

PART V—APPEALS

48. Review of decisions

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

- (a) under subsection 10 (5), 12 (1) or 32 (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) to decline to review conditions imposed on the registration of a person;
- (d) under subsection 12 (2) to alter, or to refuse to alter or remove, conditions imposed on the registration of a person;
- (e) under subsection 12 (2) to impose new conditions on the registration of a person;
- (f) under section 18 to refuse the application for registration;
- (g) under subsection 27 (3), 31 (4) or 39 (2) to refuse to re-register a person;
- (h) under subsection 31 (3) or paragraph 33 (a), 34 (1) (a), 35 (a) or 37 (4) (a) to cancel the registration of a person;
- (j) under paragraph 33 (b), 34 (1) (b), 35 (b) or 37 (4) (b) or subsection 38 (2) to suspend the registration of a person;
- (k) under subsection 34 (2) to make an order directing a person not to give or perform a specified physiotherapy service;
- (m) under subsection 34 (3) to refuse to review an order directing a person not to give or perform a specified physiotherapy service;

Physiotherapists Act 1977

- (n) under subsection 34 (3) to amend, or to refuse to amend or revoke, an order directing a person not to give or perform a specified physiotherapy service;
- (o) under subsection 36 (1) to take any action of a kind specified in that section in relation to a registered physiotherapist;
- (p) under subsection 37 (1) to impose a fine on a registered physiotherapist;
- (q) under subsection 39 (2) to refuse to terminate the suspension of the registration of a person;
- (r) under subsection 46 (2) to certify an amount of fees or remuneration for a physiotherapy service;
- (s) under section 47 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased physiotherapist, or the administrator, administratrix or trustee of the estate of a deceased physiotherapist, may continue the business of the physiotherapist; or
- (t) under section 47 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased physiotherapist, or the administrator, administratrix or trustee of the estate of a deceased physiotherapist, may continue the business of the physiotherapist.

49. Notification of decisions

(1) Where a decision of the kind referred to in section 48 (other than paragraph (b), (j), (k) or (p)) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 48 (a)—to the person on whose registration conditions have been imposed;
- (b) in the case of a decision referred to in paragraph 48 (c) or (d)—to the person whose registration is subject to the conditions;
- (c) in the case of a decision referred to in paragraph 48 (e)—to the person on whose registration the new conditions have been imposed;
- (d) in the case of a decision referred to in paragraph 48 (f)—to the person whose application for registration has been refused;
- (e) in the case of a decision referred to in paragraph 48 (g)—to the person whose application for re-registration has been refused;
- (f) in the case of a decision referred to in paragraph 48 (h)—to the person whose registration has been cancelled;

- (g) in the case of a decision referred to in paragraph 48 (m) or (n)—to the person in relation to whom the order was made;
- (h) in the case of a decision referred to in paragraph 48 (o)—to the registered physiotherapist in relation to whom the action has been taken;
- (j) in the case of a decision referred to in paragraph 48 (q)—to the person whose registration has been suspended;
- (k) in the case of a decision referred to in paragraph 48 (r)—to the person who requested the review of the amount; or
- (m) in the case of a decision referred to in paragraph 48 (s) or (t)—to the executor or executrix of the will of the deceased physiotherapist or the administrator, administratrix or trustee of the estate of the deceased physiotherapist.

(2) A notice under subsection 9 (4) or subsection (1) of this section 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) An order under paragraph 30A (b) or 30B (1) (b), subsection 30B (2), paragraph 30C (b), subsection 30E (1), paragraph 30E (4) (b) or subsection 30F (2) shall have endorsed on it or attached to it a notice in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

50. Publication of notice of decision of Board or Administrative Appeals Tribunal

(1) The Chairperson may, if he or she thinks fit, cause a notice of a decision of the Board or of the Administrative Appeals Tribunal on application for review of a decision of the Board—

- (a) to cancel the registration of a person;
- (b) to suspend, otherwise than under subsection 38 (2), the registration of a person;
- (c) to impose conditions on the registration of a person;
- (d) to take any action of a kind referred to in subsection 36 (1) in relation to a registered physiotherapist;
- (e) to direct a registered physiotherapist, under subsection 34 (2), not to give or perform specified physiotherapy services; or
- (f) to impose a fine on a person under subsection 37 (1);

and the reasons for the decision, including the findings on material questions of fact, to be published in the *Gazette*.

(2) A notice of a decision shall not be published under subsection (1) until—

- (a) the period within which an application may be made to the Administrative Appeals Tribunal for review of the decision has expired; and
- (b) if an application for review of the decision is made, the Administrative Appeals Tribunal has given its decision on the application.

51. Publication of registered physiotherapists

The Board shall as soon as practicable after 1 September in each year cause to be published in the *Gazette* a notice containing the names of all physiotherapists registered under this Act on that day and the professional address or professional addresses, if any, of those physiotherapists.

52. Inspection of Register

(1) A person may, on payment of the determined fee—

- (a) inspect an entry in the Register; and
- (b) obtain a certified copy of an entry in the Register.

(2) The Board may, on request by a registration authority and without payment by the authority of a fee, forward to the authority a certified copy of that part of the Register to which the request relates.

53. Obstruction of members of Board

A person who obstructs the Chairperson or another member of the Board in the exercise of the powers conferred on him or her under this Act is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.

54. Determined fees

The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

55. Regulations

The Executive may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, prescribing matters for and in relation to—

Physiotherapists Act 1977

- (b) treatment that is to be considered physiotherapy for the purposes of this Act.
-

Physiotherapists Act 1977

NOTE

1. The *Physiotherapists Act 1977* as shown in this reprint comprises Act No. 60, 1977 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Physiotherapists Registration Ordinance 1977</i>	60, 1977	18 Nov 1977	15 Feb 1978 (see <i>Gazette</i> 1978, No. S31)	
<i>Physiotherapists Registration (Amendment) Ordinance 1978</i>	41, 1978	19 Dec 1978	19 Dec 1978	—
<i>Ordinances Revision Ordinance 1978</i>	46, 1978	28 Dec 1978	28 Dec 1978	—
<i>Physiotherapists Registration (Amendment) Ordinance 1980</i>	51, 1980	23 Dec 1980	30 June 1981 (see <i>Gazette</i> 1981, No. G26, p. 19)	S. 9
<i>Physiotherapists Registration (Amendment) Ordinance 1981</i>	52, 1981	9 Dec 1981	31 Dec 1981 (see <i>Gazette</i> 1981, No. S273, p. 3)	S. 13
<i>Physiotherapists Registration (Amendment) Ordinance 1982</i>	45, 1982	30 June 1982	30 June 1982	—
<i>Physiotherapists Registration (Amendment) Ordinance (No. 2) 1982</i>	72, 1982	27 Aug 1982	31 Aug 1982 (see <i>Gazette</i> 1982, No. S185)	—
<i>Nurses (Consequential Amendments) Ordinance 1988</i>	62, 1988	7 Sept 1988	5 Dec 1988 (see <i>Gazette</i> 1988, No. S369)	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

Self-Government day 11 May 1989

Physiotherapists Act 1977

NOTE—continued

Table 2

Table of Acts

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Health Services (Consequential Provisions) Act 1990</i>	63, 1990	28 Dec 1990	Ss. 1 and 2: 28 Dec 1990 Remainder: 31 Jan 1991 (see s. 2 (2) and <i>Gazette</i> 1991, No. S4)	Ss. 6-17
<i>Health (Consequential Provisions) Act 1993</i>	14, 1993	1 Mar 1993	1 Mar 1993 (see s. 2)	Parts IV-VI (ss. 14-34)
<i>Physiotherapists (Amendment) Act 1994</i>	49, 1994	5 Oct 1994	Ss. 1-3: 5 Oct 1994 Remainder: 6 Oct 1994 (see <i>Gazette</i> 1994, No. S 216)	Part III (ss. 18-25)
<i>Administrative Appeals (Consequential Amendments) Act 1994</i>	60, 1994	11 Oct 1994	Ss. 1 and 2: 11 Oct 1994 Remainder: 14 Nov 1994 (see s. 2 (2) and <i>Gazette</i> 1994, No. S250)	—
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—

Physiotherapists Act 1977

NOTE—continued

Table of Amendments

The amendment history of the *Physiotherapists Act 1977* prior to renumbering by the *Physiotherapists (Amendment) Act 1994* (No. 49, 1994) appears in Table 1 below.

Table 1

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 1	am. Act No. 49, 1994
S. 3	am. No. 51, 1980; No. 52, 1981; No. 72, 1982; No. 62, 1988; No. 38, 1989; Act No. 49, 1994
Ss. 3A, 3B	ad. Act No. 49, 1994
S. 4	am. No. 52, 1981
S. 5	am. No. 51, 1980; No. 52, 1981; Act No. 49, 1994
S. 6	am. No. 51, 1980 rep. No. 52, 1981
S. 7	rs. No. 51, 1980 rep. No. 52, 1981
S. 7A	ad. No. 51, 1980 rep. No. 52, 1981
Ss. 8, 9	rep. No. 52, 1981
S. 10	am. No. 51, 1980 rep. No. 52, 1981
Ss. 11, 12	rep. No. 52, 1981
Part III (ss. 13-30)	rep. Act No. 49, 1994
Part III (ss. 6-27)	ad. Act No. 49, 1994
Ss. 6-12	ad. Act No. 49, 1994
S. 13	rs. Act No. 49, 1994
S. 14	am. Nos. 45 and 72, 1982 rs. Act No. 49, 1994
S. 15	am. No. 45, 1982 rs. Act No. 49, 1994
S. 16	rs. Act No. 49, 1994
S. 17	am. No. 72, 1982 rs. Act No. 49, 1994
S. 18	am. No. 46, 1978; No. 72, 1982 rs. Act No. 49, 1994
S. 19	rs. Act No. 49, 1994
S. 20	am. No. 45, 1982 rs. Act No. 49, 1994
S. 21	rs. Act No. 49, 1994
Ss. 22, 23	am. No. 72, 1982 rs. Act No. 49, 1994
S. 24	rs. Act No. 49, 1994
S. 25	rep. No. 52, 1981 ad. Act No. 49, 1994
S. 26	rs. Act No. 49, 1994

Physiotherapists Act 1977

NOTE—continued

Table of Amendments—continued

Table 1—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
S. 27	am. No. 52, 1981 rs. Act No. 49, 1994
S. 28	rs. Act No. 49, 1994
S. 29	am. No. 52, 1981 rs. Act No. 49, 1994
S. 30	rs. Act No. 49, 1994
Ss. 30A-30H	ad. Act No. 49, 1994
S. 31	am. No. 72, 1982; Act No. 49, 1994
S. 32	am. Act No. 49, 1994
S. 32A	ad. Act No. 49, 1994
S. 33	am. Act No. 49, 1994
Ss. 33A, 33B	ad. No. 72, 1982 am. Act No. 49, 1994
S. 34	am. Act No. 49, 1994
Heading to Part V	rs. Act No. 49, 1994
S. 35	am. No. 72, 1982 rs. Act No. 49, 1994
S. 35AA	ad. Act No. 49, 1994
S. 35A	ad. No. 72, 1982 am. Act No. 49, 1994
S. 35B	ad. No. 72, 1982
S. 36	am. No. 72, 1982 am. Act No. 49, 1994
Ss. 37-39	rep. No. 52, 1981
S. 40	am. Act No. 49, 1994
S. 41	rep. No. 52, 1981 ad. No. 45, 1982 am. Act No. 63, 1990 rep. No. 14, 1993 ad. No. 49, 1994
S. 42	am. No. 41, 1978 rep. No. 52, 1981
S. 43	rep. No. 52, 1981
S. 44	rep. No. 72, 1982
S. 45	am. No. 52, 1981; No. 38, 1989
Part VI (ss. 46, 47)	rep. No. 72, 1982
Ss. 46, 47	rep. No. 72, 1982

Physiotherapists Act 1977

NOTE—continued

Table of Amendments—continued

THE AMENDMENT HISTORY OF THE *PHYSIOTHERAPISTS ACT 1977* AFTER
RENUMBERING BY THE *PHYSIOTHERAPISTS (AMENDMENT) ACT 1994* APPEARS IN
TABLE 2 BELOW.

Table 2

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
-----------	--------------

S. 3.....	am. No. 60, 1994
S. 29.....	am. No. 81, 1994
Ss. 41, 42.....	am. No. 81, 1994
S. 49.....	am. No. 60, 1994

TABLE SHOWING NEW SECTION NUMBERS OF THE *PHYSIOTHERAPISTS ACT 1977*
AFTER RENUMBERING BY THE *PHYSIOTHERAPISTS (AMENDMENT) ACT 1994*
(No. 49, 1994)

NOTE—This Table does not form part of the *Physiotherapists Act 1977* and is printed for
convenience of reference only.

Old number	New number	Old number	New number	Old number	New number
Section	Section	Section	Section	Section	Section
3A	4	20	22	30H	40
3B	5	21	23	31	41
4	6	22	24	32	42
5	7	23	25	32A	43
6	8	24	26	33	44
7	9	25	27	33A	45
8	10	26	28	33B	46
9	11	27	29	34	47
10	12	28	30	35	48
11	13	29	31	35AA	49
12	14	30	32	35A	50
13	15	30A	33	35B	51
14	16	30B	34	36	52
15	17	30C	35	40	53
16	18	30D	36	41	54
17	19	30E	37	45	55
18	20	30F	38		
19	21	30G	39		