

AUSTRALIAN CAPITAL TERRITORY

Dental Technicians and Dental Prosthetists Registration Ordinance 1988

No. 85 of 1988

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Dental prosthetic services

PART II—THE DENTAL TECHNICIANS AND DENTAL PROSTHETISTS BOARD

Division 1—General

5. Establishment
6. Constitution
7. Membership
8. Executive Officer
9. Deputy Chairperson
10. Resignation
11. Removal from office
12. Leave of absence
13. Remuneration
14. Disclosure of interest
15. Impartiality of Board
16. Protection of members
17. Annual reports

Division 2—Meetings

18. Meetings
19. Quorum

Ord. 92/88—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

TABLE OF PROVISIONS—continued

Section

- 20. Presiding member
- 21. Notice of motion
- 22. Records of meetings
- 23. Voting

PART III—REGISTRATION

- 24. Registers
- 25. Applications for registration
- 26. Registration of natural persons
- 27. Registration of companies
- 28. Attendance
- 29. Provisional registration
- 30. Temporary registration
- 31. Application of certain sections
- 32. Entries in Registers
- 33. Certificate of registration
- 34. Payment of annual fee
- 35. Change of address
- 36. Alteration of Registers

**PART IV—PERFORMANCE OF DENTAL TECHNICAL
WORK AND PROVISION OF DENTAL
PROSTHETIC SERVICES**

- 37. Persons who may practise
- 38. Business names
- 39. Professional indemnity insurance—registered dental prosthetists
- 40. Performance of dental technical work
- 41. Recovery of fees
- 42. Review of accounts
- 43. Administration of deceased estate

PART V—DISCIPLINARY PROCEDURES

Division 1—Cancellation and Suspension

- 44. Cancellation or suspension
- 45. Inquiry by Board
- 46. Effect of suspension
- 47. Application for re-registration

Division 2—Inquiries

- 48. Interpretation
- 49. Ministerial direction to hold inquiry
- 50. Notice
- 51. Constitution of Board

TABLE OF PROVISIONS—continued

Section

- 52. Records
- 53. Procedure
- 54. Inquiries to be in public
- 55. Assistance
- 56. Representation
- 57. Powers of Board
- 58. Inspection of documents
- 59. Decisions
- 60. Protection
- 61. Allowances to witnesses
- 62. Offences—inquiries

PART VI—MISCELLANEOUS

Division 1—Review of Board's Decisions

- 63. Review of decisions
- 64. Notification of decisions

Division 2—General

- 65. False statements
- 66. Inspection of Registers
- 67. Evidence
- 68. Offences
- 69. Publication of decisions
- 70. Publication of names of registered persons
- 71. Conduct of directors, servants and agents
- 72. Penalties for companies
- 73. Determined fees
- 74. Regulations

PART VII—TRANSITIONAL

- 75. Application
- 76. First Board members

AUSTRALIAN CAPITAL TERRITORY

Dental Technicians and Dental Prosthetists Registration Ordinance 1988

No. 85 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 15 December 1988

N. M. STEPHEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to provide for the registration of persons engaged in the performance of dental technical work or the provision of dental prosthetic services and for related purposes

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Dental Technicians and Dental Prosthetists Registration Ordinance 1988*.¹

Commencement

2. This Ordinance commences on such date as is fixed by the Minister by notice in the *Gazette*.

Interpretation

3. (1) In this Ordinance, unless the contrary intention appears—

“artificial denture” includes a partial artificial denture;

“Board” means the Dental Technicians and Dental Prosthetists Board established by section 5;

“Chairperson” means the Chairperson of the Board;

“dental prosthetic service” has the meaning given by section 4;

“dental technical work” means the making, altering, repairing or maintaining of—

(a) artificial dentures; and

(b) restorative or corrective dental appliances;

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

“determined fee” means the fee determined under subsection 73 (1) for the purposes of the provision in which the expression occurs;

“fitting” includes taking an impression or making a measurement for the purpose of inserting, constructing, repairing or maintaining an artificial denture;

“member” means a member of the Board;

“Register” means—

(a) the Register of Dental Prosthetists; or

(b) the Register of Dental Technicians;

as the case requires, kept pursuant to section 24;

“registered” means registered under this Ordinance;

“Tribunal” means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975*.

(2) For the purposes of this Ordinance—

(a) a natural person shall be deemed to perform dental technical work or provide a dental prosthetic service if the work is performed, or the service is provided, by another person employed or engaged by the

first-mentioned person in the course of a business carried on by that person; and

- (b) a company shall be deemed to perform dental technical work or provide a dental prosthetic service if the work is performed, or the service provided, by a person employed or engaged by the company to perform dental technical work or provide dental prosthetic services, as the case may be.

(3) Nothing in this Ordinance applies in relation to the carrying on by a person, in accordance with the laws of the Territory, of the business or profession of dentist or medical practitioner.

Dental prosthetic services

4. (1) For the purposes of this Ordinance but subject to this section, “dental prosthetic service” means—

- (a) advice or attention given for the purpose of, or in connection with, the fitting, insertion, construction, alteration, repair or maintenance of an artificial denture;
- (b) the fitting or insertion of an artificial denture in a healthy human mouth; and
- (c) the construction, repair or maintenance of an artificial denture in connection with the performance of a function referred to in paragraph (a) or (b).

(2) A dental prosthetic service does not include the fitting or insertion of an artificial denture where, in the proper practice of dentistry, it could be reasonably foreseen that, before any such work is commenced, an adjustment of natural teeth or the jaw would be required for the purpose of—

- (a) balancing the occlusion of natural teeth and the artificial denture; or
- (b) preparing natural teeth or the jaw for the insertion of the artificial denture.

(3) For the purposes of subsection (1), an artificial denture does not include—

- (a) a fixed bridge; or
- (b) an artificial denture—
 - (i) of which an intracoronal retainer forms part;

- (ii) to which an intracoronaral retainer is attached; or
 - (iii) which is combined with an obturator.
- (4) For the purposes of subsection (1), a human mouth is not healthy if—
- (a) the jaws are apparently—
 - (i) damaged and not completely healed; or
 - (ii) diseased;
 - (b) the mouth contains any soft tissue that is apparently—
 - (i) damaged and not completely healed; or
 - (ii) diseased; or
 - (c) the mouth contains any teeth that are apparently—
 - (i) carious;
 - (ii) damaged and not completely healed; or
 - (iii) diseased.

PART II—THE DENTAL TECHNICIANS AND DENTAL PROSTHETISTS BOARD

Division 1—General

Establishment

5. (1) There is established by this section a board by the name of the Dental Technicians and Dental Prosthetists Board.

- (2) The Board—
- (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

Constitution

- 6. (1)** The Board shall consist of—

- (a) the Chairperson and 2 other members, each of whom is a registered dental prosthetist;
- (b) 2 members, other than the members referred to in paragraph (a), each of whom is a registered dental technician; and
- (c) 1 member who is not entitled to be registered under this Ordinance or by a health professions board.

(2) For the purposes of paragraph (1) (c), “health professions board” means a Board within the meaning of the *Health Professions Boards (Procedures) Ordinance 1981*.

Membership

7. (1) Each member—

- (a) shall be appointed in writing by the Minister; and
- (b) subject to this Ordinance, holds office for the period, not exceeding 3 years, and on the terms and conditions, specified in the instrument of appointment.

(2) A person shall not be appointed as a member—

- (a) if the person has attained the age of 65 years; or
- (b) for a period that extends beyond the date on which the person will attain the age of 65 years.

Executive Officer

8. The Chairperson shall be the executive officer of the Board.

Deputy Chairperson

9. (1) The members shall, from time to time, as occasion requires, elect one of their number to be the Deputy Chairperson.

(2) The Chairperson shall inform the Minister in writing of the election of the Deputy Chairperson.

(3) The Deputy Chairperson—

- (a) holds office for the period of 12 months from the date of the election, unless he or she sooner ceases to be a member; and
- (b) is eligible for re-election.

(4) The Deputy Chairperson may resign the office of Deputy Chairperson in writing signed by the Deputy Chairperson and delivered to the Chairperson.

(5) The Deputy Chairperson may act as the Chairperson during any period when the Chairperson is temporarily unable to perform the functions of the office of Chairperson.

(6) While the Deputy Chairperson is acting in the office of Chairperson, the Deputy Chairperson has and may exercise all the powers, and may perform all the functions, of the Chairperson.

Resignation

10. The Chairperson or any other member may resign the office of Chairperson or member, as the case may be, by writing signed by the Chairperson or member and delivered to the Minister.

Removal from office

11. (1) The Minister may remove a member from office for misbehaviour or physical or mental incapacity.

(2) The Minister shall remove a member from office if the member—

- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;
- (b) is convicted in the Territory or in a State or another Territory of an offence punishable on conviction by imprisonment for 1 year or more;
- (c) is absent without leave under section 12 from 3 consecutive meetings of the Board;
- (d) in the case of a member referred to in paragraph 6 (1) (a) or (b)—ceases to be a registered dental prosthetist or a registered dental technician, as the case requires; or
- (e) fails, without reasonable excuse, to comply with section 14.

Leave of absence

12. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister determines in writing.

(2) The Chairperson may grant leave of absence to another member for such period, not exceeding 1 year, and on such terms and conditions as the Chairperson determines in writing.

Remuneration

13. (1) A member is not entitled to remuneration in respect of any duties or functions performed in his or her capacity as a member.

(2) The Board shall reimburse a member for any expenses reasonably incurred by the member in the performance of the member's duties or functions.

Disclosure of interest

14. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the member's interest at a Board meeting.

(2) A disclosure shall be recorded in the minutes of the meeting and the member shall not, unless the Minister or the Board otherwise determines—

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

(3) A member referred to in subsection (2) shall not—

- (a) be present during any deliberation of the Board for the purpose of considering whether to make a determination under that subsection in relation to that member; or
- (b) take part in the making by the Board of such a determination.

Impartiality of Board

15. Subject to this Ordinance, a member shall not be subject to the direction of any person in respect of any act or thing done in his or her capacity as a member.

Protection of members

16. An action (other than an action in negligence) or other proceeding, civil or criminal, does not lie against a member for or in relation to any act done in good faith in his or her capacity as a member.

Annual reports

17. The Chairperson shall furnish to the Minister a report relating to the Board's operations during each financial year.

Division 2—Meetings

Meetings

18. (1) The Board shall hold such meetings as are necessary for the performance of its functions.

(2) The Chairperson may, at any time, by notice in writing to the other members, convene a meeting at the time and place specified in the notice.

(3) The Minister may, by notice in writing to each member, direct that a meeting be held at the time and place specified in the notice.

(4) Where, at any time, a majority of the members requests the Chairperson in writing to convene a meeting, the Chairperson shall convene a meeting in accordance with the request.

(5) The Board may invite any person to attend a meeting for the purpose of advising or informing the Board on any matter.

Quorum

19. At a meeting, 4 members constitute a quorum.

Presiding member

20. (1) The Chairperson shall preside at all meetings at which he or she is present.

(2) If the Chairperson and the Deputy Chairperson are absent from a meeting the members present shall elect 1 of their number to preside.

Notice of motion

21. (1) A motion shall not be proposed at a meeting unless notice in writing of the motion has been given to the Chairperson at least 7 days before the date of the meeting.

(2) Particulars of such a notice shall be included in the notice convening the meeting at which the motion is to be considered.

Records of meetings

22. The Board shall keep a record of its proceedings.

Voting

23. (1) A question arising at a meeting shall be determined by a majority of votes of the members present and voting.

(2) Voting shall be—

- (a) by show of hands; or
- (b) if a vote by ballot is requested by a member present—by ballot.

(3) Where the Chairperson is presiding at a meeting, he or she has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(4) Where—

- (a) the Chairperson and the Deputy Chairperson are absent from a meeting; and
- (b) the members present do not agree on a question;

the determination of that question shall be postponed until the next meeting.

PART III—REGISTRATION

Registers

24. The Board shall keep—

- (a) a register to be called the Register of Dental Technicians; and
- (b) a register to be called the Register of Dental Prosthetists.

Applications for registration

25. An application under this Part shall be—

- (a) in accordance with the appropriate form approved by the Board;
- (b) accompanied by the determined fee; and
- (c) lodged with the Chairperson.

Registration of natural persons

26. (1) The Board shall, upon application by a natural person for registration as a dental technician, register the person accordingly if satisfied that—

- (a) the applicant is entitled to practise as a dental technician in a State or another Territory under a law of that State or Territory relating to the performance of dental technical work; or

- (b) the applicant has completed, to the Board's satisfaction, an approved course of instruction or an examination conducted by, or on behalf of, the Board.
- (2) The Board shall, upon application by a natural person for registration as a dental prosthetist, register the person accordingly if satisfied that—
- (a) the applicant is a registered dental technician; and
 - (b) the applicant—
 - (i) is entitled to practise as a dental prosthetist in a State or another Territory under a law of that State or Territory relating to the provision of dental prosthetic services; or
 - (ii) has completed, to the Board's satisfaction, an approved course of instruction or an examination conducted by, or on behalf of, the Board.
- (3) The Board shall not register an applicant as a dental prosthetist if satisfied that the applicant does not, or will not, have professional indemnity insurance in respect of dental prosthetic services provided by that applicant otherwise than as an employee or agent.
- (4) The Board shall not register an applicant if satisfied that the applicant—
- (a) does not have an adequate knowledge of the English language;
 - (b) is not domiciled in Australia; or
 - (c) is not otherwise a fit and proper person to be registered.
- (5) In subsections (1) and (2), “approved course of instruction” means a course of instruction declared by the Minister, on the recommendation of the Board to be an approved course of instruction.
- (6) The Minister may, on the recommendation of the Board and by notice published in the *Gazette*, declare a course of instruction to be an approved course of instruction.

Registration of companies

- 27. (1)** The Board shall, upon application by a company for registration as a dental technician, register the company accordingly if satisfied that—
- (a) the company is not prohibited by its memorandum of association from carrying on business as a dental technician;
 - (b) at least 1 of its directors is a registered dental technician; and

- (c) the controlling interest in the company is held by 1 or more registered dental technicians.

(2) The Board shall, upon application by a company for registration as a dental prosthetist, register the company accordingly if satisfied that—

- (a) the company is not prohibited by its memorandum of association from carrying on business as a dental prosthetist;
- (b) at least 1 of its directors is a registered dental prosthetist; and
- (c) the controlling interest in the company is held by 1 or more registered dental prosthetists.

(3) The Board shall not register a company as a dental prosthetist if satisfied that the company does not, or will not, have professional indemnity insurance in respect of dental prosthetic services provided by that company.

Attendance

28. (1) The Board may, by notice in writing, require an applicant for registration (including provisional or temporary registration) to furnish to the Board either orally or in writing, such further information relating to the application as is specified in the notice.

(2) The Board may require—

- (a) an applicant who is a natural person; or
- (b) if the applicant is a company—a director of the company;

to attend before the Board for the purpose of furnishing the information.

(3) If the applicant or director, as the case may be, fails to furnish information, or attend, as required, the Board may refuse the application.

Provisional registration

29. (1) The Board may provisionally register an applicant for registration if the applicant applies also for provisional registration.

(2) Subject to subsection (3), a person ceases to be provisionally registered upon the expiration of the 3 months commencing on the date of provisional registration.

(3) If within that 3 months the Board makes a decision on the application for registration, the provisional registration ceases—

- (a) if the Board registers the applicant—upon registration; and

- (b) if the Board refuses to register the applicant—on the expiration of the date on which the applicant is notified in accordance with section 64 of the decision.

(4) Provisional registration is not renewable.

Temporary registration

30. (1) The Board may, upon application by a person for temporary registration as a dental technician, register the person accordingly if satisfied that the applicant—

- (a) is entitled to practise as a dental technician in a State or another Territory under a law of that State or Territory relating to the performance of dental technical work; and
- (b) intends to perform dental technical work in the Territory on behalf of a registered dental technician.

(2) The Board may, upon application by a person for temporary registration as a dental prosthetist, register the person accordingly if satisfied that the applicant—

- (a) is entitled to practise as a dental prosthetist in a State or another Territory under a law of that State or Territory relating to the provision of dental prosthetic services; and
- (b) intends to provide dental prosthetic services in the Territory on behalf of a registered dental prosthetist.

(3) The Board shall not register an applicant if satisfied that the applicant—

- (a) does not have an adequate knowledge of the English language;
- (b) is not domiciled in Australia; or
- (c) is not otherwise a fit and proper person to be registered.

(4) Temporary registration shall remain in force for the 3 months after the date of registration and may, on application and payment of the determined fee, be renewed for a further 3 months.

(5) The Board shall not register, or renew the registration of, an applicant who has been temporarily registered for a period of, or periods which amount to, 6 months during the period of 24 months immediately preceding the date on which the application is made.

Application of certain sections

31. A person who is provisionally or temporarily registered shall be deemed to be registered for the purposes of sections 32, 33, 35 and 36, Part IV and section 44.

Entries in Registers

32. (1) Registration shall be effected by entering in the appropriate Register—

- (a) in the case of a natural person—
 - (i) the name of the person;
 - (ii) his or her professional address in the Territory or, if the person has no professional address in the Territory, his or her place of residence, whether within or outside the Territory; and
 - (iii) the qualifications of the person;
- (b) in the case of a company—
 - (i) the name of the company;
 - (ii) the address at which the company carries on business in the Territory or, if the company does not carry on business in the Territory, the registered office of the company, whether within or outside the Territory; and
 - (iii) the names of the directors and members of the company who are registered;
- (c) the registration number allotted to the person; and
- (d) the date of registration.

(2) An entry in a Register shall be signed by the Chairperson.

Certificate of registration

33. (1) The Board shall issue a certificate of registration to a person who is registered.

(2) A certificate is evidence that the person specified in the certificate was registered as a dental technician or dental prosthetist, as the case may be, on the date specified in the certificate.

(3) Where a certificate relating to a registered person has been lost, stolen or destroyed, the Board shall, on payment of the determined fee, issue a duplicate certificate to that person.

(4) Where a person ceases to be registered, the Board may, by notice in writing served on the person, require the person, within 14 days after the date of the notice, to deliver to the Board the certificate relating to that person.

(5) A person shall not, without reasonable excuse, fail to comply with a notice given under subsection (4).

Penalty: \$100.

Payment of annual fee

34. (1) A registered person shall, on or before 1 September in each year, pay the determined fee.

(2) Where a person fails to comply with subsection (1), the Board shall serve the person with a notice—

- (a) requiring the person to pay the determined fee within 1 month after the date of the notice; and
- (b) advising the person that the person's registration will be cancelled if the person fails to comply with the notice.

(3) The Board shall cancel the registration of a person who fails to comply with the notice.

(4) The Board shall re-register a person whose registration has been cancelled under subsection (3) if the person pays the determined fee within 12 months after the date on which the registration is so cancelled.

Change of address

35. Where a registered person—

- (a) changes the address entered in the appropriate Register under section 32; or
- (b) establishes, or ceases to have—
 - (i) in the case of a natural person—a professional address in the Territory; or
 - (ii) in the case of a company—an address at which the company carries on business in the Territory;

the person shall within 1 month after the change, establishment or cessation notify the Chairperson in writing.

Penalty: \$100.

Alteration of Registers

36. The Board—

- (a) shall remove from the appropriate Register the name of a person—
 - (i) if the person has died;
 - (ii) if the person has ceased to be registered; or
 - (iii) where the person is a company—if the company has been wound up; and
- (b) shall—
 - (i) at the request of a registered person and on payment of the determined fee; or
 - (ii) of its own accord;

make such alterations to particulars in the appropriate Register as are necessary.

PART IV—PERFORMANCE OF DENTAL TECHNICAL WORK AND PROVISION OF DENTAL PROSTHETIC SERVICES

Persons who may practise

37. (1) A person other than a registered dental technician shall not—

- (a) perform, for fee or reward, dental technical work;
- (b) take or use, either alone or in combination with any other words or letters, the name or title of a dental technician or a name, title, addition or description (including initials or letters placed after the person's name) indicating or implying that the person is a registered dental technician or that the person performs, or is qualified to perform, dental technical work; or
- (c) by advertisement or otherwise, purport to be qualified or authorised to perform dental technical work or purport to be a person who performs dental technical work.

Penalty—

- (a) for a contravention of paragraph (a)—\$2,000; and
- (b) for a contravention of paragraph (b) or (c)—\$1,000.

(2) A person other than a registered dental prosthetist shall not—

- (a) provide, for fee or reward, a dental prosthetic service;
- (b) take or use, either alone or in combination with any other words or letters, the name or title of a dental prosthetist or a name, title, addition or description (including initials or letters placed after the person's name) indicating or implying that the person is a registered dental prosthetist or that the person provides, or is qualified to provide, dental prosthetic services; or
- (c) by advertisement or otherwise, purport to be qualified or authorised to provide dental prosthetic services or purport to be a person who provides dental prosthetic services.

Penalty—

- (a) for a contravention of paragraph (a)—\$2,000; and
- (b) for a contravention of paragraph (b) or (c)—\$1,000.

(3) A registered person shall not perform dental technical work or provide a dental prosthetic service under a name other than the name under which the person is registered.

Penalty: \$200.

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

- (a) the person named in the certificate is not registered; or
- (b) the person named in the certificate is registered as a dental technician or dental prosthetist under that name;

is evidence of that fact.

Business names

38. (1) A registered person shall not carry on business as a dental technician or dental prosthetist under a business name, which includes a name, title, addition or description (initials or letters placed after the person's name excepted) indicating or implying that the person is carrying on such a business, other than—

- (a) in the case of a registered dental technician who is not a registered dental prosthetist—“Dental Technician” or “Dental Laboratory”; or
- (b) in the case of a registered dental prosthetist—“Dental Prosthetist” or “Denture Clinic”.

Penalty: \$1,000.

(2) In this section, “business name” has the same meaning as in the *Business Names Ordinance 1963*.

Professional indemnity insurance—registered dental prosthetists

39. (1) A registered dental prosthetist shall not provide a dental prosthetic service unless the prosthetist has professional indemnity insurance that relates to that service.

Penalty: \$5,000.

(2) Subsection (1) does not apply to a registered dental prosthetist who provides that service as an employee or agent.

Performance of dental technical work

40. (1) A registered dental technician who is not a registered dental prosthetist shall not perform dental technical work other than on the order of—

- (a) a dentist registered under the *Dentists Registration Ordinance 1931*; or
- (b) a registered dental prosthetist.

Penalty: \$2,000.

(2) In subsection (1), “order” means an order in accordance with the appropriate form approved by the Board.

Recovery of fees

41. (1) A person is not entitled to commence an action for the recovery of fees or remuneration for dental technical work performed or a dental prosthetic service provided, unless the person was—

- (a) at the time the person performed the work, a registered dental technician; or
- (b) at the time the person provided the service, a registered dental prosthetist.

(2) A person is not entitled to commence proceedings for the recovery of fees or remuneration for dental technical work performed for, or a dental prosthetic service provided to, another person or a dependant of that person unless—

- (a) an account for the fees or remuneration has been served on that other person; and
- (b) the account is unpaid—
 - (i) if that other person has applied for a review of the account under subsection 42 (1)—at the expiration of 3 months after the date on which a certificate under subsection 42 (2) was issued; or
 - (ii) in any other case—at the expiration of 3 months after the date of service.
- (3) An account shall specify—
 - (a) the amount claimed;
 - (b) a description of the work performed or service provided;
 - (c) the date on which the work was performed or the service provided; and
 - (d) the name of the person for whom the work was performed or to whom the service was provided.

(4) Subsection (2) does not apply in relation to proceedings commenced by a person under Part II of the Arrest on Mesne Process Act 1902 of New South Wales in its application to the Territory.

Review of accounts

42. (1) A person on whom an account is served under paragraph 41 (2) (a) may, within 1 month after the date of service, apply in writing to the Board for a review of the account.

(2) The Board shall, on receipt of an application, review the account and certify, under the hand of the Chairperson, the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for the dental technical work performed or dental prosthetic service provided.

(3) The Board shall set out in the certificate the facts on which the certification is based.

(4) The Board may request a person to furnish such information as it thinks necessary or desirable for the purposes of a review and may specify the time within which the information is to be furnished.

(5) If a person fails to furnish the information within the time specified, the Board may review the account without the information.

(6) The Board shall give the parties to an application any information furnished under subsection (4).

(7) When reviewing an account, the Board shall have regard to—

- (a) the time occupied performing the work or providing the service;
- (b) the nature of the work performed or service provided; and
- (c) any other circumstances submitted by the person who performed the work or provided the service.

(8) The Board shall serve a copy of the certificate on the person who performed the work or provided the service.

(9) In proceedings for the recovery of fees or remuneration, the certificate of the Board is evidence that the amount so certified is a reasonable amount of fees or remuneration for the work performed or service provided.

Administration of deceased estate

43. Upon the death of a registered person who was at the time of death carrying on business as a dental technician or dental prosthetist, an executor, administrator or trustee of the estate may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, administrator or trustee, permits, if—

- (a) the dental technical work performed in the business is performed by a registered dental technician; and
- (b) the dental prosthetic services provided in the business are provided by a registered dental prosthetist.

PART V—DISCIPLINARY PROCEDURES

Division 1—Cancellation and Suspension

Cancellation or suspension

44. (1) The Board may cancel the registration of a person whose registration has been obtained by fraud or misrepresentation.

(2) The Board may cancel the registration of a natural person—

- (a) in the case of a registered dental technician—whose entitlement to practice as a dental technician in a State or another Territory has been cancelled or suspended on a ground other than the non-payment of a fee;
 - (b) in the case of a registered dental prosthetist—
 - (i) whose registration as a dental technician has been cancelled or suspended on a ground other than the non-payment of a fee; or
 - (ii) whose entitlement to practise as a dental prosthetist in a State or another Territory has been cancelled or suspended on a ground other than the non-payment of a fee;
 - (c) in the case of a registered dental prosthetist to whom subsection 39 (1) applies—who fails to maintain professional indemnity insurance in respect of dental prosthetic services provided by the prosthetist otherwise than as an employee or agent;
 - (d) who, being a person whose registration is suspended, is convicted of an offence against section 37;
 - (e) who is convicted in the Territory or elsewhere of an offence punishable by imprisonment for a period of 1 year or longer;
 - (f) who is habitually drunk or is addicted to a drug; or
 - (g) who is otherwise unfit to perform dental technical work or provide dental prosthetic services, as the case may be.
- (3)** The Board may cancel the registration of a company if the company has ceased to comply with the requirements of—
- (a) in the case of a registered dental technician—paragraph 27 (1) (a), (b) or (c); and
 - (b) in the case of a registered dental prosthetist—paragraph 27 (2) (a), (b) or (c).
- (4)** In the case of a person to whom paragraph (2) (a), (b), (c), (e), (f) or (g) applies, the Board may, instead of cancelling the registration—
- (a) suspend the person’s registration for such period as it thinks fit; or
 - (b) reprimand the person.
- (5)** Subject to subsection (6), the Board shall, on receipt of a request in writing by a registered person, cancel or suspend the person’s registration.

(6) The Board may refuse a request by a registered person to whom an inquiry under section 45 relates or where such an inquiry is pending.

Inquiry by Board

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

- (a) cancelling a person's registration under subsection 44 (1), (2) or (3);
or
- (b) suspending a person's registration, or reprimanding a person, under subsection 44 (4).

(2) Pending the holding of an inquiry, the Board may suspend the registration of the person to whom the inquiry relates.

Effect of suspension

46. A person whose registration is suspended shall, during the period of the suspension, be deemed not to be registered.

Application for re-registration

47. (1) A person whose registration—

- (a) has been cancelled, other than under subsection 34 (3); or
- (b) is suspended, other than under subsection 45 (2);

may apply in writing to the Board for re-registration or termination of the suspension 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.

(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.

Division 2—Inquiries

Interpretation

48. In this Division—

“barrister and solicitor” has the same meaning as in the *Legal Practitioners Ordinance 1970*;

“inquiry” means an inquiry under section 45 or 49.

Ministerial direction to hold inquiry

49. (1) The Minister may, by notice in writing to the Chairperson, direct the Board to hold an inquiry in relation to a matter referred to in subsection 44 (1), (2) or (3).

(2) Where the Minister gives a direction, the Board shall conduct an inquiry.

(3) Nothing in this section shall be construed as limiting the Board's power to hold an inquiry without a direction from the Minister.

Notice

50. (1) The Board shall serve notice in writing that an inquiry is to be held on each party to the inquiry.

(2) The notice shall—

- (a) state the date, time and place of the inquiry;
- (b) identify the ground under subsection 44 (1), (2) or (3) on which the inquiry is to be held;
- (c) contain a statement of the matters to be considered at the inquiry; and
- (d) be served on each party to the inquiry at least 30 days before the date of the inquiry.

Constitution of Board

51. (1) At an inquiry, a quorum is constituted by—

- (a) the Chairperson; and
- (b) at least 3 other members.

(2) The Chairperson shall preside at an inquiry.

Records

52. The Board shall keep a record of its proceedings.

Procedure

53. (1) An inquiry shall be conducted with as little formality and technicality, and with as much expedition, as is practicable to permit a proper consideration of the matters before the Board.

(2) In an inquiry the Board is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks appropriate.

(3) Subject to this Ordinance, the Chairperson may give directions as to the procedure to be followed in relation to an inquiry.

Inquiries to be in public

54. (1) Subject to subsection (2), an inquiry shall be in public.

(2) Where the Board is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Board may—

- (a) direct that an inquiry take place in private and give directions as to the persons who may be present;
- (b) give directions prohibiting or restricting the publication of—
 - (i) evidence given at an inquiry, whether in public or in private; or
 - (ii) matters contained in documents produced at an inquiry; and
- (c) give directions prohibiting or restricting the disclosure to some or all of the parties to an inquiry of—
 - (i) evidence given at the inquiry; or
 - (ii) the contents of a document produced at the inquiry.

(3) A person shall not fail to comply with a direction given by the Board under paragraph (2) (b) or (c).

Penalty: \$1,000 or imprisonment for 6 months, or both.

Assistance

55. (1) The Attorney-General may appoint a barrister and solicitor to assist the Board at an inquiry.

(2) The Chairperson may appoint a person other than a barrister and solicitor to assist the Board at an inquiry.

Representation

56. (1) A party to an inquiry may be represented by another person.

(2) The Board may, at the request of a person summoned under paragraph 57 (1) (c), allow the person to be represented by another person.

Powers of Board

57. (1) At an inquiry, the Board may—

- (a) require a person to give evidence on oath or affirmation and, for that purpose, a member may administer an oath or affirmation;
 - (b) proceed in the absence of a party who has been served with a notice under section 50; and
 - (c) summon a person, by notice in writing signed by the Chairperson, to attend the inquiry at the time and place specified in the notice—
 - (i) to give evidence; or
 - (ii) to produce such documents (if any) as are specified in the summons.
- (2) The Board may adjourn an inquiry from time to time.

Inspection of documents

58. (1) A member may—

- (a) inspect any document produced at an inquiry; and
- (b) make copies of, or take extracts from, any part of the document that is relevant to the inquiry.

(2) The Board may, for the purposes of an inquiry, take and retain for as long as is necessary possession of a document produced at an inquiry.

Decisions

59. At the conclusion of an inquiry, the Board shall make a decision according to the opinion of—

- (a) the majority of the members present at the inquiry; or
- (b) if there is no majority—the Chairperson.

Protection

60. (1) A person who represents a party at an inquiry has the same protection and immunity as a barrister and solicitor appearing for a party in proceedings in the Supreme Court.

(2) A witness appearing at an inquiry has the same protection as a witness in proceedings in the Supreme Court.

Allowances to witnesses

61. (1) A person who attends an inquiry for the purpose of giving evidence is entitled to receive such fees and travelling expenses in accordance

with the scale in the Second Schedule to the Public Works Committee Regulations, as in force from time to time under the *Public Works Committee Act 1969*, as the Chairperson determines.

(2) Fees and expenses payable to a person are payable—

- (a) in the case of a person who attends an inquiry, whether on summons or not, by reason of a request by a person other than a member of the Board—by that person; or
- (b) in any other case—by the Board.

Offences—inquiries

62. (1) A person served with a summons under paragraph 57 (1) (c) shall not fail, without reasonable excuse—

- (a) to attend the inquiry as required by the summons; or
- (b) to produce a document that is specified in the summons.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) A person appearing as a witness at an inquiry shall not fail, without reasonable excuse—

- (a) to be sworn or to make an affirmation; or
- (b) to answer a question that the person is required by a member to answer.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(3) A statement or disclosure made before the Board by a person is not, except in proceedings for giving false testimony at an inquiry, admissible in evidence against the person in civil or criminal proceedings.

PART VI—MISCELLANEOUS

Division 1—Review of Board's Decisions

Review of decisions

63. Application may be made to the Tribunal for a review of a decision of the Board—

- (a) refusing to register a person under section 26, 27 or 30;
- (b) refusing an application under section 43;

- (c) cancelling a person's registration under subsection 44 (1), (2) or (3);
- (d) suspending a person under subsection 44 (4);
- (e) reprimanding a person under subsection 44 (4); or
- (f) refusing to—
 - (i) re-register a person; or
 - (ii) terminate a person's suspension;under subsection 47 (2).

Notification of decisions

64. (1) Where the Board makes a decision of a kind referred to in section 63, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision to—

- (a) in the case of a decision of the kind referred to in paragraph 63 (c), (d) or (e)—each party to the relevant inquiry; and
- (b) in any other case—the person in respect of whom the decision was made.

(2) A notice shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

(3) The validity of a decision shall not be taken to be affected by a failure to comply with subsection (2).

Division 2—General

False statements

65. A person shall not, in purported compliance with a requirement under subsection 28 (1) or section 62, knowingly or recklessly furnish information that is false or misleading in a material particular.

Penalty: \$2,000.

Inspection of Register

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

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

(2) The Board may, on request by a registration authority and without payment by the registration authority of a fee, forward a certified copy of an entry in a Register to the registration authority.

(3) In subsection (2), “registration authority” means a person or body empowered by or under a law of a State or another Territory or of a foreign country to register dental technicians or dental prosthetists or otherwise to authorise the performance of dental technical work or the provision of dental prosthetic services.

Evidence

67. (1) A document that purports to be signed by the Chairperson shall be taken to have been so signed unless the contrary is proved.

(2) A document that purports to be—

- (a) a record of the terms of a decision of the Board; and
- (b) certified by the Chairperson to be a true record of the decision;

is, in any proceedings, evidence of the decision.

Offences

68. A person shall not—

- (a) insult a member in relation to the exercise of the member’s powers or functions;
- (b) interrupt an inquiry; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near where the Board is holding an inquiry.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Publication of decisions

69. (1) Where—

- (a) a decision of the kind referred to in paragraph 63 (c), (d) or (e) has been made by the Board or affirmed by the Tribunal; and

- (b) the Chairperson believes on reasonable grounds that it is in the public interest to do so;

the Chairperson may publish a notice of the decision and the reasons for the decision, including the findings on material questions of fact, in the *Gazette*.

- (2) A notice of a decision shall not be published until—
 - (a) in the case of a decision of the Board in respect of which an application under section 63 has been made—
 - (i) the application has been withdrawn; or
 - (ii) the Tribunal has given its decision on the application;whichever occurs first; and
- (b) in any other case—the period within which an application under section 63 may be made has expired.

Publication of names of registered persons

70. The Board shall, as soon as practicable after 1 September in each year and in respect of each Register, publish in the *Gazette* a notice containing, in respect of each person registered on that date—

- (a) the name of the person;
- (b) in the case of a natural person—his or her professional address in the Territory (if any); and
- (c) in the case of a company—the address at which the company carries on business in the Territory (if any).

Conduct of directors, servants and agents

71. (1) Where, in proceedings for an offence against this Ordinance, it is necessary to establish the state of mind of a company in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a director, servant or agent of the company within the scope of his or her actual or apparent authority; and
- (b) that the director, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of the company by a director, servant or agent of the company within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an

offence against this Ordinance, to have been engaged in also by the company unless the company establishes that the company took reasonable precautions and exercised due diligence to avoid the conduct.

(3) Where, in proceedings for an offence against this Ordinance, it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of a natural person by a servant or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Ordinance, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) Where—

- (a) a natural person is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been made;

the person is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person shall be read as including a reference to—

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct.

Penalties for companies

72. Where a company is convicted of an offence against this Ordinance, the penalty that the court may impose in respect of the offence is a fine not exceeding 5 times the maximum fine that, but for this section, the court could impose as a penalty for the offence.

Determined fees

73. (1) The Minister may, by notice published in the *Gazette*, determine fees for the purposes of this Ordinance.

(2) Where a determined fee is payable, it shall be paid to the Board.

Regulations

74. The Minister may make regulations, not inconsistent with this Ordinance, prescribing matters—

- (a) required or permitted by this Ordinance to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

PART VII—TRANSITIONAL

Application

75. (1) This section applies to a person who, for a period of, or periods which amount to, 3 years during the 5 years immediately preceding the commencement of this Ordinance, has performed dental technical work or provided dental prosthetic services.

(2) Subject to subsection (3), Part IV does not apply to such a person until—

- (a) the expiration of 6 months after this Ordinance commences; or
- (b) the person is registered;

whichever occurs first.

(3) Where—

- (a) a person to whom this section applies by virtue of the provision of dental prosthetic services applies for registration as a dental prosthetist; and
- (b) the application is made within the 6 months after the commencement of this Ordinance;

Part IV does not apply to the person until—

- (c) if the Board registers the applicant—registration; and
- (d) if the Board refuses to register the applicant—the expiration of the date on which the applicant is notified in accordance with section 64 of the decision.

(4) Where—

- (a) a person to whom this section applies by virtue of the performance of dental technical work applies for registration as a dental technician; and
- (b) the application is made within the 6 months after the commencement of this Ordinance;

the Board shall register the applicant and Part IV does not apply to the applicant until registration.

First Board members

76. (1) Notwithstanding paragraphs 6 (1) (a) and (b), the Minister may appoint as the first members of the Board—

- (a) in the case of a member referred to in paragraph 6 (1) (a)—a person who, at the commencement of this Ordinance, provides dental prosthetic services and has for the 2 years immediately preceding the commencement provided dental prosthetic services; and
- (b) in the case of a member referred to in paragraph 6 (1) (b)—a person who, at the commencement of this Ordinance, performs dental technical work and has for the 2 years immediately preceding the commencement performed dental technical work.

(2) The Minister shall remove a member appointed under subsection (1) from office if the member fails to apply for registration within 6 months after the commencement of this Ordinance.

NOTE

- 1. Notified in the *Commonwealth of Australia Gazette* on 21 December 1988.