



Australian Capital Territory

Podiatrists Act 1994 No 82

Republication No 1

Republication date: 20 June 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Podiatrists Act 1994* as in force on 20 June 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Podiatrists Act 1994

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Podiatrists Act 1994

An Act to provide for the registration of podiatrists, to control the practice of podiatry, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Podiatrists Act 1994*.

3 Interpretation for Act

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

board means the Podiatrists Board established under section 6.

chairperson means the chairperson of the board.

medical practitioner means a registered medical practitioner within the meaning of the *Medical Practitioners Act 1930*.

member means a member of the board.

Mutual Recognition Act means the *Mutual Recognition Act 1992* (Cwlth).

physiotherapist means a registered physiotherapist within the meaning of the *Physiotherapists Act 1977*.

podiatry (previously known as chiropody) means the prevention, diagnosis or treatment by medical, electrical, surgical, mechanical or manual methods, or by any other prescribed method, of ailments or abnormal conditions of the human foot and ankle.

register means the register of podiatrists kept under section 22.

registered means registered under this Act.

registered podiatrist means a person—

- (a) who is registered under this Act; or

- (b) who is to be deemed to be registered under this Act because of the Mutual Recognition Act, section 25.

registration authority means a person or body empowered by or under a law of a place outside the ACT to register or licence podiatrists or otherwise authorise persons to practise podiatry.

- (2) Nothing in this Act applies in relation to the carrying on by a person, in accordance with the laws of the Territory, of the business or profession of medical practitioner or physiotherapist.
- (3) For this Act, a person shall be deemed to practise podiatry if—
- (a) he or she practises podiatry personally on his or her own account or as a member of a firm; or
 - (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 podiatry; or
 - (c) he or she is engaged in the practice of podiatry as a person employed in a business carried on by another person (including a company) or by a firm.

4 Competence to practise podiatry

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

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

5 Impairment

- (1) For 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 that detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise podiatry.

Part 1 Preliminary

Section 5

- (2) For subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.

Part 2 Administration

6 Establishment of board

For this Act, there shall be a board called the Podiatrists 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) 1 member, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981* and who is not entitled to be registered by a board within the meaning of that Act or under the *Dental Technicians and Dental Prosthetists Act 1988*.
- (2) A person is not eligible for appointment as a member under subsection (1) (a) unless—
 - (a) he or she is a registered podiatrist; and
 - (b) he or she was at all times during 3 years immediately before his or her appointment, entitled, under the law of a State or Territory, to practise as a podiatrist.
- (3) The chairperson shall be the executive officer of the board.

Part 3 Registration

Division 3.1 Qualifications for registration

8 Registration based on qualifications and training

- (1) A person is entitled to be registered as a podiatrist if—
 - (a) the person is a graduate of a course of education or training in podiatry 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; 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 subsection (1) (a) and qualifies the person to practise as a podiatrist in that place; and
 - (ii) has passed such examinations as the board requires; and
 - (iii) has undertaken the further education or training and gained the experience in practising podiatry, for the period not exceeding 12 months, that the board determines.
- (2) The entitlement under this section is an entitlement to registration that is not subject to any condition.

9 Registration under mutual recognition principle

- (1) A person who is licensed or registered as a podiatrist 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 podiatrist under this Act.
- (2) If the person's licence or registration in the State or other Territory is not subject to any condition or restriction, the person's entitlement

to registration under this Act is an entitlement to registration that is not subject to any condition.

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

10 Registration at discretion of board

- (1) The board may register a person as a podiatrist 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 podiatry in that area of need.
- (2) The board may register a person as a podiatrist for the purpose of enabling the person to fill a teaching or research position if—
 - (a) the person has qualifications that the board considers appropriate for that purpose; and
 - (b) the application is supported, in writing, by the hospital, professional association, university or other educational or research institution by which it is proposed that the person be engaged for that purpose.
- (3) The board may register a person as a podiatrist on a temporary basis—
 - (a) for the purpose of enabling a person to undertake training or to gain experience in practising podiatry; or
 - (b) if satisfied that it is in the public interest to do so.
- (4) The board may impose the conditions on the registration of a person under this section that it considers appropriate.

11 Interim registration

- (1) An applicant for registration may be granted interim registration if—
- (a) the applicant is entitled to registration under section 8 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 8 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 this section may grant interim registration in accordance with this section to an applicant for registration.

Note A fee may be determined under s 54 (Determination of fees) for this section.

- (3) Interim registration granted to a person under this section remains in force from the time when it is granted until the person is given written notice that the board has—
- (a) granted him or her registration; or
 - (b) refused his or her application for registration; or
 - (c) cancelled the interim registration.
- (4) The board may cancel a person's interim registration for any reason that it considers proper and shall immediately give the person written notice of the cancellation.
- (5) A person who holds interim registration is for all purposes to be taken to be a registered podiatrist.
- (6) If a person who is registered as a podiatrist held interim registration at the time of being so registered, the person's registration as a podiatrist shall be taken to have occurred on the day he or she was granted interim registration.

- (7) Interim registration under this section shall be taken to have been granted by the board.

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) If 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 if 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 ACT of an offence or has been convicted outside the ACT by a court for or in relation to an act or omission that would, had it taken place in the ACT, 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 podiatry.
- (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 under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

14 Refusal of registration if applicant deregistered outside ACT

- (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 podiatrists for any reason relating to—
 - (a) the conduct of the person as a podiatrist; or
 - (b) the physical or mental capacity of the person to practise podiatry.
- (2) A person's name shall be taken to have been removed from a foreign register of podiatrists if it is removed from any register established or kept under any law of a State, another Territory or a place outside Australia providing for the registration or licensing of podiatrists or the authorisation of persons to practise podiatry.
- (3) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

15 Applicants to be competent and of good character

- (1) Subject to subsection (2), the board shall not register a person as a podiatrist unless satisfied that the person is competent to practise podiatry and is of good character.
- (2) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

16 Restriction on registration of deregistered or suspended persons

- (1) Subject to subsection (2), if the registration of a person under this Act has been cancelled (otherwise than under section 28 (2) or 31) or suspended (otherwise than under section 38 (2)) the person may not apply for re-registration or termination of the suspension otherwise than under section 39.

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

Division 3.2 Registration procedure

17 Applications for registration

- (1) This section applies to applications for registration other than applications by persons who are entitled to registration under the Mutual Recognition Act and who lodge with the board a notice under that Act, section 19.
- (2) The applicant must give the board a completed application form.

Note 1 A fee may be determined under s 54 (Determination of fees) for this section.

Note 2 If a form is approved under s 54A (Approved forms) for an application, the form must be used.

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

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

- (a) complies with this Act; and
- (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, register the applicant.

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 3.3 Register of podiatrists

22 Register

- (1) The board shall keep a register called the register of podiatrists.
- (2) The register may be maintained by electronic means.

23 Particulars to be entered in register

The registration of a person as a podiatrist shall be effected by entering in the register—

- (a) the name of the person; and
- (b) each professional address of the person in the ACT or, if the person has no professional address in the ACT, his or her residential address, whether within or outside the ACT; and
- (c) particulars of the person's qualifications; and
- (d) the registration number allotted to the person; and
- (e) the date of registration; and
- (f) the provision under which the person is entitled to be registered; and
- (g) any condition to which the person's registration is subject; and
- (h) the other particulars (if any) prescribed under the regulations.

24 Certificate of registration

- (1) If a person is registered as a podiatrist, the board shall issue to the person a certificate of registration signed by the chairperson or deputy chairperson.
- (2) A certificate of registration shall state the provision under 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) If a certificate issued under subsection (1) to a registered podiatrist has been stolen, lost or destroyed, the board must, on application by the registered podiatrist, issue a duplicate certificate.

Note A fee may be determined under s 54 (Determination of fees) for this section.

- (5) If the registration of a person has been cancelled or suspended the chairperson shall, by written notice given to the person, require the person to give his or her certificate of registration to the board within 14 days.
- (6) If a person whose registration has been suspended gives his or her certificate of registration to the board, the board shall keep the certificate during the period of the suspension and return it to the person at the end of that period unless the person's registration has sooner been cancelled.
- (7) If, 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 chairperson may, by written notice given to the person, require the person to give his or her certificate of registration to the chairperson within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

(8) A notice for subsection (5) or (7) may be given to a person by post addressed to the person at the address of the person last known to the chairperson.

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

Maximum penalty: 5 penalty units.

(10) It is a defence to a prosecution for an offence against subsection (5) or (7) that—

- (a) the certificate has been destroyed; or
- (b) after diligent search, the defendant has been unable to find the certificate.

25 Change of address to be notified

If—

- (a) a change occurs in an address of a registered podiatrist shown in the register; or
- (b) a registered podiatrist establishes a professional address, or an additional professional address, in the ACT;

the registered podiatrist shall, within 1 month of the change or establishment notify the chairperson in writing accordingly.

Maximum penalty: 5 penalty units.

26 Alteration of register

(1) The board shall remove from the register the name of—

- (a) a registered podiatrist who has died; or
- (b) a registered podiatrist whose registration has been cancelled.

- (2) The board may, from time to time, at the request of a person or on its own initiative, make the other alterations to particulars in the register that are necessary.

Note A fee may be determined under s 54 (Determination of fees) for this section.

Division 3.4 Annual registration fees

27 Annual registration fee

- (1) On or before 1 March in each year, a registered podiatrist must pay to the Territory the annual registration fee determined under section 54 (Determination of fees) for the year.
- (2) The board shall send to each registered podiatrist, not less than 1 month before 1 March in each year, a notice requiring him or her to comply with subsection (1).
- (3) The liability of a registered podiatrist 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).

28 Registration to be cancelled for nonpayment

- (1) If a registered podiatrist does not comply with section 27 (1), the board shall send to the podiatrist 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 podiatrist 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.

29 Entitlement to re-registration if fee paid

- (1) A person whose registration has been cancelled for failure to pay the annual registration fee determined under section 54 (Determination of fees) for a year is entitled to be re-registered if the person gives the board a completed application form and pays the fee.

Note If a form is approved under s 54A (Approved forms) for an application, the form must be used.

- (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 podiatry or is not of good character.
- (4) An entitlement to re-registration under this section is subject to the provisions of this Act under which a person's name is authorised or required to be removed from the register.

Part 4

Conduct of the practice of podiatry

30 Cessation of registration

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

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

31 Disciplinary action under foreign law

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

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

the board shall cancel the registration of the person.

- (2) If—

- (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) If the board is satisfied that the name of a person who is registered under this Act has been removed from any register or roll kept under a law of a place outside Australia for any reason relating to—
- (a) conduct of the person as a podiatrist; or
 - (b) the physical or mental capacity of the person to practise podiatry;
- 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) If 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 podiatrist 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) If 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 podiatrist 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 podiatrist; or
- (b) by order served on a podiatrist, suspend his or her registration for the period the board considers appropriate;

if satisfied—

- (c) that the registration of the person was obtained by fraud or misrepresentation; or

- (d) that the podiatry qualification of the person has been withdrawn or cancelled by the body that granted it; or
- (e) that the person contravened this Act; or
- (f) that the person has contravened a condition to which his or her registration under this Act is subject; or
- (g) that the person has been convicted in the ACT 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 podiatry; or
- (h) that the person is guilty of habitual drunkenness, or addiction to a deleterious drug that renders him or her unfit to practise podiatry; or
- (i) that the person has engaged in any conduct, whether in practising podiatry or not, that adversely affects practising podiatry by the person; or
- (j) that the person has engaged in any improper or unethical conduct relating to practising podiatry; or
- (k) that the person has failed to exercise adequate judgment or care in practising podiatry; or
- (l) that the person is not competent to practise podiatry.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

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

- (1) Subject to subsection (2), the board shall, if satisfied that the mental or physical condition of a person who is registered as a podiatrist renders him or her unfit to practise podiatry—
 - (a) cancel the registration of the person; or

- (b) by order served on the person, suspend the registration of the person for the period the board considers appropriate.
- (2) The board may, instead of cancelling or suspending the registration of a person, if satisfied that the person is fit to give or perform some podiatry 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 podiatry services specified, whether individually or otherwise, in the order.
- (3) If 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 subsection (1) (b) or (2) has been served who gives or performs a podiatry service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered podiatrist.

35 Practising when registration suspended

If a person whose registration as a podiatrist has been suspended is convicted of an offence against section 41, 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 the further period the board considers appropriate.

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 podiatrist:
 - (a) caution or reprimand the podiatrist;
 - (b) order that the podiatrist seek and undergo medical or psychiatric treatment or counselling;
 - (c) impose on the podiatrist's registration any conditions relating to practising podiatry the board considers appropriate;

- (d) order that the podiatrist complete specified educational courses;
 - (e) order that the podiatrist seek and follow advice, in relation to his or her practise of podiatry, from persons specified by the board.
- (2) Subsection (1) (d) does not apply in relation to a registered podiatrist who obtained registration under this Act under the Mutual Recognition Act.

37 Power of board to impose fines

- (1) Subject to subsection (2), if the board finds that a registered podiatrist has failed to comply with an order of the board under section 36 (1) it may, by order served on the podiatrist, impose on him or her a fine not exceeding \$1 000.
- (2) The board shall not impose a fine under subsection (1) in relation to 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) If a podiatrist 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 podiatrist; or
 - (b) by order served on the podiatrist, suspend the registration of the podiatrist for the period the board considers appropriate.

38 Inquiry by board

- (1) The board shall hold an inquiry before—
 - (a) cancelling the registration of a person, other than under section 28 (2) or 31 (1); or
 - (b) suspending the registration of a person; or

- (c) making an order under section 34 (2); or
 - (d) taking any action under section 36 (1).
- (2) Pending the holding of an inquiry under subsection (1), the board may, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person.

39 Application for re-registration

- (1) If the registration of a person has been cancelled, otherwise than under section 28 (2) or 31 (1), or suspended, otherwise than under section 38 (2), the person may apply for re-registration or termination of the suspension on the ground that, because of a specified change in circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or that his or her suspension should be terminated.
- (2) The board shall, if satisfied that, because 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.

40 Effect of suspension

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

41 Offences relating to practising podiatry

- (1) A person who is not a registered podiatrist shall not—
- (a) provide a podiatry service for fee or reward; or
 - (b) take or use, either alone or in combination with any other words or letters, the title of podiatrist or chiropodist 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 podiatrist or that he or she is a person who practises, or is qualified to practise podiatry; or

- (c) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise podiatry or as being a person who practises podiatry.
- (2) A person who contravenes subsection (1) (a) commits an offence.
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (3) A person who contravenes subsection (1) (b) or (c) commits an offence.
Maximum penalty: 30 penalty units.
- (4) A registered podiatrist who practises podiatry under a name other than the name under which the podiatrist is registered commits an offence.
Maximum penalty: 50 penalty units.

42 Company not to provide podiatry service except through registered podiatrist

- (1) A body corporate shall not provide, or offer to provide, a podiatry service except through a registered podiatrist.
Maximum penalty: 250 penalty units.
- (2) A body corporate shall not advertise that it will provide a podiatry service whether through a registered podiatrist or otherwise.
Maximum penalty: 150 penalty units.

43 Recovery of fees

- (1) A person is not entitled to begin an action for the recovery from another person of fees or remuneration for a podiatry service given to that other person, or a dependant of that other person, unless—
 - (a) he or she has served or caused to be served on that other 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 amount claimed, a brief statement of the nature of the podiatry service given, the date or dates when it was given and the person to whom it was given; and

- (b) a period of 6 months has ended since that service of the account and the account is unpaid at the end of that period.
- (2) Notwithstanding subsection (1), an action for the recovery of fees or remuneration for a podiatry service may be begun 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 end of the period of 6 months since 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 the *Arrest on Mesne Process Act 1902*, part 2.

44 Review of accounts for fees for podiatry service

- (1) A person liable to pay fees or remuneration for a podiatry service may, within 6 months after the service on him or her of an account for the fees or remuneration in accordance with section 43, 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, by writing signed by the chairperson or the deputy chairperson, the amount that, in the opinion of the board, is a reasonable amount of fees or remuneration for the podiatry 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 give the information it considers necessary or desirable for the purpose of a review under this section and may fix a time within which the information should be given.
- (5) If a person does not give 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 given 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 podiatry service and any other circumstances submitted by the person who gave the podiatry service in relation to the provision of the service.
- (8) The board shall send a copy of a certificate of the board under subsection (2) by post to the person who gave the podiatry service at his or her professional address, or at 1 of his or her professional addresses, last known to the board.
- (9) In proceedings for the recovery of fees or remuneration in relation to a podiatry 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 service.

45 Administration of estate of deceased podiatrist

On the death of a registered podiatrist who was at the time of death carrying on business as a podiatrist—

- (a) an executor or executrix of the will of the deceased podiatrist;
or
- (b) an administrator, administratrix or trustee of the estate of the deceased podiatrist;

may continue the business for a period of 6 months or for any longer period that the board, on application by the executor, executrix, administrator, administratrix or trustee, permits, if the practice of podiatry in the business is carried on by a registered podiatrist.

46 Publication of notice of decision of board or administrative appeals tribunal

- (1) The chairperson may prepare written notice of a decision of the board or of the administrative appeals tribunal on application for a review of a decision of the board—

- (a) cancelling the registration of a person; or
- (b) suspending, otherwise than under section 38 (2), the registration of a person; or
- (c) imposing a condition on the registration of a person; or
- (d) making an order under section 34 (2); or
- (e) taking action under section 36; or
- (f) imposing a fine on a person under section 37;

and the reasons for the decision, including the findings on material questions of fact.

- (2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) The notice must not be notified until—

- (a) the period within which an application may be made to the administrative appeals tribunal for a review of the decision has ended; and
- (b) if an application for review of the decision is made, the administrative appeals tribunal has given its decision on the application.

Part 5 Appeals

47 Review of decisions

Application may be made to the administrative appeals tribunal for review of a decision of the board—

- (a) under section 10 (4), 12 (1) or 32 (2) to impose conditions on the registration of a person; or
- (b) under section 11 (4) to cancel the interim registration of a person; or
- (c) under section 12 (2) to refuse to review conditions imposed on the registration of a person; or
- (d) under section 12 (2) to alter, or to refuse to alter or remove, conditions imposed on the registration of a person; or
- (e) under section 12 (2) to impose new conditions on the registration of a person; or
- (f) under section 18 to refuse to register a person; or
- (g) under section 29 (3), 31 (4) or 39 (2) to refuse to re-register a person; or
- (h) under section 31 (3), 33 (a), 34 (1) (a), 35 (a) or 37 (4) (a) to cancel the registration of a person; or
- (i) under section 33 (b), 34 (1) (b), 35 (b) or 37 (4) (b) or 38 (2) to suspend the registration of a person; or
- (j) under section 34 (2) to make an order directing a person not to give or perform a specified podiatry service; or
- (k) under section 34 (3) to refuse to review an order directing a person not to give or perform a specified podiatry service; or

- (l) under section 34 (3) to amend, or to refuse to amend or revoke, an order directing a person not to give or perform a podiatry service; or
- (m) under section 36 (1) to take any action of a kind specified in that subsection in relation to a registered podiatrist; or
- (n) under section 37 (1) to impose a fine on a registered podiatrist; or
- (o) under section 39 (2) to refuse to terminate the suspension of the registration of a person; or
- (p) under section 44 (2) to certify the amount that, in the opinion of the board, is a reasonable amount of fees or remuneration for a podiatry service; or
- (q) under section 45 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased podiatrist, or the administrator, administratrix or trustee of the estate of a deceased podiatrist, may continue the business of the podiatrist; or
- (r) under section 45 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased podiatrist, or the administrator, administratrix or trustee of the estate of a deceased podiatrist, may continue the business of the podiatrist.

48 Notification of decisions

If a decision of the kind referred to in section 47 (other than paragraphs (b), (j) or (n)) is made, the board shall give written notice of the decision—

- (a) for a decision referred to in section 47 (a)—to the person on whose registration conditions have been imposed;
- (b) for a decision referred to in section 47 (c) or (d)—to the person whose registration is subject to the conditions; or

- (c) for a decision referred to in section 47 (e)—to the person on whose registration the new conditions have been imposed; or
- (d) for a decision referred to in section 47 (f)—to the person whose application for registration has been refused; or
- (e) for a decision referred to in section 47 (g)—to the person whose application for re-registration has been refused; or
- (f) for a decision referred to in section 47 (h)—to the person whose registration has been cancelled; or
- (g) for a decision referred to in section 47 (k) or (l)—to the person in relation to whom the order was made; or
- (h) for a decision referred to in section 47 (i) or (o)—to the person whose registration has been suspended; or
- (i) for a decision referred to in section 47 (m)—to the registered podiatrist in relation to whom the action has been taken; or
- (j) for a decision referred to in section 47 (p)—to the person who requested the review of the account; or
- (k) for a decision referred to in section 47 (q) or (r)—to the executor or executrix of the will of the deceased podiatrist or the administrator, administratrix or trustee of the estate of the deceased podiatrist.

49 Contents of notice

- (1) A notice under section 11 (4) or 48 shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (2) An order under section 33 (b), 34 (1) (b), 34 (2), 35 (b), 37 (1), 37 (4) (b) or 38 (2) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) The validity of a decision referred to in section 11 (4) or 48 is not to be taken to be affected by a failure to comply with subsection (1).

Part 6 Miscellaneous

50 Inspection of register

- (1) A person may inspect, or obtain a certified copy of, an entry in the register.

Note A fee may be determined under s 54 (Determination of fees) for this section.

- (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 application relates.

51 Publication of names etc of registered podiatrists

- (1) As soon as practicable after 1 March in each year, the board must prepare a written notice containing the names and professional address (or addresses) of the podiatrists registered on that day.
- (2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

52 Conduct of directors, servants and agents

- (1) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of an individual or 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 individual or company within the scope of his or her actual or apparent authority; and
 - (b) that the director, or the servant or agent, had the state of mind.
- (2) Any conduct engaged in on behalf of an individual or a 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 Act, to have been engaged in

also by the individual or the company unless the individual or company establishes that he, she or it took reasonable precautions and exercised due diligence to avoid the conduct.

- (3) If—
- (a) an individual is convicted of an offence; and
 - (b) the individual would not have been convicted of the offence if subsections (1) and (2) had not been enacted;
- the individual is not liable to be punished by imprisonment for that offence.
- (4) A reference in subsection (1) to the *state of mind* of a person includes 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.
- (5) A reference in this section to *engaging* in conduct includes a reference to failing or refusing to engage in conduct.

54 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

54A Approved forms

- (1) The board may, in writing, approve forms for this Act.

- (2) If the board approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

55 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to treatment that is taken to be podiatry for this Act.

Part 7 Transitional

56 Application

- (1) This section applies to a person who, for a period of, or periods that in the aggregate are not less than, 3 years during the 5 years immediately before the commencement of this Act, has provided podiatry services in the ACT.
- (2) Subject to subsection (3), sections 41, 42, 43 and 45 do not apply to a person to whom this section applies until—
 - (a) the end of 6 months after this Act commences; or
 - (b) the person is registered;whichever occurs first.
- (3) If—
 - (a) a person referred to in subsection (1) applies for registration as a podiatrist; and
 - (b) the application is made within 6 months of the commencement of this Act;sections 41, 42, 43 and 45 do not apply to the person until—
 - (c) the board registers the person; or
 - (d) if the board refuses to register the person—the end of the day when the applicant is notified of the decision in accordance with section 48 or 57 (2).
- (4) For this section, if—
 - (a) a person referred to in subsection (1) applies for registration as a podiatrist; and
 - (b) he or she would, but for this subsection, not be entitled under section 8 to be registered as a podiatrist;

the board may register the person under this Act if satisfied that the person is otherwise competent to practise podiatry.

- (5) The board may impose the conditions on the registration of a person under subsection (4) it considers appropriate.

57 Review of decisions—part 7

- (1) Application may be made to the administrative appeals tribunal for a review of a decision of the board under section 56 (4) to refuse to register a person or to impose conditions on the registration of a person referred to in section 56 (1).
- (2) If a decision of a kind referred to in subsection (1) is made, the board shall, within 28 days after the date of the decision, give written notice of the decision to the applicant.
- (3) A notice under subsection (2) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (4) The validity of a decision referred to in subsection (1) is not to be taken to be affected by a failure to comply with subsection (2).

58 First board members

- (1) Notwithstanding section 7 (1) (a), the Minister may, in relation to a member referred to in that paragraph, appoint as the first member of the board, a person who, at the commencement of this Act—
- (a) provides podiatry services; and
- (b) has, for a period of 3 years immediately before the commencement of this Act, been entitled under a corresponding law of a State or another Territory to practise podiatry.
- (2) The Minister shall remove from office a member appointed under subsection (1) if the member fails to apply for registration within 6 months after the commencement of this Act.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | p = page |
| cl = clause | par = paragraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | prov = provision |
| exp = expires/expired | pt = part |
| Gaz = Gazette | r = rule/subrule |
| hdg = heading | reg = regulation/subregulation |
| ins = inserted/added | renum = renumbered |
| LA = Legislation Act 2001 | reloc = relocated |
| LR = legislation register | R[X] = Republication No |
| LRA = Legislation (Republication) Act 1996 | s = section/subsection |
| mod = modified / modification | sch = schedule |
| No = number | sdiv = subdivision |
| num = numbered | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

Endnotes

3 Legislation history

3 Legislation history

Podiatrists Act 1994 No 82

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
remainder commenced 29 May 1995 (s 2 (3))

as amended by

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 286

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 286 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3194

Interpretation of Act

s 3 def *determined fee* om 2001 No 44 amdt 1.3195

Qualifications for registration

div 3.1 hdg (prev pt 3 div 1 hdg) renum R1 LA

Interim registration

s 11 am 2001 No 44 amdt 1.3196

Registration procedure

div 3.2 hdg (prev pt 3 div 2 hdg) renum R1 LA

Applications for registration

s 17 am 2001 No 44 amdt 1.3197

Registration of applicants

s 19 am 2001 No 44 amdt 1.3198

Fee for registration pursuant to Mutual Recognition Act

s 20 om 2001 No 44 amdt 1.3199

Register of podiatrists

div 3.3 hdg (prev pt 3 div 3 hdg) renum R1 LA

Certificate of registration

s 24 am 1998 No 54 sch; 2001 No 44 amdt 1.3200

Change of address to be notified

s 25 am 1998 No 54 sch

Alteration of register

s 26 am 2001 No 44 amdt 1.3201, amdt 1.3202

Annual registration fees

div 3.4 hdg (prev pt 3 div 4 hdg) renum R1 LA
sub 2001 No 44 amdt 1.3203

Annual registration fee

s 27 hdg sub 2001 No 44 amdt 1.3204
s 27 am 2001 No 44 amdt 1.3205

Entitlement to re-registration if fee paid

s 29 am 2001 No 44 amdt 1.3206

Cancellation or suspension of registration

s 33 am 2001 No 44 amdt 1.3207, amdt 1.3208

Offences relating to practising podiatry

s 41 am 1998 No 54 sch

Company not to provide podiatry service except through registered podiatrist

s 42 am 1998 No 54 sch

Publication of notice of decision of board or administrative appeals tribunal

s 46 am 2001 No 44 amdt 1.3209-1.3212

Inspection of register

s 50 am 2001 No 44 amdt 1.3213

Publication of names etc of registered podiatrists

s 51 sub 2001 No 44 amdt 1.3214

Penalties for bodies corporate

s 53 om 1998 No 54 sch

Determination of fees

s 54 sub 2001 No 44 amdt 1.3215

Approved forms

s 54A ins 2001 No 44 amdt 1.3215

Regulation-making power

s 55 sub 2001 No 44 amdt 1.3215

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