

1994

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Physiotherapists (Amendment) Bill 1994

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(Minister for Health)

Physiotherapists (Amendment) Bill 1994

**A BILL
FOR**

An Act to amend the *Physiotherapists Registration Act 1977* and for related purposes

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Physiotherapists (Amendment) Act 1994*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

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

5 Principal Act

3. In this Act, "Principal Act" means the *Physiotherapists Registration Act 1977*.¹

PART II—AMENDMENTS OF PRINCIPAL ACT

Short title

10 4. Section 1 of the Principal Act is amended by omitting "Registration".

Interpretation

5. Section 3 of the Principal Act is amended—

- 15 (a) by omitting from the definition of "Register" in subsection (1) "13" and substituting "20";
- (b) by omitting from the definition of "registered" in subsection (1) ", and 'registration' has a corresponding meaning";
- 20 (c) by omitting from subsection (1) the definitions of "medical practitioner", "nurse" and "registered physiotherapist" and substituting the following definitions:

" 'medical practitioner' means a person—

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

'nurse' means a person—

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

'registered physiotherapist' means a person—

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

- (b) who is to be deemed to be registered under this Act by virtue of section 25 of the Mutual Recognition Act;";
- 5 (d) by omitting from subsection (1) the definitions of "physiotherapist" and "Tribunal";
- (e) by inserting in subsection (1) the following definitions:
- " 'Administrative Appeals Tribunal' means the Australian Capital Territory Administrative Appeals Tribunal;
- 10 'determined fee' means the fee determined under section 41 for the purposes of the provision in which the expression occurs;
- 'Mutual Recognition Act' means the *Mutual Recognition Act 1992* of the Commonwealth;";
- 15 (f) by omitting subsection (3) and substituting the following subsection:
- "(3) For the purposes of this Act, a person shall be deemed to practise physiotherapy if—
- (a) he or she practises physiotherapy personally on his or her own account or as a member of a firm;
- 20 (b) in the course of a business carried on by him or her, a person or persons employed by him or her is or are engaged in the practice of physiotherapy ; or
- (c) he or she is engaged in the practice of physiotherapy as a person employed in a business carried on by another person (including a company) or by a firm."; and
- 25 (g) by omitting from subsection (4) all the words after "registered physiotherapist" and substituting "while undertaking a course of education or training referred to in subparagraph 6 (1) (a) (i)".

Insertion

- 30 6. After section 3 of the Principal Act the following sections are inserted in Part I:

Competence to practise physiotherapy

"3A. For the purposes of this Act, a person shall be taken to be competent to practise physiotherapy only if the person—

- 35 (a) has sufficient physical capacity, mental capacity and skill to practise physiotherapy; and

- (b) has sufficient communication skills for practising physiotherapy, including an adequate command of the English language.

Impairment

- 5 “3B. (1) For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person’s physical or mental capacity to practise physiotherapy.

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

Substitution

7. Part III of the Principal Act is repealed and the following Part substituted:

15

“PART III—REGISTRATION

“Division 1—Qualifications for registration

Entitlement to registration based on qualifications and training

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

(a) the person—

20

- (i) is a graduate of a course of education or training in physiotherapy offered by an Australian educational institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; and

25

- (ii) if required by the Board—has undertaken such further education or training, for such period not exceeding 6 months, as the Board determines; or

(b) the person—

30

- (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in subparagraph (a) (i) and qualifies the person to practise as a physiotherapist in that place;

35

- (ii) has undertaken such further education or training and gained such experience in practising physiotherapy, for such period not exceeding 12 months, as the Board determines; and

(iii) has passed such examinations as the Board requires.

“(2) The entitlement under this section is an entitlement to registration that is not subject to conditions.

Registration under mutual recognition principle

5 “7. (1) A person who is registered as a physiotherapist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a physiotherapist under this Act.

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

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

Registration at discretion of Board

20 “8. (1) Where a person is a graduate of a course of education or training in physiotherapy that is not accredited by the Board or approved by a registration authority of a State or another Territory, the Board may register the person as a physiotherapist on a temporary basis to enable him or her to—

25 (a) undertake a course of education or training approved by the Board; or

(b) gain experience in practising physiotherapy.

30 “(2) The Board may register a person as a physiotherapist for the purpose of enabling an unmet area of need to be met if the Board is satisfied that the person has suitable qualifications and experience to practise physiotherapy in that area of need.

“ (3) The Board may register a person as a physiotherapist for the purpose of enabling the person to fill a teaching or research position in physiotherapy if—

35 (a) the person has qualifications that the Board considers appropriate for that purpose; and

(b) the application is supported in writing by the university, professional association, hospital or other institution, by which it is proposed that the person be engaged for that purpose.

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

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

5 Interim registration

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

- (a) the applicant is entitled to registration under section 6 but it is not practicable to wait until the Board can consider the application; or
- 10 (b) the applicant would be entitled to registration under section 6 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

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

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

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

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

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

Conditions of registration in cases of impairment

30 “10. (1) The Board may impose conditions on a person’s registration if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

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

- 35 (a) that the person no longer suffers from the impairment; or

(b) that the impairment has lessened;
the Board may alter or remove the conditions or impose new conditions.

Refusal of registration where applicant convicted of offence

5 “11. (1) Subject to subsection (3), the Board may refuse an application for registration if—

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

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

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

Refusal of registration where applicant deregistered under foreign law

20 “12. (1) Subject to subsection (3), the Board may refuse an application for registration if the applicant's name has been removed from a foreign register of physiotherapists for any reason relating to—

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

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

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

Applicants to be competent and of good character

35 “13. (1) Subject to subsection (2), the Board shall not register a person as a physiotherapist unless satisfied that the person is competent to practise physiotherapy and is of good character.

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

Restriction on registration of deregistered or suspended persons

“14. (1) Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under subsection 24 (2) of section 29) or suspended (otherwise than under subsection 30F (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 30G.

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

“Division 2—Registration procedure

15 Applications for registration

“15. (1) This section applies to applications for registration other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

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

- (a) be in a form approved by the Board;
- (b) be accompanied by the determined fee; and
- (c) be lodged with a person authorised by the Board for the purposes of this section.

25 Applications to be considered and determined

“16. The Board shall consider each application under section 15 and shall determine the application by—

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

Registration of applicants

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

- (a) complies with section 15;

(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;

5 the Board shall, subject to this Act, cause the applicant to be registered.

Fee for registration pursuant to Mutual Recognition Act

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

Conditions of registration

10 “19. 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.

15 **“Division 3—Register of Physiotherapists**

The Register

“20. The Board shall keep a Register called the ‘Register of Physiotherapists’.

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

20 **Particulars to be entered in the Register**

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

(a) the name of the person;

25 (b) each professional address of the person in the Territory or, if the person has no professional address in the Territory, his or her residential address, whether within or outside the Territory;

(c) particulars of the person’s qualifications relevant to practising physiotherapy;

(d) the registration number allotted to the person;

30 (e) the date of registration;

(f) the provision by virtue of which the person is entitled to be registered under this Act;

(g) any condition to which the person’s registration is subject; and

(h) such other particulars (if any) as are prescribed.

Alteration of Register

"22. (1) The Board shall cause to be removed from the Register the name of—

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

"(2) The Board may, from time to time, at the request of a person or of its own accord, make such other alterations to particulars in the Register as are necessary.

- 10 "(3) The Board shall not make an alteration to particulars in the Register at the request of a person unless satisfied that the determined fee has been paid.

"Division 4—Annual fees**Annual fee payable**

- 15 "23. (1) A registered physiotherapist shall, on or before 1 September in each year, pay the determined fee.

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

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

Registration to be cancelled for non-payment

- 25 "24. (1) Where a registered physiotherapist does not comply with subsection 23 (1), the Board shall cause to be sent to the physiotherapist a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

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

Entitlement to re-registration if fee paid

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

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

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

5 “(3) The Board may refuse to re-register a person under this section if satisfied that the person is not competent to practise physiotherapy or is not of good character.

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

“Division 5—Miscellaneous

Certificate of registration

15 “26. (1) Where a person is registered as a physiotherapist, the Board shall cause to be issued to the person a certificate of registration signed by the Chairperson or Deputy Chairperson.

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

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

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

 “(5) Where—

25 (a) a person ceases to be registered; or

 (b) the registration of a person is suspended;

the Board shall, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days.

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

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

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

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

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

Penalty: \$500.

Change of address to be notified

“27. Where—

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

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

Penalty: \$500.”.

Insertion

8. Before section 31 of the Principal Act the following sections are inserted in Part IV:

Cessation of registration

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

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

Disciplinary action under foreign law

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

- (a) the conduct of the person; or

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

the Board shall cancel the registration of the person.

“(2) Where—

- 5 (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.

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

- (a) the conduct of the person; or
 - 15 (b) the physical or mental capacity of the person to practise physiotherapy;
- the Board may cancel the registration of the person.

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

Imposition of conditions imposed under foreign law

25 “30. (1) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as a physiotherapist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

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

Cancellation or suspension of registration

“30A. The Board may—

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

if satisfied—

- (c) that the registration of the person was obtained by fraud or misrepresentation;
- 5 (d) that the physiotherapy qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) that the person has contravened this Act or the regulations;
- (f) that the person has contravened a condition to which his or her registration under this Act is subject;
- 10 (g) that the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the Board, renders him or her unfit to practise physiotherapy;
- (h) that the person is guilty of habitual drunkenness or addiction to a deleterious drug that renders him or her unfit to practise as a
15 physiotherapist;
- (j) that the person has engaged in conduct, whether in the practise of physiotherapy or not, that adversely affects the person's practise of physiotherapy;
- 20 (k) that the person has engaged in any improper or unethical conduct relating to practising physiotherapy;
- (m) that the person has failed to exercise adequate judgment or care in practising physiotherapy; or
- (n) the person is not competent to practise physiotherapy.

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

"30B. (1) Subject to subsection (2), the Board shall, when satisfied that the physical or mental condition of a person who is registered as a physiotherapist renders him or her unfit to practise physiotherapy—

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

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

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

- 5 “(4) A person on whom an order under paragraph (1) (b) or subsection (2) has been served who gives or performs a physiotherapy service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered physiotherapist.

Practising when registration suspended

- 10 “30C. Where a person whose registration as a physiotherapist has been suspended is convicted of an offence against section 31 or 32, the Board may—

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

Power of Board to caution, reprimand etc.

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

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

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

Power of Board to impose fines

- 35 “30E. (1) Where the Board finds that a registered physiotherapist has failed to comply with an order of the Board under subsection 30D (1) it may, by order served on the physiotherapist, impose on him or her a fine not exceeding \$1,000.

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

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

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

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

Inquiry by Board

“30F. (1) The Board shall hold an inquiry before—

- (a) cancelling the registration of a person, other than under subsection 24 (2) or 29 (1);
- 15 (b) suspending the registration of a person;
- (c) giving a direction under subsection 30B (2); or
- (d) taking any action under section 30D.

20 “(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.

Application for re-registration

25 “30G. (1) Where the registration of a person has been cancelled (otherwise than under subsection 24 (2) or section 29) or suspended (otherwise than under subsection 30F (2)) the person may apply for re-registration or termination of the suspension, as the case may be, on the ground that, by reason of a specified change in the circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or his or her suspension should be terminated.

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

Effect of suspension and conditions

35 “30H. (1) A person whose registration has been suspended shall, during the period of the suspension, be deemed not to be a registered physiotherapist.

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

5 Persons who may practise physiotherapy

9. Section 31 of the Principal Act is amended—

- (a) by omitting from the penalty provision at the foot of subsection (1) “\$1,000” and substituting “\$5,000 or imprisonment for 6 months, or both”; and
- 10 (b) by omitting from the penalty provision at the foot of subsection (2) “\$250” and substituting “\$5,000”.

Use of title of physiotherapist

- 15 10. Section 32 of the Principal Act is amended by omitting from the penalty provision “\$1,000” and substituting “\$5,000 or imprisonment for 6 months, or both”.

Insertion

11. After section 32 of the Principal Act the following section is inserted:

Visiting physiotherapists

- 20 “32A. Subsection 31 (1) and section 32 do not apply to a person who—

- (a) is a resident of a place outside the Territory; and
- (b) provides a physiotherapy service to a member of a visiting sporting body, association or organisation from a place outside the Territory;
- 25

if the physiotherapy service—

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

Heading to Part V

12. The heading to Part V of the Principal Act is repealed and the following heading substituted:

“PART V—APPEALS”.**5 Substitution**

13. Section 35 of the Principal Act is repealed and the following sections are substituted:

Review of decisions

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

- (a) under subsection 8 (5), 10 (1) or 30 (2) to impose conditions on the registration of a person;
- (b) under subsection 9 (4) to cancel the interim registration of a person;
- 15 (c) under subsection 10 (2) to decline to review conditions imposed on the registration of a person;
- (d) under subsection 10 (2) to alter, or to refuse to alter or remove, conditions imposed on the registration of a person;
- (e) under subsection 10 (2) to impose new conditions on the registration of a person;
- 20 (f) under section 16 to refuse the application for registration;
- (g) under subsection 25 (3), 29 (4) or 30G (2) to refuse to re-register a person;
- (h) under subsection 29 (3) or paragraph 30A (a), 30B (1) (a), 30C (a) or 30E (4) (a) to cancel the registration of a person;
- 25 (j) under paragraph 30A (b), 30B (1) (b), 30C (b) or 30E (4) (b) or subsection 30F (2) to suspend the registration of a person;
- (k) under subsection 30B (2) to make an order directing a person not to give or perform a specified physiotherapy service;
- 30 (m) under subsection 30B (3) to refuse to review an order directing a person not to give or perform a specified physiotherapy service;
- (n) under subsection 30B (3) to amend, or to refuse to amend or revoke, an order directing a person not to give or perform a specified physiotherapy service;

- (o) under subsection 30D (1) to take any action of a kind specified in that section in relation to a registered physiotherapist;
- (p) under subsection 30E (1) to impose a fine on a registered physiotherapist;
- 5 (q) under subsection 30G (2) to refuse to terminate the suspension of the registration of a person;
- (r) under subsection 33B (2) to certify an amount of fees or remuneration for a physiotherapy service;
- 10 (s) under section 34 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased physiotherapist, or the administrator, administratrix or trustee of the estate of a deceased physiotherapist, may continue the business of the physiotherapist; or
- 15 (t) under section 34 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased physiotherapist, or the administrator, administratrix or trustee of the estate of a deceased physiotherapist, may continue the business of the physiotherapist.

Notification of decisions

- 20 "35AA. (1) Where a decision of the kind referred to in section 35 (other than paragraph (b), (j), (k) or (p)) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision—
- (a) in the case of a decision referred to in paragraph 35 (a)—to the person on whose registration conditions have been imposed;
- 25 (b) in the case of a decision referred to in paragraph 35 (c) or (d)—to the person whose registration is subject to the conditions;
- (c) in the case of a decision referred to in paragraph 35 (e)—to the person on whose registration the new conditions have been imposed;
- 30 (d) in the case of a decision referred to in paragraph 35 (f)—to the person whose application for registration has been refused;
- (e) in the case of a decision referred to in paragraph 35 (g)—to the person whose application for re-registration has been refused;
- 35 (f) in the case of a decision referred to in paragraph 35 (h)—to the person whose registration has been cancelled;
- (g) in the case of a decision referred to in paragraph 35 (m) or (n)—to the person in relation to whom the order was made;

- (h) in the case of a decision referred to in paragraph 35 (o)—to the registered physiotherapist in relation to whom the action has been taken;
- 5 (j) in the case of a decision referred to in paragraph 35 (q)—to the person whose registration has been suspended;
- (k) in the case of a decision referred to in paragraph 35 (r)—to the person who requested the review of the amount; or
- 10 (m) in the case of a decision referred to in paragraph 35 (s) or (t)—to the executor or executrix of the will of the deceased physiotherapist or the administrator, administratrix or trustee of the estate of the deceased physiotherapist.

“(2) A notice under subsection 9 (4) or subsection (1) of this section, or under section 31 of the *Health Professions Boards (Procedures) Act 1981*, shall—

- 15 (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- 20 (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

“(3) An order under paragraph 30A (b) or 30B (1) (b), subsection 30B (2), paragraph 30C (b), subsection 30E (1), paragraph 30E (4) (b) or subsection 30F (2) shall—

- 25 (a) have endorsed on it or attached to it a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to make the order; and
- 30 (b) except where subsection 26 (11) of the *Administrative Appeals Tribunal Act 1989* applies—have endorsed on it or attached to it a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

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

35 **Publication of notice of decision of Board or Administrative Appeals Tribunal**

14. Section 35A of the Principal Act is amended—

- (a) by inserting in subsection (1) “Administrative Appeals” before “Tribunal”;

(b) by omitting paragraphs (1) (a), (b) and (c) and substituting the following paragraphs:

- 5 “(a) to cancel the registration of a person;
- (b) to suspend, otherwise than under subsection 30F (2), the registration of a person;
- (c) to impose conditions on the registration of a person;
- (d) to take any action of a kind referred to in subsection 30D (1) in relation to a registered physiotherapist;
- 10 (e) to direct a registered physiotherapist, under subsection 30B (2), not to give or perform specified physiotherapy services; or
- (f) to impose a fine on a person under subsection 30E (1);”; and

15 (c) by inserting in paragraphs (2) (a) and (b) “Administrative Appeals” before “Tribunal”.

Inspection of Register

20 15. Section 36 of the Principal Act is amended by omitting from subsection (2) all the words after “request by” and substituting “a registration authority and without payment by the authority of a fee, forward to the authority a certified copy of that part of the Register to which the request relates”.

Insertion

 16. After section 40 of the Principal Act the following section is inserted:

25 Determined fees

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

Formal amendments

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

30

PART III—TRANSITIONAL

Continuation of registration

 18. A person who, immediately before the commencement of this Act, was registered as a physiotherapist under the Principal Act continues to be registered under the Principal Act as amended by this Act on the same terms

and subject to the same conditions as applied to his or her registration immediately before the commencement of this Act.

Persons granted provisional registration

- 5 **19.** A person who, immediately before the repeal of section 21 of the Principal Act by this Act, held provisional registration under that section shall, on the commencement of this Act, be taken to be a person who has been granted interim registration in accordance with section 9 of the Principal Act as amended by this Act.

Persons granted temporary registration

- 10 **20.** A person who, immediately before the repeal of section 22 of the Principal Act by this Act, held temporary registration under that section shall, on the commencement of this Act, be taken to be a person who has been granted temporary registration in accordance with subsection 8 (4) of the Principal Act as amended by this Act.

Failure to pay annual fee under repealed provisions

- 15 **21. (1)** A failure by a registered physiotherapist to pay a fee that became payable by him or her under section 18 of the Principal Act as in force before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 23 of the Principal Act as amended by this Act.

- 20 **(2)** A physiotherapist who was not registered under the Principal Act immediately before the commencement of this Act because his or her registration was cancelled for a failure by the physiotherapist to pay a fee that had become payable by him or her under section 18 of the Principal Act, as in force before the commencement of this Act, shall be taken to have had his or her registration cancelled for a failure to pay a fee which had become payable by him or her under section 23 of the Principal Act, as amended by this Act.

Applications for registration

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

Continuation of inquiries and reviews

- 35 **23. (1)** The provisions of the Principal Act as in force immediately before the commencement of this Act continue to apply in relation to an inquiry or review commenced under the Principal Act and pending immediately before the commencement of this Act.

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

Complaints relating to previous conduct

5 24. (1) Subject to subsection (2), an inquiry may be held under the Principal Act as amended by this Act with respect to conduct or any other matter or thing that occurred before, or partly before and partly after, the commencement of this Act.

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

Existing orders

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

15

PART IV—MISCELLANEOUS

Renumbering of provisions

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

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

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

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

30 (5) In this section, "amended Act" means the Principal Act as amended by sections 5 to 17 (inclusive).

SCHEDULE

Section 17

FORMAL AMENDMENTS**Subsection 3 (1) (definitions of "Chairman", "Deputy Chairman" and "member")—**

Omit "Chairman" (wherever occurring), substitute "Chairperson".

Paragraph 5 (1) (a)—

Omit "Chairman", substitute "Chairperson".

Paragraph 5 (2) (a)—

Insert "or she" after "he".

Paragraph 5 (2) (b)—

(a) Insert "or she" after "he".

(b) Insert "or her" after "his".

Subsection 5 (3)—

Omit "Chairman", substitute "Chairperson".

Subsection 31 (3)—

Omit "Chairman", substitute "Chairperson".

Paragraph 32 (a)—

(a) Insert "or her" after "his".

(b) Insert "or she" after "he" (wherever occurring).

Paragraph 32 (b)—

Insert "or herself" after "himself".

Section 33—

Omit "him", substitute "the person".

Subsection 33A (1)—

Insert "or she" after "he".

Paragraph 33A (2) (a)—

(a) Insert "or she" after "he".

(b) Insert "or her" after "his".

SCHEDULE—continued

Subsection 33B (1)—

Insert “or her” after “him”.

Subsection 33B (2)—

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

Subsection 33B (9)—

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

Section 34—

- (a) Insert “or her” after “his” (first occurring).
- (b) Omit “, administrator or trustee of his estate”, substitute “or executrix of the will of the deceased physiotherapist, or an administrator, administratrix or trustee of the estate of the deceased physiotherapist,”.
- (c) Omit “administrator” (second occurring), substitute “executrix, administrator, administratrix”.
- (d) Omit “practice”, substitute “practise”.

Subsection 35A (1)—

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Insert “or she” after “he”.

Subsection 36 (1)—

Omit “prescribed”, substitute “determined”.

Section 40—

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Insert “or her” after “him”.

NOTE

- 1. Reprinted as at 31 January 1994.

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