

1994
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Psychologists Bill 1994

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1994
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Psychologists Bill 1994

A BILL FOR

**An Act to provide for the registration of
psychologists, to control the practice of psychology,
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 *Psychologists Act 1994*.

Commencement

2. (1) Section 1 and this section 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 Interpretation

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

“Board” means the Psychologists Board established under section 6;

“Chairperson” means the Chairperson of the Board;

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

10 “determined fee” means the fee determined under section 55 for the purposes of the provision in which the expression occurs;

“medical practitioner” means a person—

(a) who is registered under the *Medical Practitioners Act 1930*;
or

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

“member” means a member of the Board;

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

20 “Register” means the Register of Psychologists kept under section 22;

“registered” means registered under this Act;

“registered psychologist” means a person—

(a) who is registered under this Act; or

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

“registration authority” means a person or body empowered by or under a law of a State, Territory or place outside Australia to register psychologists or otherwise to authorise the practice of psychology.

30 (2) For the purposes of this Act, a person shall be deemed to practise psychology if—

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

- ## Competence to practise psychology

(a) has sufficient physical capacity, mental capacity and skill to practise psychology; and

Impairment

(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.

Establishment of Board

Constitution of Board

(a) a Chairperson, and 5 other members, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981*; and

30 (i) 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*; or

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

(2) A person is not eligible for appointment as a member under paragraph (1) (a) unless—

- (a) he or she is a registered psychologist; and
- 5 (b) he or she was at all times during the period of 3 years immediately preceding his or her appointment, entitled, under the law of a State or Territory, to practise as a psychologist.
- (3) The Chairperson shall be the executive officer of the Board.

PART III—REGISTRATION

Division 1—Qualifications for registration

10 Entitlement to registration based on qualifications and training

8. (1) A person is entitled to be registered as a psychologist if—

- (a) the person—
 - (i) is a graduate of a course of education or training in psychology offered by an Australian educational institution, being a course of not less than 4 years that is accredited by the Board or approved by a registration authority of a State or another Territory; and
 - (ii) has, to the satisfaction of the Board, gained such experience in the practice of psychology, for such period not exceeding 2 years, as the Board determines; or
- 20 (b) the person—
 - (i) is a graduate of a course of education or training in psychology that is offered by an educational institution in a place outside Australia, being a course that is accredited by the Board;
 - 25 (ii) has, to the satisfaction of the Board, gained such experience in the practice of psychology, for such period not exceeding 2 years, as the Board determines; and
 - 30 (iii) where the experience referred to in subparagraph (ii) was gained outside Australia—if required by the Board, has, to the satisfaction of the Board, gained such experience in Australia in the practice of psychology, for such period not exceeding 12 months, as the Board determines.

- 35 (2) The Board shall not accredit a course under subparagraph (1) (a) (i) unless the course is substantially equivalent to a course offered by an educational institution in a State or Territory.

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

Registration under mutual recognition principle

5 9. (1) A person who is registered as a psychologist 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 psychologist 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 10. (1) Where a person is a graduate of a course of education or training referred to in subparagraph 8 (1) (a) (i) or (b) (i), the Board may register the person as a psychologist on a temporary basis to enable him or her to gain experience in the practise of psychology for the purposes of subparagraph 8 (1) (a) (i) or (b) (ii) or (iii).

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

- 25 (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.

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

Interim registration

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

- 35 (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.

- 5 (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—

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

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

- 15 (5) A person who holds interim registration is for all purposes to be taken to be a registered psychologist.

Conditions of registration in cases of impairment

- 20 12. (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—

- 25 (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

- 30 13. (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
35 (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise psychology.

(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).

- 5 (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

- 10 14. (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 psychologists for any reason relating to—

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

- 15 (2) A person's name shall be taken to have been removed from a foreign register of psychologists if it is 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 psychologists or the authorisation of persons to practise psychology.

- 20 (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

- 25 15. (1) Subject to subsection (2), the Board shall not register a person as a psychologist unless satisfied that the person is competent to practise psychology 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.

30 **Restriction on registration of deregistered or suspended persons**

- 35 16. (1) Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under subsection 26 (2) or section 31) or suspended (otherwise than under subsection 38 (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 40.

(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

5 Applications for registration

17. (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.

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

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

Applications to be considered and determined

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

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

Registration of applicants

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

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

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

Fee for registration pursuant to Mutual Recognition Act

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

Conditions of registration

21. The conditions that the Board may impose on registration at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be

engaged and conditions relating to any other matters the Board considers appropriate.

Division 3—Register of Psychologists

Register

5 **22. (1)** The Board shall keep a register called the “Register of Psychologists”.

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

Particulars to be entered in Register

10 **23.** The registration of a person shall be effected by entering in the Register—

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

Alteration of Register

25 **24. (1)** The Board shall cause to be removed from the Register the name of—

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

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

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

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

25. (1) A registered psychologist shall, on or before 1 August in each year, pay the determined fee.

- 5 **(2)** The Board shall cause to be sent to each registered psychologist, not less than 1 month before 1 August in each year, a notice requiring him or her to comply with subsection (1).

- 10 **(3)** The liability of a registered psychologist 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

- 15 **26. (1)** Where a registered psychologist does not comply with subsection 25 (1), the Board shall cause to be sent to the psychologist 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 psychologist 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.

20 **Entitlement to re-registration if fee paid**

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

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

- 25 **(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.

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

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

Division 5—Miscellaneous

Certificate of registration

5 28. (1) Where a person is registered as a psychologist, 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.

10 (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—

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

 (b) the registration of a person is suspended;

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.

20 (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.

25 (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;

30 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**29. Where—**

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

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

10 Penalty: \$500.

**PART IV—CONDUCT OF THE PRACTICE OF
PSYCHOLOGY****Cessation of registration**

15 **30.** A person who is registered as a psychologist ceases to be so registered—

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

20 **Disciplinary action under foreign law**

31. (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 kept under a law of a State or another Territory for any reason relating to—

- (a) the conduct of the person as a psychologist; or
- 25 (b) the physical or mental capacity of the person to practise psychology;

the Board shall cancel the registration of the person.

(2) Where—

- 30 (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register or roll referred to in that subsection; and

(b) the person applies to the Board to be re-registered under this Act;
the Board shall re-register the person.

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

- (a) the conduct of the person as a psychologist; or
- 5 (b) the physical or mental capacity of the person to practise psychology;

the Board may cancel the registration of the person.

- 10 (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

- 15 32. (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 psychologist 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.

- 20 (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 psychologist 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

33. The Board may—

- (a) cancel the registration of a person as a psychologist; or
- 25 (b) by order served on a psychologist, 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;
- 30 (d) that the psychology qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) that the person 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;
- 35 (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 psychology;

- 5 (h) that the person is guilty of habitual drunkenness or addiction to a deleterious drug that renders him or her unfit to practise psychology;
- (j) that the person has engaged in conduct, whether practising psychology or not, that adversely affects practising psychology by the person;
- 10 (k) that the person has engaged in any improper or unethical conduct in practising psychology;
- (m) that the person has failed to exercise adequate judgment or care in practising psychology; or
- (n) the person is not competent to practise psychology.

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

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

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

25 (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 psychology 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 psychology services specified, whether individually or otherwise, in the order.

30 (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.

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

Practising when registration suspended

35. Where a person whose registration as a psychologist has been suspended is convicted of an offence against section 42, the Board may—

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

Power of the Board to caution, reprimand etc.

5 **36. (1)** Subject to subsection (2), the Board may do any 1 or more of the following in relation to the conduct of a registered psychologist:

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

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

20 **Power of Board to impose fines**

37. (1) Subject to subsection (2), where the Board finds that a registered psychologist has failed to comply with an order of the Board under subsection 36 (1) it may, by order served on the psychologist, impose on him or her a fine not exceeding \$1,000.

25 **(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.

30 **(4)** Where a psychologist 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 psychologist; or
- (b) by order served on the psychologist, suspend the registration of the psychologist for such period as the Board thinks fit.

35 **Inquiry by Board**

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

- (a) cancelling the registration of a person, other than under subsection 26 (2), paragraph 30 (b) or subsection 31 (1);
- (b) suspending the registration of a person;
- (c) making an order under subsection 34 (2); or
- 5 (d) taking any action under section 36.

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

Publication of notice of decision

- 10 39. (1) The Chairperson may, if he or she thinks fit, cause a notice of a decision of the Board or of the Tribunal on application for review of a decision of the Board—

- (a) cancelling the registration of a person;
- 15 (b) suspending, otherwise than under subsection 38 (2), the registration of a person;
- (c) taking any action in respect of a person under section 36; or
- (d) imposing a fine on a person under section 37;

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

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

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

Application for re-registration

- 30 40. (1) Where the registration of a person has been cancelled (otherwise than under subsection 26 (2) or section 31) or suspended (otherwise than under subsection 38 (2)) the person may apply for re-registration or termination of the suspension, as the case may be, on the ground that, by reason of a specified change in the circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or his or her suspension should be terminated.

- 35 (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

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

Persons who may practise as psychologists

5 42. (1) A person other than a registered psychologist shall not—

- (a) provide a psychology service for fee or reward;
- (b) take or use, either alone or in combination with any other words or letters, the title of psychologist 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 psychologist or that he or she is a person who practises, or is qualified to practise psychology; or
- (c) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise psychology or as being a person who practises psychology.

Penalty:

- (a) for a contravention of paragraph (1) (a)—\$5,000 or imprisonment for 6 months, or both; or
 - (b) for a contravention of paragraph (1) (b) or (c)—\$3,000.
- 20 (2) A registered psychologist shall not practise psychology under a name other than the name under which the psychologist is registered.

Penalty for contravention of subsection (2): \$5,000.

Advertising

25 43. A person who exhibits or publishes, or causes, permits or suffers to be exhibited or published any letter, circular, placard, handbill, card or advertisement of any kind whereby any person advertises or holds himself or herself out contrary to section 42 shall be guilty of an offence.

Penalty: \$3,000.

30 **Company not to provide psychology service except through registered psychologist**

44. A body corporate shall not provide, or offer to provide, a psychology service except through a registered psychologist.

Penalty: \$25,000.

Recovery of fees

45. (1) A person is not entitled to commence an action for the recovery from another person of fees or remuneration for a psychology service given to that other person, or a dependant of that other person, unless—

- 5
- (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 psychology service given, the date or dates on which it was given and the person to whom it was given; and
- 10
- (b) a period of 6 months has elapsed since that service of the account and the account is unpaid at the end of that period.

- 15
- (2) Notwithstanding subsection (1), an action for the recovery of fees or remuneration for a psychology service may be commenced without the service of an account for those fees or that remuneration in accordance with that subsection or, if such an account has been so served, before the elapsing 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 Part II of the Arrest on Mesne Process Act, 1902 of the State of New South Wales in its application in the Territory.
- 20

Review of accounts for fees for psychology service

- 25
46. (1) A person liable to pay fees or remuneration for a psychology service may, within 6 months after the service upon him or her of an account for the fees or remuneration in accordance with section 45, apply in writing to the Board to review the account.

- (2) The Board shall, on receipt of an application under subsection (1), review the account and certify, under the hand of the Chairperson or the Deputy Chairperson, the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for the psychology service.
- 30

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

- (4) The Board may request a person to furnish such information as it thinks necessary or desirable for the purpose of a review under this section and may fix a time within which the information should be furnished.
- 35

- (5) If a person does not furnish information requested by the Board under subsection (4) within the time fixed by the Board under that subsection, the Board may proceed to review the account for fees or remuneration without that information.
- 40

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

5 (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 psychology service and any other circumstances submitted by the person who gave the psychology service with respect to the provision of that service.

10 (8) The Board shall cause a copy of a certificate of the Board under subsection (2) to be sent by post to the person who gave the psychology service at his or her professional address, or at 1 of his or her professional addresses, last known to the Board.

15 (9) In proceedings for the recovery of fees or remuneration in respect of a psychology 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.

Administration of estate of deceased psychologist

20 47. Upon the death of a registered psychologist who was at the time of death carrying on business as a psychologist—

(a) an executor or executrix of the will of the deceased psychologist;
or

(b) an administrator, administratrix or trustee of the estate of the deceased psychologist;

25 may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, executrix, administrator, administratrix or trustee permits, if the practice of psychology in the business is carried on by a registered psychologist.

PART V—APPEALS

30 Review of decisions

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

(a) under subsection 10 (3), 12 (1) or 32 (2) to impose conditions on the registration of a person;

35 (b) under subsection 11 (4) to cancel the interim registration of a person;

- (c) under subsection 12 (2) to decline to review conditions imposed on the registration of a person;
- (d) under subsection 12 (2) to alter, or to refuse to alter or remove, conditions imposed on the registration of a person;
- 5 (e) under subsection 12 (2) to impose new conditions on the registration of a person;
- (f) under section 18 to refuse to register a person;
- (g) under subsection 27 (3), 31 (4) or 40 (2) to refuse to re-register a person;
- 10 (h) under subsection 31 (3) or paragraph 33 (a), 34 (1) (a), 35 (a) or 37 (4) (a) to cancel the registration of a person;
- (j) under paragraph 33 (b), 34 (1) (b), 35 (b) or 37 (4) (b) or subsection 38 (2) to suspend the registration of a person;
- (k) under subsection 34 (2) to make an order directing a person not to give or perform a specified psychology service;
- 15 (m) under subsection 34 (3) to refuse to review an order directing a person not to give or perform a specified psychological service;
- (n) under subsection 34 (3) to amend, or to refuse to amend or revoke, an order directing a person not to give or perform a specified psychological service;
- 20 (p) under subsection 36 (1) to take any action of a kind specified in that subsection in relation to a registered psychologist;
- (q) under subsection 37 (1) to impose a fine on a registered psychologist;
- 25 (r) under subsection 40 (2) to refuse to terminate the suspension of the registration of a person;
- (s) under subsection 46 (2) to certify an amount of fees or remuneration for a psychology service;
- 30 (t) under section 47 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased psychologist, or the administrator, administratrix or trustee of the estate of a deceased psychologist, may continue the business of the psychologist; or
- 35 (u) under section 47 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased psychologist, or the administrator, administratrix or trustee of the estate of a deceased psychologist, may continue the business of the psychologist.

Notification of decisions

49. Where a decision of the kind referred to in section 48 (other than paragraph (b), (k) or (q)) is made, the Board shall give notice in writing of the decision—

- 5 (a) in the case of a decision referred to in paragraph 48 (a)—to the person on whose registration conditions have been imposed;
- (b) in the case of a decision referred to in paragraph 48 (c) or (d)—to the person whose registration is subject to the conditions;
- 10 (c) in the case of a decision referred to in paragraph 48 (e)—to the person on whose registration the new conditions have been imposed;
- (d) in the case of a decision referred to in paragraph 48 (f)—to the person whose application for registration has been refused;
- 15 (e) in the case of a decision referred to in paragraph 48 (g)—to the person whose application for re-registration has been refused;
- (f) in the case of a decision referred to in paragraph 48 (h)—to the person whose registration has been cancelled;
- (g) in the case of a decision referred to in paragraph 48 (m) or (n)—to the person in relation to whom the order was made;
- 20 (h) in the case of a decision referred to in paragraph 48 (p)—to the registered psychologist in relation to whom the action has been taken;
- (j) in the case of a decision referred to in paragraph 48 (r)—to the person whose registration has been suspended;
- 25 (k) in the case of a decision referred to in paragraph 48 (s)—to the person who requested the review of the amount; or
- (l) in the case of a decision referred to in paragraph 48 (t) or (u)—to the executor or executrix of the will of the deceased psychologist or the administrator, administratrix or trustee of the estate of the
- 30 deceased psychologist.

Contents of notice

50. (1) A notice under subsection 11 (4) or subsection (1) of this section, or under section 31 of the *Health Professions Boards (Procedures) Act 1981*, shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

(2) An order under paragraph 33 (b) or 34 (1) (b), subsection 34 (2) paragraph 35 (b), subsection 37 (1), paragraph 37 (4) (b) or subsection 38

(2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

- 5 (3) The validity of a decision referred to in subsection (1) or (2) is not to be taken to be affected by a failure to comply with that subsection.

PART VI—MISCELLANEOUS

Inspection of Register

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

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

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

Publication of registered psychologists

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

Conduct of directors, servants and agents

- 20 53. (1) Where, for the purposes of a prosecution for an offence against this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

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

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

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

- 35 (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to

be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

5 (4) Where—

- (a) a natural person is convicted of an offence against this Act; and
- (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

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

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

Penalties for bodies corporate

- 15 54. Where a body corporate is convicted of an offence against this Act, the penalty that a court may impose in respect of the offence is a fine not exceeding 5 times the maximum fine that, but for this section, the court could impose as a pecuniary penalty for the offence.

Determined fees

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

20 **Regulations**

56. The Executive may make regulations for the purposes of this Act.

PART VII—TRANSITIONAL

Application

- 25 57. (1) This section applies to a person who, for a period of, or periods which amount to, 4 years during the 10 years immediately preceding the commencement of this Act, has provided psychology services.

(2) Subject to subsection (3), sections 42, 44, 45 and 47 do not apply to a person referred to in subsection (1) until—

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

whichever occurs first.

(3) Where—

- (a) a person referred to in subsection (1) applies for registration as a psychologist; and
- 5 (b) the application is made within 6 months after the commencement of this Act;

sections 42, 44, 45 and 47 do not apply to the person until—

- (c) the Board registers the person; or
- (d) if the Board refuses to register the person—the expiration of the day on which the applicant is notified in accordance with section 49 of the decision of the Board to refuse to register him or her.
- 10

(4) For the purposes of this section, where—

- (a) a person referred to in subsection (1) applies for registration as a psychologist; and
- (b) he or she would, but for this subsection, not be entitled under section 8 to be registered as a psychologist;
- 15

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

(5) The Board may impose such conditions on the registration of a person pursuant to subsection (4) as it considers appropriate.

20 **Review of decisions—Part VII**

58. (1) Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board under subsection 56 (4) to refuse to register a person or to impose conditions on the registration of a person referred to in subsection 56 (1).

25 (2) Where 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 notice in writing 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 subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

30

(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).

First Board members

35 **59.** (1) Notwithstanding subsection 7 (2), the Minister may, in relation to a member referred to in that subsection, appoint as the first member of the Board, a person who, at the commencement of this Act—

- (a) provides psychology services; and
- (b) has, for a period of 3 years immediately preceding the commencement of this Act, been entitled under a corresponding law of a State or another Territory to practise psychology.

5 **(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.