

DENTISTS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 13, 1972.

An Act to make further provision relating to the powers of inspectors, the registration of dentists and the authorisation of persons not entitled to registration to practise dentistry in certain cases or to be granted certificates of provisional registration; for these and other purposes to amend the Dentists Act, 1934; and for purposes connected therewith. [Assented to, 22nd March, 1972.]

BE

Dentists (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 13, 1972** and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Dentists (Amendment) Short title. Act, 1972".

2. The Dentists Act, 1934, is amended—

Amendment
of Act No.
10, 1934.

(a) by omitting from the definition of "Inspector" in Sec. 3. subsection one of section three the word "the"; (Interpretation.)

(b) by omitting from subsection one of section four the Sec. 4. word "Public"; (Dental Board.)

(c) by inserting next after subsection two of section Sec. 5. five the following new subsections:— (Appointments.)

(3) Upon complaint made by an inspector on oath before a justice that the inspector suspects or believes that any of the provisions of this Act or of the regulations have been or are being contravened, and upon reasonable grounds being shown in such complaint for the inspector so suspecting or believing, that justice may grant a search warrant authorising that inspector, at any time or times within one month from the date of the warrant, to enter the premises named in the warrant and to make such enquiries therein as such inspector may think fit.

(4) A person shall not wilfully delay or obstruct an inspector in the exercise of his powers under this section.

(d) by inserting in subsection five of section six after Sec. 6. the word "form" the words "and if it is satisfied (Partic-
that he is of good character"; lars in
register.)

(e)

Dentists (Amendment).

No. 13, 1972 <u>Sec. 7.</u> (Removal of name of deceased dentists, etc.) <u>Sec. 8.</u> (Removal of name on account of misconduct, etc.)	<ul style="list-style-type: none"> (e) by omitting paragraph (c) of subsection one of section seven; (f) (i) by omitting paragraph (a) of subsection one of section eight and by inserting in lieu thereof the following paragraph :— <ul style="list-style-type: none"> (a) been convicted in New South Wales of any felony, misdemeanour, crime or offence, or been convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony, misdemeanour, crime or offence; or (ii) by inserting at the end of the same subsection the words "or caution or reprimand him"; (iii) by omitting from paragraph (b) of subsection two of the same section the words "drug to which Part VI of the Police Offences (Amendment) Act, 1908, applies" and by inserting in lieu thereof the words "drug of addiction within the meaning of the Poisons Act, 1966"; (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsections :— <ul style="list-style-type: none"> (4) In the case of a conviction as referred to in paragraph (a) of subsection one of this section, no person shall have his name removed from the register or have his registration suspended on account thereof if the act in respect of which such person is so convicted does not, either from its trivial nature or from the circumstances under which it was committed, render such person unfit in the public interest to practise dentistry.
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(4A)

Dentists (Amendment).

(4A) The Board may, after receiving a No. 13, 1972 complaint alleging misconduct in a professional respect against a dentist, inform the dentist of the nature of the complaint and, by notice, invite the dentist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(4B) The Board may, after receiving such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for enquiry under this section.

- (v) by omitting subsections eight and nine of the same section;
- (g) by inserting next after the same section the New secs. 8A, 8B. following new sections :—

8A. (1) Where the name of a dentist has been removed from the register under any provision of this Act, the dentist shall be deemed to be not registered as a dentist under this Act.

(2) Where the registration of a dentist has been suspended under any provision of this Act—

- (a) the Registrar shall enter in the register a memorandum of such suspension and of the date and cause thereof; and
- (b) such person shall, during the period of such suspension, be deemed to be not registered as a dentist under this Act.

8B. (1) Any person aggrieved by— Appeals.

- (a) an adjudgment by the Board that he has been guilty of misconduct in a professional respect;

(b)

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- (b) a finding by the Board that he is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the practice of dentistry;
- (c) the removal of his name from the register;
- (d) his suspension from practice as a dentist;
- (e) a refusal or failure by the Board to direct that his name be restored to the register under section nine of this Act; or
- (f) any other refusal or failure to register his name in the register,

may, within three months after the date on which notice is given to him by the Board or Registrar of such adjudgment, finding, removal or suspension, or within six months after the date on which he applied to have his name restored to or registered in the register, as the case may be, appeal against such adjudgment, finding, removal or suspension, or against such refusal or failure, as the case may be, to the District Court having jurisdiction in the district within which such person resides or carries on the practice of dentistry.

(2) Every such appeal shall be in the nature of a rehearing, and shall be made in accordance with rules of court.

(3) Upon any such appeal, the District Court may summon witnesses, hear evidence, and determine the matter, having regard to this Act, the regulations, the circumstances of the case, and the public interest, and may make such order as it deems fit.

(4) Without limiting the generality of subsection three of this section, upon any such appeal the District Court may make any order which the Board might have made in the first instance.

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(5) The decision of the District Court upon No. 13, 1972 any such appeal shall be final, and shall be binding upon the Board and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the Board.

(6) If in any decision by the District Court under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the District Court.

(7) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been cancelled to appeal against the refusal to grant a certificate of provisional registration or the cancellation of the certificate of provisional registration.

(h) (i) by omitting from paragraph (d) of subsection Sec. 10. one of section ten the words "or subparagraph (Qualifications for registration.) (i) of paragraph (b) of subsection two";

(ii) by omitting subparagraph (i) of paragraph (e) of the same subsection and by inserting in lieu thereof the following subparagraph :—

(i) under the supervision of a dentist in such government department, public hospital, State hospital, mental hospital, private hospital or other institution, as the Minister may have approved, for a period of or periods aggregating three years or more; or;

(iii) by inserting in subparagraph (ii) of the same paragraph after the word "such" where secondly occurring the words "government department,";

(iv)

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(iv) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) who has been convicted in New South Wales of any felony, misdemeanour, crime or offence, or has been convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony, misdemeanour, crime or offence; or;

(v) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph :—

(c) who is an habitual drunkard or is habitually addicted to any drug of addiction within the meaning of the Poisons Act, 1966.

(vi) by omitting from the same subsection the words "the offence" and by inserting in lieu thereof the words "the act in respect of which such person was convicted".

(i) (i) by omitting subsection two of section 10A and by inserting in lieu thereof the following subsection :—

(2) In the case of a person who is not otherwise entitled to be registered as a dentist, and in respect of whom the Board is not prepared to recommend to the Minister that he should be granted registration under the provisions of subsection one of this section, but who is able to satisfy the requirements of paragraphs (a), (b) and (c) of that subsection, the Board may recommend to the

Sec. 10A.
(Further
qualifica-
tions for
registra-
tion.)

Minister

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Minister that such person be licensed by the No. 13, 1972
Board to practise—

- (a) under the supervision of a dentist in such government department, public hospital, State hospital, mental hospital, private hospital or other institution, as the Minister may approve; or
- (b) in such part of the State or in such government department, public hospital, State hospital, mental hospital, private hospital or other institution, as the Minister may direct,

and if the Minister so approves or directs such person shall be so licensed.

- (ii) by inserting in subsection three of the same section after the word "ten" the words "and subsections one, two and three of section 10D";
- (iii) by omitting from subsection five of the same section the words "and nine" and by inserting in lieu thereof the words and symbols ", 8B, nine and 10D";
- (j) by inserting next after section 10B the following New secs. 10C, 10D.

10C. (1) When a person has applied to be registered, the Registrar, upon being satisfied that such person—

- (a) is entitled to be registered under this Act; or
- (b) (i) is justly entitled to a degree (granted after due examination) in dentistry of any university in the Commonwealth which is legally authorised to grant such degree;

(ii)

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(ii) will have such degree conferred upon him in due course according to the practice of the university in question in conferring degrees; and

(iii) is of good character,

may, on behalf of the Board and on payment of the prescribed fee, grant to such person a certificate of provisional registration in the prescribed form.

(2) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in such certificate as the date upon which such certificate expires; or

(b) such later date as is fixed by the Board, which in no case shall be later than three months from the granting of such certificate.

(3) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(4) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(5) If a person to whom a certificate of provisional registration has been granted becomes registered under this Act during the currency of such certificate, his registration shall, unless otherwise decided by the Board, date from the granting of such certificate.

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10D. (1) Notwithstanding any other provision No. 13, 1972 of this Act, where the Board is satisfied on such evidence as to it seems proper that any applicant or ~~Refusal~~ for registration under this Act or any dentist is, by ~~sion of~~ reason of infirmity, injury or illness, whether mental ~~registration or~~ or physical, unfit to carry on the practice of ~~removal~~ dentistry the Board may refuse to register the ~~register on~~ applicant's name in the register or may cause the ~~ground of~~ name of the dentist to be removed from the register or suspend his registration for such period as the Board shall think fit.

(2) For the purposes of subsection one of this section the Board—

- (a) may require an applicant for registration or a dentist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and
- (b) may hold such enquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the practice of dentistry.

(4) The Director of State Psychiatric Services shall, when any dentist becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, forward to the Registrar, in the manner and within the time prescribed, notice of such fact.

(k)

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Sec. 12.
(Penalty for practice of dentistry by unregistered person.)

Sec. 12A.
(Dentists Charges Committee.)

Sec. 13.
(Regulations.)

(k) (i) by omitting from paragraph (b1) of subsection three of section twelve the word "Public";

(ii) by omitting from paragraph (d) of the same subsection the word "order" and by inserting in lieu thereof the words "written order in the prescribed form";

(l) by omitting from subparagraph (i) of paragraph (b) of subsection two of section 12A the word "Public";

(m) (i) by inserting next after paragraph (c) of subsection one of section thirteen the following new paragraph :—

(ca) specifying the manner in which and the extent to which a society, council, body or corporation referred to in subparagraph (iii), (iiia) or (iv) of paragraph (h) of subsection two of section eight of this Act may advertise the dental services available from it for persons who are not employees or members of the society, council, body or corporation;

(ii) by inserting next after paragraph (g) of the same subsection the following new paragraph :—

(h) with respect to the furnishing to the Board by a dentist or an applicant for registration under this Act of evidence of the date of his birth.

(n)

(n) by omitting the proviso to section seventeen and by **No. 13, 1972**
inserting in lieu thereof the following proviso :—

Sec. 17.

Provided that only one half of the prescribed (Fees.)
roll fee shall be carried to the Consolidated
Revenue Fund and the balance thereof shall be
paid into the Dental Board Education and Research
Account.

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