

DENTISTS (AMENDMENT) ACT, 1983, No. 159

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 159, 1983.

An Act to amend the Dentists Act, 1934, with respect to the registration of dentists and the lawful undertaking of dental practice by other persons; to provide for increased penalties for unlawful dental practice; and for other purposes. [Assented to, 31st December, 1983.]

Dentists (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by 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:—

Short title.

1. This Act may be cited as the "Dentists (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedule 1, shall commence on the day on which the provision commences.

(3) The several provisions of Schedule 1 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Dentists Act, 1934, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 10, 1934.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Dentists (Amendment).

Savings and transitional provisions.

6. Schedule 2 has effect.

SCHEDULE 1.**(Sec. 5.)****AMENDMENTS TO THE PRINCIPAL ACT.**

- (1) (a) Section 6 (2)—

Omit the subsection, insert instead:—

(2) The Registrar shall, on payment of the prescribed fee, supply a person with such extracts from the register as the person may require.

- (b) Section 6 (3)—

Omit “shall in or before the month of October in”, insert instead “(other than a dentist registered for the time being in consequence of a recommendation under section 10BA (1)) shall before the end of”.

- (c) Section 6 (4)—

After “dentist” where firstly occurring, insert “required by subsection (3) to pay a prescribed roll fee”.

- (d) Section 6 (4)—

After “fee” where firstly occurring, insert “for the following year”.

- (e) Section 6 (4)—

Omit “within one month after the posting of the letter”, insert instead “by 31st December next”.

Dentists (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (f) Section 6 (4)—
Omit “within the time specified in the letter”, insert instead
“on or before the due date”.
- (g) Section 6 (8)—
After section 6 (7), insert:—
(8) In this section, “year” means a year ending on 31st
December.
- (2) (a) Section 7 (1) (b)—
After “registered;”, insert “and”.
- (b) Section 7 (1) (c)—
After section 7 (1) (b), insert:—
(c) every person who has ceased to be a dentist, otherwise
than by reason of a suspension of registration under any
provision of this Act.
- (3) (a) Section 8 (1)—
Omit “remove his name from the register or suspend his
registration for such period as the Board shall think fit or
caution or reprimand him.”, insert instead:—
do any one or more of the following:—
(c) caution or reprimand the person;
(d) suspend the person’s registration for such period as the
Board thinks fit or remove the person’s name from the
register;
(e) except where the person has been convicted as referred
to in paragraph (a), impose on the person a fine not
exceeding \$4,000.

Dentists (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 8 (8)—

After section 8 (7), insert:—

(8) A fine imposed under subsection (1) may be recovered as a debt due to the Crown in any court of competent jurisdiction.

(4) (a) Section 8B (1) (a1)—

After section 8B (1) (a), insert:—

(a1) the imposition, in connection with any such adjudgment, of a fine or the amount of any fine so imposed;

(b) Section 8B (1) (e)—

Omit “or” where secondly occurring.

(c) Section 8B (1) (f)—

Omit “register,” insert instead “register; or”.

(d) Section 8B (1) (g)—

After section 8B (1) (f), insert:—

(g) a refusal or failure by the Board to recommend under section 10A that the person be registered as a dentist,

(e) Section 8B (1)—

After “adjudgment,” where lastly occurring, insert “imposition.”

(f) Section 8B (2)—

Omit the subsection, insert instead:—

(2) Every such appeal shall be made in accordance with rules of Court and shall (except in the case of an appeal only against the imposition of a fine referred to in subsection (1) (a1) or the amount of any such fine) be in the nature of a new hearing.

Dentists (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(g) Section 8B (4)—

Before “order”, insert “decision, recommendation or”.

(5) (a) Section 10 (1) (d)—

Omit “subsection (1) of section 10A”, insert instead “section 10A (1) or 10BA (1)”.

(b) Section 10 (1) (e)—

Omit “has”, insert instead “is certified by the Board as possessing, in the opinion of the Board, sufficient skill in the practice of dentistry to be registered, by reason of having”.

(6) Section 10A (1) (d)—

After “dentistry,”, insert “and having undertaken and passed the prescribed examinations or having been exempted therefrom by resolution of the Board,”.

(7) Section 10BA—

After section 10B, insert:—

Recommendation for conditional registration.

10BA. (1) A person not otherwise entitled to be registered as a dentist but who—

- (a) in the opinion of the Board, meets the requirements set forth in section 10A (1) (a), (b) and (c); and

Dentists (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

(b) has applied to be registered by virtue of this section, may be recommended by the Board to be so registered subject to such conditions relating to the duration of the registration, the aspects of the practice of dentistry in which the person when registered may be engaged and any other matters, as the Board thinks fit to recommend.

(2) Any registration and any entitlement of the person thereto in consequence of a recommendation under subsection (1) shall be subject to the conditions specified in the recommendation.

(3) Upon registration of a person as a dentist in consequence of a recommendation under subsection (1), the conditions to which the registration is subject shall be noted in the register.

(4) Nothing in this Act shall be construed as precluding a dentist, while registered in consequence of a recommendation under subsection (1), from applying for registration otherwise than in consequence of such a recommendation, and any refusal or failure by the Board to grant such an application shall be deemed, for the purposes of section 8B, to be a refusal or failure to register the applicant's name in the register.

(5) The Board may, if it thinks fit, waive or remit the whole or part of any fee for registration in consequence of a recommendation under subsection (1).

(8) (a) Section 12 (1A)—

After section 12 (1), insert:—

(1A) A person registered as a dentist in consequence of a recommendation under section 10BA (1) shall not, while so registered—

(a) practise in dentistry; or

Dentists (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) do or perform any act, matter or thing,
in contravention of any condition to which the person's
registration is subject.

(b) Section 12 (2)—

Omit "two hundred dollars", insert instead "\$4,000".

(c) Section 12 (3) (b1)—

Omit "nurses", insert instead "persons".

(d) Section 12 (3) (b3), (b4)—

After section 12 (3) (b2), insert:—

(b3) the doing or performing by persons with prescribed training of such part of the practice of dentistry as may be prescribed, whilst carrying out under the supervision of dentists and under such conditions as may be prescribed, dental treatment provided to the public in hospitals or separate institutions mentioned in the Second, Third or Fifth Schedule to the Public Hospitals Act, 1929, or other prescribed institutions; or

(b4) the doing or performing by persons with prescribed training of such part of the practice of dentistry, related to the provision of dental hygiene services, as may be prescribed, under the supervision of dentists and under such conditions as may be prescribed; or

(9) (a) Section 12A (3), (4) (a)—

Omit "three" wherever occurring, insert instead "6".

Dentists (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.****(b) Section 12A (8)—**

After section 12A (7), insert:—

(8) Nothing in this section shall be construed as precluding the review by the Committee of a bill that has been paid.

(10) (a) Section 13 (1) (h)—

Omit “birth.”, insert instead “birth;”.

(b) Section 13 (1) (i), (j)—

After section 13 (1) (h), insert:—

- (i) prohibiting or regulating the use of any anaesthetic, or an anaesthetic of a specified kind or description, in the practice of dentistry; and
- (j) prescribing the records to be kept by persons engaged in the practice of dentistry, or any part of the practice of dentistry, and the time for which any such records shall be kept.

(c) Section 13 (2), (3)—

Omit the subsections, insert instead:—

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to any specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Dentists (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 41 of the Interpretation Act, 1897, applies to and in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(11) (a) Section 16 (1)—

From section 16, omit “Any”, insert instead “(1) Any”.

(b) Section 16 (2)—

From section 16, omit “All information”, insert instead “(2) Informations”.

(c) Section 16—

Omit “All such penalties may be recovered before any stipendiary or police magistrate or two justices of the peace sitting in petty sessions.”.

(d) Section 16 (3)—

At the end of section 16, insert:—

(3) Proceedings for an offence against this Act may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Dentists (Amendment).

SCHEDULE 2.

(Sec. 6.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Roll fees.

1. (1) The roll fee last prescribed, before the appointed day, for the purposes of section 6 of the Principal Act shall be deemed to be the roll fee prescribed for the year ending on 31st December, 1984, and, subject to any regulations made under that Act, as amended by this Act, and in force after that day, for subsequent years ending on 31st December.

(2) A letter sent to a dentist before the appointed day—

- (a) purporting to be sent for the purposes of section 6 of the Principal Act; and
- (b) which would have been validly sent for the purposes of that section only if the Principal Act, as amended by this Act, had been in force when the letter was sent,

shall be deemed to have been validly sent for the purposes of that section.

(3) In this clause, "the appointed day" means the day on which Schedule 1 (1) (b)–(g) commences.

Appeals.

2. Section 8B (1) of the Principal Act, as amended by this Act, applies to and in respect of a refusal or failure of the Dental Board constituted under the Principal Act to recommend a person for registration in pursuance of the person's application therefor made at any time occurring less than 6 months before the day on which Schedule 1 (4) commences.

Penalties.

3. The Principal Act, as amended by this Act, does not authorise the imposition of any penalty—

- (a) for misconduct in a professional respect which occurred wholly before the day on which Schedule 1 (3) commences; or
- (b) for an offence committed before the day on which Schedule 1 (8) (b) commences,

being a penalty which could not have been imposed if this Act had not been enacted.
