

# Dental Technicians Registration Act 1975 No 40

[1975-40]



New South Wales

## Status Information

### Currency of version

Historical version for 4 December 2006 to 5 July 2009 (accessed 23 December 2024 at 17:47)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Licensing and Registration \(Uniform Procedures\) Act 2002 No 28](#) (not commenced)
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 17 June 2008

# Dental Technicians Registration Act 1975 No 40



New South Wales

## Contents

<b>Long title</b> .....	5
<b>Part 1 Preliminary</b> .....	5
1 Name of Act .....	5
2 Commencement .....	5
3 (Repealed) .....	5
4 Application of Act .....	5
5 Definitions .....	6
<b>Part 2 Dental Technicians Registration Board</b> .....	8
6 Constitution of Dental Technicians Registration Board .....	8
7 Vacation of office .....	9
8 Filling of casual vacancies .....	10
9 Meetings of the board .....	10
10 Remuneration of members .....	10
11 (Repealed) .....	11
12 Protection of board and staff .....	11
13 Functions and duties of the board .....	11
<b>Part 3 Registration of dental technicians</b> .....	12
14 Register .....	12
15 Qualifications for registration .....	12
16 Inquiries in connection with section 15 .....	13
17 Roll fee .....	13

18 Removal of name of dental technician from register .....	14
<b>Part 3A Practising certificates</b> .....	14
18A Index .....	14
18B Practising certificates .....	15
18C Inquiries in connection with section 18B .....	15
18D Practising fee .....	16
18E Removal of name from index.....	16
<b>Part 3B Disciplinary provisions</b> .....	16
19 Proceedings before board against dental technician .....	16
19A Proceedings before board against dental prosthetist .....	17
19B Prohibition orders against dental technicians and dental prosthetists .....	18
20 Inquiry by board or delegate .....	19
20A Commission to be notified of complaints .....	19
<b>Part 3C Appeals</b> .....	20
21 Appeal .....	20
<b>Part 4 General</b> .....	20
22 Notations in register .....	21
23 (Repealed) .....	21
24 Falsification of register .....	21
25 Power of entry of inspectors .....	21
26 Practice by unregistered persons .....	22
27 Restrictions on dental technicians .....	23
28 Use of certain titles etc prohibited .....	23
29 Service of notices .....	24
30 Certificate admissible as prima facie evidence .....	24
31 Proceedings for offences .....	25
32 Offence by company .....	25
33 Penalty.....	25
34 Fees etc .....	25
34AA Board may waive fees .....	25
34A Written statements of decisions .....	25

34B Cancelled registrations to be publicly available .....	27
34C Protection from liability for certain publications .....	27
35 Regulations.....	28
36 (Repealed) .....	29
37 Savings, transitional and other provisions.....	29
<b>Schedule 1 Savings, transitional and other provisions .....</b>	<b>29</b>

# Dental Technicians Registration Act 1975 No 40



New South Wales

An Act to constitute the Dental Technicians Registration Board and to define its powers, authorities, duties and functions; to make provision for the registration of dental technicians; to regulate the qualifications for and the effect of registration; to amend the *Dentists Act 1934*; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Dental Technicians Registration Act 1975*.

### 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Sections 25, 26, 27 and 28, sections 32 and 33 and section 36 shall commence on the day that is six months after the appointed day.
- (3) Except as provided in subsections (1) and (2), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 (Repealed)

### 4 Application of Act

- (1) This Act does not apply to or in respect of any legally qualified medical practitioner, any dentist or any person carrying out technical work under the supervision of such a medical practitioner or a dentist at a university, school, college or hospital in New South Wales as part of a course leading to a degree in medicine, surgery or dental surgery.
- (2) After the day that is two years after the appointed day:
  - (a) sections 25 and 26 of the *Apprentices Act 1969* do not apply to the training in technical work of a person desirous of becoming a dental technician, and
  - (b) neither the Director nor an apprenticeship committee shall approve of an

application for the establishment of an apprenticeship in technical work.

- (3) After the day that is six years after the appointed day, no provision of the [Apprentices Act 1969](#) applies to the training in technical work of a person desirous of becoming a dental technician.

## 5 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**appointed day** means the day appointed by the Governor under section 2 (3).

**artificial denture** does not include:

- (a) a fixed bridge,
- (b) an artificial denture:
  - (i) of which an intracoronaral retainer forms a part,
  - (ii) to which an intracoronaral retainer is attached, or
  - (iii) which is combined with an obturator, or
- (c) any prescribed dental appliance.

**board** means the Dental Technicians Registration Board constituted under section 6 (1).

**Commission** means the Health Care Complaints Commission constituted under the [Health Care Complaints Act 1993](#).

**Corporation** means the Health Administration Corporation constituted by the [Health Administration Act 1982](#).

**dental prosthetist** means a dental technician to whom a practising certificate has been granted.

**dental technician** means person registered as a dental technician under this Act.

**fitting**, in relation to an artificial denture, includes taking an impression or making a measurement for the purpose of inserting, constructing, repairing or renewing the artificial denture.

**health registration Act** has the same meaning as in the [Health Care Complaints Act 1993](#).

**health service** has the same meaning as in the [Health Care Complaints Act 1993](#).

**index** means the Index of Dental Prosthetists of New South Wales referred to in section 18A.

**inspector** means a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the board to exercise its functions and who is appointed as an inspector for the purposes of this Act.

**member** means member of the board.

**practising certificate** means a practising certificate granted under section 18B that is in force.

**prohibition order** has the same meaning as in section 19B.

**register** means the Register of Dental Technicians of New South Wales kept by the board under section 14.

**regulations** means regulations made under this Act.

**secretary** means the secretary of the board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

**technical work** means the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances.

- (2) For the purposes of the constitution of the first Dental Technicians Registration Board, a reference in section 6 (1) to a dental technician is a reference to a person who, in the opinion of the Minister, is a person likely to be able to satisfy the requirements of the board in respect of the person's qualifications for registration under this Act.
- (3) For the purposes of this Act, the practice of dental prosthetics means:
- (a) the giving of any advice to or the attendance upon any person as preparatory to, or for the purpose of, or for or in connection with, the fitting, inserting, constructing, repairing or renewing of artificial dentures or mouthguards,
  - (b) the constructing, repairing or renewing by a person of artificial dentures or mouthguards in connection with the performance by that person of any functions referred to in paragraph (a) or (c), and
  - (c) the inserting or fitting of artificial dentures or mouthguards in healthy human mouths,

but does not include the inserting or fitting of an artificial denture or mouthguard where, in the proper practice of dentistry, it could be reasonably foreseen, before any such work is commenced, that an adjustment of natural teeth or the jaw would be, or is, required for the purpose of:

- (d) balancing the occlusion of natural teeth and the artificial denture or mouthguard, or
  - (e) preparing natural teeth or the jaw for the insertion of the artificial denture or mouthguard.
- (4) For the purposes of subsection (3) (c) a human mouth is not healthy if:
- (a) the jaws are apparently damaged and not completely healed or are apparently diseased,
  - (b) it contains any soft tissue that is apparently damaged and not completely healed or is apparently diseased, or
  - (c) it contains any teeth that are apparently carious, are apparently damaged and not completely repaired or are apparently diseased.
- (5) Notes included in this Act do not form part of this Act.

## **Part 2 Dental Technicians Registration Board**

### **6 Constitution of Dental Technicians Registration Board**

- (1) There shall be a Dental Technicians Registration Board consisting of 9 members and of those members:
- (a) one shall be a person nominated by the Minister, being a person who is not a dental technician or a dentist,
  - (b) one shall be a dentist nominated by the Dental Board constituted under the [Dental Practice Act 2001](#),
  - (c) one shall be a dentist nominated by the board of control of the United Dental Hospital of Sydney,
  - (d) one shall be a dental technician nominated by the Dental Technicians' Association of New South Wales,
  - (e) one shall be a dental technician nominated by the Australian Commercial Dental Laboratories Association (NSW),
  - (f) two shall be dental technicians nominated by the Minister,
  - (g) one shall be an Australian lawyer nominated by the Minister, and
  - (h) one shall be a dental technician nominated by the Health and Research Employees' Association of New South Wales.
- (1A) The members of the board shall be appointed by the Governor.



- (2) The member referred to in subsection (1) (a):
- (a) is to be an officer of the Department of Health or an employee of a public health organisation within the meaning of the *Health Services Act 1997*, and
  - (b) is, in and by the relevant instrument of appointment as a member, to be appointed as chairperson of the board.
- (2A) The Minister may, from time to time, appoint a member to act in the office of chairperson of the board during the illness or absence of the chairperson, and the member, while so acting, has all the functions of the chairperson and is taken to be the chairperson.
- (3) Where a nomination for the purposes of subsection (1) (paragraphs (a), (f) and (g) excepted) or section 8 (1) is not submitted within the time or in the manner specified by the Minister in a notice in writing given to the person entitled to make the nomination, the nomination may be made by the Minister.
- (4) A member shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of the member's appointment and shall, if otherwise qualified, be eligible for reappointment.
- (5) (Repealed)
- (6) The provisions of the *Public Service Act 1902* shall not apply to the appointment of a member and a member shall not, in the member's capacity as a member, be subject to the provisions of that Act during the member's term of office.
- (7) The office of a member shall not for the purpose of any Act be deemed to be an office or place of profit under the Crown.

## **7 Vacation of office**

- (1) A member is taken to have vacated office if the member:
- (a) dies, or
  - (b) becomes a mentally incapacitated person, or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (d) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (e) resigns office by instrument in writing addressed to the Governor, or

- (f) is absent from 3 consecutive meetings of the board of which reasonable notice has been given to the member personally or in the ordinary course of post unless, before the expiration of 6 weeks after the last of those meetings, the member is excused by the board for having been absent from those meetings, or
- (g) not being the member appointed under section 6 (1) (a), ceases to hold the qualification by which he or she was nominated for appointment as a member, or
- (h) is removed from office by the Governor under subsection (2).

- (2) The Governor may at any time and for any reason remove a person from office as a member.

### **8 Filling of casual vacancies**

- (1) On the occurrence of a vacancy in the office of a member otherwise than by the expiration of the term for which the member was appointed, the Governor may appoint a person to hold office for the balance of the member's term of office, being a person qualified and nominated under the same paragraph of section 6 (1) as the member.
- (2) A member appointed pursuant to subsection (1) is, if otherwise qualified, eligible for reappointment.

### **9 Meetings of the board**

- (1) The procedure for the calling of meetings of the board and for the conduct of business at those meetings shall be as determined by the board.
- (2) The chairperson of the board or, in the absence of the chairperson, another member elected as chairperson for the meeting by the members present is to preside at a meeting of the board.
- (3) The person presiding at any meeting of the board in accordance with subsection (2) shall have a deliberative vote and, in the event of an equality of votes, a casting vote.
- (4) Five members shall form a quorum at any meeting of the board and any duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise the functions of the board.
- (5) A decision supported by a majority of votes at a meeting of the board at which a quorum is present shall be the decision of the board.

### **10 Remuneration of members**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**11 (Repealed)**

**12 Protection of board and staff**

No matter or thing done or suffered by the board, any member, the secretary, any inspector or any other member of staff, bona fide in the execution, or intended execution, of this Act, or in the exercise or discharge, or intended exercise or discharge, of any of its or the person's powers or duties, shall subject the board or any member, the secretary, any inspector or any other member of staff, or the Crown, to any liability in respect thereof.

**13 Functions and duties of the board**

- (1) The functions and duties of the board are to do all acts and exercise or perform all powers necessary for carrying the provisions of this Act into effect.
- (2) Without limiting the generality of subsection (1), the board may:
  - (a) for the purposes of sections 15 (1) (a) and 18B (1) (a), approve courses of training, whether conducted or to be conducted within New South Wales or elsewhere,
  - (b) recommend the standards to be achieved in the examinations to be completed by persons undertaking the courses of training referred to in paragraph (a),
  - (c) arrange examinations for the purposes of sections 15 (1) (c) and 18B (1) (b),
  - (d) promote the establishment in New South Wales of courses of training for persons desirous of becoming dental technicians,
  - (e) order the registration of persons as dental technicians, suspend or cancel the registration of persons so registered, annul any such suspension or cancellation and order the restoration to the register of the name of a person who was formerly a dental technician, and
  - (f) approve, in such cases as it sees fit, of the carrying out by a person who has applied for registration under section 15 (1) (c) but who has failed, upon examination arranged under paragraph (c), to satisfy the board as to the matters specified in section 15 (1) (c), of technical work for a period, and under the supervision of a person, specified in the approval and revoke, alter or vary any such approval.
- (3) An approval under subsection (2) (f) shall operate for a period not exceeding two years.
- (4) The board cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the board to exercise its functions.

## **Part 3 Registration of dental technicians**

### **14 Register**

- (1) The board shall keep a register, to be called the “Register of Dental Technicians of New South Wales”.
- (2) A person shall be registered by the entering in the register of:
  - (a) the person’s full name,
  - (b) the person’s address,
  - (c) the date on which the person is registered, and
  - (d) particulars of the qualification by which the person is entitled to registration.
- (3) The register shall at all reasonable times be open to inspection at the office of the board by any person on payment of the prescribed fee.
- (4) The secretary shall, as soon as practicable after the first day of July in each year, transmit a list of names and addresses entered in the register to the Minister and if the Minister so directs, the list shall be printed and published.

### **15 Qualifications for registration**

- (1) A person who makes application for registration as a dental technician in the prescribed manner and proves to the satisfaction of the board that the person is of good character and has attained the age of eighteen years is entitled to be registered as a dental technician if:
  - (a) the person has, in the opinion of the board, satisfactorily completed a course of training, approved by the board, in technical work,
  - (b) the person establishes to the satisfaction of the board that the person has, within the period of ten years immediately preceding the day on which the person applies for registration, been bona fide engaged in carrying out technical work in New South Wales for a period of not less than four years, or
  - (c) not being a person referred to in paragraph (a) or (b), the person has, in the opinion of the board, satisfactorily completed any examination in technical work arranged by the board for the purpose of determining the person’s knowledge of and skill in carrying out technical work and demonstrated the person’s ability satisfactorily to carry out technical work in New South Wales.
- (2) For the purposes of subsection (1) (b), a period during which a person has been engaged in training in technical work in New South Wales as an apprentice is a period during which that person has been bona fide engaged in carrying out technical work.

- (3) A person is not entitled to become registered pursuant to subsection (1) (b) after a day that is six years after the appointed day.
- (4) Subsection (3) does not apply to a person who has previously been registered as a dental technician and who pays a restoration fee within five years after the day on which the person ceases to be registered as a dental technician or last ceased to be so registered, as the case may be.
- (5) Where:
  - (a) a person is entitled to be registered as a dental technician, the person shall be so registered on payment of the prescribed fee, or
  - (b) the board is not satisfied as to the matters specified in subsection (1) it shall refuse the application for registration and the secretary shall give the person who has applied for registration as a dental technician notice of that refusal in accordance with section 29 (1).
- (6) If the board does not, within sixty days after the receipt by it of an application by a person for registration as a dental technician, give notice to the person applying for registration of the result of the application the secretary shall be deemed to have given that person a notice that the board has refused to direct that the person be registered as a dental technician.

#### **16 Inquiries in connection with section 15**

- (1) The board may, for the purpose of obtaining any information required by it for the purposes of section 15, require any applicant for registration or other person to appear before it for examination by the members of the board.
- (2) A person who:
  - (a) wilfully makes a false statement, or
  - (b) utters or attempts to utter or put off as true before the board a false, forged or counterfeit document purporting to be an academic award or a document signifying a technical qualification,in connection with a matter into which the board is inquiring for the purposes of section 15, is guilty of an indictable offence and liable to be imprisoned for a period not exceeding twelve months.

#### **17 Roll fee**

- (1A) In this section, a reference to a dental technician includes a reference to a person who has been registered as a dental technician but whose registration is suspended.
- (1) Every dental technician shall, on or before the thirty-first day of March in each year,

pay a roll fee of such amount as is prescribed for the year commencing on the first day of July next following.

- (2) A dental technician shall, at the time the dental technician pays the roll fee, furnish particulars of his or her address for entry in the register.
- (3) If a dental technician does not pay the roll fee on or before the thirty-first day of March in any year the board shall forthwith notify the dental technician by letter addressed to the dental technician at his or her address appearing in the register that if the fee is not paid on or before the thirtieth day of June next following his or her name will be removed from the register.
- (4) Where a dental technician who has been notified in accordance with subsection (3) fails to pay the roll fee on or before the thirtieth day of June next after the notice has been forwarded to the dental technician the board shall cause his or her name to be removed from the register.

### **18 Removal of name of dental technician from register**

The board shall cause to be removed from the register the name of:

- (a) a dental technician who requests that his or her name be removed,
- (b) a deceased dental technician, and
- (c) a dental technician who does not possess the qualifications in respect of which the dental technician was registered.

## **Part 3A Practising certificates**

### **18A Index**

- (1) The board shall keep an index to be called the "Index of Dental Prosthetists of New South Wales".
- (2) Where a practising certificate is granted to a dental technician under section 18B:
  - (a) the dental technician's full name,
  - (b) the dental technician's address,
  - (c) the date on which the dental technician's practising certificate was granted, and
  - (d) particulars of the qualification by reason of which the dental technician's practising certificate was granted to the dental technician,shall be entered in the index.
- (3) The index shall at all reasonable times be open to inspection at the office of the board

by any person on payment of the prescribed fee.

- (4) The secretary shall, as soon as practicable after the first day of July in each year, transmit a list of names and addresses entered in the index to the Minister and, if the Minister so directs, the list shall be printed and published.

### **18B Practising certificates**

- (1) A person who makes application for a practising certificate in the prescribed manner is entitled to be granted a practising certificate if, at the time at which the practising certificate is granted, the person is a dental technician and:
  - (a) the person has, in the opinion of the board, satisfactorily completed a course of training, approved by the board, fitting the person to engage in the practice of dental prosthetics, or
  - (b) not being a person referred to in paragraph (a), the person has, in the opinion of the board, satisfactorily completed an examination relating to the practice of dental prosthetics arranged by the board.
- (2) Where application is made to the board under subsection (1), the board, upon payment of the prescribed fee, shall grant a practising certificate to a person who is entitled to be granted a practising certificate.
- (3) Where the board is not satisfied that a person who has made application for a practising certificate is entitled to be granted a practising certificate, it shall refuse the application and the secretary shall give the person notice of that refusal in accordance with section 29 (1).
- (4) If the board does not, within 60 days after the receipt by it of an application for a practising certificate, give notice to the applicant of the result of the application, the secretary shall be deemed to have given the applicant a notice that the board has refused the application.

### **18C Inquiries in connection with section 18B**

- (1) The board may, for the purpose of obtaining any information required by it for the purposes of section 18B, require any applicant for a practising certificate or other person to appear before it for examination by the members of the board.
- (2) A person who:
  - (a) wilfully makes a false statement, or
  - (b) utters or attempts to put off as true before the board a false, forged or counterfeit document purporting to be an academic award or a document signifying a technical qualification,

in connection with a matter into which the board is inquiring for the purposes of section 18B, is guilty of an indictable offence and liable to be imprisoned for a period not exceeding 12 months.

### **18D Practising fee**

- (1) In this section, a reference to a dental prosthetist includes a reference to a person who has been granted a practising certificate but whose practising certificate is suspended.
- (2) Every dental prosthetist shall, on or before the thirty-first day of March in each year, pay a practising fee of such amount as is prescribed for the year commencing on the first day of July next following.
- (3) If a dental prosthetist does not pay the practising fee on or before 31 March in any year, the board must forthwith notify the dental prosthetist by letter addressed to him or her at the address appearing in the register that, if the fee is not paid on or before 30 June next following, his or her practising certificate will be cancelled.
- (4) Where a dental prosthetist who has been notified in accordance with subsection (3) fails to pay the practising fee on or before the thirtieth day of June next after the notice has been forwarded to the dental prosthetist, the board shall cancel the dental prosthetist's practising certificate.

### **18E Removal of name from index**

- (1) The board may cancel the practising certificate of a person who requests that the practising certificate granted to the person be cancelled.
- (2) The board shall cancel the practising certificate of:
  - (a) a deceased dental prosthetist, and
  - (b) a dental prosthetist who has ceased to be a dental technician.
- (3) Where the board cancels a practising certificate under subsection (1) or (2) or section 19A, it shall remove from the index the name of the person to whom the practising certificate was granted.

## **Part 3B Disciplinary provisions**

### **19 Proceedings before board against dental technician**

- (1) Where the board is satisfied after inquiry under section 20, or after the investigation by the Commission under the *Health Care Complaints Act 1993* of a complaint of which the Commission is notified under section 20A, that a dental technician, whether or not the dental technician is a dental prosthetist:
  - (a) has been convicted in New South Wales or elsewhere by any court of any offence,



- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug,
- (c) is not of good character, or
- (d) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry out technical work,

it may by order:

- (e) reprimand or caution that dental technician,
- (f) suspend the dental technician's registration for such period, not exceeding 12 months, as it thinks fit, or
- (g) direct that the dental technician's name be removed from the register,

and shall, where it is satisfied after inquiry that the dental technician is, by reason of some act or omission in connection with the dental technician's work as a dental technician, unfit to carry out technical work, by order direct that the dental technician's name be removed from the register.

- (2) Where the board directs that the name of a dental technician be removed from the register it may in its order fix a time after which the person whose name is so removed may apply for restoration of the person's name to the register and, notwithstanding section 15, that person may not make application for registration as a dental technician before that time unless the board before that time directs that the person may make such an application.
- (3) The board shall not make an order directing that a dental technician be suspended from registration or that the dental technician's name be removed from the register because of a conviction referred to in subsection (1) (a) where it is satisfied that, whether from its trivial nature or from the circumstances in which it occurred or for any other reason, the offence does not in the public interest disqualify the dental technician from carrying out technical work.
- (4) An order made by the board under subsection (1) shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order is given to the dental technician by the secretary in accordance with section 29 (1).
- (5) The registration of a dental technician is not in force during any period for which it has been suspended and, notwithstanding section 15, a person may not make application for registration as a dental technician while the person's registration is suspended.

### **19A Proceedings before board against dental prosthetist**

- (1) Where the board is satisfied after an inquiry held under section 20, or after the investigation by the Commission under the *Health Care Complaints Act 1993* of a complaint of which the Commission is notified under section 20A, that a dental

prosthodontist has been guilty of misconduct with respect to the practice of dental prosthetics, it may by order:

- (a) reprimand or caution that dental prosthodontist,
  - (b) suspend the dental prosthodontist's practising certificate for such period, not exceeding 12 months, as it thinks fit, or
  - (c) cancel the dental prosthodontist's practising certificate.
- (2) Whenever an order is made under subsection (1) in respect of any person, the board may make an order of any kind that may be made under section 19 in respect of that person.
  - (3) Where the board directs that a practising certificate be cancelled it shall in its order fix a time after which the person whose practising certificate is so cancelled may apply for another practising certificate and, notwithstanding section 18B, that person may not make application for another practising certificate before that time unless the board before that time directs that the person may make such an application.
  - (4) An order made by the board under subsection (1) shall not take effect until the expiration of a period of 21 days after notice of the making of the order is given to the dental prosthodontist by the secretary in accordance with section 29 (1).
  - (5) A practising certificate is not in force during any period for which it has been suspended and, notwithstanding section 18B, a person may not make application for another practising certificate while the person's practising certificate is suspended.

### **19B Prohibition orders against dental technicians and dental prosthetists**

- (1) If the board is satisfied after an inquiry under section 20, or after the investigation by the Commission under the *Health Care Complaints Act 1993* of a complaint of which the Commission is notified under section 20A, that a dental technician or a dental prosthodontist poses a substantial risk to the health of members of the public, the board may by order (a **prohibition order**) do any one or more of the following:
  - (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
  - (b) place such conditions as the board thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

#### **Note—**

Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (2) If the board is aware that a person in respect of whom it is proposing to make a

prohibition order is registered under a health registration Act other than this Act, the board is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

## 20 Inquiry by board or delegate

(1) In this section:

**delegate** means a member of the board or an officer or employee appointed or employed under the *Public Service Act 1902*, specified in a resolution referred to in subsection (2).

**inquiry** means an inquiry held under this section for the purposes of section 19 (1) or 19A (1) or under both sections 19 (1) and 19A (1) in respect of the same person.

- (2) The board may hold an inquiry or may, by resolution, authorise a delegate to hold an inquiry and a document purporting to be a copy of a resolution so authorising a delegate and fixing the terms of the inquiry, and to be signed by the chairperson or member presiding at the meeting at which the resolution was passed, shall be sufficient evidence for all purposes of a delegation pursuant to this subsection and of the terms of the inquiry.
- (3) The board or delegate holding an inquiry shall sit as in open court and the person in respect of whom the inquiry is being held shall be afforded an opportunity of defence either in person or by the person's Australian legal practitioner.
- (4) For the purpose of an inquiry the board, the chairperson or other person presiding at the meeting of the board at which the inquiry is made and a delegate shall have the powers, authorities, protections and immunities conferred by the *Royal Commissions Act 1923* on a commissioner and the chairperson of a commission respectively, appointed under Division 1 of Part 2 of that Act, and that Act, section 13 and Division 2 of Part 2 excepted, shall apply to any witness summoned by or appearing before the board or delegate in the same way as it applies to a witness summoned before a royal commission.
- (5) A delegate shall forward to the board a report as to the inquiry made by the delegate, a copy certified by the delegate of all evidence taken at the inquiry and the delegate's recommendation in relation to the dental technician the subject of the inquiry.
- (6) The decision of the board upon an inquiry held before a delegate shall be given after consideration by it of the report, evidence and recommendation referred to in subsection (5).

## 20A Commission to be notified of complaints

The board must notify the Commission of any complaint made to it concerning the

carrying out of technical work or work forming part of the practice of dental prosthetics.  
The complaint is to be notified as soon as practicable after the complaint is made.

## **Part 3C Appeals**

### **21 Appeal**

- (1) A person aggrieved:
  - (a) by the refusal of the board:
    - (i) to direct that the person be registered as a dental technician, or
    - (ii) to direct under section 19 (2) that the person may make an application for registration or under section 19A (3) that the person may make application for a practising certificate, or
  - (b) by an order of the board under section 19, 19A or 19B,may appeal to the District Court in accordance with the rules of court.
- (2) An appeal under subsection (1) shall be dealt with by way of rehearing.
- (3) The District Court, in deciding an appeal referred to in subsection (1), may:
  - (a) confirm a refusal referred to in subsection (1) (a) or order that the person applying for registration be registered or that the person applying for a practising certificate be granted a practising certificate,
    - (a1) where:
      - (i) the practising certificate of a dental prosthetist has been cancelled under section 18E (2) (b) by reason of the dental prosthetist's ceasing to be a dental technician consequent upon the making of an order under section 19,
      - (ii) the appeal is against that order, and
      - (iii) the court, on that appeal, orders that the dental prosthetist be registered as a dental technician,order that the dental prosthetist's practising certificate be restored, or
    - (b) in respect of an appeal against an order referred to in subsection (1) (b) uphold the appeal, confirm the order of the board or substitute for that order any other order that the board might have made.
- (4) The decision of the District Court in respect of an appeal referred to in subsection (1) shall be final and conclusive and be given effect to by the board.

## **Part 4 General**

## **22 Notations in register**

- (1) Where the board makes an order under section 19 or 19A in respect of a dental technician or dental prosthetist, as the case may be, or the District Court confirms such an order or makes some other order in respect of an appeal made to it in respect of such an order the secretary shall make a notation of the terms of the order made by the board and, as the case may require, of the order made by the District Court:
  - (a) where the order was made under section 19 or under section 19A and is of a kind that may be made under section 19—in the register adjacent to the name of the person in respect of whom the order has been made, and
  - (b) where the order was made under section 19A and is not of a kind that may be made under section 19—in the index adjacent to the name of the person in respect of whom the order has been made.
- (2) Where the board makes an order under section 19B, or the District Court confirms such an order or makes some other order in respect of an appeal made to it in respect of such an order the secretary is to make a notation of the terms of the order made by the board and, as the case may require, of the order made by the District Court:
  - (a) if the person in respect of whom the order has been made is not a dental prosthetist—in the register adjacent to the name of the person, and
  - (b) if the person in respect of whom the order has been made is a dental prosthetist—in the index adjacent to the name of the person.

## **23 (Repealed)**

## **24 Falsification of register**

A person who wilfully makes or causes to be made any false entry in or falsification of the register or index and a person who wilfully procures or attempts to procure himself or herself or any other person to be registered or to be granted a practising certificate under this Act by the making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, or a person assisting therein, is guilty of an indictable offence and liable to be imprisoned for a period not exceeding twelve months.

## **25 Power of entry of inspectors**

- (1) For the purpose of ascertaining:
  - (a) whether any of the provisions of this Act or of the regulations has been or is being contravened by a dental technician, whether or not the dental technician is a dental prosthetist,
  - (b) whether a dental technician, whether or not the dental technician is a dental

prosthetist, is, by reason of some act or omission in connection with the dental technician's work as a dental technician, unfit to carry out technical work, or

(c) whether a dental prosthetist has been guilty of misconduct in respect of which the board, if satisfied it occurred, could make an order under section 19A (1),

an inspector may at any reasonable time enter any premises which a dental technician uses in connection with technical work or which a dental prosthetist uses in connection with the practice of dental prosthetics and may make such inquiries therein as the inspector thinks fit.

(2) An inspector may apply to an authorised officer for a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any premises.

(2A) An authorised officer to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:

(a) to enter the premises, and

(b) to make such inquiries in the premises as the inspector thinks fit.

(2B) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(3) A person who wilfully delays or obstructs an inspector in the exercise of the inspector's powers under this section is guilty of an offence.

(4) In this section:

**authorised officer** has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

## 26 Practice by unregistered persons

(1) A person other than:

(a) a dental technician,

(b) a person undergoing a course of training, approved by the board, in technical work under the supervision of a dentist or dental technician, or

(c) a person approved by the board pursuant to section 13 (2) (f) who is acting within the terms of the approval given in respect of the person,

is guilty of an offence if the person carries out technical work.

(2) A person other than:

(a) a dental prosthetist, or

(b) a dental technician undergoing a course of training, approved by the board, in the practice of dental prosthetics under the supervision of a dentist or dental prosthetist,

is guilty of an offence if the person does any act that forms part of the practice of dental prosthetics, not being an act that is technical work or that consists of the insertion of mouthguards.

(3) A person is guilty of an offence if the person permits an employee of the person to do any act the doing of which is an offence under subsection (1) or (2).

## **27 Restrictions on dental technicians**

A dental technician who carries out technical work is guilty of an offence unless that technical work:

(a) is carried out on the written order, in or to the effect of a form prescribed under the [Dental Practice Act 2001](#), of a dentist, or

(b) comprises work involved in the practice of dental prosthetics and the dental technician:

(i) is a dental prosthetist, or

(ii) carries out the work on the written order, in or to the effect of the form prescribed for the purposes of this subparagraph, of a dental prosthetist.

## **28 Use of certain titles etc prohibited**

(1) A dental technician who uses in his or her business as a dental technician a title or description other than dental technician or dental laboratory is guilty of an offence.

(1A) Notwithstanding subsection (1), a dental prosthetist may, in his or her practice as a dental prosthetist, describe himself or herself as a dental prosthetist and use that title.

(2) A person, not being a dental technician, who employs a dental technician in connection with the person's business of supplying technical work who uses in connection with that business a title or description other than dental laboratory is guilty of an offence.

(3) A person other than a dental technician who uses the title or description of dental technician is guilty of an offence.

(3A) A person other than a dental prosthetist who uses the title or description of dental prosthetist is guilty of an offence.

(4) A person other than a dental technician or a person, not being a dental technician,

who employs a dental technician in connection with the person's business of supplying technical work who uses the title or description of dental laboratory is guilty of an offence.

- (5) A dental technician who uses in connection with his or her business as a dental technician any symbols or letters other than symbols or letters approved by the board as a description of the qualification of a dental technician is guilty of an offence.

## **29 Service of notices**

- (1) A notice under this Act addressed to a dental technician, whether or not the dental technician is a dental prosthetist, or to a person who has made an application for registration as a dental technician or for a practising certificate may be served:

- (a) by delivering it personally to the person to whom it is addressed, or  
(b) by posting it in an envelope duly stamped and addressed to the person to whom it is addressed at the place last known to the secretary to be the place of residence or business of that person,

and shall be deemed to have been served upon its being so delivered or, in the case of a notice referred to in paragraph (b), shall be prima facie deemed to have been served when it would be delivered in the ordinary course of post.

- (2) A notice or other document required to be served on the board may be served:

- (a) by being left with some person apparently employed in the administration of this Act at the office of the secretary, or  
(b) by posting it in an envelope duly stamped and addressed to the secretary or to the board at the office of the secretary,

and shall be deemed to have been served upon its being so left or, in the case of a notice or document referred to in paragraph (b), shall be prima facie deemed to have been served when it would be delivered in the ordinary course of post.

## **30 Certificate admissible as prima facie evidence**

A document purporting to be a certificate signed by the secretary and stating that a person specified therein:

- (a) has been appointed as an inspector under this Act and during any period specified therein held office as an inspector,  
(b) was or was not, on a day or during any period specified therein, a dental technician or a dental prosthetist, or  
(c) was, on a day or during any period specified therein, a person in respect of whom an order under section 19, 19A or 19B had been made or was in force,



shall, in all courts and before all persons and bodies authorised by law to receive evidence, be admissible and be prima facie evidence of the matters specified therein.

### **31 Proceedings for offences**

- (1) An information for an offence against this Act or the regulations shall be laid by:
  - (a) the secretary, an inspector or some other person appointed by the board for that purpose, either generally or in a particular case, or
  - (b) a member of the police force.
- (2) Proceedings for an offence against this Act or the regulations may be taken in a summary manner before a Local Court.

### **32 Offence by company**

Where a company is convicted of an offence against this Act or the regulations, every director and every officer concerned in the management of the company is guilty of the same offence if the director or officer knowingly and wilfully authorised or permitted the commission of the offence.

### **33 Penalty**

A person who is guilty of an offence against this Act for which no penalty is expressly provided is liable to a penalty not exceeding 50 penalty units.

### **34 Fees etc**

The secretary is required to transmit to the Corporation for payment into an account established under section 13A of the [Health Administration Act 1982](#) all money received by the board (whether for fees or otherwise), not being fines or penalties or money which is required to be dealt with in some other manner.

### **34AA Board may waive fees**

The board may, for any reason the board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

### **34A Written statements of decisions**

- (1) If the board decides to make an order under section 19, 19A or 19B in respect of a person, the board shall, within one month of making the order, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.
- (2) If the board makes a decision in relation to a person under any provision of this Act, other than section 19, 19A or 19B, the person may request in writing that the board

provide the person with a written statement of the decision.

- (3) Any such request shall be made within 60 days after the decision to which it relates.
- (4) The board shall provide a written statement of the decision within one month of receipt of such a request.
- (5) A written statement of a decision shall:
  - (a) set out any findings on material questions of fact,
  - (b) refer to any evidence or other material on which the findings were based, and
  - (c) give the reasons for the decision.
- (6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.
- (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 19, 19A or 19B or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that:
  - (a) the confidential information is not included, or
  - (b) the statement will not be provided,as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.
- (7A) The board:
  - (a) must make publicly available a statement of a decision if the decision is in respect of a complaint about misconduct with respect to the practice of dental prosthetics that has been proved or admitted in whole or in part and ensure that any such statement is provided to the Commission, and
  - (b) may disseminate any other statement of a decision as the board thinks fit.
- (8) In this section:

**confidential information** means information that:

  - (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared,

(b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision, and

(c) is information:

(i) that was supplied in confidence,

(ii) the publication of which would reveal a trade secret,

(iii) that was provided in compliance with a duty imposed by an enactment, or

(iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

### **34B Cancelled registrations to be publicly available**

(1) The board is to make publicly available:

(a) the name of each person who is subject to an order of the board or the District Court that the person's name be removed from the register or that the person's dental prosthetist's practising certificate be cancelled, and

(b) such other information about the person as may be prescribed by the regulations.

(2) The board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.

(3) The board is not required to make publicly available information about a person:

(a) who is deceased, or

(b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

### **34C Protection from liability for certain publications**

(1) A publication in good faith under section 34A or 34B does not subject a protected person to any liability (including liability in defamation).

(2) In this section:

**protected person** means:

(a) the board or a member of the board, or

(b) the proprietor, editor or publisher of a newspaper, or

- (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
- (d) an internet service provider or internet content host, or
- (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
- (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

### **35 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to:
  - (a) the manner in which applications for registration as a dental technician or for practising certificates shall be made,
  - (b) forms of application for, and fees to be paid in connection with, registration as a dental technician and the grant of a practising certificate,
  - (c) fees to be paid under this Act,
  - (d) notations to be made in the register or index,
  - (e) the duties of the secretary and any inspectors, other officers and persons employed in connection with the administration of this Act,
  - (f) standards of hygiene to be observed by and protective clothing to be worn by dental technicians and persons employed in and about premises used for or in connection with technical work,
  - (g) standards to be observed in the fitting out of premises to be used for or in connection with technical work,
  - (h) regulating advertising by dental technicians, whether or not they are dental prosthetists,
  - (i) fixing maximum fees to be charged by dental technicians or dental prosthetists in respect of any work performed by them, and
  - (j) infection control standards to be followed by dental prosthetists engaged in the practice of dental prosthetics and by dental technicians in carrying out technical work.

(3) Regulations may be made so as to apply differently according to such factors as are specified in the regulations.

(3A) A regulation may apply, adopt or incorporate any publication as in force from time to time.

(4) A regulation may impose a penalty not exceeding 10 penalty units for any breach thereof.

### **36 (Repealed)**

### **37 Savings, transitional and other provisions**

Schedule 1 has effect.

## **Schedule 1 Savings, transitional and other provisions**

(Section 37)

### **Part 1 Preliminary**

#### **1 Regulations**

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **Part 2 Provisions consequent on enactment of *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006***

#### **2 Definition**

In this Part:

**amending Act** means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

### **3 Prohibition orders**

The board may make a prohibition order under section 19B (1) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

### **4 Decisions of the board**

Section 34A (7A), as inserted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

### **5 Cancelled registrations to be publicly available**

Section 34B, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the board or the District Court that the person's name be removed from the register or that the person's dental prosthetist's practising certificate be cancelled.