

# Psychologists Act 1989 No 51

[1989-51]



New South Wales

## Status Information

### Currency of version

Repealed version for 14 December 2001 to 5 December 2002 (accessed 22 December 2024 at 21:01)

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—

- **Repeal**

The Act was repealed by the [Psychologists Act 2001 No 69](#), sec 134 with effect from 6.12.2002.

### 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](#).

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# Psychologists Act 1989 No 51



New South Wales

An Act to make provision for the registration of psychologists, to regulate the qualifications for and the effect of such registration, to constitute the Psychologists Registration Board and to specify its functions; and for related purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Psychologists Act 1989*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Part 1 and section 33 commence on the date of assent.

### 3 Definitions

(1) In this Act:

**Board** means the Psychologists Registration Board constituted under this Act.

**conduct** means any act or omission.

**Corporation** means the Health Administration Corporation constituted by the *Health Administration Act 1982*.

**member** means a member of the Board.

**President** means the President of the Board.

**professional misconduct** includes:

- (a) any conduct that demonstrates a lack of adequate:
  - (i) knowledge,
  - (ii) experience,

- (iii) skill,
  - (iv) judgment, or
  - (v) care,
- by a registered psychologist in the practice of psychology, and
- (b) a registered psychologist's contravening (whether by act or omission) of a provision of this Act or the regulations, and
  - (c) a registered psychologist's failure to comply with an order made or a direction given by the Board under section 16 or with a condition of registration, and
  - (d) a registered psychologist's holding himself or herself out as having qualifications in psychology other than:
    - (i) those in respect of which the registration was granted, or
    - (ii) those recorded in the register in respect of the psychologist, and
  - (e) any other improper or unethical conduct relating to the practice of psychology.

**register** means the register of psychologists under section 9.

**registered psychologist** means a psychologist registered under this Act.

**secretary** means the secretary of the Board.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## **Part 2 Requirement for registration**

### **4 Use of title etc of psychologist**

- (1) A person (other than a registered psychologist or a corporation which employs only registered psychologists to perform the work of a psychologist) shall not take or use:
  - (a) any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is taken or used:
    - (i) indicates, or
    - (ii) is capable of being understood to indicate, or
    - (iii) is calculated to lead a person to infer,

- that the person practises psychology or is qualified to practise psychology, or
- (b) any name, title or description prescribed by the regulations.

Maximum penalty: 5 penalty units.

- (2) Nothing in this section operates to restrict a registered medical practitioner in the practice of medicine.
- (3) (Repealed)

## **Part 3 Registration**

### **5 Registration**

- (1) A person is registered under this Act if his or her name is entered in the register.
- (2) A person who is granted a certificate of temporary registration shall, while it continues to have effect, be taken to be a registered psychologist.
- (3) A person ceases to be a registered psychologist if his or her name (for whatever reason) is removed from the register.
- (4) If a person's registration is suspended, the person shall, except for the purposes of Part 4, be taken not to be a registered psychologist during the period of that suspension.

### **6 Qualifications for registration**

- (1) A person who is of good character is entitled to be registered as a psychologist if:
- (a) the person:
- (i) has successfully completed a course of at least 4 years' full-time study (or an equivalent period of part-time study) specialising in psychology and provided by a tertiary institution recognised by the Board, or
  - (ii) holds or is eligible to hold such qualifications from a tertiary institution recognised by the Board as are prescribed by the regulations, or
  - (iii) holds or is eligible to hold such qualifications as the Board considers are equivalent to the qualifications referred to in subparagraph (i) or (ii) and has passed such examination (if any) conducted by the Board to determine whether the person has the requisite qualifications for registration, and
- (b) the person has 2 years' practical experience in psychology satisfactory to the Board.
- (2) (Repealed)

- (3) The Board may refuse to register the name of a person who is otherwise entitled to be registered but:
- (a) who has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, renders the person unfit in the public interest to practise psychology, or
  - (b) whose name has been removed from any register or roll established or kept under any law in any place providing for the registration or certification of psychologists and the reason for the removal was an act or omission of a nature affecting the person's conduct in a professional respect for which, if done or omitted to be done in New South Wales, the Board would have been authorised under Part 4 to remove the person's name from the register, if registered in the register, or
  - (c) who is an habitual drunkard or addicted to any deleterious drug, or
  - (d) does not have sufficient physical or mental capacity to practise psychology.

## **7 Conditional registration**

- (1) If a person applies to be registered, the Board, on being satisfied that the person:
- (a) is of good character, and
  - (b) holds or is eligible to hold the qualifications referred to in section 6 (1) (a) (i), (ii) or (iii), and
  - (c) does not have the experience referred to in section 6 (1) (b),
- may grant to the person conditional registration.
- (2) The Board may impose such conditions as it thinks fit on the conditional registration of a person and may remove or vary those conditions.

## **8 Temporary registration**

- (1) If a person applies for temporary registration, the Board, on being satisfied that:
- (a) the person is not normally resident in New South Wales, and
  - (b) the person:
    - (i) is registered as a psychologist in accordance with a law in force in the person's normal place of residence providing for the registration of psychologists, or
    - (ii) holds such qualifications and has such experience in the practice of psychology as the Board considers satisfactory for the granting of temporary registration,
- may, on payment of the prescribed fee, grant to the person a certificate of temporary

registration.

- (2) A certificate of temporary registration may be granted for such term (not exceeding 6 months) as the Board determines.
- (3) The Board may, for such cause as to it seems proper, cancel a certificate of temporary registration without prejudice to any application of the person who was the holder of the certificate to be registered.
- (4) A certificate of temporary registration continues to have effect until it is cancelled or expires.
- (5) The Board may impose such conditions as it thinks fit on the temporary registration of a person and may remove or vary those conditions.

## **9 The register**

- (1) If a person applies to be registered, the Board, on being satisfied that the person is entitled under section 6 or 7 to be registered as a psychologist, shall enter in a register:
  - (a) the full name and address of the person, and
  - (b) the date of registration, and
  - (c) particulars of the qualification or qualifications in respect of which the registration is granted, and
  - (d) such other particulars and matters as are directed by this Act or the regulations to be entered in the register.
- (2) The Board may, in relation to a registered psychologist, also enter in the register, on payment of the prescribed fee:
  - (a) particulars of such further or additional qualifications possessed by the registered psychologist as the Board may direct to be entered in the register, and
  - (b) particulars of any certificate, diploma, membership, degree, licence, letters, testimonial or other title, status, document or description which the registered psychologist is authorised by the Board to use as a registered psychologist or in the practice of psychology.
- (3) The Board shall, on payment of the prescribed fee, supply a person with such extracts from the register as the person may require.

## **10 Annual roll fee**

- (1) A registered psychologist shall, on or before the prescribed date in each year, pay to the Board a roll fee of such amount as may be prescribed for the following year.



- (2) Together with the roll fee, the registered psychologist shall furnish particulars of his or her address for entry in the register.
- (3) If a registered psychologist required by this section to pay a prescribed roll fee does not pay the fee for the following year before the prescribed date in any year, the Board shall notify the registered psychologist, by letter addressed to him or her at the address appearing in the register, that if the fee is not paid by the date prescribed under this subsection the person's name will be removed from the register.
- (4) If a registered psychologist who has been so notified fails to pay the fee on or before the date prescribed under subsection (3), the Board shall direct that the person's name be removed from the register.
- (5) If a person's name is removed from the register under this section, the Board shall, on application in writing and if it is satisfied that the person is of good character, direct that the person's name be restored to the register on payment of such fee as is prescribed by the regulations.
- (6) The Board may, in a particular case, waive all or such part of the fee as it thinks proper having regard to the circumstances of the case.
- (7) In this section, **year** means a year ending on 30 June or on such other day as may be specified by the regulations.

#### **11 Restoration of name to register**

- (1) If the Board directs the removal from the register of the name of any person, the name of that person shall not be again entered in the register, except by direction of the Board or by order of a court of competent jurisdiction.
- (2) The Board may, if it thinks fit in any case, direct the secretary to restore to the register a name removed from it.
- (3) The Board may, as a condition of restoration, require a person to pay such fee, not exceeding the prescribed registration fee, as it may from time to time direct.
- (4) The secretary shall restore a name to the register on being directed to do so by the Board.

#### **12 Removal of name of deceased person etc**

- (1) The Board shall cause to be removed from the register the names of:
  - (a) every deceased person, and
  - (b) every person who has ceased to possess or does not possess the qualifications in respect of which the person was registered.
- (2) The Board may, on application made by a registered psychologist, cause to be

removed from the register the name of the psychologist.

## **Part 4 Complaints and disciplinary proceedings**

### **13 Psychologists' code of professional conduct**

The Board may establish a psychologists' code of professional conduct setting out the rules of conduct which should be observed by a registered psychologist in carrying on the practice of psychology.

### **14 Complaints**

- (1) A person may make a complaint to the Board that a registered psychologist:
  - (a) has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, renders the registered psychologist unfit in the public interest to practise psychology, or
  - (b) is an habitual drunkard or is addicted to any deleterious drug, or
  - (c) has been guilty of professional misconduct, or
  - (d) does not have sufficient physical or mental capacity to practise psychology, or
  - (e) is not of good character.
- (2) A complaint shall:
  - (a) be in writing, and
  - (b) contain particulars of the allegations on which it is founded, and
  - (c) be verified by statutory declaration.
- (2A) The Board must notify the Health Care Complaints Commission of any complaint made to it. The complaint is to be notified as soon as practicable after the complaint is made.
- (2B) Before the Board takes any further action under this section or section 15, the Board and the Health Care Complaints Commission must consult in order to see if agreement can be reached between them as to the course of action to be taken concerning a complaint.
- (2C) Division 2 of Part 2 of the [Health Care Complaints Act 1993](#) applies to the consultation.
- (3) The Board may require the person making a complaint to provide further particulars of the complaint.
- (4) The Board shall, after receiving a complaint against a registered psychologist, inform

him or her of the nature of the complaint and, by notice, invite him or her to make, within such time (being at least 7 days) as the Board specifies in the notice, such representations to the Board with respect to the complaint as he or she thinks fit.

- (5) 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 inquiry under section 15.
- (6) The Board may, in accordance with Division 2 of Part 2 of the *Health Care Complaints Act 1993*, refer a complaint to the Health Care Complaints Commission for investigation.

## **15 Inquiries**

- (1) The Board may determine that an inquiry be conducted into a complaint against a registered psychologist under section 14.
- (2) The inquiry shall be conducted either by the Board or by a Professional Standards Committee authorised by it under section 22 to conduct the inquiry.
- (3) The secretary shall give not less than 7 days' notice of the inquiry to:
  - (a) the registered psychologist concerned, and
  - (b) the person who made the complaint.
- (4) An inquiry shall be conducted in accordance with the requirements (if any) of the regulations.
- (5) In an inquiry:
  - (a) the registered psychologist concerned, and
  - (b) the person who made the complaint,are entitled to be heard and to be represented by a solicitor or barrister.
- (6) In conducting an inquiry, the Board or a Professional Standards Committee is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks fit.

### **15A Power to summon witnesses, take evidence and obtain documents at inquiries**

- (1) The President of the Board or the chairperson of a Professional Standards Committee may summon a person to appear at an inquiry conducted by the Board or the Committee to give evidence and to produce such documents (if any) as are specified in the summons.
- (2) The person presiding at the inquiry may require a person appearing at the inquiry to

produce a document.

- (3) The Board or a Professional Standards Committee may, at an inquiry conducted by it, take evidence on oath and, for that purpose a member of the Board or Committee:
  - (a) may require a person appearing at the inquiry to give evidence, to take an oath or to make an affirmation in a form approved by the person presiding, and
  - (b) may administer an oath to, or take an affirmation from, a person appearing at the inquiry.
- (4) A person served with a summons to appear at any such inquiry and to give evidence must not, without reasonable excuse:
  - (a) fail to attend as required by the summons, or
  - (b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Board or the Committee.
- (5) A person appearing at an inquiry to give evidence must not, without reasonable excuse:
  - (a) when required to be sworn or affirm—fail to comply with the requirement, or
  - (b) fail to answer a question that the person is required to answer by the person presiding, or
  - (c) fail to produce a document that the person is required to produce under this section.
- (6) A member of the Board or a Professional Standards Committee may, by notice in writing served on a person, require the person:
  - (a) to attend, at a time and place specified in the notice, before a person specified in the notice, being a member of the Board or the Committee or a person authorised by the Board or Committee in that behalf, and
  - (b) to produce, at that time and place, to the person so specified a document specified in the notice.
- (7) A person who fails, without reasonable excuse, to comply with a notice served on the person under subsection (6) is guilty of an offence.

Maximum penalty: 20 penalty units.

## **16 Consequence of misconduct or other wrongdoing**

- (1) If the Board (after an investigation conducted by the Health Care Complaints Commission and an inquiry conducted by itself or a Professional Standards Committee) is satisfied that the subject-matter of a complaint against a registered

psychologist is proved, the Board may:

- (a) caution or reprimand the psychologist, or
  - (b) order that the psychologist seek medical or psychiatric treatment or counselling, or
  - (c) direct that such conditions, relating to the psychologist's practising psychology, as it considers appropriate be imposed on the psychologist's registration, or
  - (d) order that the psychologist complete such educational courses as are specified by the Board, or
  - (e) order that the psychologist report on his or her psychology practice at the times, in the manner and to the persons specified by the Board, or
  - (f) except in relation to a complaint made under section 14 (1) (a), by its order impose a fine on the psychologist of an amount, not exceeding 40 penalty units, specified in the order, or
  - (g) suspend the psychologist's registration for such period as the Board thinks fit, or
  - (h) remove the psychologist's name from the register,
- or exercise any combination of the powers conferred on it by paragraphs (a)-(h).

(2) If a psychologist's registration is suspended under this section, the secretary shall note in the register the suspension and its date and cause.

(3) A fine imposed under this section:

- (a) is to be paid to the secretary who is to pay it to the credit of the Consolidated Fund in such manner as the Treasurer may direct, and
- (b) may be recovered as a debt due to the Crown in a court of competent jurisdiction.

### **17 Statement of decision under section 16**

- (1) If the Board decides to take any action under section 16 in respect of a person, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate with a written statement of its decision.
- (2) The provisions of section 25 (4)-(8) apply to a statement under this section in the same way as they apply to a statement referred to in section 25.

### **18 Appeals**

- (1) A person aggrieved by a decision of the Board under section 16 concerning the person may, within 3 months after the date on which notice of the decision is given to the

person by the secretary, appeal against the decision to the District Court.

- (2) A person aggrieved by the failure of the Board to register the person as a psychologist may, within 6 months after the date of the relevant application, appeal against the failure to the District Court.
- (3) An appeal shall be made in accordance with the rules of court and shall be in the nature of a new hearing and new evidence may be given on the appeal.
- (4) The District Court may make such order as it thinks fit, which shall be final and without appeal.
- (5) The Board shall give effect to the District Court's order.

## **Part 5 Psychologists Registration Board and Professional Standards Committees**

### **19 Psychologists Registration Board**

- (1) There is constituted by this Act a corporation under the corporate name Psychologists Registration Board.
- (2) The Board has the functions conferred or imposed on it by or under this or any other Act.
- (3) The Board shall consist of 9 members appointed by the Governor.
- (4) Of the members:
  - (a) 3 shall be psychologists, nominated by the Australian Psychological Society, each of whom:
    - (i) is practising in New South Wales, and
    - (ii) is a member of a New South Wales branch of that Society, and
  - (b) 5 shall be nominated by the Minister and shall comprise:
    - (i) a psychologist holding a position at a New South Wales university or other recognised tertiary institution, and
    - (ii) a psychologist practising in New South Wales, and
    - (iii) a barrister or solicitor, and
    - (iv) 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
    - (v) a person to represent the community and consumer interests, and

(c) 1 shall be a psychiatrist nominated by the Royal Australian and New Zealand College of Psychiatrists, New South Wales Branch.

- (5) Schedule 1 has effect with respect to the members of the Board.
- (6) Schedule 2 has effect with respect to the procedure of the Board.
- (7) If the Australian Psychological Society or the Royal Australian and New Zealand College of Psychiatrists, New South Wales Branch, does not nominate a person within such time or in such manner as may be specified by the Minister by notice in writing to the Association or the College, the Governor may instead appoint to be a member a person nominated by the Minister.

## **20 Staff**

A secretary and such other staff as may be necessary to enable the Board to exercise its functions are to be employed under the [Health Administration Act 1982](#) by the Corporation.

## **21 Professional Standards Committees**

- (1) The Board may establish Professional Standards Committees.
- (2) The Committees have, in accordance with such terms of reference as are determined generally or in any particular case by the Board, the functions conferred or imposed on them by or under this Act.
- (3) If the Board decides to refer a matter to a Committee, the Board shall appoint 3 persons to sit as the Committee for the purpose of inquiring into the matter.
- (4) For the purposes of inquiring into a matter, a Committee shall consist of:
  - (a) 2 registered psychologists, and
  - (b) a person, nominated by the Minister, who is neither a registered psychologist nor qualified to be a registered psychologist,one of whom shall be appointed by the Board as chairperson of that Committee.
- (5) It does not matter that any or all of the members of a Committee are not members of the Board.
- (6) One or more Committees may inquire into more than one matter at the same time.
- (7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board in accordance with the regulations.

## **22 Reference of matters to Professional Standards Committees**

The Board may, despite the other provisions of this Act, refer to a Professional Standards

Committee for inquiry and report:

- (a) an application to be registered as a psychologist, or
- (b) the question of whether the Board should, on the ground set out in section 12 (1) (b), cause a person's name to be removed from the register, or
- (c) the question of whether the Board should exercise its powers under section 16 in respect of a registered psychologist.

### **23 Proceedings before Professional Standards Committees**

The procedure for the calling of meetings of a Professional Standards Committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the Committee.

### **24 Decisions of Professional Standards Committees**

- (1) A decision supported by at least 2 members of a Professional Standards Committee on any question is the decision of the Committee.
- (2) A Professional Standards Committee shall, as soon as practicable after concluding its inquiry, furnish its report to the Board.

## **Part 6 Miscellaneous**

### **25 Written statements of decisions**

- (1) If the Board makes a decision in relation to a person under any provision of this Act, other than section 16, the person may request in writing that the Board provide the person with a written statement of the decision.
- (2) Any such requests shall be made no later than 60 days after the decision to which it relates.
- (3) The Board shall provide a written statement of the decision within one month of receiving such a request.
- (4) A written statement of a decision shall:
  - (a) set out any findings on material questions of fact, and
  - (b) refer to any evidence or other material on which the findings are based, and
  - (c) give the reasons for the decision.
- (5) 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.



(6) If, because of subsection (5), 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 16 or receipt of a request under subsection (1), give notice in writing to the person, 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.

(7) 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, and
- (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 (5), be required) to provide a written statement of a decision, and
- (c) is information:
  - (i) that was supplied in confidence, or
  - (ii) the publication of which would reveal a trade secret, or
  - (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.

(8) 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.

## **26 Advisory committees**

- (1) The Board may establish advisory committees to make recommendations to it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of an advisory committee are not members of the Board.
- (3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

**27 Board may examine witnesses on oath**

- (1) The Board may examine a person on oath or affirmation for the purposes of this Act.
- (2) This section does not apply to an inquiry conducted by the Board or a Professional Standards Committee under section 15.

**28 False entries in register, misrepresentation etc**

A person shall not:

- (a) wilfully make or cause to be made any false entry in or falsification of the register, or
- (b) wilfully procure or attempt to procure himself or herself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, or
- (c) aid or assist a person to commit an act referred to in paragraph (a) or (b), or
- (d) utter or attempt to utter, or assert as true, before the Board any false, forged or counterfeit certificate, diploma, licence, letter, testimonial or other document or writing.

Maximum penalty: 5 penalty units or imprisonment for 6 months, or both.

**29 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Board, or
- (b) any resolution of the Board, or
- (c) the appointment of, or the holding of office by, any member of the Board, or
- (d) the presence of a quorum at any meeting of the Board.

**30 Evidentiary certificates and evidence of entry in register**

- (1) A document purporting to be a certificate signed by the secretary that certifies that on a specified date or during a specified period:
  - (a) a person was or was not a registered psychologist, or
  - (b) a person's registration was suspended,is admissible in any proceedings and is evidence of the fact or facts stated in it.
- (2) An entry in the register is admissible in any proceedings and is evidence of the fact or facts stated in it.

- (3) A document purporting to be a copy of an entry in the register, purportedly signed by the secretary, is admissible in any proceedings and is evidence of the fact or facts stated in it.

### **31 Proceedings for offences**

Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **31A 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.

### **32 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to:
- (a) the proceedings of the Board, and
  - (b) certificates of registration, conditional registration and temporary registration under this Act, and
  - (c) the manner in which a complaint in respect of any matter referred to in section 14 (1) may be referred to the Board, and
  - (d) the procedure to be followed at and any matters incidental to the holding of an inquiry under section 15, and
  - (e) the courses of study and training for persons desiring to be registered under this Act, and
  - (f) the conduct and the standard of examinations and the remuneration of examiners, and
  - (g) the forms to be used for the purposes of this Act and the regulations, and
  - (h) the fees to be paid under this Act, and
  - (i) the manner in which and the extent to which a psychologist or a corporation engaged or associated in the practice of psychology is authorised to advertise, and

(j) standards relating to premises in which psychology is practised.

(3) A regulation has no effect unless before it was made the Board was given an opportunity to comment on it.

(4) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

### **33 Appointments etc before commencement**

For the purpose only of enabling the Board to be constituted in accordance with this Act on or after (but not before) the commencement of section 19, appointments may be made under this Act, and anything else may be done, before that commencement, as if the whole of this Act commenced on the date of assent, but so that no appointment as a member of the Board as so constituted takes effect before that commencement.

## **Schedule 1 Provisions relating to the members of the Board**

(Section 19 (5))

### **1 President and Deputy President of the Board**

- (1) Of the members of the Board, one shall (in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor) be appointed as President of the Board and one shall be so appointed as Deputy President of the Board.
- (2) The Governor may remove a member from the office of President or Deputy President.
- (3) A person who is the President or Deputy President vacates office as President or Deputy President if the person:
  - (a) is removed from that office by the Governor, or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member.

### **2 Acting members and acting President**

- (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has all the functions of the member and shall be taken to be a member.
- (2) The Deputy President of the Board may act in the office of President during the illness or absence of the President, and while so acting has all the functions of the President and shall be taken to be the President.
- (3) The Governor may, from time to time, appoint a member to act in the office of

President during the illness or absence of both the President and Deputy President, and the member, while so acting, has all the functions of the President and shall be taken to be the President.

- (4) The Governor may remove any person from any office to which the person was appointed under this clause.
- (5) A person while acting in the office of 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 person.
- (6) For the purposes of this clause, a vacancy in the office of a member, the President or the Deputy President shall be taken to be an absence from office of the member, President or Deputy President.

### **3 Terms of office**

Subject to this Schedule, a member shall hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **4 Remuneration**

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.

### **5 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
  - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings, or
  - (f) 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

- (g) becomes a temporary patient or a continued treatment patient within the meaning of the *Mental Health Act 1958*, a forensic patient within the meaning of the *Mental Health Act 1983* or a protected person within the meaning of the *Protected Estates Act 1983*, or
- (h) 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.

(2) The Governor may remove a member from office at any time.

(3) Without affecting the generality of subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 7.

## **6 Filling of vacancy in office of member**

If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

## **7 Disclosure of pecuniary interests**

(1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause shall be recorded by the Board in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

- (4) After a member has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the Board otherwise determines:
  - (a) be present during any deliberation of the Board with respect to the matter, or
  - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not:
  - (a) be present during any deliberation of the Board for the purpose of making the determination, or
  - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.
- (7) This clause does not apply to or in respect of an interest of a member in a matter which arises merely because the member is a psychologist.
- (8) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

## **8 Effect of certain other Acts**

- (1) The *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act (except Part 8).
- (2) If by or under any other Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

## **9 Liability of members etc**

No matter or thing done by:

- (a) the Board or a member, or

- (b) the secretary, or
- (c) a Professional Standards Committee or a member of such a Committee, or
- (d) any other officer of the Board,

shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, or the exercise, or intended exercise, of any of his or her functions, subject the member, or the secretary, or person, so acting personally to any action, liability, claim or demand.

## **Schedule 2 Provisions relating to the procedure of the Board**

(Section 19 (6))

### **1 First meeting of Board**

The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

### **2 General procedure**

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

### **3 Quorum**

The quorum for a meeting of the Board is 5 members.

### **4 Presiding member**

- (1) The President or, in the absence of the President, the Deputy President of the Board or in the absence of both of them, another member of the Board elected to chair the meeting by the members present, shall preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **5 Voting**

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

### **6 Minutes**

The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.