



Western Australia

Dental Act 1939

Reprint 6: The Act as at 11 November 2005

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Dental Act 1939

CONTENTS

1.	Short title and commencement	1
	Part I — Preliminary	
4.	Interpretation	2
	Part II — The Dental Board	
5.	Dental Board established	4
6.	Tenure of office	4
7.	The Board to be a body corporate	4
8.	Proceedings of the Board	5
9.	Resignation	6
10.	Disqualifications	6
11.	Vacancies	6
12.	Governor may remove any member	7
12A.	Remuneration of members	7
13.	Officers of the Board	7
14.	Funds of the Board	7
14A.	Accounts	8
14B.	Audit	8
14C.	Annual report	8
15.	Board may make rules	9
16.	Registrar or other authorised person may take and defend proceedings	11

Part III — The Register

Division 1 — The Register to be kept by the Registrar

17.	Register to be kept by Registrar	12
18.	The Register	12

Division 2 — General

22.	Register open to inspection	13
23.	Withdrawal of name from Register	13
24.	Name of person may be re-entered in Register	14
25.	Registrar to remove names of deceased persons from Register	15
26.	Registrar to amend Register to ensure accuracy	15
27.	List of registered persons to be published annually	15
28.	Copy or extract of Register to be <i>prima facie</i> evidence	16
29.	Certificate of President or Registrar to be <i>prima facie</i> evidence	16

Part IV — Disciplinary proceedings

Division 1 — Investigation

29A.	Investigator	17
29B.	Report of investigator	17
29C.	Powers of investigator	18
29D.	Warrant to enter premises	19
29E.	Issue of warrant	20
29F.	Execution of warrant	21
29G.	Incriminating information, questions, or documents	21
29H.	Failure to comply with investigation	22
29I.	Obstruction of investigator	23

Division 2 — Proceedings

30.	Disciplinary powers	23
30A.	Breach of undertaking	27
31.	Name of person struck off may be restored	27
32.	Effect of striking off	28
32A.	Effect of suspension	28
33.	Review	29

Part VI — Registration

44.	Qualifications for registration as a dentist	30
44A.	Temporary registration	31
44B.	Qualification for registration as dental therapist	32
44C.	Qualifications for registration as dental hygienist	34
44D.	Qualifications for registration as school dental therapist	35

Part VII — Miscellaneous

45.	Board may require attendance at inquiries, etc.	37
46.	Annual licence fees	37
47.	Person making default in payment of licence fee to be struck off	39
48.	Offences	39
49.	No person other than dentist to use name or title of dentist, etc.	40
50.	Practise of dentistry by certain persons prohibited	41
50A.	Acts which may be performed by dental therapist	43
50B.	Acts which may be performed by a dental hygienist	44
50C.	Supervision of dental therapist or dental hygienist	45
50D.	Acts which may be performed by a school dental therapist	45
50E.	Clinics	46
50F.	Employment of dental therapists and dental hygienists	46
51.	Persons other than dentists prohibited from charging fees	47
51A.	Dental Charges Committee	47
51B.	Dentist may sue for fees	49
51C.	Review of charges	49
51D.	Stay of proceedings	51
52.	Executor of deceased dentists may continue practice	52
53.	Use of certain letters prohibited	52
54.	Provisions relating to name-plates or signs	53
55.	Dentist not to be employed by or agent for any person who is not a dentist	53
56.	Provisions relating to use of firm-names	55
57.	Board may apply for injunction	56

Contents

58.	General penalty	56
59.	Proceedings for offences	57
60.	Provisions relating to prosecutions	57
62.	Dentists to be exempt from serving on a jury	58
64.	Regulations	58

Schedule 2

Notes

	Compilation table	62
--	-------------------	----



Western Australia

Reprinted under the
Reprints Act 1984 as
at 11 November 2005

Dental Act 1939

An Act to consolidate and amend the law relating to dentists and other dental occupations, to regulate the practice of dentistry, and for purposes incidental thereto.

[Long title inserted by No. 108 of 1972 s. 3; amended by No. 64 of 1996 s. 4.]

1. Short title and commencement

This Act may be cited as the *Dental Act 1939*, and shall come into operation on a date to be fixed by proclamation¹.

[Section 1 amended by No. 108 of 1972 s. 1(3).]

[2. Repealed by No. 64 of 1996 s. 5.]

Part I — Preliminary

[3. *Omitted under the Reprints Act 1984 s. 7(4)(f).]*

4. Interpretation

In this Act, unless the context otherwise requires —

“**Board**” means The Dental Board of Western Australia established by this Act;

“**Committee**” means the Dental Charges Committee established by this Act;

“**company**” means any incorporated body or association, other than the Western Australian College of Dental Science and Perth Dental Hospital Incorporated;

“**dental hygienist**” means a person whose name is entered in the Register as a dental hygienist;

“**dental therapist**” means a person whose name is entered in the Register as a dental therapist;

“**dentist**” means a dentist registered under this Act and whose name is entered in the Register;

“**dentistry**” means and includes any operation on or service in connection with the human teeth or jaws, and the artificial restoration of lost or removed teeth, or jaws and the treatment of diseases or lesions, and the correction of malpositions in human teeth or jaws, and any operation, treatment, or service on or to any person as preparatory to or for the purpose of or in connection with the fitting, insertion, or fixing of artificial teeth, and also every dental service, act, or operation of any kind or nature whatsoever;

The term does not include the mechanical construction of artificial dentures by an artisan employed or engaged by a dentist.

The performance of a single operation, service, or act of dentistry shall be deemed to be practising dentistry;

“medical practitioner” means a medical practitioner registered under the *Medical Act 1894*;

“Minister” means the Minister of the Crown charged with the administration of this Act;

“President” means the President of the Board and includes an acting President;

“Register” means the Register to be kept by the Registrar for the purposes of this Act;

“registered” means registered under this Act;

“registered person” means a dentist, dental therapist, dental hygienist or school dental therapist;

“Registrar” means the Registrar appointed under this Act and includes also an acting Registrar;

“rules” means rules made by the Board under the authority of this Act;

“school dental service” means —

- (a) the service established under section 337A of the *Health Act 1911*; and
- (b) a service providing dental care and treatment for pre-school and school children at the Perth Dental Hospital under the *Hospitals and Health Services Act 1927*;

“school dental therapist” means a person whose name is entered in the Register as a school dental therapist.

[Section 4 amended by No. 75 of 1963 s. 3; No. 108 of 1972 s. 5; No. 28 of 1984 s. 15; No. 64 of 1996 s. 6 and 17; No. 65 of 2003 s. 30(2).]

Part II — The Dental Board

5. Dental Board established

- (1) A Board, to be called “The Dental Board of Western Australia”, is hereby established for the purposes of this Act.
- (2) The Board shall consist of 7 members to be appointed by the Governor of whom 5 shall be dental practitioners.

[Section 5 amended by No. 75 of 1963 s. 4; No. 108 of 1972 s. 6; No. 94 of 1980 s. 3.]

6. Tenure of office

A member of the Board shall hold office for such period not exceeding 3 years as may be specified in his instrument of appointment but shall be eligible for re-appointment.

[Section 6 inserted by No. 94 of 1980 s. 4.]

7. The Board to be a body corporate

- (1) The Board shall be a body corporate under the name “The Dental Board of Western Australia” with perpetual succession and a common seal, and shall be capable of suing and being sued in its corporate name and of acquiring holding, and disposing of real and personal property, and of doing and suffering such acts and things as bodies corporate may by law do and suffer.
- (2) The seal of the Board and the signature of the President and of every member of the Board shall be judicially noticed by all courts and persons authorised by law to receive evidence on oath.
- (3) No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

- (4) No act or proceeding of the Board, or by any committee or member of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was some defect in the appointment of any member of the Board, or that the member of the Board was disqualified or not authorised to do or participate in the doing of anything done by the Board or by such member.

[Section 7 amended by No. 94 of 1980 s. 5.]

8. Proceedings of the Board

- (1) Any 4 members of the Board shall form a quorum thereof.
- (2) The members of the Board shall appoint one of the dentist members to be the President of the Board, who shall be *ex officio* chairman at all meetings of the Board: Provided that the President of the Dental Board as constituted and functioning immediately prior to the commencement of this Act shall be the President of the first Board established under this Act.
- (3) If by reason of sickness, absence from the State, or any other reason the President is unable to discharge his duties as such President, the members of the Board may appoint one of the dentist members to be acting President, who shall have full right to and may exercise all the powers, functions, and authorities and shall perform all the duties of President until the President resumes his duties.
- (4) At all meetings of the Board the President or, in his absence, the acting President (if any), shall preside. In the absence both of the President and the acting President (if any) from any meeting of the Board the members present shall elect one of their number to be chairman of the meeting.
- (5) Whenever the members are not unanimous as to any matter, such matter shall be decided by the majority of votes of the members present, and the decision so arrived at shall be the decision of the Board.

s. 9

- (6) Each member of the Board shall have one vote, and the chairman at any meeting of the Board, when presiding, shall have a deliberative vote and, in case of an equality of votes, shall also have a casting vote.

9. Resignation

Any member of the Board may resign from the Board by notice in writing signed by him and given to the President, or, when the President is the member resigning, given to the Registrar.

10. Disqualifications

Any person who has his affairs under liquidation or is an undischarged bankrupt or insolvent, or has been convicted of an indictable offence, or is undergoing sentence of imprisonment, or becomes an insane person, shall be disqualified from being appointed or from continuing as a member of the Board.

[Section 10 amended by No. 94 of 1980 s. 6.]

11. Vacancies

- (1) The office of a member of the Board shall be vacated —
- (a) if he is or has become disqualified under this Act; or
 - (b) if, without leave obtained from the Board in that behalf, he has been absent from 3 consecutive meetings of the Board; or
 - (c) upon death or resignation; or
 - (d) in the case of a dentist member, when he ceases to be registered as a dentist under this Act.
- (2) Where the office of any member of the Board becomes vacant, the person appointed to fill such vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

[Section 11 amended by No. 108 of 1972 s. 8; No. 94 of 1980 s. 7.]

12. Governor may remove any member

The Governor may from time to time remove the members or President of the Board, or any of them, and fill any vacancy caused by removal, death, resignation, illness, absence from the State, or other incapacity.

[Section 12 inserted by No. 94 of 1980 s. 8.]

12A. Remuneration of members

A member of the Board, not being a person to whom Part 3 of the *Public Sector Management Act 1994*, applies, shall be entitled to such allowances and remuneration for his services as the Minister from time to time determines.

[Section 12A inserted by No. 108 of 1972 s. 10; amended by No. 94 of 1980 s. 9; No. 32 of 1994 s. 3.]

13. Officers of the Board

- (1) The Board shall appoint a Registrar, and may appoint such examiners and other officers and servants as it considers necessary, to enable the Board to carry out its duties and functions.
- (2) The remuneration of such Registrar and examiners and other officers and servants shall be paid out of the funds of the Board.

14. Funds of the Board

- (1) The funds of the Board shall consist of —
 - (a) the fees prescribed by or under this Act and payable to the Board;
 - (b) grants by the Government of the State (if any), and all gifts and donations made by any person to the Board, but subject to any trusts declared in relation thereto;
 - (c) fines and penalties imposed and recovered upon convictions for offences against this Act; and

s. 14A

- (d) all the moneys which may come into the hands of the Board under and for the purposes of this Act.
- (2) The funds of the Board may be applied by the Board —
 - (a) for any of the purposes of the Act; or
 - (b) the furtherance of dental education and research; or
 - (c) any public purpose connected with the profession of dentistry in this State; or
 - (d) any other purpose approved of by the Minister.

14A. Accounts

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

[Section 14A inserted by No. 77 of 1987 s. 3.]

14B. Audit

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

[Section 14B inserted by No. 77 of 1987 s. 3.]

14C. Annual report

- (1) The Board shall on or before 31 December in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 30 June together with a copy of the financial statements and the auditor's report.

- (1a) The Board's annual report is to include details of —
- (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

[Section 14C inserted by No. 77 of 1987 s. 3; amended by No. 55 of 2004 s. 231.]

15. Board may make rules

- (1) The Board may, with the approval of the Governor, make rules in relation to all or any of the following matters, namely —
- (a) for regulating the meetings and proceedings of the Board and the conduct of its business;
 - (b) for the custody and use of the common seal of the Board;
 - (c) for enabling the Board to constitute committees and authorising the delegation to committees of any of the powers of the Board, and for regulating the proceedings of committees;
 - (d) prescribing the examinations to be passed by persons desiring to be registered, and determining the

s. 15

- qualifications to be held, and the evidence to be produced by any such persons;
- (e) for regulating the practice of dentistry and of dental specialties;
 - (ea) for regulating those acts of dentistry performed by a dental therapist, dental hygienist or school dental therapist;
 - (f) for regulating the keeping of the Register;
 - (g) for regulating the manner of making application for and the granting of permits to use or to continue the use of firm names as dentists;
 - (h) for regulating the manner of making to the Board any charge or complaint against or concerning any registered person;
 - (ha) for regulating the exercise by the Board of its disciplinary powers;
 - (i) prescribing the forms of certificates, licences, and permits to be granted to registered persons;
 - (j) prescribing fees to be charged in respect of any matter, proceeding, examination, charge, or complaint made to the Board, and registration and in respect of the granting of any certificate or licence under this Act;
 - (k) prescribing the fee or charge to be paid by persons who desire to have their names restored to the Register; and
 - (l) for any other matter which the Governor may declare to be a matter in respect of which rules may be made by the Board under this section².
- (2) Where by any rule made under subsection (1) a duty or obligation is imposed upon any person to do or not to do any act, matter, or thing specified in such rule, any contravention by such person of such rule shall be a breach of the rule, punishable on conviction by a penalty of a sum not exceeding \$200.

- (3) Nothing in subsection (1) shall affect or limit the power of the Governor under this Act to make regulations for or in respect of any matters mentioned in subsection (1), and where the Board has made a rule and the Governor makes a regulation in respect of the same matter and there exists any inconsistency between such rule and such regulation, the rule shall, to the extent of such inconsistency, be superseded by the regulation and shall be read and have effect subject to the regulation.

[Section 15 amended by No. 75 of 1963 s. 5; No. 113 of 1965 s. 8; No. 108 of 1972 s. 11; No. 19 of 1979 s. 2; No. 64 of 1996 s. 17; No. 55 of 2004 s. 232.]

16. Registrar or other authorised person may take and defend proceedings

The Registrar, or any other person authorised in that behalf by writing signed by the President of the Board, may, subject to the direction of the Board, commence, carry on, prosecute and defend any action, prosecution or other proceeding in the name of the Board.

[Section 16 amended by No. 84 of 2004 s. 80.]

Part III — The Register

Division 1 — The Register to be kept by the Registrar

17. Register to be kept by Registrar

- (1) The Registrar shall keep a Register recording the names and other particulars of registered persons.
- (2) The Register shall be divided into 4 divisions as follows —
 - (a) Division 1 shall relate to dentists;
 - (b) Division 2 shall relate to dental therapists;
 - (c) Division 3 shall relate to dental hygienists;
 - (d) Division 4 shall relate to school dental therapists.

[Section 17 inserted by No. 64 of 1996 s. 7.]

18. The Register

- (1) The Registrar shall enter in the Register the name, address, description, and qualification of every person for the time being and from time to time qualified and required to be registered under this Act, together with particulars of any restriction or limitation on the practice of dentistry or on employment as a dental therapist, dental hygienist or school dental therapist, or of any condition, imposed by the Board or the State Administrative Tribunal in relation to that person under this Act, and such other particulars as may be prescribed.
- (2) Where a dentist satisfies the Board that, in addition to holding the qualification for registration prescribed by or recognised under this Act, he is entitled to and holds another qualification which is or may be incidental to the practice of dentistry, and the Board approves of particulars of such other qualification being entered in the Register in relation to such dentist, the Registrar shall, if so requested by the dentist, enter particulars of such other qualification in the Register accordingly.

- (3) Every registered person shall, on payment of the prescribed fee, be entitled to be issued by the Board with a registration certificate in the prescribed form.
- (4) Where a person is not qualified for registration under the Act as amended but that person has been registered as a dentist in this State and has had his name struck off the Register, the Board may, in its discretion allow the name of that person to be re-entered in the Register.

[Section 18 amended by No. 113 of 1965 s. 8; No. 108 of 1972 s. 13; No. 94 of 1980 s. 10; No. 64 of 1996 s. 17; No. 55 of 2004 s. 233.]

[19-21. Repealed by No. 75 of 1963 s. 9.]

Division 2 — General

22. Register open to inspection

The Register shall be open to inspection by any person at the office of the Registrar on the days and during the hours prescribed, on payment of the prescribed fee.

[Section 22 amended by No. 75 of 1963 s. 10; No. 113 of 1965 s. 8; No. 108 of 1972 s. 14.]

23. Withdrawal of name from Register

- (1) Any person whose name is entered on the Register may, at any time by notice in writing in the prescribed form, signed by him, request the Board to withdraw his name from the Register, and upon receipt of such notice, but subject as hereinafter provided, the Registrar shall, by striking out the same, withdraw the name of such person from the Register.

Provided that, if at the time when notice is given to the Board as aforesaid, an allegation or charge of an offence against or under this Act, or of infamous or disgraceful conduct in a professional respect is pending against the person giving the notice, the name of such person shall not be withdrawn from the Register, until

such allegation or charge has been duly inquired into or heard and has been determined by the State Administrative Tribunal or the court, as the case may require.

- (2) When the name of any person is withdrawn from the Register he shall cease to be registered and until his name is re-entered in the Register he shall cease to have and enjoy and shall not be entitled to derive or exercise any benefit which accrues to a person by virtue of his name being entered in the Register.

[Section 23 amended by No. 75 of 1963 s. 11; No. 55 of 2004 s. 234.]

24. Name of person may be re-entered in Register

- (1) Any person whose name has been withdrawn from the Register, as provided for in section 23, may at any time thereafter make application in the prescribed form to the Board for re-entry of his name in the Register.
- (2) Upon receipt of such application, but subject to this Act and the rules and regulations, the Board shall direct the Registrar, upon payment by the applicant of a sum, to be assessed in accordance with subsection (3), to enter again the name of the applicant in the Register and upon payment by the applicant of such sum the Registrar shall comply with the direction of the Board.
- (2a) If an application for re-entry of the name of a dental therapist, dental hygienist or school dental therapist is made more than 5 years after the name was withdrawn from the Register, the Board shall not direct the Registrar to enter again the name of the person in the Register unless it is satisfied that the person has relevant current knowledge and skills at a level approved by the Board.
- (3) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual licence fee that he would have been liable to pay, if his name had not been withdrawn from the Register, and the amount of the fee prescribed for such re-entry.

[Section 24 amended by No. 48 of 1954 s. 2; No. 75 of 1963 s. 12; No. 64 of 1996 s. 8.]

25. Registrar to remove names of deceased persons from Register

When any registered person dies, the Registrar shall, upon being satisfied as to the death of such person, strike or erase the name of such person from the Register.

[Section 25 amended by No. 75 of 1963 s. 13; No. 108 of 1972 s. 15; No. 64 of 1996 s. 17.]

26. Registrar to amend Register to ensure accuracy

Subject to the directions of the Board, the Registrar shall, from time to time, as the occasion requires, make such amendments, additions, alterations and corrections in the Register as may be necessary to make the Register an accurate record of the names, addresses, qualifications and descriptions of all registered persons.

[Section 26 inserted No. 75 of 1963 s. 14; amended by No. 108 of 1972 s. 16; No. 64 of 1996 s. 17.]

27. List of registered persons to be published annually

- (1) Once in every year the Board shall cause to be published in the *Government Gazette* a list of all registered persons.
- (2) As soon as may be after the name of a registered person has been entered in, withdrawn from, or struck off, the Register the Board shall cause notice of that event to be published in the *Government Gazette*.
- (3) Every notification in the *Government Gazette* as aforesaid shall be conclusive evidence of the facts therein stated, unless and until the same is modified by any order of a Judge of the Supreme Court, or by any subsequent notification in the *Government Gazette* by the Board.

[Section 27 amended by No. 75 of 1963 s. 15; No. 108 of 1972 s. 17; No. 64 of 1996 s. 17.]

28. Copy or extract of Register to be *prima facie* evidence

A copy of or an extract from the Register, certified as a true copy or as a true extract by the President or the Registrar, shall in all courts of law be *prima facie* evidence of all the facts appearing therein.

[Section 28 amended by No. 75 of 1963 s. 16.]

29. Certificate of President or Registrar to be *prima facie* evidence

A written certificate purporting to be signed by the President or the Registrar stating that at a date or between the dates therein mentioned a person therein named was or was not registered as a dentist, dental therapist, dental hygienist or school dental therapist, as the case may be, shall be *prima facie* evidence of the truth of such statement.

[Section 29 amended by No. 75 of 1963 s. 17; No. 108 of 1972 s. 18; No. 64 of 1996 s. 17.]

Part IV — Disciplinary proceedings

[Heading inserted by No. 55 of 2004 s. 235.]

Division 1 — Investigation

[Heading inserted by No. 55 of 2004 s. 235.]

29A. Investigator

- (1) The Board may appoint a person to investigate a complaint or any other matter relevant to the Board's functions and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

[Section 29A inserted by No. 55 of 2004 s. 235.]

29B. Report of investigator

- (1) An investigator must —
 - (a) within such period as the Board requires prepare a report on the investigation, and make recommendations as to the manner in which the complaint or other matter should be dealt with; and
 - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

[Section 29B inserted by No. 55 of 2004 s. 235.]

29C. Powers of investigator

- (1) An investigator may for the purposes of an investigation —
 - (a) enter and inspect the premises of a person named in a warrant issued under section 29E(1), and exercise the powers referred to in section 29E(2)(b) and (c);
 - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
 - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
 - (d) require a person —
 - (i) to give the investigator such information as the investigator requires; and
 - (ii) to answer any question put to that person, in relation to the matter the subject of the investigation; and
 - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
 - (a) must be made by notice in writing given to the person required to produce the document or other thing;
 - (b) must specify the time at or within which the document or other thing is to be produced;
 - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
 - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
 - (i) the document itself; and

- (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to a place specified in the requirement;
 - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
 - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

[Section 29C inserted by No. 55 of 2004 s. 235.]

29D. Warrant to enter premises

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation, the

investigator may apply to a magistrate for a warrant to be issued in respect of those premises.

- (2) An application for a warrant must —
 - (a) be in writing;
 - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
 - (c) set out the grounds for seeking the warrant; and
 - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
 - (a) the application does not comply with the requirements of this Act; or
 - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

[Section 29D inserted by No. 55 of 2004 s. 235.]

29E. Issue of warrant

- (1) A magistrate to whom an application is made under section 29D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose of the investigation.
- (2) A warrant under subsection (1) authorises the investigator —
 - (a) to enter and inspect the premises named in the warrant;

- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
 - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
 - (b) the name of the person to whom the warrant is issued; and
 - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

[Section 29E inserted by No. 55 of 2004 s. 235.]

29F. Execution of warrant

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
 - (b) if it is withdrawn by the magistrate who issued it; or
 - (c) when it is executed,

whichever occurs first.

[Section 29F inserted by No. 55 of 2004 s. 235.]

29G. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 29C a person is required to —

- (a) give any information;

- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 29H(1)(b).

[Section 29G inserted by No. 55 of 2004 s. 235.]

29H. Failure to comply with investigation

- (1) Where under section 29C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
 - (a) fails to give that information or answer that question at or within the time specified in the requirement;
 - (b) gives any information or answer that is false in any particular; or
 - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
 - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 29C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;

- (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 29C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

[Section 29H inserted by No. 55 of 2004 s. 235.]

29I. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 29C.

Penalty: \$2 000.

[Section 29I inserted by No. 55 of 2004 s. 235.]

Division 2 — Proceedings

[Heading inserted by No. 55 of 2004 s. 235.]

30. Disciplinary powers

- (1) There is proper cause for disciplinary action in respect of a registered person if —
 - (a) the registration was obtained by fraud or misrepresentation;
 - (b) before or after registration, the person was or has been convicted of an offence which renders that person unfit to practise as a dentist or to be employed as a dental therapist, dental hygienist or school dental therapist;

Dental Act 1939

Part IV Disciplinary proceedings

Division 2 Proceedings

s. 30

- (c) as the result of a finding of any authority lawfully exercising outside the State powers similar to those conferred on the State Administrative Tribunal by this Act, that person has been at any time, and should continue to be, disqualified from carrying on practice as a dentist or from employment as a dental therapist, dental hygienist or school dental therapist;
 - (d) the person is addicted to alcohol or any deleterious drug or suffers from any mental or physical disorder to a degree that renders that person unfit to practise as a dentist or be employed as a dental therapist, dental hygienist or school dental therapist; or
 - (e) that person is guilty of misconduct in a professional respect by reason of carelessness, incompetence, impropriety, infamous conduct, or a breach of the provisions of this Act.
- (1aa) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), in respect of a person who is or was a registered person.
- (1ab) If in a proceeding commenced by an allegation under this section in respect of a registered person, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.
- (1a) Subject to subsection (1b), if the Tribunal is satisfied in relation to a person whose name has been withdrawn from or struck off the Register, that, had the name of that person not been so withdrawn from or struck off the Register the Tribunal would have been empowered to impose a penalty on that person under subsection (1ab) or (3), the Tribunal may —
- (a) censure that person; or
 - (b) order that person to be fined such amount, not exceeding \$2 000, as the Tribunal thinks fit.

- (1b) Nothing in subsection (1a) shall be construed as enabling the Tribunal to impose more than one penalty on a person in respect of the same act or omission.
- (2) Any person may make to the Board an allegation that a person who is or was a registered person is guilty of misconduct in a professional respect, and the Board may after affording that person an opportunity of giving an explanation to the Board either in person or in writing refer the allegation to the State Administrative Tribunal.
- (2a) Instead of making an allegation to the Tribunal under subsection (1aa) or referring an allegation to the Tribunal under subsection (2), if the Board —
- (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations;
 - (b) has afforded to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and is not satisfied by any explanation offered; and
 - (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,
- the Board may deal with the matter as described in subsection (3)(a), (b), (c), or (d) except that it cannot order that a person be fined more than \$2 500 and it cannot make an order under subsection (3)(a) or (c) in respect of a person who is no longer a registered person.
- (2b) The Board may, in addition to or instead of imposing 1 or more penalties under provisions referred to in subsection (2a), order the person concerned to pay all or any of the costs and expenses of or incidental to the proceedings.
- (2c) The amount of any penalty, costs, or expenses that the Board orders under subsection (2a) or (2b) that a person pay is

recoverable by the Board in any court of competent jurisdiction as a debt due to the Board.

- (3) Instead of causing the name of any person to be struck off the Register in accordance with subsection (1), where the State Administrative Tribunal considers that the matter does not in the public interest require that the registered person concerned should be disqualified from practice or employment as such, the Tribunal may —
- (a) order that the particulars entered in the Register in relation to that person be amended;
 - (b) censure that person;
 - (c) order that person to give an undertaking, either with or without security, for such period as is specified in the order —
 - (i) in the case of a dentist to comply with such conditions as may be specified in the order in relation to that person's practice; or
 - (ii) in the case of a dental therapist, dental hygienist or school dental therapist, to work under supervision, or to complete a specified course of instruction or study;
 - (d) order that person to be fined such an amount, not exceeding \$2 000, as is specified in the order;
 - (e) if the person is a dentist, order that that person is suspended from practice generally, or from the performance of any specified operation, service or act of dentistry for a period not exceeding 12 months as specified in the order; or
 - (f) if the person is a dental therapist, dental hygienist or school dental therapist, order that that person is suspended from employment as such generally, or from the performance of any act of dentistry of a kind

specified in Schedule 2 for a period not exceeding
12 months as specified in the order.

*[Section 30 inserted by No. 108 of 1972 s. 19; amended by
No. 19 of 1979 s. 3; No. 94 of 1980 s. 11; No. 64 of 1996 s. 9
and 17; No. 10 of 1998 s. 27(1); No. 55 of 2004 s. 236.]*

30A. Breach of undertaking

Where the Board, after due inquiry, is satisfied that a registered person who has given an undertaking pursuant to section 30 has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board may, in addition to or in lieu of proceeding against that person in accordance with the undertaking, refer the matter to the State Administrative Tribunal and the Tribunal may impose on that person such further penalty under section 30 in respect of the matter as a consequence of which the undertaking was required to be given as the Tribunal thinks fit, and may also impose any such penalty in relation to the conduct or omission giving rise to the breach or the failure to comply with the conditions imposed.

*[Section 30A inserted by No. 108 of 1972 s. 20; amended by
No. 10 of 1998 s. 27(2); No. 55 of 2004 s. 237.]*

[30B. Repealed by No. 55 of 2004 s. 238.]

31. Name of person struck off may be restored

- (1) Any person whose name has been struck off the Register as provided for in section 30 or 30A, may at any time thereafter apply to the Board in the manner prescribed to have his name re-entered in such Register or in the record aforesaid.
- (1aa) The Board cannot grant an application under subsection (1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.
- (1a) If an application to re-enter the name of a dental therapist, dental hygienist or school dental therapist in the Register is

made more than 5 years after the name was struck off the Register, the Board shall refuse to grant the application if it is not satisfied that the person has relevant current knowledge and skills at a level approved by the Board.

- (2) Subject to subsections (1aa) and (1a), the Board may refuse or grant any application made under subsection (1).
- (3) When the Board grants such an application it shall direct the Registrar, on payment to him by the applicant of a fee or charge, to be assessed in accordance with subsection (4), to re-enter the name of the applicant in the Register, and on payment being made as aforesaid the Registrar shall comply with the direction of the Board.
- (4) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual licence fee that he would have been liable to pay, if his name had not been struck off the Register, and the amount of the fee prescribed for such re-entry.

[Section 31 amended by No. 75 of 1963 s. 19; No. 108 of 1972 s. 22; No. 64 of 1996 s. 10; No. 55 of 2004 s. 239.]

32. Effect of striking off

Where the name of a person has been struck off the Register, that person shall cease to be registered as, and shall be disqualified from practising as, a dentist or from employment as a dental therapist, dental hygienist or school dental therapist, as the case may be, until such time as his name is re-entered in the Register.

[Section 32 inserted by No. 75 of 1963 s. 20; amended by No. 108 of 1972 s. 23; No. 64 of 1996 s. 17.]

32A. Effect of suspension

- (1) Where a registered person is suspended from practice or from employment as a dental therapist, dental hygienist or school dental therapist generally that person shall be deemed not to be

registered as, and shall be disqualified from practising as, a dentist or from employment as a dental therapist, dental hygienist or school dental therapist, as the case may be, during the period for which the suspension subsists.

- (2) The Board may, by notice in writing, revoke the suspension and may direct in the notice that the revocation have effect from a date specified in the notice.

[Section 32A inserted by No. 108 of 1972 s. 24; amended by No. 64 of 1996 s. 17.]

33. Review

Whenever the Board makes a decision —

- (a) refusing to register any person;
- (b) refusing to re-enter in the Register the name of any person whose name has previously been withdrawn from or struck off the Register; or
- (c) imposing any penalty or making any order as to costs or expenses under section 30(2a) or (2b),

a person aggrieved may apply to the State Administrative Tribunal for a review of the decision.

[Section 33 inserted by No. 55 of 2004 s. 240.]

[Part IV (s. 34-36) and Part V (s. 37-42) repealed by No. 75 of 1963 s. 22.]

Part VI — Registration

[43. *Repealed by No. 108 of 1972 s. 26.*]

44. Qualifications for registration as a dentist

- (1) No person shall be qualified for registration as a dentist under this Act, unless and until he proves to the satisfaction of the Board, and, if so required after personal attendance before the Board, that —
- [(a) *deleted*]
 - (b) he has in all respects complied with the requirements of this Act and the rules and regulations;
 - (c) he is a person of good character;
 - (d) he has gained by examination and holds —
 - (i) a primary qualification in dental surgery or dental science of any University of the United Kingdom or of Ireland, New Zealand, or Australia and at the date of his application for registration under this Act is entitled to registration as a dentist in the country where such primary qualification was granted; or
 - [(ii)-(iv) *deleted*]
 - (v) the Certificate of Dentistry granted by the body established by the Government of the Commonwealth and known as the Committee on Overseas Professional Qualifications.
- (2) Any person who satisfies the Board that in accordance with the provisions of subsection (1) he is qualified for registration as a dentist under this Act, shall, subject to this Act and the rules and regulations and upon payment of the prescribed registration fee, be entitled to be and shall be registered in the Register kept in accordance with this Act.

- (3) Notwithstanding any other provision of this Act, where a person —
- (a) was not, at the time that his application for registration was made, ordinarily resident in the State; and
 - (b) has not taken up residence and commenced practice in the State within 6 months after the date on which his registration was granted,

the Board may order that his name be erased from the register, and in that event the person shall not, except with the special approval of the Board, be entitled to make a further application for registration or any application for the restoration of his name to the register until the expiration of the period of 5 years commencing on the day on which his application for registration was granted.

[Section 44 amended by No. 13 of 1947 s. 2; No. 75 of 1963 s. 24; No. 11 of 1967 s. 3; No. 108 of 1972 s. 27; No. 19 of 1979 s. 4; No. 94 of 1980 s. 13; No. 10 of 1998 s. 27(4).]

44A. Temporary registration

- (1) Any person who is in Western Australia or proposes to come to Western Australia and who satisfies the Board that he proposes to undertake a course in post graduate study or professional practice and training under supervision, or to engage in teaching or research in dental surgery or dental science, may, upon payment of the prescribed fee, be granted by the Board a certificate of temporary registration as a dentist for the purposes of this Act.
- (2) A certificate granted under subsection (1) may be made subject to such limitations and restrictions upon the practice of dentistry by the applicant and to such other conditions as the Board in any particular case specifies in the certificate.
- (3) Every certificate granted under subsection (1) may in the first place be issued for a period of not more than 12 months, but upon application to the Board during the currency of the

s. 44B

certificate may from time to time be renewed for a further period or periods of not more than 12 months in respect of each such application, but so that the maximum period for which a certificate may be in force under this section in respect of any person shall not in the aggregate exceed 3 years.

- (4) The Board may at any time cancel any certificate issued or renewed under subsection (1), or may vary any limitation, restriction or condition to which it was made subject.
- (5) Every person in respect of whom a certificate of temporary registration as a dentist is granted shall, while the certificate remains in force and so long as he does not infringe the restrictions or limitations or contravene the conditions to which it was made subject, be deemed for all the purposes of this Act to be a registered dentist, and his name and such other particulars as the Board considers to be material shall be entered by the Registrar in the Register as a person to whom temporary registration has been granted.

[Section 44A inserted by No. 108 of 1972 s. 28.]

44B. Qualification for registration as dental therapist

[(1) repealed]

- (2) A person shall be qualified for registration as a dental therapist under this Act, if he proves to the satisfaction of the Board, and, if so required after personal attendance before the Board, that —

[(a) deleted]

- (b) he has in all respects complied with the requirements of this Act and the rules and regulations;
- (c) he is a person of good character; and
- (d) he meets the requirements of subsection (3).

- (3) The person must —
- (a) not more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a dental therapist approved by the Board;

or

 - (b) more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a dental therapist approved by the Board,
and have current knowledge and skills in dental therapy at a level approved by the Board.
- (3a) The Board may require a person who comes within subsection (3)(b) to complete such further or other training as the Board requires.
- (4) Any person who satisfies the Board that in accordance with the provisions of this section he is qualified for registration as a dental therapist under this Act, shall, subject to this Act and the rules and regulations and upon payment of the prescribed fee, be entitled to be and shall be registered in the Register kept in accordance with this Act.

[Section 44B inserted by No. 108 of 1972 s. 29; amended by No. 19 of 1979 s. 5; No. 94 of 1980 s. 14; No. 64 of 1996 s. 11.]

s. 44C

44C. Qualifications for registration as dental hygienist

- (1) A person is qualified for registration as a dental hygienist if that person proves to the satisfaction of the Board that the person —
 - (a) has in all respects complied with the requirements of this Act and the rules and regulations;
 - (b) is a person of good character; and
 - (c) meets the requirements of subsection (2).
- (2) The person must —
 - (a) not more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a dental hygienist approved by the Board;or
 - (b) more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a dental hygienist approved by the Board,
and have current knowledge and skills in dental hygiene at a level approved by the Board.
- (3) The Board may require a person who comes within subsection (2)(b) to complete such further or other training as the Board requires.
- (4) A person who satisfies the Board that immediately before the coming into operation of the *Dental Amendment Act 1996*¹ that person held the qualifications then prescribed as qualifications for registration as a dental therapist, may, subject to the completion of such further or other training as the Board

requires, be dealt with by the Board under this section as if the person were a person who meets the requirements of subsection (2).

- (5) A person who satisfies the Board that that person is qualified for registration as a dental hygienist is, subject to this Act and the rules and regulations and upon payment of the prescribed fee, entitled to be and shall be registered as a dental hygienist.
- (6) The Board may refuse the application of a person who is required under section 45(1)(b) to appear before the Board and fails to do so.

[Section 44C inserted by No. 64 of 1996 s. 12.]

44D. Qualifications for registration as school dental therapist

- (1) A person is qualified for registration as a school dental therapist if that person proves to the satisfaction of the Board that the person —
 - (a) has in all respects complied with the requirements of this Act and the rules and regulations;
 - (b) is a person of good character; and
 - (c) meets the requirements of subsection (2).
- (2) The person must —
 - (a) not more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a school dental therapist approved by the Board;
 - or
 - (b) more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or

s. 44D

- (ii) have completed a course of study and professional practice and training as a school dental therapist approved by the Board, and have current knowledge and skills in school dental therapy at a level approved by the Board.
- (3) The Board may require a person who comes within subsection (2)(b) to complete such further or other training as the Board requires.
- (4) A person who satisfies the Board that immediately before the coming into operation of the *Dental Amendment Act 1996*¹ that person was qualified under section 337A of the *Health Act 1911* to be a school dental therapist may, subject to the completion of such further or other training as the Board requires, be dealt with by the Board under this section as if the person were a person who meets the requirements of subsection (2).
- (5) A person who satisfies the Board that that person is qualified for registration as a school dental therapist is, subject to this Act and the rules and regulations and upon payment of the prescribed fee, entitled to be and shall be registered as a school dental therapist.
- (6) The Board may refuse the application of a person who is required under section 45(1)(b) to appear before the Board and fails to do so.

[Section 44D inserted by No. 64 of 1996 s. 12.]

Part VII — Miscellaneous

45. Board may require attendance at inquiries, etc.

- (1) The Board may by a summons in the prescribed form require —
 - [(a) *deleted*] and
 - (b) the attendance before the Board of any applicant for registration or for recognition as provided for by this Act, and of any other person who, in the opinion of the Board, can give evidence in connection with the application of any such applicant.
- (2) The Board may examine on oath or affirmation all persons attending before the Board pursuant to the requisition of the Board under this section or voluntarily attending to give evidence, and for such purpose the President or other member acting as chairman of the Board during the proceedings by the Board or during the meeting of the Board at which any person is required to give evidence or desires to give evidence may administer an oath or affirmation.
- (3) Every summons issued by the Board to any person under this section may also require the production of any documents by the person summoned, and shall have the same effect as a subpoena *ad testificandum* or *duces tecum*, as the case may be, issued by the Supreme Court in a civil action, and the obedience to such summons may be enforced by the Supreme Court or a Judge thereof on application by the Board, in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said Court.

[Section 45 amended by No. 75 of 1963 s. 25; No. 108 of 1972 s. 30; No. 64 of 1996 s. 17; No. 55 of 2004 s. 241.]

46. Annual licence fees

- (1) No registered person shall practise dentistry or act as a dental therapist, dental hygienist or school dental therapist —
 - (a) unless that person holds a licence so to do issued by the Board;

s. 46

- (b) so as to infringe any restriction or limitation, or to contravene any condition imposed upon that person by the Board.

Penalty: \$1 000.

- (2) Every person whose name appears in the Register shall be entitled to a licence either as a dentist, dental therapist, dental hygienist or school dental therapist, as the case may require, but whether such person applies to the Board for such licence or not, he shall, whilst his name continues to appear in the said Register be liable to pay and shall pay the prescribed annual licence fee.

[(3), (4) repealed]

- (5) Licences issued under this section shall be in the prescribed form and shall be signed by the Registrar.
- (6) Subject as hereinafter provided, licences issued under this section shall have effect for one year ending on 31 December in each year.

Provided that —

[(i) deleted]

- (ii) licences issued under this section at any time of a year shall have effect only until 31 December next following the issue thereof.
- (7) The licence fees payable under this section shall, subject to subsection (6), be due and payable during the month of January in each and every year, or within one month after the name of the person is entered in the Register, and when such fee is paid within the time hereinbefore prescribed for the payment thereof, such payment shall be deemed to have been made as from and including the first day of the month of January in which it is paid or as from and including the date of registration.
- (8) A registered person when remitting to the Board the licence fee payable under this section, shall also furnish to the Board in

writing such particulars concerning the nature of his practice, the place or places at which he conducts his practice and his registration and qualifications as are prescribed, to enable the Board to plan education programmes and make manpower projections.

[Section 46 amended by No. 48 of 1954 s. 3; No. 75 of 1963 s. 26; No. 113 of 1965, s. 8; No. 108 of 1972 s. 31; No. 19 of 1979 s. 6; No. 94 of 1980 s. 15; No. 64 of 1996 s. 17.]

47. Person making default in payment of licence fee to be struck off

- (1) Where a person fails or neglects to pay the licence fee provided, within the time prescribed, by section 46, his name shall, forthwith upon his making default, be struck off the Register.
- (2) Subject to subsection (3), where the name of a registered person is struck off the Register pursuant to this section, the Board shall, upon the receipt of an application in writing for the restoration, signed by that person together with the amount of any prescribed penalty and of the fee prescribed for the re-entry, restore his name to the Register.
- (3) If the application for restoration of the name of a dental therapist, dental hygienist or school dental therapist to the Register is made more than 5 years after the name is struck off, the Board shall not restore the name to the Register unless it is satisfied that the applicant has relevant current knowledge and skills at a level approved by the Board.

[Section 47 inserted by No. 75 of 1963 s. 27; amended by No. 108 of 1972 s. 32; No. 64 of 1996 s. 13.]

48. Offences

Any person who —

- (a) makes or causes to be made any falsification in any matter relating to the Register; or

s. 49

- (b) presents or causes to be presented to the Board or the Registrar any forged, false or counterfeit certificate, diploma, degree, licence or other document; or
- (c) personates or wrongfully represents himself as being the person referred to in any certificate, diploma, degree, licence, or other document; or
- (d) procures or attempts to procure himself 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 declaration or representation, either verbally or in writing; or
- (e) makes any false statement upon any examination held or conducted by the Board in exercise of a power in that behalf conferred by this Act; or
- (f) makes any false statement in any declaration required by the Board under this Act or the rules or regulations,

shall be guilty of a crime and shall on conviction be liable to imprisonment for a term not exceeding 2 years.

[Section 48 amended by No. 75 of 1963 s. 28; No. 55 of 2004 s. 242; No. 70 of 2004 s. 82.]

49. No person other than dentist to use name or title of dentist, etc.

- (1) No person other than a dentist, and no company, shall take or use, or by inference adopt or otherwise hold himself or itself out as being entitled to use the name or title of “dentist”, “dental surgeon”, “dental practitioner”, “mechanical dentist”, or any other name, title, word, letters, addition, or description implying or tending to the belief that he or such company is registered as a dentist under this Act, or is entitled to practise dentistry, or is carrying on alone or with others the practice of dentistry.
- (2) No company and no dentist or person other than a person or persons authorised to use a firm-name by section 56 shall take or use or have attached to or exhibited at any place the description “dental company”, “dental institute”, “dental

hospital”, “dental college”, “college of dentistry”, “school of dentistry”, or any other description in which the word “dental” or “dentistry” appears that implies or tends to the belief that the business or practice of dentistry is carried on in that place but this subsection does not prevent a dentist from taking, using, or having attached to or exhibited at any place a description referred to in subsection (1).

- (3) Any person who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence — \$100; any subsequent offence — \$500.

[Section 49 amended by No. 113 of 1965 s. 8; No. 19 of 1979 s. 7; No. 94 of 1980 s. 16.]

50. Practise of dentistry by certain persons prohibited

- (1) No person, other than a dentist, and no company shall —
- (a) practise dentistry or perform any act of dentistry; or
 - (b) hold himself, or hold itself, out, either directly or by implication, as practising, or being prepared to practise, dentistry in any of its branches.
- (2) This section does not apply to —
- (a) a person who, without reward or the expectation of reward, extracts a tooth or teeth, for the immediate relief of pain, at a place not less than 50 miles by the shortest road journey from the nearest place of business of a dentist;
 - (b) a medical practitioner who performs an act of dentistry, not being —
 - (i) the preparation of a cavity in a tooth, with a view to the permanent restoration of the tooth; or
 - (ii) the fitting, insertion or fixing of artificial teeth, the artificial restoration of lost teeth or the mechanical construction of artificial dentures;

s. 50A

- (c) a student of the Dental School of the University of Western Australia, under the direction of a dentist, within that University or in a place which is approved by that University for the teaching of dental students; or
 - (d) any person visiting the State, as an official dental clinician, for the purpose of giving professional instruction and who, although not being registered, or entitled to be registered, under this Act, performs acts of dentistry, in the course of giving the professional instruction, for a period not exceeding 12 months, pursuant to the permission in writing of the Board, which permission the Board is by, and subject to, this paragraph authorised to give; or
 - (e) a student who, while undertaking a prescribed course of training, performs an act of dentistry under the direction of a dentist;
 - (f) a dental therapist who performs under the direction and control of a dentist an act of dentistry authorised under section 50A;
 - (g) a dental hygienist who performs under the direction and control of a dentist an act of dentistry authorised under section 50B; or
 - (h) a school dental therapist who performs an act of dentistry authorised under section 50D.
- (3) Every person who, or company that, contravenes the provisions of this section commits an offence.

Penalty: For a first offence, \$400; and, for any subsequent offence, \$2 000.

[Section 50 inserted by No. 75 of 1963 s. 29; amended by No. 113 of 1965 s. 8; No. 98 of 1970 s. 3; No. 108 of 1972 s. 33; No. 19 of 1979 s. 8; No. 64 of 1996 s. 14.]

50A. Acts which may be performed by dental therapist

- (1) This section applies to a dental therapist who is employed —
 - (a) by a dentist; or
 - (b) to perform acts of dentistry in —
 - (i) a hospital within the meaning of the *Hospitals and Health Services Act 1927*;
 - (ii) a university or tertiary educational authority established under any written law; or
 - (iii) the department of the Public Service principally assisting the Minister in the administration of this Act.

- (2) Subject to subsection (3) and any condition, restriction or limitation imposed by the Board, a dental therapist to whom this section applies may, under the direction and control of a dentist and for the purpose of assisting that dentist in the prevention, control, or treatment, of dental disease —
 - (a) undertake the acts of dentistry specified in Parts 1, 2, 4, 5 and 6 of Schedule 2; and
 - (b) if the dental therapist —
 - (i) has the qualifications prescribed for the purposes of this paragraph;
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph; or
 - (iii) is, in the opinion of the Board, by reason of experience in undertaking those acts, competent to undertake the acts of dentistry specified in Part 3 of Schedule 2,

undertake the acts of dentistry specified in Part 3 of Schedule 2.

s. 50B

- (3) A dental therapist shall not undertake the acts of dentistry referred to in subsection (2)(b) unless the dental therapist has the written approval of the Board to do so.

[Section 50A inserted by No. 64 of 1996 s. 15.]

50B. Acts which may be performed by a dental hygienist

- (1) This section applies to a dental hygienist who is employed —
- (a) by a dentist; or
 - (b) to perform acts of dentistry in —
 - (i) a hospital within the meaning of the *Hospitals and Health Services Act 1927*;
 - (ii) a university or tertiary educational authority established under any written law; or
 - (iii) the department of the Public Service principally assisting the Minister in the administration of this Act.
- (2) Subject to any condition, restriction or limitation imposed by the Board, a dental hygienist to whom this section applies may, under the direction and control of a dentist and for the purpose of assisting that dentist in the prevention, control, or treatment, of dental disease —
- (a) undertake the acts of dentistry specified in Parts 1 and 6 of Schedule 2;
 - (b) if the dental hygienist —
 - (i) has the qualifications prescribed for the purposes of this paragraph; or
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,undertake the acts of dentistry specified in Part 2 of Schedule 2; and

- (c) if the dental hygienist —
 - (i) has the qualifications prescribed for the purposes of this paragraph; or
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,undertake the acts of dentistry specified in Part 3 of Schedule 2.

[Section 50B inserted by No. 64 of 1996 s. 15.]

50C. Supervision of dental therapist or dental hygienist

- (1) Where an act of dentistry is to be undertaken by a dental therapist or dental hygienist, the dentist under whose direction and control the act is to be undertaken shall —
 - (a) examine the patient —
 - (i) before the treatment commences; and
 - (ii) after the treatment within such time as is prescribed;
 - and
 - (b) if not in full-time attendance, remain reasonably available for consultation.
- (2) A dentist complies with subsection (1)(b) if the dentist, or another dentist nominated by him, is available to render assistance to the dental therapist or dental hygienist if such assistance is required by the dental therapist or dental hygienist.

[Section 50C inserted by No. 64 of 1996 s. 15.]

50D. Acts which may be performed by a school dental therapist

- (1) This section applies to a school dental therapist who is employed to carry out acts of dentistry for a school dental service.

s. 50E

- (2) Subject to any condition, restriction or limitation imposed by the Board and the regulations made under section 337A(4) of the *Health Act 1911*, a school dental therapist to whom this section applies may for the purposes of the school dental service —
- (a) undertake the acts of dentistry specified in Parts 1, 2, 4 and 7 of Schedule 2; and
 - (b) if the school dental therapist —
 - (i) has the qualifications prescribed for the purposes of this paragraph; or
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,undertake the acts of dentistry specified in Part 3 of Schedule 2.

[Section 50D inserted by No. 64 of 1996 s. 15.]

50E. Clinics

- (1) In this section —
- “clinic”** means any premises —
- (a) under the control of a dentist;
 - (b) at which the dentist employs dental therapists and dental hygienists or either of them on a regular basis; and
 - (c) at which a dentist is not always in attendance when dental acts are undertaken on the premises.
- (2) A dentist shall not operate more than 2 clinics.

[Section 50E inserted by No. 64 of 1996 s. 15.]

50F. Employment of dental therapists and dental hygienists

- (1) In this section —
- “department”** means the department of the Public Service principally assisting the Minister in the administration of this Act.

- (2) A dentist shall not employ dental therapists and dental hygienists or either of them for hours that exceed in the aggregate in any week the equivalent hours of 2 full-time employees.
- (3) Dental therapists and dental hygienists employed to perform acts of dentistry in the department shall not be employed in any higher proportion than 2 dental therapists or dental hygienists, or the part-time equivalent, for each dentist employed to perform acts of dentistry in the department.
- (4) The proportion specified in subsection (3) may be exceeded if necessary for the purposes of the school dental service.

[Section 50F inserted by No. 64 of 1996 s. 15.]

51. Persons other than dentists prohibited from charging fees

Subject as hereinafter provided no person other than a dentist, and no company, shall be entitled to charge or to sue in any court for the recovery of any fee or other remuneration, or to counterclaim or set off any such fee or other remuneration in respect of any act of dentistry performed by him or it:

Provided that this section shall not apply —

- (a) to any person or persons practising dentistry under a firm-name under the authority of section 56; or
- (b) to any medical practitioner who performs an act of dentistry as authorised by section 50(2)(b).

[Section 51 amended by No. 11 of 1967 s. 4.]

51A. Dental Charges Committee

- (1) For the purposes of this Act there shall be established a committee to be known as the Dental Charges Committee.
- (2) The Committee shall consist of —
 - (a) an officer of the Public Service of the State having professional qualifications in dentistry who is nominated

s. 51A

in writing by the chief executive officer³ and who shall be chairman; and

- (b) 2 other members appointed by the Governor, of whom —
 - (i) one shall be a dentist in private practice nominated by the Australian Dental Association (W.A. Branch) Inc.;
 - (ii) one shall be a qualified accountant nominated by the Minister.
- (3) A member may be appointed to hold office for any term not exceeding 3 years, is eligible for re-appointment, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.
- (4) The Governor may appoint a person to be a deputy of a member, and a reference in this section to a member shall be construed as a reference to a deputy taking the place of that member in the absence of that member from any meeting.
- (5) A member, not being a person to whom the *Public Service Act 1904*⁴, applies, may be paid such remuneration and allowances as the Governor determines.
- (6) If a member —
 - (a) becomes permanently incapable of performing his duties as a member;
 - (b) resigns his office by writing under his hand addressed to the Governor;
 - (c) absents himself, except on leave duly approved by the Minister, from 3 consecutive meetings,the office of that member becomes vacant.
- (7) The Committee shall hold meetings at such times and places as it thinks fit, but may be convened at any time by the Minister.

- (8) The proceedings of the Committee shall not be invalidated by reason only of there being a vacancy in the office of a member or there being a defect in the appointment of any member.
- (9) At a meeting of the Committee —
- (a) 3 members form a quorum;
 - (b) if the chairman is absent the members present shall elect one of their number to preside at that meeting and while so presiding that member is deemed to be the chairman;
 - (c) any question arising shall be determined by a majority of the votes of the members present;
 - (d) the member presiding has a deliberative vote only.
- (10) Subject to this Act, the Committee may regulate its procedure in such manner as it thinks fit.

[Section 51A inserted by No. 108 of 1972 s. 35; amended by No. 63 of 1981 s. 4.]

51B. Dentist may sue for fees

A dentist shall be entitled to sue in any court of competent jurisdiction for the recovery of his fees or other remuneration for his professional services in dentistry or in the performance of any dental operation or for any dental attendance or advice, and it shall be sufficient to state in the particulars of demand the words “for dental services” which shall include every demand for any act of dentistry, attendance and advice and for any articles supplied by the plaintiff to the defendant for dental purposes.

[Section 51B inserted by No. 108 of 1972 s. 36.]

51C. Review of charges

- (1) A person liable to pay fees or remuneration to a dentist for a dental service (not being a dental service constituting medical treatment for the purpose of the *Workers’ Compensation and Injury Management Act 1981*) may, within 3 months after

s. 51C

service upon him of an account for the fees or remuneration, apply in writing to the Dental Charges Committee to review the account.

- (2) The Committee shall, upon such an application, —
 - (a) give to the applicant for the review an acknowledgment in the prescribed form that the matter is under review;
 - (b) review the account;
 - (c) certify, under the hand of the chairman, the amount which, in the Committee's opinion, is a reasonable amount of fees or remuneration for the dental service; and
 - (d) set out, in such certificate, the facts on which the Committee's decision was based.
- (3) The Committee may —
 - (a) require a person to furnish such information as it thinks necessary or desirable for the purpose of a review under this section;
 - (b) fix a time within which the information shall be furnished; and
 - (c) proceed to review an account for fees or remuneration for a dental service without the information requested if it is not furnished within the time fixed.
- (4) In reviewing an account the Committee is not required to conduct a formal hearing, but shall inform the applicant for the review and the dentist of any information furnished to the Committee under this section.
- (5) In reviewing an account the Committee shall have regard, in particular, to —
 - (a) the time occupied in giving, and the nature of, the dental service;

- (b) the distance between the dental surgery or residence of the dentist, dental therapist or dental hygienist and the place at which the dental service was given;
 - (c) the hours of the day or night at which the dental service was given;
 - (d) the degree of skill, knowledge or experience required in the giving of the dental service;
 - (e) whether the dental service was given by a specialist, a consultant, a dentist in general practice or a dental therapist; and
 - (f) any special circumstances submitted by the dentist.
- (6) In proceedings for the recovery of fees or remuneration in respect of a dental service, a certificate of the Committee under subsection (2) in relation to that dental service is evidence that the amount certified in the certificate is a reasonable amount of fees or remuneration for the dental service.
- (7) Notwithstanding the provisions of any other subsection the Committee may refer any application made to it under subsection (1) to the Counselling Committee of the Australian Dental Association (W.A. Branch) Inc. for determination or report.
- (8) Judicial notice shall be taken of the signature of the chairman appearing on a certificate under subsection (2) and of the fact that the person by whom the certificate purports to have been signed was, at the time the certificate was signed, the chairman.

[Section 51C inserted by No. 108 of 1972 s. 37; amended by No. 39 of 1973 s. 2; No. 64 of 1996 s. 17; No. 42 of 2004 s. 175.]

51D. Stay of proceedings

Where in any proceedings for the recovery of fees or other remuneration in respect of a dental service an acknowledgment in the prescribed form purporting to have been given to the defendant by the Dental Charges Committee and stating that the

matter is under review by that Committee is produced to the court, those proceedings shall be stayed until the decision of the Committee is known unless the court for cause shown otherwise determines.

[Section 51D inserted by No. 108 of 1972 s. 38.]

52. Executor of deceased dentists may continue practice

Notwithstanding anything to the contrary contained in this Act, in case of the decease of any dentist carrying on the practice of dentistry at the time of his death, it shall be lawful for any executor of the will of such dentist, or for any administrator of his estate, to continue the business or practice of such deceased dentist for a period not exceeding 12 months after the death of such dentist, or for such longer period as the Board in writing may permit: Provided that such business or practice so continued shall be conducted *bona fide* by a dentist who during such period is registered under this Act.

53. Use of certain letters prohibited

- (1) No person, whether a dentist or not shall —
- (a) use the letters “R.D.S.”; or
 - (b) use any combination of letters implying that he holds a dental degree or diploma conferred upon him by a university or other institution recognised by the Board under this Act, unless he shall be rightfully entitled to use the same; or
 - (c) use or permit to be used in relation to dentistry, whether upon or as an addition to his nameplate or sign or otherwise howsoever any title, description, word, or letters unless he shall be rightfully entitled to use the same; or
 - (d) in any manner falsely claim to hold a degree, licence, certificate, diploma, membership, or other title, status, or document which is recognised by the Board as entitling the holder to be registered as a dentist under this Act.

- (2) Any person who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: For a first offence — \$100; for any subsequent offence — \$500.

[Section 53 amended by No. 113 of 1965 s. 8; No. 19 of 1979 s. 10.]

54. Provisions relating to name-plates or signs

- (1) No dentist shall exhibit or permit or suffer to be or remain exhibited in or about any portion of the premises at or in any part of which he carries on the practice of dentistry, any plate, notice board, or other notification that he practises at such premises of any kind or description other than that authorised by the rules or regulations:

Provided that any dentist who for a period of not less than 4 years next preceding the commencement of this Act was exhibiting and desires still to exhibit a plate, notice board, or other notification aforesaid of a size or description or containing matter not in conformity with the rules or regulations aforesaid, may within 6 months of the coming into operation of the said rules or regulations make application in the prescribed manner to the Board for a permit to continue the exhibition of the said plate, notice board, or other notification, and the Board may grant or refuse such permit, as it may think fit.

- (2) Every dentist who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: First offence — \$100; any subsequent offence — \$500.

[Section 54 amended by No. 113 of 1965 s. 8; No. 19 of 1979 s. 11.]

55. Dentist not to be employed by or agent for any person who is not a dentist

- (1) No dentist shall —
- (a) practise his profession as a dentist or perform any dental operation or service as the employee of or as agent for

any company or any person which or who is not a dentist:

Provided that this section shall not apply to —

- (i) any dentist when he is practising his profession as a dentist as the employee of or as agent for any executor or administrator as provided by section 52 or as the employee of or as agent for any person or persons engaged in the business or practice of dentistry under the authority of section 56; or
 - (ii) any dentist when he is practising the said profession as employee of or as agent in any dental hospital or dental college or in any dental clinic established by or under the Crown or by any local government;
- (b) enter into any partnership with, or share his earnings in his profession as a dentist with any company, or with any person who is not a dentist; or
- (c) authorise or permit or suffer his name to be used by any company or by any person who is not a dentist in the practice of dentistry, or in the performance of any dental operation or service; or
- (d) authorise or permit or suffer any person who is not a —
- (i) dental attendant;
 - (ii) dental prosthetics student acting under the direction of a dentist as a requirement for obtaining a qualification prescribed for the purposes of section 18(1)(b) of the *Dental Prosthetists Act 1985*;
 - (iii) dental therapist;
 - (iiia) dental hygienist;
 - (iv) dentist;
 - (v) medical practitioner; or

- (vi) registered nurse,
to assist or take part in any act of dentistry or in any operation on the mouth or in any other dental operation or service;
 - (e) subject to section 56, practise dentistry, or on any professional card, in any newspaper, journal, periodical, or otherwise advertise or hold himself forth as practising dentistry under a name other than his proper or usual name without any addition thereto.
- (2) Every dentist who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence — \$100; any subsequent offence — \$500.

[Section 55 amended by No. 75 of 1963 s. 30; No. 113 of 1965 s. 8; No. 108 of 1972 s. 39; No. 19 of 1979 s. 12; No. 94 of 1980 s. 17; No. 4 of 1989 s. 3; No. 14 of 1996 s. 4; No. 64 of 1996 s. 17.]

56. Provisions relating to use of firm-names

- (1) Where any person is engaged in the business or practice of dentistry and desires to carry on the business or practice under a firm-name, the Board may, on application being made in the prescribed manner, and on being satisfied that the applicant is registered as the proprietor of that firm-name under the *Business Names Act 1962*, grant to that person a permit authorising the use of that firm-name to describe that business or practice.

[(2), (3) repealed]

- (4) Provided that —
- (a) every permit granted under this section shall be in writing in the prescribed form, and shall be personal to the particular person or persons mentioned in the permit, and shall not in any way or under any circumstances, other than in the case of an executor or administrator of a deceased dentist carrying on the practice of the deceased dentist as provided by section 52, be transferable or assignable to any person; and

s. 57

(b) this section shall be read subject to section 55(1)(a).

- (5) Any person who in respect to the practice of dentistry uses any firm-name not authorised by a permit granted by the Board under this section shall be guilty of an offence.

Penalty: \$100 and, in addition, a daily penalty of \$20 for every day or part of a day during which the offence is continued.

[Section 56 amended by No. 75 of 1963 s. 31; No. 108 of 1972 s. 40; No. 19 of 1979 s. 13.]

57. Board may apply for injunction

- (1) The Board may, subject to the Rules of the Supreme Court, apply to the Supreme Court, or a Judge thereof, for an injunction to restrain any person doing or continuing to do any act, matter, or thing which by this Act is declared to be an offence, and which is of a continuing nature, from doing or continuing to do such act, matter or thing, and on the hearing of such application such injunction may be granted, and such order may be made as to costs and otherwise as to the Court or Judge may seem fit.
- (2) Any proceeding by the Board under subsection (1) shall not in any way affect the liability of the person, whose act is complained of, to prosecution for an offence against this Act in relation to which the proceeding is taken by the Board under subsection (1).

58. General penalty

Any person or company who or which does or permits, or suffers to be done any act, matter, or thing which by this Act such person or company is forbidden to do, shall be guilty of an offence, and, where no special penalty is prescribed by this Act in respect of such offence, shall be liable to a penalty of not less than \$100 and not more than \$500.

[Section 58 amended by No. 113 of 1965 s. 8; No. 19 of 1979 s. 14.]

59. Proceedings for offences

Proceedings for an offence against this Act shall be dealt with summarily in a court of summary jurisdiction.

[Section 59 inserted by No. 78 of 1995 s. 32.]

60. Provisions relating to prosecutions

The following provisions relating to prosecutions for offences under this Act shall apply, that is to say —

- (a) it shall not be necessary for the prosecution to prove —
 - (i) that the accused received any remuneration or reward in connection with the act, matter, or thing complained of; or
 - (ii) the election and constitution of the Board, or the election of the President or any chairman or any member of the Board purporting to act or sign any document as such, or the appointment of the Registrar; or
 - (iii) that any offence was committed with a view to enabling the accused to practise dentistry, or to claim the privileges conferred by this Act upon a dentist;
- (b) in a prosecution for unlawfully practising dentistry or performing any dental operation or service, proof that the accused gave advice in relation to dentistry in a room or other place in or adjoining which there was a dental chair or dental engine, or dental instruments or implements, or materials pertaining to the practice of dentistry, shall be evidence that the accused was practising dentistry; and
- (c) when any person is charged under this Act with performing any dental operation or service which it is unlawful for him to perform, it shall be sufficient for the prosecution to allege that such person is not entitled under this Act to perform such dental operation or

s. 62

service, and the burden of proof that he is so entitled shall rest on the person charged.

[Section 60 amended by No. 75 of 1963 s. 32; No. 84 of 2004 s. 82.]

[61. Repealed by No. 79 of 1995 s. 68(3).]

62. Dentists to be exempt from serving on a jury

Every dentist shall be exempt from serving on any jury.

[63. Repealed by No. 55 of 2004 s. 243.]

64. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for more effectually achieving the objects of this Act and for facilitating the exercise by the Board of its powers under this Act.
- (2) Regulations made by the Governor under this section may impose penalties not exceeding \$200 in respect of any contravention of any of the regulations.

[Section 64 amended by No. 113 of 1965 s. 8; No. 19 of 1979 s. 15.]

[65. Omitted under the Reprints Act 1984 s. 7(4)(g).]

[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(f).]

Schedule 2

[Sections 50A, 50B and 50D]

[Heading inserted by No. 64 of 1996 s. 16.]

Part 1

Core acts

1. Instruction in, and organization and supervision of, plaque control routine.
2. Recording of periodontal indices.
3. Dental prophylaxis.
4. Topical application of fluorides.
5. Application of desensitizing agents.
6. Application of plaque control agents.
7. Polishing and recontouring of restorations.
8. Application of fissure sealants to teeth.
9. Removal of calculus.
10. Application and removal of periodontal packs.
11. Dental radiography.
12. Taking of impressions for all purposes other than final impressions for all prosthetic procedures.
13. Application and removal of rubber dam.
14. Removal of sutures.

[Part 1 inserted by No. 64 of 1996 s. 16.]

Part 2

Local analgesia acts

15. Administration of local dental analgesia.

[Part 2 inserted by No. 64 of 1996 s. 16.]

Part 3

Orthodontic acts

16. Placement of metallic or non-metallic separators.
17. Preparation of teeth for orthodontic banding.
18. Orthodontic band selection.
19. Attachment selection.
20. Placement of arch wire fixation.
21. Removal of ligatures.
22. Removal of arch wire fixation pins.
23. Removal of arch wires.
24. Routine checking for loose bands and broken appliances and re-cementing of loose bands.
25. Removal of bands.
26. Removal of attachments.
27. Removal of orthodontic cement.

[Part 3 inserted by No. 64 of 1996 s. 16.]

Part 4

Dental therapy acts

28. Extraction by forceps of deciduous teeth under local analgesia.
29. Emergency treatment of pulp exposure.
30. Preparation and restoration of cavities in deciduous and permanent teeth of preschool and school children by direct placement materials.

[Part 4 inserted by No. 64 of 1996 s. 16.]

Part 5

31. Restoration of prepared cavities in permanent teeth in adults by direct placement materials.

[Part 5 inserted by No. 64 of 1996 s. 16.]

Part 6

32. Root planing.

[Part 6 inserted by No. 64 of 1996 s. 16.]

Part 7

33. Caries detection.

[Part 7 inserted by No. 64 of 1996 s. 16.]



Notes

- ¹ This reprint is a compilation as at 11 November 2005 of the *Dental Act 1939* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Dentists Act 1939</i> ⁵	20 of 1939	16 Nov 1939	1 Dec 1939 (see s. 1 and <i>Gazette</i> 24 Nov 1939 p. 2041)
<i>Dentists Act Amendment Act 1947</i>	13 of 1947	1 Nov 1947	1 Nov 1947
<i>Dentists Act Amendment Act 1954</i>	48 of 1954	8 Dec 1954	8 Dec 1954
Reprint of the <i>Dentists Act 1939</i> approved 29 Apr 1963 (not in Volume) (includes amendments listed above)			
<i>Dentists Act Amendment Act 1963</i>	75 of 1963	19 Dec 1963	19 Dec 1963
Reprint of the <i>Dentists Act 1939</i> approved 10 Jul 1964 in Volume 17 of Reprinted Acts (includes amendments listed above)			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Dentists Act Amendment Act 1967</i>	11 of 1967	20 Oct 1967	16 Feb 1968 (see s. 2 and <i>Gazette</i> 16 Feb 1968 p. 337)
<i>Dentists Act Amendment Act 1970</i>	98 of 1970	8 Dec 1970	5 Mar 1971 (see s. 2 and <i>Gazette</i> 5 Mar 1971 p. 669)
Reprint of the <i>Dentists Act 1939</i> approved 11 Feb 1972 (includes amendments listed above)			
<i>Dentists Act Amendment Act 1972</i>	108 of 1972	6 Dec 1972	1 Jan 1973 (see s. 2 and <i>Gazette</i> 22 Dec 1972 p. 4755)
<i>Dental Act Amendment Act 1973</i>	39 of 1973	18 Oct 1973	18 Oct 1973
<i>Dental Act Amendment Act 1975</i>	107 of 1975	1 Dec 1975	1 Dec 1975
Reprint of the <i>Dental Act 1939</i> approved 11 Jan 1979 (includes amendments listed above)			
<i>Dental Act Amendment Act 1979</i>	19 of 1979	30 Aug 1979	30 Aug 1979

Short title	Number and year	Assent	Commencement
<i>Dental Amendment Act 1980</i>	94 of 1980	9 Dec 1980	28 Aug 1981 (see s. 2 and <i>Gazette</i> 28 Aug 1981 p. 3553)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981</i> s. 4	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Health Legislation Amendment Act 1984</i> Pt. V	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Acts Amendment (Financial provisions of regulatory bodies) Act 1987</i> s. 3	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)
<i>Acts Amendment (Dental Prosthetics Students) Act 1989</i> Pt. 2	4 of 1989	20 Apr 1989	20 Apr 1989 (see s. 2)
<i>Acts Amendment (Public Sector Management) Act 1994</i> Pt. 2	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Hospitals Amendment Act 1994</i> s. 18	103 of 1994	11 Jan 1995	3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 23	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Industrial Relations Legislation Amendment and Repeal Act 1995</i> s. 68(3)	79 of 1995	16 Jan 1996	18 May 1996 (see s. 3(2) and <i>Gazette</i> 14 May 1996 p. 2019)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Dental Amendment Act 1996</i> ⁶	64 of 1996	11 Nov 1996	1 Jan 1997 (see s. 2 and <i>Gazette</i> 31 Dec 1996 p. 7427)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 27	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Reprint of the <i>Dental Act 1939</i> as at 25 Jun 1999 (includes amendments listed above)			

Dental Act 1939

Short title	Number and year	Assent	Commencement
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 30</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Workers' Compensation Reform Act 2004 s. 175</i>	42 of 2004	9 Nov 2004	4 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 36⁷</i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Law Amendment (Simple Offences) Act 2004 s. 82</i>	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

Reprint 6: The Dental Act 1939 as at 11 Nov 2005 (includes amendments listed above)

² See *Gazette* 17 August 1979 p. 2483.

³ Under the *Acts Amendment (Public Service) Act 1987* s. 31(1)(f) a reference in a written law to the Permanent Head is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the chief executive officer. This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

⁴ Repealed by the *Public Service Act 1978*, which has since been repealed by the *Public Sector Management Act 1994*.

⁵ Now known as the *Dental Act 1939*; short title changed (see note under s. 1).

⁶ The *Dental Amendment Act 1996* s. 19 is a transitional provision that is of no further effect.

⁷ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.