

South Australia

# Chiropractors Act 1991

An Act to provide for the registration of chiropractors and to regulate the practice of chiropractic; and for other purposes.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Chiropractors Act 1991*.

### **4—Interpretation**

- (1) In this Act, unless the contrary intention appears—

***the Board*** means the Chiropractors Board of South Australia;

***chiropractic*** includes—

- (a) the manipulation or adjustment for therapeutic purposes of the spinal column or joints of the human body; or
- (b) osteopathy; or
- (c) any related service or advice;

***company*** means a company as defined in section 9 of the *Corporations Law*;

***director*** of a company includes any person occupying or acting in the position of director of the company, whether validly appointed to occupy, or duly authorised to act in, that position or not, and includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

***inspector*** means a person authorised by the Board to exercise the powers of an inspector under this Act;

***prescribed relative***, in relation to a chiropractor, means a parent, spouse, putative spouse, child or grandchild of the chiropractor;

***putative spouse*** includes a person who is a putative spouse notwithstanding that a declaration has not been made under the *Family Relationships Act 1975* in relation to that person;

***record*** means—

- (a) a documentary record;
- (b) a record made by an electronic, electro-magnetic, photographic or optical process;
- (c) any other kind of record;

***registered*** means registered under this Act;

***the Registrar*** means the Registrar of the Board;

*the repealed Act* means the *Chiropractors Act 1979*;

*share*, in relation to a company, includes a right to participate in the distribution of the profits of the company.

- (2) For the purposes of this Act, a registered chiropractor whose registration is under suspension will be regarded as unregistered.
- (3) Where a person who holds himself or herself out to the public as a chiropractor provides or offers to provide a therapeutic service or advice, a reference in this Act to chiropractic extends, in relation to that person, to that service or advice.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

## **Part 2—The Board**

### **Division 1—Constitution of Board**

#### **5—Continuation of the Board**

- (1) The *Chiropractors Board of South Australia* continues in existence.
- (2) The Board is a body corporate.
- (3) The Board has full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate.
- (4) Where an apparently genuine document appears to bear the common seal of the Board, it will be presumed in legal proceedings, in the absence of proof to the contrary, that the document has been duly executed by the Board.

#### **6—Constitution of the Board**

- (1) The Board consists of seven members appointed by the Governor, and of these—
  - (a) four must be registered chiropractors elected in accordance with the regulations by registered chiropractors; and
  - (b) one must be a legal practitioner; and
  - (c) one must be a medical practitioner; and
  - (d) one must be a person appointed to represent the interests of persons receiving chiropractic services.
- (2) If an election fails for any reason, the Governor may appoint a registered chiropractor on the nomination of the Minister and the person so appointed will be taken to have been appointed after election by registered chiropractors.
- (3) A member of the Board who is a registered chiropractor must be appointed by the Minister to preside at meetings of the Board.
- (4) The Minister must consult the Board before making an appointment under subsection (3).

## **7—Term and conditions of office**

- (1) Subject to this Act, a member of the Board will be appointed for a term not exceeding three years, on such conditions as the Governor determines, and on the expiration of a term of office is eligible for reappointment.
- (2) The Governor may appoint an appropriate person to be a deputy of a member of the Board and that person, while acting in the absence of that member, has all the powers, rights and duties of that member.
- (3) The Governor may remove a member of the Board from office for—
  - (a) any breach of, or non-compliance with, conditions of appointment; or
  - (b) mental or physical incapacity to carry out official duties satisfactorily; or
  - (c) neglect of duty; or
  - (d) dishonourable conduct.
- (4) The office of a member of the Board becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice addressed to the Minister; or
  - (d) is removed from office by the Governor under subsection (3).
- (5) On the office of a member of the Board becoming vacant, a person must be appointed in accordance with this Act to the vacant office, but where the office of a member becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

## **8—Remuneration and expenses**

- (1) The members of the Board are entitled to such remuneration and expenses as may be determined by the Governor.
- (2) Any amount to which a member of the Board is entitled under this section will be paid from the funds of the Board.

## **9—Personal interest of member**

A member who has a personal interest or a direct or indirect pecuniary interest in a matter under consideration by the Board is disqualified from participating in the Board's consideration of that matter.

## **10—Quorum etc**

- (1) Four members of the Board constitute a quorum of the Board.
- (2) The member appointed to preside at meetings of the Board will, if present at a meeting of the Board, preside at that meeting, and in the absence of that member, the members present will decide who is to preside.
- (3) A decision carried by the votes of a majority of the members of the Board present at a meeting is a decision of the Board.

- (4) Each member present at a meeting of the Board is entitled to one vote on a matter arising for determination at that meeting and the person presiding has, in the event of an equality of votes, a second or casting vote.
- (5) The Board must cause accurate minutes to be kept of the business conducted at its meetings.
- (6) Subject to this Act, the business of the Board will be conducted in a manner determined by the Board.

### **11—Committees**

- (1) The Board may establish committees—
  - (a) to advise the Board on any matter related to the administration of this Act; or
  - (b) to carry out functions on behalf of the Board.
- (2) The Board may appoint a person who is not a member of the Board to be a member of a committee.

### **12—Delegation of functions and powers**

- (1) The Board may delegate any of its functions or powers except those relating to investigations and inquiries under Part 4.
- (2) A delegation under this section—
  - (a) may be made—
    - (i) to a member, to the Registrar or to an officer or employee of the Board; or
    - (ii) to a committee established by the Board under this Act; and
  - (b) may be made subject to such conditions as the Board thinks fit; and
  - (c) is revocable at will; and
  - (d) does not derogate from the power of the Board to act in any matter itself.
- (3) A person to whom functions or powers are delegated under this section is disqualified from acting in pursuance of the delegation in relation to any matter in which that person has a personal interest or a direct or indirect pecuniary interest.

### **13—Validity of acts of the Board**

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

### **14—Registrar and officers of the Board**

- (1) The Board must appoint (on such conditions as it thinks fit)—
  - (a) a Registrar; and
  - (b) such other officers and employees of the Board as are necessary for the administration of this Act.
- (2) An officer or employee of the Board is not a Public Service employee.

## **Division 2—Functions of the Board**

### **15—Functions of the Board**

- (1) The Board is responsible for—
  - (a) the registration and professional discipline of chiropractors; and
  - (b) exercising a general oversight over the standards of chiropractic practice; and
  - (c) monitoring the standard of courses of instruction and training available to—
    - (i) those seeking registration as chiropractors; and
    - (ii) registered chiropractors seeking to maintain and improve their skills in the practice of chiropractic,and consulting with educational authorities in relation to the establishment, maintenance and improvement of such courses; and
  - (d) exercising the other functions assigned to it by or under this Act.
- (2) The Board must exercise its functions under this Act with a view to achieving and maintaining professional standards of competence and conduct in the practice of chiropractic.

## **Division 3—Financial provisions**

### **16—Accounts and audit**

- (1) The Board must cause proper accounts to be kept of its financial affairs.
- (2) The Board must prepare a statement of accounts in respect of each financial year and have the statement audited.

### **17—Report**

- (1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the administration of this Act during the financial year that ended on the preceding 30 June.
- (2) The report must contain statistics relating to complaints received by the Board and the orders and decisions of the Board.
- (3) The Minister must, within 12 sitting days after delivery of the report, cause a copy of the report to be laid before each House of Parliament.

## **Part 3—Registration and practice**

### **Division 1—Eligibility for registration**

#### **18—Qualifications for registration**

- (1) Subject to this Act, a natural person is eligible for registration as a chiropractor, if that person—
  - (a) is of or above the age of 18 years; and

**Chiropractors Act 1991—25.6.1992 to 26.7.2006—repealed**

Part 3—Registration and practice

Division 1—Eligibility for registration

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- (b) is a fit and proper person to be so registered; and
  - (c) has prescribed qualifications and experience in the practice of chiropractic; and
  - (d) fulfils all other requirements prescribed by the regulations.
- (2) Subject to this Act, a company is eligible for registration as a chiropractor if it satisfies the Board—
- (a) that the memorandum and articles of association of the company contain stipulations to the following effect:
    - (i) the sole object of the company must be to practise as a chiropractor; and
    - (ii) the directors of the company must be natural persons who are registered chiropractors (but where there are only two directors one may be a registered chiropractor and the other may be a prescribed relative of that registered chiropractor); and
    - (iii) no share in the company is to be owned beneficially except by a registered chiropractor who is a director or employee of the company, or a prescribed relative of that registered chiropractor; and
    - (iv) the total voting rights exercisable at a meeting of the members of the company must be held by registered chiropractors who are directors or employees of the company; and
    - (v) no director of the company may, without the approval of the Board, be a director of any other company that is registered as a chiropractor; and
    - (vi) where the right of a registered chiropractor and of his or her prescribed relatives to hold shares in the company ceases by virtue of the chiropractor ceasing to be a director or employee of the company, the shares must be redeemed by the company, distributed amongst the remaining members of the company (or their prescribed relatives), or transferred to a registered chiropractor who is to become a director or employee of the company (or to his or her prescribed relatives), in accordance with the memorandum and articles of association of the company; and
    - (vii) the shares of a person who is a shareholder by virtue of being the spouse of a registered chiropractor must—
      - (A) on dissolution or annulment of marriage with the chiropractor; or
      - (B) in the case of a putative spouse, on cessation of cohabitation with the chiropractor,be redeemed by the company, or distributed amongst the remaining members of the company, in accordance with the memorandum and articles of association of the company; and
  - (b) that the memorandum and articles of association are otherwise appropriate to a company formed for the purpose of practising as a chiropractor.



## **Division 2—Registration**

### **19—Application for registration**

- (1) An application for registration under this Act—
  - (a) must be made in the prescribed manner and form; and
  - (b) must be accompanied by the prescribed application fee.
- (2) An applicant for registration must, if the Board so requires—
  - (a) furnish the Board with such information, papers or documents as it specifies; and
  - (b) verify by statutory declaration any information furnished for the purposes of the application.

### **20—Registration and provisional registration**

- (1) Where—
  - (a) application is made for registration as a chiropractor in accordance with this Act; and
  - (b) the Board is satisfied that the applicant is eligible for registration,  
the Board must register the applicant as a chiropractor.
- (2) If it appears likely that the Board will grant an application for registration as a chiropractor, the Registrar may provisionally register the applicant.
- (3) Provisional registration remains in force until the application is determined by the Board.
- (4) A certificate of registration will be issued to a registered chiropractor.

### **21—Limited registration**

- (1) Where a person who applies for registration under this Act does not have the necessary qualifications or experience or does not fulfil the other requirements prescribed by the regulations, the Board may register that person in pursuance of this section—
  - (a) in order to enable the person—
    - (i) to do whatever is necessary to become eligible for full registration under this Act; or
    - (ii) to teach or to undertake research or study in South Australia; or
  - (b) if, in its opinion, registration of the person is in the public interest.
- (2) Where a person who applies for registration under this Act has not satisfied the Board that he or she is a fit and proper person to be registered unconditionally, but otherwise fulfils the requirements prescribed by or under this Act for registration, the Board may register that person in pursuance of this section.

- (3) When granting an application referred to in subsection (1) or (2) the Board may—
  - (a) restrict the places and times at which the applicant may practise chiropractic; or
  - (b) limit the areas of chiropractic in which the applicant may practise; or
  - (c) limit the period during which the registration will have effect; or
  - (d) impose such other conditions as the Board thinks fit.

## **22—Renewal of registration**

- (1) Subject to this Act, registration under this Act (not being provisional registration or registration for a limited period) remains in force until 31 December next ensuing after the grant of registration and may from time to time be renewed for successive periods of one year expiring on 31 December.
- (2) An application for renewal of registration under this Act must be made to the Board in the prescribed manner and form.
- (3) The application must be delivered to the Registrar not earlier than 1 October and not later than 30 November preceding the end of the registration period, but the Board may, if it thinks fit, determine an application notwithstanding that it is delivered out of time.
- (4) Where due application is made for renewal of registration under this Act, the Board must, on payment of the prescribed renewal fee, renew the registration.

## **23—Register**

- (1) The Registrar must keep a register of chiropractors.
- (2) The Registrar must, on payment of the prescribed fee, enter on the register any new or additional qualifications of a prescribed kind that have been acquired by a registered chiropractor.
- (3) The Registrar must cause to be removed from the register the name of a registered chiropractor who dies or ceases for any reason to be registered under this Act.
- (4) The Registrar must correct any entry in the register that is not, or has ceased to be, correct.
- (5) The Registrar must, on payment of the prescribed fee, make the register available for inspection.

## **24—Certificates of registration**

The Registrar must, on request and payment of the prescribed fee, issue a duplicate registration certificate or any other certificate setting out information contained in the register.

## **Division 3—The practice of chiropractic**

### **25—Obligation to be registered**

- (1) Subject to subsection (2), a person must not practise chiropractic for fee or reward unless—
  - (a) that person is registered under this Act; or

- (b) that person practises chiropractic, under the supervision of a registered chiropractor, in connection with a prescribed course of training.

Penalty: Division 5 fine or division 7 imprisonment.

- (2) Nothing done by a legally qualified medical practitioner or a registered physiotherapist in the ordinary course of professional practice constitutes the practice of chiropractic.

## **26—Illegal holding out**

- (1) A person who is not registered under this Act must not hold himself or herself out, or permit another person to hold him or her out, as being so registered.

Penalty: Division 5 fine or division 7 imprisonment.

- (2) A person must not hold out another as being registered under this Act unless that other person is so registered.

Penalty: Division 5 fine or division 7 imprisonment.

## **27—Use of certain titles or descriptions prohibited**

- (1) Subject to this section, a person who is not registered under this Act must not use a prescribed word, or its derivatives, to describe himself or herself or a service that he or she provides.

Penalty: Division 7 fine.

- (2) Subject to this section, a person must not, in the course of advertising or promoting a service that he or she provides, use a prescribed word, or its derivatives, to describe a person who is engaged in the provision of the service but who is not registered under this Act.

Penalty: Division 7 fine.

- (3) In this section—

*prescribed word* means—

- (a) chiropractor;
- (b) osteopath;
- (c) spinal therapist;
- (d) manipulative therapist;
- (e) any other word or expression prescribed by the regulations.

- (4) Nothing in this section prevents a registered physiotherapist from using, or being described under, the title "manipulative therapist".

## **28—Board's approval required if chiropractor has not practised for five years**

- (1) A registered chiropractor who has not practised chiropractic for five years or more must not practise chiropractic for fee or reward without first obtaining the approval of the Board.

Penalty: Division 5 fine.

**Chiropractors Act 1991—25.6.1992 to 26.7.2006—repealed**

Part 3—Registration and practice

Division 3—The practice of chiropractic

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- (2) The Board may, before granting its approval under subsection (1), require the chiropractor to undertake a refresher course or to obtain specified qualifications or experience.
- (3) An approval under subsection (1) may be subject to conditions restricting the chiropractor's right to practise.
- (4) A person must not contravene or fail to comply with a condition imposed under subsection (3).

Penalty: Division 5 fine.

**29—Practitioners to be indemnified against loss**

- (1) A person must not practise as a chiropractor unless—
  - (a) an agreement subsists between the chiropractor and a person approved by the Board; and
  - (b) the Board is satisfied that, by virtue of the agreement, the chiropractor will be compensated to the extent required by the Board in the event that he or she suffers loss by reason of civil liability incurred in the practice of chiropractic.

Penalty: Division 5 fine.

- (2) The Board may, upon such conditions as it thinks fit, exempt a chiropractor or a class of chiropractors from the requirements of this section and may, whenever it thinks fit, revoke an exemption or vary the conditions under which an exemption operates.

**30—Information relating to claim against a chiropractor to be provided**

Where a person has claimed damages or other compensation from a registered chiropractor for alleged negligence committed in the course of practice as a chiropractor, the chiropractor concerned must, within 30 days after—

- (a) a court has ordered the chiropractor to pay damages or other compensation in respect of the claim; or
- (b) an agreement is entered into to pay a sum of money in settlement of the claim (whether with or without a denial of liability),

provide the Board with prescribed information relating to the claim.

Penalty: Division 5 fine.

**Division 4—Special obligations of registered companies**

**31—Company to comply with stipulations required by Act**

- (1) If a provision required by this Act to be included in the memorandum or articles of association of a company registered under this Act is not complied with, the company must, within 14 days, report the non-compliance to the Board.  
Penalty: Division 7 fine.
- (2) The Board may give such directions as are necessary to secure compliance with the provision.

- (3) The registration of a company that has received a direction from the Board under subsection (2) will, if the company has not satisfied the Board that it has complied with the direction, be suspended from the expiration of the time allowed by the Board for compliance with the direction and will remain suspended until the company satisfies the Board that it has complied with the direction.

### **32—Alteration to memorandum or articles of association**

A company registered under this Act must not alter its memorandum or articles of association unless the proposed alteration has been submitted to, and approved by, the Board or is made in pursuance of a direction by the Board.

Penalty: Division 7 fine.

### **33—Companies not to practise in partnership**

A company registered under this Act must not practise in partnership with any other person unless it has been authorised to do so by the Board.

Penalty: Division 7 fine.

### **34—Employment of registered persons by company**

- (1) A company registered under this Act must not, without the approval of the Board, employ more registered chiropractors than twice the number of directors of the company.  
Penalty: Division 7 fine.
- (2) For the purposes of subsection (1), a person who is both an employee and director of the company will not be counted as an employee.
- (3) An approval of the Board under subsection (1)—
  - (a) must be in writing; and
  - (b) may be absolute or conditional; and
  - (c) may be varied or revoked by the Board at any time.

### **35—Joint and several liability**

Any civil liability incurred by a company registered under this Act is enforceable jointly and severally against the company and the persons who were directors at the time the liability was incurred.

### **36—Return by companies**

- (1) A company registered under this Act must, within one month after a person becomes or ceases to be a director or member of the company, lodge with the Board a notice in writing of that fact stating the name and residential address of that person.  
Penalty: Division 7 fine.
- (2) A company registered under this Act must lodge with the Board in July of each year a return in the form approved by the Board containing the information required by the Board.  
Penalty: Division 7 fine.

## Part 4—Investigations and inquiries

### Division 1—Investigations

#### 37—Powers of inspectors

- (1) If the Board has reasonable grounds to suspect—
  - (a) that an unregistered person may have practised chiropractic for fee or reward; or
  - (b) that there is proper cause for disciplinary action against a registered chiropractor; or
  - (c) that a registered chiropractor may be mentally or physically unfit to practise as a chiropractor,an inspector may investigate the matter.
- (2) For the purposes of an investigation, an inspector may—
  - (a) enter premises of a registered chiropractor, or of a person suspected of unlawfully practising chiropractic;
  - (b) put questions to persons on the premises;
  - (c) if the inspector reasonably suspects that an offence against this Act has been committed, seize and remove any object that, in the opinion of the inspector, affords evidence of the offence.

#### 38—Offences relating to investigations

- (1) Subject to subsection (2), a person who—
  - (a) hinders or obstructs an inspector in the exercise of a power conferred by this Act; or
  - (b) refuses or fails to answer truthfully questions put by an inspector pursuant to this Act,is guilty of an offence.  
Penalty: Division 7 fine.
- (2) A person is not required to answer a question put by an inspector if the answer would tend to incriminate him or her of an offence.

#### 39—Obligation to report incapacity

Where a medical practitioner is treating a registered chiropractor in relation to an illness that, in the opinion of the medical practitioner, has resulted in or is likely to result in mental or physical incapacity that seriously impairs, or may seriously impair, the chiropractor's ability to practise chiropractic, the medical practitioner must submit a written report to the Board stating—

- (a) the reasons for that opinion; and
- (b) the views (if known) of any other medical practitioner in relation to the matter; and

- (c) all other prescribed information.

Penalty: Division 7 fine.

#### **40—Investigation of mental or physical capacity**

- (1) If the Board has reason to suspect that a registered chiropractor may be mentally or physically unfit to practise chiropractic or to exercise an unrestricted right of practice, the Board may, by notice in writing, require the chiropractor to submit to an examination by a medical practitioner nominated in the notice on or before a date specified in the notice.
- (2) If a registered chiropractor fails to comply with a requirement under subsection (1), the registration is suspended until the requirement is complied with.

### **Division 2—Inquiries**

#### **41—Inquiries**

- (1) The Board may, on its own initiative or on receipt of a complaint, conduct an inquiry in order to determine—
  - (a) whether a registered chiropractor is mentally or physically unfit to practise chiropractic or to exercise an unrestricted right of practice; or
  - (b) whether there is proper cause for disciplinary action against a registered chiropractor.
- (2) The Board may decline to inquire into a complaint if it considers the complaint frivolous or vexatious.
- (3) If after conducting an inquiry the Board is satisfied that a registered chiropractor is mentally or physically unfit to practise chiropractic or to exercise an unrestricted right of practice, the Board may—
  - (a) impose conditions restricting the right of practice; or
  - (b) suspend the registration for a period not exceeding three years; or
  - (c) cancel the registration.
- (4) If after conducting an inquiry the Board is satisfied that there is proper cause for disciplinary action against a registered chiropractor, the Board may exercise any one or more of the following powers:
  - (a) it may reprimand the chiropractor; or
  - (b) it may impose a division 5 fine; or
  - (c) it may impose conditions restricting the right of practice; or
  - (d) it may suspend the registration for a period not exceeding three years; or
  - (e) it may cancel the registration.
- (5) A registered chiropractor must not contravene or fail to comply with a condition imposed under this section.  
Penalty: Division 5 fine.
- (6) A fine imposed under this section by the Board may be recovered as a debt due to the Board.

- (7) There is proper cause for disciplinary action against a registered chiropractor if—
  - (a) the registration was obtained improperly;
  - (b) the chiropractor has been convicted, or is guilty, of an offence against this Act, an offence involving dishonesty or an offence punishable by imprisonment for one year or more;
  - (c) the chiropractor is guilty of unprofessional conduct.
- (8) Disciplinary action may be taken under this section against a person who was registered as a chiropractor when the cause for disciplinary action arose but has since ceased to be registered as a chiropractor.

#### **42—Procedure in relation to inquiries**

- (1) The Board must give to a person in relation to whom an inquiry is to be held, and to any person on whose complaint an inquiry is to be held, not less than 14 days written notice of the time and place at which it intends to conduct the inquiry.
- (2) A person to whom notice has been given pursuant to subsection (1) may be represented by counsel at the inquiry and must be allowed a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.
- (3) If a person to whom a notice has been given under subsection (1) does not attend at the time and place fixed by the notice the Board may hold the inquiry in his or her absence.
- (4) The Board is not bound by the rules of evidence and may inform itself upon any matter as it thinks fit.
- (5) The Board must act according to equity, good conscience and the substantial merits of the case.
- (6) The procedure at an inquiry will be as determined by the Board.

#### **43—Powers of the Board**

- (1) For the purposes of an inquiry under this Part, the Board may—
  - (a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of any person whom the Board thinks fit to call before it; or
  - (b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of any relevant records, documents or equipment and, in the case of a document or record that is not in the English language, require the production of a written statement in the English language of the contents of the document or record; or
  - (c) inspect any documents, records or equipment produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or
  - (d) require any person to make an oath or affirmation (which may be administered by any member of the Board) to answer truthfully questions put by any member of the Board or any person appearing before the Board; or



- (e) require any person appearing before the Board (whether summoned to appear or not) to answer any questions put by any member of the Board or by any person appearing before the Board.
- (2) Subject to subsection (3), a person—
- (a) who fails without reasonable excuse to comply with a summons issued to attend, or to produce documents, records or equipment, before the Board; or
  - (b) who, having been served with a summons to produce a written statement of the contents of a document or record in the English language fails, without reasonable excuse, to comply with the summons or produces a statement that he or she knows, or ought to know, is false or misleading in a material particular; or
  - (c) who misbehaves before the Board, wilfully insults the Board or one or more of the members in the exercise of the member's official duties, or interrupts the proceedings of the Board; or
  - (d) who refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Board,

is guilty of an offence.

Penalty: Division 5 fine or division 7 imprisonment.

- (3) A person is not required to answer a question put by the Board or to produce records or a statement if the answer to the question, or the contents of the record or statement, would tend to incriminate him or her of an offence.
- (4) In the course of an inquiry, the Board may—
  - (a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact that it considers proper; or
  - (b) adopt, as in its discretion it considers proper, any finding, decision or judgment of a court that may be relevant to the proceedings.

#### **44—Costs**

- (1) The Board may order a party to an inquiry to pay such amount as the Board considers just and reasonable towards the costs of any other party to the inquiry.
- (2) A party who is dissatisfied with the Board's assessment of costs may request a Master of the Supreme Court to tax the costs and the Master may confirm or vary the assessment.
- (3) Subject to this section, where the Board orders a party to pay costs, those costs may be recovered as a debt.

## **Division 3—Consequences of action against registered chiropractors in other jurisdictions**

### **45—Consequences of action against registered chiropractors in other jurisdictions**

- (1) Where, in consequence of action taken against a registered chiropractor in another State or a Territory of the Commonwealth, a registered chiropractor's right to practise chiropractic in that State or Territory is suspended or cancelled, the registration of the chiropractor under this Act is, unless the Board otherwise determines, automatically suspended or cancelled.
- (2) Where such a chiropractor is reinstated on the register in the other State or Territory, the chiropractor is, until the Board determines otherwise, automatically reinstated on the register in this State.

## **Part 5—Appeals**

### **46—Appeal**

- (1) A right of appeal to the Supreme Court lies against any decision or order of the Board made in the exercise or purported exercise of its powers or functions under this Act.
- (2) The appeal must be instituted within one month of the making of the decision or order appealed against.
- (3) The Supreme Court may, on the hearing of the appeal, exercise any one or more of the following powers, according to the nature of the case:
  - (a) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, any decision or order that should have been made in the first instance;
  - (b) remit the subject matter of the appeal to the Board for further hearing or consideration or for re-hearing;
  - (c) make any further or other order as to costs or any other matter that the case requires.
- (4) The Board must, if so required by a person affected by a decision or order made by it, state in writing the reasons for its decision or order.
- (5) If the reasons of the Board are not given in writing at the time of making a decision or order and the appellant within one month of the making of the decision or order requests the Board to state its reasons in writing, the time for instituting the appeal will run from the time when the appellant receives the written statement of those reasons.

### **47—Operation of order may be suspended**

- (1) Where an order has been made by the Board, and the Board or the Supreme Court is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.

- (2) Where the Board has suspended the operation of an order under subsection (1), the Board may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

## **Part 6—Miscellaneous**

### **48—Offences by a body corporate**

- (1) Where a body corporate is guilty of an offence against this Act, every responsible officer of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the officer could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.
- (2) In this section—  
*responsible officer* means—
  - (a) a director or secretary of the body corporate; or
  - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
  - (c) a person concerned in the management of the body corporate.

### **49—Protection from personal liability**

- (1) No personal liability attaches to—
  - (a) a member of the Board; or
  - (b) the Registrar or any other member of the Board's staff; or
  - (c) an inspector,for an act or omission by that person or the Board in good faith in the exercise or discharge, or purported exercise or discharge, of powers, duties or functions under this Act.
- (2) A liability that would, but for subsection (1), lie against a person lies against the Crown.

### **50—Evidentiary provision**

- (1) In any legal proceedings a certificate under the hand of the Registrar that any person was or was not registered under this Act at a specified date or as to any matter contained in a register is, in the absence of proof to the contrary, proof of the matter so certified.
- (2) A document purporting to be a certificate under subsection (1) will, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

### **51—Service of documents and notices**

A notice to be given under this Act may be served by post.

### **52—Summary offences**

- (1) Offences against this Act are summary offences.

- (2) Proceedings for an offence against this Act may be commenced within two years after the date on which the offence is alleged to have been committed.

### **53—Punishment of conduct that constitutes an offence**

Where conduct constitutes an offence and is also a ground for disciplinary action under this Act, the taking of disciplinary action under this Act is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Act.

### **54—Application of fines**

A fine imposed for an offence against this Act must be paid to the Board.

### **55—Regulations**

- (1) The Governor may make such regulations as are necessary or expedient for the purposes of, or as are contemplated by, this Act.
- (2) Without limiting the generality of subsection (1) the regulations may—
- (a) prescribe and regulate the standard of premises and equipment to be used in the practice of chiropractic;
  - (b) regulate advertising by chiropractors in relation to the practice of chiropractic;
  - (c) regulate the conduct of chiropractors in connection with the practice of chiropractic;
  - (d) declare any conduct to be unprofessional;
  - (e) prescribe (or empower the Board to prescribe) fees or charges for the purposes of the Act and provide for the recovery of a fee or charge so prescribed;
  - (f) exempt (conditionally or unconditionally) specified persons, or persons of a specified class, from the provisions, or any specified provisions, of this Act;
  - (g) prescribe fines not exceeding a division 7 fine for contravention of any regulation.

### **Schedule—Transitional provisions**

- 1 The offices of all members of the Board become vacant on the commencement of this Act.
- 2 A person registered as a chiropractor under the repealed Act immediately before the commencement of this Act will be taken to have been registered under this Act as if this Act had been in force when the registration was granted.
- 3 The Registrar and the other officers and employees of the Board holding office or employed under the repealed Act immediately before the commencement of this Act will continue in office or employment under this Act as if this Act had been in force when they were appointed or employed.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Repeal of Act

The *Chiropractors Act 1991* was repealed by Sch 1 cl 1 of the *Chiropractic and Osteopathy Practice Act 2005* on 27.7.2006.

### Legislation repealed by principal Act

The *Chiropractors Act 1991* repealed the following:

*Chiropractors Act 1979*

### Principal Act

| Year | No | Title                         | Assent    | Commencement                                |
|------|----|-------------------------------|-----------|---|
| 1991 | 6  | <i>Chiropractors Act 1991</i> | 28.3.1991 | 25.6.1992 ( <i>Gazette</i> 25.6.1992 p1883) |

### Provisions amended

Entries that relate to provisions that have been deleted appear in italics.

| Provision         | How varied   | Commencement |
|-------------------|--|--------------|
| Long title        | amended under <i>Legislation Revision and Publication Act 2002</i> | §            |
| Pt 1              |  |              |
| <i>ss 2 and 3</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | §            |

### Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

| Division | Maximum imprisonment | Maximum fine | Expiation fee |
|----------|----------------------|--------------|---------------|
| 1        | 15 years             | \$60 000     | —             |
| 2        | 10 years             | \$40 000     | —             |
| 3        | 7 years              | \$30 000     | —             |
| 4        | 4 years              | \$15 000     | —             |
| 5        | 2 years              | \$8 000      | —             |
| 6        | 1 year               | \$4 000      | \$300         |
| 7        | 6 months             | \$2 000      | \$200         |

**Chiropractors Act 1991—25.6.1992 to 26.7.2006—repealed**  
Appendix—Divisional penalties and expiation fees

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| <b>Division</b> | <b>Maximum imprisonment</b> | <b>Maximum fine</b> | <b>Expiation fee</b> |
|-----------------|-----------------------------|---------------------|----------------------|
| 8               | 3 months                    | \$1 000             | \$150                |
| 9               | —                           | \$500               | \$100                |
| 10              | —                           | \$200               | \$75                 |
| 11              | —                           | \$100               | \$50                 |
| 12              | —                           | \$50                | \$25                 |

*Note: This appendix is provided for convenience of reference only.*