

(Reprint No. 2)

SOUTH AUSTRALIA

**DENTISTS ACT 1984**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 January 1994.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# DENTISTS ACT 1984

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Dentists Act 1984 No. 51 of 1984  
[Assented to 24 May 1984]<sup>1</sup>

as amended by

Dentists Act Amendment Act 1989 No. 61 of 1989 [Assented to 26 October 1989]

Statutes Amendment (Abolition of Compulsory Retirement) Act 1993 No. 75 of 1993 [Assented to 21 October 1993]<sup>2</sup>

<sup>1</sup> Came into operation (except ss. 40, 45-51 and 78) 22 August 1985: *Gaz.* 22 August 1985, p. 511; ss. 40, 45-51 came into operation 1 June 1988: *Gaz.* 26 May 1988, p. 1332; s. 78 had not been brought into operation at the date of this reprint.

<sup>2</sup> Came into operation 1 January 1994: s. 2.

*NOTE:*

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

**An Act to provide for the registration of dentists, clinical dental technicians and dental hygienists; to regulate the practice of dentistry for the purpose of maintaining high standards of competence and conduct by persons registered under this Act; to repeal the Dentists Act 1931; and for other purposes.**

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Dentists Act 1984*.

**Commencement**

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

**Repeal and transitional provision**

3. (1) The *Dentists Act 1931* is repealed.

(2) All property, rights and liabilities vested in or attached to the former board immediately before the commencement of subsection (1) shall, upon the commencement of that subsection, vest in or attach to the Board.

(3) A reference in an instrument (whether or not of a statutory nature) to the former board shall, where the context admits, be construed as a reference to the Board.

(4) A person registered as a dentist under the repealed Act immediately before the commencement of subsection (1) shall be deemed to have been registered on the general register under this Act on the conditions (if any) to which his registration was subject under the repealed Act and if he was registered under the repealed Act for a limited period his registration under this Act shall be subject to the same limitation.

(5) A person registered as a dental auxiliary under the repealed Act immediately before the commencement of subsection (1) shall be deemed to have been registered on the register of dental hygienists under this Act on the conditions (if any) to which his registration was subject under the repealed Act and if he was registered under the repealed Act for a limited period his registration under this Act shall be subject to the same limitation.

(6) The name of the person deemed to have been registered under this Act by virtue of subsection (4) or (5) shall, without payment of a registration fee, be entered in the appropriate register under this Act.

(7) The registration under this Act of a person who had given an undertaking (that was in force immediately before the commencement of subsection (1)) to the statutory committee pursuant to the repealed Act shall be subject to a condition requiring him to comply with that undertaking.

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(8) Where a person—

- (a) whose registration under the repealed Act was, immediately before the commencement of subsection (1), in a state of suspension; or
- (b) whose name was removed from a register under the repealed Act for any reason and whose name had not, before the commencement of subsection (1), been reinstated on that register,

applies for registration under this Act, the Board may deal with the application as though it were an application for reinstatement under this Act.

**Interpretation**

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

"**the Board**" means the Dental Board of South Australia established under this Act;

"**books**" includes papers, documents, films and other records;

"**clinical dental technician**" means a person whose name is registered on the register of clinical dental technicians under this Act;

"**clinical technical dentistry**" means the fitting of, and the taking of impressions or measurements for the purpose of fitting, dentures to a jaw—

- (a) in which there are no natural teeth or parts of natural teeth; and
- (b) where the jaw, gums and proximate tissue are not abnormal, diseased or suffering from a surgical or other wound;

"**the Committee**" means the Clinical Dental Technicians Registration Committee established under this Act;

"**company**" means a company incorporated under the law of this State;

"**dental hygienist**" means a person who is registered, or deemed to be registered, on the register of dental hygienists under this Act;

"**dental treatment**" includes—

- (a) advice, attendances, services, procedures and operations relating to the treatment of human teeth, gums, jaws and proximate tissue; and
- (b) the fitting of, and the taking of impressions or measurements for the purpose of fitting, dentures;

"**dentist**" means a general practitioner or a specialist;

"**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;

"**equipment**" includes appliances, instruments, dressings or substances used in or for the purpose of dentistry;

"**the former board**" means the Dental Board of South Australia established under the repealed Act;

"**general practitioner in dentistry**" or "**general practitioner**" means a person whose name is registered, or deemed to be registered, on the general register;

"**general register**" means the register maintained under this Act of persons qualified in accordance with this Act to practise in all branches of dentistry;

"**member**", when used in Division 1 of Part 2, means a member of the Board; when used in Division 2 of that Part, means a member of the Tribunal; and when used in Division 3 of that Part, means a member of the Committee;

"**prescribed relative**", in relation to a dentist or clinical dental technician, means a parent, spouse, child or grandchild of the dentist or clinical dental technician;

"**putative spouse**", in relation to a dentist or clinical dental technician, means a person who is cohabiting with the dentist or clinical dental technician as the husband or wife *de facto* of the dentist or clinical dental technician and—

- (a) who has so cohabited continuously over the last preceding period of five years, or for periods aggregating five years over the last preceding period of six years; or
- (b) who has had sexual relations with the dentist or clinical dental technician resulting in the birth of a child;

"**register**" means a register established under this Act;

"**registered person**" means a person who is registered under this Act;

"**Registrar**" means the person holding the office of registrar under this Act;

"**the repealed Act**" means the *Dentists Act 1931* repealed by this Act;

"**the Senior Judge**" means the person holding or acting in the office of Senior Judge under the *Local and District Criminal Courts Act 1926*;

"**specialist**" means a person whose name is registered on the specialist register:

"**specialist register of dentists**" or "**specialist register**" means the register maintained under this Act of persons whose qualifications and experience in a prescribed branch of dentistry are such as to entitle them to registration as specialists in that branch of dentistry;

"**spouse**" includes putative spouse;

"**the Tribunal**" means the Dental Professional Conduct Tribunal established under this Act;

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"unprofessional conduct" includes—

- (a) improper or unethical conduct in relation to the practice of dentistry; and
  - (b) incompetence or negligence in relation to the practice of dentistry; and
  - (c) a contravention of or failure to comply with—
    - (i) a provision of this Act; or
    - (ii) a condition imposed by or under this Act in relation to the registration of a person under this Act.
- (2) A reference in this Act to unprofessional conduct extends to—
- (a) unprofessional conduct committed before the commencement of this Act; and
  - (b) unprofessional conduct committed within or outside South Australia or the Commonwealth.

**PART 2  
ADMINISTRATION**

**DIVISION 1—THE DENTAL BOARD OF SOUTH AUSTRALIA**

**The Dental Board of South Australia**

**5.** (1) There shall be a board entitled the "Dental Board of South Australia".

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and being sued.

(3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed in legal proceedings, in the absence of proof to the contrary, that the document has been duly executed by the Board

**Membership of the Board**

**6.** (1) The Board shall consist of eight members appointed by the Governor of whom—

(a) four shall be nominated by the Minister; and

(b) three shall be dentists who have been nominated in the prescribed manner by a majority of dentists who vote on the question; and

(c) one shall be a dentist who has been nominated by the Council of The University of Adelaide.

(2) Of the members appointed on the nomination of the Minister—

(a) two shall be dentists at least one of whom is employed by the South Australian Dental Service Incorporated; and

(b) one shall be a legal practitioner; and

(c) one shall be a person who is neither a registered person nor a legal practitioner who has been selected by the Minister to represent the interests of persons receiving dental treatment.

(3) Every dentist shall be entitled to cast a vote in relation to the nomination of dentists for appointment to the Board pursuant to subsection (1)(b).

(4) A member shall be appointed for a term not exceeding three years upon such conditions as the Governor determines and at the expiration of his term of office shall be eligible for reappointment.

(5) The Governor may appoint a person to be a deputy of a member and the deputy may, if the member is absent or is unable to act for any other reason, act as a member of the Board.

(6) The requirements of qualification and nomination made by this section in relation to the appointment of a member extends to the appointment of his deputy.

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(7) The Governor may remove a member from office for—

- (a) a breach of or non-compliance with, the conditions of his appointment; or
- (b) mental or physical incapacity to carry out satisfactorily the duties of his office; or
- (c) neglect of duty; or
- (d) dishonourable conduct.

(8) The office of a member becomes vacant if—

- (a) he dies; or
- (b) his term of office expires; or

\* \* \* \* \*

- (d) he resigns by written notice to the Minister; or
- (e) he ceases to satisfy the qualification referred to in this section by virtue of which he was eligible for nomination; or
- (f) in the case of the member who is a legal practitioner or the member who is neither a registered person nor a legal practitioner, he ceases to be a member of the Clinical Dental Technicians Registration Committee; or
- (g) he is removed from office by the Governor pursuant to subsection (7).

(9) Subject to subsection (10), upon the office of a member becoming vacant, a person shall be appointed in accordance with this Act to the vacant office.

(10) Where the office of a member who was appointed pursuant to subsection (1)(b) becomes vacant during the term for which he was appointed, the Governor shall appoint a dentist nominated by the Australian Dental Association South Australian Branch Incorporated to the vacant office for the remainder of that term.

(11) A member of the Board who is one of the members constituting the Board for the purposes of proceedings under Division 1 of Part 4 and whose term of office expires before those proceedings have been completed may, for the purpose of continuing and completing those proceedings, continue to act as a member of the Board.

**The President**

7. The Minister shall, after consultation with the Board, appoint one of the members of the Board who is a dentist to be the President of the Board.

**Procedures at meetings of the Board**

8. (1) Five members shall constitute a quorum at a meeting of the Board.

(2) The President shall preside at a meeting of the Board at which he is present and, in the absence of the President from a meeting, the members present shall decide who is to preside at the meeting.

(3) A question arising before the Board shall be determined in accordance with the opinion of a majority of the members present.

(4) The Board shall cause accurate minutes to be kept of the business conducted at its meetings.

(5) Subject to this Act, the procedure for the calling of meetings of the Board and the conduct of business at meetings of the Board shall be determined by the Board.

#### **Validity of acts of Board and immunity of members**

**9.** (1) No act or proceeding of the Board shall be invalid by reason only of a vacancy in the office of a member, or a defect in the appointment of a member.

(2) No liability shall attach to a member or the Registrar for any act or omission by him, or by the Board, in good faith and in the exercise, or purported exercise, of his or its powers or functions or in the discharge, or purported discharge, of his or its duties under this Act.

(3) Any liability that would, but for subsection (2), attach to a member or the Registrar shall attach to the Crown.

#### **Personal or pecuniary interest of member**

**10.** 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.

#### **Remuneration, etc., of members**

**11.** A member shall be entitled to such remuneration, allowances and expenses as are determined by the Governor.

#### **Functions and powers of the Board**

**12.** (1) The Board shall exercise its functions under this Act with a view to achieving and maintaining the highest professional standards both of competence and conduct in the practice of dentistry in this State.

(2) The functions of the Board are as follows:

(a) to consult with appropriate authorities as to syllabuses and courses to enable persons wishing to apply for registration under this Act to acquire the necessary qualifications, experience and skill;

(b) to make recommendations to the Minister in relation to regulations prescribing the qualifications, experience and other requirements to be fulfilled by persons applying for registration under this Act;

(c) to make recommendations to the Minister in relation to the making of other regulations under this Act;

(d) to establish and maintain registers of persons qualified to practise dentistry in accordance with this Act;

(e) to carry out such other functions as are prescribed by this Act.

(3) For the purpose of carrying out its functions, the Board may—

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- (a) acquire, hold, deal with and dispose of real and personal property;
- (b) enter into any kind of contract or arrangement;
- (c) acquire or incur any other rights or liabilities;
- (d) exercise such other powers as are vested in it under this Act or are necessary for, or incidental to, the efficient discharge of its functions.

**Committees**

**13.** (1) The Board may establish committees to advise the Board on any matter related to the administration of this Act or 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.

**Delegation of functions and powers**

**14.** (1) The Board may delegate any of its functions or powers except those relating to proceedings under Part 4.

(2) A delegation under this section—

(a) may be made—

- (i) to a member, to the Registrar or to an employee of the Board; or
- (ii) to the Clinical Dental Technicians Registration Committee; or
- (iii) to a committee established by the Board under this Act; or

(b) may be made subject to such conditions as the Board thinks fit; and

(c) is revocable at will and 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 he has a personal interest or a direct or indirect pecuniary interest.

**Powers of the Board in relation to witnesses, etc.**

**15.** (1) For the purposes of proceedings before the Board (including an application for registration or reinstatement of registration), the Board may—

- (a) by summons signed on behalf of the Board by a member or the Registrar, require the appearance before the Board of any person or the production to the Board of any relevant books or equipment; or
- (b) inspect any books or equipment produced to it and retain them for such reasonable period as it thinks fit, and make copies of the books or of any of their contents; or

- (c) require a person appearing before the Board to make an oath or affirmation that he will truly answer all questions put to him relating to any matter in issue before the Board (which oath or affirmation may be administered by a member or the Registrar); or
- (d) require a person appearing before the Board to answer any relevant questions put to him by a member or by a party, or person appearing on behalf of a party, to a proceeding before the Board.

(2) Upon the receipt of an application for the issue of a summons under this section, a member or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.

(3) If a person—

- (a) who has been served with a summons to appear before the Board fails, without reasonable excuse, to appear in obedience to the summons; or
- (b) who has been served with a summons to produce relevant books or equipment fails, without reasonable excuse, to comply with the summons; or
- (c) misbehaves himself before the Board, wilfully insults the Board or any member of the Board or interrupts the proceedings of the Board; or
- (d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully any relevant question, when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars or imprisonment for three months.

(4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

(5) A person may be required to answer a question by the Board notwithstanding that the answer to that question might tend to incriminate him, or to produce any books or equipment notwithstanding that they might tend to incriminate him, but if that person objects to answering any question a note of that objection shall be taken down in the minutes of the proceedings, and the answer shall not be admissible against him in any criminal proceedings (except in proceedings for perjury).

### **Principles governing hearings**

**16.** (1) The Board is not bound by the rules of evidence and may inform itself upon any matter as it thinks fit.

(2) Subject to this Act, the procedure of the Board upon the hearing of proceedings under this Act shall be as determined by the Board.

(3) Upon the hearing of proceedings, the Board shall act according to equity, good conscience and the substantial merits of the case.

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**Representation at proceedings before the Board**

17. Subject to this Act, a party to proceedings before the Board (including an applicant for registration or reinstatement of registration) shall be entitled to be represented by a legal practitioner at the hearing of those proceedings.

**Costs**

18. (1) The Board may award such costs against a party to proceedings before it as the Board considers just and reasonable.

(2) If a party is dissatisfied with the amount of the costs fixed by the Board, he may request a master of the Supreme Court to tax the costs and, after taxing the costs, the master may confirm or vary the amount of the costs fixed by the Board.

(3) Subject to this section, costs awarded by the Board under this section may be recovered as a debt.

**Registrar**

19. (1) The Board shall appoint a suitable person, upon such conditions as it determines, to be the Registrar of the Board.

(2) The Board may employ such other persons as, in its opinion, are necessary to assist it in carrying out its functions under this Act.

**Accounts and audit**

20. (1) The Board shall cause proper accounts to be kept of its financial affairs.

(2) The accounts shall be audited at least once in every year by an auditor approved by the Auditor-General and appointed by the Board.

**Report**

21. (1) The Board shall, on or before the thirtieth day of September in each year, deliver to the Minister a report upon the administration of this Act during the period of twelve months that ended on the preceding thirtieth day of June.

(2) The report must incorporate the audited statement of accounts for the Board in relation to the relevant period.

(3) The Minister shall cause a copy of the report to be laid before each House of Parliament within three sitting days after it has been delivered to him.

**DIVISION 2—THE DENTAL PROFESSIONAL CONDUCT  
TRIBUNAL**

**The Dental Professional Conduct Tribunal**

22. There shall be a tribunal entitled the "Dental Professional Conduct Tribunal".

**Membership of the Tribunal**

23. (1) The Tribunal shall consist of seven members appointed by the Governor on the nomination of the Minister.

(2) Of the members so appointed—

- (a) one (who shall be the chairman of the Tribunal) shall be—
  - (i) a person holding judicial office under the *Local and District Criminal Courts Act 1926* who has been nominated by the Senior Judge; or
  - (ii) a special magistrate; or
  - (iii) a legal practitioner of not less than ten years standing; and
- (b) three shall be dentists; and
- (c) one shall be a person selected by the Minister to represent the interests of clinical dental technicians; and
- (d) one shall be a dental hygienist; and
- (e) one shall be a person who is neither a registered person nor a legal practitioner who has been selected by the Minister to represent the interests of persons receiving dental treatment.

(3) Of the dentists nominated by the Minister pursuant to subsection (2)(b), two shall be selected by the Minister from a list of five dentists submitted to him by the Australian Dental Association South Australian Branch Incorporated.

(4) A member shall be appointed for a term not exceeding three years and upon such conditions as the Governor determines and at the expiration of his term of office shall be eligible for reappointment.

(5) The Governor may appoint a person to be a deputy of a member and the deputy may, if the member is absent or is unable to act for any other reason, act as a member of the Tribunal.

(6) The requirements of qualification and nomination made by this section in relation to the appointment of a member extends to the appointment of his deputy.

- (7) The Governor may remove a member from office for—
- (a) a breach of, or non-compliance with, the conditions of his appointment; or
  - (b) mental or physical incapacity to carry out satisfactorily the duties of his office; or
  - (c) neglect of duty; or
  - (d) dishonourable conduct.

(8) The office of a member becomes vacant if—

- (a) he dies; or
- (b) his term of office expires; or

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- (d) he resigns by written notice to the Minister; or
- (e) he ceases to satisfy the qualification referred to in this section by virtue of which he was eligible for nomination; or
- (f) he is removed from office by the Governor pursuant to subsection (7).

(9) Upon the office of a member becoming vacant, a person shall be appointed in accordance with this Act to the vacant office.

(10) A member who is one of the members constituting the Tribunal for the purpose of proceedings and whose term of office expires before those proceedings have been completed may, for the purpose of continuing and completing those proceedings, continue to act as a member of the Tribunal.

**Constitution of the Tribunal**

**24.** (1) The Tribunal shall be constituted, for the purpose of hearing and determining proceedings, of the chairman and not less than two other members.

(2) The members of the Tribunal constituting the Tribunal for the purpose of hearing and determining proceedings against a dentist may include only the chairman, the members who are dentists and the member who is neither a registered person nor a legal practitioner.

(3) The members of the Tribunal constituting the Tribunal for the purpose of hearing and determining proceedings against—

- (a) a clinical dental technician shall include a member who is a clinical dental technician; and
- (b) a dental hygienist shall include a member who is a dental hygienist.

(4) The jurisdiction of the Tribunal may be exercised by the chairman for the purpose of adjourning any proceedings.

**How decisions of the Tribunal to be arrived at**

**25.** A question arising before the Tribunal shall be determined in accordance with the opinion of a majority of the members constituting the Tribunal or, where they are equally divided in opinion, in accordance with the opinion of the chairman.

**Validity of acts of Tribunal and immunity of members**

**26.** (1) No act or proceeding of the Tribunal shall be invalid by reason only of a vacancy in the office of a member, or a defect in the appointment of a member.

(2) No liability shall attach to a member for any act or omission by him, or by the Tribunal, in good faith and in the exercise, or purported exercise, of his or its powers or functions or in the discharge, or purported discharge, of his or its duties under this Act.

(3) Any liability that would, but for subsection (2), attach to a member shall attach to the Crown.

**Personal or pecuniary interest of member**

27. A member who has a personal interest or a direct or indirect pecuniary interest in a proceeding before the Tribunal is disqualified from sitting at the hearing.

**Remuneration, etc., of members**

28. A member shall be entitled to such remuneration, allowances and expenses as are determined by the Governor.

**DIVISION 3—THE CLINICAL DENTAL TECHNICIANS  
REGISTRATION COMMITTEE**

**The Clinical Dental Technicians Registration Committee**

29. (1) There shall be a committee entitled the "Clinical Dental Technicians Registration Committee".

(2) The Committee shall consist of five members of whom—

- (a) one (who shall be the chairman of the Committee) shall be the member of the Board who is a legal practitioner; and
- (b) one shall be the member of the Board who is neither a registered person nor a legal practitioner; and
- (c) three shall be appointed by the Governor.

(3) Of the members appointed by the Governor—

- (a) one, who shall be one of the members of the Board who is a dentist, shall be nominated by the Board; and
- (b) two shall be persons nominated by the Minister to represent the interests of clinical dental technicians.

(4) A member appointed by the Governor shall be appointed for a term not exceeding three years upon such conditions as the Governor determines and at the expiration of his term of office shall be eligible for reappointment.

(5) The Governor may remove a member from office for—

- (a) a breach of or non-compliance with, the conditions of his appointment or of the conditions subject to which he holds office; or
- (b) mental or physical incapacity to carry out satisfactorily the duties of his office; or
- (c) neglect of duty; or
- (d) dishonourable conduct.

(6) The office of a member becomes vacant if—

- (a) he dies; or

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(b) in the case of a member who is also a member of the Board, he ceases to be a member of the Board; or

(c) his term of office expires; or

\* \* \* \* \*

(e) he resigns by written notice to the Minister; or

(f) he is removed from office by the Governor pursuant to subsection (5).

(7) Upon the office of a member who was appointed by the Governor becoming vacant, a person shall be appointed in accordance with this Act to the vacant office.

**Procedures at meetings of the Committee**

**30.** (1) Three members shall constitute a quorum at a meeting of the Committee.

(2) The chairman shall preside at a meeting of the Committee at which he is present and, in the absence of the chairman from a meeting, the members present shall decide who is to preside at the meeting.

(3) A question arising before the Committee shall be determined in accordance with the opinion of a majority of the members present or, where they are equally divided in opinion, in accordance with the opinion of the person presiding at the meeting.

(4) The Committee shall cause accurate minutes to be kept of the business conducted at its meetings.

(5) Subject to this Act, the procedure for the calling of meetings of the Committee and the conduct of business at meetings of the Committee shall be determined by the Committee.

**Validity of acts of Committee and immunity of members**

**31.** (1) No act or proceeding of the Committee shall be invalid by reason only of a vacancy in the office of a member, or a defect in the appointment of a member.

(2) No liability shall attach to a member for any act or omission by him, or by the Committee, in good faith and in the exercise, or purported exercise, of his or its powers or functions or in the discharge, or purported discharge, of his or its duties under this Act.

(3) Any liability that would, but for subsection (2), attach to a member shall attach to the Crown.

**Personal or pecuniary interest of member**

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

**Remuneration, etc., of members**

**33.** A member shall be entitled to such remuneration, allowances and expenses as are determined by the Governor.

**Powers and functions of the Committee**

**34.** (1) The Committee shall, on behalf of the Board, consider and determine all applications to the Board by natural persons wishing to be registered or reinstated as clinical dental technicians.

(2) For the purpose of considering and determining an application referred to in subsection (1), the Committee may exercise the powers of the Board.

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**PART 3  
REGISTRATION**

**DIVISION 1—RESTRICTIONS RELATING TO THE  
PRACTICE OF DENTISTRY BY UNREGISTERED PERSONS**

**Illegal holding out as dentists**

**35.** (1) No person shall hold himself out or permit another person to hold him out as a general practitioner in dentistry or as a specialist unless he is registered on the general register of dentists or on the specialist register of dentists respectively.

Penalty: Five thousand dollars or imprisonment for six months.

(2) No person shall hold out another person as a general practitioner in dentistry or as a specialist unless that other person is registered on the general register of dentists or on the specialist register of dentists respectively.

Penalty: Five thousand dollars or imprisonment for six months.

**Illegal holding out as clinical dental technician**

**36.** (1) No person shall hold himself out or permit another person to hold him out as a clinical dental technician unless he is registered on the register of clinical dental technicians under this Act.

Penalty: Five thousand dollars or imprisonment for six months.

(2) No person shall hold out another person as a clinical dental technician unless that other person is registered on the register of clinical dental technicians under this Act.

Penalty: Five thousand dollars or imprisonment for six months.

**Illegal holding out as dental hygienist**

**37.** (1) No person shall hold himself out or permit another person to hold him out as a dental hygienist unless he is registered on the register of dental hygienists under this Act.

Penalty: Five thousand dollars or imprisonment for six months.

(2) No person shall hold out another person as a dental hygienist unless that other person is registered on the register of dental hygienists under this Act.

Penalty: Five thousand dollars or imprisonment for six months.

**Restriction of provision of dental treatment by unqualified persons**

**38.** (1) A person must not provide dental treatment for fee or reward unless he was, at the time at which he provided the treatment, a qualified person and—

(a) in the case of a natural person—he provided the treatment personally; or

(b) in the case of a company—the treatment was provided by a natural person who was, at that time, a qualified person.

Penalty: Five thousand dollars or imprisonment for six months.

(2) Subsection (1) does not apply to dental treatment—

- (a) provided by a dentist through the instrumentality of a qualified person; or
- (b) provided by an unqualified person if the treatment was provided through the instrumentality of a qualified person in prescribed circumstances.

(3) For the purposes of this section—

"**qualified person**", in relation to dental treatment, means—

- (a) a person who is registered on the general register; or
- (b) a person who is registered on the specialist register as a specialist in the branch of dentistry to which that treatment belongs; or
- (c) a person authorised by or under this Act or any other Act to provide that treatment; or
- (d) a person registered under this Act or any other Act as a person qualified, in the circumstances under which the treatment is provided, to provide that treatment.

## **DIVISION 2—REGISTRATION OF DENTISTS**

### **Registration on the general register**

**39.** A natural person who satisfies the Board that he—

- (a) has prescribed qualifications and experience; and
- (b) fulfils all other prescribed requirements; and
- (c) is a fit and proper person to be registered on the general register,

shall, subject to this Act, be registered on that register.

### **Registration on the specialist register**

**40.** (1) A natural person who satisfies the Board that he—

- (a) has prescribed qualifications and experience; and
- (b) fulfils all other prescribed requirements; and
- (c) is a fit and proper person to be registered on the specialist register,

shall, subject to this Act, be registered on that register.

(2) The Governor may, on the recommendation of the Board, prescribe the branches of dentistry in relation to which a person may be registered as a specialist under this section.

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(3) Without the written authorisation of the Board, a specialist shall not provide dental treatment in any branch of dentistry other than the branch in which he is registered as a specialist.

Penalty: Five thousand dollars.

(4) The Board may, subject to such conditions as it thinks fit, authorise a specialist to provide dental treatment in all branches of dentistry or in specified branches of dentistry other than those in which he is registered as a specialist and may vary or revoke an authorisation, or a condition to which it is subject, at any time.

**DIVISION 3—REGISTRATION OF CLINICAL DENTAL TECHNICIANS**

**Registration of clinical dental technicians**

**41.** (1) A natural person who satisfies the Board that he—

- (a) has prescribed qualifications and experience; and
- (b) fulfils all other prescribed requirements; and
- (c) is a fit and proper person to be registered as a clinical dental technician,

shall, subject to this Act, be registered on the register of clinical dental technicians.

(2) A clinical dental technician shall not provide dental treatment other than the fitting of and the taking of impressions or measurements for the purpose of fitting, dentures to a jaw—

- (a) in which there are no natural teeth or parts of natural teeth; and
- (b) where the jaw, gums and proximate tissue are not abnormal, diseased or suffering from a surgical or other wound.

Penalty: Five thousand dollars.

(3) An application by a natural person for registration, or reinstatement of registration, as a clinical dental technician shall be considered and determined by the Clinical Dental Technicians Registration Committee on behalf of the Board.

**DIVISION 4—REGISTRATION OF DENTAL HYGIENISTS**

**Registration of dental hygienists**

**42.** (1) A natural person who satisfies the Board that he—

- (a) has prescribed qualifications and experience; and
- (b) fulfils all other prescribed requirements; and
- (c) is a fit and proper person to be registered as a dental hygienist,

shall, subject to this Act, be registered on the register of dental hygienists.

(2) Dental treatment provided by a dental hygienist shall be provided subject to any restrictions or conditions prescribed by regulation.

(3) A dental hygienist who contravenes or fails to comply with a regulation referred to in subsection (2) shall be guilty of an offence.

Penalty: Five thousand dollars.

#### **DIVISION 5—LIMITED REGISTRATION**

##### **Limited registration for the purpose of gaining experience or teaching, etc.**

**43.** (1) Where a person who applies for registration, or reinstatement of registration, on any register under this Act does not have the necessary qualifications or experience or does not fulfil the other requirements prescribed by or under this Act, the Board may register that person in pursuance of this section—

- (a) in order to enable him—
  - (i) to acquire the experience and skill required 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, his registration is in the public interest.

(2) Where a person applies for registration, or reinstatement of registration, on any register under this Act but has not satisfied the Board that he 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) An application referred to in subsection (1) or (2) may be granted by the Board subject to one or more of the following conditions:

- (a) a condition restricting the places or times at which the applicant may practise dentistry; or
- (b) a condition limiting the branches of dentistry in which he may practise; or
- (c) a condition limiting the period during which the registration will have effect; or
- (d) a condition requiring that he be supervised in his practise of dentistry by a particular person or by a person of a particular class; or
- (e) such other conditions as the Board thinks fit.

#### **DIVISION 6—PROVISIONAL REGISTRATION**

##### **Provisional registration**

**44.** (1) Where a person has applied for registration under this Act, the Registrar may, if in his opinion the Board is likely to grant the application, provisionally register the applicant.

(2) The provisional registration of a person registered pursuant to subsection (1) shall remain in force until the Board determines the application.

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(3) The registration by the Board under this Act of a person who was provisionally registered under this section shall have effect from the commencement of the provisional registration.

**DIVISION 7—PROVISIONS RELATING TO THE PRACTICE  
OF DENTISTRY BY COMPANIES**

**Registration of companies**

**45.** (1) A company may, subject to this Act, be registered on the general register or on the register of clinical dental technicians if it satisfies the Board—

- (a) that the memorandum and articles of association of the company contain stipulations to the following effect:
  - (i) in the case of a company that is to be registered as a dentist—
    - (A) the sole object of the company must be to practise the profession of dentistry;
    - (B) the directors of the company must be natural persons who are dentists (but where there are only two directors, one may be a dentist and the other may be a prescribed relative of that dentist);
    - (C) no share issued by the company, and no right to participate in the distribution of the profits of the company, is to be owned beneficially otherwise than by a dentist who is a director or employee of the company, or a prescribed relative of that dentist;
    - (D) the total voting rights exercisable at a meeting of the members of the company must be held by dentists who are directors or employees of the company; and
  - (ii) in the case of a company that is to be registered as a clinical dental technician—
    - (A) the sole object of the company must be to practise the profession of clinical technical dentistry;
    - (B) the directors of the company must be natural persons who are clinical dental technicians (but where there are only two directors, one may be a clinical dental technician and the other may be a prescribed relative of that clinical dental technician);
    - (C) no share issued by the company, and no right to participate in the distribution of the profits of the company, is to be owned beneficially otherwise than by a clinical dental technician who is a director or employee of the company, or a prescribed relative of that clinical dental technician;
    - (D) the total voting rights exercisable at a meeting of the members of the company must be held by clinical dental technicians who are directors or employees of the company; and

- (iii) in either case—
- (A) no director of the company may, without the approval of the Board, be a director of any other company that is registered under this section; and
- (B) where the right of a registered person and of his prescribed relatives to hold shares in the company ceases by virtue of that person ceasing to be a director or employee of the company, his shares and those of his prescribed relatives shall be redeemed by the company, distributed amongst the remaining members of the company, or transferred to a registered person who is to become a director or employee of the company, in accordance with the memorandum and articles of association of the company; and
- (C) the shares of a person who is a shareholder by virtue of being the spouse of a registered person shall—
- upon dissolution or annulment of his marriage with that person; or
  - in the case of a putative spouse, upon cessation of cohabitation with that person,
- 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 dentist or as a clinical dental technician, as the case requires.

(2) Where one or more of the stipulations required by this Act to be included in the memorandum and articles of association of a company registered under this Act are not complied with, the company shall, within fourteen days, report the non-compliance to the Board.

Penalty: One thousand dollars.

(3) After receiving a report under subsection (2), the Board may give such directions as are necessary to secure compliance with those stipulations.

(4) The registration of a company that has received a direction from the Board under subsection (3) shall, 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 shall remain suspended until the company satisfies the Board that it has complied with the direction.

#### Returns by companies

46. (1) Every company that is a dentist or a clinical dental technician shall—

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- (a) within one month after any person becomes or ceases to be a director or member of the company, lodge with the Board a notice stating the full name and usual residential address of that person and the fact that he has become or ceased to be such a director or member; and
- (b) in the month of July in each year, lodge with the Board a return that is in the prescribed form and that complies with the requirements of subsection (2).

Penalty: Two thousand dollars.

(2) The annual return shall state—

- (a) the full name and usual residential address of every person who on the thirtieth day of June preceding the lodging of the return was—
  - (i) a director or a member of the company; or
  - (ii) had a right to participate in the distribution of the profits of the company;
- (b) the number of shares in the company held by each such person and the number of votes that he is entitled to cast at a meeting of members of the company; and
- (c) in relation to each member, the qualification by virtue of which he is entitled to be a member of the company; and
- (d) all other prescribed information.

**Companies not to practise in partnership**

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

Penalty: One thousand dollars.

**Employment of registered persons by company**

**48.** (1) A company that is registered under this Act shall not, for the purpose of its dental practice, employ a number of registered persons greater than twice the number of directors of the company.

Penalty: One thousand dollars.

(2) In determining the number of registered persons in the employment of a company for the purposes of subsection (1), any persons who are both employees and directors of the company shall be disregarded.

**Criminal liability of directors**

**49.** Where a company that is registered under this Act commits an offence against this Act or against another Act, each person who was a director of the company at the time of the commission of the offence by the company shall be guilty of an offence and liable to the same penalty as that prescribed for the principal offence, unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the company.

**Joint and several liability**

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

**Alteration to memorandum or articles of association**

**51.** No alteration to the memorandum or articles of association of a company that is registered under this Act shall be made unless the proposed alteration has been submitted to, and approved by, the Board.

Penalty: One thousand dollars.

**DIVISION 8—GENERAL**

**Reinstatement of person on register**

**52.** (1) A person whose name has been removed from a register—

- (a) at his request; or
- (b) on his failure to pay the annual practice fee,

may apply to the Board at any time for the reinstatement of his name on the appropriate register.

(2) A person whose registration on a register has been suspended may apply to the Board for the reinstatement of his name on the appropriate register after the period of his suspension has expired.

(3) A person whose registration on a register has been cancelled for unprofessional conduct may apply to the Board for reinstatement of his name on the register, but not before the expiration of two years from the date of cancellation.

(4) Where a person applies for reinstatement of his name on a register, the Board shall, subject to subsection (5), grant the application if it is satisfied that—

- (a) the applicant has sufficient knowledge and experience of, and is able to exercise the necessary degree of skill required for, the practice of dentistry pursuant to that registration; and
- (b) he is a fit and proper person to be registered under this Act.

(5) Before granting an application under this section, the Board may require the applicant to obtain qualifications and experience specified by the Board and for that purpose may require the applicant to undertake a specified course of instruction and training in dentistry.

(6) Where a person's registration has been suspended by reason of his failure to reside in the Commonwealth, the Board may make his registration, after reinstatement, subject to such conditions relating to residence as it thinks fit.

**The registers**

**53.** (1) The registers shall be kept at the office of the Registrar and shall, during office hours, be available for inspection by any person on payment of the prescribed fee.

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(2) A registered person shall, within three months after changing his name or his address, inform the Registrar in writing of the change.

Penalty: One hundred dollars.

(3) The Registrar shall, in January of each year, cause a copy of the registers to be published in the *Gazette*.

(4) A certificate stating that a person was, at a particular time, registered on a particular register under this Act and purporting to be signed by the Registrar shall, in legal proceedings, in the absence of proof to the contrary, be accepted as proof of that registration.

**Fees**

**54.** (1) Subject to this Act, a person shall not be registered or reinstated on a register until he has paid the prescribed registration or reinstatement fee and the prescribed annual practice fee (if any).

(2) Every registered person shall, in each calendar year before the date fixed for that purpose by the Board, pay to the Board the prescribed annual practice fee and the Board may remove from the register the name of a person who fails to do so.

(3) The Governor may, by regulation, exempt a person or a class of persons from the obligation to pay a fee under this section.

**Removal from register on request**

**55.** The Registrar shall, at the request of a registered person, remove his name from the register.

**Person may not be registered on general and specialist registers at the same time**

**56.** A person shall not be registered on both the general and the specialist registers at the same time.

**Removal of name from register on suspension**

**57.** Upon the suspension of the registration of a person under this Act, his name shall be removed by the Registrar from the register.

**Information to be provided by registered person**

**58.** (1) The Board may, at any time, require a registered person to supply it with prescribed information relating to his employment and practice in the branch of dentistry in which he is entitled to practise.

(2) Information provided under this section may be included in the appropriate register.

(3) A person who fails to comply with a requirement under this section is guilty of an offence.

Penalty: One thousand dollars.

**PART 4  
PROCEEDINGS BEFORE THE BOARD AND THE TRIBUNAL**

**DIVISION 1—PROCEEDINGS BEFORE THE BOARD**

**Inquiries by the Board as to competence**

**59.** (1) A complaint alleging that within a period of two years immediately preceding the laying of the complaint a registered person has practised in a branch of dentistry without having or exercising sufficient knowledge, experience or skill may be laid before the Board by—

- (a) the Registrar; or
- (b) the Minister; or
- (c) the Australian Dental Association South Australian Branch Incorporated.

(2) Where a complaint has been laid under this section, the Board shall, unless it considers the complaint frivolous or vexatious, inquire into the subject matter of the complaint.

(3) If, after conducting an inquiry under this section, the Board is satisfied that the matters alleged in the complaint have been established, it may, by order, impose conditions restricting the right of the person against whom the complaint was laid to practise dentistry.

**Incapacity of registered person**

**60.** Where, on the application of—

- (a) the Registrar; or
- (b) the Minister; or
- (c) the Australian Dental Association South Australian Branch Incorporated,

the Board is satisfied that the ability of a registered person to practise dentistry is impaired by mental or physical incapacity to such an extent that it is desirable, in the public interest, that an order be made under this section, the Board may, by order, exercise one or both of the following powers:

- (d) suspend his registration until he has recovered from the incapacity or for such lesser period as the Board determines; or
- (e) impose conditions restricting his right to practise dentistry.

**Obligation to report unfitness**

**61.** (1) Where a medical practitioner is treating a patient who is a dentist, a clinical dental technician or a dental hygienist 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, his patient's ability to practise dentistry, he shall submit a written report to the Board stating—

- (a) his reasons for that opinion; and

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- (b) the views of any other medical practitioner in relation to the matter that are known to him; and
- (c) all other prescribed information.

Penalty: One thousand dollars.

- (2) The Board shall investigate a report made pursuant to subsection (1).

**Power to require registered person to submit to examination**

**62.** (1) For the purpose of inquiring into the mental or physical capacity of a registered person under this Division, the Board may (without derogation from its other powers under this Act) order him to submit to an examination by a medical practitioner appointed by the Board.

(2) The Board may suspend the registration of a person who fails to submit to an examination ordered by the Board under subsection (1) and that suspension shall remain in force until he submits to the examination.

**Inquiries by the Board in relation to unprofessional conduct**

**63.** (1) A complaint alleging unprofessional conduct on the part of a registered person may be laid before the Board by—

- (a) the Registrar, or
- (b) the Minister; or
- (c) the Australian Dental Association South Australian Branch Incorporated; or
- (d) a person who is aggrieved by conduct of the registered person or, where the person aggrieved is a child or is suffering from a mental or physical incapacity, by a person acting on his behalf.

(2) Where a complaint has been laid under this section, the Board shall, unless it considers the complaint frivolous or vexatious, inquire into the subject matter of the complaint.

(3) Where a complaint has been laid under this section by or on behalf of an aggrieved person and the Board is satisfied that the complaint arose from a misapprehension on the part of the complainant or from a misunderstanding between the parties, it may, before proceeding further with the hearing of the complaint, require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding.

(4) Where, in the course of conducting an inquiry under this section, the Board considers that the allegations or evidence against the registered person are sufficiently serious, it may terminate the proceedings under this section and itself lay a complaint against that person before the Tribunal in relation to those allegations or that evidence.

(5) If, after conducting an inquiry under this section, the Board is satisfied that proper cause to do so has been established, it may reprimand the person against whom the complaint was laid.

**Variation, etc., of conditions imposed by Board**

**64.** (1) The Board may, at any time, on application by a registered person, vary or revoke a condition imposed by the Board under this Part or under Part 3 or imposed by this Act, in relation to his registration under this Act.

(2) The Registrar, the Minister and the Australian Dental Association South Australian Branch Incorporated shall be entitled to appear and be heard on an application under this section.

**Suspension of registration of non-residents**

**65.** The Board may, on the application of the Registrar, suspend the registration of a person if the Board is satisfied that he has not resided in the Commonwealth for a period of twelve months immediately preceding the application and such a suspension shall remain in force until he once again resides in the Commonwealth.

**Provisions as to inquiries**

**66.** (1) The Board shall give to all of the parties to proceedings under this Division not less than fourteen days written notice of the time and place at which it intends to conduct the proceedings, and shall afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses and to make submissions to the Board.

(2) If a party to whom notice has been given pursuant to subsection (1) does not attend at the time and place fixed by the notice, the Board may proceed to hear and determine the complaint or application in the absence of that party.

(3) In the course of proceedings, the Board may—

- (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or Territory of the Commonwealth or of another country, and draw any conclusions of fact from the evidence that it considers proper;
- (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

**DIVISION 2—PROCEEDINGS BEFORE THE TRIBUNAL**

**Inquiries by Tribunal as to unprofessional conduct**

**67.** (1) A complaint alleging unprofessional conduct—

- (a) on the part of a registered person; or
- (b) on the part of a person who was at the relevant time a registered person,

may be laid before the Tribunal by the Board.

(2) Where a complaint has been laid under this section, the Tribunal shall inquire into the subject matter of the complaint.

(3) If, after conducting an inquiry under this section, the Tribunal is satisfied that the registered person or the person who was formerly registered under this Act is guilty of the unprofessional conduct alleged against him—

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- (a) it may, in the case of a registered person, exercise, by order, one or more of the following powers:
  - (i) reprimand him; or
  - (ii) order him to pay a fine not exceeding five thousand dollars; or
  - (iii) impose conditions restricting his right to practise dentistry; or
  - (iv) suspend his registration by removing his name from the appropriate register for a period not exceeding one year; or
  - (v) cancel his registration; or
- (b) it may, in the case of a person formerly registered under this Act, order him to pay a fine not exceeding five thousand dollars.

**Variation of conditions imposed by Tribunal**

**68.** (1) The Tribunal may, at any time, on application by a registered person, vary or revoke a condition imposed by the Tribunal in relation to his registration under this Act.

(2) The Board shall be entitled to appear and be heard on an application under this section.

**Suspension of registration pending determination of complaint**

**69.** Where—

- (a) a complaint has been laid before the Tribunal against a person who is registered under this Act and who was registered pursuant to legislation that corresponds to this Act in another State or Territory of the Commonwealth or in another country; and
- (b) the registration of that person in that other State, Territory or country was suspended or cancelled by reason of conduct that is the subject matter of the complaint before the Tribunal,

the Board may suspend his registration under this Act pending the determination of the complaint by the Tribunal.

**Provisions as to inquiries**

**70.** (1) The Tribunal shall give to the parties to proceedings under this Division not less than fourteen days written notice of the time and place at which it intends to conduct the proceedings, and shall afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses and to make submissions to the Tribunal.

(2) If a party to whom notice has been given pursuant to subsection (1) does not attend at the time and place fixed by the notice, the Tribunal may proceed to hear and determine the complaint in the absence of that party.

(3) The parties to proceedings under this Division shall be entitled to be represented at the proceedings by a legal practitioner.

**Principles governing hearings**

**71.** (1) The Tribunal is not bound by the rules of evidence and may inform itself upon any matter as it thinks fit.

(2) Subject to this Act, the procedure of the Tribunal upon the hearing of proceedings under this Act shall be as determined by the Tribunal.

(3) Upon the hearing of proceedings, the Tribunal shall act according to equity, good conscience and the substantial merits of the case.

**Powers of Tribunal**

**72.** (1) For the purposes of proceedings under this Division, the Tribunal may—

- (a) by summons signed on behalf of the Tribunal by a member of the Tribunal or by the Registrar, require the appearance before the Tribunal of any person or the production to the Tribunal of any relevant books or equipment; or
- (b) inspect any books or equipment produced to it and retain them for such reasonable period as it thinks fit, and make copies of the books or of any of their contents; or
- (c) require a person appearing before the Tribunal to make an oath or affirmation that he will truly answer all questions put to him relating to any matter in issue before the Tribunal (which oath or affirmation may be administered by a member of the Tribunal or the Registrar); or
- (d) require a person appearing before the Tribunal to answer any relevant question put to him by any member of the Tribunal or by a party or person appearing on behalf of a party to a proceeding before the Tribunal.

(2) Upon the receipt of an application for the issue of a summons under this section, a member of the Tribunal or the Registrar may, without referring the matter to the Tribunal, issue a summons on behalf of the Tribunal.

(3) If a person—

- (a) who has been served with a summons to appear before the Tribunal fails, without reasonable excuse, to appear in obedience to the summons; or
- (b) who has been served with a summons to produce relevant books or equipment fails, without reasonable excuse, to comply with the summons; or
- (c) misbehaves himself before the Tribunal, wilfully insults the Tribunal or any member of the Tribunal or interrupts the proceedings of the Tribunal; or
- (d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully any relevant question, when required to do so by the Tribunal,

he shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars or imprisonment for three months.

(4) A person who appears as a witness before the Tribunal has the same protection as a witness in proceedings before the Supreme Court.

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(5) If a person summoned as mentioned in subsection (1) fails to produce any books or equipment or to appear before the Tribunal as required by the summons or, having appeared, refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Tribunal, a certificate of the failure or refusal, signed by a member of the Tribunal or by the Registrar, may be filed in the Supreme Court.

(6) Where a certificate has been filed under subsection (5), a party requiring the production of books or equipment or the appearance of a person before the Tribunal may apply (either *ex parte* or on notice) to the Supreme Court for an order directing the production of the books or equipment or that that person attend, or be sworn or affirm, or answer questions (as the case may require) and on that application the Court may make such orders as it thinks fit (including orders for costs).

(7) A person may be required to answer a question by the Tribunal notwithstanding that the answer to that question might tend to incriminate him, or to produce any books or equipment notwithstanding that they might tend to incriminate him, but if that person objects to answering any question a note of that objection shall be taken down, and the answer shall not be admissible against him in any criminal proceedings (except in proceedings for perjury).

(8) In the course of an inquiry, the Tribunal may—

- (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or Territory of the Commonwealth or of another country, and draw any conclusions of fact from the evidence that it considers proper;
- (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

**Costs**

**73.** (1) The Tribunal may award such costs against a party to proceedings before it as the Tribunal considers just and reasonable.

(2) If a party is dissatisfied with the amount of the costs fixed by the Tribunal, he may request a master of the Supreme Court to tax the costs and, after taxing the costs, the master may confirm or vary the amount of the costs fixed by the Tribunal.

(3) Subject to this section, costs awarded by the Tribunal under this section may be recovered as a debt.

**Rules of the Tribunal**

**74.** The Tribunal may make rules for any of the following purposes:

- (a) regulating the practice and procedure of the Tribunal;
- (b) making any other provision that is necessary or expedient for carrying into effect the provisions of this Division relating to the Tribunal.

**PART 5**  
**APPEALS TO THE SUPREME COURT**

**Appeal to Supreme Court**

**75.** (1) Subject to subsection (2), a right of appeal to the Supreme Court lies against—

- (a) a refusal by the Board to register or to reinstate registration under this Act or the imposition by the Board of conditions in respect of registration; and
- (b) a reprimand or order administered or made by the Board or the Tribunal in proceedings under Part 4.

(2) An appeal must be instituted within sixty days of the date of the decision appealed against, but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be instituted within that time.

(3) The Supreme Court may, on the hearing of an appeal, exercise any one or more of the following powers:

- (a) affirm, vary or quash the decision, reprimand or order against which the appeal has been instituted and make any consequential or other order that may be just in the circumstances;
- (b) remit the subject matter of the appeal to the Board or the Tribunal (as the case may be) for further hearing or consideration or for rehearing;
- (c) make any order as to costs.

(4) When ordering the remission of the subject matter of an appeal to the Board or the Tribunal for rehearing, the Court may disqualify a member from rehearing the matter and, in that case, the deputy of that member may, if he is not also disqualified, take the place of that member for the purpose of the hearing.

**Operation of order may be suspended**

**76.** (1) Where an order has been made by the Board or the Tribunal, and an appeal against the order has been instituted, or is intended, the operation of the order may be suspended until the determination of the appeal.

(2) A suspension under subsection (1) may be terminated—

- (a) if the intended appeal is not in fact instituted; or
- (b) if the appeal is withdrawn or lapses.

(3) A suspension may be granted or terminated under this section—

- (a) where the order was made by the Board—by the Board; or
- (b) where the order was made by the Tribunal—by the Tribunal; or
- (c) in any case—by the Supreme Court.

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**Variation of conditions imposed by the Court**

77. (1) The Supreme Court may, at any time, on application by a registered person, vary or revoke a condition imposed by the Court in relation to his registration under this Act.

(2) The Board, the Minister and the Australian Dental Association South Australian Branch Incorporated shall be entitled to appear and be heard on an application under this section.

**PART 6  
MISCELLANEOUS**

***Practitioners to be indemnified against loss<sup>1</sup>***

**78.** (1) *A dentist or a clinical dental technician shall not practise as such unless he is insured in a manner and to an extent approved by the Board against civil liabilities that might be incurred by him in the course of his practice.*

*Penalty: Five thousand dollars.*

(2) *The Board may, subject to such conditions as it thinks fit, exempt a person, or a class of persons, from the requirements of this section and may, whenever it thinks fit, revoke an exemption or revoke or vary the conditions under which an exemption operates.*

**Penalty for breach of condition**

**79.** A person who contravenes, or fails to comply with, a condition imposed by or under this Act in relation to his registration under this Act is guilty of an offence.

Penalty: Five thousand dollars.

**Information relating to claim against a registered person to be provided**

**80.** Where a person has claimed damages or other compensation from a registered person for alleged negligence committed in the course of dental practice, the registered person concerned shall within thirty days after—

- (a) he is ordered by a court to pay damages or other compensation in respect of that claim;  
or
- (b) he agrees to pay a sum of money in settlement of that claim (whether with or without a denial of liability),

provide the Board with prescribed information relating to the claim.

Penalty: Five thousand dollars.

**Service**

**81.** A notice or other document that is required by this Act to be given or served on a registered person shall be properly given or served if it is sent by certified mail to him at his address appearing in the register.

**Procurement of registration by fraud**

**82.** A person who by fraud or any other dishonest means procures his registration or the registration of another person under this Act (whether that registration is procured on initial application or on application for reinstatement of registration) shall be guilty of an offence.

Penalty: Five thousand dollars.

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<sup>1</sup> S. 78 had not been brought into operation at the date of this reprint.

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**Punishment of conduct that constitutes an offence**

**83.** 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.

**Offences**

**84.** Offences against this Act shall be disposed of summarily.

**Employment of persons by the South Australian Dental Service Incorporated**

**85.** (1) The South Australian Dental Service Incorporated may provide dental treatment to children through the instrumentality of dental therapists if—

- (i) the provision of the dental treatment is under the control of a dentist; and
- (ii) the child has, before the commencement of his first course of treatment by a dental therapist after he attains the age of thirteen years, been examined by a dentist employed by the South Australian Dental Service.

(2) In this section—

"**dental therapist**" means a person who has qualifications and experience determined by the Minister.

**Regulations**

**86.** (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the foregoing, those regulations may—

- (a) prescribe qualifications, experience and other requirements for registration of any person or class of persons on a register; and
- (b) prescribe rules of conduct to be observed by registered persons; and
- (c) prescribe the manner in which dentists may nominate members for appointment to the Board; and
- (d) prescribe (or empower the Board to prescribe) fees or charges for the purposes of this Act and may provide for the recovery of a fee or charge so prescribed; and
- (e) prescribe information to be included in a register maintained under this Act; and
- (f) prescribe forms for the purposes of this Act; and
- (g) regulate, restrict or prohibit the publication of advertisements by or on behalf of registered persons; and
- (h) prescribe requirements to be observed by companies registered under this Act; and
- (i) prescribe penalties, not exceeding five thousand dollars, for breach of, or non-compliance with, a regulation.

(3) This section is in addition to, and does not derogate from, any other provision of this Act providing for the making of regulations.

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**APPENDIX**

**LEGISLATIVE HISTORY**

*(entries in bold type indicate amendments incorporated since the last reprint)*

Section 6(8)(c):	repealed by 75, 1993, s. 8(a)
Section 6(11):	amended by 75, 1993, s. 8(b)
Section 23(8)(c):	repealed by 75, 1993, s. 9(a)
Section 23(10):	amended by 75, 1993, s. 9(b)
Section 29(6)(d):	repealed by 75, 1993, s. 10
Section 38(1):	amended by 61, 1989, s. 2