

DENTISTS ACT, 1931-1936.

BEING

DENTISTS ACT, 1931, No. 2036 OF 1931 [ASSENTED TO
2ND DECEMBER, 1931.]

AS AMENDED BY

DENTISTS ACT AMENDMENT ACT, 1932, No. 2088 OF 1932
[ASSENTED TO 23RD NOVEMBER, 1932.]

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935
[ASSENTED TO 19TH DECEMBER, 1935.]

AND

STATUTE LAW REVISION ACT, 1936, No. 2293 OF 1936
[ASSENTED TO 8TH OCTOBER, 1936.]

An Act to consolidate and amend the law relating to dentists.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Dentists Act, 1931-1936."

Division of
Act.

2. This Act is divided into Parts as follows:—

PART I.—Preliminary.

PART II.—The South Australian Dental Board and
Officers.

PART III.—Registration of Dentists.

PART IV.—Dental Operatives.

PART V.—Dental Clinics.

PART VI.—Offences, Evidence and Legal Procedure.

PART VII.—Miscellaneous.

Repeal.

3. The Acts mentioned in the first schedule to this Act are hereby repealed.

4. In this Act unless the context otherwise requires—
- “advertisement” includes any advertisement, handbill, circular, or other notice:
- “board” means the Dental Board of South Australia constituted by Part II. of this Act:
- “dentist” means a person registered as a dentist under this Act and shall, where the context permits, include a company so registered:
- “dentistry” means any operation on the human teeth or jaws, or the artificial restoration of lost teeth or jaws or portions of jaws, or the treatment of disease or lesions, or the correction of malpositions in human teeth or jaws, but the term does not include the mechanical construction by an artisan employed by a registered dentist of artificial dentures or other devices:
- “licence” means a licence granted under Part IV. of this Act to an operative dental assistant and for the time being in force:
- “licensed” means licensed under Part IV. of this Act, and “unlicensed” has a corresponding meaning:
- “operative dental assistant” means a person (other than a registered dentist) practising dentistry as an assistant to a dentist:
- “paper” includes any letter-paper, billhead, receipt-form or invoice and any document or paper used in connection with any business, practice, or profession:
- “register” means the dentists’ register kept in pursuance of this Act:
- “registrar” means the person for the time being holding the office of registrar under this Act, or any person for the time being acting in the place of the registrar:
- “registered” means registered under Part III. of this Act, and “unregistered” has a corresponding meaning.

S. 4. SEAMAN V. DENTAL BOARD OF SOUTH AUSTRALIA (1933) S.A.S.R. 421. The essence of “dentistry” is operating in the mouths of patients. To practise as an employed artisan manufacturing dentures and devices is not to practise “dentistry.”

MCCARTHY V. DENTAL BOARD OF SOUTH AUSTRALIA (1933) S.A.S.R. 424. Interpretation of “dentistry.” None of the categories in the definition applies to the construction of teeth or other articles and each of the categories is something done on the patient. There is nothing in the definition of “operative dental assistant” which requires the exclusion of the definition of “dentistry.”

SYME V. MCCARTHY (1935) S.A.S.R. 27. Taking an impression of the teeth and jaw of a patient for the purpose of supplying a set of artificial teeth, held (under the definition of “dentistry”) not to be an “operation on the human teeth or jaws” but held to be an essential part of the process of the “artificial restoration of teeth.” These words apply to the whole of the process of such restoration and, accordingly, a person who makes such an impression practises “dentistry.”

PART II.

PART II.

DENTAL BOARD AND OFFICERS.

Constitution
of Dental
Board.

5. (1) For the purposes of this Act there shall be a board known as the Dental Board of South Australia.

(2) The board shall be a body corporate with perpetual succession and a common seal and power to acquire and hold land.

(3) Judicial notice shall be taken of the seal of the board.

Members of
the board.

6. (1) Until other members are appointed under this Act the board shall consist of the persons who immediately prior to the commencement of this Act constituted the Dental Board of South Australia under the Acts repealed by this Act.

(2) Thereafter the board shall consist of—

(a) the Dean of the faculty of dentistry in the University of Adelaide, who shall be president of the board:

(b) one legally qualified medical practitioner nominated by the British Medical Association:

(c) three registered dentists elected by the registered dentists in such manner as the board directs.

(3) If the Dean of the faculty of dentistry refuses or is unwilling to act the council of the University of Adelaide may recommend and the Governor may appoint some other person in his stead, and that other person shall be president of the board.

(4) If the association or persons entitled to nominate or elect any member of the board fail to notify the Governor of the person nominated or elected within seven days before the expiration of the time within which the Governor is required to appoint that member, the Governor may fill the vacancy by appointing thereto any suitable person.

Time for
making
appointments
to the board,
and term of
office.

7. (1) Within two months after the commencement of this Act, and in the month of January, nineteen hundred and thirty-three, and in the month of January in every alternate year thereafter, the Governor shall appoint to the board members qualified and nominated or elected as provided in the last preceding section.

(2) Subject to this Act every member of the board shall hold office until his successor is appointed, but a retiring member, if qualified, shall be eligible for re-appointment.

8. If a casual vacancy occurs in the office of member of the board the Governor may fill that vacancy by appointing thereto without previous election or nomination a legally qualified medical practitioner or registered dentist according to the vacancy to be filled, and the person so appointed shall hold office for the balance of the term of his predecessor in office.

Casual
vacancies.

9. No act, decision, or proceeding of the board shall be invalid by reason of the fact that at the time when such act, decision, or proceeding was done, made, or taken there was a vacancy in the office of any member or that any defect existed in the qualification, appointment, election, or nomination of any member.

Power of
board to act
during
vacancy.

10. All property, rights, and liabilities of whatever kind vested immediately prior to the commencement of this Act in the Dental Board of South Australia constituted under the Acts repealed by this Act are hereby transferred to and vested in the board and shall be held and applied by the board for the purposes of this Act.

Transfer of
existing
rights and
liabilities.

11. (1) The board may from time to time appoint a registrar and any officers it thinks fit, and may at any time remove any person so appointed.

Officers of
board.

(2) The registrar holding office at the commencement of this Act shall continue in office until the board makes a new appointment to that office.

12. (1) Every dentist shall pay to the board an annual fee of two guineas. The fee shall be due and payable on the thirty-first day of January in each year.

Fees payable
by dentists.

(2) If the fee due by any dentist is not paid within fourteen days after the said date the registration of that dentist shall be deemed to be suspended until payment unless the board for reasons that appear sufficient to it by resolution decides to the contrary.

(3) Upon payment of all the arrears of fees by any such dentist deemed to be suspended as aforesaid, the suspension shall cease.

Substituted by
S.L.R. Act,
1936.

(4) If any such payment by any such dentist is in arrears for three years or more, the board may erase from the register the name of the dentist. Upon payment of all the arrears of fees by the dentist, the board shall restore to the register the name of the dentist so erased.

Inserted by
S.L.R. Act,
1936.

PART II.

Expenditure
of fees.
Amended by
S.L.R. Act,
1936

13. The board may expend not more than one-half of all fees received by it, in the furtherance of education in dental matters.

Balance-
sheet.

14. The board shall within two months after the close of each financial year prepare a balance-sheet and publish it in the *Gazette* and in any other manner it thinks fit.

Appeals
against
decisions of
board.

15. Decisions, orders, and directions of the board shall be subject to appeal, as provided in Part VI. of this Act.

PART III.

PART III.

REGISTRATION OF DENTISTS.

The dentists'
register.
Of U.K.,
41 & 42,
Vict., c. 33,
s. 11.

16. (1) The registrar shall continue to keep the register of dentists which is in existence at the commencement of this Act, and the said register shall be deemed the dentists' register for the purposes of this Act.

(2) The registrar shall keep the said register at all times in such manner that it shows in one alphabetical list according to surnames the names of all dentists who are registered under this Act, the particulars of the registered persons, the description and date of the qualification in respect of which they are registered, and, subject to the provisions of this Act, the register shall contain such other particulars and be in such form as the board thinks fit.

(3) A true copy of the register certified by the registrar to be a true copy, shall in the month of January in every year be sent to the Minister, and shall by him be published forthwith in the *Gazette*.

(4) Any person may inspect the register on payment of a fee of two shillings.

Saving of
existing
registrations.
Of U.K.,
11 & 12,
Geo. 5, c. 21,
ss. 3, 5.

17. Every dentist or company whose name appears on the register of dentists at the commencement of this Act shall be deemed to be registered under this Act without further application for registration: Provided that the registration of a company shall continue only so long as the company employs any registered dentist.

18. (1) Any person shall be qualified to be registered as a dentist who has any of the following qualifications—

Qualifications for registration.

Cf. U.K.,
41 & 42,
Vict., c. 33,
ss. 6, 7, 8.

(a) any person whose name appears on the register at the time of the commencement of this Act;

(b) any person who is a graduate or licentiate in dentistry of any university in Australia or of a dental college affiliated with a university in Australia;

(c) any person who holds any of the qualifications set out in the second schedule or any other degree or diploma in dental surgery or dentistry granted by any body or university which chooses members of the General Council of Medical Education and Registration of the United Kingdom;

(d) any person who holds an *ad eundem gradum* degree in dentistry from the University of Adelaide;

(e) any qualified person as hereinafter in this section defined who before the thirty-first day of December, nineteen hundred and forty-one, or any extension of that time granted by the board, completes the dental course and examinations provided for under paragraph (e) of section 12 of the Dentists Act, 1904, and the regulations made in respect thereof; or

(f) any person who completes the examination hereinafter in this Act prescribed for operative dental assistants.

(2) The term "qualified person" as used in paragraph (e) of subsection (1) of this section means any person who is at the commencement of this Act, or becomes after the said commencement, an articled pupil or apprentice to a registered dentist, and who has passed the entrance examination prescribed, and whose indentures are registered with the board.

(3) The dental course and examinations referred to in paragraph (e) of subsection (1) of this section shall cease by the thirty-first day of December, nineteen hundred and forty-one, and no person who has not completed the course and passed the examinations by that date shall be qualified under the said paragraph (e): Provided, however, that the

s. 18 (1) (b). SMITH v. DENTAL BOARD OF SOUTH AUSTRALIA (1912) S.A.L.R. 1. Where an applicant secured a diploma from a college which subsequently became affiliated with a university, held that the diploma was not granted by an affiliated college.

board may in special circumstances extend the time for completing the said course and passing the said examinations for any period not exceeding three years.

Applications
for registra-
tion.
Amended by
S.L.R. Act,
1936.

19. (1) Applications for registration shall be made in the prescribed form and shall be accompanied by the annual fee.

(2) If the application is refused by the board the board shall refund the fee to the applicant.

Registration
of applicant.

20. (1) When a person entitled to be registered under this Act complies with all the requirements of this Act and the regulations and duly makes application the board shall register him as a dentist.

(2) The registration shall consist in the entry by or on behalf of the registrar in the register of the name of the applicant and the other particulars required by this Act.

(3) A person resident in South Australia shall not be disqualified for registration by reason only of the fact that he is not a British subject.

Additional
qualifications.

21. The registrar shall enter on the register any new or additional qualifications which have been acquired by any registered dentist and of which the board approves. The regulations may prescribe what qualifications may be approved for the purpose of this section.

Alterations in
the register.
Cf. U.K.,
41 & 42,
Vict., c. 33,
s. 12.

22. (1) The registrar shall from time to time—

(a) insert in the register any alterations which come to his knowledge in the name, address, or, subject to section 21, particulars of any person registered therein; and

(b) erase from the register the name of every deceased person; and

(c) erase from the register the name of any person de-registered pursuant to this Act.

Inserted by
S.L.R. Act,
1936.

In the execution of these duties the registrar shall act in each case on any evidence which appears to him to be sufficient or on the direction of the board.

Amended by
S.L.R. Act,
1936.

(2) The board shall cause to be corrected or erased from the register any entry which has been incorrectly, inadvertently, or fraudulently made.

PART III.

23. (1) The board may de-register any person—

- (a) whose registration has been obtained by fraud or misrepresentation;
- (b) who has ceased to possess or does not possess the qualifications in respect of which he was registered;
- (c) who has been certified to be a mental defective; or
- (d) pursuant to section 45 of this Act.

De-registration.

Cf. U.K.,
41 & 42,
Vict., c. 38,
s. 13.

(1A) The board shall de-register any person who makes application in writing to the board requesting the board to de-register him.

Inserted by
S.L.R. Act,
1936.

(2) Any person who is de-registered shall within fourteen days after the service by post of a notice demanding the return of his certificate of registration surrender his certificate to the board for cancellation.

Any person who fails to comply with this section shall be guilty of an offence. Penalty: Five pounds for every day after the said period of fourteen days during which the certificate is not surrendered.

24. The board may at any time on being satisfied that the applicant still has the necessary qualifications re-register any dentist who has been struck off the register.

Re-registration.

Cf. U.K.,
41 & 42,
Vict., c. 38,
s. 14.

25. On application made to him at any time for that purpose the registrar shall issue to any applicant entitled thereto a certificate to the effect that he is registered under this Act.

Certificate of
registration.

26. Whenever a dentist is suspended the registrar shall enter in the register a memorandum of that fact and of the date and cause thereof.

Memorandum
of suspension.

PART IV.

PART IV.

OPERATIVE DENTAL ASSISTANTS.

27. (1) The registrar shall keep a book in which shall be entered the names, addresses, and descriptions of all operative dental assistants licensed under this Act.

Register of
operative
dental
assistants.Substituted by
S.L.R. Act,
1936.

(2) Sections 22, 23, and 24 shall, *mutatis mutandis*, apply to the keeping of the said book and to operative dental assistants licensed under this Act.

PART IV.

Duty of
operative
dental
assistants to
be licensed.

28. After the expiration of three months from the commencement of this Act every operative dental assistant shall be licensed.

Qualifications
for licence.

29. Any operative dental assistant who—

- (a) has been *bona fide* employed as an operative dental assistant to a dentist or dentists residing, practising, and registered in the State prior to the commencement of this Act; and
- (b) applies for a licence not later than three months after the commencement of this Act; and
- (c) forwards with his application as proof of the facts mentioned in paragraph (a) a statutory declaration either of himself or of his employer or employers, or any other evidence which the board reasonably requires; and
- (d) if required, proves his competence as an operative dental assistant by practical tests before the board; and
- (e) whose licence is approved by the special committee hereinafter in this Part provided for,

shall be entitled to be licensed as an operative dental assistant: Provided that if the applicant for a licence also applies for registration under section 32, paragraphs (c) and (d) of this section shall not apply to that applicant.

Fee for
licence.

Amended by
S.L.R. Act,
1936.

30. (1) Every licensed operative dental assistant shall pay to the board an annual licence fee of one guinea. The fee shall be due and payable on the thirty-first day of January in each year.

Substituted by
S.L.R. Act,
1936.

(2) If the fee due by an operative dental assistant is not paid within fourteen days after the said date the licence of the operative dental assistant shall be deemed to be suspended until payment unless the board for reasons that appear sufficient to it by resolution decides to the contrary.

s. 29. SOLOMON V. THE DENTAL BOARD OF SOUTH AUSTRALIA AND OTHERS (1932) S.A.S.R. 209. *Semble*, an operative dental assistant need not be classed as an artisan because he spends part of his time in operative work and part in making dentures.

GEORGE V. DENTAL BOARD OF SOUTH AUSTRALIA AND OTHERS (1932) S.A.S.R. 343. Evidence necessary under paragraph (a) to establish that an applicant has been practising dentistry as operative dental assistant. The applicant must show that the work done by him was principally of the character of work of an operative dental assistant and that there was sufficient continuity of work to show that he was practising dentistry as an assistant to a dentist. Before a dental assistant can be said to practise dentistry as an assistant, he must have had sufficient experience in dentistry to come within the words frequently, customarily, or habitually.

(3) Upon payment of all the arrears of fees by any such operative dental assistant deemed to be suspended as aforesaid, the suspension shall cease.

Inserted by
S.L.R. Act,
1936.

(4) If any such payment by any such operative dental assistant is in arrears for three years or more, the board may erase from the book mentioned in section 27 the name of the operative dental assistant. Upon payment of all the arrears of fees by the operative dental assistant the board shall restore in the said book the name of the operative dental assistant so erased.

Inserted by
S.L.R. Act,
1936.

31. (1) Any person who has, prior to the commencement of this Act, been *bona fide* employed as an operative dental assistant, and who holds a licence under this Part, shall be entitled to be registered as a dentist if—

Registration
as dentists of
operative
dental
assistants
having less
than seven
years' service.

(a) he notifies the board within three years after the commencement of this Act of his intention to attend lectures and pass the examinations to be held at the University of Adelaide under regulations 21 to 28 of the regulations made on the eighteenth day of October, one thousand nine hundred and five, by the Governor under The Dentists Act, 1902, and The Dentists Act Amendment Act, 1904:

Amended by
S.L.R. Act,
1935.

(b) he notifies the board each year that he is continuing to attend the said lectures, and is taking the prescribed examinations; and

(c) by the thirty-first day of December, nineteen hundred and forty-one, he completes the said examinations entitling him to be registered.

(2) If any operative dental assistant fails to pass the examinations as set out in subsection (1) of this section by the thirty-first day of December, nineteen hundred and forty-one, and the board is satisfied that there is a reasonable possibility that he will complete the said examinations if an extension of time is granted, the board may grant an extension of time up to three years to complete the said examinations.

(3) No further applications will be received by the board from operative dental assistants desirous of sitting for the said examinations after three years from the commencement of this Act.

PART IV.

Registration
as dentists of
operative
dental
assistants
with more
than six
years' service.

Cf. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 3.

Amended by
2088, 1932,
s. 4.

32. (1) Any person who has—

- (a) prior to the commencement of this Act, been *bona fide* engaged or employed, as the principal means of his livelihood, for a period of at least six years, or for periods amounting to at least six years in the aggregate, as an operative dental assistant, to a dentist or dentists residing, practising, and registered in the State; and
- (b) has passed a special practical examination in operative and prosthetic dentistry before examiners appointed by the board and approved by the Dean of the faculty of dentistry of the University of Adelaide,

shall, subject to this Act, be entitled to registration as a dentist.

(2) The following provisions shall apply in the case of any person applying for registration under this section:—

- (a) no person shall be so registered unless he has been resident in the State for a period of at least six of the eight years immediately prior to the commencement of this Act:
- (b) the applicant must have attained the age of twenty-one years before his registration:
- (c) the applicant must within three months after the commencement of this Act send to the registrar an application and declaration in the form in the third schedule to this Act, with any modifications which the circumstances require, signed and declared by him:
- (d) the said practical examination shall comply with regulation No. 8, Part I, and with regulation No. 11 of the regulations made by the Governor on the eighteenth day of October, nineteen hundred

s. 32 (1) (a). SEAMAN V. DENTAL BOARD OF SOUTH AUSTRALIA (1933) S.A.S.R. 421. As to what constitutes being engaged or employed as an operative dental assistant. To be an operative dental assistant one must be a person practising (as an assistant) dentistry in the form of operating in the mouths of patients. To practise as an employed artisan manufacturing dentures and other devices is not to practise dentistry.

McCARTHY V. DENTAL BOARD OF SOUTH AUSTRALIA (1933) S.A.S.R. 424. The granting of a licence by the special committees to a person as an operative dental assistant does not of itself entitle him to registration as a dentist. This right depends upon the proof of the facts entitling him to registration and the onus of proving these facts is on the applicant. Where an applicant during the relevant period performed both operative and prosthetic work as a dentist's assistant, it must be considered whether the main reason for his employment during that period was actually to do operative dental work.

and five, under The Dentists Act, 1902, and The Dentists Act Amendment Act, 1904. Regulation No. 15 contained in the regulations made by the Governor on the twenty-sixth day of March, nineteen hundred and eight, under The Dentists Act, 1902, and The Dentists Act Amendment Act, 1904, shall not apply to such examination:

- (e) the applicant shall present himself for examination within six months from the commencement of this Act. If he fails to pass such examination he may again present himself for examination within twelve months from the commencement of this Act. If he fails to pass the second examination, he may again present himself for examination within two years from the commencement of this Act, and if he fails to pass the third examination he shall not be entitled to be registered under this section: Provided that where an applicant by reason of of illness, unavoidable absence or other good cause has failed to present himself for any examination within the time fixed by this section the board, or a judge of the Supreme Court on the hearing of any appeal from the board, may extend the time within which the applicant is to present himself for that examination, and consequent on any such extension may also extend the time within which the applicant in the event of his failure at the said examination may present himself for any subsequent examination under this paragraph:

Proviso
inserted by
2088, 1932,
s. 5.

- (f) the applicant shall present himself for examination at such time and place as are appointed by the examiners and notified to him not less than fourteen days before the time of the examination.

32a. Notwithstanding anything contained in this Act, any operative dental assistant who, prior to the twenty-third day of November, nineteen hundred and thirty-two, applied for registration as a dentist under section 32, and obtained not less than forty per centum of the maximum marks obtainable in any of the subjects comprised in the special practical examination held in the month of May, nineteen hundred and thirty-two, under section 32, or in any other examination held under the said section, shall be deemed to have passed in such subject and shall not be required to undergo further examination in such subject.

Registration
as dentists of
certain opera-
tive dental
assistants.

Inserted by
2088, 1932,
s. 2, as
amended by
S.L.R. Act,
1935.

PART IV.

Further provisions as to registration as dentists of operative dental assistants.

Inserted by 2088, 1932, s. 3, as amended by S.L.R. Act, 1935.

32b. Any person who, at the twenty-third day of November, nineteen hundred and thirty-two, is licensed as an operative dental assistant under section 29, and who, within ten years from the said twenty-third day of November, nineteen hundred and thirty-two, passes the examination prescribed in the fourth schedule before examiners to be appointed by the board and approved by the Minister shall be registered as a dentist by the board: Provided that no person shall be eligible to sit for any such examination until he has been licensed as aforesaid for three years.

Special committee.

33. (1) The board shall appoint a special committee within one month of the commencement of this Act and shall from time to time fill any vacancies which occur.

(2) The special committee shall consist of the following members:—

- I. one person to be nominated by the board, who is a member of the board and shall be chairman of the committee:
- II. one person to be nominated by the board, who is not a member of the board, a medical practitioner, registered dentist, or an operative dental assistant:
- III. one person to be nominated by the Operative Dental Assistants' Association, such nomination to be lodged with the board within one month of the commencement of this Act or within one month after receiving notice from the board as to the existence of a vacancy, as the case may be. If the board does not receive the said nomination within the time herein specified, the board may make the necessary nomination.

(3) The functions of the committee shall be—

- (a) to receive from the registrar and approve or reject applications from operative dental assistants for licence:
- (b) to receive from the registrar and approve or reject applications from operative dental assistants

s. 33 (3) SOLOMON V. THE DENTAL BOARD OF SOUTH AUSTRALIA (1932) S.A.S.R. 209. The committee has a judicial discretion to approve or reject applications and is entitled to consider all matters relevant to granting and withholding its approval. It is not unlawful for the committee on the hearing of an application to permit its solicitor to be present and to take part in the cross-examination of witnesses.

SEAMAN V. DENTAL BOARD OF SOUTH AUSTRALIA (1933) S.A.S.R. 421. An applicant before the committee should be allowed to hear all evidence as it is given and to cross-examine witnesses whose evidence is adverse to him. The committee should state specifically the precise reason for the rejection of an application.

under sections 31 and 32, and to recommend to the board the registration of those operative dental assistants who have qualified themselves for registration:

- (c) to hear complaints of operative dental assistants in regard to any matter arising under this Act and to make recommendations to the board in respect thereof.

PART V.

PART V.

DENTAL CLINICS.

34. In this Part the term "dental clinic" means any premises on which dentists are employed by any unregistered person or any unregistered company for the purpose of affording dental treatment to members of the public or of any particular class of persons.

Interpretation.

35. Notwithstanding the other provisions of this Act an unregistered person or unregistered company may practise dentistry through registered dentists in a licensed dental clinic.

Unregistered persons may employ dentists in licensed clinics.

36. (1) A dental clinic may be licensed if the board is satisfied that it complies with all regulations in force as to dental clinics.

Licensing of clinics.

(2) Every dental clinic in existence at the commencement of this Act shall be deemed to be licensed for the period of three months next after the commencement of this Act.

37. (1) An application for a licence for a dental clinic shall be made to the board and shall comply with any regulations in force relating thereto and shall be accompanied by the first annual licence fee of three guineas.

Applications for licence.

(2) The said fee shall be in addition to the fees payable for the registration of any dentist employed in the clinic.

38. On the first day of January in each year there shall be payable in respect of every licensed dental clinic a fee of three guineas; and if the fee is not paid on that date the clinic shall, unless the board for any reason which it deems adequate decides to the contrary, be deemed to be unlicensed.

Annual fees for clinics.

39. No person or company shall employ in any dental clinic for the purpose of practising dentistry or assisting in the practice of dentistry, any person other than a registered dentist.

Prohibition of employment of unregistered persons in clinics.

Penalty—Twenty pounds.

PART VI.

PART VI.

OFFENCES, EVIDENCE, AND LEGAL PROCEDURE.

Prohibition of
practising
dentistry
without
registration
or licence.
Cf. U.K.,
11 & 12,
Geo. 5, c. 21
s.1.

40. (1) No person shall practise dentistry for fee or reward unless—

- (a) he is a legally-qualified medical practitioner; or
- (b) he is registered as a dentist under this Act; or
- (c) he is employed in accordance with this Act by a registered dentist as an operative dental assistant and is licensed and practises dentistry under the immediate supervision of a registered dentist; or
- (d) he is employed in accordance with this Act by a registered dentist as an articled pupil or apprentice and practises dentistry under the immediate supervision of a registered dentist.

Penalty—Not less than five pounds, nor more than fifty pounds. For a second or subsequent offence, not less than ten pounds (which shall not be subject to reduction), nor more than one hundred pounds.

(2) The performance of a single act or operation of dentistry shall for the purpose of this section be deemed to be practising dentistry.

Amended by
S.L.R. Act,
1936.

(3) Any person proved to have practised dentistry shall be deemed to have done so for fee or reward until the contrary is proved.

(4) Where an act or operation in dentistry is performed by an employee or agent of any person, both the employee or agent and the principal shall be deemed to have practised dentistry, and the principal shall be deemed to have full knowledge of the act or operation performed by his employee or agent.

(5) If a person performs an act or operation in dentistry in premises occupied or used by another person, whether habitually or not, for the purpose of performing acts or operations in dentistry, or receiving dental patients, the

s. 40 (1) *PINDER v. WALKER* (1926) S.A.S.R. 391. Where the defendant (an unregistered person employed by a registered dentist) administered cocaine and drew teeth from a patient for which a fee was handed to a nurse, and there was sufficient evidence to show that he had performed dental operations for some time past, held that he practised dentistry for fee or reward. Held that, the employer being in the chambers but not in the surgery, the operation was not performed under the immediate supervision of a registered dentist.

SYME v. MCCARTHY (1935) S.A.S.R. 27. Where a licensed operative dental assistant took impressions of the jaws of a patient for the purpose of supplying an artificial set of teeth and his employer, a registered dentist, knew that the impression was about to be taken, did not see the patient's face, or take part in any of the acts in taking the impression, or see any of such acts, held that the operation was not performed under the immediate supervision of a registered dentist.

person in fact performing such act or operation shall be deemed to be an agent or employee of such other person until the contrary is proved.

41. No person shall hold any appointment (whether honorary or for remuneration) as a dentist, dental practitioner, or dental surgeon in any public or private institution except while he is registered as a dentist under this Act, or is a legally-qualified medical practitioner.

Prohibition of unregistered persons holding dental appointments.

Penalty—Ten pounds.

42. (1) No person or company shall be entitled to sue or counterclaim for, or set off or recover any charge or remuneration for any act or operation in dentistry or any dental attendance or advice, unless at the time of such operation, attendance, or advice he or it was registered as a dentist under this Act, or he was a legally-qualified medical practitioner.

Disability of unregistered persons as to suing for fees.

Amended by S.L.R. Act, 1936.

(2) Any contract for remuneration or reward of any kind in respect of any appointment held contrary to the last preceding section shall be void.

43. No person, other than a registered dentist, and no company, other than a registered company, shall—

Prohibition of use of certain terms except by dentists and registered companies.

Of U.K., 11 & 12, Geo. 5, c. 21, ss. 4, 5.

(a) have attached to or exhibited at the place of business or residence of such person, or of any firm in which he is a partner, or the place of business of such company; or

(b) take or use in any advertisement or paper; or

(c) otherwise howsoever take or use in connection with the business of such person, or of any firm in which he is a partner, or of such company,

the name or title of “dentist”, “dental surgeon”, “surgeon dentist”, “mechanical dentist”, or “dental practitioner”, either in the singular or plural, or the word “dental”, or “dentistry” or any other word or any sign, device, article, or thing whatsoever implying or tending to imply or convey the belief that such person, firm, or company is qualified or authorised to practise or is practising dentistry, or that dentistry or dental operations is, or are, practised, carried on, or performed by such person, firm, or company.

Penalty—Not less than five pounds nor more than fifty pounds.

s. 43. DUNGEY v. WALKER (1918) S.A.L.R. 57. Construction of sections 12 and 16 (which latter section corresponds to section 43 above) of the Dentists Act Further Amendment Act, 1917.

PART VI.

Prohibition
of wrongful
use of
titles.

Cf. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 4.

Amended by
S.L.R. Act,
1936.

44. (1) No person, whether registered as a dentist or not, shall use in relation to dentistry or in relation to his practice thereof any title, description, word, or letters to which he is not properly entitled, or which does not appear opposite his name in the register.

Penalty—Not less than five pounds nor more than fifty pounds.

(2) A certificate signed by the registrar stating that such qualification does not appear in the register shall be *prima facie* proof of that fact.

Power of
board to
impose
penalties.

Cf. U.K.,
41 & 42,
Vict., c. 33,
s. 13.
Cf. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 8.

45. If any registered dentist, or licensed operative dental assistant is guilty of unprofessional conduct, or of infamous conduct in a professional respect, or is convicted in the State of a felony or misdemeanour, or is convicted outside the State of any offence (not being a political offence) which if committed in the State would be a felony or misdemeanour, or is guilty of habitual drunkenness, or habitual addiction to any drug, the board may impose all or any of the following penalties on the offending person—

(a) it may order him to pay the board's costs and expenses of inquiring into the matter alleged against him, and of hearing any charge in relation thereto, including witness fees; and may also suspend him from practising until such costs and expenses be paid:

(b) it may require him to give such undertaking as the board thinks fit to abstain from the conduct complained of in future:

(c) it may censure him:

(d) it may suspend his registration or licence, either conditionally or absolutely, for a period not greater than five years:

(e) it may, in serious cases, de-register or de-license him.

Pending the hearing of a charge against any person the board may suspend the registration or licence of that person.

Power of
board to
refuse
registration
in certain
cases.

Amended by
S.L.R. Act,
1936.

46. The board may refuse to register or license any applicant for registration or licence who has been guilty of any of the conduct set out in the last preceding section within two years immediately prior to the date of his application.

Further
provisions as
to offences.

47. (1) The board may, if it thinks reasonable cause exists therefor, instruct the registrar to lay charges against any registered dentist or licensed operative dental assistant.

(2) Neither the board nor any of its members shall be debarred from hearing and determining charges by reason of the fact that the board or such members have authorised or taken part in an investigation or inquiry as to such charges.

48. No registered dentist—

(a) shall in any advertisement, poster, or other public notice, hold out an unregistered person as being, or use words implying that an unregistered person is, a partner or assistant of such registered dentist; or

Duties of dentists in relation to unregistered persons.
Amended by S.L.R. Act, 1936.

(b) shall permit any unregistered person to perform any act or operation in dentistry which has been entrusted to, or is in charge of, such registered dentist unless the act or operation is performed by a licensed operative dental assistant, articled pupil, or apprentice employed by such registered dentist in accordance with this Act and is performed under the immediate supervision of such registered dentist; or

Substituted by S.L.R. Act, 1936.

(c) being a company shall perform or cause to be performed any act or operation in dentistry unless the act or operation is performed by a registered dentist in its employ or unless the act or operation is performed by a licensed operative dental assistant, articled pupil, or apprentice employed by the company in accordance with this Act and is performed under the immediate supervision of a registered dentist employed by the company.

Inserted by S.L.R. Act, 1936.

Penalty—Not less than five pounds and not exceeding twenty pounds.

49. Any person, who wilfully procures or attempts to procure himself or any other person to be registered or licensed under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, shall be guilty of a misdemeanour, and liable to imprisonment for any term not exceeding one year.

Obtaining registration by fraud.

s. 48. DOUGLAS V. HILL (1909) S.A.L.R. 28; 11 Austn. Digest 510. As to the validity of a partnership agreement with an unregistered person who is not held out as registered.

PINDER V. WALKER (1926) S.A.S.R. 391. Where an operation in dentistry was performed by an employee (not being a registered dentist) of a registered dentist, the registered dentist being in the chambers but not in the surgery when the operation was performed, held that the operation was not performed under the immediate supervision of the registered dentist.

PART VI.

Prohibition
of coaching
by examiners.

50. No person appointed to examine operative dental assistants, whether for licence or registration, shall act as coach or teacher to any operative dental assistant.

Penalty—Ten pounds.

Penalty on
forgery, etc.

51. Any person who utters or attempts to utter or put off as true before the board or any sub-committee thereof any false, forged, or counterfeit certificate, diploma, licence, letter, testimonial, or other document or writing, shall be guilty of a misdemeanour, and liable to imprisonment for any period not exceeding two years.

Restriction as
to number of
operative
dental
assistants.

52. (1) No dentist shall, after the commencement of this Act—

- (a) employ or have more than two operative dental assistants at the same time:
- (b) employ or have more than two apprentices or articled pupils at the same time.

Penalty—Ten pounds.

(2) No apprentice or articled pupil lawfully employed by a dentist shall be deemed an operative dental assistant within the meaning of this section.

Onus of
proof.

53. In any proceedings for an offence against this Act or any Act incorporated herewith, the onus of proving that at the material time the defendant—

- (a) was registered as a dentist under this Act; or
- (b) was a legally-qualified medical practitioner; or
- (c) was employed in accordance with this Act by a registered dentist as an operative dental assistant, and was licensed and practised dentistry under the immediate supervision of a registered dentist; or
- (d) was employed in accordance with this Act by a registered dentist as an articled pupil or apprentice and practised dentistry under the immediate supervision of a registered dentist; or
- (e) was a registered company and had complied with and continued to comply with the provisions of this Act as to companies,

shall be on the defendant.

54. A document purporting to be a certificate under the hand of the registrar and stating any one or more of the following matters:—

- (a) that any person or company was or was not on any date or during any period mentioned in the certificate registered or licensed under this Act; or
- (b) that on any date or during any period mentioned in the certificate the registration of any person or company was suspended,

Proof of registration, licensing, and suspension.
Of. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 15 (2).

shall, in all courts and before all persons or bodies authorised by law to receive evidence, be *prima facie* evidence of the facts stated.

55. (1) *Prima facie* evidence of any entry in the register may be given in all courts and before all such persons or bodies as aforesaid—

- (a) by production of a document purporting to be a true copy of such entry and purporting to be certified as such by the registrar; or
- (b) by production of the *Gazette* containing the latest published copy of the register.

Proof of contents of register and of truth thereof.
Of. U.K.,
41 & 42,
Vict., c. 83,
s. 11 (4).

(2) An entry in the register shall be *prima facie* evidence in all courts and before all such persons or bodies as aforesaid of the truth of all matters contained in it.

56. (1) For the purpose of determining any application for registration or for a licence, or of determining any charge, or making any inquiry in the course of carrying out its duties under this Act, the board may—

Power of board to summon witnesses and take evidence.

- (a) by summons signed by any member of the board, or by the registrar acting under the direction of the board, require the attendance of any person whom the board thinks fit to call before it;
- (b) by notice in writing signed as aforesaid compel the production of any books, papers, or documents:
- (c) inspect any books, papers, or documents produced before it, and retain them for such reasonable periods as it thinks fit, and make any copies of or take any extracts from any of the contents thereof which are relevant to the matter being inquired into:

(d) examine witnesses on oath, affirmation, or declaration, which may be administered by any member of the board.

(2) If any person—

(a) who has been personally served with a summons to attend before the board, and whose reasonable expenses of attendance have been paid or tendered to him, neglects to attend in obedience to the summons; or

(b) wilfully insults the board or any member thereof; or

(c) misbehaves himself before the board; or

(d) interrupts the proceedings of the board; or

(e) being called or examined as a witness before the board, refuses to be sworn or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in the notice under this section personally served upon him; or

(f) refuses to answer any lawful question,

he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(3) Any person who upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the board, shall be guilty of perjury, and liable to imprisonment for any term not exceeding four years.

(4) In this section the term “board” includes any sub-committee of the board.

Appeals
against
decisions
of board.
Cf. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 9.

57. (1) There shall be an appeal against any decision, order, or direction of the board or of the special committee constituted by section 33 of this Act given, or made, in the exercise, or purported exercise of any of its powers or functions under this Act.

(2) The appeal shall be to a judge of the Supreme Court in chambers, and shall be instituted within one month from the giving or making of the decision, order, or direction appealed against.

(3) The judge may, on the hearing of the appeal, do any one or more of the following things, according to the nature of the case—

(a) affirm, quash, or vary the decision, order, or direction appealed against, or substitute, or make or give any decision, order, or direction which ought to have been made or given in the first instance:

(b) remit the subject matter of the appeal to the board or special committee for further consideration or further hearing:

(c) mitigate any penalty imposed by the board or special committee:

(d) make any further or other order, as to costs or otherwise, which the case requires.

(4) The judges of the Supreme Court, in accordance with the provisions of the Supreme Court Act, 1935, as to the making of rules of court, may make rules of court regulating the practice and procedure on such appeals. Amended by
S.L.R. Act,
1936.

(5) The board or special committee shall, if required by any person affected by any decision given by it, state in writing the reason for its decision. If the decision of the board or special committee is not given in writing in the first instance, the time within which an appeal may be instituted shall, if the appellant at the time of the decision requested that reasons for the decision should be given in writing, run from the time when the board or special committee first gives reasons for its decision in writing.

58. Proceedings for offences against this Act for which a pecuniary penalty is imposed shall be heard and determined summarily. Summary
procedure
for certain
offences.

59. In any proceedings before the board any party to the proceedings may appear by counsel, solicitor, or agent. Appearance
at proceed-
ings.

PART VII.

PART VII.

MISCELLANEOUS.

60. The Governor may, on the recommendation of the board, make regulations for all or any of the following purposes:— Regulations.
Cf. U.K.,
11 & 12,
Geo. 5, c. 21,
s. 7.

(a) regulating the meetings and proceedings of the board and the conduct of the business thereof, and the election of a member to act as deputy chairman during the absence of the president from any cause: Para (a)
amended by
S.L.R. Act,
1935, and
S.L.R. Act,
1936.

s. 57 (5) SOLOMON V. THE DENTAL BOARD OF SOUTH AUSTRALIA (1932) S.A.S.R. 209.
Whatever matters lead the special committee to reject an application should be fully and fairly stated.

- (b) prescribing the duties of the registrar and other officers of the board:
- (c) regulating the manner of keeping and the form of the register :
- (d) prescribing the forms to be used for the purpose of this Act:
- (e) regulating the registration in the office of the registrar of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in dentistry are serving:
- (f) regulating the expenditure of the board:
- (g) prescribing any matters necessary or convenient to be prescribed for giving effect to this Act:
- (h) imposing penalties recoverable summarily and not exceeding twenty pounds for breach of any regulation.

Continuance
of certain
existing
regulations.

61. The regulations made under The Dentists Act, 1902, and The Dentists Act Amendment Act, 1904, on the eighteenth day of October, nineteen hundred and five, and the regulations amending those regulations made on the twenty-sixth day of March, nineteen hundred and eight, shall be deemed to have been made under this Act and shall remain in force to the extent and for the period necessary to give effect to this Act.

Effect of
suspension.

62. During the suspension of the registration of a company or the registration or licence of any person under any provision of this Act, that person or company shall be deemed to be unregistered or unlicensed as the case may be.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

No. and Year of Act.	Title of Act.
813 of 1902	The Dentists Act, 1902.
871 of 1904	The Dentists Act Amendment Act, 1904.
1302 of 1917	Dentists Act Further Amendment Act, 1917.
1343 of 1918	Dentists Act Further Amendment Act, 1918.
1489 of 1921	Dentists Act Further Amendment Act, 1921.

THE SECOND SCHEDULE.

Name of Body or University Granting Qualification.	Qualifications.	Abbreviations.
The Royal College of Surgeons of Edinburgh	Licentiate in Dental Surgery, Higher Dental Diplome.	L.D.S., H.D.D., R.C.S., Edin.
The Royal College of Surgeons of England	Licentiate in Dental Surgery.	L.D.S., R.C.S., Eng.
The Royal College of Surgeons in Ireland	Licentiate in Dental Surgery.	L.D.S., R.C.S., Irel.
The Royal Faculty of Physicians and Surgeons of Glasgow	Licentiate in Dental Surgery, Higher Dental Diplome.	L.D.S., H.D.D., R.F.P.S., Glasg.
The Universities of— Belfast	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., Q.U., Belf.
Birmingham	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., U. Birm.
Bristol	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., U. Brist.
Dublin	Licentiate in Dental Science, Bachelor in Dental Science, Master in Dental Science.	L. Dent. Sc., B. Dent. Sc., M. Dent. Sc., U. Dubl.
Durham	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., U. Durh.
Ireland (National Univ.)	Bachelor of Dental Surgery, Master of Dental Surgery.	B.D.S., M.D.S., N.U. Irel.
Leeds	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.Ch.D., M.Ch.D., U. Leeds.
Liverpool	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., U. L'pool.
London	Bachelor of Dental Surgery, Master of Surgery (Dental Surgery).	B.D.S., M.S. (Dent.), U. Lond.

THE SECOND SCHEDULE—*continued*.

Name of Body or University Granting Qualification.	Qualifications.	Abbreviations.
The Universities of— Manchester	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., V.U. Manc.
St. Andrews	Licentiate in Dental Surgery.	L.D.S., U. St. And.
Sheffield	Licentiate in Dental Surgery, Bachelor of Dental Surgery, Master of Dental Surgery.	L.D.S., B.D.S., M.D.S., U. Sheff.
New Zealand, University of	Bachelor of Dental Surgery.	B.D.S., U. N. Zealand.
Witwatersrand, University of	Bachelor of Dental Surgery, Doctor of Dental Surgery.	B.D.S., D.D.S., U. Witwatersrand.

THE THIRD SCHEDULE.

THE DENTISTS ACT, 1931.

Application and Declaration to be made by any Person applying to be Registered under Section 32.

I, _____ residing at _____ hereby
apply to be registered as a dentist under section 32 of the Dentists Act, 1931, and
I hereby declare that I attained the age of twenty-one years on the
day of _____ 19____, and that I was prior to the passing of the
Dentists Act, 1931, *bona fide* engaged or employed as the principal means of my
livelihood as an operative dental assistant for a period of six years
from _____ to _____ or for the following
periods amounting to six years in the aggregate [*specify them*]
by _____ a dentist residing,
practising, and registered in South Australia [*if by more than one dentist specify
them*], and that I was resident in South Australia for a period of six years out of
the eight years immediately prior to the coming into operation of the Dentists Act,
1931.

Declared at _____ the _____ day }
of _____ }
before me }

THE FOURTH SCHEDULE.

The examination shall be held once every year after any person becomes eligible to sit therefore, and it shall be written, oral, and practical, and the applicant shall satisfy the examiners that he has—

- (1) A sufficient knowledge of the anatomy of the teeth, mouth, accessory sinuses, and associated parts.
- (2) An elementary knowledge of respiration and circulation.
- (3) An elementary knowledge of the processes of inflammation, suppuration, ulceration, and wound infection, and the healing of wounds.
- (4) A knowledge of the nature of syphilis and its manifestations in the mouth.
- (5) An elementary knowledge of new growths commonly met with in the mouth.
- (6) A sufficient knowledge of the instruments, tools, appliances, drugs, and materials commonly employed in the practice of dentistry.

Inserted by
2088, 1932,
s. 6, and
schedule of
that Act, as
amended by
S.L.R. Act,
1935.

- (7) A knowledge of the practical means of sterilising instruments and other appliances, and the use of antiseptics in dental practice.
- (8) A knowledge of anaesthetics, local and general, their administration, and the dangers incidental to their use.
- (9) A degree of knowledge and skill sufficient to warrant the performance of the ordinary operations of dentistry and the giving of treatment, advice, and attendance in simple dental cases.

Regulations.

The following regulations were in force under this Act on 22nd March, 1937 :—

Gazette—8th December, 1904, p. 1047.

26th October, 1905, p. 886.

26th March, 1908, p. 564.

30th April, 1914, p. 1005.

31st January, 1918, p. 181.

24th May, 1934, p. 1315.

28th June, 1934, p. 1520.

5th July, 1934, p. 2.

Rules of Court.

The following rules of court were in force under this Act on 22nd March, 1937 :—

Gazette—4th August, 1932, p. 183.

DESTITUTE PERSONS

see Interstate Destitute Persons Relief : Maintenance.