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## SCHEDULES

## DENTISTS ACT, 1931-1974

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];  
 Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8th October, 1936];  
 Dentists Act Amendment Act, 1960, No. 3 of 1960 [Assented to 19th May, 1960];  
 Statute Law Revision Act, 1965, No. 39 of 1965 [Assented to 9th December, 1965];  
 Dentists Act Amendment Act, 1966, No. 62 of 1966 [Assented to 17th November, 1966];  
 Dentists Act Amendment Act, 1971, No. 59 of 1971 [Assented to 14th October, 1971]<sup>1</sup>;

and

Dentists Act Amendment Act, 1974, No. 17 of 1974 [Assented to 11th April, 1974].

### 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

1. This Act may be cited as the "Dentists Act, 1931-1974".

Short title.  
 Citation  
 amended by 17,  
 1974, s. 1 (3).

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

Arrangement of  
 Act.  
 S. 2 amended by  
 59, 1971, s. 3.

PART I—Preliminary.

PART II—The South Australian Dental Board and Officers.

PART III—Registration of Dentists.

PART IV—Dental Auxiliaries.

PART V—Dental Clinics.

PART VI—Offences, Evidence and Legal Procedure.

PART VII—Miscellaneous.

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 The Acts mentioned in the first schedule to this Act are hereby repealed.

Interpretation.

4. In this Act unless the context otherwise requires—

"advertisement" includes any advertisement, handbill, circular, or other notice:

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<sup>1</sup> Came into operation 20th January, 1972: *Gaz.* 20th January, 1972, p. 153.

Def. inserted by  
3, 1960, s. 3 (1).

Def. inserted by  
59, 1971, s. 4  
(a).

Def. inserted by  
59, 1971, s. 4  
(a).

Def. substituted  
by 3, 1960, s. 3  
(2).

“board” means the Dental Board of South Australia constituted by Part II of this Act:

“the Committee” means the Statutory Committee constituted pursuant to section 14a of this Act:

“dental auxiliary” means a person registered as a dental auxiliary under Part IV of this Act:

“dental therapist” means a person who practises dentistry under and in accordance with, paragraph (d) of subsection (1) of section 40 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—

- (a) the performance of any operation on, or the treatment of any disease deficiency or lesion of, the human teeth or jaws;
- (b) the correction of malposition or malfunction of the human teeth or jaws; or
- (c) the performance of radiology in connection with the human teeth or jaws; or
- (d) the artificial restoration of lost teeth, jaws or portions of jaws; or
- (e) the giving of any anaesthetic in connection with any operation on the human teeth or jaws; or
- (f) the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances; or
- (g) the performance of any operation, or the giving of any treatment, or attendance to any person as preparatory to or for the purpose of or in connection with the fitting, insertion, fixing, constructing, repairing or renewing of artificial dentures or restorative dental appliances; or
- (h) the performance of any operation and the giving of any treatment, or attendance as is usually performed or given by dentists.

The word “dentistry” does not include the mechanical construction of artificial dentures or other devices by an artisan in the course of his employment by a registered dentist or by any person on the instruction of a registered dentist:

Def. of  
“licence” struck  
out by 59, 1971,  
s. 4 (b).

Def. of  
“licensed”  
struck out by 59,  
1971, s. 4 (b).

Def. of  
“operative  
dental assistant”  
struck out by 59,  
1971, s. 4 (b).

“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:

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Def. of  
“registered”  
and  
“unregistered”  
struck out by 59,  
1971, s. 4 (b).

## PART II

## PART II

### DENTAL BOARD AND OFFICERS

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

Constitution of  
Dental Board.

(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.

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.

Members of the  
board.

(2) Thereafter the board shall consist of—

(a) one member of the faculty of dentistry in the University of Adelaide nominated by the Council of the University of Adelaide:

Para. (a)  
substituted by 3,  
1960, s. 4 (1).

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

Para. (b)  
amended by 59,  
1971, s. 5.

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

(3) The members of the board shall appoint one of their number to be president of the board. A president shall hold office for a period of two years after his appointment and shall be eligible for re-appointment.

Subsec. (3)  
substituted by 3,  
1960, s. 4 (2).

(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.

7. (1) Within two months after the commencement of this Act, and in the month of January, 1933<sup>1</sup>, 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.

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

(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

Casual  
vacancies.

<sup>1</sup> Reference to the year nineteen hundred and thirty-three altered to 1933 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

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.

Power of board to act during vacancy.

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.

Transfer of existing rights and liabilities.

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.

Officers of board.

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.

(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.

Fees payable by dentists.

Subsec. (1) amended by 3, 1960, s. 5; 62, 1966, s. 5; substituted by 59, 1971, s. 6; amended by 17, 1974, s. 2 (a).

12. (1) Every dentist shall pay to the board such annual fee as may be prescribed.

Subsec. (1a) inserted by 59, 1971, s. 6.

(1a) The fee shall be due and payable on the thirty-first day of January in each year.

Subsec. (2) amended by 17, 1974, s. 2 (b).

(2) If an annual 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.

Subsec. (3) substituted by 2293, 1936, s. 4 (2nd Sched.).

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

Subsec. (4) inserted by 2293, 1936, s. 4 (2nd Sched.).

(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.

Expenditure of fees.  
S. 13 amended by 2293, 1936, s. 4 (2nd Sched.).

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.

Appointment of Statutory Committee.  
S. 14a enacted by 3, 1960, s. 6.

14a. (1) For the purposes of this Act there shall be a committee to be called the "Statutory Committee" consisting of five members appointed by the Governor on the recommendation of the board.

(2) If for any reason a member of the Committee is unable to act as such during any period or on any hearing or investigation the Governor may appoint a temporary member to act in his place.

(3) The members of the Committee shall be—

(a) a legal practitioner of at least five years standing, who shall be chairman;

(b) four registered dentists or three registered dentists and a legally qualified medical practitioner.

(4) Subject to this section every member of the Committee shall be entitled to hold office as such until the thirtieth day of June in the fourth year after the year in which he was appointed.

(5) The Governor may on the recommendation of the board dismiss any member of the Committee from his office as such member, for mental or physical incapacity to perform his duties, neglect of duty, or conduct showing him to be unfit to remain a member of the Committee.

(6) All members of the Committee shall act on the hearing of any matters coming within its jurisdiction, but a decision concurred in by any three members shall have effect as a decision of the Committee.

(7) The board may from time to time determine the fees to be paid to the members of the Committee, and may pay such members accordingly out of its general funds.

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

Appeals against  
decisions of  
board.  
S. 15 amended  
by 3, 1960, s. 7.

### PART III

### PART III

#### REGISTRATION OF DENTISTS

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.

The dentists'  
register.

(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 twenty cents.

Subsec. (4)  
amended by 62,  
1966, s. 5.

16a. (1) The registrar shall keep a separate register of dentists registered temporarily pursuant to this Act.

Register of  
dentists  
temporarily  
registered.

(2) The temporary register shall be kept in the same manner as the register and in addition shall show the dates upon which the temporary registration of all persons therein registered will expire.

S. 16a enacted  
by 3, 1960, s. 8.  
Subsec. (1)  
substituted by  
59, 1971, s. 7.

(3) Save as herein expressly provided all the provisions of this Act relating to the register (other than subsection (3) of section 16) shall apply to the temporary register.

Saving of  
existing  
registrations.

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.

Registration and  
temporary  
registration.  
S. 18 amended  
by 3, 1960, s. 9;  
substituted by  
59, 1971, s. 8.

18. (1) A person shall be entitled to be registered as a dentist if he satisfies the board by such evidence as it may require that—

- (a) he is of good character;
- (b) he has an adequate command of the English language;
- (c) he is competent to practise dentistry;
- and
- (d) he has any one or more of the following qualifications:—

- (i) he is a graduate or licentiate in dentistry of any university in Australia or of a dental college affiliated with a university in Australia;
- (ii) he holds a prescribed qualification in dentistry or dental surgery;
- (iii) he holds a degree in dentistry *ad eundem gradum* of the University of Adelaide;

or

- (iv) he holds a degree, diploma or other qualification in dentistry or dental surgery which, in the opinion of the board, properly qualifies him to practise dentistry in this State.

(2) The board shall register an applicant who is entitled to be registered in accordance with subsection (1) of this section and has made due application for registration.

(3) The registration shall be effected, by an entry being made by or on behalf of the registrar in the register of the name of the applicant and the other particulars required by this Act.

(4) Where the board is satisfied that the circumstances of the case justify temporary registration, the board may temporarily register for a period specified by the board—

- (a) an applicant who has satisfied the board that he has passed all examinations and satisfied all other requirements and conditions necessary for admission to a degree in dentistry of an Australian university;

or

- (b) an applicant who is in the opinion of the board qualified and competent to practise dentistry.

(5) Temporary registration shall be effected by an entry being made by or on behalf of the registrar in the temporary register of the name of the applicant and the other particulars required by this Act.

(6) Temporary registration shall terminate if the person to whom it was granted is registered by the board under subsection (2) of this section.

Subsec. (7)  
substituted by  
17, 1974, s. 3.

(7) Where the board is not satisfied that an applicant is qualified and competent to practise dentistry without supervision or restriction but is



satisfied that the applicant is qualified and competent to practise dentistry under supervision or subject to restriction, it may grant registration to the applicant subject to—

(a) either or both of the following conditions:—

(i) that he shall not practise dentistry otherwise than under the supervision of a registered dentist;

or

(ii) that he shall not practise dentistry otherwise than in accordance with restrictions stipulated by the board;

and

(b) such other conditions as the board may stipulate.

(8) Conditional registration under subsection (7) of this section shall be effected by entry being made by or on behalf of the Registrar in the register of the name of the applicant, the conditions subject to which he has been registered, and the other particulars required by this Act.

Subsec. (8)  
inserted by 17,  
1974, s. 3.

(9) Registration, temporary registration, or conditional registration, shall not be refused upon the ground that the applicant is not a British subject.

Subsec. (9)  
inserted by 17,  
1974, s. 3.

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

Applications for  
registration.

Subsec. (1)  
amended by  
2293, 1936, s. 4  
(2nd Sched.);  
17, 1974, s. 4  
(a).

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

Subsec. (2)  
amended by 17,  
1974, s. 4 (b).

\* \* \* \* \*

S. 20 repealed  
by 59, 1971,  
s. 9.

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.

Additional  
qualifications.

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

Alterations in  
the register.

(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.

Para. (c)  
inserted by  
2293, 1936, s. 4  
(2nd Sched.).

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.

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

Subsec. (2)  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

## PART III

Continuance of practice by executor of deceased dentist.

S. 22a enacted by 3, 1960, s. 10.

**22a.** When a registered dentist dies, the executor named in his will or any person entitled to apply for letters of administration of the estate of the deceased may continue the practice of the deceased dentist by employing one or more registered dentists to manage and conduct it for not more than twelve months or any longer time approved by the board in order to enable the personal representatives to sell the practice.

De-registration.

Subsec. (1) amended by 3, 1960, s. 11; 59, 1971, s. 10; 17, 1974, s. 5.

**23.** (1) The board may de-register any person previously registered as a dentist—

(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;

Para. (c) substituted by 3, 1960, s. 11.

(c) who is no longer capable of practising as a dentist by reason of mental or physical defect;

Para. (d) substituted by 3, 1960, s. 11.

(d) when the Committee has ordered that he be de-registered;

Para. (e) inserted by 17, 1974, s. 5.

(e) who has contravened any condition subject to which his registration was granted.

Subsec. (1a) inserted by 2293, 1936, s. 4 (2nd Sched.).

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

Subsec. (2) amended by 62, 1966, s. 5.

(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: Ten dollars for every day after the said period of fourteen days during which the certificate is not surrendered.

Suspension.  
S. 24 substituted by 59, 1971, s. 11.

**24.** Whenever the registration of a dentist is suspended, the registrar shall enter in the register of dentists a memorandum of that fact and of the date of, and reason for, the suspension.

S. 25 repealed by 59, 1971, s. 11.

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S. 26 repealed by 59, 1971, s. 11.

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Part IV comprising ss. 27-33 and heading thereto, amended by 2088, 1932, ss. 2, 3, 4; 2246, 1935, s. 4 (2nd Sched.); 2293, 1936, s. 4 (2nd Sched.); 3, 1960, s. 12; 62, 1966, s. 5; repealed by 59, 1971, s. 12 and new Part IV comprising ss. 27-32 and heading thereto, enacted by 59, 1971, s. 12.

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## PART IV

## PART IV

## DENTAL AUXILIARIES

Heading enacted  
by 59, 1971,  
s. 12.

Register of  
dental  
auxiliaries.  
S. 27 enacted by  
59, 1971, s. 12.

27. (1) The registrar shall keep a register of dental auxiliaries.

(2) The register shall be in such form and shall contain such particulars as the board may direct.

(3) A copy of the register, certified by the registrar to be a true copy, shall in the month of January in each year, be sent to the Minister who shall cause it to be published in the *Gazette*.

(4) Any person may inspect the register upon payment of a fee of twenty cents.

28. (1) A person shall be entitled to be registered as a dental auxiliary if he satisfies the board by such evidence as it may require that—

Registration as  
dental auxiliary.  
S. 28 enacted by  
59, 1971, s. 12.

(a) he is of good character;

(b) he has an adequate command of the English language;

and

(c) he has prescribed qualifications and experience in prescribed subjects related to dental science and practice.

(1a) Applications for registration shall be made in the prescribed form and shall be accompanied by such application fee as may be prescribed and the annual fee.

Subsec. (1a)  
inserted by 17,  
1974, s. 6.

(1b) If the application is refused by the board the board shall refund the annual fee to the applicant.

Subsec. (1b)  
inserted by 17,  
1974, s. 6.

(2) The board shall register an applicant who is entitled to be registered in accordance with subsection (1) of this section and has made due application for registration.

(3) The registration shall be effected by an entry being made by or on behalf of the registrar in the register of dental auxiliaries of the name of the applicant and the other particulars required by this Act.

(4) A person who was immediately before the commencement of the Dentists Act Amendment Act, 1971, licensed as an operative dental assistant under this Act shall be registered as a dental auxiliary without application to the board, immediately upon the commencement of the Dentists Act Amendment Act, 1971.

(5) Registration as a dental auxiliary shall not be refused on the ground that the applicant is not a British subject.

29. (1) Every registered dental auxiliary shall pay to the board such annual fee as may be prescribed.

Fees.  
S. 29 enacted by  
59, 1971, s. 12.

(2) The fee shall be due and payable on the thirty-first day of January in each year.

Subsec. (1)  
amended by 17,  
1974, s. 7 (a).

(3) If an annual fee is not paid by a dental auxiliary within fourteen days after the date referred to in subsection (2) of this section, the registration shall, unless the board decides to the contrary, be suspended.

Subsec. (3)  
amended by 17,  
1974, s. 7 (b).

(4) Upon payment of all arrears of fees, the suspension shall cease.

(5) If any fee under this section is in arrears for three years or more, the board may de-register the dental auxiliary.

## PART IV

De-registration  
of dental  
auxiliary.  
S. 30 enacted by  
59, 1971, s. 12.

**30. (1)** The board may de-register any person previously registered as a dental auxiliary—

- (a) whose registration was obtained by fraud or misrepresentation;
- (b) who does not or has ceased to possess the qualifications in respect of which he was registered;
- (c) who is, in the opinion of the board, no longer capable of performing the functions of a dental auxiliary by reason of mental or physical defect;

or

- (d) whose de-registration has been ordered by the committee.

(2) The board shall de-register any person registered as a dental auxiliary who makes application to the board requesting that he be de-registered.

(3) A person previously registered as a dental auxiliary who is de-registered under this section 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.

Penalty: Fifty dollars.

Keeping of  
register.  
S. 31 enacted by  
59, 1971, s. 12.

**31. (1)** The registrar shall from time to time—

- (a) insert in the register any alterations of which he has knowledge in the name or address of any registered dental auxiliary;
  - (b) insert in the register, whenever a dental auxiliary is suspended, a memorandum of the suspension and of the date of, and reason for, the suspension;
  - (c) erase from the register the name of any deceased person;
- and
- (d) erase from the register the name of any person who has been de-registered.

(2) The registrar shall act under subsection (1) of this section upon such evidence as appears to him to be sufficient or upon the direction of the board.

(3) The board shall cause to be corrected or erased from the register any entry that has been incorrectly or fraudulently made.

Dental  
therapists not  
required to be  
registered.  
S. 32 enacted by  
59, 1971, s. 12.

**32.** The registration of a dental therapist is not required under this Part.

S. 33 repealed  
by 3, 1960,  
s. 12.

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## PART V

## PART V

## DENTAL CLINICS

Interpretation.

**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.

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 such application fee as may be prescribed and the annual licence fee.

Applications for licence.

Subsec. (1) amended by 62, 1966, s. 5; 59, 1971, s. 13; 17, 1974, s. 8 (a).

(1a) If the application is refused by the board the board shall refund the annual licence fee to the applicant.

Subsec. (1a) inserted by 17, 1974, s. 8 (b).

(2) The fees referred to in subsection (1) of this section shall be in addition to the fees payable for the registration of any dentist employed in the clinic.

Subsec. (2) amended by 17, 1974, s. 8 (c).

38. On the first day of January in each year there shall be payable in respect of every licensed dental clinic such annual licence fee as may be prescribed; 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.

S. 38 amended by 62, 1966, s. 5; 59, 1971, s. 14; 17, 1974, s. 9.

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 or a registered dental auxiliary.

Prohibition of employment of unregistered persons in clinics.

S. 39 amended by 62, 1966, s. 5; 59, 1971, s. 15.

Penalty: Forty dollars.

## PART VI

## PART VI

### OFFENCES, EVIDENCE, AND LEGAL PROCEDURE

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

Prohibition of practising dentistry without registration.

(a) he is a legally qualified medical practitioner; or

(b) he is registered as a dentist under this Act; or

Subsec. (1) amended by 3, 1960, s. 13, and as indicated hereinafter.

\* \* \* \* \*

Para. (c) amended by 3, 1960, s. 13 (a); struck out by 59, 1971, s. 16 (a).

(d) he practises dentistry on school children under the supervision of a registered dentist and—

Para. (d) struck out by 3, 1960, s. 13 (b); inserted by 62, 1966, s. 3; amended by 59, 1971, s. 16 (b), (c).

(i) having undergone a course of training of not less than two years approved by the Minister and passed such examinations as the Minister specifies, is practising in the course of employment by the Crown;

or

## PART VI

Subpara. (H)  
amended by 59,  
1971, s. 16 (c).

- (ii) having passed such examinations as the Minister specifies, is practising in his course of training and pursuant to an agreement with the Minister.

Amended by 3,  
1960, s. 13 (c);  
62, 1966, s. 5.

Penalty: Not less than twenty dollars, nor more than two hundred dollars. For a second or subsequent offence, not less than forty dollars nor more than four hundred dollars.

Subsec. (1a)  
inserted by 17,  
1974, s. 10.

(1a) No registered dentist shall practise dentistry in contravention of any condition subject to which his registration was granted.

Penalty: Two hundred dollars.

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

Subsec. (3)  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

(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 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.

Subsec. (6)  
inserted by 59,  
1971, s. 16 (d).

(6) This section shall not be construed as prohibiting the performance of any operation, treatment or function, permitted under the regulations, by a registered dental auxiliary under the supervision, of a registered dentist.

Prohibition of  
unregistered  
persons holding  
dental  
appointments.  
S. 41 amended  
by 3, 1960,  
s. 14; 62, 1966,  
s. 5.

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.

Penalty: Forty dollars.

Disability of  
unregistered  
persons as to  
suing for fees.  
Subsec. (1)  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

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.

(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.

Prohibition of  
use of certain  
terms except by  
dentists and  
registered  
companies.  
S. 43 amended  
by 3, 1960, s. 15  
(a), (b); 62,  
1966, s. 5;  
redesignated s.  
43 (1) by 59,  
1971, s. 17.

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

(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 authorized 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 twenty dollars nor more than two hundred dollars.

(2) This section shall not be construed as preventing the use of the title "dental therapist" by a dental therapist or the title "dental auxiliary" by a dental auxiliary or any other title or description, subject to such conditions as the board may stipulate, by any person or class of persons where the board has approved in writing of the use of that title or description by that person or class of persons.

Subsec. (2)  
inserted by 59,  
1971, s. 17.

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.

Prohibition of  
wrongful use of  
titles.  
Subsec. (1)  
amended by  
2293, 1936, s. 4  
(2nd Sched.); 3,  
1960, s. 16 (a),  
(b); 62, 1966,  
s. 5.

Penalty: Not less than twenty dollars nor more than two hundred dollars.

(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.

44a. (1) The board may lay a charge before the Committee against any registered dentist or dental auxiliary alleging any offence or matter for which a penalty may be imposed under section 45 of this Act. The charge shall be reduced to writing and a copy shall be served on the person against whom it is laid.

Proceedings  
before  
Committee.  
S. 44a enacted  
by 3, 1960,  
s. 17.  
Subsec. (1)  
amended by 59,  
1971, s. 18.

(2) At the hearing of any such charge the board shall be entitled to be represented by a member of the board, the registrar and counsel instructed by the board or by any one or more of such persons.

(3) Any registered dentist or dental auxiliary whose conduct is the subject of a charge before the Committee may be represented at the hearing by any other person.

Subsec. (3)  
amended by 59,  
1971, s. 18.

44b. (1) If the board is informed of facts indicating that a registered dentist or dental auxiliary may have been guilty of any such conduct as is mentioned in section 45 or may have been convicted as mentioned in that section, it may conduct an inquiry for the purpose of deciding whether a charge should be laid against the dentist or dental auxiliary.

Preliminary  
inquiries.  
S. 44b enacted  
by 3, 1960,  
s. 17.  
Subsec. (1)  
amended by 59,  
1971, s. 19 (a),  
(b).

(2) If the dentist or dental auxiliary whose conduct or conviction is in issue appears before the board on any such inquiry, the board shall, before he is asked any questions, inform him of the nature and purpose of the inquiry.

Subsec. (2)  
amended by 59,  
1971, s. 19 (b).

(3) Such dentist or dental auxiliary shall not be obliged to answer a question in the proceedings if the answer to that question would incriminate him.

Subsec. (3)  
amended by 59,  
1971, s. 19 (b).

(4) Anything said by a dentist or dental auxiliary in proceedings before the board may be given in evidence in any subsequent proceedings before the Committee.

Subsec. (4)  
amended by 59,  
1971, s. 19 (b).

## PART VI

Power of Committee to impose penalties.  
S. 45 amended by 3, 1960, s. 18; 59, 1971, s. 20 (a), (b), (c), (d), (e); redesignated s. 45 (1) by 59, 1971, s. 20 (e).

**45.** (1) If any registered dentist, or dental auxiliary 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 Committee 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 Committee thinks fit to abstain from the conduct complained of in future;
- (c) it may censure him;
- (d) it may suspend his registration, either conditionally or absolutely, for a period not greater than five years;
- (e) it may, in serious cases, de-register him.

Para. (d) amended by 59, 1971, s. 20 (b).

Para. (e) amended by 59, 1971, s. 20 (c).

Subsec. (2) inserted by 59, 1971, s. 20 (e).

(2) The Committee may order that the registration of any person be suspended until a charge against that person has been heard and determined.

Power of board to refer application to committee.  
S. 46 substituted by 3, 1960, s. 19.

**46.** (1) Where a person applies to the board to be registered under this Act, the board may refer to the Committee the question whether during the period of two years before the date of the application the applicant has been guilty of any such conduct as is mentioned in section 45, or has been convicted as mentioned in that section.

(2) On such reference the Committee shall give the applicant notice of the question to be inquired into, and shall give the board and the applicant an opportunity to be heard and shall inquire into the question and report its finding to the board.

(3) The board may refuse to register any applicant for registration who has been found by the Committee to have been guilty of any conduct mentioned in section 45 or to have been convicted as mentioned in that section within two years immediately prior to the date of his application.

(4) The board shall not be required to register any person in respect of whose alleged conduct or convictions a reference to the Committee has been made, pending the finding of the Committee.

S. 47 repealed by 3, 1960, s. 20.

\* \* \* \* \*

Duties of dentists in relation to unregistered persons.  
S. 48 amended by 2293, 1936, s. 4 (2nd Sched.); 3, 1960, s. 21; 39, 1965, s. 3 (2nd Sched.); 62, 1966, ss. 4, 5; 59, 1971, s. 21.

**48.** No registered dentist—

Para. (a) substituted by 3, 1960, s. 21 (a).

- (a) shall use words (either orally or in writing) holding out an unregistered person as being, or implying that an unregistered person is, a partner or assistant of such registered dentist; or



- (b) shall permit any other person to perform any act or operation that constitutes dentistry within the meaning of this Act unless that other person is a registered dentist or a registered dental auxiliary acting in accordance with this Act and under the supervision of the registered dentist; or

Para. (b) substituted by 2293, 1936, s. 4 (2nd Sched.); amended by 3, 1960, s. 21 (b); 39, 1965, s. 3 (2nd Sched.); 62, 1966, s. 4; substituted by 59, 1971, s. 21 (a).

- (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 registered dental auxiliary acting in accordance with this Act and under the supervision of a registered dentist.

Para. (c) inserted by 2293, 1936, s. 4 (2nd Sched.); amended by 3, 1960, s. 21 (b), (c); 39, 1965, s. 3 (2nd Sched.); 59, 1971, s. 21 (b).

Penalty: Not less than twenty dollars and not exceeding one hundred dollars.

**48a.** Every company registered under this Act shall deliver to the registrar—

Returns to be delivered by companies.

- (a) a true copy of all returns and other documents filed by the company pursuant to the provisions of the Companies Act, 1962<sup>1</sup>; and

S. 48a enacted by 3, 1960, s. 22; amended by 62, 1966, s. 5; 59, 1971, s. 22.

- (b) a statement showing the number of registered dentists and registered dental auxiliaries employed by the company including the full names and addresses of such registered dentists and registered dental auxiliaries,

Para. (b) amended by 59, 1971, s. 22.

not later than the date in each year on which the company files its annual return pursuant to the Companies Act, 1962<sup>1</sup>.

Penalty: Not less than ten dollars and not exceeding forty dollars.

**49.** Any person who wilfully procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent 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. 49 amended by 59, 1971, s. 23.

\* \* \* \* \*

S. 50 repealed by 3, 1960, s. 23.

**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.

Penalty on forgery, etc.

\* \* \* \* \*

S. 52 amended by 3, 1960, s. 24; 62, 1966, s. 5; repealed by 59, 1971, s. 24.

**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—

Onus of proof.

- (a) was registered as a dentist under this Act; or

- (b) was a legally qualified medical practitioner; or

<sup>1</sup> Reference to Companies Act, 1934-1956 has been altered to Companies Act, 1962 (now Companies Act, 1962-1974) pursuant to s. 7 (1) (b) of the Acts Republication Act, 1967, as amended. See also 56, 1962, s. 4 (1), (2), (7).

## PART VI

Para. (c)  
substituted by  
59, 1971, s. 25.

(c) was registered as a dental auxiliary;

or

Para. (d) struck  
out by 3, 1960,  
s. 25.

\* \* \* \* \*

(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.

Proof of  
registration,  
licensing and  
suspension.

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

Para. (a)  
amended by 59,  
1971, s. 26.

(a) that any person or company was or was not on any date or during any period mentioned in the certificate registered 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,

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

Proof of  
contents of  
register and of  
truth thereof.  
Subsec. (1)  
amended by 59,  
1971, s. 27 (a).

55. (1) *Prima facie* evidence of any entry in a 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.

Subsec. (2)  
amended by 59,  
1971, s. 27 (b).

(2) An entry in a 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.

Power of board  
to summon  
witnesses and  
take evidence.  
Subsec. (1)  
amended by 3,  
1960, s. 26 (a).

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

(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.

Subsec. (2)  
amended by 3,  
1960, s. 26 (b),  
(c); 62, 1966,  
s. 5.

(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

(b1) who has been personally served with a notice to produce books, papers and documents, refuses to comply with the notice;

Para. (b1)  
inserted by 3,  
1960, s. 26 (b).

(c) misbehaves himself before the board; or

(d) interrupts the proceedings of the board; or

(e) being called as a witness before the board, refuses to be sworn or to affirm or declare; or

Para. (e)  
substituted by 3,  
1960, s. 26 (c).

(f) being called as a witness before the board, refuses to answer any lawful question put to him by or on behalf of the board,

Para. (f)  
substituted by 3,  
1960, s. 26 (c).

he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(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 subcommittee of the board.

**56a.** (1) For the purpose of determining any charge or making any inquiry in the course of carrying out its duties under this Act, the Committee shall have the like powers as are given to the board by section 56.

Powers of  
Committee.  
S. 56a enacted  
by 3, 1960,  
s. 27.

(2) The provisions of section 56 shall apply in relation to proceedings before the Committee as if the word "Committee" were substituted for the word "board" wherever appearing in that section.

**57.** (1) Subject to subsection (1a) of this section, an appeal shall lie against any decision, order or direction of the board or of the committee, given or made in the exercise, or purported exercise, of any of its powers or functions under this Act.

Appeals against  
decisions of  
board.  
Subsec. (1)  
amended by 3,  
1960, s. 28 (a),  
(b); substituted  
by 17, 1974,  
s. 11.

(1a) An appeal shall not lie—

(a) against a refusal to grant temporary registration or conditional registration;

or

(b) against deregistration of a person who has been conditionally registered as a dentist upon the ground that he has acted in contravention of any condition subject to which his registration was granted.

Subsec. (1a)  
inserted by 17,  
1974, s. 11.

(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 Committee for further consideration or further hearing;

Para. (b)  
amended by 3,  
1960, s. 28 (c).

## PART VI

Para. (c)  
amended by 3,  
1960, s. 28 (c).

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

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

Subsec. (4)  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

(4) The judges of the Supreme Court, in accordance with the provisions of the Supreme Court Act, 1935<sup>1</sup>, as to the making of rules of court, may make rules of court regulating the practice and procedure on such appeals.

Subsec. (5)  
amended by 3,  
1960, s. 28 (c).

(5) The board or 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 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 Committee first gives reasons for its decision in writing.

Suspension of  
order made by  
Committee.  
S. 57a enacted  
by 3, 1960,  
s. 29.

**57a.** (1) Where the Committee has made an order under this Act, the Committee or a judge of the Supreme Court may, on application, if the Committee or the judge is satisfied that an appeal against the order has been or is intended to be instituted under this Act, suspend the operation of the order pending the determination of the appeal.

(2) The Committee may, at any time after it has suspended an order pursuant to subsection (1) of this section, terminate the suspension.

(3) A judge of the Supreme Court, on application in that behalf, may, at any time after the suspension by a judge of the Supreme Court of an order pursuant to subsection (1) of this section, terminate the suspension.

(4) In this section "order" includes decision, penalty or direction.

Summary  
procedure for  
certain  
offences.

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

Appearance at  
proceedings.

**59.** In any proceedings before the board any party to the proceedings may appear by counsel, solicitor, or agent.

## PART VII

## PART VII

## MISCELLANEOUS

Regulations.  
S. 60  
redesignated  
s. 60 (1) by 59,  
1971, s. 28 (b).

**60.** (1) The Governor may, on the recommendation of the board, make regulations for all or any of the following purposes:—

Para. (a)  
amended by  
2246, 1935, s. 4  
(2nd Sched.);  
2293, 1936, s. 4  
(2nd Sched.).

(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. (a1)  
inserted by 3,  
1960, s. 30 (a).

(a1) regulating the meetings and proceedings of the Committee:

Para. (a2)  
inserted by 59,  
1971, s. 28 (a).

(a2) prescribing degrees and courses of study or practical experience that an applicant for registration as a dentist or dental auxiliary must have obtained or successfully undertaken to qualify for registration under this Act:

<sup>1</sup> Now Supreme Court Act, 1935-1975.

(a3) regulating or restricting the employment of dental auxiliaries, providing for the adequate supervision of dental auxiliaries, and prescribing any operation, treatment or function that may be performed by a dental auxiliary:

Para. (a3)  
inserted by 59,  
1971, s. 28 (a).

(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:

(d1) prescribing the fees payable under this Act:

Para. (d1)  
inserted by 17,  
1974, s. 12.

\* \* \* \* \*

Para. (e) struck  
out by 3, 1960,  
s. 30 (b).

(f) regulating the expenditure of the board:

X (f1) regulating signs, publications and advertisements of persons registered or licensed under this Act:

Para. (f1)  
inserted by 3,  
1960, s. 30 (c).

(f2) prescribing a code of professional conduct to be observed by persons registered or licensed under this Act, and defining acts constituting unprofessional conduct:

Para. (f2)  
inserted by 3,  
1960, s. 30 (c).

(g) prescribing any matters necessary or convenient to be prescribed for giving effect to this Act:

(h) imposing penalties recoverable summarily and not exceeding one hundred dollars for breach of any regulation.

Para. (h)  
amended by 3,  
1960, s. 30 (d);  
62, 1966, s. 5.

(2) The regulations relating to dental auxiliaries may provide for categories of dental auxiliaries differing according to the qualifications and experience of the dental auxiliaries and the kinds of operation, treatment or function that may be performed by the dental auxiliaries of each category.

Subsec. (2)  
inserted by 59,  
1971, s. 28 (b).

61. Upon registration of any person as a dentist or a dental auxiliary under this Act, the registrar shall issue to that person a certificate of registration.

Issue of  
certificate.  
S. 61 substituted  
by 59, 1971,  
s. 29.

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

Effect of  
suspension.  
S. 62 amended  
by 59, 1971,  
s. 30.

## 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.

2nd Sched.  
amended by 3,  
1960, s. 31;  
repealed by 59,  
1971, s. 31.

\* \* \* \* \*

3rd Sched.  
repealed by 3,  
1960, s. 12.

\* \* \* \* \*

4th Sched.  
repealed by 3,  
1960, s. 12.

\* \* \* \* \*