

NORTHERN TERRITORY OF AUSTRALIA

DENTAL ACT

As in force at 15 July 2001

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 15 July 2001

DENTAL ACT

An Act to provide for the registration of dental hygienists, dental specialists, dental therapists and dentists, and to control the practice of dentistry in the Territory

Part I Preliminary

1 Short title

This Act may be cited as the *Dental Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

Aboriginal health worker means a person who, under the Health Practitioners and Allied Professionals Registration Act, is entitled to practise in the category of health practice of Aboriginal health work.

application means an application under section 15.

approved means approved by the Board.

Board means the Dental Board of the Northern Territory established by section 4.

category of registration means one of the following categories:

- (a) dental hygienist;
- (b) dental specialist;
- (c) dental therapist; and
- (d) dentist.

Chairman means the Chairman of the Board and includes the Deputy Chairman while he is exercising the powers and performing the functions of the Chairman.

conditional registration means conditional registration under section 20.

dental company means a company taken to be registered in the Territory by virtue of section 119A of the Corporations Act 2001 that is authorized by its constitution to engage in providing advice, services, attendances, treatment or operations in relation to dentistry and, where it does so engage, will do so by way of an appropriately registered person.

dental hygienist means a person registered in the category of registration of dental hygienist.

dental specialist means a person registered in the category of registration of dental specialist.

dental therapist means a person employed by the Territory and registered in the category of registration of dental therapist.

dentist means a person registered in the category of registration of dentist.

dentistry means the science and art of preventing, diagnosing and treating diseases, injuries and malformations of the teeth, jaws, mouth and associated structures, the administration of dental anaesthetics, the practice of dental radiography and the supply, fitting and maintenance of artificial teeth, dentures or appliances, but does not include the mechanical construction of such artificial appliances or other devices by an artisan employed for that purpose at the prescription of a dentist.

Deputy Chairman means the Deputy Chairman of the Board.

employee means an employee as defined in the *Public Sector Employment and Management Act*.

full registration means full registration under section 16 or 20.

member means a person who, under section 5, is nominated or appointed as a member of the Board.

President means the President of the Tribunal.

provisional registration means provisional registration under section 19.

Register means the Register kept under section 48.

registered means fully, provisionally, conditionally or temporarily registered under this Act.

Registrar means the person appointed under section 12 as the Registrar.

Secretary means the Chief Executive Officer, as defined in the *Public Sector Employment and Management Act*, of the Department for the time being primarily responsible under the Minister for the administration of this Act.

temporary registration means temporary registration under section 20.

Tribunal means the Dentists Disciplinary Tribunal established by section 32.

Part II Dental Board of the Northern Territory

4 Establishment of Dental Board

- (1) There is established by this Act a board by the name of the Dental Board of the Northern Territory.
- (2) The Board:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall assume that it was duly affixed.

5 Composition of Board and appointment of members

- (1) The Board shall consist of:
 - (b) a person who is:
 - (i) registered;

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- (ii) employed in the Department primarily responsible under the Minister for the administration of this Act as a dental officer; and
 - (iii) nominated to be a member of the Board by the Secretary; and
 - (c) 3 other persons appointed in accordance with this section.
- (2) Subject to subsection (3), the Minister shall, in writing, appoint 3 persons to be members of the Board from a list of not less than 6 persons who are dentists or dental specialists submitted to him by the Australian Dental Association (Northern Territory Branch) within 60 days after he requests such a list to be submitted.
- (3) Where the Minister has requested a list referred to in subsection (2) to be submitted but no list or, in his opinion, an insufficient list, is submitted to him before the expiration of 60 days after the request, he may appoint any 3 persons who are dentists or dental specialists, as he thinks fit, to be members of the Board.
- (4) The exercise of a power or the performance of a function by the Board is not affected by reason only of there being a vacancy in the membership of the Board.
- (5) Where:
- (a) a member dies or, under section 8, resigns his office; or
 - (b) under section 9, the Minister terminates the appointment of a member,

the Minister shall, as soon as practicable after the death, resignation or termination, appoint a dentist or dental specialist to be a member of the Board in the place of that member and the dentist or dental specialist so appointed shall, subject to this Act, hold office for the remainder of the period that the dentist or dental specialist in whose stead he was appointed would be entitled to serve as a member had he not died or resigned or had his appointment not been terminated.

6 Period of appointments

- (1) Subject to this Act, a member holds office for 3 years or such shorter period as is specified in the instrument of his appointment, but is eligible for re-appointment.
- (2) A person shall not be appointed as a member for more than 2 consecutive periods of appointment.

7 Chairman and Deputy Chairman, &c.

- (1) The Chairman shall preside at each meeting of the Board at which he is present.
- (2) The members shall, at an election to be held at the first meeting of the Board in each calendar year, elect one of their number to be the Chairman and another to be the Deputy Chairman of the Board and the offices of Chairman and Deputy Chairman shall become vacant immediately before each election.
- (2A) For the purposes only of enabling an election of the Chairman and the Deputy Chairman to be held under subsection (2), the member nominated as a member under section 5(1)(b) shall preside at the meeting.
- (2B) If, for any reason, there is a vacancy in the office of Chairman or Deputy Chairman, the members may, at a meeting, elect one of their number to occupy the office until the election is held under subsection (2).
- (3) In the absence of the Chairman from the Territory or from duty or when the Chairman is unable to perform his functions, the Deputy Chairman may exercise the powers and shall perform the functions of the Chairman under this Act.
- (4) In the absence of the Chairman and Deputy Chairman from a meeting, the members present at the meeting shall elect an Acting Chairman and that person may exercise the powers and shall perform the functions of the Chairman for that meeting.

8 Resignation of members

A member may resign his office by writing signed by him and delivered to the Minister.

9 Dismissal of members

- (1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) Where a member:
 - (a) is absent, except with the prior leave of the Board, from 2 consecutive meetings of the Board, other than meetings convened in pursuance of a request under section 10(2); or

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- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

10 Meeting of Board

- (1) The Chairman shall call such meetings of the Board as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months.
- (2) The Chairman shall convene a meeting of the Board within 7 days after receiving a written request for a meeting to be called signed by one member.
- (3) At a meeting of the Board:
 - (a) 3 members constitute a quorum;
 - (b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote as well as a deliberative vote; and
 - (c) subject to this Act, the Board shall determine the procedure to be followed at or in connection with the meeting.
- (4) The Board shall keep records of its meetings.

11 Powers and functions of Board

- (1) The functions of the Board are to:
 - (a) authorize the registration of persons under this Act;
 - (b) direct the Registrar to vary the conditions of, suspend or cancel the registration of a person where appropriate;
 - (c) approve the form of, and the particulars to be contained in, a certificate, application, order or notice under this Act;
 - (d) approve the form of, and the particulars to be contained in, the Register and the method of amending such particulars;
 - (e) issue directions in relation to the professional conduct of registered persons and dental companies;

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- (f) take or consent to the commencement of legal action against persons for offences against this Act or the Regulations;
 - (g) do anything necessary for the due and proper carrying out of this Act or the Regulations; and
 - (h) perform such other functions as are conferred on it by or under this or any other Act.
- (2) Subject to this Act, the Board has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

12 Appointment of Registrar

The Minister may appoint an employee as the Registrar for the purposes of this Act.

13 Liability for actions of Board, &c.

No action or proceeding, civil or criminal, shall be commenced or lie against the Board, a member or the Registrar for or in respect of an act or thing done or omitted to be done in good faith by the Board, a member or the Registrar in:

- (a) the exercise or purported exercise of a power; or
 - (b) the performance or purported performance of a function,
- under this Act.

Part III Registration

14 Qualifications for registration

The Board may, by notice in the *Gazette*, approve qualifications for registration as:

- (a) a dental hygienist;
- (b) a dental specialist;
- (c) a dental therapist; and
- (d) a dentist.

15 Application for registration

- (1) A person may apply to be registered in a category of registration by lodging with the Board an application, in an approved form, in relation to the category of registration.
- (2) An application under this section shall be accompanied by a fee determined by the Minister.
- (3) A person who does not have the approved qualifications for registration as a dentist shall not apply, and is not eligible, to be registered in the category of registration of dental specialist.

16 Full registration

Where a person has lodged an application in relation to a category of registration and:

- (a) he holds the qualifications approved under section 14 in relation to the category of registration; and
- (b) in the opinion of the Board he is a fit and proper person to be registered in the category of registration,

the Board may authorize his full registration in the category of registration or, in its discretion, refuse to authorize his full registration.

17 Certificates

- (1) Where the Registrar registers, or renews or reinstates the registration of, a person in a category of registration the Registrar shall, as soon as practicable and, after receiving from the person the fee determined by the Minister, issue to the person a certificate of registration in an approved form.
- (2) Where a person is issued with a full registration authorized under section 16 or 20, the Registrar shall issue to the person a practising certificate in an approved form which takes effect on the date on which it is expressed to take effect and expires on 30 September next following.
- (3) A registered person to whom a practising certificate has been issued may, before 30 September in each year, apply to the Board in an approved form, accompanied by the fee determined by the Minister, for renewal of the practising certificate and the Registrar shall issue a renewal of the practising certificate to the person.

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- (4) Where a person referred to in subsection (3) does not apply for renewal of a practising certificate before the date allowed for in the application the Board may direct the Registrar to cancel the registration of the person.

18 Limitations on certain registered persons

- (1) A person who is registered as:
- (a) a dental therapist may provide the services specified in Schedule 1 to pre-school and primary school children;
 - (b) a dental hygienist may provide the services specified in Schedule 2; or
 - (c) an Aboriginal health worker may, subject to subsection (2), provide the services specified in Schedule 3,
- where he does so:
- (d) under the direct or indirect supervision of a dentist; and
 - (e) in accordance with guidelines set by a dentist.
- (2) The Minister may, by notice in the *Gazette*, specify a part of the Territory in which a person, empowered under subsection (1)(c) to provide services specified in Schedule 3 may not do so and, accordingly, that person shall not in that part of the Territory provide such services.

19 Provisional registration

- (1) Where a person has applied under section 15 for registration in a category of registration, the Chairman may, on being satisfied that the person is qualified for registration in that category of registration, authorize the provisional registration of the person in the category of registration or refuse to authorize his registration.
- (2) Subject to subsection (3), a person whose name is entered in the Register as provisionally registered is entitled to practise in the category in which he is provisionally registered without restriction until:
- (a) the expiry date on the registration certificate issued in relation to his provisional registration; or
 - (b) the expiration of 3 months after the date on which the certificate was issued,
- whichever first occurs.

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- (3) Where, before the expiration of the date referred to in subsection (2)(a) or, as the case may be, the expiration of the period referred to in subsection (2)(b):
- (a) the Chairman ceases to be satisfied that a person is qualified;
or
 - (b) the Board is satisfied that a person is not qualified,
- to be registered in the category of registration in which he is provisionally registered, the Chairman or the Board, as the case may be, may direct the Registrar to cancel the provisional registration of the person.
- (4) As soon as practicable after he cancels a provisional registration pursuant to a direction under subsection (3), the Registrar shall, by registered post, give notice to the person concerned that the provisional registration of the person has been cancelled.

20 Conditional and temporary registration

- (1) Notwithstanding section 16(a), where an applicant under section 15 for full or temporary registration has qualifications that, in the opinion of the Board, are suitable for the purpose, the Board may authorize the conditional registration or the temporary registration of the applicant for a period not exceeding 12 months in the category of registration for which the application is made.
- (2) A person whose name is entered in the Register as being conditionally registered or temporarily registered in a category of registration is entitled to practise in the category subject to such conditions as are imposed by the Board and endorsed on his certificate of conditional registration or temporary registration.
- (3) At the expiration of the period of conditional registration or temporary registration authorized under subsection (1), the Board may:
- (a) authorize the renewal of the person's conditional registration or temporary registration for one further period not exceeding 12 months; or
 - (b) if the person had applied for full registration:
 - (i) authorize the full registration of the person in the category of registration to which his original application related; or
 - (ii) refuse to authorize his full registration in that category.

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- (4) Where, under subsection (3)(a), the Board authorizes the renewal of a conditional registration of a person whose application was for full registration, it shall, at the expiration of the further period for which the conditional registration was renewed:
- (a) authorize the full registration of the person in the category of registration to which his original application related; or
 - (b) refuse to authorize his full registration.
- (5) Without derogating from its power under Part IV, the Board may direct the Registrar to cancel the conditional registration or temporary registration of a person or to amend or vary a condition to which the conditional registration or temporary registration is subject.

22 Method of registration

Where the Board authorizes the full, conditional or temporary registration, or the Chairman authorizes the provisional registration, of a person, the Registrar shall enter in the Register:

- (a) the person's name;
- (b) his professional address or addresses, if any, in the Territory or, if he has no professional address, his place of residence, whether in the Territory or elsewhere;
- (c) the category of registration in which his registration is authorized;
- (d) particulars of his qualifications for registration in the relevant category of registration;
- (e) his registration number;
- (f) the date of his registration;
- (g) the conditions, if any, of his registration; and
- (h) such other particulars, if any, as are pre-scribed or directed by the Board to be recorded.

23 Alteration of Register

- (1) A registered person who changes his address specified in his application for registration shall promptly notify the Registrar of the change.

- (2) The Registrar shall remove from the Register the name of a registered person who dies, who requests his name to be removed or whose provisional, conditional or temporary registration expires.

24 Alteration of Register by direction

- (1) Where under this Act the Registrar is directed by the Chairman, the Board or the Tribunal to suspend, cancel or reinstate the registration of a person or cancel, amend or vary a condition to which the registration of a person is subject, the Registrar shall make such alterations to the particulars recorded in the Register as are necessary for him to comply with the direction and shall serve on the person to whom the direction relates, by registered post addressed to his address shown in the Register, a notice, in the approved form, advising the person of the action taken.
- (2) A cancellation, amendment or variation referred to in subsection (1) does not have effect until the relevant notice under that subsection is served on the person to whom it relates.

24A Restoration of registration

- (1) Where a person's name has, for any reason, been removed from the Register, he may apply in the approved form, accompanied by the fee determined by the Minister, to the Board for his registration to be reinstated.
- (2) The Board shall determine an application under subsection (1) by:
- (a) authorizing; or
- (b) refusing to authorize,
- the person's registration to be reinstated.
- (3) Where the Board authorizes a person's registration to be reinstated the Registrar shall adjust the Register accordingly.

Part IV Discipline

Division 1 Complaints to Board

25 Complaint to Board

A person may complain, in writing, to the Board in relation to the professional conduct of a registered person.

26 Direction by Minister

Where the Minister is of the opinion that the professional conduct of a registered person should be investigated, he may direct the Board to investigate that conduct.

27 Investigations

The Board:

- (a) may, of its own motion; and
- (b) shall:
 - (i) upon receipt of a complaint under section 25; or
 - (ii) when directed under section 26 by the Minister,

carry out an investigation in relation to the professional conduct of a registered person.

28 Inquiry

- (1) Subject to this Part, the Board may, in such manner as it thinks fit, hold an inquiry into a complaint or other matter to be investigated by it.
- (2) Before holding an inquiry under subsection (1), the Board shall serve personally or by registered post on the person against whom the complaint the subject of the inquiry has been made or whose professional conduct is to be investigated a notice in writing of the nature and details of the complaint or professional conduct the subject of the proposed inquiry.
- (3) The Board shall afford to a person in relation to whose professional conduct an inquiry under subsection (1) is held an opportunity of giving an explanation personally or in writing in relation to the complaint or professional conduct the subject of the inquiry.

29 Action after inquiry

- (1) Where the Board, after conducting an inquiry under section 28(1) is of the opinion that:
 - (a) the complaint is of a frivolous, irrelevant or malicious nature, dismiss the complaint;
 - (b) the subject matter of the complaint is capable of resolution by conciliation, attempt to resolve the matter by conciliation;

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- (c) the complaint has substance but may be adequately dealt with by either admonishing or fining the registered person against whom the complaint was made, admonish the registered person or fine him an amount not exceeding \$200; or
 - (d) there are grounds for it so doing:
 - (i) in the case of a complaint against a person who is conditionally registered or temporarily registered – direct the Registrar to amend or vary the conditions of the registration; or
 - (ii) in any case – direct the Registrar to:
 - (A) suspend the registration of the person for such period as it thinks fit; or
 - (B) cancel the registration of the person.
- (2) In exercising its powers under subsection (1), the Board may take into consideration a direction under section 11(1)(e).
- (3) In this section **complaint** includes a matter before the Board otherwise than as the result of a complaint under section 25.

30 Restrictions on variation, suspension and cancellation

The Board shall not exercise its power under section 29(1)(d) unless the registered person:

- (a) has obtained registration by fraud or misrepresentation;
- (b) has had his qualifications, on which his application for registration was based, suspended or cancelled by an authority having jurisdiction to suspend or cancel the qualifications;
- (c) has been found guilty of an offence which, in the opinion of the Board, indicates that he is not a fit and proper person to be registered, being an offence committed within or outside the Territory;
- (d) is, in the opinion of the Board, guilty of unprofessional conduct;
- (e) has an order under section 122 of the *Liquor Act* in force against him;
- (f) is found guilty of an offence against this Act or the Regulations;

- (g) in the opinion of the Board habitually uses intoxicating liquor to excess or is addicted to a narcotic or psychotropic drug; or
- (h) is the subject of a report of the Chief Health Officer, based on advice from 2 medical practitioners, that as a result of the registered person's mental illness, as defined in the *Mental Health and Related Services Act*, he or she has become incapable of practising dentistry and is unlikely to be able to practise in the future.

31 Surrender of certificate of registration

Where a person is served with a notice under section 24(1) in relation to an alteration arising out of a direction given under section 29(1)(d), he shall, within 14 days after the date of service, surrender to the Registrar his certificate of registration.

Penalty: \$200.

Division 2 Dentists Disciplinary Tribunal

32 Establishment of Dentists Disciplinary Tribunal

- (1) There is established by this Act a tribunal by the name of the Dentists Disciplinary Tribunal.
- (2) The Tribunal shall be constituted by a magistrate appointed by the Minister, who shall be the President of the Tribunal, and 2 persons who are dentists or dental specialists, each with not less than 10 years experience as a dentist or as a dental specialist, appointed by the Minister on the nomination of the Australian Dental Association (Northern Territory Branch).

33 Right to appeal

A person aggrieved by:

- (a) the refusal of the Board to authorize his registration under section 16; or
- (b) an action under section 29 by the Board,

may appeal to the Tribunal against the refusal or action.

34 Form of appeal

- (1) An appeal under section 33 shall:
 - (a) be in writing;

- (b) in the case of an appeal against a refusal of the Board, set out details of the refusal;
 - (c) in the case of an appeal against an action under section 29, be accompanied by the notice referred to in section 28(2); and
 - (d) be commenced within 28 days after the decision to refuse registration was made or the action under section 29, was taken or within such longer period as the Tribunal, within or after the expiration of the 28 day period, allows.
- (2) A person who appeals under section 33 shall serve by registered post on the Board notice of, and details of the grounds for, the appeal.

35 Appeal

- (1) Subject to this Part, the Tribunal shall conduct such hearings into the matter of an appeal to it, and in such manner, as it thinks fit and may:
- (a) confirm the refusal to authorize registration or the action of the Board; or
 - (b) refuse to confirm the refusal or action.
- (2) Where the Tribunal refuses under subsection (1) to confirm the refusal or action of the Board, it may substitute for that refusal or action such decision or action of its own as the Board may have originally made or taken and direct the Registrar accordingly.
- (3) An appeal to the Tribunal shall be by way of a re-hearing.
- (4) At a hearing before the Tribunal, the appellant may appear personally or may be represented by a legal practitioner or a person authorized in writing by the appellant to represent him.

Division 3 Power to call witnesses, &c.

36 Definitions

In this Division:

Board includes the Tribunal.

Chairman includes the President.

37 Power to send for witnesses and documents

- (1) For the purposes of this Part, the Board may, by notice in writing signed by the Chairman, served personally or by post, summon a person to attend the Board at a time and place specified in the notice and to give evidence and produce such documents in his custody or control as are likely to be relevant for the purposes of the business of the Board or as are specified in the notice.
- (2) The Board may, in its discretion, on the application of a party to proceedings before the Board, summon a person to appear as a witness before the Board.
- (3) For the purposes of subsection (1) and section 39(1), **document** includes:
 - (a) any book, plan, paper, parchment or other material whatever on which there is any writing or printing, or which is marked with any letters or marks denoting words or any other signs capable of carrying a definite meaning to persons conversant with them;
 - (b) a study model, X-ray or casting; and
 - (c) any other thing.

38 Power to examine on oath, &c.

A person presiding at an inquiry or hearing of the Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness on that oath.

39 Penalty for failing to attend, &c.

- (1) A person who has been served personally or by post with a notice to attend the Board, and whose reason-able expenses of attendances have been paid or tendered to him, shall not fail without reasonable excuse, proof of which lies on him, to attend the Board at the time and place specified in the notice and to produce such documents in his custody or control as are likely to be relevant for the purposes of the business of the Board or as are specified in the notice.

Penalty: \$200.

(2) A person who appears as a witness before the Board shall not refuse or fail to:

(a) take an oath or make an affirmation in accordance with section 38; or

(b) answer a question lawfully put to him.

Penalty: \$200.

Part V Offences

40 Offences generally

(1) A person shall not contravene or fail to comply with this Act, the Regulations or a notice under this Act.

(2) A person who contravenes or fails to comply with this Act, the Regulations or a notice under this Act for which contravention or failure a penalty is not provided by this Act or the Regulations, other than this section, is punishable upon a finding of guilt by a penalty not exceeding \$500.

41 Continuing offences

A person who has been found guilty of contravening or failing to comply with this Act, the Regulations or a notice under this Act is guilty of a further offence against this Act where the contravention or failure to comply continues after he has been so found guilty and, on the finding of guilt of the further offence, is punishable by a fine not exceeding \$100 and \$100 for each day during which the offence continues.

42 Persons advertising or holding themselves out as registered

(1) A person shall not advertise or hold himself out as:

(a) registered, unless he is registered;

(b) a dental hygienist, unless he is a dental hygienist;

(c) a dental specialist, unless he is a dental specialist;

(d) a dental therapist, unless he is a dental therapist; or

(e) a dentist unless he is a dentist.

Penalty: \$2,000.

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- (2) An offence against subsection (1) is a regulatory offence.

43 Exhibition or publication of advertisements, &c.

- (1) A person shall not exhibit or publish, or cause, permit or suffer to be exhibited or published, a letter, circular, handbill, placard, card, letter-paper, bill-head, receipt form, invoice, document or paper to be used in connection with a business, practice or profession, or other advertisement of any kind, by which a person advertises or holds himself out contrary to section 42.

Penalty: \$1,000.

- (2) This section does not apply to a proprietor of a newspaper or magazine, or a printer, publishing an advertisement before the receipt of written notice from the Registrar that the publication of the advertisement is contrary to this section.

44 Practising dentistry

- (1) Subject to subsection (2), a person shall not practise dentistry in the Territory for a fee or reward, unless he is:
- (a) entitled to do so under this Act or holds a current practising certificate under section 17 in respect of full registration in the category of registration in which he practises;
 - (b) a medical practitioner; or
 - (c) an Aboriginal health worker, approved for that purpose by the Chief Health Officer within the meaning of the *Public Health Act*, providing, in accordance with section 18, preventive dental care and emergency relief of pain as specified in Schedule 3.

Penalty: \$2,000.

- (2) The Minister may at the request of the Board, by instrument in writing, authorize a person to practise dentistry in the Territory without being subject to this Act and a person so authorized may practise dentistry accordingly.
- (3) An offence against subsection (1) is a regulatory offence.

45 Institution of proceedings

- (1) A prosecution for an offence against this Act or the Regulations shall not be commenced without the consent in writing of the Board.

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- (2) The production of a certificate purporting to be signed by the Chairman and certifying that the consent of the Board to a prosecution for an offence against this Act or the Regulations has been given is prima facie evidence of that fact.

46 Proof of registration

In a prosecution for an offence against this Act or the Regulations, a certificate purporting to be issued by or on behalf of the Board and certifying that a person named in it is or is not registered or was or was not on a date or during a period specified registered is prima facie evidence of that fact.

Part VI Miscellaneous

47 Determination of fees

- (1) The Minister may, by notice in the *Gazette*, determine the fees payable in respect of a matter or thing under this Act, and a fee so determined shall be payable to the Board accordingly.
- (2) The Board may waive the payment of a fee other-wise payable to it under this Act and, accordingly, a fee so waived is not payable.

48 Register

- (1) The Registrar shall:
- (a) keep a Register in a form approved by the Board for the purposes of this Act; and
 - (b) subject to sections 23 and 24, make such amendments to the Register as the Board directs for the purpose of making the Register an accurate record of the names, professional addresses and qualifications of registered persons.
- (2) For the purposes of this section, the Registrar may post a notice to a registered person, addressed to the person at his address or one of his addresses shown in the Register, inquiring as to whether a detail of an entry in the Register in relation to the person has changed.
- (3) Where no answer to an inquiry under subsection (2) is received within 3 months after the date of the notice under that subsection, the Registrar may, with the consent of the Board, erase the name of the person concerned from the Register.

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- (4) The Board shall cause a copy of the Register to be published in the *Gazette* as soon as practicable after 1 January in each year.

49 Inspection of Register

A person may, on payment to the Board of a fee, if any, determined by the Minister, inspect the Register at a reasonable time at the office of the Registrar.

50 Duplicate certificates

- (1) A person who is the holder of a certificate under this Act may apply to the Board for a duplicate certificate when the original certificate is destroyed, damaged, lost or stolen.
- (2) An application under subsection (1) shall be in an approved form and accompanied by a fee determined by the Minister.
- (3) Where the Board receives an application under subsection (1) and is satisfied that the original certificate has been destroyed, damaged, lost or stolen it may authorize the Registrar to issue a duplicate certificate and the Registrar shall issue it accordingly.

51 Dental companies

- (1) Subject to subsection (2):
- (a) a dentist may, with one or more natural persons who are not dental specialists; or
- (b) a dental specialist may, with one or more natural persons who are not dentists,

form a dental company by incorporation under the Corporations Act 2001.

- (2) Where:
- (a) under subsection (1)(a), a dental company in which a dentist is a member, shareholder or director is incorporated:
- (i) with 2 directors, not fewer than one director shall be a dentist who holds; or
- (ii) with more than 2 directors, not fewer than two-thirds of the total number of the directors shall be dentists who between them hold; or

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- (b) under subsection (1)(b), a dental company in which a dental specialist is a member, shareholder or director is incorporated:
 - (i) with 2 directors, not fewer than one director shall be a dental specialist who holds; or
 - (ii) with more than 2 directors, not fewer than two-thirds of the total number of the directors shall be dental specialists who between them hold,not less than two-thirds of the total voting rights of all:
 - (c) directors entitled to vote at a meeting of directors of the company; and
 - (d) persons entitled to vote at a general meeting of members of the company.
- (3) A dentist shall not be a member, shareholder or director of a dental company in which a dental specialist is a member, shareholder or director, and a dental specialist shall not be a member, shareholder or director of a dental company in which a dentist is a member, shareholder or director.
- (4) A dental company shall not:
- (a) be incorporated except under a constitution and a name, approved by the Board; or
 - (b) alter the memorandum and articles of association or name approved under paragraph (a) unless it has submitted the proposed alterations to the Board and the alterations have been approved.
- (5) A dental company shall, as soon as practicable, and in any case not later than 28 days, after each annual general meeting, provide to the Board in writing:
- (a) the names of its directors, members and shareholders; and
 - (b) the voting rights of each director, member and shareholder.
- (6) The shareholders of a dental company who are dentists or dental specialists are jointly and severally responsible for the liabilities, and shall be deemed jointly and severally to guarantee the debts, of the dental company.

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- (7) In this section, **shareholders** includes persons for whose benefit a share in a dental company is being held by a person in trust for those persons and the trustee of the share.
 - (8) An application for approval under this section shall be accompanied by a fee determined by the Minister.

52 Registered persons may sue for fees

A registered person and a dental company may sue for the recovery of fees and other remuneration for practising dentistry and it is sufficient for the plaintiff to use the words "for dental services" in the particulars of demand to include both the fee for practising dentistry and the charge for articles supplied by him or it in the course of practising dentistry.

53 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may:
 - (a) specify actions or behaviour which constitute or constitutes unprofessional conduct for the purposes of Part IV;
 - (b) regulate and control the professional conduct of registered persons and the practise of dentistry; and
 - (c) prescribe penalties not exceeding \$500, and default penalties not exceeding \$100, for offences against the Regulations.

54 Repeal

The Ordinances listed in Schedule 4 are repealed.

55 Transitional and savings

- (1) In this section, **repealed Act** means the *Dentists Registration Act* as in force immediately before the commencement of this Act.
- (2) The person who, immediately before the commencement of this Act, was the Registrar of the Board under the repealed Act shall, on that commencement, be the Registrar for the purposes of this Act

as if he were appointed under section 12 by the Minister on that commencement.

- (3) The Register of Dentists under section 17(1) of the repealed Act and The Register of Dental Therapists under section 17(2) of the repealed Act, as each existed immediately before the commencement of this Act, shall, on that commencement, be part of the Register for the purposes of this Act in relation to the category of registration for dentists and dental therapists respectively.
- (4) A person who, immediately before the commencement of this Act, was a registered dentist or registered dental therapist, within the meaning of the repealed Act, shall, on that commencement, continue to be registered as a dentist or dental therapist, as the case may be, under this Act on the same terms, and subject to the same conditions and restrictions, if any, on which he was registered and to which he was subject under the repealed Act.
- (5) A person who, immediately before the commencement of this Act, was entitled under the repealed Act to practise as a registered dentist or registered dental therapist shall, on that commencement, continue to be entitled to practise as a registered dentist or registered dental therapist, as the case may be, under this Act as if, on the date of commencement of this Act, he had been issued with a practising certificate under section 17 expressed to take effect on that date.
- (6) Where, before the commencement of this Act, a person had applied under section 19 of the repealed Act to the Board within the meaning of the repealed Act and his application had not been fully dealt with by the Board before that commencement, the application shall be dealt with by the Board within the meaning of this Act as an application under this Act for registration in the category of registration which, in its opinion, is the most appropriate.
- (7) Where, under section 26 or 29 of the repealed Act, a person had a right to appeal to the Supreme Court but on the commencement of this Act he had not done so, he has the same right of appeal to the Tribunal as a person aggrieved by:
 - (a) the refusal of the Board to authorize his registration under section 16 of this Act; or
 - (b) an action of the Board under section 29 of this Act,

and section 35 of this Act shall, as far as practicable, apply to and in relation to the appeal.

- (8) Where, immediately before the commencement of this Act, a person was the holder of a permit under section 20A of the repealed Act then, subject to subsection (9) of this section, the permit shall continue in force and the repealed Act shall continue to apply to and in relation to that person as if this Act had not commenced, until the date stated in the permit or fixed under that section, and on that date that person shall be deemed to have applied for registration under this Act.
- (9) Where, in relation to a permit under section 20A of the repealed Act, the Board, within the meaning of that Act, had a power or a function, the Board as constituted under this Act shall have the same power and function in relation to the permit continued in force by subsection (8) of this section.
- (10) For the purposes of an offence against the repealed Act, section 29(2) of the repealed Act continues to have full force and effect.
- (11) Where, before the commencement of this Act, a notice under section 34 of the repealed Act had been served, after that commencement it shall be treated as a notice under section 28(2) of this Act but the Board may, as it thinks fit, amend the notice.

Schedule 1

section 18(1)(a)

Services of Dental Therapist

1. Examinations.
2. Preventive treatment and advice and dental health education.
3. Dental radiography.
4. Application of rubber dam.
5. Pre-operative and post-operative instructions.
6. Irrigation of the mouth, and removal of sutures.
7. Topical application of solutions.
8. Removal of dental calculus.
9. Cleaning and polishing of teeth and restorations.
10. Impressions for study models.
11. Preparation of cavities in deciduous and permanent teeth.
12. Restoration of deciduous and permanent teeth by amalgam, dental cement or plastic materials.
13. Administration of infiltration and inferior dental nerve block local anaesthesia: all other intra osseous and regional block techniques are excluded.
14. Forceps extraction of deciduous teeth under local anaesthesia.
15. Undertake:
 - (a) vital pulpotomies in deciduous teeth; and
 - (b) pulpotomy procedures in non-vital deciduous teeth at the prescription of a dentist.
16. Placing of fissure sealants.

Schedule 2

section 18(1)(b)

Services of Dental Hygienist

1. Preventive treatment and advice, dental health education.
2. Dental radiography.
3. Application of rubber dam.
4. Pre-operative and post-operative instruction.
5. Irrigation of the mouth and removal of sutures.
6. Topical application of solutions.
7. Removal of dental calculus.
8. Cleaning and polishing of teeth and restorations.
9. Impressions for study models.
10. Placement and removal of archwire fixation.
11. Orthodontic band selection and sizing.
12. Placing of fissure sealants.

Schedule 3

sections 18(1)(c) and (2) and 44(1)(c)

Practice of dentistry by Aboriginal Health Worker

1. Relief of pain:
 - (a) give analgesics, antibiotics for acute infection;
 - (b) removal of soft debris and caries with hand instruments and placing of temporary sedative filling; and
 - (c) simple extraction under local anaesthesia of periodontally involved teeth.
2. Prevention:
 - (a) oral hygiene instruction and dental health education in school and community;
 - (b) undertake plaque control using disclosing methods and dental prophylaxis paste on low speed rubber cups;
 - (c) apply topical fluoride preparations;
 - (d) promote fluoridation of community water supply; and
 - (e) removal of dental calculus.
3. Assist visiting dental officer at chairside, particularly as an interpreter.
4. Placing of fissure sealants.

Schedule 4

section 54

Ordinances repealed

Number and year	Ordinance
No. 1, 1953	<i>Dentists Registration Ordinance 1953</i>
No. 9, 1957	<i>Dentists Registration Ordinance 1957</i>
No. 46, 1967	<i>Dentists Registration Ordinance 1967</i>
No. 37, 1973	<i>Dentists Registration Ordinance 1973</i>

ENDNOTES

1**KEY**

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2**LIST OF LEGISLATION*****Dental Act 1986 (Act No. 8, 1986)***

Assent date	19 May 1986
Commenced	20 June 1986 (<i>Gaz S34</i> , 19 June 1986)

Statute Law Revision Act 1987 (Act No. 9, 1987)

Assent date	27 May 1987
Commenced	27 May 1987

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 <i>Corporations (Northern Territory) Act 1990</i> (Act No. 56, 1990) and <i>Gaz S76</i> , 21 December 1990)

Dental Amendment Act 1991 (Act No. 74, 1991)

Assent date	10 December 1991
Commenced	31 January 1992 (<i>Gaz S7</i> , 31 January 1992)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector and Employment Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz S53</i> , 29 June 1993)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date	19 April 1996
Commenced	s 7 19 April 1996; rem: 1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and <i>Gaz S15</i> , 13 June 1996)

Statute Law Revision Act 1987 (Act No. 17, 1997)

Assent date 11 April 1997
 Commenced s 16: 10 December 1997 (s 2, s 2 *Meat Industries 1996* (Act No. 54, 1996) and Gaz G49, 10 December 1997, p 3);
 rem: 1 May 1997 (Gaz G17, 30 April 1997, p 2)

Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)

Assent date 10 November 1999
 Commenced 10 November 1999

Mental Health and Related Services (Consequential Amendments) Act 1999 (Act No. 48, 1999)

Assent date 1 February 2000
 Commenced 1 February 2000 (s 2, s 2 *Mental Health and Related Service Act 1998* (Act No. 63, 1998) and Gaz G3, 26 January 2000, p 2)

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 5 *Statute Law Revision Act (No. 2) 1999* (Act No. 48, 1999)

4 LIST OF AMENDMENTS

s 3 amd No. 74, 1991, ss 4 and 12; No. 28, 1993, s 3; No. 48, 1999, s 3; No. 17, 2001, s 21
 s 5 amd No. 9, 1987, s 2; No. 74, 1991, s 12
 s 7 amd No. 74, 1991, s 5
 s 15 amd No. 74, 1991, s 12
 s 17 amd No. 74, 1991, ss 6 and 12
 s 18 amd No. 74, 1991, s 12
 s 20 sub No. 74, 1991, s 7
 s 21 rep No. 74, 1991, s 12
 ss 22 – 23 amd No. 74, 1991, s 12
 s 24A ins No. 74, 1991, s 8
 s 29 amd No. 74, 1991, s 12
 s 30 amd No. 74, 1991, s 12; No. 17, 1996, s 6; No. 11, 1999, s 4
 s 32 amd No. 74, 1991, s 12
 ss 40 – 41 amd No. 17, 1996, s 6
 s 44 amd No. 74, 1991, s 12; No. 17, 1997, s 17
 s 47 amd No. 74, 1991, s 9
 s 51 amd No. 59, 1990, s 4; No. 48, 1999, s 3
 sub No. 74, 1991, s 10
 amd No. 17, 2001, s 21
 sch 1 – 3 amd No. 74, 1991, s 11