

Western Australia

Dental Prosthetists Act 1985

As at 17 Sep 2009

Version 02-d0-02

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Dental Prosthetists Act 1985

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Western Australia

Dental Prosthetists Act 1985

An Act relating to the licensing of dental prosthetists and for incidental and other purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *Dental Prosthetists Act 1985*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

3. Interpretation

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

appointed day means the day fixed by the Minister under subsection (2);

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984*;

dental prosthetist means a person to whom a licence is issued under this Act;

dentist has the same meaning as the expression has in the *Dental Act 1939*;

full artificial denture means a removable dental prosthesis that replaces all of the natural dentition of the upper jaw or the lower jaw;

licence means a licence under section 18 for the time being in force;

subcommittee means a subcommittee constituted under section 13;

the Committee means the Dental Prosthetists Advisory Committee established under section 5.

(2) The Minister shall, by notice published in the *Government Gazette*, fix a day to be the appointed day for the purposes of the provisions of this Act that refer to the appointed day.

- (3) For the purposes of this Act the practice of dental prosthetics shall be taken to mean —
- (a) the giving of advice to, or the attendance upon, a person for or in connection with, or in preparation for, the fitting, constructing, inserting, repairing, or renewing of full artificial dentures or mouthguards; and
 - (b) the fitting, constructing, inserting, repairing, or renewing of full artificial dentures or mouthguards,

but the fitting or inserting of an artificial denture or mouthguard shall not be taken to include any adjustment or alteration to the natural teeth or any tissue of the mouth.

[Section 3 amended by No. 28 of 2006 s. 244.]

4. Application

- (1) Subject to subsection (2)(b), nothing in this Act extends or applies to, or in any manner affects the practice of his profession by, or any rights or privileges of, a person registered under the *Dental Act 1939* as a dentist.
- (2) Nothing in the *Dental Act 1939* applies to or in relation to the practice of dental prosthetics by —
- (a) a dental prosthetist to the extent that the dental prosthetist is authorised by a licence to engage in the practice of dental prosthetics; or
 - (b) subject to section 55(1)(d) of the *Dental Act 1939*, a dental prosthetics student as a requirement for obtaining a qualification prescribed for the purposes of section 18(1)(b) of this Act to the extent that the student —
 - (i) is acting under the direction of a dental prosthetist or a dentist; and

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- (ii) engages in the practice of dental prosthetics that the dental prosthetist directing the student is authorised by a licence to engage in or, in the case of a dentist directing the student, that the dentist may lawfully engage in.

[Section 4 amended by No. 4 of 1989 s. 4.]

Part II — Administration

5. Dental Prosthetists Advisory Committee

- (1) For the purposes of this Act there shall be established a committee to be known as the Dental Prosthetists Advisory Committee.
- (2) The Committee shall consist of 8 persons, appointed by the Minister, of whom —
 - (a) 1 person shall be appointed to be a member and the chairman of the Committee;
 - (b) 1 person shall be appointed on the nomination of the chief executive officer of the department as defined in section 5(1) of the *Vocational Education and Training Act 1996*;
 - (c) 3 persons shall be dentists of whom —
 - (i) 1 shall be appointed on the nomination of the Australian Dental Association Inc.; and
 - (ii) 1 shall be appointed on the nomination of the CEO;and
 - (d) 3 persons shall be dental prosthetists of whom —
 - (i) 1 shall be appointed on the nomination of the Australian Commercial Dental Laboratories Association Incorporated;
 - (ii) 1 shall be appointed on the nomination of the W.A. Dental Technicians and Employees' Union; and
 - (iii) 1 shall be appointed on the nomination of the Australian Dental Technicians and Dental Prosthetists Society (W.A. Branch Inc.).
- (3) Before the appointed day a person may be appointed under subsection (2)(d)(i), (ii) or (iii) notwithstanding that he is not a

dental prosthetist within the meaning of this Act if, on the coming into operation of this Act, he is actively engaged in the practice of dental prosthetics in the State and has been continuously so engaged for a period of not less than 5 years.

[Section 5 amended by No. 10 of 1998 s. 28; No. 24 of 2000 s. 12; No. 28 of 2006 s. 245 and 247.]

6. Deputies

- (1) The Minister may appoint persons as deputies to act in the respective places of the member who is the chairman of the Committee and the other members of the Committee and may terminate such an appointment at any time.
- (2) Where section 5(2) requires the appointment of a member of the Committee to be on the nomination of a person or body, the appointment of a person as the deputy of the member shall, subject to section 7(2), be made on the nomination of the person or body by which the member is required under section 5(2) to be nominated.
- (3) A person appointed under subsection (1) is, in the event of the absence from a meeting of the Committee of the member for whom he is the deputy, entitled to attend that meeting and, when so attending, has all the powers, functions, entitlements, and protection of the member for whom he is the deputy.

7. Nominations

- (1) Where a nomination for appointment under section 5 or 6 is required to be made, the nomination shall be made to the Minister within such time after receiving notice from the Minister that such nomination is required as is specified in the notice.
- (2) If a nomination is not made in accordance with subsection (1) within the time specified under that subsection the Minister may appoint such person as he thinks fit and a person appointed in accordance with this subsection shall hold office as if he had

been nominated as required by section 5(2) or 6(2), as the case may be.

8. Tenure of office

- (1) Subject to this section, a member shall be appointed for such term not exceeding 3 years as is specified in his instrument of appointment and is eligible for reappointment.
- (2) The Minister shall remove from office a person appointed to be a member of the Committee if the person —
 - (a) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
 - (b) becomes in the opinion of the Minister permanently incapable of performing the duties of his office; or
 - (c) is absent, except with the permission of the Minister, from 3 consecutive meetings of the Committee; or
 - (d) being a person appointed under section 5(2)(c)(i) and (ii), ceases to be a dentist; or being a person appointed under section 5(2)(d)(i), (ii) and (iii), ceases to be a dental prosthetist or, having been so appointed in accordance with section 5(3), does not become a dental prosthetist within 1 year after the coming into operation of this Act.
- (3) The Minister may remove from office a person appointed to be a member of the Committee —
 - (a) on the grounds of neglect of duty, misbehaviour, or incompetence; or
 - (b) in the case of a member appointed on the nomination of a person or body, if the person or body nominating that member so requests.
- (4) A person appointed to be a member of the Committee may resign his office by writing signed by him addressed to the Minister.

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- (5) Where a member of the Committee is removed from or resigns his office under this section his office becomes vacant.

[Section 8 amended by No. 18 of 2009 s. 30.]

9. Remuneration and allowances

A member or deputy of a member of the Committee who is not an officer in the Public Service of the State and is not employed by a State instrumentality shall be entitled to such remuneration and allowances as the Minister from time to time determines on the recommendation of the Minister for Public Sector Management².

10. Meetings

- (1) At a meeting of the Committee 4 members or their respective deputies constitute a quorum of the Committee.
- (2) The chairman or his deputy shall preside at a meeting of the Committee but, if neither the chairman nor his deputy is present at the meeting, the members present may appoint one of their number to preside at the meeting.
- (3) At a meeting of the Committee each member present may vote on a question and the question shall be decided by a majority of the votes of the members present and voting but if the votes on any question are equally divided the question shall be taken to have been decided in the negative.
- (4) The Committee shall —
- (a) subject to this Act, conduct proceedings at its meetings in such manner as it from time to time determines and is hereby authorised to determine; and
 - (b) cause to be recorded and kept true and proper minutes of the proceedings at its meetings.

11. Saving

- (1) All acts done at a meeting of the Committee shall notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member, be as valid as if that defect had not existed.
- (2) The performance of the functions of the Committee is not affected by reason only of there being a vacancy in the office of a member.

12. Functions and powers

- (1) The functions of the Committee are —
 - (a) to liaise with educational authorities in relation to the provision of training courses and facilities for dental prosthetics;
 - (b) to conduct or arrange for the conduct of such examinations, if any, as are necessary for the purposes of assessing the theoretical or practical knowledge or capabilities of persons applying for the issue of licences;
 - (c) to assess the qualifications of persons applying for the issue of licences;
 - (d) to advise the CEO in relation to applications for the issue of licences and as to other matters concerning licences; and
 - (e) generally to investigate, and advise and make recommendations to the CEO on, any matters referred to the Committee by the CEO.
- (2) The Committee has all such powers, rights, and privileges as may be reasonably necessary for or incidental to the performance of its functions under this Act.
- (3) The Committee may co-opt any person having relevant specialized knowledge or experience, but a person so co-opted is not entitled to vote.

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- (4) The Committee may, by a summons in the prescribed form —
- [(a) *deleted*]
 - (b) require the attendance at a time and place specified in the summons of any person making an application for or relating to a licence or of any other person who, in the opinion of the Committee, can give evidence in connection with any such application,

and a summons issued by the Committee under this subsection may also require the production of any documents by the person summoned, and shall have the same effect as a subpoena *ad testificandum* or *duces tecum*, as the case may be, issued by the Supreme Court in a civil action, and obedience to such summons may be enforced by the Supreme Court or a Judge thereof on application by the Committee, in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the Supreme Court.

- (5) The Committee may examine on oath or affirmation all persons attending before the Committee as required under subsection (4) or voluntarily attending before it to give evidence, and for such purpose the member of the Committee for the time being presiding may administer an oath or affirmation.

[Section 12 amended by No. 55 of 2004 s. 245; No. 28 of 2006 s. 247.]

13. Subcommittees

- (1) The Committee may from time to time, with the approval of the CEO, constitute a subcommittee or subcommittees to advise on any aspect of the functions of the Committee, or to carry out such of those functions as may be delegated to that subcommittee under section 14.
- (2) A subcommittee consists of such persons as the Committee determines, but —
- (a) shall include at least 1 member of the Committee; and

- (b) shall not include a person who is not a member of the Committee unless the approval of the CEO has first been obtained to that person being so included.
- (3) The Committee may determine the procedures to apply in relation to meetings of a subcommittee including the election of a person to preside at meetings, the appointment of deputies, and the constitution of a quorum.
- (4) A subcommittee shall report on its activities at such times as the Committee directs.
- (5) Subject to subsection (2), the Committee may dismiss any member of a subcommittee with or without appointing another member of the subcommittee in his place but shall not dismiss as a member of a subcommittee a person who is not a member of the Committee unless the approval of the CEO has first been obtained to that person being so dismissed.

[Section 13 amended by No. 28 of 2006 s. 247.]

14. Delegation

- (1) The Committee may, with the approval of the CEO, delegate to a subcommittee such of its functions generally, or such specific matter that is within the functions of the Committee, as may be specified by the Committee and, subject to any limitations that may be imposed by the Committee, the subcommittee may exercise all of the powers of the Committee in relation to any function or matter so delegated except the powers conferred by section 13 and this subsection.
- (2) The Committee or a subcommittee that may exercise powers of the Committee may, with the approval of the CEO, delegate to a person specified in the instrument of delegation any power so specified other than a power conferred by section 13 or this section.
- (3) A delegation under this section —
 - (a) shall be evidenced in writing; and

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- (b) shall not be varied or revoked except with the approval of the CEO.

[Section 14 amended by No. 28 of 2006 s. 247.]

15. Directions and references

- (1) The CEO may, from time to time and either generally or with respect to a particular matter, give directions to the Committee, a subcommittee or any person with respect to the exercise or performance of any powers, functions or duties under this Act, and effect shall be given to any direction so given.
- (2) The CEO may refer any matter connected with the administration of this Act to the Committee for their consideration or investigation and may have regard to, but is not obliged to act in accordance with, any advice given or recommendation made by the Committee.

[Section 15 amended by No. 28 of 2006 s. 247.]

Part III — Practice of dental prosthetics

16. Licensed persons may practise dental prosthetics

Subject to this Act, a person may, notwithstanding that he is not registered under the *Dental Act 1939* as a dentist, engage in the practice of dental prosthetics to the extent that he is authorised so to do by a licence.

17. Application for licence

A person who is not a dentist may apply to the CEO for the issue to him of a licence and an application so made shall be in the prescribed form and shall be accompanied by the prescribed fee.

[Section 17 amended by No. 28 of 2006 s. 247.]

18. Issue of licence

- (1) Where the CEO receives an application made under and in accordance with section 17 and the CEO is satisfied that —
 - (a) the applicant is a person of good character and repute and a fit and proper person to hold a licence; and
 - (b) the applicant has, upon assessment by examination, gained from an educational authority prescribed for the purposes of this paragraph a qualification so prescribed or is otherwise qualified in a manner considered by the CEO to be at least equivalent to a qualification required by the regulations for the purposes of this paragraph,the CEO shall issue to the applicant a licence in the prescribed form.
- (2) Where on the coming into operation of this Act a person is actively engaged in the practice of dental prosthetics in the State and has been continuously so engaged for a period of not less than 5 years he shall, for the purposes of dealing with an application made under section 17 within 1 year after the coming into operation of this Act, be taken to be qualified as

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required by subsection (1)(b) if he undergoes an assessment of proficiency by written, oral or practical examination or any one or more of those kinds of examination as may be required by the person holding the office of Director of Dental Health Services in the Health Department of Western Australia³ established under the *Public Sector Management Act 1994*⁴, and performs to the satisfaction of that person in that assessment.

[Section 18 amended by No. 28 of 2006 s. 247.]

19. Effect of licence

Subject to this Act, a licence is of unlimited duration and authorises the person to whom it is issued to engage in the practice of dental prosthetics to the extent that it relates to the fitting, constructing, inserting, repairing, or renewing of full artificial dentures or mouthguards.

19A. Investigator

- (1) The CEO may appoint a person to investigate —
 - (a) a complaint in relation to a dental prosthetist; or
 - (b) any other matter relevant to the CEO's functions,and report to the CEO.
- (2) The CEO is to issue to each investigator the CEO appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

[Section 19A inserted by No. 55 of 2004 s. 246; amended by No. 28 of 2006 s. 246 and 247.]

19B. Report of investigator

- (1) An investigator must —
 - (a) within such period as the CEO requires prepare a report on the investigation, and make recommendations as to

the manner in which the complaint or other matter should be dealt with; and

- (b) immediately after preparing the report, provide the CEO with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the CEO is provided with a copy of the report.

[Section 19B inserted by No. 55 of 2004 s. 246; amended by No. 28 of 2006 s. 247.]

19C. Powers of investigator

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 19E(1), and exercise the powers referred to in section 19E(2)(b) and (c);
 - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
 - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
 - (d) require a person —
 - (i) to give the investigator such information as the investigator requires; and
 - (ii) to answer any question put to that person, in relation to the matter the subject of the investigation; and
 - (e) exercise other powers conferred on an investigator by the regulations.

s. 19C

- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
 - (b) must specify the time at or within which the document or other thing is to be produced;
 - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
 - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
 - (i) the document itself; and
 - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to a place specified in the requirement;
 - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
 - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must

inform that person that the person is required under this Act to give the information or answer the question.

- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

[Section 19C inserted by No. 55 of 2004 s. 246.]

19D. Warrant to enter premises

- (1) If the CEO has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
- (a) be in writing;
 - (b) be accompanied by a notice in writing from the CEO stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
 - (c) set out the grounds for seeking the warrant; and
 - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
 - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or

s. 19E

affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

[Section 19D inserted by No. 55 of 2004 s. 246; amended by No. 28 of 2006 s. 247.]

19E. Issue of warrant

- (1) A magistrate to whom an application is made under section 19D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose of the investigation.
- (2) A warrant under subsection (1) authorises the investigator —
 - (a) to enter and inspect the premises named in the warrant;
 - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
 - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
 - (a) the purpose for which the warrant is issued;
 - (b) the name of the person to whom the warrant is issued; and
 - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

[Section 19E inserted by No. 55 of 2004 s. 246.]

19F. Execution of warrant

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.

- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
 - (b) if it is withdrawn by the magistrate who issued it; or
 - (c) when it is executed,

whichever occurs first.

[Section 19F inserted by No. 55 of 2004 s. 246.]

19G. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 19C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 19H(1)(b).

[Section 19G inserted by No. 55 of 2004 s. 246.]

19H. Failure to comply with investigation

- (1) Where under section 19C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
 - (b) gives any information or answer that is false in any particular; or

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- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
 - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 19C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
 - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 19C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
 - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
 - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

[Section 19H inserted by No. 55 of 2004 s. 246.]

19I. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 19C.

Penalty: \$2 000.

[Section 19I inserted by No. 55 of 2004 s. 246.]

20. Revocation of licence and cancellation of endorsement

- (1) Where the CEO is satisfied that a dental prosthetist is not a fit and proper person to hold a licence, the CEO may refer the matter to the State Administrative Tribunal and the Tribunal may, if satisfied that the dental prosthetist is not a fit and proper person to hold a licence, revoke the licence of that dental prosthetist.
- (2) A person whose licence has been revoked under this section may apply in writing to the CEO, at any time after the expiration of a period of one year from the revocation for the restoration of his licence.
- (3) The CEO may, on payment by the applicant to the CEO of the prescribed fee, grant the application and restore the licence to the applicant or may refuse the application.
- (4) The CEO cannot grant an application under subsection (2) unless the CEO has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

[Section 20 amended by No. 55 of 2004 s. 247; No. 28 of 2006 s. 247.]

21. Suspension of licence or endorsement

The State Administrative Tribunal may —

- (a) where the Tribunal is considering whether or not to revoke a licence under section 20(1); or
- (b) where the Tribunal, upon considering whether or not to revoke a licence under section 20(1), is of the opinion that the matter under consideration would be adequately dealt with by imposing a suspension,

order that the operation of a licence be suspended for such period as the Tribunal specifies in the order and during the period of such suspension the licence is of no force.

[Section 21 amended by No. 55 of 2004 s. 248.]

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22. Review

- (1) Where the CEO makes a decision —
- (a) refusing to issue a licence upon application therefor duly made under this Act; or
 - (b) refusing to restore a licence upon application therefor duly made under this Act,

the person affected by his decision may apply to the State Administrative Tribunal for a review of the decision.

- (2) Where the CEO does not, within 90 days after an application is duly made under this Act, issue a licence, or restore a licence, in accordance with the application or give the applicant notice in writing that his application is refused, the application is to be taken to have been refused at the expiry of that period of 90 days.

[Section 22 inserted by No. 55 of 2004 s. 249; amended by No. 28 of 2006 s. 247.]

Part IV — General

23. Records to be kept

- (1) Subject to this Act, the CEO shall cause to be compiled and maintained a record showing in respect of each application made under this Act such particulars as may be prescribed.
- (2) The record referred to in subsection (1) shall include, in respect of each person to whom a licence is or has been issued —
 - (a) the name of that person and, if he carries on the practice of dental prosthetics under a name registered under the *Business Names Act 1962*, the name so registered;
 - (b) the address of that person;
 - (c) particulars of the qualifications of that person;
 - (d) particulars of any suspension, revocation or restoration of the licence; and
 - (e) such other particulars as are prescribed.
- (3) Any person may, on payment of the prescribed fee, inspect the record maintained under subsection (1) at any reasonable time.

[Section 23 amended by No. 28 of 2006 s. 247.]

24. Offences as to licensing

A person who —

- (a) makes, or causes to be made, any falsification in any matter relating to the record kept under section 23;
- (b) presents, or causes to be presented, to the CEO, the Committee, or a subcommittee any forged, false or counterfeit document or other evidence as to his qualifications or experience;
- (c) personates, or wrongfully represents himself as being, the person referred to in any document presented to the CEO, the Committee, or a subcommittee or in any licence issued under this Act; or

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- (d) makes or produces, or causes to be made or produced, any false or fraudulent statement or representation, either orally or in writing, for the purpose of procuring the issue of a licence, whether for himself or for any other person under this Act or upon any application, or any investigation or inquiry held under this Act,

commits an offence and is liable to a fine not exceeding \$1 000.

[Section 24 amended by No. 28 of 2006 s. 247.]

25. Offences relating to the practice of dental prosthetics

- (1) Subject to this section and except as otherwise provided in this Act, a person who, not being a person who is licensed as a dental prosthetist under this Act and is thereby authorised so to do in relation to the circumstances in question, in any manner holds himself out as or pretends to be or makes use of any words or any name, title, addition, or description implying or tending to the belief that he is licensed under this Act commits an offence.
Penalty: \$2 000.
- (2) A dental prosthetist shall not carry on the practice of dental prosthetics under any name other than his own, unless he has caused it to be registered under the *Business Names Act 1962* and it is the only name under which he carries on the practice of dental prosthetics.
Penalty: \$2 000.
- (3) A dental prosthetist shall not in relation to dental prosthetics use or notify on any name-plate or sign or in any advertisement or notice published by or for him any title, words, letters, addition, or similar description, either in full, or in abbreviation or in combination, other than that or those recorded in respect of him under section 23.
Penalty: \$2 000.

26. Notice of business name

A dental prosthetist who carries on or intends to carry on the practice of dental prosthetics under a name registered under the *Business Names Act 1962* shall, within 28 days of the name being so registered, notify the CEO in writing of that name.

Penalty: \$100.

[Section 26 amended by No. 28 of 2006 s. 247.]

27. Legal proceedings

- (1) Any proceedings in respect of an offence against this Act may be taken in the name of the CEO by any person appointed for that purpose by the CEO.
- (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.
- (3) No proof shall be required of the appointment of any member or deputy of a member of the Committee, or any member of a subcommittee, or any person to take proceedings in the name of the CEO, but an averment in the prosecution notice that the person is so appointed shall be deemed to be proved in the absence of evidence to the contrary.
- (4) It shall not be necessary in any proceedings for an offence against this Act for the prosecution to prove that the accused received any remuneration or reward in connection with the act, matter, or thing complained of, or that any offence was committed with a view to enabling the accused to practise dental prosthetics or to claim the privileges conferred by this Act on a dental prosthetist.
- (5) When any person is charged under this Act or the *Dental Act 1939* with doing any act or thing which it is unlawful for him to perform it shall be sufficient for the prosecution to allege that the person is not entitled under this Act to do that act or thing and the burden of proof that he is so entitled rests on the accused.

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- (6) In all courts and before all persons and bodies authorised to receive evidence —
- (a) a certificate in the prescribed form purporting to be issued and signed by the CEO and stating that any person was or was not licensed under this Act, or that the licence of a person was suspended, on any date or dates or during any period mentioned in the certificate, is evidence of the matters so stated;
 - (b) a copy of or extract from the record kept under section 23, or any writing that purports to reproduce matters entered in that record and recorded or stored by means of any mechanical, electronic or other device, certified as a true copy or as a true extract by the CEO, is evidence of the facts appearing therein;
 - (c) judicial notice shall be taken of the signature on the certificate and on the copy of or extract from the record kept under section 23, which shall be presumed to have been duly authorised and of the fact that the person by whom the signature was given was so authorised at the time of signing.
- (7) Where a body corporate is convicted of an offence against this Act, every person who at the time of the commission of the offence was a director or member of the governing authority of the body corporate or an officer concerned in the management of it and who authorised or permitted the commission of the offence is guilty of the like offence.
- (8) A person referred to in subsection (7) may, on the request of the prosecutor, be convicted on the proceedings on which the body corporate is convicted if the court is satisfied that the person had reasonable notice that the prosecutor intended to make that request.

[Section 27 amended by No. 59 of 2004 s. 141; No. 84 of 2004 s. 80 and 82; No. 28 of 2006 s. 247.]

28. Publication

- (1) Without limiting the operation of section 30, no action, claim or demand lies against —
- (a) the proprietor, editor, printer or publisher of any newspaper, journal or periodical; or
 - (b) the CEO, any member of the Committee or a subcommittee, or any other person,

in respect of the publication in good faith of the whole or any part of a report of any investigation, inquiry or findings under this Act concerning any matter touching the practice of dental prosthetics.

- (2) Where under this Act the licence of a person is revoked or suspended the CEO may notify the revocation, or suspension, and the cause thereof, to —
- (a) any board or authority outside the State by which the person is licensed or registered as a dental prosthetist;
 - (b) any body that has granted him a qualification that is recorded under section 23;
 - (c) the body known as The Dental Board of Western Australia established under the *Dental Act 1939*; and
 - (d) any person by whom he is employed as a dental prosthetist or any person with whom he practises dental prosthetics in partnership,

and may publish notice of the revocation, cancellation or suspension in the *Government Gazette* or in such other manner as the CEO sees fit.

[Section 28 amended by No. 28 of 2006 s. 247.]

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29. Return of licences and endorsements upon suspension or revocation

- (1) Where the licence of a person is suspended or revoked under this Act, that person shall, within 7 days after being notified by the CEO thereof, surrender to the CEO the form of licence issued to him under this Act.
- (2) A person who fails to surrender or return to the CEO a form of licence as required by subsection (1) commits an offence and is liable to a fine not exceeding \$200, but it is a defence to a prosecution for any offence against this section if the accused satisfies the court that the failure to surrender or return the form of licence was due to its loss or destruction.
- (3) The revocation or suspension of a licence is effective notwithstanding that a person may have failed to surrender or return any form to the CEO as required by this section.

[Section 29 amended by No. 84 of 2004 s. 82; No. 28 of 2006 s. 247.]

30. Indemnity

- (1) No liability attaches to the CEO, a member of the Committee or a subcommittee or to any other person for any act or omission, by him or on his part or by or on the part of the Committee or a subcommittee, that occurred in good faith and in the exercise, or purported exercise, of his or its powers, or in the discharge, or purported discharge, of his or its duties under this Act.
- (2) Proceedings shall not be commenced or continued against any person in respect of an offence against the *Dental Act 1939* that was committed before the appointed day by reason only of the doing of anything that was, or had this Act then been in operation would have been, engaging in the practice of dental prosthetics within the meaning of this Act.

[Section 30 amended by No. 28 of 2006 s. 247.]

30A. Report

On or before 31 December in each year the CEO shall submit to the Minister a report relating to the CEO's functions under this Act for the preceding year ending on 30 June setting out details of —

- (a) the number, nature, and outcome, of —
 - (i) investigations undertaken at the direction of, the CEO; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the CEO;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged; and
- (d) forecasts of the workload of the CEO under this Act in the year after the year to which the report relates.

[Section 30A inserted by No. 55 of 2004 s. 250; amended by No. 28 of 2006 s. 246 and 247.]

31. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act and, in particular —

- (a) prescribing forms to be used and fees to be payable under this Act; and
- (b) regulating the manner in which a dental prosthetist may advertise, display or publicise his practice of dental prosthetics.

Notes

- ¹ This is a compilation of the *Dental Prosthetists Act 1985* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Dental Prosthetists Act 1985</i>	16 of 1985	19 Apr 1985	1 Oct 1986 (see s. 2 and <i>Gazette</i> 26 Sep 1986 p. 3675)
<i>Acts Amendment (Dental Prosthetics Students) Act 1989 Pt. 3</i>	4 of 1989	20 Apr 1989	20 Apr 1989 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 28</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 2000 s. 12</i>	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Reprint 1: The <i>Dental Prosthetists Act 1985</i> as at 2 May 2003 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> ⁷	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 37</i> ⁵	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 1</i> ⁶	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
Reprint 2: The <i>Dental Prosthetists Act 1985</i> as at 20 Oct 2006 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 30	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

- ² Under the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).
- ³ Under the *Alteration of Statutory Designations Order (No. 3) 2001* a reference in any law to the Health Department of Western Australia is read and construed as a reference to the Department of Health.
- ⁴ Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).
- ⁵ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ⁶ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9 Div. 13 reads as follows:
- “

Division 13 — Transitional provisions

289. Commissioner of Health

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the CEO.
- (2) In this section —
CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement;
commencement means the time at which this Division comes into operation;

Commissioner of Health means the Commissioner of Health referred to in section 6(1)(a) of the *Health Legislation Administration Act 1984* as in force before commencement.

”.

⁷ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 14 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).