

Western Australia

## **Podiatrists Registration Act 1984**

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## Podiatrists Registration Act 1984

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### CONTENTS

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<b>Part I — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
3.	Interpretation	2
4.	Application	3
<b>Part II — The Podiatrists Registration Board</b>		
5.	Constitution of Board	4
6.	Composition of Board	4
7.	Functions of the Board	6
8.	Rules 7	
9.	Registrar and staff	8
<b>Part III — Registration of podiatrists</b>		
10.	Qualifications	10
11.	Applications	11
12.	The Register	11
13.	Certificates of registration	12
14.	Conditions on registration and certificates of registration	13
15.	Effect of registration	13
16.	Resignation	13
17.	Registrar to remove names of deceased persons from Register	14
18.	Registrar to amend Register to ensure accuracy	14

Contents

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19.	Effect of striking off	14
20.	Name of person struck off may be restored	14
21.	Registration fees	15
22.	Suspension	15
23.	Temporary registration	16
24.	Provisional registration	17

**Part IV — Finance and reports**

25.	Funds of the Board	19
26.	Accounts	19
27.	Audit	19
27A.	Annual report	20

**Part V — Disciplinary proceedings**

28.	Disciplinary powers	21
28A.	Alternative to bringing proceeding	22
29.	Breach of undertaking	23
31.	Powers of investigation	24
31A.	Incriminating information, questions, or documents	26
31B.	Failure to comply with investigation	27
31C.	Obstruction of investigator	28
32.	Records of Board decisions	28
33.	Review	28
34.	Reciprocal enforcements	29
35.	Publication of proceedings	29
36.	Certificates to be surrendered by persons whose names are struck off the Register, etc.	30
37.	Provision for continuing business after death	31
38.	Offences as to registration	31
39.	Offences as to qualified persons	31
40.	Offences relating to the practice of podiatry	32
41.	Legal proceedings	33

**Part VI — Miscellaneous**

42.	Indemnity	35
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**Part VII — Repeal, savings and transitional provisions**

43.	Repeal	36
44.	Savings and transitional	36

**Notes**

Compilation table	38
Provisions that have not come into operation	38



Western Australia

## **Podiatrists Registration Act 1984**

**An Act to make provision for the regulation of the practice of podiatry, the registration of persons as podiatrists and for related purposes and to repeal the *Chiropodists Act 1957*.**

## Part I — Preliminary

1. **Short title**

This Act may be cited as the *Podiatrists Registration Act 1984*<sup>1</sup>.

2. **Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

3. **Interpretation**

In this Act, unless the contrary intention appears —

“**Board**” means the Podiatrists Registration Board constituted under section 5;

“**certificate of registration**” means a certificate of registration granted under section 13;

“**chairman**” means the chairman of the Board;

“**medical practitioner**” means a medical practitioner registered under the *Medical Act 1894*;

“**member**” means a member of the Board and includes the chairman;

“**physiotherapist**” means a physiotherapist registered under the *Physiotherapists Act 1950*;

“**podiatrist**” means a person registered under this Act;

“**podiatry**” means the diagnosis and treatment, by medical, surgical, electrical, mechanical or manual methods, of such ailments or abnormal conditions of the human foot as come within the accepted province of podiatry including the analysis of gait and other factors influencing disorders of the foot and appropriate preventative education;

“**Register**” means the register referred to in section 12;

“**Registrar**” means the person holding or acting in the office of Registrar under section 9;



**“section”** means a section of this Act; and

**“subsection”** means a subsection of the section in which that term is used.

**4. Application**

- (1) A person is not required to register under this Act, nor is it unlawful for him to diagnose and treat ailments or abnormalities of the human foot within the accepted province of the podiatrist, by reason only of the fact that he is a medical practitioner or a physiotherapist.
- (2) Nothing in this Act extends or applies to, or in any manner affects, the practice of his profession by, or any rights and privileges of, a medical practitioner or a physiotherapist.

## **Part II — The Podiatrists Registration Board**

### **5. Constitution of Board**

- (1) A Board to be called the “Podiatrists Registration Board” shall be constituted for the purposes of this Act.
- (2) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of suing and being sued in its corporate name, and of acquiring, holding, and disposing of real and personal property, and of doing and permitting all things which are required by this Act to be done by the Board, or which are necessary and convenient to be done by the Board for the purpose of giving effect to this Act.
- (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 presume that it was duly affixed.
- (4) The Board does not represent, and is not an agent or servant of, the Crown.

### **6. Composition of Board**

- (1) The Board shall consist of 6 persons appointed by the Governor, of whom —
  - (a) 1 shall be the chief executive officer<sup>2</sup> or a person who is nominated by the chief executive officer<sup>2</sup>;
  - (b) 1 shall be a medical practitioner nominated for appointment by the Minister;
  - (c) 1 shall be a person nominated for appointment by the Council of the Curtin University of Technology<sup>3</sup> established under the *Curtin University of Technology Act 1966*<sup>4</sup>; and
  - (d) 3 shall be persons nominated for appointment by the Minister from a panel of names submitted by the body known as The Australian Podiatry Association (Western Australia).

- (2) The Board shall elect its own chairman.
- (3) Three members of the Board shall constitute a quorum at a meeting of the Board.
- (4) The performance of the functions or the exercise of the powers of the Board is not affected by reason of there being a vacancy or vacancies in the membership of the Board.
- (5) Prior to each occasion on which an appointment is to be made to an office of member referred to in subsection (1)(d), the Minister shall, in writing, request The Australian Podiatry Association (Western Australia) to submit to him a panel of names containing not fewer than 2 names in respect of each vacancy, being the names of persons who are willing to serve as members.
- (6) Where a request has been made under subsection (5) for the submission of a panel of names to the Minister, the Minister —
  - (a) shall, if such a panel is submitted within 30 days of the body receiving the request, nominate 1 or more, as the case requires, of the persons whose names appear on the panel for appointment to the office of member; and
  - (b) may, if default is made in submitting within that time such a panel to him, nominate for appointment to the office of member such person or persons as he thinks fit.
- (7) Subject to this section, a member shall hold office for such period not exceeding 3 years as is specified in the instrument of his appointment and is eligible for reappointment.
- (8) The Governor may remove a member appointed —
  - (a) pursuant to subsection (1)(a) if, being a person nominated by the chief executive officer<sup>2</sup>, the nomination by the chief executive officer<sup>2</sup> of that person as member is withdrawn;

**s. 7**

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- (b) pursuant to section 7(1)(c), if the nomination by the Curtin University of Technology<sup>3</sup> of that person as member is withdrawn.
- (9) A member may resign his office at any time by notice in writing delivered to the Minister.
- (10) The Governor may terminate the appointment of a member by reason of the misbehaviour, or the physical or mental incapacity, of the member.
- (11) The Governor shall terminate the appointment of a member if that member —
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
  - (b) absents himself, except with the leave of the Board, from 3 consecutive meetings of the Board.
- (12) The appointment of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in connection with his nomination.
- (13) The office of member of the Board may be held in conjunction with any appointment or office in the Public Service of the State.

**7. Functions of the Board**

- (1) Subject to subsection (3), the Board shall carry out the administration of this Act.
- (2) The functions of the Board are —
  - (a) to advise the Minister as to the general administration of this Act;
  - (b) to administer the scheme of registration established under this Act; and

- (c) to carry out such other functions as are conferred upon the Board under this Act.
- (3) The Minister may from time to time give directions to the Board with respect to its functions, powers, and duties, either generally or with respect to a particular matter, and the Board shall give effect to those directions.

**8. Rules**

- (1) The Board may, subject to the approval of the Governor, make rules for all or any of the following purposes —
  - (a) regulating the meetings and proceedings of the Board and the conduct of its business;
  - (b) enabling the Board to constitute committees of the Board, which may consist of members of the Board or persons who are not members but so that in every case at least 1 member of the Board shall be a member of the committee and the committee shall be required to report to the Board on its activities at such times as the Board determines, and for regulating the proceedings of such committees;
  - (c) determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this Act;
  - (d) regulating the manner of keeping and the form of the Register;
  - (e) prescribing the fees to be paid in relation to the grant, amendment or renewal of registration, and the fees or charges that shall be payable in relation to other matters under this Act, other than the commencement of a proceeding before the State Administrative Tribunal;
  - (f) prescribing the forms to be used for the purposes of this Act, and requiring that information supplied may be required to be verified by statutory declaration;

**s. 9**

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- (g) regulating the manner of making to the Board any charge or complaint against or concerning any podiatrist;
  - (h) regulating the practice of podiatry by persons registered under this Act and the conduct of that practice;
  - (i) regulating the manner in which podiatrists may advertise or display or publicise their practice of podiatry;
  - (j) providing for the Board to adopt a common seal and prescribing the manner in which the common seal of the Board may be affixed to documents and the manner in which documents issued by the Board may be authenticated;
  - (k) prescribing the fees and allowances payable to members from the funds of the Board;
  - (l) regulating the issue, cancellation, removal and replacement of certificates; and
  - (m) generally to give effect to the objects of this Act.
- (2) Rules made under this section may confer on any person a discretionary authority.
- (3) Failure to comply with rules made under this section in relation to the practice of podiatry may be deemed to constitute improper conduct on the part of a podiatrist for the purposes of section 28(1)(e), but nothing in this section prevents any matter not dealt with in the rules made under this section from being treated for the purposes of this Act as improper conduct as a podiatrist.

*[Section 8 amended by No. 55 of 2004 s. 950.]*

**9. Registrar and staff**

- (1) The Board shall appoint a Registrar and such other staff as it considers necessary for the purposes of carrying out the provisions of this Act and the remuneration of such persons shall be paid out of the funds of the Board.

- (2) The Registrar shall be the Secretary of the Board.

## **Part III — Registration of podiatrists**

### **10. Qualifications**

- (1) A person who satisfies the Board —
- (a) that he is of good character and reputation;
  - (b) that he is resident in the State; and
  - (c) that he holds an approved educational qualification,
- shall, subject to this Act and upon payment of the prescribed fee, be registered under this Act and the Board shall cause his name to be entered in the Register accordingly.
- (2) For the purposes of subsection (1), a person who holds “**an approved educational qualification**” means a person who has gained by examination a qualification approved by the Board granted by a tertiary educational institution recognized by the Board.
- (3) A person who satisfies the Board —
- (a) that he is of good character and reputation;
  - (b) that he desires to engage in the occupation, as his sole professional occupation in the State, of teaching or research, or of a postgraduate scholar, in podiatry under the direction and control of a teaching or research institution; and
  - (c) that he has such qualifications in podiatry as in the opinion of the Board fit and qualify him for appointment to a position connected with, and to engage in the occupation of teaching or research, or of a post-graduate scholar in, podiatry,

may, upon his making application to the Board for registration and upon payment of the prescribed fee, be registered as a podiatrist under this Act during such time as his appointment and engagement in that teaching or research or as a postgraduate scholar continues to be his sole professional occupation in the



State, if in the opinion and in the discretion of the Board it is desirable in the interests of the general community of the State to so register that person.

- (4) For the purposes of subsection (3), “**teaching or research institution**” means any university, college or school of podiatry, research institute, hospital, clinic or other like institution which is engaged in this State in teaching or research in podiatry and which is approved by the Board for the purposes of this subsection.

#### **11. Applications**

- (1) An application for registration under this Act shall be made in writing and in a manner and form determined by the Board.
- (2) In respect of any particular application for registration, the applicant shall provide the Board with such further information as the Board determines, verified by statutory declaration if the Board so requires.
- (3) The Board may require any applicant for registration to attend personally before the Board and, if the applicant fails so to attend, may refuse the application.

#### **12. The Register**

- (1) Subject to this Act, the Board shall cause to be compiled and maintained a register in a form showing in respect of each application for registration under this Act or the renewal thereof such particulars as may be prescribed.
- (2) Where the Board has authorised the grant of a certificate of registration to a person there shall be entered in the Register —
- (a) the name of that person;
  - (b) the address of that person;
  - (c) particulars of the qualifications of that person; and
  - (d) such other particulars as are prescribed.

**s. 13**

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- (3) Where the name of a person is entered in the Register, that person may at any time apply to the Board for the amendment of the relevant particulars entered in the Register, and if the Board is satisfied that the amendment may properly be made, the Board shall, on payment of the prescribed fee, amend those particulars accordingly.
- (4) The Register shall be kept in the office of the Registrar, and shall at all reasonable times be open to inspection by any person without fee.
- (5) The Register may be kept or prepared —
  - (a) by making entries in or on a bound or loose-leaf book; or
  - (b) by recording or storing the particulars required by this Act to be entered in the Register by means of a mechanical, electronic or other device, but so that the particulars so recorded or stored will remain in the form in which they were originally recorded or stored and will be capable of being reproduced in written form in the English language.

**13. Certificates of registration**

- (1) The Board shall on the grant of registration issue a certificate of registration in the prescribed form to the applicant which shall, subject to this Act, have effect —
  - (a) in the case of temporary registration, for the period specified therein; and
  - (b) in any other case, for the period expiring on 31 December of the year in which the registration is granted.
- (2) Subject to this Act, registration of a person as a podiatrist may, on payment to the Board of the prescribed fee, be renewed from time to time for a further period of 12 months.

**14. Conditions on registration and certificates of registration**

- (1) The Board may grant registration subject to such conditions as it thinks fit, and may from time to time after consultation with the holder of the certificate of registration, vary or add to any such conditions.
- (2) The terms of any condition, other than the condition referred to in subsection (3), imposed by the Board shall be entered in the Register and a reference thereto shall be endorsed on the relevant certificate of registration, which shall, if the Registrar so requires, be returned by the holder to him for that purpose.
- (3) Every certificate of registration shall be conditional upon the holder complying with the provisions of this Act.
- (4) The holder of a certificate of registration shall comply with any condition to which that certificate of registration is made subject under this section.

**15. Effect of registration**

Subject to this Act, registration under this Act confers on the holder of a valid certificate of registration the right to carry on in the State the practice of podiatry under the title of “podiatrist” in accordance with the conditions, restrictions or limitations (if any) indicated on that certificate but not otherwise.

**16. Resignation**

- (1) A person registered under this Act, and whose conduct as a podiatrist is not the subject of investigation or a disciplinary proceeding before the State Administrative Tribunal commenced under this Act, may give notice in writing signed by him, addressed and delivered to the Registrar, requesting that his name be removed from the Register, and he shall thereupon cease to be registered as a podiatrist under this Act.

**s. 17**

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- (2) A person whose name has been removed from the Register in accordance with subsection (1) may at any time thereafter make application in the prescribed form to the Board for the restoration of his name to the Register.
- (3) Upon payment by the applicant to the Board of the prescribed fee and upon being satisfied of the relevant matters set out in section 10, the Board shall direct the Registrar to restore the name of the applicant to the Register and the Registrar shall comply with the direction.

*[Section 16 amended by No. 55 of 2004 s. 951.]*

**17. Registrar to remove names of deceased persons from Register**

When a person who is registered under this Act dies, the Registrar shall, upon being satisfied as to the death of that person, remove his name from the Register.

**18. Registrar to amend Register to ensure accuracy**

Subject to the directions of the Board, the Registrar shall, from time to time as the occasion requires, make such amendments, additions and corrections to the Register as may be necessary to make the Register an accurate record of the prescribed particulars of all persons registered under this Act as podiatrists.

**19. Effect of striking off**

Where the name of a person is struck off the Register under this Act, that person ceases to be registered as, and is disqualified from practising as, a podiatrist, unless and until his name is restored to the Register.

**20. Name of person struck off may be restored**

- (1) A person whose name has been struck off the Register under this Act may, after a period of not less than 12 months, apply to the Board in the prescribed manner to have his name restored to the Register.

- (2) The Board may refuse any application made under subsection (1).
- (3) If the Board grants an application under subsection (1), it shall direct the Registrar, on payment by the applicant to the Board of the prescribed fee, to restore the name of the applicant to the Register, and the Registrar shall comply with the direction.

**21. Registration fees**

- (1) Every podiatrist shall pay to the Board prior to the grant or renewal of his registration a registration fee of such amount as is prescribed, and the amount of that registration fee shall be recoverable in any court of competent jurisdiction as a debt due to the Board.
- (2) A podiatrist who fails by the end of February in any year to pay the fee prescribed for the renewal of his registration shall thereupon cease to be registered as a podiatrist and his name shall be removed from the Register.
- (3) A person whose name is removed from the Register under this section may at any time thereafter pay to the Board all fees which are in arrear, and all fees which would be in arrear if he had continued to be registered, together with the fee prescribed for the purposes of this subsection, and shall thereupon be entitled, subject to this Act, to have his name restored to the Register.
- (4) A person to whom this section applies may make representations to the Board with the object of obtaining remission of fees in arrear, and the Board may remit those fees in whole or in part.

**22. Suspension**

- (1) If a person is suspended from the practice of podiatry, that person shall be deemed not to be registered as, and shall be disqualified from practising as, a podiatrist under this Act during the period for which the suspension subsists.

**s. 23**

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- (2) If a person is suspended from the practice of podiatry in relation to any specified circumstances or service, that person shall be deemed not to be registered as, and shall be disqualified from practising as, a podiatrist under this Act during the period for which the suspension subsists in relation to the circumstances or the performance of the service specified in the order for his suspension.
- (3) On the application of the Board or the person suspended, the State Administrative Tribunal may order that the suspension of a person from the practice of podiatry is terminated either generally or to a specified extent.

*[Section 22 amended by No. 55 of 2004 s. 952.]*

**23. Temporary registration**

- (1) A person who is in the State or proposes to come to the State and who satisfies the Board that —
  - (a) he is a person of good character;
  - (b) he proposes to engage in practice in the State as a podiatrist in special circumstances and that hardship would be occasioned by any delay in the grant of registration; and
  - (c) he possesses qualifications and experience appropriate to that purpose,

may, upon application in the prescribed form to the Board, be granted by the Board a temporary registration for that purpose and may be granted a certificate of temporary registration.

- (2) Where, on the consideration of an application for registration, the Board is of the opinion that it would grant registration if satisfactory evidence were produced, and that it is likely that the requisite evidence will be produced, the Board may, on payment of the prescribed fee, grant a certificate of temporary registration.

- (3) The Board may grant temporary registration on an honorary basis for specified periods to persons of eminence within the field of podiatry, so recognized by the Board, who may visit the State to teach and demonstrate methods and techniques of podiatry.
- (4) A certificate of temporary registration has effect, unless earlier cancelled by the Board, for such period not exceeding 3 months as is specified in the certificate and it may be renewed by the Board for a period or periods of not more than 12 months in total in respect of each such application.
- (5) Temporary registration granted under this section may be made subject to such limitations and restrictions upon the practice of podiatry by the applicant as the Board in any particular case specifies and such limitations and restrictions shall be indicated on the certificate of temporary registration granted to the applicant.
- (6) The Board may at any time cancel any temporary registration granted or renewed under this section, or may vary any limitation or restriction to which it was made subject.
- (7) Every person in respect of whom temporary registration is granted shall, while the registration remains in force and so long as he does not infringe the restrictions or limitations to which it was made subject, be deemed to be registered as a podiatrist under this Act, and his name and such other particulars as the Board considers to be material shall be entered in the Register as a person to whom temporary registration has been granted.

**24. Provisional registration**

- (1) Where a person has applied for registration as a podiatrist under this Act, the Registrar or, in his absence, a member of the Board, upon being satisfied that such person is entitled to be registered and upon payment of such registration fee as is payable by him, may grant to such person a provisional certificate of registration in the prescribed form.

**s. 24**

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- (2) A person who has obtained a provisional certificate of registration under this section shall be deemed to be registered as a podiatrist under this Act until —
- (a) the date stated in such certificate; or
  - (b) such later date as may be fixed by the Board,
- but that date shall in no case be later than 3 months after the granting of the certificate.
- (3) If the Board, before the date stated or fixed under subsection (2), has reason to believe that such person is not entitled to be registered as a podiatrist, the Board may, without prejudice to his application to be registered, cancel his provisional certificate of registration and such person shall thereupon cease to be deemed to be registered as a podiatrist.
- (4) If a person to whom a provisional certificate of registration has been granted becomes registered under this Act, his registration shall, unless otherwise decided by the Board, date from the granting of his provisional certificate.



## **Part IV — Finance and reports**

### **25. Funds of the Board**

- (1) The funds of the Board shall consist of—
  - (a) such prescribed fees as may be received by the Board;  
and
  - (b) all other money or property lawfully received by the Board in respect of the performance of its functions.
- (2) The funds of the Board may be applied for the purposes of the administration and enforcement of this Act, for the furtherance of education and research in podiatry and for any other purpose that the Board may recommend and the Minister may approve to enable the Board to perform its powers and duties under this Act and facilitate the carrying out of the purposes of this Act.

### **26. Accounts**

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

*[Section 26 inserted by No. 77 of 1987 s. 3]*

### **27. Audit**

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

*[Section 27 inserted by No. 77 of 1987 s. 3.]*

**s. 27A**

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**27A. Annual report**

- (1) The Board shall on or before 30 June in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (1a) The Board's annual report is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (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;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

*[Section 27A inserted by No. 77 of 1987 s. 3; amended by No. 55 of 2004 s. 953.]*

## **Part V — Disciplinary proceedings**

### **28. Disciplinary powers**

- (1) There is proper cause for disciplinary action in respect of a person registered under this Act if—
  - (a) the registration of the person was obtained by fraud or misrepresentation;
  - (b) the person has been convicted of an offence that renders him unfit to practise as a podiatrist;
  - (c) as a result of a finding of any board or authority outside the State charged with regulating the registration and supervision of podiatrists the name of the person has ceased to appear in the register of podiatrists or other record kept by that board or authority and that person has been at any time and should continue to be disqualified from carrying on practice as a podiatrist;
  - (d) the person is addicted to alcohol or any deleterious drug or suffers from any mental or physical disorder to a degree that renders him unfit to carry on the practice of podiatry; or
  - (e) the person is guilty of improper conduct as a podiatrist by reason of carelessness, incompetence, impropriety, infamous behaviour, or a breach of the provisions of this Act.
- (1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a person registered under this Act.
- (1b) If in a proceeding commenced by an allegation under this section against a person registered under this Act, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.
- (2) Where the State Administrative Tribunal considers that a matter does not in the public interest require that the name of the

**s. 28A**

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person concerned be struck off the Register, the Tribunal may —

- (a) suspend that person from the practice of podiatry, either generally or in relation to any specified circumstances or service, for a period not exceeding 12 months;
- (b) order that person to pay a penalty not exceeding \$1 000; or
- (c) deal with that person in the manner described in paragraph (d), (e), or (f) of section 28A(1).

*[(3)-(5) repealed]*

*[Section 28 amended by No. 55 of 2004 s. 954.]*

**28A. Alternative to bringing proceeding**

- (1) Instead of making an allegation to the State Administrative Tribunal, if the Board —
  - (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations;
  - (b) has afforded to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and is not satisfied by any explanation offered; and
  - (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,

the Board may —

- (d) order that the particulars entered in the Register in relation to that person be amended;
- (e) censure that person;
- (f) require that person to give an undertaking, either with or without security, for such period as is specified —
  - (i) in relation to his future conduct as a podiatrist; or

- (ii) to comply with such conditions as are specified in relation to his practice; or
  - (g) order that person to pay to the Board a penalty not exceeding \$250.
- (2) The Board may, in addition to or instead of imposing one or more of the penalties specified in subsection (1), order the person concerned to pay such costs and expenses of or incidental to the proceedings as the Board thinks fit.
- (3) Where any penalty, costs or expenses are ordered to be paid under this section the amount ordered to be paid shall be recoverable in any court of competent jurisdiction as a debt due to the Board.

*[Section 28A inserted by No. 55 of 2004 s. 955.]*

**29. Breach of undertaking**

- (1) Where the Board is satisfied that a person who has given an undertaking to the Board under section 28A has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board may refer the matter to the State Administrative Tribunal.
- (2) The State Administrative Tribunal may, with or without discharging the person from any obligation under the undertaking, impose on him —
- (a) a penalty or suspension that the State Administrative Tribunal could have imposed in a proceeding in respect of the original matter as a consequence of which he was required to give the undertaking; and
  - (b) whether or not imposing a penalty or suspension in relation to the original matter, a penalty in relation to the conduct or omission giving rise to the breach of the undertaking or the failure to comply with the conditions.

*[Section 29 inserted by No. 55 of 2004 s. 956.]*

**s. 31**

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[30. Repealed by No. 55 of 2004 s. 957.]

**31. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of his registration and is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
  - (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person, in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —

- (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) shall 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 any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.

**s. 31A**

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- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
- (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document executed by the Board and certifying that the person is an investigator appointed by the Board.

*[Section 31 inserted by No. 55 of 2004 s. 958.]*

**31A. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 31 a person is required to —

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

the person 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 31B(1)(b).

*[Section 31A inserted by No. 55 of 2004 s. 958.]*



**31B. Failure to comply with investigation**

- (1) Where under section 31 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
  - (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 accused to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31, the investigator did not, when making the requirement, inform the accused 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 31, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the accused 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 inquiry being carried out.

**s. 31C**

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*[Section 31B inserted by No. 55 of 2004 s. 958; amended by No. 84 of 2004 s. 82.]*

**31C. 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 31.

Penalty: \$2 000.

*[Section 31C inserted by No. 55 of 2004 s. 958.]*

**32. Records of Board decisions**

Where the Board —

- (a) refuses an application for the registration of a person;
- (b) imposes, otherwise than by agreement with that person, any limitation, restriction or condition on the practice of podiatry by any person; or
- (c) makes any order or takes any other action against a person under section 28A,

the Board shall record the finding on which the decision was based, and its reasons, and shall as soon as is practicable communicate its decision to that person.

*[Section 32 amended by No. 55 of 2004 s. 959.]*

**33. Review**

A person aggrieved by an order of the Board, or by the refusal of an application to the Board for registration or restoration to the Register, or by any limitation, restriction or condition imposed, may apply to the State Administrative Tribunal for a review of the decision.

*[Section 33 inserted by No. 55 of 2004 s. 960.]*

**34. Reciprocal enforcements**

- (1) Subject to subsection (2), where under the law of a place outside the State an order is made against a person similar in kind to an order which the Board has power to make under this Act or the State Administrative Tribunal can make in the exercise of jurisdiction conferred on it by this Act, the Board may make a like order to take effect in the State for a period not extending beyond the period of the order made under the law of that place.
- (2) For the purposes of subsection (1), the Board may inquire of a board or authority outside the State charged with regulating the registration and supervision of podiatrists as to the circumstances giving rise to a finding made against a person and may accept the report of that board or authority as to the truth of those circumstances on being satisfied that the person against whom the finding was made had been given an opportunity to make representations in respect of the matter.

*[Section 34 amended by No. 55 of 2004 s. 961.]*

**35. Publication of proceedings**

- (1) Without limiting the operation of section 42, no action, claim or demand lies against —
  - (a) the Board, any member of the Board, the Registrar or any officer of the Board;
  - (b) any board or authority outside the State charged with regulating the registration and supervision of podiatrists, or any officer, employee or agent thereof; or
  - (c) the proprietor, editor, printer or publisher of any newspaper, journal or periodical,

in respect of the publication in good faith of the whole or any part of a report of any proceedings before, or findings by, by the Board concerning any matter touching the practice of podiatry.

- (2) Where under this Act the name of a person is struck off the Register or the registration of a person is suspended, the Board

**s. 36**

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may notify the striking off, or suspension, and the cause thereof, to —

- (a) any board or authority outside the State by which the person is registered as a podiatrist;
- (b) any body that has granted him a qualification that is entered in the Register;
- (c) the body known as The Australian Podiatry Association (Western Australia); and
- (d) any person by whom he is employed as a podiatrist or any person with whom he practices podiatry in partnership.

*[Section 35 amended by No. 55 of 2004 s. 962.]*

**36. Certificates to be surrendered by persons whose names are struck off the Register, etc.**

- (1) Where —
  - (a) the name of a person is struck off the Register; or
  - (b) the registration of a person is suspended,

under this Act, that person shall, within 7 days after the date on which he was notified by the Board that his name was struck off or the registration was suspended, surrender to the Board the certificate of registration issued to him under this Act.

- (2) A person who fails to surrender a certificate as required by subsection (1) commits an offence and is liable to a fine not exceeding \$250, but it is a defence to a prosecution for an offence against this subsection if the accused satisfies the court that the failure to surrender the certificate was due to its loss or destruction.
- (3) The striking off of the name of a person from the Register or the suspension of the registration of a person is effective notwithstanding his failure to surrender any certificate issued to him under this Act.

*[Section 36 amended by No. 84 of 2004 s. 82.]*

**37. Provision for continuing business after death**

Where any podiatrist dies who carried on the practice of podiatry immediately before his death, then notwithstanding anything in this Act any executor or administrator of the estate of that podiatrist may continue the business of that podiatrist for a period of 12 months from the date of death or for such longer time as the Board permits if the business so continued is *bona fide* conducted by a podiatrist.

**38. Offences as to registration**

A person who —

- (a) makes, or causes to be made, any falsification in any matter relating to the Register;
- (b) presents, or causes to be presented, to the Board or the Registrar 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 Board or the Registrar or in any certificate granted under this Act; or
- (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 registration, whether for himself or for any other person under this Act or upon any application under this Act,

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

*[Section 38 amended by No. 55 of 2004 s. 963.]*

**39. Offences as to qualified persons**

Any person who, without the written consent of the Board, or otherwise than in accordance with such conditions as the Board may impose, knowingly employs or remunerates, in connection

**s. 40**

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with the practice of podiatry, any person whose name is removed from the Register or who is suspended from practice, commits an offence.

Penalty: \$1 000.

**40. Offences relating to the practice of podiatry**

- (1) Subject to this section and except as otherwise provided in this Act, a person who, not being a person who is registered as a podiatrist 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 a podiatrist or is entitled, either alone or with others, to practise or teach podiatry commits an offence.  
Penalty: \$1 000.
- (2) Subsection (1) does not prohibit the use of any title or description necessarily assumed by any public educational institution recognized by the Board for the purpose of education in podiatry.
- (3) A podiatrist shall not carry on the practice of podiatry under any name other than his own, unless he has the approval of the Board.  
Penalty: \$1 000.
- (4) A podiatrist shall not authorise or permit a person who is not registered as a podiatrist to carry out any podiatry for or on his behalf, except in such cases and in such manner and to such extent as is authorised by the rules.  
Penalty: \$1 000.
- (5) A podiatrist shall not in relation to podiatry 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 description, either in full, or in abbreviation or in combination, other than that or those shown in the Register in relation to his registration.

Penalty: \$1 000.

**41. Legal proceedings**

- (1) Any proceedings in respect of an offence against this Act may be taken in the name of the Board by the Registrar or any other person authorised in that behalf by the Board.
- (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 of the Board, or any person to take proceedings in the name of the Board, but an averment in the prosecution notice that the person is so authorised 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 podiatry or to claim the privileges conferred by this Act on a podiatrist.
- (5) When any person is charged under this Act 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.
- (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 on behalf of the Board and stating that any person was or was not registered, or that the registration 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;

**s. 41**

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- (b) a copy of or extract from the Register, or any writing that purports to reproduce matters entered in the Register and recorded or stored by means of mechanical, electronic or other device, certified as a true copy or as a true extract by the Registrar, 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 Register, 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 41 amended by No. 59 of 2004 s. 141; No. 84 of 2004 s. 80 and 82.]*



## **Part VI — Miscellaneous**

### **42. Indemnity**

No liability attaches to a member of the Board, the Board, or the Registrar or any officer of the Board for any act or omission, by him or on his part or by the Board or on the part of the Board, 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.

## **Part VII — Repeal, savings and transitional provisions**

### **43. Repeal**

The *Chiropodists Act 1957-1981* is repealed.

### **44. Savings and transitional**

(1) In this section —

**“former Board”** means The Chiropodists Registration Board constituted under the repealed Act;

**“pending proceedings”** means any proceeding before the former Board which was commenced prior to the coming into operation of this Act;

**“the repealed Act”** means the Act repealed by section 43.

(2) A person who immediately before the coming into operation of this Act was registered as a chiropodist under the repealed Act shall upon the coming into operation of this Act be deemed to be registered as a podiatrist under this Act and a licence issued to such a person authorising him to practise chiropody during a period current when this Act comes into operation shall be deemed for the purposes of this Act to be a certificate of registration issued under this Act.

(3) The Register of Chiropodists kept under the repealed Act shall upon the coming into operation of this Act be deemed to be the Register referred to in section 12 and thereafter shall be subject in all respects to this Act.

(4) Upon the coming into operation of this Act, all assets, including funds, and liabilities of the former Board shall be transferred to and vest in the Board without further assurance and the Board shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities.

(5) Notwithstanding anything in this Act, for the purposes of completing and determining pending proceedings —

(a) the former Board shall continue;

- (b) if the office of any member of the former Board becomes vacant whether by effluxion of time or not, the Governor may —
  - (i) continue that person in office; or
  - (ii) appoint another person to that office,but any person holding office pursuant to this subsection is subject to the provisions of the repealed Act.
- (6) Except as provided by this section, nothing in this section affects the operation of the *Interpretation Act 1918*<sup>5</sup>.

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## Notes

- <sup>1</sup> This is a compilation of the *Podiatrists Registration Act 1984* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Podiatrists Registration Act 1984</i>	4 of 1984	18 May 1984	22 Feb 1985 (see s. 2 and <i>Gazette</i> 22 Feb 1985 p. 653)
<i>Acts Amendment (Financial provisions of regulatory bodies) Act 1987 s. 3</i>	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)
<b>Reprint 1: The Podiatrists Registration Act 1984 as at 11 Apr 2003</b> (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	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. 106<sup>7</sup></i>	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))

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004 s. 142<sup>6</sup></i>	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Podiatrists Act 2005</i>	30 of 2005	12 Dec 2005	To be proclaimed (see s. 2)

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s. 106<sup>8</sup>

<sup>2</sup> Under the *Acts Amendment (Public Service) Act 1987* s. 31(1)(f) a reference in a written law to the Permanent Head is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the chief executive officer. This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

<sup>3</sup> Formerly referred to the Western Australian Institute of Technology the name of which was changed to the Curtin University of Technology by the *Western Australian Institute of Technology Amendment Act 1986* s. 5. The reference was changed under the *Reprints Act 1984* s. 7(3)(h).

<sup>4</sup> Formerly referred to the *Western Australian Institute of Technology Act 1966* the short title of which was changed to the *Curtin University of Technology Act 1966* by the *Western Australian Institute of Technology Amendment Act 1986* s. 11. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

<sup>5</sup> Repealed by the *Interpretation Act 1984* s. 77.

<sup>6</sup> On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

**142. Other amendments to various Acts**

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”.

Schedule 2 cl. 39 reads as follows:

“

**Schedule 2 — Other Amendments to Acts**

**39. Podiatrists Registration Act 1984**

s. 33(2)	In each provision delete “Local Court” wherever it occurs an in each place insert instead —
s. 33(3)	
s. 33(4)	Delete “Local Court” and insert instead —
	“ Magistrates Court on ”.

”.

<sup>7</sup> 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.

<sup>8</sup> On the date as at which this compilation was prepared, the *Podiatrists Act 2005* s. 106 had not come into operation. It reads as follows:

“

- 106. *Podiatrists Registration Act 1984* repealed**  
The *Podiatrists Registration Act 1984* is repealed.

”