

Approved for Reprint 11th February, 1972.

WESTERN AUSTRALIA.

DENTISTS.

3° Geo. VI., No. XX.

No. 20 of 1939.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

- No. 13 of 1947, assented to 1st November, 1947;
- No. 48 of 1954, assented to 8th December, 1954;
- No. 75 of 1963, assented to 19th December, 1963;
- No. 11 of 1967,² assented to 20th October, 1967;
- No. 98 of 1970,³ assented to 8th December, 1970;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating to Dentists.

[Assented to 16th November, 1939.]

BE it enacted—

1. This Act may be cited as the *Dentists Act, 1939-1970*, and shall come into operation on a date to be fixed by proclamation.¹

Short title
and com-
mencement.
Amended by
No. 98 of
1970, s. 1.

¹ Came into operation on 1st December, 1939. See *Gazette* 24/11/39, p. 2041.

² Came into operation 16th February, 1968. See *Gazette* 16/2/68, p. 337.

³ Came into operation on 5th March, 1971. See *Gazette* 5/3/71, p. 669.

Act divided
into Parts.
Amended by
No. 75 of
1963, s. 2.

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

PART I.—ss. 3 and 4—PRELIMINARY.

PART II.—ss. 5 to 16—THE DENTAL BOARD.

PART III.—ss. 17 to 33—THE REGISTER.

*Division 1.—ss. 17 to 18—Register
to be kept by Registrar.*

Division 2.—ss. 22 to 33—General.

PART IV.—[Deleted by No. 75 of 1963, s.2.]

PART V.—[Deleted by No. 75 of 1963, s. 2.]

PART VI.—ss. 43 and 44—REGISTRATION.

PART VII.—ss. 45 to 65—MISCELLANEOUS.

SCHEDULE—ACTS REPEALED.

PART I.—PRELIMINARY.

Repeal.

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 The Acts mentioned in the Schedule to this Act are hereby repealed.

Interpreta-
tion.
Amended by
No. 75 of
1963, s. 3.

4. In this Act, unless the context otherwise requires—

“Board” means the Dental Board of Western Australia established by this Act;

“Company” means any incorporated body or association, other than the Western Australian College of Dental Science and Perth Dental Hospital Incorporated;

“Dentist” means a dentist registered under this Act and whose name is entered in the Register;

“Dentistry” means and includes any operation on or service in connection with the human teeth or jaws, and the artificial restoration of lost or removed teeth, or jaws and the treatment of diseases or lesions, and the correction of malpositions in human teeth or jaws, and any operation, treatment, or service on or to any person as preparatory to or for the purpose of or in connection with the fitting, insertion, or fixing of artificial teeth, and also every dental service, act, or operation of any kind or nature whatsoever;

The term does not include the mechanical construction of artificial dentures by an artisan employed or engaged by a dentist.

The performance of a single operation, service, or act of dentistry shall be deemed to be practising dentistry;

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

“Minister” means the Minister of the Crown charged with the administration of this Act;

“President” means the President of the Board and includes an acting President;

“Register” means the Register of Dentists to be kept by the Registrar for the purposes of this Act;

“Registered” means registered under this Act;

“Registrar” means the Registrar appointed under this Act and includes also an acting Registrar;

“Rules” means rules made by the Board under the authority of this Act.

PART II.—THE DENTAL BOARD.

5. (1) A Board, to be called “The Dental Board of Western Australia,” is hereby established for the purposes of this Act.

Dental Board established. Amended by No. 75 of 1963, s. 4.

(2) The Board shall consist of seven members, namely—

Personnel.

(a) four dentists to be elected by the dentists;

(b) two dentists to be nominated by the Governor; and

(c) one medical practitioner to be nominated by the Australian Medical Association (Western Australian Branch).

(3) The election of the elective members of the Board shall be made and conducted in accordance with the regulations; the members to be nominated by the Governor shall be so nominated on the recommendation of the Minister, and the medical practitioner member to be nominated by the Australian Medical Association (Western Australian Branch) shall be so nominated by a resolution of the Council of that body duly passed at a duly convened meeting of that Council.

(4) If no nomination or no sufficient nominations of a person or persons to be elected as the elective members of the Board is or are received for an election of elective members, or if no medical practitioner is nominated by the said Australian Medical Association (Western Australian Branch) within one month after a request by the Minister for the nomination of such a medical practitioner, the Minister, on the recommendation of the President of the Board in office at the time, may nominate such dentists and such medical practitioner, as the case may require, necessary to complete the membership of the Board.

(5) Notwithstanding anything to the contrary contained in this section—

- (a) the first elective members of the Board shall include the President and the other two dentist members of the Dental Board as constituted and functioning immediately prior to the commencement of this Act, as if they had been duly elected in accordance with the provisions of this Act, and one other dentist, to be elected by the dentists in accordance with the provisions of this Act, as soon as reasonably may be after the commencement of this Act; and
- (b) the first medical practitioner member of the Board shall be such one of the medical practitioner members of the Dental Board as constituted and functioning immediately prior to the commencement of this Act as

the Council of the Australian Medical Association (Western Australian Branch) shall nominate; and

- (c) subject to paragraph (b) hereof, the Dental Board as constituted and functioning immediately prior to the commencement of this Act shall continue in office and to function as if it were the Board established by this Act until the nomination by the Governor of the two dentist members to be nominated by the Governor under this section, which nomination shall be made as soon as reasonably may be after the commencement of this Act.

(6) Upon the nomination by the Governor of the two dentist members of the Board to be nominated by the Governor, the Board shall be deemed to be duly established under and for the purposes of this Act, and all the first members of the Board established by this Act shall hold office until and shall retire from their respective offices as members of the Board on the thirty-first day of December, one thousand nine hundred and forty-three, but shall be eligible for re-election or re-nomination, as the case may be.

6. Subject to subsection (6) of section five of this Act, the members of the Board shall hold office for a period of three years from the date of their election or of their nomination, as the case may be, but shall be eligible for re-election or for re-nomination.

Tenure of office.

7. (1) The Board shall be a body corporate under the name "The Dental Board of Western Australia," 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 suffering such acts and things as bodies corporate may by law do and suffer.

The Board to be a body corporate.

Judicial
notice of seal
and
signatures.

(2) The seal of the Board and the signature of the President and of every member of the Board shall be judicially noticed by all courts and persons authorised by law to receive evidence on oath.

Acts of
Board not
invalidated
by vacancy.

(3) No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

Acts of
Board not
invalidated
by defect in
election or
nomination
of member.

(4) No act or proceeding of the Board, or by any committee or member of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken, or commenced there was some defect in the election or nomination of any member of the Board, or that any member of the Board was disqualified or not authorised to do or participate in the doing of anything done by the Board or by such member.

Proceedings
of the
Board.

8. (1) Any four members of the Board shall form a quorum thereof:

(2) The members of the Board shall appoint one of the dentist members to be the President of the Board, who shall be *ex officio* chairman at all meetings of the Board: Provided that the President of the Dental Board as constituted and functioning immediately prior to the commencement of this Act shall be the President of the first Board established under this Act.

(3) If by reason of sickness, absence from the State, or any other reason the President is unable to discharge his duties as such President, the members of the Board may appoint one of the dentist members to be acting President, who shall have full

right to and may exercise all the powers, functions, and authorities and shall perform all the duties of President until the President resumes his duties.

(4) At all meetings of the Board the President or, in his absence, the acting President (if any), shall preside. In the absence both of the President and the acting President (if any) from any meeting of the Board the members present shall elect one of their number to be chairman of the meeting.

(5) Whenever the members are not unanimous as to any matter, such matter shall be decided by the majority of votes of the members present, and the decision so arrived at shall be the decision of the Board.

(6) Each member of the Board shall have one vote, and the chairman at any meeting of the Board, when presiding, shall have a deliberative vote and, in case of an equality of votes, shall also have a casting vote.

9. Any member of the Board may resign from the Board by notice in writing signed by him and given to the President, or, when the President is the member resigning, given to the Registrar. Resignation.

10. Any person who has his affairs under liquidation or is an undischarged bankrupt or insolvent, or has been convicted of an indictable offence, or is undergoing sentence of imprisonment, or becomes an insane person, shall be disqualified from being elected or nominated or from continuing as a member of the Board. Disqualifications.

Vacancies.

11. (1) The office of a member of the Board shall be vacated—

- (a) if he is or has become disqualified under this Act; or
- (b) if, without leave obtained from the Board in that behalf, he has been absent from three consecutive meetings of the Board; or
- (c) upon death or resignation; or
- (d) in the case of a dentist member, when he ceases to be registered as a dentist under this Act, and, in the case of a medical practitioner member, when he ceases to be a duly qualified medical practitioner.

(2) Where the office of any member of the Board becomes vacant, the person elected or nominated, as the case may be, to fill such vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

Deputy members.

12. (1) In the case of illness, other incapacity, or absence from the State of any member of the Board other than the President, by reason whereof the member is likely to be unable to perform his duties for three months, the President of the Board may appoint another dentist, or another medical practitioner, as the case may require, to act as a member of the Board in place of such member during his illness, incapacity, or absence aforesaid.

(2) In case of the illness, other incapacity, or absence from the State of the President of the Board with the consequence mentioned in subsection (1) hereof, subsection (1) hereof shall apply, save and except that the appointment of another dentist to act as a member of the Board in the place of the President as a member shall be made by the Minister.

Provided that nothing in this subsection shall be deemed automatically to confer upon the dentist appointed by the Minister the office of acting President, and that this subsection shall not in any way interfere with or affect the operation of subsection (3) of section eight of this Act.

13. (1) The Board shall appoint a Registrar, and may appoint such examiners and other officers and servants as it considers necessary, to enable the Board to carry out its duties and functions. Officers of the Board.

(2) The remuneration of such Registrar and examiners and other officers and servants shall be paid out of the funds of the Board.

14. (1) The funds of the Board shall consist of— Funds of the Board.

- (a) the fees prescribed by or under this Act and payable to the Board;
- (b) grants by the Government of the State (if any), and all gifts and donations made by any person to the Board, but subject to any trusts declared in relation thereto;
- (c) fines and penalties imposed and recovered upon convictions for offences against this Act; and
- (d) all the moneys which may come into the hands of the Board under and for the purposes of this Act.

(2) The funds of the Board may be applied by the Board—

- (a) for any of the purposes of the Act; or
- (b) the furtherance of dental education and research; or
- (c) any public purpose connected with the profession of dentistry in this State; or

- (d) any other purpose approved of by the Minister.

Board may
make rules.
Amended by
No. 75 of
1963, s. 5;
No. 113 of
1965, s. 8.

15. (1) The Board may, with the approval of the Governor, make rules in relation to all or any of the following matters, namely—

- (a) for regulating the meetings and proceedings of the Board and the conduct of its business;
- (b) for the custody and use of the common seal of the Board;
- (c) for enabling the Board to constitute committees and authorising the delegation to committees of any of the powers of the Board, and for regulating the proceedings of committees;
- (d) prescribing the examinations to be passed by persons desiring to be registered as dentists, and determining the qualifications to be held, and the evidence to be produced by any such persons;
- (e) for regulating the practice of dentistry and of dental specialities;
- (f) for regulating the keeping of the Register;
- (g) for regulating the manner of making application for and the granting of permits to use or to continue the use of firm names as dentists;
- (h) for regulating the manner of making to the Board any charge or complaint against or concerning any dentist, and the inquiry by the Board into such charge or complaint;

- (i) prescribing the forms of certificates, licenses, and permits to be granted to dentists;
- (j) prescribing fees to be charged in respect of any matter, proceeding, examination, charge, or complaint made to the Board, and registration and in respect of the granting of any certificate or license under this Act;
- (k) prescribing the fee or charge to be paid by persons who desire to have their names restored to the register; and
- (l) for any other matter which the Governor may declare to be a matter in respect of which rules may be made by the Board under this section.

(2) Where by any rule made under subsection (1) hereof a duty or obligation is imposed upon any person to do or not to do any act, matter, or thing specified in such rule, any contravention by such person of such rule shall be a breach of the rule, punishable on conviction by a penalty of a sum not exceeding forty dollars.

(3) Nothing in subsection (1) of this section shall affect or limit the power of the Governor under this Act to make regulations for or in respect of any matters mentioned in subsection (1) aforesaid, and where the Board has made a rule and the Governor makes a regulation in respect of the same matter and there exists any inconsistency between such rule and such regulation, the rule shall, to the extent of such inconsistency, be superseded by the regulation and shall be read and have effect subject to the regulation.

16. The Registrar, or any other person authorised in that behalf by writing signed by the President of the Board, may, subject to the direction of the Board,

Registrar or other authorised person may take and defend proceedings.

commence, carry on, prosecute and defend any action, complaint, information, or other proceeding in the name of the Board.

PART III.—THE REGISTER.

Division 1.—The Register to be kept by the Registrar.

Register to be kept by Registrar. Amended by No. 75 of 1963, s. 8.

17. For the purpose of this Act there shall be kept by the Registrar in the manner and form prescribed a Register of Dentists.

The Register of Dentists. Amended by No. 113 of 1965, s. 8.

18. (1) The Registrar shall enter in the Register of Dentists the names, addresses, descriptions, and qualifications of all dentists for the time being and from time to time qualified and required to be registered under this Act, together with such other particulars relating to such dentists as may be prescribed.

(2) Where a dentist satisfies the Board that, in addition to holding the qualification for registration prescribed by or recognised under this Act, he is entitled to and holds another qualification which is or may be incidental to the practice of dentistry, and the Board approves of particulars of such other qualification being entered in the Register in relation to such dentist, the Registrar shall, if so requested by the dentist, enter particulars of such other qualification in the Register accordingly.

(3) Every dentist whose name is entered in the Register in accordance with this section shall, on payment of the prescribed fee, which shall not exceed two dollars ten cents, be entitled to the issue to him by the Board of a certificate in the prescribed form that he is registered.

19. [*Repealed by No. 75 of 1963, S.9.*]

20. [*Repealed by No. 75 of 1963, S.9.*]

21. [*Repealed by No. 75 of 1963, S.9.*]

Division 2—General.

22. The Register shall be open to inspection by any person at the office of the Registrar on the days and during the hours prescribed, on payment of a fee of twenty-five cents.

Register open to inspection.
Amended by No. 75 of 1963, s. 10; No. 113 of 1965, s. 3.

23. (1) Any person whose name is entered on the Register may, at any time by notice in writing in the prescribed form, signed by him, request the Board to withdraw his name from the Register, and upon receipt of such notice, but subject as hereinafter provided, the Registrar shall, by striking out the same, withdraw the name of such person from the Register.

Withdrawal of name from Register.
Amended by No. 75 of 1963, s. 11.

Provided that, if at the time when notice is given to the Board as aforesaid, an allegation or charge of an offence against or under this Act, or of infamous or disgraceful conduct in a professional respect is pending against the person giving the notice, the name of such person shall not be withdrawn from the Register, until such allegation or charge has been duly inquired into or heard and has been determined by the Board or the court, as the case may require.

(2) When the name of any person is withdrawn from the Register he shall cease to be registered and until his name is re-entered in the Register he shall

cease to have and enjoy and shall not be entitled to derive or exercise any benefit which accrues to a person by virtue of his name being entered in the Register.

Name of person may be re-entered in Register. Amended by No. 48 of 1954, s. 2; No. 75 of 1963, s. 12.

24. (1) Any person whose name has been withdrawn from the Register, as provided for in section twenty-three of this Act, may at any time thereafter make application in the prescribed form to the Board for re-entry of his name in the Register.

(2) Upon receipt of such application, but subject to this Act and the rules and regulations, the Board shall direct the Registrar, upon payment by the applicant of a sum, to be assessed in accordance with subsection (3) hereof, to enter again the name of the applicant in the Register and upon payment by the applicant of such sum the Registrar shall comply with the direction of the Board.

(3) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual license fee that he would have been liable to pay, if his name had not been withdrawn from the Register, and the amount of the fee prescribed for such re-entry.

Registrar to remove names of deceased persons from Register. Amended by No. 75 of 1963, s. 15.

25. When any person who is registered as a dentist dies, the Registrar shall, upon being satisfied as to the death of such person, strike or erase the name of such person from the Register.

Registrar to amend Register to ensure accuracy. Repealed and re-enacted by No. 75 of 1963, s. 14.

26. Subject to the directions of the Board, the Registrar shall, from time to time, as the occasion requires, make such amendments, additions, alterations and corrections in the Register as may be necessary to make the Register an accurate record of the names, addresses, qualifications and descriptions of all dentists.

27. (1) Once in every year the Board shall cause to be published in the *Government Gazette* a list of all dentists whose names appear in the Register.

List of dentists to be published annually. Amended by No. 75 of 1963, s. 15.

(2) As soon as may be after the name of a dentist has been entered in, withdrawn from, or struck off, the Register the Board shall cause notice of that event to be published in the *Government Gazette*.

(3) Every notification in the *Government Gazette* as aforesaid shall be conclusive evidence of the facts therein stated, unless and until the same is modified by any order of a Judge of the Supreme Court, or by any subsequent notification in the *Government Gazette* by the Board.

28. A copy of or an extract from the Register, certified as a true copy or as a true extract by the President or the Registrar, shall in all courts of law be *prima facie* evidence of all the facts appearing therein.

Copy or extract of Register to be *prima facie* evidence. Amended by No. 75 of 1963, s. 16.

29. A written certificate purporting to be signed by the President or the Registrar stating that at a date or between the dates therein mentioned a person therein named was or was not registered as a dentist shall be *prima facie* evidence of the truth of such statement.

Certificate of President or Registrar to be *prima facie* evidence. Amended by No. 75 of 1963, s. 17.

30. (1) The name of any dentist registered in the Register shall be struck off the Register if the Board is, after inquiry as prescribed, satisfied that—

Name of dentist to be struck off Register for misconduct. Amended by No. 75 of 1963, s. 18.

- (a) before or after registration, the dentist was or has been convicted of an offence which, in the opinion of the Board, renders him unfit to practise as a dentist;

Dentists.

- (b) the dentist is addicted to drink or drugs or suffers from mental disorder, within the meaning of the Mental Health Act, 1962; or
- (c) after registration, the dentist has been guilty of misconduct in a professional respect, or has been convicted for the third time of an offence against the Act or the rules or regulations, or has been disqualified in any part of Her Majesty's Dominions or elsewhere from practising as a dentist.

(2) Subject as hereinafter provided, the expression "misconduct in a professional respect" means any action or omission which in the opinion of the Board is improper or infamous on the part of the person guilty thereof, when due regard is had to the ethics of the profession of dentistry. Also a dentist shall be guilty of misconduct in a professional respect when in the opinion of the Board he permits or suffers any premises or place occupied or used by him for the practice of dentistry to be open for the practice of dentistry therein whilst he is not personally in full time attendance thereat, unless during his absence a dentist employed by him is in such full time attendance for the purpose of practice and supervision, and unless the name of the dentist so employed by him is conspicuously posted up or indicated on the premises by means of a name-plate or other device, in letters of dimensions equal to those on the name-plate or other indicating device of the dentist who occupies or uses such premises or place.

Provided that the expression "misconduct in a professional respect" shall not include any misconduct which, either from its trivial nature or from the surrounding circumstances, does not in the public interest require that the dentist concerned should be disqualified from practising dentistry.

(3) A charge of misconduct in a professional respect may be made against a dentist by any person but shall be made to the Board in the manner prescribed.

(4) The Board, when holding an inquiry into any charge against a dentist, shall, if so required by the person charged, sit and conduct its inquiry as if it were an open court.

(5) The person charged shall, on the inquiry by the Board, be afforded an opportunity to answer the charge, either in person or by solicitor or counsel.

31. (1) Any person whose name has been struck off the Register as provided for in section thirty of this Act, may at any time thereafter apply to the Board in the manner prescribed to have his name re-entered in such Register or in the record aforesaid.

Name of person struck off may be restored. Amended by No. 75 of 1963, s. 19.

(2) The Board may refuse or grant any application made under subsection (1) hereof.

(3) When the Board grants such an application it shall direct the Registrar, on payment to him by the applicant of a fee or charge, to be assessed in accordance with subsection (4) hereof, to re-enter the name of the applicant in the Register, and on payment being made as aforesaid the Registrar shall comply with the direction of the Board.

(4) The amount payable by an applicant for the re-entry of his name in the Register shall be the sum of the amount of the current annual license fee that he would have been liable to pay, if his name had not been struck off the Register, and the amount of the fee prescribed for such re-entry.

32. Where the name of a person has been struck off the Register, that person shall cease to be registered as, and shall be disqualified from practising as, a dentist, until such time as his name is re-entered in the Register.

Effect of striking off. Repealed and re-enacted by No. 75 of 1963, s. 20.

Appeal.
Amended by
No. 75 of
1963, s. 21.

33. (1) Whenever the Board—

- (a) refuses to register any person as a dentist;
or
- (b) causes the name of any person to be struck
off the Register; or
- (c) refuses to re-enter in the Register the name
of any person whose name has previously
been withdrawn from or struck off the
Register,

such person may, within three months after the date of the refusal or striking off by the Board, make application in writing to the Board in the prescribed manner for a statement by the Board in writing of its reasons for such refusal or striking off, and the Board shall, as soon as reasonably may be after receipt of such application, furnish the applicant with the statement aforesaid.

(2) Within one month after receipt of the statement from the Board as aforesaid, the person aggrieved by the refusal or striking off by the Board aforesaid may appeal from such refusal or striking off to the Supreme Court.

(3) An appeal to the Supreme Court under this section shall be brought and the proceedings shall be had in such manner as may be prescribed by the rules of the Supreme Court.

Provided that the appeal shall be heard and determined by a single Judge and shall be in the nature of a re-hearing.

PART IV. ss. 34, 35, 36 [*Repealed by No. 75 of 1963, s. 22.*]

PART V. ss. 37, 38, 39, 40, 41, 42 [*Repealed by No. 75 of 1963, s. 22.*]

PART VI.—REGISTRATION.

43. (1) All persons registered as dentists under any Act repealed by this Act, and who are so registered at the commencement of this Act, shall by virtue thereof be deemed to be registered as dentists under this Act, and their names shall be entered in the Register accordingly.

Dentists registered prior to this Act.

Provision for registration under this Act.

Amended by No. 75 of 1963, s. 23; No. 113 of 1965, s. 8.

(2) Any person who had been registered as a dentist under any Act repealed by this Act but was not so registered at the commencement of this Act, may, in accordance with the rules or regulations, apply to the Board for registration as a dentist under this Act, and the Board may refuse or grant the registration applied for.

(3) When the Board grants registration applied for under subsection (2) hereof, it shall direct the Registrar, on payment by the applicant to him of a fee, to be assessed in accordance with subsection (4) hereof, to enter the name of the applicant on the Register.

(4) The fee for registration as a dentist pursuant to an application made under subsection (2) hereof shall be a sum equal to the aggregate amount of all annual license fees and other moneys which would have been payable by the applicant if he had continued to be registered as a dentist under the Act under which he had been registered, as mentioned in subsection (2) hereof, up to the date of the application made by him under that subsection but which, by reason of his having ceased to be so registered before the commencement of this Act, he has not paid, together with the fee prescribed for such registration under this Act, or the sum of twenty-one dollars, whichever is the less.

(5) (a) When the Board refuses registration applied for under subsection (2) hereof, the applicant may appeal from such refusal to the Supreme Court.

(b) The provisions of section thirty-three of this Act relating to appeals shall, with such adaptations as may be necessary, apply to appeals from the refusal of the Board under this subsection.

Qualifications for registration as a dentist. Amended by No. 13 of 1947, s. 2; No. 75 of 1963, s. 24; No. 11 of 1967, s. 3.

44. (1) Subject to section forty-three of this Act, no person shall be qualified for registration as a dentist under this Act, unless and until he proves to the satisfaction of the Board, and, if so required after personal attendance before the Board, that—

- (a) he is over the age of twenty-one years when he applies for registration;
- (b) he has in all respects complied with the requirements of this Act and the rules and regulations;
- (c) he is a person of good character;
- (d) he has gained by examination and holds—
 - (i) the diploma of dentistry of the Royal College of Surgeons either of England, Ireland, Edinburgh, or Glasgow, or holds a degree or diploma of dental surgery or dental science of any University of the United Kingdom or of Ireland, New Zealand, or Australia and at the date of his application for registration under this Act is entitled to registration as a dentist in the country where such diploma or degree was granted; or
 - (ii) a diploma or degree in dental surgery or dental science granted by such university that was, when the diploma or degree was granted, in any part of the British Commonwealth of Nations or the Queen's Dominions, other than those mentioned in sub-

paragraph (i) hereof, as may be prescribed by the Board, and has passed in this State such examination (if any) as may be prescribed by the Board, and at the date of his application for registration under this Act is entitled to registration as a dentist in the country where such diploma or degree was granted;

- (iii) a diploma or degree in dental surgery or dental science granted by the University of Western Australia; or
- (iv) a diploma or degree in dental surgery or dental science that was granted by an institution in the United States of America and that is accredited by the American Dental Association.

(2) Any person who satisfies the Board that in accordance with the provisions of subsection (1) hereof he is qualified for registration as a dentist under this Act, shall, subject to this Act and the rules and regulations and upon payment of the prescribed registration fee, be entitled to be and shall be registered in the Register kept in accordance with this Act.

PART VII.—MISCELLANEOUS.

45. (1) The Board may by a summons in the prescribed form require—

- (a) the attendance of any dentist at any inquiry by the Board into a complaint or charge of misconduct in a professional respect made or brought against such dentist, and may also require the attendance at any such inquiry of any person who in the opinion of the Board can give evidence in connection with such complaint or charge; and

Board may require attendance at inquiries, etc.

Amended by No. 75 of 1963, s. 25.

- (b) the attendance before the Board of any applicant for registration or for recognition as provided for by this Act, and of any other person who, in the opinion of the Board, can give evidence in connection with the application of any such applicant.

(2) The Board may examine on oath or affirmation all persons attending before the Board pursuant to the requisition of the Board under this section or voluntarily attending to give evidence, and for such purpose the President or other member acting as chairman of the Board during the inquiry by the Board or during the meeting of the Board at which any person is required to give evidence or desires to give evidence may administer an oath or affirmation.

(3) Every summons issued by the Board to any person under this section 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 the obedience to such summons may be enforced by the Supreme Court or a Judge thereof on application by the Board, in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said Court.

Annual
license fees
to be paid
by dentists.
Amended by
No. 48 of
1954, s. 3;
No. 75 of
1963, s. 26;
No. 113 of
1965, s. 8.

46. (1) After the commencement of this Act, no dentist shall practise dentistry unless he holds a license so to do issued to him by the Board.

Penalty: Two hundred dollars.

(2) Every dentist whose name appears in the Register shall be entitled to a dentist's license, but whether such dentist applies to the Board for such license or not, he shall, whilst his name continues to appear in the said Register be liable to pay and shall pay the prescribed annual license fee.

(3) The annual license fee to be paid by a dentist shall be the sum of twelve dollars sixty cents, or such other sum, not exceeding twelve dollars sixty cents as may be prescribed by the rules or regulations.

(4) [*Repealed by No. 75 of 1963, s. 26.*]

(5) Licenses issued to dentists under this section shall be in the prescribed form and shall be signed by the Registrar.

(6) Subject as hereinafter provided, licenses issued under this section shall have effect for one year ending on the thirty-first day of December in each year.

Provided that—

(i) licenses issued for the first time after the commencement of this Act and before the thirty-first day of December next following the commencement of this Act, shall have effect only until such thirty-first day of December; and

(ii) licenses issued under this section at any time of a year shall have effect only until the thirty-first day of December next following the issue thereof.

(7) The license fees payable under this section shall, subject to subsection (6) hereof, be due and payable during the month of January in each and every year, or within one month after the name of the dentist is entered in the Register, and when such fee is paid within the time hereinbefore prescribed for the payment thereof, such payment shall be

deemed to have been made as from and including the first day of the month of January in which it is paid or as from and including the date of registration.

Dentist making default in payment of license fee to be struck off.
Repealed and re-enacted by No. 75 of 1963, s. 27.

47. (1) Where a dentist fails or neglects to pay the license fee provided, within the time prescribed, by section forty-six of this Act, his name shall, forthwith upon his making default, be struck off the Register.

(2) Where the name of a dentist is struck off the Register pursuant to this section, the Board shall, upon the receipt of an application in writing for the restoration, signed by the dentist together with an amount, being the sum of the amount of all the annual license fees the applicant would have been liable to pay, if his name had not been struck off, the amount of any prescribed penalty and of the fee prescribed for the re-entry, restore his name to the Register.

Offences.
Amended by No. 75 of 1963, s. 28.

48. Any person who—

- (a) makes or causes to be made any falsification in any matter relating to the Register; or
- (b) presents or causes to be presented to the Board or the Registrar any forged, false or counterfeit certificate, diploma, degree, license or other document; or
- (c) personates or wrongfully represents himself as being the person referred to in any certificate, diploma, degree, license, or other document; or

- (d) procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent declaration or representation, either verbally or in writing; or
- (e) makes any false statement upon any inquiry or examination held or conducted by the Board in exercise of a power in that behalf conferred by this Act; or
- (f) makes any false statement in any declaration required by the Board under this Act or the rules or regulations,

shall be guilty of a misdemeanour and shall on conviction be liable to imprisonment for a term not exceeding two years.

49. (1) No person other than a dentist, and no company, shall take or use, or by inference adopt or otherwise hold himself or itself out as being entitled to use the name or title of "dentist," "dental surgeon," "dental practitioner," "mechanical dentist," or any other name, title, word, letters, addition, or description implying or tending to the belief that he or such company is registered as a dentist under this Act, or is entitled to practise dentistry, or is carrying on alone or with others the practice of dentistry.

No person other than dentist to use name or title of dentist, etc. Amended by No. 113 of 1965, s. 8.

(2) No company and no dentist or person other than a person or persons authorised to use a firm-name by section fifty-six of this Act shall take or use or have attached to or exhibited at any place the words "dental company," "dental institute," "dental hospital," "dental college," "college of dentistry," "school of dentistry," or any other words in which the word "dental" or "dentistry" appears.

(3) Any person who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

Practice of dentistry by certain persons prohibited. Repealed and re-enacted by No. 75 of 1963, s. 29. Amended by No. 113 of 1965, s. 8; No. 98 of 1970, s. 3.

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

- (a) practise dentistry or perform any act of dentistry; or
- (b) hold himself, or hold itself, out, either directly or by implication, as practising, or being prepared to practise, dentistry in any of its branches.

(2) This section does not apply to—

- (a) a person who, without reward or the expectation of reward, extracts a tooth or teeth, for the immediate relief of pain, at a place not less than fifty miles by the shortest road journey from the nearest place of business of a dentist;
- (b) a medical practitioner who performs an act of dentistry, not being—
 - (i) the preparation of a cavity in a tooth, with a view to the permanent restoration of the tooth; or
 - (ii) the fitting, insertion or fixing of artificial teeth, the artificial restoration of lost teeth or the mechanical construction of artificial dentures;
- (c) a student in the Dental School of the University of Western Australia, under the direction of a dentist, in that school; or

- (d) any person visiting the State, as an official dental clinician, for the purpose of giving professional instruction and who, although not being registered, or entitled to be registered, under this Act, performs acts of dentistry, in the course of giving the professional instruction, for a period not exceeding twelve months, pursuant to the permission in writing of the Board, which permission the Board is by, and subject to, this paragraph authorised to give; or
- (e) a student who, while undergoing instruction in a school of dental therapy that is approved by the Board, performs an act of dentistry under the direction of a dentist.

(3) Every person who, or company that, contravenes the provisions of this section commits an offence.

Penalty: For a first offence, eighty dollars; and, for any subsequent offence, two hundred dollars.

51. Subject as hereinafter provided no person other than a dentist, and no company, shall be entitled to charge or to sue in any court for the recovery of any fee or other remuneration, or to counterclaim or set off any such fee or other remuneration in respect of any act of dentistry performed by him or it:

Persons other than dentists prohibited from charging fees. Amended by No. 11 of 1937, s. 4.

Provided that this section shall not apply—

- (a) to any person or persons practising dentistry under a firm-name under the authority of section fifty-six of this Act; or
- (b) to any medical practitioner who performs an act of dentistry as authorised by paragraph (b) of subsection (2) of section fifty of this Act.

Executor of
deceased
dentists may
continue
practice.

52. Notwithstanding anything to the contrary contained in this Act, in case of the decease of any dentist carrying on the practice of dentistry at the time of his death, it shall be lawful for any executor of the will of such dentist, or for any administrator of his estate, to continue the business or practice of such deceased dentist for a period not exceeding twelve months after the death of such dentist, or for such longer period as the Board in writing may permit: Provided that such business or practice so continued shall be conducted *bona fide* by a dentist who during such period is registered under this Act.

Use of
certain
letters
prohibited.
Amended by
No. 113 of
1965, s. 3.

53. (1) No person, whether a dentist or not shall—

- (a) use the letters "R.D.S."; or
- (b) use any combination of letters implying that he holds a dental degree or diploma conferred upon him by a university or other institution recognised by the Board under this Act, unless he shall be rightfully entitled to use the same; or
- (c) use or permit to be used in relation to dentistry, whether upon or as an addition to his nameplate or sign or otherwise howsoever any title, description, word, or letters unless he shall be rightfully entitled to use the same; or
- (d) in any manner falsely claim to hold a degree, license, certificate, diploma, membership, or other title, status, or document which is recognised by the Board as entitling the holder to be registered as a dentist under this Act.

(2) Any person who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: For a first offence—forty dollars; for any subsequent offence—one hundred dollars.

54. (1) No dentist shall exhibit or permit or suffer to be or remain exhibited in or about any portion of the premises at or in any part of which he carries on the practice of dentistry, any plate, notice board, or other notification that he practises at such premises of any kind or description other than that authorised by the rules or regulations:

Provisions relating to name-plates or signs. Amended by No. 113 of 1965, s. 8.

Provided that any dentist who for a period of not less than four years next preceding the commencement of this Act was exhibiting and desires still to exhibit a plate, notice board, or other notification aforesaid of a size or description or containing matter not in conformity with the rules or regulations aforesaid, may within six months of the coming into operation of the said rules or regulations make application in the prescribed manner to the Board for a permit to continue the exhibition of the said plate, notice board, or other notification, and the Board may grant or refuse such permit, as it may think fit.

(2) Every dentist who in any respect contravenes the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

55. (1) No dentist shall—

(a) practise his profession as a dentist or perform any dental operation or service as the employee of or as agent for any company or any person which or who is not a dentist:

Dentist not to be employed by or practise with any person who is not a dentist. Amended by No. 75 of 1963, s. 30; No. 113 of 1965, s. 8.

Provided that this section shall not apply to—

(i) any dentist when he is practising his profession as a dentist as the employee of or as agent for any

Dentists.

executor or administrator as provided by section fifty-two of this Act or as the employee of or as agent for any person or persons engaged in the business or practice of dentistry under the authority of section fifty-six of this Act; or

- (ii) any dentist when he is practising the said profession as employee of or as agent in any dental hospital or dental college or in any dental clinic established by or under the Crown or by any local government authority;
- (b) enter into any partnership with, or share his earnings in his profession as a dentist with any company, or with any person who is not a dentist; or
- (c) authorise or permit or suffer his name to be used by any company or by any person who is not a dentist in the practice of dentistry, or in the performance of any dental operation or service; or
- (d) authorise or permit or suffer any person who is not a dentist, medical practitioner, or female dental attendant or registered nurse to assist or take part in any act of dentistry or in any operation on the mouth or in any other dental operation or service; or
- (e) subject to section fifty-six of this Act, practise dentistry, or on any professional card, in any newspaper, journal, periodical, or otherwise advertise or hold himself forth as practising dentistry under a name other than his proper or usual name without any addition thereto.

(2) Every dentist who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: First offence—forty dollars; any subsequent offence—one hundred dollars.

56. (1) If for a period of not less than four years next preceding the commencement of this Act the practice of dentistry has been carried on in this State under a firm-name by a person or by persons, not being a dentist or dentists registered under any Act repealed by this Act, in partnership with or by means of the services of a dentist or dentists registered as aforesaid, and the person or persons first hereinbefore mentioned is or are at the commencement of this Act registered as the proprietor or proprietors of the firm-name aforesaid under the Registration of Firms Act, 1897¹, and he or they desire to continue the use of such firm-name after the commencement of this Act, then, subject as hereinafter provided, such person or persons as such proprietor or proprietors aforesaid may within six months after the commencement of this Act make application in the prescribed manner to the Board for a permit to continue the use of the said firm-name, and the Board, if satisfied as to the facts aforesaid, shall grant such permit.

Provisions relating to use of firm-names. Amended by No. 75 of 1963, s. 31.

(2) [*Repealed by No. 75 of 1963, s. 31.*]

(3) If for a period of not less than four years next preceding the commencement of this Act the practice of dentistry has been carried on in this State under a firm-name by a dentist or by dentists registered under any Act repealed by this Act, and at the commencement of this Act such dentist or dentists is or are registered as the proprietor or proprietors of the firm-name aforesaid under the Registration of Firms Act, 1897,¹ the use of such firm-name may be continued after the commencement of this Act by such dentist or dentists, their transferees or assignees being dentists as such

¹ See now Business Names Act, 1962.

proprietor or proprietors aforesaid. For the purposes of this subsection the term transferees or assignees shall extend to and include any dentist to whom the interest of a deceased proprietor shall be transferred by his executors or administrators.

(4) Provided that—

(a) every permit granted under this section shall be in writing in the prescribed form, and shall be personal to the particular person or persons mentioned in the permit, and shall not in any way or under any circumstances, other than in the case of an executor or administrator of a deceased dentist carrying on the practice of the deceased dentist as provided by section fifty-two of this Act, be transferable or assignable to any person; and

(b) this section shall be read subject to paragraph (a) of subsection (1) of section fifty-five of this Act.

(5) Any person who in respect to the practice of dentistry uses any firm-name not authorised by a permit granted by the Board under this section shall be guilty of an offence.

Penalty: Forty dollars and, in addition, a daily penalty of four dollars for every day or part of a day during which the offence is continued.

Board may
apply for
injunction.

57. (1) The Board may, subject to the Rules of the Supreme Court, apply to the Supreme Court, or a Judge thereof, for an injunction to restrain any person doing or continuing to do any act, matter, or thing which by this Act is declared to be an offence, and which is of a continuing nature, from doing or continuing to do such act, matter, or thing,

and on the hearing of such application such injunction may be granted, and such order may be made as to costs and otherwise as to the Court or Judge may seem fit.

(2) Any proceeding by the Board under subsection (1) hereof shall not in any way affect the liability of the person, whose act is complained of, to prosecution for an offence against this Act in relation to which the proceeding is taken by the Board under subsection (1) hereof.

58. Any person or company who or which does or permits, or suffers to be done any act, matter, or thing which by this Act such person or company is forbidden to do, shall be guilty of an offence, and, where no special penalty is prescribed by this Act in respect of such offence, shall be liable to a penalty of not less than ten dollars and not more than fifty dollars.

General penalty. Amended by No. 113 of 1965, s. 8.

59. All offences under this Act or the rules or regulations may be prosecuted, tried, and determined, and all penalties and fines shall be enforced and recovered summarily in accordance with the provisions of the Justices Act, 1902-1936.¹

Offences to be dealt with summarily.

60. The following provisions relating to prosecutions for offences under this Act shall apply, that is to say:—

Provisions relating to prosecutions. Amended by No. 75 of 1963, s. 32.

- (a) it shall not be necessary for the prosecution to prove—
 - (i) that the defendant received any remuneration or reward in connection with the act, matter, or thing complained of; or

¹ Now Justices Act, 1902-1971.

- (ii) the election and constitution of the Board, or the election of the President or any chairman or any member of the Board purporting to act or sign any document as such, or the appointment of the Registrar; or
 - (iii) that any offence was committed with a view to enabling the defendant to practise dentistry, or to claim the privileges conferred by this Act upon a dentist;
- (b) in a prosecution for unlawfully practising dentistry or performing any dental operation or service, proof that the defendant gave advice in relation to dentistry in a room or other place in or adjoining which there was a dental chair or dental engine, or dental instruments or implements, or materials pertaining to the practice of dentistry, shall be evidence that the defendant was practising dentistry; and
- (c) when any person is charged under this Act with performing any dental operation or service which it is unlawful for him to perform, it shall be sufficient for the prosecution to allege that such person is not entitled under this Act to perform such dental operation or service, and the burden of proof that he is so entitled shall rest on the person charged.

Factories and
Shops Act,
1920-1938,
not to apply
to premises
of a dentist.

61. The Factories and Shops Act, 1920-1938,¹ shall not apply to premises used by a dentist in the making, preparation, or adaptation of any articles used in connection with dentistry.

¹ See Factories and Shops Act, 1963.

62. Every dentist shall be exempt from serving on any jury.

Dentists to be exempt from serving on a jury.

63. Notwithstanding anything to the contrary contained in the Fines and Penalties Appropriation Act, 1909 (No. 4 of 1909), all fines and penalties imposed in respect of offences against or under this Act are hereby appropriated to and shall be paid to and be recoverable by the Board.

Fines and penalties payable to the Board.

64. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for more effectually achieving the objects of this Act and for facilitating the exercise by the Board of its powers under this Act.

Regulations. Amended by No. 113 of 1965, s. 8.

(2) Regulations made by the Governor under this section may impose penalties not exceeding forty dollars in respect of any contravention of any of the regulations.

65. Notwithstanding the repeal or the deletion, by the Dentists Act Amendment Act, 1963, of any provisions of this Act relating to, or any reference made in this Act to, assistants, every person who, before the coming into operation of the former Act, was recognised as an assistant, under, and for the purposes of, the provisions of this Act as they then existed, may continue to be so recognised and may continue to act under, and be subject to, and exercise the rights conferred by, those provisions.

Saving of rights of assistants. Added by No. 75 of 1963, s. 33.

Dentists.

THE SCHEDULE.

Number of Act Repealed.	Title of Act Repealed.
58 Vict. No. 19	The Dentists Act, 1894.
63 Vict. No. 23	The Dentists Act Amendment Act, 1899.
No. 51 of 1920	The Dentists Act Amendment Act, 1920.
No. 44 of 1926	The Dentists Act Amendment Act, 1926.