

WESTERN AUSTRALIA

DENTAL AMENDMENT ACT 1996

No. 64 of 1996

AN ACT to amend the *Dental Act 1939* and the *Health Act 1911*.

[Assented to 11 November 1996.]

The Parliament of Western Australia enacts as follows:

Short title

- 1.** This Act may be cited as the *Dental Amendment Act 1996*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Dental Act 1939** is referred to as the principal Act.

[* *Authorized for reprint 11 January 1979.*
For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 60-1 and Acts Nos. 79 of 1995 and 14 of 1996.]

Long title amended

4. The long title to the principal Act is amended by deleting “**dental therapists**” and substituting the following —

“ **other dental occupations** ”.

Section 2 repealed

5. Section 2 of the principal Act is repealed.

Section 4 amended

6. Section 4 of the principal Act is amended —

(a) by inserting, in the appropriate alphabetical positions, the following definitions —

“
“**dental hygienist**” means a person whose name is entered in the Register as a dental hygienist;

“registered person” means a dentist, dental therapist, dental hygienist or school dental therapist;

“school dental service” means —

- (a) the service established under section 337A of the *Health Act 1911*; and
- (b) a service providing dental care and treatment for pre-school and school children at the Perth Dental Hospital under the *Hospitals and Health Services Act 1927*;

“school dental therapist” means a person whose name is entered in the Register as a school dental therapist.

”;

and

- (b) in the definition of “Rules” by deleting the full stop and substituting a semicolon.

Section 17 repealed and a section substituted

7. Section 17 of the principal Act is repealed and the following section is substituted —

“

Register to be kept by Registrar

17. (1) The Registrar shall keep a Register recording the names and other particulars of registered persons.

(2) The Register shall be divided into 4 divisions as follows —

- (a) Division 1 shall relate to dentists;

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- (b) Division 2 shall relate to dental therapists;
- (c) Division 3 shall relate to dental hygienists;
- (d) Division 4 shall relate to school dental therapists.

”.

Section 24 amended

8. Section 24 of the principal Act is amended by inserting after subsection (2) the following subsection —

“

(2a) If an application for re-entry of the name of a dental therapist, dental hygienist or school dental therapist is made more than 5 years after the name was withdrawn from the Register, the Board shall not direct the Registrar to enter again the name of the person in the Register unless it is satisfied that the person has relevant current knowledge and skills at a level approved by the Board.

”.

Section 30 amended

9. Section 30 (3) of the principal Act is amended —

- (a) by deleting “or” after paragraph (d); and
- (b) by deleting paragraph (e) and substituting the following paragraphs —

“

- (e) if the person is a dentist, suspend that person from practice generally, or from the performance of any specified operation, service or act of dentistry for a period not exceeding 12 months; or

- (f) if the person is a dental therapist, dental hygienist or school dental therapist, suspend that person from employment as such generally, or from the performance of any act of dentistry of a kind specified in Schedule 2 for a period not exceeding 12 months.

”.

Section 31 amended

10. Section 31 of the principal Act is amended —

- (a) by inserting after subsection (1) the following subsection —

“

(1a) If an application to re-enter the name of a dental therapist, dental hygienist or school dental therapist in the Register is made more than 5 years after the name was struck off the Register, the Board shall refuse to grant the application unless it is satisfied that the person has relevant current knowledge and skills at a level approved by the Board.

”;

and

- (b) in subsection (2) by deleting “The Board” and substituting the following —

“ Subject to subsection (1a), the Board ”.

Section 44B amended

11. Section 44B of the principal Act is amended —

- (a) in subsection (2) —

- (i) by deleting paragraph (a); and

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- (ii) by deleting paragraph (d) and substituting the following paragraph —

“

- (d) he meets the requirements of subsection (3).

”;

and

- (b) by repealing subsection (3) and substituting the following subsections —

“

- (3) The person must —

- (a) not more than 5 years before applying for registration —

- (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or

- (ii) have completed a course of study and professional practice and training as a dental therapist approved by the Board;

or

- (b) more than 5 years before applying for registration —

- (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or

- (ii) have completed a course of study and professional practice and training as a dental therapist approved by the Board,

and have current knowledge and skills in dental therapy at a level approved by the Board.

(3a) The Board may require a person who comes within subsection (3) (b) to complete such further or other training as the Board requires.

”.

Sections 44C and 44D inserted

12. After section 44B of the principal Act the following sections are inserted —

“

Qualifications for registration as dental hygienist

44C. (1) A person is qualified for registration as a dental hygienist if that person proves to the satisfaction of the Board that the person —

- (a) has in all respects complied with the requirements of this Act and the rules and regulations;
- (b) is a person of good character; and
- (c) meets the requirements of subsection (2).

(2) The person must —

- (a) not more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or

(ii) have completed a course of study and professional practice and training as a dental hygienist approved by the Board;

or

(b) more than 5 years before applying for registration —

(i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or

(ii) have completed a course of study and professional practice and training as a dental hygienist approved by the Board,

and have current knowledge and skills in dental hygiene at a level approved by the Board.

(3) The Board may require a person who comes within subsection (2) (b) to complete such further or other training as the Board requires.

(4) A person who satisfies the Board that immediately before the coming into operation of the *Dental Amendment Act 1996* that person held the qualifications then prescribed as qualifications for registration as a dental therapist, may, subject to the completion of such further or other training as the Board requires, be dealt with by the Board under this section as if the person were a person who meets the requirements of subsection (2).

(5) A person who satisfies the Board that that person is qualified for registration as a dental hygienist is, subject to this Act and the rules and regulations and upon payment of the prescribed fee, entitled to be and shall be registered as a dental hygienist.

(6) The Board may refuse the application of a person who is required under section 45 (1) (b) to appear before the Board and fails to do so.

Qualifications for registration as school dental therapist

44D. (1) A person is qualified for registration as a school dental therapist if that person proves to the satisfaction of the Board that the person —

- (a) has in all respects complied with the requirements of this Act and the rules and regulations;
- (b) is a person of good character; and
- (c) meets the requirements of subsection (2).

(2) The person must —

- (a) not more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a school dental therapist approved by the Board;

or

- (b) more than 5 years before applying for registration —
 - (i) have completed the course of training, and passed the examinations, prescribed for the purposes of this paragraph; or
 - (ii) have completed a course of study and professional practice and training as a

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school dental therapist approved by the Board,

and have current knowledge and skills in school dental therapy at a level approved by the Board.

(3) The Board may require a person who comes within subsection (2) (b) to complete such further or other training as the Board requires.

(4) A person who satisfies the Board that immediately before the coming into operation of the *Dental Amendment Act 1996* that person was qualified under section 337A of the *Health Act 1911* to be a school dental therapist may, subject to the completion of such further or other training as the Board requires, be dealt with by the Board under this section as if the person were a person who meets the requirements of subsection (2).

(5) A person who satisfies the Board that that person is qualified for registration as a school dental therapist is, subject to this Act and the rules and regulations and upon payment of the prescribed fee, entitled to be and shall be registered as a school dental therapist.

(6) The Board may refuse the application of a person who is required under section 45 (1) (b) to appear before the Board and fails to do so.

”.

Section 47 amended

13. Section 47 of the principal Act is amended —

(a) in subsection (2) by deleting “Where the name of a dentist or dental therapist” and substituting the following —

“ Subject to subsection (3), where the name of a registered person

”;

and

- (b) by inserting after subsection (2) the following subsection —

“

(3) If the application for restoration of the name of a dental therapist, dental hygienist or school dental therapist to the Register is made more than 5 years after the name is struck off, the Board shall not restore the name to the Register unless it is satisfied that the applicant has relevant current knowledge and skills at a level approved by the Board .

”.

Section 50 amended

14. Section 50 (2) of the principal Act is amended by deleting paragraphs (e) and (f), and the “or” after paragraph (e), and substituting the following —

“

- (e) a student who, while undertaking a prescribed course of training, performs an act of dentistry under the direction of a dentist;
- (f) a dental therapist who performs under the direction and control of a dentist an act of dentistry authorized under section 50A;
- (g) a dental hygienist who performs under the direction and control of a dentist an act of dentistry authorized under section 50B; or
- (h) a school dental therapist who performs an act of dentistry authorized under section 50D.

”.

Sections 50A and 50B repealed and sections 50A, 50B, 50C, 50D, 50E and 50F substituted

15. Sections 50A and 50B of the principal Act are repealed and the following sections are substituted —

“

Acts which may be performed by dental therapist

50A. (1) This section applies to a dental therapist who is employed —

- (a) by a dentist; or
- (b) to perform acts of dentistry in —
 - (i) a hospital within the meaning of the *Hospitals and Health Services Act 1927*;
 - (ii) a university or tertiary educational authority established under any written law; or
 - (iii) the department of the Public Service principally assisting the Minister in the administration of this Act.

(2) Subject to subsection (3) and any condition, restriction or limitation imposed by the Board, a dental therapist to whom this section applies may, under the direction and control of a dentist and for the purpose of assisting that dentist in the prevention, control, or treatment, of dental disease —

- (a) undertake the acts of dentistry specified in Parts 1, 2, 4, 5 and 6 of Schedule 2; and
- (b) if the dental therapist —
 - (i) has the qualifications prescribed for the purposes of this paragraph;

- (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph; or
 - (iii) is, in the opinion of the Board, by reason of experience in undertaking those acts, competent to undertake the acts of dentistry specified in Part 3 of Schedule 2,
- undertake the acts of dentistry specified in Part 3 of Schedule 2.

(3) A dental therapist shall not undertake the acts of dentistry referred to in subsection (2) (b) unless the dental therapist has the written approval of the Board to do so.

Acts which may be performed by a dental hygienist

50B. (1) This section applies to a dental hygienist who is employed —

- (a) by a dentist; or
- (b) to perform acts of dentistry in —
 - (i) a hospital within the meaning of the *Hospitals and Health Services Act 1927*;
 - (ii) a university or tertiary educational authority established under any written law; or
 - (iii) the department of the Public Service principally assisting the Minister in the administration of this Act.

(2) Subject to any condition, restriction or limitation imposed by the Board, a dental hygienist to whom this section applies may, under the direction and control of a

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dentist and for the purpose of assisting that dentist in the prevention, control, or treatment, of dental disease —

- (a) undertake the acts of dentistry specified in Parts 1 and 6 of Schedule 2;
- (b) if the dental hygienist —
 - (i) has the qualifications prescribed for the purposes of this paragraph; or
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,undertake the acts of dentistry specified in Part 2 of Schedule 2; and
- (c) if the dental hygienist —
 - (i) has the qualifications prescribed for the purposes of this paragraph; or
 - (ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,undertake the acts of dentistry specified in Part 3 of Schedule 2.

Supervision of dental therapist or dental hygienist

50C. (1) Where an act of dentistry is to be undertaken by a dental therapist or dental hygienist, the dentist under whose direction and control the act is to be undertaken shall —

- (a) examine the patient —
 - (i) before the treatment commences; and

(ii) after the treatment within such time as is prescribed;

and

(b) if not in full-time attendance, remain reasonably available for consultation.

(2) A dentist complies with subsection (1) (b) if the dentist, or another dentist nominated by him, is available to render assistance to the dental therapist or dental hygienist if such assistance is required by the dental therapist or dental hygienist.

Acts which may be performed by a school dental therapist

50D. (1) This section applies to a school dental therapist who is employed to carry out acts of dentistry for a school dental service.

(2) Subject to any condition, restriction or limitation imposed by the Board and the regulations made under section 337A (4) of the *Health Act 1911*, a school dental therapist to whom this section applies may for the purposes of the school dental service —

(a) undertake the acts of dentistry specified in Parts 1, 2, 4 and 7 of Schedule 2; and

(b) if the school dental therapist —

(i) has the qualifications prescribed for the purposes of this paragraph; or

(ii) has completed a course of study and training approved by the Board for the purposes of this paragraph,

undertake the acts of dentistry specified in Part 3 of Schedule 2.

Clinics

50E. (1) In this section —

“**clinic**” means any premises —

- (a) under the control of a dentist;
- (b) at which the dentist employs dental therapists and dental hygienists or either of them on a regular basis; and
- (c) at which a dentist is not always in attendance when dental acts are undertaken on the premises.

(2) A dentist shall not operate more than 2 clinics.

Employment of dental therapists and dental hygienists

50F. (1) In this section —

“**department**” means the department of the Public Service principally assisting the Minister in the administration of this Act.

(2) A dentist shall not employ dental therapists and dental hygienists or either of them for hours that exceed in the aggregate in any week the equivalent hours of 2 full-time employees.

(3) Dental therapists and dental hygienists employed to perform acts of dentistry in the department shall not be employed in any higher proportion than 2 dental therapists or dental hygienists, or the part-time equivalent, for each dentist employed to perform acts of dentistry in the department.

(4) The proportion specified in subsection (3) may be exceeded if necessary for the purposes of the school dental service.

”.

Schedule 2 inserted

16. After the Schedule to the principal Act the following schedule is inserted —

“

SCHEDULE 2

[Sections 50A, 50B and 50D]

PART 1

CORE ACTS

1. Instruction in, and organization and supervision of, plaque control routine.
2. Recording of periodontal indices.
3. Dental prophylaxis.
4. Topical application of fluorides.
5. Application of desensitizing agents.
6. Application of plaque control agents.
7. Polishing and recontouring of restorations.
8. Application of fissure sealants to teeth.
9. Removal of calculus.
10. Application and removal of periodontal packs.
11. Dental radiography.
12. Taking of impressions for all purposes other than final impressions for all prosthetic procedures.
13. Application and removal of rubber dam.
14. Removal of sutures.

PART 2

LOCAL ANALGESIA ACTS

15. Administration of local dental analgesia.

PART 3

ORTHODONTIC ACTS

16. Placement of metallic or non-metallic separators.
17. Preparation of teeth for orthodontic banding.
18. Orthodontic band selection.
19. Attachment selection.
20. Placement of arch wire fixation.
21. Removal of ligatures.
22. Removal of arch wire fixation pins.
23. Removal of arch wires.
24. Routine checking for loose bands and broken appliances and re-cementing of loose bands.
25. Removal of bands.
26. Removal of attachments.
27. Removal of orthodontic cement.

PART 4

DENTAL THERAPY ACTS

28. Extraction by forceps of deciduous teeth under local analgesia.

- 29. Emergency treatment of pulp exposure.
- 30. Preparation and restoration of cavities in deciduous and permanent teeth of preschool and school children by direct placement materials.

PART 5

- 31. Restoration of prepared cavities in permanent teeth in adults by direct placement materials.

PART 6

- 32. Root planing.

PART 7

- 33. Caries detection.

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Various sections amended

17. The principal Act is amended as set out in the Table to this section —

TABLE

Provision amended	Amendment
s. 3	Delete “the Schedule” and substitute the following — “ Schedule 1 ”.

s. 17

- s. 4 (definition of “Register”) Delete “of Dentists and Dental Therapists”.
- s. 15 (1) (d) Delete “as dentists or dental therapists”.
- s. 15 (1) (ea) Insert after “dental therapist” the following —
 “ , dental hygienist or school dental therapist ”.
- s. 15 (1) (h) Delete “dentist or dental therapist” and substitute the following —
 “ registered person ”.
- s. 15 (1) (i) Delete “dentists and dental therapists” and substitute the following —
 “ registered persons ”.
- s. 18 (1) Delete “dentist and of every dental therapist” and substitute the following —
 “ person ”.
 Insert after “as a dental therapist” the following —
 “ , dental hygienist or school dental therapist ”.
- s. 18 (3) Delete “dentist or dental therapist whose name is entered on the Register in accordance with this section” and substitute the following —
 “ registered person ”.

- s. 25 Delete “person who is registered as a dentist or dental therapist” and substitute the following —
“ registered person ”.
- s. 26 Delete “dentists and of all dental therapists” and substitute the following —
“ registered persons ”.
- s. 27 (1) Delete “the dentists and all the dental therapists whose names appear in the Register” and substitute the following —
“ registered persons ”.
- s. 27 (2) Delete “dentist or a dental therapist” and substitute the following —
“ registered person ”.
- s. 29 Delete “or as a dental therapist” and substitute the following —
“ , dental therapist, dental hygienist or school dental therapist ”.
- s. 30 (1) Delete “of any dentist or dental therapist registered in the Register” and substitute the following —
“ person ”.

- s. 30 (3) (c) (ii) Insert after “dental therapist” the following —
“ , dental hygienist or school dental therapist ”.
- s. 30A Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.
- s. 30B (1) Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.
- s. 32 Insert after “dental therapist” the following —
“ , dental hygienist or school dental therapist ”.
- s. 32A (1) Delete “dentist or a dental therapist” and substitute the following —
“ registered person ”.
- Insert after “as a dental therapist” in both places where it occurs the following —
“ , dental hygienist or school dental therapist ”.
- s. 33 (1) (a) Delete “as a dentist or dental therapist, as the case may be”.
- s. 33 (1) (d) Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.

- s. 45 (1) (a) Delete “dentist or a dental therapist” and substitute the following —
“ registered person ”.
- Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.
- s. 46 (1) Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.
- Insert after “as a dental therapist” the following —
“ , dental hygienist or school dental therapist ”.
- s. 46 (2) Delete “or as a dental therapist” and substitute the following —
“ , dental therapist, dental hygienist or school dental therapist ”.
- s. 46 (5) Delete “to dentists or to dental therapists, as the case may be,”.
- s. 46 (8) Delete “dentist or dental therapist” and substitute the following —
“ registered person ”.

- s. 51C (5) (b) Delete “or dental therapist” and substitute the following —
 “ , dental therapist or dental hygienist ”.
- s. 51C (5) (e) Delete “or dental therapist” and substitute the following —
 “ , dental therapist or dental hygienist ”.
- s. 55 (1) (d) Insert after subparagraph (iii) the following subparagraph —
 “ (iiia) dental hygienist; ”.
- Schedule Delete “THE SCHEDULE” and substitute the following—
 “ **SCHEDULE 1** ”.

Health Act 1911 amended

18. (1) Section 331 of the *Health Act 1911** is repealed.

(2) Section 337 (2) of the *Health Act 1911** is amended by inserting after “school dental therapist” the following —

“ employed in a school dental service ”.

(3) Subsections (4), (5) and (6) of section 337A of the *Health Act 1911** are repealed and the following subsections are substituted —

“

(4) The Governor may make regulations prescribing the manner in which acts of dentistry are to be undertaken by a school dental therapist.

(5) In this section —

“**dentist**”, “**school dental therapist**” and “**school dental service**” have the same meanings as in the *Dental Act 1939*.

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[* Reprinted as at 18 December 1990.

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 97-9 and Acts Nos. 88 of 1994 and 2, 14 and 28 of 1996.]

Transitional — school dental therapists

19. (1) Subject to the principal Act, a person who immediately before the coming into operation of this Act was employed as a school dental therapist in a school dental service is, on the coming into operation of this Act, taken to —

- (a) be registered as a school dental therapist under the principal Act; and
- (b) hold a licence under the principal Act to act as a school dental therapist for a period ending on 31 December 1997.

(2) The provisions of the principal Act apply to and in respect of a person taken under subsection (1) to be registered and to hold a licence under the principal Act as if that person were registered and held the licence under the principal Act.

(3) The Registrar, within 30 days of the coming into operation of this Act, is to issue a certificate of registration and a licence to each person taken under subsection (1) to be registered and to hold a licence, and is to enter the name of that person on the Register under the principal Act.