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OCCUPATIONAL THERAPISTS REGISTRATION.

No. 89 of 1980.

AN ACT to make provision for the regulation of the practice of occupational therapy, the registration and training of persons as occupational therapists and for related purposes and to repeal the Occupational Therapists Act 1957-1976.

[Assented to 9 December 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Occupational Therapists Registration Act 1980*. Short title.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Interpreta-
tion.

3. In this Act, unless the contrary intention appears—

“Board” means the Occupational Therapists Registration Board of Western Australia established under section 7;

“certificate of registration” means a certificate of registration granted under section 14;

“chairman” means the chairman of the Board;

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

“occupational therapist” means a person who is registered as an occupational therapist under this Act and whose name is entered in the Register;

“occupational therapy” means the art and science of improving an individual’s skills and behaviour by directing his participation in selected tasks in order to integrate, reinforce, and enhance newly learned techniques necessary for remedying any impairment to his skills or behaviour caused by aging, disability, or developmental or mental deficits and carrying out such adjustments to his immediate environment as are necessary to assist him or selecting an appropriate environment for that purpose;

“Register” means the register referred to in section 13;

“Registrar” means the person holding or acting in the office of Registrar under section 10;

“section” means a section of this Act;

“subsection” means a subsection of the section wherein that term is used.

4. (1) This Act does not apply to anything done by a medical practitioner.

*Application.
Act not to
apply to
certain
persons.*

(2) A teacher or student in the course of his teaching studies or research in any university or other prescribed educational establishment may teach or practise occupational therapy or any branch of occupational therapy in so far as that is necessary or required for the purpose of such teaching, studies or research, but not otherwise, although not registered as an occupational therapist under this Act and to that extent section 40 does not apply to any such person.

(3) This Act shall not be construed so as to prevent anything being done—

- (a) by a person acting under the direction of a registered occupational therapist;
- (b) by a teacher, or a teacher of handicrafts, giving instructions to sick or convalescent persons; or
- (c) by a person giving instructions in the skills of his usual occupation to sick or convalescent persons.

PART II—OCCUPATIONAL THERAPISTS REGISTRATION BOARD OF WESTERN AUSTRALIA.

5. (1) There shall be established for the purposes of this Act a Board to be known as the Occupational Therapists Registration Board of Western Australia.

*Establish-
ment
of Board.*

(2) The Board when so established—

- (a) shall be a body corporate;
- (b) shall have an official seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

(4) The provisions of the Schedule to this Act shall have effect in relation to the Board.

Board not to
represent the
Crown.

6. The Board does not represent, and is not an agent or servant of, the Crown.

Composition
of the
Board.

7. (1) The Board shall consist of 6 persons appointed by the Governor, of whom—

(a) one shall be the Commissioner of Public Health and Medical Services, or an officer of the State Public Service nominated by the Commissioner of Public Health and Medical Services;

(b) one shall be a medical practitioner nominated for appointment by the Minister;

(c) one shall be a person nominated for appointment by the Council of The Western Australian Institute of Technology established under the Western Australian Institute of Technology Act 1966;

(d) three shall be persons nominated for appointment by the Minister from a panel of names submitted by the body known as The Western Australian Association of Occupational Therapists (Inc.).

(2) 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.

(3) 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.

(4) The office of member of the Board may be held in conjunction with any other appointment or office in the Public Service of the State.

8. (1) Subject to subsection (4), the Board shall carry out the administration of this Act. Functions of the Board.

(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 Board has power to do all such things as are necessary or convenient for or in connection with the performance of its functions.

(4) 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.

9. (1) The Board may, subject to the approval of the Governor, from time to time make such rules as the Board determines to be necessary for all or any of the following purposes— Rules.

(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 one 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;
- (f) prescribing the forms to be used for the purposes of this Act, including a requirement that information supplied may be required to be verified by statutory declaration;
- (g) regulating the manner of making to the Board any charge or complaint against or concerning any occupational therapist, and the inquiry by the Board into such charge or complaint;
- (h) regulating the practice of occupational therapy by persons registered under this Act and the conduct of that practice; and
- (i) 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 occupational therapy may be deemed to constitute improper conduct as an occupational therapist on the part of a registered occupational therapist.

(4) Nothing in this section prevents any matter not dealt with in the rules formulated under this section from being treated for the purposes of this Act as improper conduct as an occupational therapist.

10. The Board shall appoint a Registrar and such other staff as they consider 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.

Registrar
and staff.

PART III—REGISTRATION OF OCCUPATIONAL
THERAPISTS.

11. (1) A person who satisfies the Board—

Qualifica-
tions.

- (a) that he is of good character and reputation;
- (b) that he is resident in the State of Western Australia; 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 this section, a person who has “an approved educational qualification” means a person who has gained by examination a qualification recognised by the Board granted by a tertiary educational institution recognised by the Board.

12. (1) An application for registration under this Act shall be made in writing and in a manner and form determined by the Board in respect of such an application.

Applications.

(2) In respect of any particular application for registration the applicant shall furnish 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.

The
Register.

13. (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 applied for under this Act or the renewal thereof such particulars as may be prescribed.

(2) Where the Board has authorized the grant of a certificate of registration to any 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.

(3) Where the name of any 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) As soon as may be after the name of a person has been struck off the Register, the Board shall cause notice of that event to be published in the *Gazette*.

(5) 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.

(6) 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 matters required by this Act to be entered in the Register by means of a mechanical, electronic or other device but so that the matters 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.

14. (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—

Certificates
of
registration.

- (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 an occupational therapist may, on payment to the Board of the prescribed fee, be renewed from time to time for a further period of 12 months.

15. (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.

Conditions
on registra-
tion and
certificates
of registra-
tion.

(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 pursuant to this section.

**Effect of
registration.**

16. Subject to this Act, registration under this Act confers on the holder of a valid certificate of registration the right to carry out in the State the practice of occupational therapy under the title of "occupational therapist" in accordance with the conditions, restrictions or limitations (if any) indicated on that certificate but not otherwise.

Resignation.

17. (1) A person registered under this Act, and whose conduct as an occupational therapist is not the subject of investigation, may give notice in writing under his hand addressed and delivered to the Registrar, requesting that his name be removed from the Register, and he shall thereupon cease to be registered as an occupational therapist under this Act.

(2) A person whose name has been removed from the Register pursuant to subsection (1) of this section may at any time thereafter make application in the prescribed form to the Board for the restoration of his name to the Register.

(3) The Board shall direct the Registrar, upon 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 of the Board.

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

Registrar to
remove
names of
deceased
persons
from
Register.

19. 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 prescribed particulars of all persons registered under this Act as occupational therapists.

Registrar to
amend
Register to
ensure
accuracy.

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

Effect of
striking off.

21. (1) A person whose name has been struck off the Register pursuant to 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.

Name of
person
struck off
may be
restored.

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

(3) When the Board grants the application 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 of the Board.

Registration
fees.

22. (1) Every registered occupational therapist shall pay on the grant or renewal of the certificate of registration a registration fee to the Board of such amount as is prescribed, and the amount of that registration fee shall be recoverable by the Board in any court of competent jurisdiction.

(2) The Board may remove from the Register the name of any person who has failed to pay the registration fee payable by him.

(3) Any person whose name is removed from the Register pursuant to this section may at any time thereafter pay to the Board all fees which are in arrear, or which would be in arrear if he had continued to be registered, together with the prescribed fee, and shall thereupon be entitled to have his name restored to the Register.

(4) Any 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, if it thinks fit, remit those fees in whole or in part.

Suspension.

23. (1) Where a person is suspended from the practice of occupational therapy generally that person shall be deemed not to be registered as, and shall be disqualified from practising as, an occupational therapist under this Act during the period for which the suspension subsists.

(2) Where a person is suspended from the practice of occupational therapy 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, an occupational therapist 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) The Board may, by notice in writing, revoke a suspension, either generally or to a specified extent, and may direct in the notice that the revocation has effect from a date specified in the notice.

24. (1) A person who is in Western Australia or proposes to come to Western Australia and who satisfies the chairman that—

Temporary
registration.

- (a) he is a person of good character;
- (b) he proposes to engage in practice in the State as an occupational therapist in special circumstances and that hardship would be occasioned by any delay in the grant or 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 chairman a temporary registration for that purpose and may be granted a certificate of temporary registration, and the grant of any such certificate shall be notified by the chairman to the Board as soon as is practicable.

(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 a honorary basis for specified periods to persons of eminence within the field of occupational therapy, so recognized by the Board, who may visit the State to teach or demonstrate methods and techniques of occupational therapy.

(4) A certificate of temporary registration has effect, unless earlier terminated by the Board, for such period not exceeding 3 months as is specified therein but may be renewed by the Board for a period or periods of not more than 12 months 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 occupational

therapy 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 an occupational therapist 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 a temporary registration has been granted.

PART IV—FINANCE AND REPORTS.

Funds of
the Board.

25. (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 for the administration and enforcement of this Act, for the furtherance of education and research in occupational therapy, and for any other purpose that the Board may recommend and the Minister may approve to enable the Board to perform their powers and duties under this Act and facilitate the carrying out of the purposes of this Act.

Accounts and audit.

26. The Board shall keep proper accounts of all receipts and payments, and of the purposes for which the money was received or paid, and such accounts

shall be audited at least once a year, at the expense of the Board, by an auditor approved of by the Minister.

27. (1) The Board shall on or before 1 July in each year make and submit a report of its proceedings for the preceding year ending on 31 December to the Minister together with a true copy of the accounts as audited and with a copy of the auditor's report thereon. Annual report.

(2) The Minister shall cause a copy of each report furnished pursuant to this section to be laid before each House of Parliament within 14 days of his receipt thereof if Parliament is then in session, or within 14 days of the commencement of the next session of Parliament if Parliament is not then in session.

PART V—DISCIPLINARY PROCEEDINGS.

28. (1) Where the Board, after an inquiry of the kind referred to in section 31, is satisfied— Disciplinary powers.

- (a) that the registration of a person was obtained by fraud or misrepresentation;
- (b) that a person has been convicted of an offence which, in the opinion of the Board, renders him unfit to practise as an occupational therapist;
- (c) that as a result of a finding of any board or authority outside the State charged with regulating the registration and supervision of occupational therapists the name of a person has ceased to appear in the register of occupational therapists or other record kept by that board or authority and that person has been at any time and in the opinion of the Board should continue to be disqualified from carrying on practice as an occupational therapist;

- (d) that a 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 occupational therapy; or
- (e) that a person is guilty of improper conduct as an occupational therapist by reason of carelessness, incompetence, impropriety, infamous behaviour, or a breach of the provisions of this Act,

the Board may order that his name shall be struck off the Register and the Registrar shall comply with the order of the Board.

(2) Where, after an inquiry of the kind referred to in section 31, the Board considers that a matter does not in the public interest require that the name of the person concerned should be struck off the Register the Board may—

- (a) suspend that person from the practice of occupational therapy, either generally or in relation to any specified circumstances or service, for a period not exceeding 12 months;
- (b) order that person to pay to the Board a penalty of such an amount, not exceeding \$250, as the Board thinks fit; or
- (c) deal with that person in any of the ways referred to in subsection (3).

(3) Where the Board is of the opinion that the holding of a formal inquiry is not warranted by the nature of the allegations the Board, after affording to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and, where the Board is not satisfied by that explanation, the option thereafter of proceedings by way of an inquiry of the kind referred to in section 31, may—

- (a) order that the particulars entered in the Register in relation to that person be amended;

- (b) censure that person;
- (c) require that person to give an undertaking, either with or without security, for such period as the Board thinks necessary—
 - (i) in relation to his future conduct as an occupational therapist; or
 - (ii) to comply with such conditions as the Board may impose in relation to his practice; or
- (d) order that person to pay to the Board a penalty not exceeding \$100.

(4) The Board may, in any case, in addition to or in lieu of imposing any one or more of the penalties specified in this section, order the person concerned to pay such costs and expenses of or incidental to the proceedings as the Board thinks fit.

(5) 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.

29. (1) Where the Board is satisfied that a person who has given an undertaking to the Board required of him pursuant to disciplinary proceedings under this Act 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, after giving to the person concerned an opportunity to show cause why he should not so be dealt with, may in addition to or in lieu of proceeding against him in accordance with the undertaking, impose on him—

Breach of
undertaking.

- (a) a penalty under this Act 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 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.

(2) Where an inquiry of the kind referred to in section 31 has already been held in relation to the original matter no further inquiry into the original matter shall be held and the Board may deal with the person concerned in respect of that original matter pursuant to the breach or failure, but no penalty of the kind referred to in subsection (1) of that section shall be imposed unless such an inquiry is or has been held.

Evidence of
facts found
in other
proceedings.

30. (1) Any finding of fact relating to the conduct of a registered occupational therapist made in any proceedings to which he is a party in a court (whether in this State or elsewhere) is evidence of that fact in any disciplinary proceedings under this Act.

(2) Where a qualification held by a registered occupational therapist is suspended, withdrawn, cancelled, or revoked by the body or authority by whom it was awarded or granted, or where any punishment has been imposed on a registered occupational therapist any finding of fact relating to the conduct of that occupational therapist made in the proceedings as a consequence of which that qualification was so suspended, withdrawn, cancelled, or revoked or that penalty was imposed that is notified to the Board by that body or authority is sufficient evidence of that fact in any disciplinary proceedings under this Act.

Inquiries.

31. (1) Except where the matter relates to the enforcement of an order made by a board or authority charged with regulating the registration

and supervision of occupational therapists, before making any order against a person in disciplinary proceedings under this Act—

- (a) for the striking off of his name from the Register;
- (b) for his suspension from practice as an occupational therapist; or
- (c) imposing a pecuniary penalty exceeding \$100,

the Board shall hold an inquiry into the matter and, unless his address is not then known to the Board or reasonable efforts to effect service are not successful, shall give to him notice of the time and place at which the inquiry is to be held and sufficient details of the matters to be inquired into to enable him to show cause why he should not be dealt with in accordance with the provisions of this Act.

(2) In conducting an inquiry the Board is not bound by the rules of evidence or by the rules of legal procedure but may proceed in such manner as it thinks fit subject to the requirement that the person concerned be afforded an opportunity to be heard, either in person or by solicitor or counsel, and to examine witnesses.

(3) For the purposes of conducting an inquiry the Board may—

- (a) by summons under the hand of the chairman or of the Registrar require the attendance of any witness;
- (b) by notice in writing signed by the chairman or the secretary, require the production of any books, papers or documents relevant to the matter before the Board;
- (c) inspect any books, papers and documents produced before it and make copies of or extracts from matters therein that are relevant to the matter before the Board; and

- (d) examine witnesses on oath or affirmation administered by any member or the Registrar.

(4) Any person—

- (a) who has been personally served with a summons referred to in subsection (3) (a) to attend before the Board and fails without lawful excuse (proof whereof shall lie on him) to attend in obedience to such summons;
- (b) who wilfully interrupts the proceedings of the Board;
- (c) who, being called or examined as a witness in any proceeding or inquiry before the Board, refuses to be sworn or to affirm or without lawful excuse (proof whereof shall lie on him), fails to produce any books, papers or documents mentioned in a notice referred to in subsection (3) (b), and personally served upon him, or knowingly or wilfully makes a false statement to the Board,

commits an offence and is liable on conviction to a penalty not exceeding \$250.

(5) A statement or disclosure made at an inquiry before the Board by a witness is not, except in an appeal under this Act or in proceedings for giving false testimony before the Board, admissible in evidence against him in any civil or criminal proceedings.

(6) A person who attends for the purpose of giving evidence before the Board is entitled to receive such fees and allowances as the member presiding may allow in accordance with the prescribed scale.

32. 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 occupational therapy by any person; or
- (c) makes any order against a person in the exercise of its disciplinary powers,

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.

33. (1) 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 as to any limitation, restriction or condition imposed, may within 3 months after the date of the decision 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 the decision, and the Board shall, as soon as reasonably may be after receipt of the application, furnish the applicant with such a statement. Appeals.

(2) Within one month after receipt of the statement of the Board furnished under subsection (1) the person aggrieved by the decision of the Board may appeal from that decision to the Local Court.

(3) An appeal under this section shall be brought and the proceedings shall be had in such manner as may be prescribed by the Rules of the Local Court in relation to appeals from the decisions of a tribunal, or if in relation to any matter no such Rule is applicable in such manner as the Court may direct, and shall, unless the Court otherwise orders, be in the nature of a re-hearing.

(4) The Local Court hearing an appeal under this section may—

- (a) confirm, quash or vary the decision of the Board;

- (b) remit the matter to the Board for re-hearing, with or without directions; or
- (c) make such other order, including an order as to costs, as the Court thinks fit.

Reciprocal
enforcement.

34. (1) Subject to subsection (2), where a board or authority outside the State charged with regulating the registration and supervision of occupational therapists makes an order against a person similar in kind to an order which the Board has power to make under this Act the Board may, without further inquiry, make a like order to take effect in the State for a period not extending beyond the period of the order made by the first mentioned authority.

(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 occupational therapists 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 and had failed to satisfy the board or authority thereon.

Publication
of proceed-
ings.

35. (1) Without limiting the operation of section 43, 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 occupational therapists, 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, inquiry or findings before or by the Board concerning any matter touching the practice of occupational therapy.

(2) Where—

- (a) the name of a person is struck off the Register; or
- (b) the registration of a person is suspended, under this Act, the Board may notify the striking off, or suspension, and the cause thereof, to—
- (c) any board or authority outside the State by which he is registered as an occupational therapist;
- (d) any body that has granted him a qualification that may be registered under this Act;
- (e) the body known as The Western Australian Association of Occupational Therapists (Inc.); and
- (f) any person by whom he is employed as an occupational therapist or any person with whom he practises occupational therapy in partnership.

36. (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 the name was struck off or the registration was suspended, surrender to the Board the certificate of registration currently issued to him under this Act.

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

(2) A person who fails to surrender a certificate as required by subsection (1) is liable to a penalty of \$100, but it is a defence to a prosecution for an

offence against this subsection if the defendant 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.

Provision for
continuing
business
after death
of occupa-
tional
therapist.

37. Where any registered occupational therapist, who carried on the practice of occupational therapy at the time of his death, dies then notwithstanding anything in this Act any executor or administrator of the estate of that occupational therapist may continue the business of that occupational therapist 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 registered occupational therapist.

Offences
as to
registration.

38. 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 verbally or in writing, for the purpose of procuring registration, whether for himself or for any other person under this Act or upon any application, or any inquiry, examination, or disciplinary proceedings held by or on behalf of the Board under this Act,

commits an offence and is liable on conviction to a fine not exceeding \$250.

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

Offences as to disqualified persons.

40. (1) Subject to the provisions of this section and except as otherwise provided in this Act, a person who, not being a person who is registered as an occupational therapist under this Act and is thereby authorized 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 an occupational therapist or is entitled, either alone or with others, to practise or teach occupational therapy commits an offence.

Offences relating to the practice of occupational therapy.

Penalty: \$250.

(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 occupational therapy.

(3) No registered occupational therapist shall carry on the practice of occupational therapy under any name other than his own, unless he has the approval of the Board.

(4) No registered occupational therapist shall authorize or permit a person who is not registered as an occupational therapist to carry out any occupational therapy for or on his behalf, except in such cases and in such manner and to such extent as is authorized or permitted by the regulations.

(5) No registered occupational therapist shall in relation to occupational therapy 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.

General
penalty.

41. (1) A person who acts in contravention of or fails to comply in any respect with any provision of this Act commits an offence against this Act.

(2) A person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine of \$100.

Legal
proceedings.

42. (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 authorized in that behalf by the Board.

(2) All proceedings for offences against this Act shall be heard before a Court of Petty Sessions constituted by a stipendiary magistrate sitting alone.

(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 complaint that the person is so authorized 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 defendant 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 defendant to practise occupational therapy or to claim the privileges conferred by this Act on a registered occupational therapist.

(5) When any person is charged under this Act with doing any act or thing, or performing any service, 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, or to perform that service, and the burden of proof that he is so entitled rests on the defendant.

(6) In all courts and before all persons and bodies authorized 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;
- (b) a copy of or extract from the Register, or 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 authorized, and of the fact that the person by whom the signature was given was so authorized 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 authorized or permitted the commission of the offence is guilty of the like offence.

(2) A person referred to in subsection (7) of this section may, on the request of the complainant, 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 complainant intended to make that request.

PART VI—MISCELLANEOUS.

Indemnity.

43. 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, TRANSITIONAL, VALIDATION.

Repeal.

44. The Occupational Therapists Act 1957-1976 is repealed.

Savings and transitional.

45. (1) In this section and section 46—

“former Board” means the 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 44.

(2) A certificate of registration in force under the repealed Act immediately prior to the coming into operation of this Act shall continue in force as if granted under this Act.

(3) 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.

(4) Except as provided by this section nothing in this section affects the operation of the Interpretation Act 1918.

46. Any person who before the coming into operation of this Act purportedly held office as a member of the former Board pursuant to a nomination of the body known as the Occupational Therapists (W.A. Branch) and who was appointed by the Governor is hereby declared to have been validly appointed under and subject to the repealed Act and his term in that office shall be deemed to have commenced on the date on which he purportedly commenced to hold office pursuant to that nomination and appointment.

Validation.

SCHEDULE.

(Section 5)

PROVISIONS AS TO BOARD.

Chairman

1. The chairman of the Board shall be the person appointed as a member under section 7 (1) (a).

Nomination for appointment

2. (1) Prior to the first occasion on which an appointment is to be made to an office of member referred to in section 7 (1) (c) or section 7 (1) (d), and on each occasion thereafter when such an office becomes vacant by the effluxion

of time, the Minister shall, in writing, request the body referred to in the appropriate paragraph to submit to him, in writing, a panel containing the names of not fewer than 3 persons willing to act as members of the Board.

(2) Where a body has been requested, pursuant to paragraph (a) of this item, to submit a panel of not fewer than 3 names to the Minister, the Minister—

- (a) shall, if such a panel is submitted within 21 days of the body receiving the request, nominate one or two of the names, 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 within that time in submitting such a panel to him, nominate for appointment to the office of member such person or persons as he thinks fit.

Terms of office

3. (1) Subject to this item, a member shall hold office for such period not exceeding 3 years as is specified in his instrument of appointment and is eligible for re-appointment.

(2) The Governor may remove a member appointed—

(a) pursuant to section 7 (1) (a) if—

- (i) being the person holding or acting in the office of Commissioner of Public Health and Medical Services, the member ceases to hold or act in that office;
- (ii) being an officer of the State Public Service nominated by the Commissioner of Public Health and Medical Services, the nomination of the Commissioner of Public Health and Medical Services of that person as member is withdrawn;

(b) pursuant to section 7 (1) (c), if the nomination of The Western Australian Institute of Technology of that person as member is withdrawn.

(3) A member may resign his office at any time by notice in writing delivered to the Minister.

Termination of appointment

4. (1) This item does not apply to a member appointed pursuant to section 7 (1) (a).

(2) The Governor may terminate the appointment of a member by reason of the misbehaviour, or the physical or mental incapacity, of the member.

(3) 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;
- (b) absents himself, except with the leave of the Board, from 3 consecutive meetings of the Board.

Meetings of the Board

5. (1) The Board shall hold such meetings as are necessary for the performance of its functions.

(2) The chairman may convene a meeting of the Board at any time and shall in any event ensure that not more than 6 months elapse between meetings of the Board.

(3) The chairman shall, on request in writing by the Minister or by 3 members of the Board, convene a meeting of the Board before the expiration of 30 days after the receipt of the request.

(4) The quorum for a meeting of the Board shall be 4 of the members for the time being holding office.

(5) The chairman shall preside at all meetings of the Board at which he is present.

(6) If the chairman is absent from a meeting of the Board the members who are present shall appoint one of their number to preside at that meeting.

(7) Questions arising at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting.

(8) The member of the Board presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Board shall cause to be kept a record of the proceedings of their meetings.

(10) Subject to this Act, the Board may regulate their own procedure.

Remuneration

6. (1) A member of the Board shall be entitled to be paid from the funds of the Board such remuneration and to such travelling and other allowances as are determined in his case by the Minister on the recommendation of the Public Service Board.

(2) Acceptance of or acting in the office of member shall not of itself render the provisions of the Public Service Act 1978 or any other Act applying to persons as officers of the Public Service applicable to that member or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or acting in that office.
