



ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

No. 26 of 1987

An Act to amend the Occupational Therapists Act, 1974.

[Assented to 23 April 1987]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Occupational Therapists Act Amendment Act, 1987". Short title.

(2) The Occupational Therapists Act, 1974, is in this Act referred to as "the principal Act".

2. This Act will come into operation on a day to be fixed by proclamation. Commencement.

3. Section 5 of the principal Act is repealed and the following section is substituted: Repeal of s. 5 and substitution of new section.

5. The Board will consist of seven members appointed by the Governor, of whom— Membership of the Board.

- (a) one, (the presiding officer) will be a legal practitioner nominated by the Minister;
- (b) one will be a medical practitioner nominated by the Minister;
- (c) one will be a registered occupational therapist nominated by the Minister;
- (d) one will be a registered occupational therapist nominated by the Council of the South Australian Institute of Technology;
- (e) two will be registered occupational therapists nominated by the Australian Association of Occupational Therapists South Australian Division Incorporated;

and

- (f) one will be a person, nominated by the Minister, who is neither a legal practitioner, a medical practitioner nor an occupational therapist.

Amendment of
s. 7—
Quorum, etc., of
the Board.

4. Section 7 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsection:

(2) The presiding officer will preside at meetings of the Board at which he or she is present.;

and

(b) by striking out from subsection (3) "the chairman" and substituting "the presiding officer".

Amendment of
s. 8—
Validity of acts,
etc., of the Board.

5. Section 8 of the principal Act is amended by inserting in subsection (2) "or the Registrar" after "a member of the Board".

Insertion of new
section 9a.

6. The following section is inserted after section 9 of the principal Act:

9a. (1) The Board may delegate any of its functions or powers except those relating to proceedings under section 14.

(2) A delegation under this section—

(a) may be made—

(i) to a member of the Board or to the Registrar;

or

(ii) to a committee established by the Board;

(b) may be made subject to such conditions as the Board thinks fit;

and

(c) is revocable at will and does not derogate from the power of the Board to act in any matter itself.

(3) A person to whom functions or powers are delegated under this section and a member of a committee to which functions or powers are delegated under this section are disqualified from acting in pursuance of the delegation in relation to any matter in which the delegate, or the member, has a personal interest or a direct, or indirect, pecuniary interest.

Insertion of new
ss. 11a and 11b.

7. The following sections are inserted after section 11 of the principal Act:

Limited
registration for
the purpose of
gaining experience
or teaching, etc.

11a. (1) Where a person who applies for registration under this Act does not have the necessary qualifications or does not fulfil the other requirements prescribed by this Act, the Board may register that person in pursuance of this section—

(a) in order to enable that person—

(i) to acquire the experience and skill required for full registration under this Act;

or

(ii) to teach or to undertake research or study in South Australia;

or

(b) if, in its opinion, that person's registration is in the public interest.

(2) Where an applicant for registration fails to prove to the satisfaction of the Board that he or she is of good character, the Board may register the applicant in pursuance of this section.

(3) When granting an application referred to in this section the Board may—

(a) restrict the places and times at which the applicant may provide occupational therapy;

(b) limit the kind of occupational therapy that the applicant may provide;

(c) limit the period during which the registration will have effect;

or

(d) impose such other conditions as the Board thinks fit.

11b. (1) Where a person has applied for registration under this Act and the Registrar is of the opinion that the Board is likely to grant the application, the Registrar may provisionally register the applicant.

Provisional registration.

(2) The provisional registration of a person registered pursuant to subsection (1) remains in force until the Board determines the application.

(3) The registration by the Board under this Act of a person who was provisionally registered under this section has effect from the commencement of the provisional registration.

8. Section 14 of the principal Act is repealed and the following sections are substituted:

Repeal of s. 14 and substitution of new sections.

14. (1) A complaint alleging unprofessional conduct—

(a) on the part of a registered occupational therapist;

or

(b) on the part of a person who was at the relevant time a registered occupational therapist,

Inquiry by Board as to unprofessional conduct.

may be laid before the Board by—

(c) the Registrar;

(d) the Minister;

or

(e) the Australian Association of Occupational Therapists South Australian Division Incorporated.

(2) Where a complaint has been laid under this section, the Board will inquire into the subject matter of the complaint.

(3) If, after conducting an inquiry under this section, the Board is satisfied that the registered occupational therapist or the person who was formerly registered under this Act is guilty of the unprofessional conduct alleged—

- (a) it may, in the case of a registered occupational therapist, by order, exercise one or more of the following powers:
- (i) reprimand the occupational therapist;
 - (ii) order the occupational therapist to pay a fine not exceeding \$5 000;
 - (iii) impose conditions restricting the right of the occupational therapist to practise;
 - (iv) suspend the registration of the occupational therapist by removing his or her name from the register for a period not exceeding one year;
 - (v) cancel the registration of the occupational therapist;

or

- (b) it may, in the case of a person formerly registered under this Act, order that person to pay a fine not exceeding \$5 000.

Incapacity of registered person.

14a. Where, on the application of—

- (a) the Registrar;
- (b) the Minister;

or

- (c) the Australian Association of Occupational Therapists South Australian Division Incorporated,

the Board is, after inquiring into the matter, satisfied that the ability of a registered occupational therapist to practise occupational therapy is impaired by mental or physical incapacity to such an extent that it is desirable, in the public interest, that an order be made under this section, the Board may, by order, exercise one or both of the following powers:

- (d) suspend that person's registration until he or she has recovered from the incapacity or for such lesser period as the Board determines;

or

- (e) impose conditions restricting that person's right to practise.

Obligation to report unfitness.

14b. Where a medical practitioner is treating a patient who is a registered occupational therapist in relation to an illness that, in the opinion of the medical practitioner, has resulted in or is likely to result in mental or physical incapacity that seriously impairs, or may seriously impair, the patient's ability to practise occupational therapy, the medical practitioner shall submit a written report to the Registrar stating—

- (a) the reasons for that opinion;
- (b) the views of any other medical practitioner in relation to the matter that are known to him or her;

and

- (c) all other prescribed information.

Penalty: \$1 000.

14c. (1) For the purpose of inquiring into the mental or physical capacity of a registered occupational therapist, the Board may (without derogation from its other powers under this Act) order the occupational therapist to submit to an examination by a medical practitioner appointed by the Board.

Power to require registered person to submit to examination.

(2) The Board may suspend the registration of a person who fails to submit to an examination ordered by the Board under subsection (1) and that suspension will remain in force until the occupational therapist submits to the examination.

9. Section 15 of the principal Act is amended—

(a) by striking out from subsection (1) “whose conduct” and substituting “who”;

and

(b) by striking out subsection (4) and substituting the following subsection:

(4) A registered occupational therapist who is the subject of an inquiry conducted by the Board may be represented by counsel at the inquiry.

Amendment of s. 15—
Procedure in relation to inquiry.

10. Section 16 of the principal Act is amended by striking out from subsection (2) “two hundred dollars” and substituting “\$5 000”.

Amendment of s. 16—
Powers of Board on hearing complaints.

11. The following section is inserted after section 19 of the principal Act:

Insertion of new s. 19a.

19a. (1) The Board and the Supreme Court may, at any time, on application by a registered occupational therapist, vary or revoke a condition imposed by the Board or the Court (as the case requires) under this Act in relation to that person’s right to practise.

Variation of conditions imposed by Board.

(2) The Registrar, the Minister and the Australian Association of Occupational Therapists South Australian Division Incorporated are entitled to appear and be heard on an application under this section.

12. Section 20 of the principal Act is amended by striking out from subsection (1) “Two hundred dollars” and substituting “\$5 000”.

Amendment of s. 20—
Offences.

13. Section 22 of the principal Act is amended by striking out from paragraph (d) “two hundred dollars” and substituting “\$2 000”.

Amendment of s. 22—
Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor