Queensland

MEDICAL RADIATION TECHNOLOGISTS REGISTRATION BILL 2000

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2000

A BILL

FOR

An Act to provide for the registration of medical imaging technologists, nuclear medicine technologists and radiation therapists, and for other purposes

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Division 1—Introduction

Short title

1. This Act may be cited as the *Medical Radiation Technologists Registration Act 2000*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Division 2—Operation of Act

Act binds all persons

3.(1) This Act binds all persons, including the State.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

The legislative scheme

4. This Act is part of a legislative scheme (the **"legislative scheme"**) consisting of the health practitioner registration Acts, the *Health Practitioner Registration Boards (Administration) Act 1999* and the *Health Practitioners (Professional Standards) Act 1999.*

Board's decisions to accord with decisions of certain bodies under the Health Practitioners (Professional Standards) Act 1999

5.(1) This section applies if the board is making—

(a) a decision on an application for registration; or

(b) a decision, under this Act, affecting a registrant's registration.

(2) The decision must comply with, and be consistent with, any decision of the board, a disciplinary committee, a professional conduct review panel, the Health Practitioners Tribunal or the Court of Appeal, affecting the applicant or registration, under the *Health Practitioners (Professional Standards) Act 1999.*

Mutual recognition legislation not affected

6. This Act does not affect the operation of the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 1999*.

Division 3—Objects

Objects of Act

7.(1) The objects of this Act are—

(a) to protect the public by ensuring health care is delivered by registrants in a professional, safe and competent way; and

(b) to uphold the standards of practice within the professions; and

(c) to maintain public confidence in the professions.

(2) The objects are to be achieved mainly by—

(a) establishing the Medical Radiation Technologists Board of Queensland; and

(b) providing for the registration of persons under this Act; and

(c) imposing obligations on persons in relation to the practice of the professions; and

(d) providing for compliance with this Act to be monitored and enforced.

Division 4—Interpretation

Definitions

8. The dictionary in schedule 3 defines particular words used in this Act.

PART 2—MEDICAL RADIATION TECHNOLOGISTS BOARD OF QUEENSLAND

Division 1—Establishment and functions

Establishment of board

9.(1) The Medical Radiation Technologists Board of Queensland is established.

(2) The board—

(a) is a body corporate; and

(b) has a common seal; and

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

Board's relationship with the State

10. The board does not represent the State.

Functions of board

11. The board has the following functions—

(a) to assess applications for registration;

(b) to register persons who satisfy the requirements for registration;

(c) to monitor, and assess, whether registrants comply with any conditions of registration;

(d) to keep a register of, and records relating to, registrants;

(e) to promote high standards of practice of the professions by registrants;

(f) to develop or adopt programs for the continuing professional education of registrants, and encourage their participation in the programs;

(g) to develop or adopt training programs in the practice of the professions that are relevant to a person's eligibility for registration;

Example of 'training programs'—

Refresher courses for persons who have not practised a profession for a number of years.

(h) to confer and cooperate with interstate regulatory authorities;

(i) to confer and cooperate with entities engaged in the development of national policies about the regulation of the professions;

(j) to confer and cooperate with the following entities about the education of persons in the practice of the professions—

(i) educational institutions;

(ii) entities responsible for accrediting courses, or accrediting institutions to educate persons, for the profession;

(k) to inform registrants and the public about the operation of the legislative scheme in its application to the professions;

(l) to examine, and advise the Minister about, the operation of the legislative scheme in its application to the professions;

(m) to monitor, and enforce, compliance with this Act;

(n) to undertake research, relevant to the legislative scheme, into the regulation of the professions;

(o) to collect, and give to persons, information about the practice of the professions by registrants;

Example of 'information about the practice of the professions by registrants'—

The languages, other than English, spoken by registrants.

(p) to perform other functions given to the board under this or another Act.

Example for paragraph (p)—

Under the *Health Practitioners (Professional Standards) Act 1999*, section 374, the board may develop codes of practice, or adopt another entity's code of practice, to provide guidance to registrants as to appropriate professional conduct or practice.

Board's independence etc.

12. In performing its functions, the board is to act independently, impartially and in the public interest.

Powers of board

13.(1) The board has all the powers of an individual, and may, for example—

(a) enter into contracts; and

(b) enter into service agreements; and

(c) acquire, hold, dispose of, and deal with, property; and

(d) appoint agents and attorneys; and

(e) engage consultants; and

(f) fix charges, and other terms, for services and other facilities it supplies; and

(g) do anything else necessary or convenient to be done for, or in connection with, its functions.

(2) This section does not authorise the board to obtain administrative and operational support other than as required by the *Health Practitioner Registration Boards (Administration) Act 1999*.

(3) Without limiting subsection (1), the board has the powers given to it under this or another Act.

(4) The board may exercise its powers inside or outside Queensland.

(5) Without limiting subsection (4), the board may exercise its powers outside Australia.

Delegation by board

14.(1) The board may delegate its powers under this Act to—

(a) a member; or

(b) a committee of the board consisting of appropriately qualified persons, 1 of whom must be a member; or

(c) the executive officer; or

(d) with the agreement of the executive officer—an appropriately qualified member of the office's staff.

(2) However, the board may not delegate its power under this Act—

(a) to decide to register, or refuse to register, an applicant for registration; or

(b) to decide to refuse to renew a renewable registration; or

(c) to decide to refuse to restore a renewable registration; or

(d) to decide to cancel a registration; or

(e) to decide to impose, or remove, conditions on a registration; or

(f) to enter into a service agreement.

(3) In this section—

"appropriately qualified" includes having the qualifications, experience or standing appropriate to exercise the power.

Example of 'standing' for a member of the office's staff—

The staff member's classification level in the office.

Division 2—Membership

Membership of board

15.(1) The board consists of at least 7, but not more than 11, members appointed by the Governor in Council.

(2) The board must include—

(a) persons who are general registrants (the **"registrant members"**); and

(b) persons (the **"public members"**) having an interest in, and knowledge of, consumer health issues who are not, and have not been—

(i) registered under a health practitioner registration Act or an earlier corresponding Act; or

(ii) registered or enrolled under the *Nursing Act 1992* or an earlier corresponding Act; or

(iii) registered or enrolled under a law applying, or that applied, in another State or foreign country that provides, or provided, for the same matter as a health practitioner registration Act or the *Nursing Act 1992* or a provision of the Act; and

(c) 1 lawyer nominated by the Minister.

(3) Also, the Minister may nominate persons who do not belong to the categories of persons mentioned in subsection (2) to be members.

(4) Also, the registrant members must consist of at least 1 general registrant from each profession.

(5) A majority of the members must be registrant members.

(6) In this section—

"earlier corresponding Act", in relation to a health practitioner registration Act, means an earlier Act that provided for the same matter as the health practitioner registration Act or a provision of the health practitioner registration Act.

"earlier corresponding Act", in relation to the *Nursing Act 1992*, means an earlier Act that provided for the same matter as the *Nursing Act 1992* or a provision of the *Nursing Act 1992.*

Registrant members

16. The registrant members must consist of—

(a) at least 2 general registrants nominated by the bodies the Minister considers represent the interests of registrants; and

(b) if there are educational institutions established in the State—1 general registrant nominated by the governing bodies of the institutions chosen by the Minister; and

(c) at least 1 general registrant nominated by the Minister.

Public members

17. The public members must consist of—

(a) at least 1 person nominated by community groups and other entities the Minister considers have an interest in consumer health issues; and

(b) at least 1 other person nominated by the Minister.

Certain nominee board members

18.(1) This section applies for the nomination of a person or persons for a position or positions on the board under section 16(a) or (b) or 17(a).

(2) The Minister must give the entities who may make the nomination notice stating a reasonable period within which they may nominate the person or persons for the position or positions.

(3) The Minister may in the notice ask the entities to nominate more than the required number of persons for the position or positions.

(4) Subject to subsections (5) and (6), if the entities nominate more than the required number of persons for the position or positions—

(a) the Minister must choose the nominee or nominees for the position or positions from the nominations; and

(b) the person or persons chosen are taken to be the nominee or nominees, under the relevant provision mentioned in subsection (1), for the position or positions.

(5) Subsection (6) applies if—

(a) the entities do not nominate a person or persons for the position or positions within the period stated in the notice; or

(b) the entities nominate a number of persons for the position or positions that is less than the number requested by the Minister under subsection (3); or

(c) the person or any of the persons nominated by the entities are not eligible to be appointed to the position or positions concerned.

(6) The Minister must nominate a person or persons eligible to be appointed to the position or positions and the nomination or nominations are taken to have been made by the entities.

(7) To remove doubt, if subsection (5)(b) applies, it is declared that a nomination under subsection (6) may be of, or include, a person or persons nominated by the entities.

Chairperson and deputy chairperson of board

19.(1) The Governor in Council is to appoint a registrant member to be the chairperson, and another registrant member to be the deputy chairperson, of the board.

(2) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.

(3) The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the person's term of office as a member ends sooner than the person's term of office as chairperson or deputy chairperson.

(4) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a registrant member.

(5) However, a person resigning the office of chairperson or deputy chairperson may continue to be a member.

(6) The deputy chairperson is to act as chairperson—

(a) during a vacancy in the office of chairperson; and

(b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

Term of appointment

20. A member is to be appointed for a term of not more than 4 years.

Disqualification from membership

21.(1) A person can not become, or continue as, a member if the person—

(a) is affected by bankruptcy action; or

(b) is, or has been, convicted of an indictable offence; or

(c) is, or has been, convicted of an offence against this Act.

(2) For subsection (1)(a), a person is affected by bankruptcy action if the person—

(a) is bankrupt; or

(b) has compounded with creditors; or

(c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

Vacation of office

22.(1) A member is taken to have vacated office if the member—

(a) resigns his or her position on the board by signed notice of resignation given to the Minister; or

(b) can not continue as a member under section 21; or

(c) is absent without the board's permission from 3 consecutive meetings of the board of which due notice has been given.

(2) Also, a member is taken to have vacated office in any of the following circumstances—

(a) if the member is a registrant member—the member stops being a general registrant;

(b) if the member is a public member—the member stops being a person mentioned in section 15(2)(b);

(c) if the member was nominated, for membership of the board, under section 15(2)(c)—the member stops being a lawyer.

(3) In this section—

"meeting" means the following—

(a) if the member does not attend—a meeting with a quorum present;

(b) if the member attends—a meeting with or without a quorum present.

When notice of resignation takes effect

23. A notice of resignation under section 19(4) or 22(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, the later time.

Leave of absence for a member

24.(1) The Minister may approve a leave of absence for a member (the **"approved absent member"**) of more than 3 months.

(2) The Minister may appoint another person to act in the office of the approved absent member while the member is absent on the approved leave.

(3) A person appointed under subsection (2) must belong to the same category of persons mentioned in section 15(2) or (3) to which the approved absent member belongs.

(4) If the approved absent member is the deputy chairperson, the Minister may appoint another registrant member to act in the deputy chairperson's office while the deputy chairperson is absent on the approved leave.

Effect of vacancy in membership of board

25.(1) Subsection (2) applies despite sections 15 to 17.[1]

(2) The performance of a function, or exercise of a power, by the board is not affected merely because of a vacancy in the membership of the board.

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[1] Sections 15 (Membership of board), 16 (Registrant members) and 17 (Public members)

Remuneration of members

26. A member is entitled to be paid the fees and allowances decided by the Governor in Council.

Division 3—Board business

Conduct of business

27. Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

Times and places of meetings

28.(1) Board meetings are to be held at the times and places the chairperson decides.

(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least the number of members forming a quorum for the board.

Quorum

29. A quorum for the board is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

Presiding at meetings

30.(1) The chairperson is to preside at all meetings of the board at which the chairperson is present.

(2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson is to preside.

(3) If the chairperson and deputy chairperson are both absent from a board meeting or the offices are vacant, a registrant member chosen by the members present is to preside.

Conduct of meetings

31.(1) A question at a board meeting is decided by a majority of the votes of the members present.

(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

(4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

Example of 'technology allowing reasonably contemporaneous and continuous communication'—

Teleconferencing.

(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

(a) a majority of the board members gives written agreement to the resolution; and

(b) notice of the resolution is given under procedures approved by the board.

Minutes

32.(1) The board must keep—

(a) minutes of its meetings; and

(b) a record of any resolutions made under section 31(6).

(2) Subsection (3) applies if a resolution is passed at a board meeting by a majority of the members present.

(3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution.

Division 4—Board committees

Committees

33.(1) The board may establish committees of the board for effectively and efficiently performing its functions.

(2) A committee may include a person who is not a member of the board.

(3) The board is to decide the terms of reference of a committee.

(4) The functions of a committee are to—

(a) advise and make recommendations to the board about matters, within the scope of the board's functions, referred by the board to the committee; and

(b) exercise powers delegated to it by the board.[2]

(5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.

(6) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

Remuneration of committee members

34. A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

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2 See section 14 for the board's power of delegation.

Division 5—Disclosure of interests by board members and committee members

Disclosure of interests

35.(1) This section applies to a board or committee member (the **"interested person"**) if—

(a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board or committee; and

(b) the interest could conflict with the proper performance of the person's duties about the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a board or committee meeting.

(3) Unless the board or committee otherwise directs, the interested person must not—

(a) be present when the board or committee considers the issue; or

(b) take part in a decision of the board or committee about the issue.

(4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).

(5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

(a) be present when the board or committee is considering whether to give a direction under subsection (3) about the interested person; or

(b) take part in making the decision about giving the direction.

(6) If—

(a) because of this section, a board or committee member is not present at a board or committee meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and

(b) there would be a quorum if the member were present;

the remaining persons present are a quorum of the board or committee for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

(7) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.

(8) If the interested person is a registrant member, the person does not have a direct or indirect interest in an issue if the interest arises merely because the person is a registrant.

Division 6—Directions by Minister

Minister's power to give directions in the public interest

36.(1) The Minister may give the board a written direction about a matter relevant to the performance of its functions under this Act if the Minister is satisfied it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), the direction may be to—

(a) give reports and information; or

(b) apply to the board a policy, standard or other instrument applying to a public sector unit.

(3) The direction can not be about—

(a) the registering of, or refusal to register, an applicant for registration; or

(b) the renewing of, or refusal to renew, a renewable registration; or

(c) the restoring of, or refusal to restore, a renewable registration; or

(d) the cancelling of a registration; or

(e) the imposing, or removal, of conditions on a registration.

(4) Despite section 12,[3] the board must comply with the direction.

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3 Section 12 (Board's independence etc.)

Division 7—Annual reports

Matters to be included in annual report

37.(1) The board's annual report under the *Financial Administration and Audit Act 1977* for a financial year must include the following—

(a) copies of all ministerial directions given to the board under section 36 during the financial year;

(b) the number of registrants at the end of the financial year;

(c) details of the amount of the board's funds spent, in the financial year, on investigations and inspections under part 5;[4]

(d) details of the amount of the board's funds spent, in the financial year, on developing or adopting training programs in the practice of the professions that are relevant to a person's eligibility for registration;

(e) details of the amount of the board's funds spent in the financial year on research, relevant to the legislative scheme, into the regulation of the professions;

(f) details of any policies or programs developed, or initiatives taken, by the board in the financial year for the general benefit of users of registrants' services.

(2) However, the board must exclude from the copies mentioned in subsection (1)(a) all information likely to identify a person mentioned in the direction.

Division 8—Other provisions about the board

Board is statutory body under the Financial Administration and Audit Act 1977

38. The board is a statutory body under the *Financial Administration and Audit Act 1977*.

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4 Part 5 (Investigation and enforcement)

Board is statutory body under the Statutory Bodies Financial Arrangements Act 1982

39.(1) The board is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B[5] sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Board's common seal

40. The board's common seal is to be kept in the custody of a person nominated by the board and may be used only as authorised by the board.

PART 3—REGISTRATION

Division 1—Preliminary

Who may apply for registration

41. Only an individual may apply for registration.

Division 2—Applications for general registration

Subdivision 1—Applications

Procedural requirements for applications

42.(1) An application for general registration in a profession must—

(a) be made to the board; and

5 *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

(b) be in the approved form; and

(c) be accompanied by—

(i) satisfactory evidence of relevant qualifications in the profession; and

(ii) the application fee prescribed under a regulation (the **"application fee"**); and

(iii) the registration fee prescribed under a regulation (the **"registration fee"**); and

(iv) any other documents, identified in the approved form, the board reasonably requires; and

(v) if the applicant is registered under a corresponding law in the profession, written details of any conditions of the registration.

(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

Subdivision 2—Eligibility for general registration

Eligibility

43.(1) An applicant for general registration in a profession is eligible for general registration in the profession if—

(a) the applicant is qualified for general registration in the profession under section 44; and

(b) the applicant is fit to practise the profession.

(2) Without limiting subsection (1), the board may be satisfied the applicant is eligible for general registration in the profession by imposing conditions on the registration under section 59.[6]

(3) Also, section 57[7] states when an applicant's general registration must be subject to probationary conditions.

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6 Section 59 (Imposition of other conditions by board)

7 Section 57 (Imposition of probationary conditions)

When applicant is qualified for general registration

44.(1) An applicant for general registration in a profession is qualified for general registration in the profession if—

(a) the applicant has a qualification in the profession prescribed under a regulation; or

(b) the applicant has a qualification in the profession that is substantially equivalent to, or based on similar competencies to that required for, a current Australian or New Zealand qualification; or

(c) the applicant has passed a qualifying examination in the profession set by or for, or recognised by, the board.

(2) In deciding whether subsection (1)(b) is satisfied, the board may have regard to the following—

(a) the advice and recommendations of—

(i) an entity recognised by the board as competent to assess qualifications in the profession; or

(ii) an entity responsible for accrediting courses, or accrediting institutions to educate persons, for the profession;

(b) the attributes of the course leading to the applicant's qualification;

Example of 'attributes' of a course—

The course objectives and competencies.

(c) any other relevant issue.

(3) In this section—

"current Australian or New Zealand qualification", in a profession, means an Australian or New Zealand qualification in the profession, mentioned in a regulation made under subsection (1)(a), that may be conferred or awarded as a result of the successful completion of a course offered, at the date of the applicant's application for general registration, by the educational institution mentioned in relation to the qualification.

Fitness to practise the profession

45.(1) In deciding whether an applicant for general registration in a profession is fit to practise the profession, the board may have regard to the following—

(a) the applicant's mental and physical health;

(b) the applicant's command of the English language;

(c) whether the applicant has been convicted of an indictable offence;

(d) whether the applicant has been convicted of an offence against this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(e) whether the applicant has been convicted of an offence, relating to the practice of the profession, against a law applying, or that applied, in the State, the Commonwealth, another State or a foreign country (other than laws mentioned in paragraph (d)), including, for example an offence of that type against—

(i) the *Radiation Safety Act 1999*; or

(ii) the *Health Act 1937*; or

(iii) the *Fair Trading Act 1989*;

(f) if the applicant has been registered under this Act in the profession or is, or has been, registered under a corresponding law in the profession and the registration was affected—

(i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) by its suspension or cancellation—the reason for its suspension or cancellation; or

(iii) in another way—the way it was affected and the reason for it being affected;

(g) for an applicant who holds, or has held, a licence, certificate or approval under the *Radiation Safety Act 1999*—

(i) if the licence, certificate or approval was affected by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) if the licence, certificate or approval was affected by its suspension or cancellation—the reason for the suspension or cancellation;

(h) if the qualification relied on by the applicant to obtain registration was conferred or awarded on a day (the **"qualification day"**) that is more than 3 years before the date of application, the nature, extent and period of any practice of the profession by the applicant since the qualification day;

(i) any other issue relevant to the applicant's ability to competently and safely practise the profession.

(2) For subsection (1)(h)—

(a) the passing of an examination mentioned in section 44(1)(c) is taken to be a qualification; and

(b) the day the examination was passed is taken to be the qualification day.

(3) The board may ask the commissioner of the police service for a written report about an applicant's criminal history.

(4) If asked by the board, the commissioner of the police service must give the board a written report about the criminal history of the applicant, including the criminal history in the commissioner's possession or to which the commissioner has access.

(5) In this section—

"criminal history", of an applicant, means the applicant's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Subdivision 3—Inquiries into applications

Board's powers before deciding applications

46.(1) Before deciding the application, the board—

(a) may investigate the applicant; and

(b) may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application; and

(c) may, by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place; and

(d) may, by notice given to the applicant, require the applicant to undergo a health assessment within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) The purpose of an examination under subsection (1)(c) must be to assess the applicant's ability to competently and safely practise the profession to which the application relates.

(4) The purpose of an assessment under subsection (1)(d) must be to assess the applicant's mental and physical capacity to competently and safely practise the profession to which the application relates.

(5) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—

(a) does not comply with a requirement under subsection (1)(b); or

(b) does not undergo an examination under subsection (1)(c); or

(c) does not undergo an assessment under subsection (1)(d).

(6) A notice under subsection (1)(b), (c) or (d) must be given to the applicant within 60 days after the board receives the application.

(7) Also, a notice under subsection (1)(d) must state—

(a) the reason for the assessment; and

(b) the name and qualifications of the person appointed by the board to conduct the assessment; and

(c) the place where, and the day and time at which, the assessment is to be conducted.

Appointment of appropriately qualified person to conduct health assessment

47.(1) This section applies if the board believes it is necessary for the applicant to undergo a health assessment under section 46(1)(d).

(2) The board may appoint 1 or more appropriately qualified persons to conduct the assessment, in whole or part.

(3) At least 1 of the persons appointed to conduct the assessment must be a medical practitioner.

(4) Before appointing a person to conduct a health assessment, the board must be satisfied the person does not have a personal or professional connection with the applicant that may prejudice the way in which the person conducts the assessment.

(5) In this section—

"appropriately qualified", for a medical practitioner or other person conducting a health assessment, includes having the qualifications, experience, skills or knowledge appropriate to conduct the assessment.

Report about health assessment

48.(1) A person appointed under section 47 to conduct all or part of a health assessment of the applicant must prepare a report about the assessment (an **"assessment report"**).

(2) The assessment report must include—

(a) the person's findings as to the applicant's mental and physical capacity to competently and safely practise the profession to which the applicant's application relates; and

(b) if the person finds the applicant does not have the mental and physical capacity to practise the profession, the person's recommendations as to any conditions that could be imposed on the applicant's registration as a general registrant in the profession to overcome the incapacity.

(3) The person must give the assessment report to the board.

Use of assessment report

49.(1) An assessment report is not admissible in any proceedings, other than stated proceedings.

(2) A person can not be compelled to produce the report, or to give evidence relating to the report or its contents, in any proceedings, other than stated proceedings.

(3) Subsections (1) and (2) do not apply if the report is admitted or produced, or evidence relating to the report or its contents is given, with the consent of the person who prepared the report and the person to whom the report relates.

(4) In this section—

"assessment report" includes a copy of the report, or a part of the report or copy.

"proceedings under the *Health Practitioners (Professional Standards) Act 1999*" includes a health assessment of a registrant by a health assessment committee under that Act.

"stated proceedings" means—

(a) a review of conditions under division 8;[8] or

(b) an appeal started under part 6;[9] or

(c) proceedings under the *Health Practitioners (Professional Standards) Act 1999*, not including proceedings for an offence against that Act.

Payment for health assessments and reports

50. A person who conducts a health assessment and prepares an assessment report for the board is entitled to be paid for his or her work by the board.

8 Division 8 (Reviewing conditions of general registrations)

9 Part 6 (Appeals)

Subdivision 4—Decision on applications

Decision

51. The board must consider the application and decide to register, or refuse to register, the applicant as a general registrant in the profession to which the application relates.

Steps to be taken after application decided

52.(1) If the board decides to register the applicant as a general registrant, it must as soon as practicable issue a certificate of general registration to the applicant.

(2) If the board decides to refuse to register the applicant as a general registrant, it must as soon as practicable give the applicant an information notice about the decision.

Failure to decide applications

53.(1) Subject to subsections (2) and (3), if the board fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the board to refuse to register the applicant as a general registrant.

(2) Subsection (3) applies if the board has—

(a) under section 46(1)(b),[10] required the applicant to give the board further information or a document; or

(b) under section 46(1)(c), required the applicant to undergo an examination; or

(c) under section 46(1)(d), required the applicant to undergo a health assessment.

(3) The board is taken to have decided to refuse to register the applicant as a general registrant if it fails to decide the application by the latest of the following days—

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10 Section 46 (Board's powers before deciding applications)

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) This section does not apply if the applicant is registered as a provisional general registrant.[11]

(5) This section is subject to section 54.

Further consideration of applications

54.(1) This section applies if the board considers it needs further time to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.

Example of an application for general registration that may require the consideration of complex matters—

An application requiring the board to obtain and consider information about the applicant from a foreign regulatory authority.

(2) The board may at any time before the final consideration day give notice to the applicant that—

(a) because of the complexity of the matters that need to be considered in deciding the application, the board needs further time to decide the application; and

(b) the period within which the board must decide the application is extended to a day (the **"extended day"**) that is 60 days after the final consideration day.

(3) Also, the applicant and board may at any time before the final consideration day agree in writing on a day (the **"agreed extended day"**) by which the application is to be decided.

(4) The board is taken to have decided to refuse to register the applicant

11 If the applicant is registered as a provisional general registrant, section 71 states when the board is taken to have decided to refuse to register the applicant as a general registrant.

as a general registrant if it does not decide the application by—

(a) if subsection (2) applies—the extended day; or

(b) if subsection (3) applies—the agreed extended day; or

(c) if both subsections (2) and (3) apply—the later of the extended day or agreed extended day.

(5) Subsection (4) does not apply if the applicant is registered as a provisional general registrant.[12]

(6) In this section—

"final consideration day" means the latest of the following days—

(a) the day that is 60 days after receipt of the application;

(b) if the board has, under section 46(1)(b), required the applicant to give the board further information or a document—the day that is 60 days after the board receives the further information or document;

(c) if the board has, under section 46(1)(c), required the applicant to undergo an examination—the day that is 60 days after the board receives the results of the examination;

(d) if the board has, under section 46(1)(d), required the applicant to undergo a health assessment—the day that is 60 days after the board receives the assessment report.

Subdivision 5—Information in certificates of general registration

Forms of certificates of general registration

55.(1) A certificate of general registration must be in the approved form.

(2) The approved form must provide for the inclusion of the following—

(a) the registrant's name;

(b) the profession to which the registration relates;

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12 If the applicant is registered as a provisional general registrant, section 71 states when the board is taken to have decided to refuse to register the applicant as a general registrant.

(c) the period of the registration;

(d) any conditions of registration, including, for example, any probationary conditions.

Subdivision 6—Period of general registration

Period

56.(1) The period of registration that is to apply to general registrants in a profession is the period (the **"general registration period"**), not more than 3 years, prescribed under a regulation.

(2) If the board decides to register an applicant for general registration as a general registrant in a profession during a general registration period for the profession, the registration remains in force for the period—

(a) commencing on the day when the board makes the decision; and

(b) ending on the last day of the general registration period.

Subdivision 7—Conditions of general registration

Imposition of probationary conditions

57.(1) This section applies if—

(a) the board decides to register an applicant for general registration in a profession as a general registrant in the profession; and

(b) the applicant—

(i) has not completed, to the board's satisfaction, the supervised practice program for the profession; and

(ii) does not, in the board's reasonable opinion, have relevant practical experience in the profession.

(2) The board must impose the following conditions on the registration—

(a) for a registrant who has not, in the board's reasonable opinion, practised in the profession—

(i) that the registrant may practise the profession only in accordance with the supervised practice program for the profession; and

(ii) that the registrant must complete, to the board's satisfaction, the supervised practice program within the period prescribed under a regulation;

(b) for a registrant who has practised in the profession but does not, in the board's reasonable opinion, have relevant practical experience—

(i) that the registrant may practise the profession only in accordance with the part of the supervised practice program (the **"partial program"**) decided by the board for the registrant; and

(ii) that the registrant must complete, to the board's satisfaction, the partial program within the period decided by the board.

(3) In deciding the part of the supervised practice program to be completed, and the period within which it must be completed, the board may have regard to the following—

(a) the nature, extent and recency of any practice in the profession by the applicant, including, for example, any practice undertaken as part of a qualification in the profession the applicant has in addition to the qualification for registration;

(b) any reports from persons who have supervised the applicant in the practice of the profession.

(4) The board may have regard to practice mentioned in subsection (3)(a) whether or not the practice has been undertaken under supervision.

(5) The board must as soon as practicable give the applicant an information notice about the conditions.

(6) Despite subsection (5), if in the application the applicant does not claim to have practised in the profession, the applicant is not entitled to an information notice merely because probationary conditions are imposed on the applicant's registration.

Relevant practical experience in the profession

58.(1) An applicant has relevant practical experience in a profession if the applicant has experience in the practice of the profession that is substantially equivalent to the nature and extent of the practice of the profession provided under the supervised practice program.

(2) To remove doubt, it is declared that an applicant's experience in the practice of a profession may be substantially equivalent to the practice of the profession provided under the supervised practice program even if the applicant's practice was not undertaken under the supervision of a registrant.

(3) In deciding whether an applicant has relevant practical experience in a profession, the board may have regard to the following—

(a) any qualifications in the profession the applicant has in addition to the qualifications for general registration;

(b) the nature and extent of any practice in the profession by the applicant;

(c) reports from persons who have supervised the applicant in the practice of the profession;

(d) advice and recommendations about the applicant from an entity recognised by the board as competent to assess the applicant's ability to meet the competencies stated for the supervised practice program for the profession;

(e) any other relevant issue.

Imposition of other conditions by board

59.(1) In addition to any conditions imposed under section 57, the board may decide to register an applicant for general registration in a profession as a general registrant in the profession on conditions the board considers necessary or desirable for the applicant to competently and safely practise the profession.

Example of conditions of general registration—

A condition prohibiting a general registrant engaging in stated procedures related to the practice of the profession.

(2) If the board decides to register an applicant for general registration as a general registrant on conditions, it must as soon as practicable—

(a) also decide the review period applying to the conditions;[13] and

(b) give the applicant an information notice about the decisions.

(3) If the board decides to register an applicant for general registration as a general registrant on conditions because of the applicant's mental and physical health, it must also decide whether details of the conditions must be recorded in the register for the period for which the conditions are in force.

(4) The board must decide not to record details of the conditions mentioned in subsection (3) in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Contravention of conditions

60. A general registrant must not contravene a condition of the registration, including, for example, probationary conditions, imposed under this Act.

Maximum penalty—100 penalty units.

Subdivision 8—Provisions relating to probationary registrants

Supervised practice program

61.(1) A supervised practice program for a profession is a program, prescribed under a regulation, that provides experience, for probationary registrants, in the practice of the profession.

(2) Without limiting subsection (1), a regulation prescribing a program may provide for the following—

(a) the number of hours of practice of the profession to be undertaken and the frequency with which the practice must be undertaken;

(b) what constitutes practice of the profession for the program;

13 The conditions may be reviewed under division 8 (Reviewing conditions of general registrations).

(c) the requirements for the professional practice settings in which the practice of the profession must be undertaken;

(d) the activities to be undertaken during the program;

(e) the competencies registrants must demonstrate to complete the program;

(f) the minimum period during which the program may be completed.

(3) Also, a regulation prescribing a program may provide for matters incidental to the program, including, for example—

(a) the responsibilities, under the program, of probationary registrants and supervisors and other persons who supervise probationary registrants; and

(b) the requirements for probationary registrants to keep records and prepare reports relevant to the program, including, for example, log books; and

(c) the board's power to require a probationary registrant, the registrant's supervisor and other persons who supervise the probationary registrant in undertaking the supervised practice program, to provide information or documents, or prepare reports, about the registrant's progress and performance in undertaking the program.

Person ceasing to be supervisor must give report to board or nominated entity

62.(1) This section applies if—

(a) a person is the supervisor for a probationary registrant; and

(b) the person ceases to be the registrant's supervisor.

(2) The person must, within 28 days after ceasing to be the probationary registrant's supervisor, give a report about the registrant to—

(a) if an entity or entities have been prescribed under a regulation—the prescribed entity decided by the board; or

(b) otherwise—the board.

Maximum penalty—10 penalty units.

(3) The report must be in the approved form or, if a form has not been approved, must include the details prescribed under a regulation.

(4) Subsection (2) does not apply if a person ceases to be a probationary registrant's supervisor because the board decides, under section 97(3), that the registrant must undertake the supervised practice program under the supervision of another supervisor.

Division 3—Provisional general registration

Meaning of "authorised person" for div 3

63.(1) In this division—

"authorised person" means any of the following persons who are authorised by the board to decide to register a person as a provisional general registrant in a profession—

(a) the executive officer;

(b) a member;

(c) a member of the office's staff.

(2) An authority mentioned in subsection (1) may be limited by reference to specified conditions, exceptions or factors.

Provisional general registration of person on probationary conditions

64.(1) This section applies to an applicant for general registration in a profession who does not, in the applicant's application, claim to have practised in the profession.

(2) Subsection (3) applies if an authorised person reasonably considers—

(a) the applicant is eligible for the registration without conditions (other than probationary conditions); and

(b) because of the period before the board is likely to consider the application in the ordinary course of its business, it is not reasonable for the applicant to wait for the board to consider the application.

(3) The authorised person may decide to register the applicant as a provisional general registrant in the profession on the probationary conditions mentioned in section 57(2)(a).

(4) Subsection (5) applies if an authorised person or the board—

(a) reasonably considers, subject to an applicant for general registration in a profession giving the board further evidence of the applicant's relevant qualifications, the applicant is eligible for the registration without conditions (other than probationary conditions); or

(b) reasonably considers—

(i) an applicant for general registration in a profession would be eligible for the registration without conditions (other than probationary conditions), other than for the fact that the relevant qualifications relied on by the applicant have not been conferred on, or awarded to, the applicant; and

(ii) the applicant is entitled to have the relevant qualifications conferred on, or awarded to, him or her.

(5) The authorised person or board may decide to register the applicant as a provisional general registrant in the profession on the probationary conditions mentioned in section 57(2)(a).

(6) If the authorised person or board decides to register the applicant as a provisional general registrant, the authorised person or board must as soon as practicable issue a certificate of provisional general registration to the applicant.

(7) The provisional general registration of a person must not be on conditions, other than probationary conditions mentioned in section 57(2)(a).

Confirmation or cancellation of provisional general registration

65.(1) If an authorised person decides to register an applicant for general registration as a provisional general registrant, the authorised person must as soon as practicable report to the board about the basis for the authorised person's decision.

(2) The board must consider the report and decide whether to confirm or cancel the provisional general registration.

(3) In making its decision, the board must consider whether the authorised person should have decided to register the applicant as a provisional general registrant.

(4) If the board decides to cancel the provisional general registration, it must as soon as practicable give the applicant notice of its decision.

Procedure after cancellation of provisional general registration

66.(1) This section applies if the board decides, under section 65, to cancel a person's provisional general registration.

(2) The notice of cancellation must include the reason for the decision.

(3) The decision takes effect on the day the notice is given to the person.

(4) The person must return the certificate of provisional general registration to the board within 14 days after receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) Even though the board decides to cancel a person's provisional general registration, it must still consider the person's application for general registration.

Form of certificate of provisional general registration

67.(1) A certificate of provisional general registration must be in the approved form.

(2) The approved form must provide for the inclusion of the following—

(a) the registrant's name;

(b) the profession to which the registration relates;

(c) the period of the registration;

(d) the condition that the registrant may practise the profession only in accordance with the probationary conditions mentioned in section 57(2)(a).

Period

68. The provisional general registration of a person remains in force for the period, not more than 6 months, decided by the authorised person or board when deciding to register the person as a provisional general registrant.

Board decides to register provisional general registrant as a general registrant

69.(1) This section applies if—

(a) a person is a provisional general registrant in a profession; and

(b) the board decides to register the person as a general registrant in the profession.

(2) The provisional general registration is cancelled when the person receives a certificate of general registration under section 52(1).[14]

(3) The general registration—

(a) is taken to have started from the day the person was registered as a provisional general registrant in the profession; and

(b) is subject to the probationary conditions to which the provisional general registration was subject.

(4) The probationary conditions are taken to have been imposed under section 57(2)(a).

Board decides to refuse to register provisional general registrant as a general registrant

70.(1) This section applies if—

(a) a person is a provisional general registrant in a profession; and

(b) the board decides to refuse to register the person as a general registrant in the profession.

(2) The provisional general registration is cancelled when an information notice about the decision is given to the person under section 52(2).

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14 Section 52 (Steps to be taken after application decided)

(3) The person must return the certificate of provisional general registration to the board within 14 days after receiving the information notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Deemed refusal by board to register provisional general registrant as a general registrant

71.(1) This section applies if—

(a) a person is a provisional general registrant in a profession; and

(b) other than for section 53(4) or 54(5),[15] the board would have been taken to have decided to refuse to register the person as a general registrant in the profession.

(2) The board is taken to have decided to refuse to register the person as a general registrant on the expiry of the provisional general registration.

Division 4—Renewal of general registrations

Subdivision 1—Preliminary

Meaning of "recency of practice requirements"

72.(1) "Recency of practice requirements", for a profession, are requirements, prescribed under a regulation, that if satisfied demonstrate that an applicant for renewal of a general registration in the profession has maintained an adequate connection with the profession.

(2) The requirements may include requirements about the following—

(a) the nature, extent and period of practice of the profession by the applicant;

(b) the nature and extent of any continuing professional education undertaken by the applicant;

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15 Section 53 (Failure to decide applications) or 54 (Further consideration of applications)

(c) the nature and extent of any research, study or teaching, relating to the profession, undertaken by the applicant;

(d) the nature and extent of any administrative work, relating to the profession, performed by the applicant.

Subdivision 2—Applications for renewal of general registrations

Notification of imminent expiry of registration

73. The board must give a general registrant notice of the imminent expiry of the registration at least 60 days before the expiry.

Procedural requirements for applications

74.(1) A general registrant may apply to the board for the renewal of the registration.

(2) The application must be made within the period—

(a) starting—

(i) 60 days before the expiry of the registration; or

(ii) on an earlier day, if any, stated in the notice given to the registrant under section 73; and

(b) ending immediately before the expiry.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) the registration fee; and

(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.

(4) Information in the application must, if the approved form requires, be verified by a statutory declaration.

(5) The approved form must require the applicant to state the following—

(a) whether the applicant suffers from any ongoing medical condition, of which the applicant is aware, that the applicant knows or ought reasonably to know adversely affects the applicant's ability to competently and safely practise the profession to which the application relates;[16]

(b) if there are recency of practice requirements for the profession relevant to the applicant, details of the extent to which the applicant has satisfied the requirements.

General registration taken to be in force while application is considered

75.(1) If an application is made under section 74, the applicant's general registration is taken to continue in force from the day it would, apart from this section, have expired until—

(a) if the board decides to renew the applicant's general registration—the day a new certificate of general registration is issued to the applicant under section 79(1); or

(b) if the board decides to refuse to renew the applicant's general registration—the day an information notice about the decision is given to the applicant under section 79(2); or

(c) if the application is taken to have been withdrawn under section 76(4)—the day it is taken to have been withdrawn.

(2) Subsection (1) does not apply if the registration is earlier cancelled under this Act or suspended or cancelled under the *Health Practitioners (Professional Standards) Act 1999.*

Subdivision 3—Decision on applications

Inquiries into applications

76.(1) Before deciding the application, the board—

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16 If this information indicates to the board that the applicant may be an impaired registrant under the *Health Practitioners (Professional Standards) Act 1999,* the applicant may be dealt with under that Act.

(a) may investigate the applicant; and

(b) may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application; and

(c) may, if the board is not satisfied the applicant has satisfied recency of practice requirements for the profession to which the application relates, by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) The purpose of an examination under subsection (1)(c) must be to assess any effect the applicant's non-satisfaction of the requirements has on the applicant's ability to competently and safely practise the profession to which the application relates.

(4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—

(a) does not comply with a requirement under subsection (1)(b); or

(b) does not undergo an examination under subsection (1)(c).

Decision

77.(1) The board must consider the application and decide to renew, or refuse to renew, the applicant's general registration.

(2) In making its decision, the board must have regard only to the extent, if any, to which the applicant has satisfied recency of practice requirements for the profession to which the application relates.[17]

(3) If there are no recency of practice requirements for the profession

[17] Under section 78(2), the board may decide to renew the registration on recency of practice conditions if the board is not satisfied the applicant has satisfied recency of practice requirements for the profession to which the applicant's application relates.

relevant to the applicant, the board must decide to renew the applicant's general registration.

Recency of practice requirements are not satisfied

78.(1) This section applies if the board is not satisfied the applicant has satisfied recency of practice requirements for the profession to which the application relates.

(2) The board may decide to renew the applicant's general registration on conditions (**"recency of practice conditions"**) the board considers will sufficiently address the extent to which the applicant has not satisfied the requirements.

(3) Before deciding to renew the registration on recency of practice conditions, the board must—

(a) give notice to the applicant—

(i) of the details of the proposed conditions; and

(ii) of the reason for the proposed imposition of the conditions; and

(iii) that the applicant may make a written submission to the board about the proposed conditions within a reasonable time of at least 14 days stated in the notice; and

(b) have regard to any written submission made to the board by the applicant before the stated day.

(4) If the board decides to renew the registration on recency of practice conditions, it must as soon as practicable—

(a) also decide the review period applying to the conditions;[18] and

(b) give the applicant an information notice about the decisions.

(5) The imposition of the conditions takes effect on the later of the following—

(a) when the information notice is given to the applicant;

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18 The conditions may be reviewed under division 8 (Reviewing conditions of general registrations).

(b) immediately after the day the registration would have expired, other than for its renewal.

Steps to be taken after application decided

79.(1) If the board decides to renew the applicant's general registration, it must as soon as practicable issue a new certificate of general registration to the applicant.

(2) If the board decides to refuse to renew the applicant's general registration, it must as soon as practicable give the applicant an information notice about the decision.

(3) Without affecting section 78(2), if the board decides to renew the applicant's general registration, the renewed general registration is subject to the conditions attaching to the registration immediately before the decision takes effect, including, for example, probationary conditions.[19]

Division 5—Restoration of general registrations

Application of div 4, sdivs 1 and 3

80. For restoring a general registration, division 4, subdivisions 1 and 3, other than sections 78(5) and 79(3),[20] apply as if—

(a) an application for renewal of a general registration were an application for restoration of a general registration; and

(b) an applicant for renewal of a general registration were an applicant for restoration of a general registration; and

(c) a renewal of a general registration were a restoration of a general registration.

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19 The conditions may include conditions imposed under the *Health Practitioners (Professional Standards) Act 1999.*

20 Division 4 (Renewal of general registrations), subdivisions 1 (Preliminary) and 3 (Decision on applications), sections 78 (Recency of practice requirements are not satisfied) and 79 (Steps to be taken after application decided)

When an application for restoration of a general registration may be made

81. If a person's general registration has expired, the person may apply to the board for restoration of the registration within 3 months after the expiry.

Procedural requirements for applications

82.(1) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) the restoration fee prescribed under a regulation (the **"restoration fee"**); and

(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.

(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

(3) The approved form must require the applicant to state the following—

(a) whether the applicant suffers from any ongoing medical condition, of which the applicant is aware, that the applicant knows or ought reasonably to know adversely affects the applicant's ability to competently and safely practise the profession to which the application relates;[21]

(b) if there are recency of practice requirements for the profession relevant to the applicant, details of the extent to which the applicant has satisfied the requirements.

Period of restored registration

83. If the board decides to restore the applicant's general registration in a profession during a general registration period for the profession, the registration remains in force for the period—

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21 If this information indicates to the board that the applicant may be an impaired registrant under the *Health Practitioners (Professional Standards) Act 1999,* the applicant may be dealt with under that Act.

(a) commencing on the day when the board makes the decision; and

(b) ending on the last day of the general registration period.

Conditions of expired registration

84. Without affecting section 78(2), as applied by section 80, if the board decides to restore the applicant's general registration, the registration is subject to the conditions, including, for example, probationary conditions, attaching to the registration immediately before its expiry.

When recency of practice conditions take effect

85. If the board decides to restore the applicant's general registration on recency of practice conditions, the imposition of the conditions takes effect when the information notice about the decision is given by the board to the applicant.

Division 6—Cancellation of general registrations

Grounds for cancellation

86. A general registration may be cancelled, under this division, on any of the following grounds—

(a) that the registration happened because of a materially false or misleading representation or declaration;

(b) for a registration on probationary conditions mentioned in section 57(2)(a)—that the registrant has failed to complete, to the board's satisfaction, the supervised practice program within the period stated in section 57(2)(a)(ii);

(c) for a registration on probationary conditions mentioned in section 57(2)(b)—that the registrant has failed to complete, to the board's satisfaction, the supervised practice program within the period decided by the board under section 57(2)(b)(ii);

(d) for a registration on probationary conditions extended under section 97(1)(b)(ii)—that the registrant has failed to complete, to the board's satisfaction, the supervised practice program within the extended period.

Show cause notice

87.(1) If the board believes the ground exists to cancel a general registration, the board must before taking action to cancel the registration give the registrant a notice (a **"show cause notice"**).

(2) The show cause notice must—

(a) state the board proposes to cancel the registration; and

(b) state the ground for the proposed cancellation; and

(c) outline the facts and circumstances forming the basis for the ground; and

(d) invite the registrant to show within a stated period (the **"show cause period"**) why the registration should not be cancelled.

(3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the registrant.

Representations about show cause notices

88.(1) The registrant may make written representations about the show cause notice to the board in the show cause period.

(2) The board must consider all written representations (the **"accepted representations"**) made under subsection (1).

Ending show cause process without further action

89.(1) This section applies if, after considering the accepted representations for the show cause notice, the board no longer believes the ground exists to cancel the registration.

(2) The board must not take any further action about the show cause notice.

(3) The board must also as soon as practicable after coming to the belief give notice to the registrant that no further action is to be taken about the show cause notice.

Cancellation

90.(1) This section applies if, after considering the accepted representations for the show cause notice, the board—

(a) still believes the ground exists to cancel the registration; and

(b) believes cancellation of the registration is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The board may decide to cancel the registration.

(4) If the board decides to cancel the registration, it must as soon as practicable give the registrant an information notice about the decision.

(5) The decision takes effect on the day the information notice is given to the registrant.

Return of cancelled certificate of general registration to board

91.(1) This section applies if the board decides to cancel a general registration and gives an information notice for the decision to the registrant.

(2) The registrant must return the certificate of general registration to the board within 14 days after receiving the information notice, unless the registrant has a reasonable excuse.

Maximum penalty for subsection (2)—10 penalty units.

Division 7—Reviewing probationary conditions on general registrations

Review of probationary conditions

92. Probationary conditions may be reviewed under this division.

Registrant to give notice about completion of program to board

93.(1) A probationary registrant must, within 7 days of completing the supervised practice program, or the partial program, give notice of the completion to the board.

(2) The notice must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

Board to give notice to supervisor

94.(1) As soon as practicable after receiving the probationary registrant's notice under section 93, the board must give a notice to the registrant's supervisor.

(2) The notice must require the supervisor to give, within a reasonable time of at least 30 days stated in the notice, a supervised practice report for the probationary registrant to—

(a) if an entity or entities have been prescribed under a regulation—the prescribed entity decided by the board; or

(b) otherwise—the board.

(3) The supervisor must comply with the board's notice, unless the supervisor has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Entity to give board supervised practice report

95.(1) This section applies if, under section 94(2), the supervisor gives the supervised practice report to an entity other than the board.

(2) The entity must, within 30 days after receiving the report, give the board the entity's written assessment of whether the probationary registrant has satisfactorily completed the supervised practice program.

Maximum penalty—10 penalty units.

(3) The entity is entitled to be paid by the board for the entity's work in preparing the written assessment.

Board's powers before making decision

96.(1) Before making its decision under section 97, the board—

(a) may investigate the probationary registrant; and

(b) may, by notice given to the registrant, require the registrant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to make the decision; and

(c) may, by notice given to the registrant, require the registrant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place; and

(d) may, by notice given to the registrant's supervisor or another relevant person, require the supervisor or relevant person to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to make the decision.

(2) The board may require the information or document mentioned in subsection (1)(b) or (d) to be verified by a statutory declaration.

(3) The purpose of an examination under subsection (1)(c) must be to assess the probationary registrant's ability to competently and safely practise the profession.

(4) In this section—

"relevant person" means—

(a) a person who was previously the registrant's supervisor; or

(b) another person who supervised the registrant in undertaking the supervised practice program, or the partial program.

Decision

97.(1) After reviewing the supervised practice report, or the entity's assessment of a supervised practice report, and any other relevant information or document about the probationary registrant, the board must decide—

(a) if the board is satisfied the probationary registrant has satisfactorily completed the program, or the partial program—to remove the probationary conditions; or

(b) otherwise—

(i) to cancel the registrant's registration under division 6; or

(ii) extend the probationary conditions, for a period of not more than 1 year, by requiring the registrant to undertake a part of the program decided by the board if the board reasonably considers the registrant will satisfactorily complete the program during the period.

(2) Subsection (1)(b)(ii) applies despite section 57(2)(a)(ii) or (b)(ii).

(3) If the board decides to extend the probationary conditions, it may also impose additional conditions about the requirements for completing the program on the probationary registrant's registration, including, for example, requiring the registrant to undertake the partial program at a stated place or under the supervision of a stated supervisor.

(4) If the board does not receive the supervised practice report within the time stated in section 94(2), or the entity's assessment of the supervised practice report within the time stated in section 95(2), the board must make a decision mentioned in subsection (1) on the basis of other relevant information or documents about the probationary registrant.

(5) If the board decides—

(a) to extend the probationary conditions, it must, as soon as practicable after making the decision, give the probationary registrant an information notice about the decision; or

(b) to extend the probationary conditions and impose additional conditions about the requirements for completing the program, it must as soon as practicable give the registrant an information notice about the decision; or

(c) to remove the probationary conditions, it must give the registrant written notice of the decision.

(6) In this section—

"relevant information or document", about a probationary registrant, includes—

(a) a report about the registrant given to the board or another entity under section 62 or 95; and

(b) information or a document about the registrant obtained by the board under section 96; and

(c) information or a document about the registrant obtained by the board under a regulation under section 61(3).

When decision takes effect

98.(1) If the board decides to extend the probationary conditions, or to extend the probationary conditions and impose additional conditions, the decision takes effect when an information notice about the decision is given to the probationary registrant under section 97(5)(a) or (b).

(2) If the board decides to remove the conditions, the removal takes effect when notice of the decision is given to the probationary registrant under section 97(5)(c) and does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Failure by board to make decision

99.(1) This section applies if the board fails to make a decision under section 97—

(a) within 60 days after receiving the supervised practice report or the assessment of the supervised practice report; or

(b) if the board does not receive the report or assessment, within 60 days of the latest day on which the board should have received the report or assessment.

(2) Subject to subsections (3) and (4), the failure is taken to be a decision by the board to remove the probationary conditions.

(3) Subsection (4) applies if the board has—

(a) under section 96(1)(b), required the probationary registrant to give the board further information or a document; or

(b) under section 96(1)(c), required the registrant to undergo an examination; or

(c) under section 96(1)(d), required the registrant's supervisor or another relevant person to give the board information or a document.

(4) The board is taken to have decided to remove the probationary conditions if the board fails to decide the application by the later of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination.

(5) The conditions are taken to have been removed on the later of the days mentioned in subsection (1) or (4) and the removal does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

When additional conditions end

100.(1) This section applies if the board decides to extend a probationary registrant's probationary conditions and impose additional conditions on the registration.

(2) The conditions remain in force until the earlier of the following days—

(a) the day the probationary conditions are removed, under section 97(1)(a), from the probationary registrant's registration;

(b) if the board's decision under section 97(1)(b)(ii) states a day on which the conditions are to end, the stated day.

Amending or replacing certificates of general registration

101.(1) This section applies if—

(a) a probationary registrant receives an information notice, under section 97(5)(a) or (b), about a decision to extend probationary conditions or to extend probationary conditions and impose additional conditions;

(b) a probationary registrant receives a notice under section 97(5)(c);

(c) additional conditions imposed on a probationary registrant's general registration end under section 100(2);

(d) the board is taken, under section 99(2) or (4), to have decided to remove probationary conditions from a general registrant's general registration.

(2) The registrant must return the certificate of general registration to the board—

(a) if subsection (1)(a), (b) or (c) applies—within 14 days after receiving the notice; or

(b) if subsection (1)(d) applies—within 14 days after the day the registrant actually becomes aware of the removal.

Maximum penalty—10 penalty units.

(3) On receiving the certificate, the board must—

(a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or

(b) if the board does not consider it practicable to amend the certificate, issue another certificate of general registration to the registrant to replace the certificate returned to the board.

Division 8—Reviewing conditions of general registrations

Subdivision 1—Review of conditions imposed by the board or District Court

Review of conditions

102. Conditions, other than probationary conditions and conditions imposed under section 97(3), imposed on a general registration under this Act may be reviewed under this division.

How registrant may start a review

103.(1) The registrant to whom the conditions relate may apply to the board for a review of the conditions.

(2) However, the application must not be made—

(a) during the review period applying to the conditions; or

(b) while an appeal to the District Court about the decision to impose the conditions is pending.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(4) The approved form must require the registrant to state—

(a) that the registrant believes the conditions are no longer appropriate; and

(b) the reason for the registrant's belief.

(5) The board must consider the application and make a decision under section 108.

Review of conditions during review period

104.(1) This section applies if, during the review period applying to the conditions, the board reasonably believes the conditions may no longer be appropriate.

(2) The board may, with the written agreement of the registrant to whom the conditions relate, review the conditions.

Board's powers before making decision

105.(1) Before making its decision under section 108, the board—

(a) may investigate the registrant; and

(b) may, by notice given to the registrant, require the registrant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to make the decision; and

(c) may, by notice given to the registrant, require the registrant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place; and

(d) may, by notice given to the registrant, require the registrant to undergo a health assessment within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) Subject to section 108(2), the purpose of an examination under subsection (1)(c) must be to assess the registrant's ability to competently and safely practise the profession to which the registrant's registration relates.

(4) Subject to section 108(2), the purpose of an assessment under subsection (1)(d) must be to assess the registrant's mental and physical capacity to competently and safely practise the profession to which the registrant's registration relates.

(5) Also, a notice under subsection (1)(d) must state—

(a) the reason for the assessment; and

(b) the name and qualifications of the person appointed by the board to conduct the assessment; and

(c) the place where, and the day and time at which, the assessment is to be conducted.

Application of ss 47–50

106.(1) This section applies if the board believes it is necessary for the registrant to undergo a health assessment under section 105(1)(d).

(2) Sections 47 to 50[22] apply as if—

(a) an applicant for general registration were the registrant; and

(b) the reference in section 47(1) to section 46(1)(d) were a reference to section 105(1)(d).

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22 Sections 47 (Appointment of appropriately qualified person to conduct health assessment), 48 (Report about health assessment), 49 (Use of assessment report) and 50 (Payment for health assessments and reports)

Deemed withdrawal of application etc.

107.(1) Subsections (2) and (3) apply if the conditions are being reviewed because of an application made by the registrant under section 103.

(2) The registrant is taken to have withdrawn the application if, within the stated time, the registrant—

(a) does not comply with a requirement under section 105(1)(b); or

(b) does not undergo an examination under section 105(1)(c); or

(c) does not undergo an assessment under section 105(1)(d).

(3) A notice under section 105(1)(b), (c) or (d) must be given to the registrant within 60 days after the board receives the application.

(4) Subsections (5) and (6) apply if the conditions are being reviewed under section 104.

(5) The board is taken to have decided to confirm the conditions if, within the stated time, the registrant—

(a) does not comply with a requirement under section 105(1)(b); or

(b) does not undergo an examination under section 105(1)(c); or

(c) does not undergo an assessment under section 105(1)(d).

(6) A notice under section 105(1)(b), (c) or (d) must be given to the registrant within 60 days after the board agrees with the registrant to review the conditions.

Decision

108.(1) After reviewing the conditions, the board must decide—

(a) to confirm the conditions; or

(b) to remove the conditions; or

(c) to change the conditions.

(2) In making its decision, the board must consider whether the conditions remain necessary or desirable for the registrant to competently and safely practise the profession to which the registrant's registration relates.

(3) If the board decides to confirm or change the conditions, the conditions may only be confirmed or changed for the reasons the conditions were initially imposed.

(4) If the board decides to confirm or change the conditions, it must as soon as practicable—

(a) also decide the review period applying to the confirmed or changed conditions; and

(b) give the registrant an information notice about the decisions.

(5) If the board decides to remove the conditions, it must as soon as practicable give the registrant notice of the decision.

When decision takes effect

109.(1) If the board decides to confirm the conditions, the decision takes effect when it is made.

(2) If the board decides to change the conditions, the change takes effect when an information notice about the decision is given to the registrant under section 108(4)(b) and does not depend on the certificate of general registration being amended to record the change or a replacement certificate of general registration being issued.

(3) If the board decides to remove the conditions, the removal takes effect when notice of the decision is given to the registrant under section 108(5) and does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Failure by board to make decision on application

110.(1) Subject to subsections (2) and (3), if the board fails to decide an application under section 103[23] within 60 days after its receipt, the failure is taken to be a decision by the board to remove the conditions.

(2) Subsection (3) applies if the board has—

[23] Section 103 (How registrant may start a review)

(a) under section 105(1)(b),[24] required the applicant to give the board further information or a document; or

(b) under section 105(1)(c), required the applicant to undergo an examination; or

(c) under section 105(1)(d), required the applicant to undergo a health assessment.

(3) The board is taken to have decided to remove the conditions if the board fails to decide the application by the latest of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) The removal of the conditions under subsection (1) or (3) does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Failure by board to make decision on review agreed to under s 104

111.(1) Subject to subsections (2) and (3), if the board fails to make a decision on a review agreed to under section 104[25] within 60 days after the agreement, the failure is taken to be a decision by the board to remove the conditions.

(2) Subsection (3) applies if the board has—

(a) under section 105(1)(b), required the registrant to give the board further information or a document; or

(b) under section 105(1)(c), required the registrant to undergo an examination; or

(c) under section 105(1)(d), required the registrant to undergo a

24 Section 105 (Board's powers before making decision)

25 Section 104 (Review of conditions during review period)

health assessment.

(3) The board is taken to have decided to remove the conditions if the board fails to make a decision on the review by the latest of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) The removal of the conditions under subsection (1) or (3) does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Further decision required if certain conditions changed

112.(1) This section applies if the conditions were imposed because of the registrant's mental and physical health.

(2) If the board decides to change the conditions, it must also decide whether details of the changed conditions must be recorded in the register for the period for which the conditions are in force.

(3) The board must decide not to record details of the changed conditions in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Subdivision 2—Recording change, or removal, of conditions

Amendment of, or replacing, certificates of general registration

113.(1) This section applies if—

(a) a general registrant receives an information notice, under section 108(4)(b), about decisions relating to a change of the conditions of the registration; or

(b) a general registrant receives a notice, under section 108(5), about a decision to remove the conditions of the registration; or

(c) the board is taken, under section 110 or 111, to have decided to remove the conditions of a general registration.

(2) The registrant must return the certificate of general registration to the board—

(a) if subsection (1)(a) or (b) applies—within 14 days after receiving the notice, unless the registrant has a reasonable excuse; or

(b) if subsection (1)(c) applies—within 14 days after the day the registrant actually becomes aware of the removal.

Maximum penalty—10 penalty units.

(3) On receiving the certificate, the board must—

(a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or

(b) if the board does not consider it practicable to amend the certificate, issue another certificate of general registration to the registrant to replace the certificate returned to the board.

Division 9—Special purpose registrations

Subdivision 1—Applications for special purpose registration

Undertaking of special activities relating to the profession

114. A person may obtain special purpose registration to undertake 1 or more of the following activities (the **"special activities"**) relating to a profession—

(a) study or train at postgraduate level;

(b) teach;

(c) engage in research;

(d) give clinical demonstrations.

Application of divs 2 and 3

115.(1) For a person being registered as a special purpose registrant, division 2 (other than subdivisions 2, 6, 7 and 8) and division 3 (other than sections 64 and 67(2)(d))[26] apply as if—

(a) an application for general registration were an application for special purpose registration; and

(b) an applicant for general registration were an applicant for special purpose registration; and

(c) a general registration were a special purpose registration; and

(d) a general registrant were a special purpose registrant; and

(e) a certificate of general registration were a certificate of special purpose registration; and

(f) a provisional general registrant were a provisional special purpose registrant; and

(g) a provisional general registration were a provisional special purpose registration; and

(h) a certificate of provisional general registration were a certificate of provisional special purpose registration.

(2) The approved form for a certificate of special purpose registration, or provisional special purpose registration, must also provide for the inclusion of details of the special activity for which the registrant is registered.

Eligibility

116. An applicant for special purpose registration in a profession is eligible for special purpose registration in the profession if the applicant—

(a) has a qualification required for special purpose registration in the

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26 Division 2 (Applications for general registration), subdivisions 2 (Eligibility for general registration), 6 (Period of general registration), 7 (Conditions of general registration), 8 (Provisions relating to probationary registrants) and division 3 (Provisional general registration), sections 64 (Provisional general registration of person on probationary conditions) and 67 (Form of certificate of provisional registration)

profession; and

(b) is a suitable person to be a special purpose registrant.

Qualifications for special purpose registration

117.(1) An applicant for special purpose registration in a profession has a qualification required for special purpose registration in the profession if the applicant is the holder of a qualification in the profession recognised by the board.

(2) In deciding whether to recognise the qualification, the board may have regard to the following—

(a) whether the course leading to the qualification has been accredited by an entity responsible for accrediting courses for the profession;

(b) whether the educational institution conferring or awarding the qualification has been accredited by an entity responsible for accrediting institutions to educate persons for the profession;

(c) the advice and recommendations of an entity recognised by the board as competent to assess qualifications in the profession.

Suitability to be a special purpose registrant

118. In deciding whether an applicant for special purpose registration in a profession is a suitable person to be a special purpose registrant in the profession, the board may have regard to the following—

(a) whether the applicant has been convicted of an indictable offence;

(b) whether the applicant has been convicted of an offence against this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(c) if the applicant has been registered under this Act in the profession or is, or has been, registered under a corresponding law in the profession and the registration was affected—

(i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) by its suspension or cancellation—the reason for its suspension or cancellation; or

(iii) in another way—the way it was affected and the reason for it being affected;

(d) any other issue relevant to the applicant's ability to undertake the special activity the subject of the application.

Period of special purpose registration

119. If the board decides to register the applicant as a special purpose registrant, the registration remains in force for the period, not more than 1 year, decided by the board when deciding to register the applicant as a special purpose registrant.

Imposition of conditions by board

120.(1) The board may decide to register the applicant as a special purpose registrant on conditions, other than probationary conditions, the board considers necessary or desirable for the applicant to competently and safely undertake the special activity the subject of the application.

(2) If the board decides to register the applicant as a special purpose registrant on conditions, it must as soon as practicable give the applicant an information notice about the decision.

Contravention of conditions

121. A special purpose registrant must not contravene a condition of the registration imposed under this Act.

Maximum penalty—100 penalty units.

Provisional special purpose registration of a person

122.(1) Subsection (2) applies if an authorised person reasonably considers—

(a) an applicant for special purpose registration in a profession is eligible for the registration without conditions; and

(b) because of the period before the board is likely to consider the application in the ordinary course of its business, it is not reasonable for the applicant to have to wait for the board to consider the application.

(2) The authorised person may decide to register the applicant as a provisional special purpose registrant in the profession.

(3) Subsection (4) applies if an authorised person or the board—

(a) reasonably considers, subject to an applicant for special purpose registration in a profession giving the board further evidence of the applicant's relevant qualification in the profession, the applicant is eligible for the registration without conditions; or

(b) reasonably considers—

(i) an applicant for special purpose registration in a profession would be eligible for special purpose registration in the profession without conditions, other than for the fact that the relevant qualification relied on by the applicant has not been conferred on, or awarded to, the applicant; and

(ii) the applicant is entitled to have the relevant qualification conferred on, or awarded to, him or her.

(4) The authorised person or board may decide to register the applicant as a provisional special purpose registrant in the profession.

(5) If the authorised person or board decides to register the applicant as a provisional special purpose registrant, the authorised person or board must as soon as practicable issue a certificate of provisional special purpose registration in the profession to the applicant.

(6) The provisional special purpose registration of a person must not be on conditions.

(7) In this section—

"authorised person" has the meaning given by section 63, as applied by section 115(1).

Subdivision 2—Renewal of special purpose registrations

Application of div 4, sdivs 2 and 3

123. For renewing a special purpose registration, division 4, subdivisions 2 and 3, other than sections 74(5)(a) and 79(3)[27] and the provisions to the extent to which they relate to recency of practice requirements, apply as if—

(a) an application for the renewal of a general registration were an application for the renewal of a special purpose registration; and

(b) an applicant for the renewal of a general registration were an applicant for the renewal of a special purpose registration; and

(c) an applicant's general registration were an applicant's special purpose registration; and

(d) a general registrant were a special purpose registrant; and

(e) a certificate of general registration were a certificate of special purpose registration.

Matters that may be considered in deciding whether to renew special purpose registrations

124. In deciding whether to renew a special purpose registration, the board may have regard to the matters to which the board may have regard in deciding whether a proposed special purpose registrant is a suitable person to be a special purpose registrant.[28]

Imposition of conditions by board

125.(1) The board may decide to renew a special purpose registration on conditions, other than probationary conditions, the board considers

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[27] Division 4 (Renewal of general registrations), subdivisions 2 (Applications for renewal of general registrations) and 3 (Decision on applications), sections 74 (Procedural requirements for applications) and 79 (Steps to be taken after application decided)

[28] See section 118 (Suitability to be a special purpose registrant) for a list of the matters.

necessary or desirable for the registrant to competently and safely undertake the special activity the subject of the registration.

(2) If the board decides to renew a special purpose registration on conditions, it must as soon as practicable give the registrant an information notice about the decision.

(3) To remove doubt, it is declared that any conditions attaching to the registration immediately before its renewal do not continue to apply to the registration on its renewal.

Period of renewed special purpose registration

126. If the board decides to renew a special purpose registration, the registration remains in force for the period, not more than 1 year, decided by the board when deciding to renew the registration.

Subdivision 3—Cancellation of special purpose registrations

Application of div 6

127. For cancelling a special purpose registration, division 6, other than section 86, applies as if[29]—

(a) a general registration were a special purpose registration; and

(b) a certificate of general registration were a certificate of special purpose registration.

Grounds for cancellation

128. Each of the following is a ground for cancelling a special purpose registration—

(a) the registrant has practised the profession to which the registration relates other than for the special activity for which the registrant is registered;

[29] Division 6 (Cancellation of general registrations)
Section 86 (Grounds for cancellation)

(b) the registrant has been convicted of an indictable offence;

(c) the registrant has been convicted of an offence against this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(d) the registrant has contravened a condition of the registration;

(e) the registrant was registered because of a materially false or misleading representation or declaration.

Subdivision 4—Removal of conditions

Removal

129.(1) This section applies if the board reasonably believes the conditions imposed on a special purpose registration under this Act are no longer appropriate.

(2) The board must decide to remove the conditions.

(3) The board must give the registrant notice of the decision as soon as practicable after it is made.

(4) The registrant must return the certificate of special purpose registration to the board within 14 days after receiving the notice, unless the registrant has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) On receiving the certificate, the board must—

(a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or

(b) if the board does not consider it practicable to amend the certificate—issue another certificate of special purpose registration to the registrant to replace the certificate returned to the board.

(6) The removal takes effect when notice of the decision is given to the registrant and does not depend on the certificate of special purpose registration being amended to record the removal or a replacement certificate of special purpose registration being issued.

Division 10—General provisions about registrations

Person is taken to be registered under this part

130.(1) This section applies if, under this Act, an entity decides to—

(a) register a person in a profession; or

(b) restore a person's registration in a profession.

(2) The person is taken to be registered under this part in the profession.

Surrender of registrations

131.(1) A registrant may surrender the registration by notice given to the board.

(2) The surrender takes effect—

(a) on the day the notice is given to the board; or

(b) if a later day of effect is stated in the notice, on the later day.

(3) The registrant must return the certificate of registration to the board within 14 days after the day the surrender takes effect, unless the registrant has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Replacement of certificates of registration

132.(1) A registrant may apply to the board for the replacement of the certificate of registration if it has been lost, stolen, destroyed or damaged.

(2) The board must consider the application and decide to grant, or refuse to grant, the application.

(3) The board must decide to grant the application if it is satisfied the certificate has been lost, stolen or destroyed, or damaged in a way to require its replacement.

(4) If the board decides to grant the application, it must on payment of the fee prescribed under a regulation—

(a) replace the lost, stolen, destroyed or damaged certificate with another certificate of registration; and

(b) give the replacement certificate of registration to the applicant.

(5) If the board decides to refuse to grant the application, it must as soon as practicable give the applicant an information notice about the decision.

Certified copy of certificates of registration

133. A registrant may, on payment of the fee prescribed under a regulation, obtain from the board a certified copy of the certificate of registration.

Notification of change in circumstances

134. A registrant must, within 21 days after the happening of a change in the registrant's circumstances prescribed under a regulation, advise the board of the change.

Maximum penalty—10 penalty units.

Notification of certain events to interstate regulatory authorities and other entities

135.(1) This section applies if—

(a) a person's general registration or special purpose registration is cancelled under this Act; or

(b) conditions are imposed, under this Act, on a person's general registration or special purpose registration; or

(c) conditions on a person's general registration or special purpose registration are removed under this Act.

(2) As soon as practicable after an event mentioned in subsection (1) happens, the board must give notice about the event to each interstate regulatory authority with which the board is aware the person is registered.

(3) Also, the board may give notice about the event to any of the following—

(a) the chief executive;

(b) other State regulatory authorities;

(c) foreign regulatory authorities;

(d) professional colleges of which the person is eligible to be a member;

(e) professional associations of which the person is eligible to be a member;

(f) an employer of the person;

(g) the Health Insurance Commission;

(h) the Health Rights Commissioner;

(i) the Minister;

(j) another entity having a connection with the person's practice as a general or special purpose registrant.

(4) However, the board must not give a notice about the event to an entity under subsection (3) unless the board reasonably believes—

(a) the entity needs to know about the event; and

(b) giving the entity notice about the event will assist in achieving the objects of this Act.

(5) A notice under this section may include the information the board considers appropriate in the circumstances.

(6) In this section—

"impose", a condition, does not include confirm the condition.

"State regulatory authorities" means boards established under the health practitioner registration Acts.

PART 4—OBLIGATIONS OF REGISTRANTS AND OTHER PERSONS

Division 1—Restricted titles and holding out

Taking of restricted titles etc.

136.(1) A person who is not a registrant in a profession must not take or use a restricted title for the profession.

Maximum penalty—1 000 penalty units.

Examples of an individual taking or using a restricted title—

1. AB describes himself or herself as ‘AB, radiographer’.
2. AB describes himself or herself as ‘AB, nuclear medicine technologist’.
3. AB describes himself or herself as ‘AB, radiation therapist’.

Examples of a corporation taking or using a restricted title—

1. ABC Pty Ltd describes itself as ‘ABC Pty Ltd, radiographers’.
2. A corporation having a restricted title as part of its name.

(2) Subsection (1) does not apply to a person if—

(a) the person takes or uses a restricted title for a profession as part of a business name for a business providing professional services in the profession; and

(b) in the carrying on of the business by the person, a registrant in the profession provides professional services in the profession.

(3) Also, subsection (1) does not apply to a person if—

(a) the person is undertaking study or training in the practice of a profession to obtain a qualification for registration in the profession; and

(b) the person takes or uses a restricted title for the profession, in the course of the study or training, in conjunction with words that indicate the person is a student or trainee in the profession.

(4) A person (the **“first person”**) must not, in relation to another person who the first person knows, or ought reasonably to know, is not a registrant in a profession use a restricted title for the profession.

Maximum penalty—1 000 penalty units.

(5) Subsection (4) does not apply to the first person if—

(a) the other person is undertaking study or training in the practice of the profession to obtain a qualification for registration in the profession; and

(b) the first person uses the restricted title for the profession in relation to the other person, in the course of the study or training, in conjunction with words that indicate the other person is a student or trainee in the profession.

(6) A person who is not a registrant in a profession must not take or use a title (other than a restricted title), name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—

(a) if the profession is the medical imaging technology profession, the person is a medical imaging technologist or radiographer; or

(b) if the profession is the nuclear medicine technology profession, the person is a nuclear medicine technologist; or

(c) if the profession is the radiation therapy profession, the person is a radiation therapist; or

(d) the person is authorised or qualified to practise the profession.

Maximum penalty—500 penalty units.

(7) However, subsection (6)(d) does not apply to a person who takes or uses a title (other than a restricted title), name, initial, symbol, word or description that indicates or could be reasonably understood to indicate the person is authorised to practise a profession if the person—

(a) holds a use licence under the *Radiation Safety Act 1999* to carry out a radiation practice using a radiation source; and

(b) takes or uses the title (other than a restricted title), name, initial, symbol, word or description in a way that, having regard to the circumstances in which it is used, indicates or could be reasonably understood to indicate the person is authorised to use the source under the licence for the practice.

(8) A person (the **"first person"**) must not, in relation to another person who the first person knows, or ought reasonably to know, is not a registrant in a profession use a title (other than a restricted title), name, initial, symbol, word or description that, having regard to the circumstances in which it is used, indicates or could be reasonably understood to indicate—

(a) if the profession is the medical imaging technology profession, the other person is a medical imaging technologist or radiographer; or

(b) if the profession is the nuclear medicine technology profession, the other person is a nuclear medicine technologist; or

(c) if the profession is the radiation therapy profession, the other person is a radiation therapist; or

(d) the other person is authorised or qualified to practise the profession.

Maximum penalty—500 penalty units.

(9) However, subsection (8)(d) does not apply if the first person uses a title (other than a restricted title), name, initial, symbol, word or description that indicates or could be reasonably understood to indicate the other person is authorised to practise a profession if—

(a) the other person holds a use licence under the *Radiation Safety Act 1999* to carry out a radiation practice using a radiation source; and

(b) the first person uses the title (other than a restricted title), name, initial, symbol, word or description in a way that, having regard to the circumstances in which it is used, indicates or could be reasonably understood to indicate the other person is authorised to use the source under the licence for the practice.

(10) A person does not commit an offence against this section if the person, other than for the purpose of providing a health service—

(a) takes or uses a restricted title; or

(b) takes or uses a title (other than a restricted title), name, initial, symbol, word or description that indicates, or could be reasonably understood to indicate, the person is a radiographer.

Example for subsection (10)(a)—

An industrial radiographer using the title 'radiographer', and not providing a health service, would not commit an offence against this section.

Claims by persons as to registration

137. A person who is not a registrant in a profession must not—

(a) claim, or hold himself or herself out, to be registered under this Act in the profession; or

(b) allow himself or herself to be held out as being registered under this Act in the profession; or

(c) claim, or hold himself or herself out, to be eligible to be registered under this Act in the profession.

Maximum penalty—1 000 penalty units.

Claims by persons as to other persons' registration

138. A person must not hold out another person as being registered under this Act in a profession if the person knows, or ought reasonably to know, the other person is not registered under this Act in the profession.

Maximum penalty—1 000 penalty units.

Example—

A person carrying on a business providing medical imaging technology services must not hold out that an employee of the person is a radiation therapist if the person knows the employee is not a medical imaging technologist.

Restrictions on special purpose registrants, provisional general registrants and provisional special purpose registrants

139.(1) A person who is a special purpose registrant or provisional special purpose registrant must not—

(a) claim, or hold himself or herself out, to be a general registrant or provisional general registrant; or

(b) allow himself or herself to be held out as being a general registrant or provisional general registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a general registrant or provisional general registrant.

Maximum penalty—100 penalty units.

(2) A person who is a provisional general registrant must not—

(a) claim, or hold himself or herself out, to be a general registrant; or

(b) allow himself or herself to be held out as being a general registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a general registrant.

Maximum penalty—100 penalty units.

(3) A person who is a provisional special purpose registrant must not—

(a) claim, or hold himself or herself out, to be a special purpose registrant; or

(b) allow himself or herself to be held out as being a special purpose registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a special purpose registrant.

Maximum penalty—100 penalty units.

Restrictions on registrants registered on conditions

140. A registrant who is registered on conditions including, for example, probationary conditions, must not—

(a) claim, or hold himself or herself out, to be registered without the conditions or any conditions; or

(b) allow himself or herself to be held out as being registered without the conditions or any conditions.

Maximum penalty—100 penalty units.

Division 2—Notification of business names and other details

Notification of business names etc.

141.(1) A registrant must, before carrying on a business providing professional services under a business name other than the registrant's own name, give the board notice of the business name.

Maximum penalty—10 penalty units.

(2) Subsection (1) applies whether or not the business name is registered under the *Business Names Act 1962*.

(3) An individual who is not a registrant must, before carrying on a business providing professional services, give the board notice of—

(a) the business name of the business (whether or not the name is registered under the *Business Names Act 1962*); and

(b) the name and address of the individual.

Maximum penalty—10 penalty units.

(4) A corporation must, before carrying on a business providing professional services, give the board notice of—

(a) the business name of the business (whether or not the name is registered under the *Business Names Act 1962*); and

(b) the name and principal address of the corporation; and

(c) the names and addresses of—

(i) if the corporation is a corporation under the Corporations Law—the directors of the corporation; or

(ii) if the corporation is not a corporation under the Corporations Law—the members of the governing body of the corporation.

Maximum penalty for subsection (4)—50 penalty units.

Notification of change in business names etc.

142.(1) This section applies if—

(a) a person has given the board a notice under section 141; and

(b) there is a change in the information contained in the notice.

(2) The person must, within 14 days after the happening of the change, give the board notice of the change.

Maximum penalty—10 penalty units.

(3) The person does not commit an offence against section 141 during the period of 14 days after the happening of the change if the person complies with subsection (2).

Division 3—Advertising

Obligations of advertisers

143.(1) A person must not advertise a professional service, or a business providing professional services, in a way that—

(a) is false, misleading or deceptive or is likely to be misleading or deceptive; or

Example for paragraph (a)—

An advertisement that contains a false claim about the beneficial outcome of a professional service.

(b) offers a discount, gift or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms of the offer; or

(c) refers to, uses or cites actual or purported endorsements or testimonials about the service or business, or a registrant; or

(d) is disparaging of—

(i) a professional service provided by another person; or

(ii) a business providing professional services; or

(iii) a registrant.

Maximum penalty—200 penalty units.

(2) A person must not advertise a professional service that the person knows or ought reasonably know will, or is likely to, harm a person to whom it is provided.

Maximum penalty—200 penalty units.

(3) A person must not advertise a registrant's expertise in a field of practice of the profession to which the registration relates unless the registrant has the skills, knowledge, training or qualifications necessary to practise in the field.

Maximum penalty—200 penalty units.

(4) A printer or publisher does not commit an offence against subsection (1), (2) or (3) merely by, as part of his or her business, printing or publishing an advertisement for another person.

Information to appear in advertisements

144.(1) A person must not advertise a professional service, or a business providing professional services, unless—

(a) if a registrant provides the service, or carries on the business, under a business name that is the registrant's own name—the registrant's name is stated in the advertisement; or

(b) otherwise—the business name notified to the board under section 141(1), (3) or (4) is stated in the advertisement.

Maximum penalty—50 penalty units.

(2) A printer or publisher does not commit an offence against subsection (1) merely by, as part of his or her business, printing or publishing an advertisement for another person.

Division 4—Registrants' autonomy

Aiding, abetting etc. conduct that is a ground for disciplinary action

145.(1) A person must not aid, abet, counsel, procure or induce a registrant to engage in conduct that the person is aware, or ought reasonably be aware, is conduct forming the basis for a ground for disciplinary action against a registrant mentioned in the *Health Practitioners (Professional*

Standards) Act 1999, section 124(1).[30]

Maximum penalty—1 000 penalty units.

(2) To remove doubt, it is declared that a registrant may be induced by threats or promises.

Division 5—Court orders and injunctions

Persons may be prohibited from supplying health services etc.

146.(1) This section applies if a person is convicted of an offence against section 136, 137, 138, 143(1)(a), (2) or (3), 145(1) or 149.[31]

(2) The court sentencing the person for the offence may, on its own initiative or the application of the prosecutor, make an order under subsection (3) or (5).

(3) The court may make an order, applying for a period decided by the court—

(a) prohibiting the person from providing, or carrying on or managing a business providing, a health service; or

(b) prohibiting the person from having a financial interest in a business providing a health service; or

(c) if the person is a corporation, prohibiting an executive officer of the corporation, who was in a position to influence the conduct of the corporation in relation to the offence, from managing a corporation that carries on a business providing a health service.

(4) For subsection (3)(c), a person manages a corporation if the person is a director, or is in any way concerned in or takes part in the management of, the corporation.

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30 *Health Practitioners (Professional Standards) Act 1999*, section 124 (Grounds for disciplinary action)

31 Section 136 (Taking of restricted titles etc.), 137 (Claims by persons as to registration), 138 (Claims by persons as to other persons' registration), 143 (Obligations of advertisers), 145 (Aiding, abetting etc. conduct that is a ground for disciplinary action) or 149 (Offence for taking reprisal)

(5) Also, the court may make an order, applying for a period decided by the court—

(a) prohibiting the person from entering into commercial arrangements with a person who provides, carries on or manages a business providing, a health service; or

(b) if the person is a corporation, prohibiting an executive officer of the corporation, who was in a position to influence the conduct of the corporation in relation to the offence, from entering into commercial arrangements with a person who provides, carries on or manages a business providing, a health service.

(6) An order under subsection (3) or (5) may apply generally or be limited in its application by reference to specified conditions, exceptions or factors.

(7) A reference in subsection (5) to a person entering into commercial arrangements includes the entering into commercial arrangements on behalf of another person.

(8) A person must not contravene an order under subsection (3) or (5).

Maximum penalty for subsection (8)—1 000 penalty units.

Injunctions

147.(1) This section applies if—

(a) a person (the **"offending party"**)—

(i) has engaged, is engaging or is proposing to engage in conduct; or

(ii) has failed, is failing or is proposing to fail to do anything; and

(b) the conduct or failure constituted, constitutes or would constitute a contravention of section 136, 137, 138, 143(1)(a), (2) or (3) or 145(1).

(2) Application may be made to the court under this section for an injunction in relation to the conduct or failure.

(3) The application may be made by the board or a person authorised in writing by the board.

(4) The court may grant an interim injunction under this section until the application is finally decided.

(5) On considering the application for the injunction, the court may—

(a) in a case to which subsection (1)(a)(i) applies—grant an injunction restraining the offending party from engaging in the conduct concerned and, if in the court's opinion it is desirable to do so, requiring the offending party to do anything; or

(b) in a case to which subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing concerned.

(6) The court may grant the injunction—

(a) if the court is satisfied that the offending party has engaged in the conduct, or failed to do the thing, mentioned in subsection (1), whether or not it appears to the court that the offending party intends—

(i) to engage again, or continue to engage, in the conduct; or

(ii) to again fail, or continue to fail, to do the thing; or

(b) if it appears to the court that, if the injunction is not granted, it is likely that the offending party will engage in the conduct, or fail to do the thing, mentioned in subsection (1), whether or not the offending party has previously engaged in the conduct or failed to do the thing.

(7) The court may grant the injunction on the terms the court considers appropriate.

(8) Also, the court may grant an injunction requiring the offending party to take stated action (including action to disclose information or publish advertisements) to remedy any adverse effects of the offending party's conduct or failure.

(9) The court may discharge an injunction granted under this section at any time.

(10) The powers conferred on the court by this section are in addition to, and do not limit, any other powers of the court.

(11) In this section—

"court" means—

(a) if proceedings for an offence relating to the conduct or failure are pending in a Magistrates Court—the Magistrates Court; or

(b) in any case—the District Court.

Division 6—Reprisals

Reprisal and grounds for reprisals

148.(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that—

(a) anybody has given, or may give, information or assistance to the board or an inspector about a person's alleged contravention of division 1 or section 143(1)(a), (2) or (3) or 145(1);[32] or

(b) anybody has given, or may give, evidence to the court in proceedings for an offence against division 1 or section 143(1)(a), (2) or (3) or 145(1).

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.

(5) For the contravention mentioned in subsection (3) to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.

Offence for taking reprisal

149. A person who takes a reprisal commits an offence.

Maximum penalty—167 penalty units or 2 years imprisonment.

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32 Division 1 (Restricted titles and holding out), section 143 (Obligations of advertisers) or 145 (Aiding, abetting etc. conduct that is a ground for disciplinary action)

Damages entitlement for reprisal

150.(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to any person who suffers detriment as a result.

(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

(3) If the claim for damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.

Division 7—Other provisions

Payment, or acceptance of payment, for referrals prohibited

151.(1) This section applies to a registrant, or a person carrying on a business providing professional services, (the **“service provider”**).

(2) The service provider must not, directly or indirectly, pay an amount or give another benefit, or attempt to pay an amount or give another benefit, to a person in return for the person referring another person to the service provider or service provider’s business.

Maximum penalty—200 penalty units.

(3) The service provider must not, directly or indirectly, accept payment or another benefit for referring a user of the professional services provided by the service provider, or service provider’s business, to a person providing, or carrying on a business providing, a health service.

Maximum penalty for subsection (3)—200 penalty units.

PART 5—INVESTIGATION AND ENFORCEMENT

Division 1—Inspectors

Functions of inspectors

152. An inspector has the function of conducting investigations and inspections to enforce compliance with this Act.

Powers of inspectors

153. For this Act, an inspector has the powers given to the person under this Act.

Limitation on powers of inspectors

154. The powers of an inspector may be limited under a condition of appointment.

Division 2—Appointment of inspectors and other matters

Appointments

155. The board may appoint the following persons as an inspector—

(a) a member;

(b) the executive officer;

(c) if the executive officer has agreed to the appointment, a member of the office's staff the board considers has the necessary expertise or experience to be an inspector;

(d) another person the board considers has the necessary expertise or experience to be an inspector.

Appointment conditions

156.(1) An inspector holds office on the conditions stated in the instrument of appointment.

(2) An inspector ceases holding office—

(a) if the appointment provides for a term of appointment—at the end of the term; or

(b) if the conditions of appointment provide—on ceasing to hold another office (the **"main office"**) stated in the appointment conditions.

(3) An inspector may resign by signed notice of resignation given to the board.

(4) However, an inspector may not resign from the office of inspector (the **"secondary office"**) if a condition of the inspector's employment to the main office requires the inspector to hold the secondary office.

Identity cards

157.(1) The board must give an identity card to each inspector.

(2) The identity card must—

(a) contain a recent photograph of the inspector; and

(b) be signed by the inspector; and

(c) identify the person as an inspector for this Act; and

(d) include an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other Acts.

Failure to return identity card

158. A person who ceases to be an inspector must return the person's identity card to the chairperson within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Production or display of inspector's identity card

159.(1) An inspector may exercise a power in relation to someone else (the **"other person"**) only if the inspector—

(a) first produces the inspector's identity card for the other person's inspection; or

(b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

Division 3—Powers of inspectors

Subdivision 1—Entry of places

Power to enter places

160.(1) An inspector may enter a place if—

(a) its occupier consents to the entry; or

(b) it is a public place and the entry is made when the place is open to the public; or

(c) the entry is authorised by a warrant.

(2) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Subdivision 2—Procedure for entry

Entry with consent

161.(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 160(1)(a).

(2) Before asking for the consent, the inspector must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and

(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgment, the inspector must immediately give a copy to the occupier.

(6) A court must find the occupier of a place did not consent to an inspector entering the place under this part if—

(a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 160(1)(a); and

(b) an acknowledgment mentioned in subsection (4) is not produced in evidence for the entry; and

(c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

Application for warrant

162.(1) An inspector may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

Issue of warrant

163.(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the **"evidence"**) that may provide evidence of an offence against this Act; and

(b) the evidence is at the place, or may be at the place within the next 7 days.

(2) The warrant must state—

(a) that a stated inspector may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry; and

(ii) exercise the inspector's powers under this part; and

(b) the offence for which the warrant is sought; and

(c) the evidence that may be seized under the warrant; and

(d) the hours of the day or night when the place may be entered; and

(e) the date, within 14 days after the warrant's issue, the warrant ends.

Special warrants

164.(1) An inspector may apply for a warrant (a **"special warrant"**) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the inspector's remote location.

(2) Before applying for the special warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the special warrant before the application is sworn.

(4) After issuing the special warrant, the magistrate must immediately fax a copy (the **"facsimile warrant"**) to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the inspector—

(a) the magistrate must tell the inspector—

(i) what the terms of the special warrant are; and

(ii) the date and time the special warrant was issued; and

(b) the inspector must complete a form of warrant (a **"warrant form"**) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the special warrant; and

(iii) the terms of the special warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the special warrant issued.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form, the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the special warrant.

(9) A court must find the exercise of the power by an inspector was not authorised by a special warrant if—

(a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and

(b) the special warrant is not produced in evidence; and

(c) it is not proved by the person relying on the lawfulness of the entry that the inspector obtained the special warrant.

Warrants—procedure before entry

165.(1) This section applies if an inspector named in a warrant issued under this part for a place is intending to enter the place under the warrant.

(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's identity card or other document evidencing the inspector's appointment;

(b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 164(6), a copy of the facsimile warrant or warrant form;

(c) tell the person the inspector is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the inspector immediate entry to the place without using force.

(3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Subdivision 3—Powers after entry

General powers after entering places

166.(1) This section applies to an inspector who enters a place.

(2) However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

(3) For enforcing compliance with this Act, the inspector may—

(a) search any part of the place; or

(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

(c) take a thing, or a sample of or from a thing, for analysis or testing; or

(d) take an extract from, or copy, a document at the place; or

(e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or

(f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e); or

(g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

(4) When making a requirement mentioned in subsection (3)(f) or (g), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to help inspector

167.(1) A person required to give reasonable help under section 166(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) If an individual is required under section 166(3)(f) to give information, or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Failure to give information

168.(1) A person of whom a requirement is made under section 166(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Subdivision 4—Power to seize evidence

Seizing evidence at a place that may be entered without consent or warrant

169. An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

Seizing evidence at a place that may only be entered with consent or warrant

170.(1) This section applies if—

(a) an inspector is authorised to enter a place under this division only with the consent of the occupier of the place or a warrant; and

(b) the inspector enters the place after obtaining the necessary consent or warrant.

(2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—

(a) the inspector reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

(4) The inspector also may seize anything else at the place if the inspector reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

Securing seized things

171. Having seized a thing, an inspector may—

(a) move the thing from the place where it was seized (the **"place of seizure"**); or

(b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted.

Tampering with seized things

172. If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—100 penalty units.

Powers to support seizure

173.(1) To enable a thing to be seized, an inspector may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement—

(a) must be made by notice in the approved form; or

(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

(3) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

Receipts for seized things

174.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

Forfeiture of seized things

175.(1) A seized thing is forfeited to the State if the inspector who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.

(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and

(b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

(3) If the inspector makes a decision under subsection (1)(c), resulting in the seized thing being forfeited to the State, the inspector must immediately give the owner an information notice for the decision.

(4) Subsection (3) does not apply if—

(a) the inspector can not find the owner, after making reasonable inquiries; or

(b) it is impracticable or would be unreasonable to give the information notice.

(5) Regard must be had to a thing's nature, condition and value—

(a) in deciding—

(i) whether it is reasonable to make inquiries or efforts; and

(ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or

(b) in deciding whether it would be unreasonable to give the information notice.

Forfeiture on conviction

176.(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized, whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Dealing with forfeited things etc.

177.(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the executive officer as the executive officer considers appropriate.

(2) Without limiting subsection (1), the executive officer may destroy or dispose of the thing.

(3) Despite subsection (1), the executive officer must not deal with the thing in a way that could prejudice the outcome of—

(a) an appeal started under section 192(3); or

(b) another appeal, relevant to the thing, of which the executive officer is aware.

Return of seized things

178.(1) If a seized thing has not been forfeited, the inspector must return it to its owner—

(a) at the end of 6 months; or

(b) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

Access to seized things

179.(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Subdivision 5—Power to obtain information

Power to require name and address

180.(1) This section applies if—

(a) an inspector finds a person committing an offence against this Act; or

(b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

(5) A requirement under subsection (2) or (4) is called a **"personal details requirement"**.

Failure to give name or address

181.(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

Power to require production of documents

182.(1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector a document issued to the person under this Act.

(2) The inspector may keep the document to copy it.

(3) The inspector must return the document to the person as soon as practicable after copying it.

(4) While the document is in the inspector's possession, the inspector must allow it to be inspected or copied, at a reasonable time, by a person who would be entitled to inspect or copy it were it not in the inspector's possession.

(5) A requirement under subsection (1) is called a **"document production requirement"**.

Failure to produce document

183.(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for an individual not to comply with a document production requirement if complying with the requirement might tend to incriminate the individual.

Power to require information

184.(1) This section applies if an inspector reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The inspector may, by notice given to the person, require the person to give information, including a document, about the offence to the inspector at a stated reasonable time and place.

(3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) For this section, it is a reasonable excuse for an individual to fail to give information that giving the information might tend to incriminate the individual.

Division 4—General enforcement matters

Notice of damage

185.(1) This section applies if—

(a) an inspector damages property when exercising or purporting to exercise a power; or

(b) a person (the **"other person"**) acting under the direction of an inspector damages property.

(2) The inspector must immediately give notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.

(3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably believes is trivial.

(6) In this section—

"owner", of property, includes the person in possession or control of it.

Compensation

186.(1) A person may claim from the board the cost of repairing or replacing property damaged because of the exercise or purported exercise of a power under any of the following subdivisions of division 3[33]—

- subdivision 1 (Entry of places)
- subdivision 3 (Powers after entry)
- subdivision 4 (Power to seize evidence).

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

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33 Division 3 (Powers of inspectors)

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

False or misleading information

187. A person must not give information to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

False or misleading documents

188.(1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the inspector, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

Obstructing inspectors

189.(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

(a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and

(b) the inspector considers the person's conduct is an obstruction.

(3) In this section—

"obstruct" includes hinder and attempt to obstruct or hinder.

Impersonation of inspectors

190. A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

PART 6—APPEALS

Who may appeal

191.(1) A person (the **"appellant"**) who is given, or is entitled to be given, an information notice for a decision (the **"original decision"**) may appeal against the decision to the District Court.[34]

(2) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.

Starting appeals

192.(1) The appeal may be started at—

(a) the District Court at the place where the person resides or carries on business; or

(b) the District Court at Brisbane.

(2) Subsection (1) does not limit the District Court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999*.

(3) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—

(a) if the appellant is given an information notice for the original decision—the day the appellant is given the notice; or

(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the original decision.

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34 The *Uniform Civil Procedure Rules 1999* contains provisions about appeals to the District Court.

(4) The court may, at any time, extend the period for filing the notice of appeal.

Hearing procedures

193.(1) In deciding the appeal, the court—

(a) has the same powers as the person who made the original decision; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice.

(2) The appeal is by way of rehearing, unaffected by the original decision, on the material before the person who made the original decision and any further evidence allowed by the court.

Powers of court on appeal

194.(1) In deciding the appeal, the court may—

(a) confirm the original decision; or

(b) amend the original decision; or

(c) substitute another decision for the original decision; or

(d) set aside the original decision and return the issue to the board with the directions the court considers appropriate.

(2) In substituting another decision for the original decision, the court has the same powers as the person who made the original decision.

Example—

The court may decide that an unsuccessful applicant for general registration be registered either unconditionally or on particular conditions.

(3) If the court amends the original decision or substitutes another decision for the original decision, the amended or substituted decision is, for this Act (other than this part) taken to be the decision of the person who made the original decision.

(4) If the court decides to impose conditions on a registration, the court must—

(a) state the reasons for the decision; and

(b) if the registration is a general registration, decide and state the review period applying to the conditions.[35]

(5) If the court decides to impose conditions on a registration because of the registrant's mental and physical health, it must also decide whether details of the conditions must be recorded in the register for the period for which the conditions are in force.

(6) The court must decide not to record details of the conditions mentioned in subsection (5) in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Appointment of assessors

195.(1) If the court is of the opinion that the appeal involves a question of special knowledge and skill, the court may appoint 1 or more assessors who in the court's opinion possess the special qualifications necessary for the particular case to assist the court in its deciding the appeal.

(2) An assessor may advise the court on any matter, but all questions of law and fact are to be decided by the court.

(3) The court may give the weight to the advice that it considers appropriate.

PART 7—LEGAL PROCEEDINGS

Division 1—Evidence

Application of division

196. This division applies to a proceeding under this Act.

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35 The conditions may be reviewed under part 3 (Registration), division 8 (Reviewing conditions of general registrations).

Appointments and authority

197. It is not necessary to prove—

(a) an inspector's, or member's, appointment; or

(b) the executive officer's appointment; or

(c) the authority of an inspector, a member, the executive officer or a member of the office's staff to do anything under this Act.

Signatures

198. A signature purporting to be the signature of the Minister, the chairperson, a member, an inspector, the executive officer or a member of the office's staff is evidence of the signature it purports to be.

Evidentiary provisions

199. A certificate purporting to be signed by the executive officer and stating any of the following matters is evidence of the matter—

(a) a stated document is one of the following things made, given, issued or kept under this Act—

(i) an appointment, approval or decision;

(ii) a notice, direction or requirement;

(iii) a certificate of registration;

(iv) a record, or an extract from a record;

(v) the register, or an extract from the register;

(b) a stated document is another document kept under this Act;

(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, a stated person was or was not a registrant;

(e) on a stated day, or during a stated period, a registration—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition;

(f) on a stated day, a registration was cancelled;

(g) on a stated day, or during a stated period, an appointment as an inspector was, or was not, in force for a stated person;

(h) on a stated day, a stated person was given a stated notice or direction under this Act;

(i) on a stated day, a stated requirement was made of a stated person.

Division 2—Proceedings

Indictable and summary offences

200.(1) An offence against section 149[36] is an indictable offence.

(2) Any other offence against this Act is a summary offence.

Proceedings for indictable offences

201.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

(a) by way of summary proceeding under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

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36 Section 149 (Offence for taking reprisal)

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).[37]

Limitation on who may summarily hear indictable offence

202.(1) The proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if the proceeding is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Limitation on time for starting summary proceedings

203. A proceeding for a summary offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

[37] *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

Allegations of false or misleading information or documents

204. In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

Penalties to be paid to board

205. All penalties recovered as a result of proceedings for offences against this Act brought by the board must be ordered to be paid to the board.

Responsibility for acts or omissions of representatives

206.(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

"representative" means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

(b) for an individual—an employee or agent of the individual.

"state of mind" of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

Executive officers must ensure corporation complies with Act

207.(1) The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

PART 8—REGISTER, RECORDS AND INFORMATION

Division 1—Register

Register to be kept

208.(1) The board must keep a register about registrants.

(2) The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.

(3) The register must contain the following details for each registrant—

(a) the registrant's name;

(b) an address of the registrant notified by the registrant to the board;

(c) the profession in which the registrant is registered;

(d) whether the registrant is a general registrant, provisional general registrant, special purpose registrant or provisional special purpose registrant;

(e) the qualification relied on by the registrant to obtain registration;

(f) if the registrant is a special purpose registrant or provisional special purpose registrant, details of the special activity for which the registrant is registered;

(g) if conditions, including, for example, probationary conditions are imposed, under this Act, on the registrant's registration—

(i) for conditions imposed because of the registrant's mental and physical health, the details of which it has been decided under this Act not to record in the register—the fact that conditions, including, for example, any probationary conditions have been imposed; or

(ii) otherwise—details of the conditions;

(h) any other information required to be recorded in the register under the *Health Practitioners (Professional Standards) Act 1999*;

(i) other details prescribed under a regulation.

(4) For subsection (3)(g), the fact or details must be recorded in the register for the period the conditions are in force.

Inspection of register

209.(1) The board must—

(a) keep the register open for inspection, free of charge, at the office by members of the public during ordinary office hours; and

(b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.

(2) Subsection (1) does not apply to details of the residential address of a registrant, unless the registrant gives notice to the board that he or she agrees to the details being able to be inspected.

Division 2—Records to be kept

Records

210.(1) The board must keep records of the following details about each registrant or former registrant—

(a) if the registration was affected under the *Health Practitioners (Professional Standards) Act 1999*, details of the way it was affected and the reason for it being affected;

(b) if the registration was cancelled under this Act, the fact of, and the reason for, the cancellation;

(c) if conditions were, under this Act, imposed on the registration, details of the conditions and the reasons for their imposition;

(d) other details prescribed under a regulation.

(2) The records must be kept for at least 10 years.

Division 3—Information

Confidentiality of information

211.(1) This section applies to a person (the **"relevant person"**) who is or was—

(a) a member; or

(b) a member of a committee; or

(c) appointed by the board to conduct a health assessment of another person; or

(d) an inspector; or

(e) the executive officer or a member of the office's staff; or

(f) otherwise involved in the administration of this Act.

(2) This section applies to information about a person obtained by the relevant person in the course of performing the relevant person's functions under this Act.

(3) The relevant person must not disclose the information to anyone else.

Maximum penalty—100 penalty units.

(4) However, the relevant person may disclose the information to someone else—

(a) to the extent necessary to perform the relevant person's functions under or relating to this Act or the *Health Practitioners (Professional Standards) Act 1999*; or

(b) if the disclosure is authorised under this or another Act; or

(c) if the disclosure is otherwise required or permitted by law; or

(d) if the person to whom the information relates agrees to the disclosure; or

(e) if the disclosure is in a form that does not disclose the identity of a person; or

(f) if the information is, or has been, accessible to the public, including, for example, because it is or was recorded in the register; or

(g) if the disclosure is to a foreign regulatory authority and the disclosure is necessary for the authority to perform its functions; or

(h) if the disclosure is to the Minister to allow the Minister to act under paragraph (i); or

(i) if the Minister considers the disclosure is in the public interest and authorises the relevant person to disclose the information.

(5) If the Minister authorises information to be disclosed under subsection (4)(i) about a matter concerning a registrant, the Minister must inform the board of the authorisation and its purpose.

(6) In this section—

"information", about a person, means—

(a) information about the person's health that identifies, or is likely to identify, the person; or

(b) information about the person's criminal history obtained under a request under section 45(3).

Board's annual report must disclose authorisation

212.(1) This section applies if the board is given information, under section 211(5), in a financial year about an authorisation.

(2) The board must include a statement about the authorisation in its annual report under the *Financial Administration and Audit Act 1977* for the financial year.

(3) The statement must include general details about—

(a) the nature of the information disclosed under the authorisation; and

(b) the purpose for which the information was disclosed.

(4) However, the statement must not identify any person.

PART 9—MISCELLANEOUS

Division 1—Abandoned, and other, health records

Definitions for div 1

213. In this division—

"health records" means documents, recording the health history, condition and treatment of users of the professional services provided by a person, made in the course of the person's practice of the profession.

"possess", a health record, includes having the record under control in any place, whether or not another person has custody of the record.

Board may take possession of abandoned health records

214.(1) This section applies if the board suspects on reasonable grounds that health records have been abandoned.

(2) The board may take and keep possession of the records to be dealt with under this division.

(3) For taking possession of the records, the board may give notice to the occupier of the place where the records are situated to deliver the records to the board to be dealt with under this division.

(4) The notice must state that the requirement must be complied with within a period of 14 days after the occupier receives the notice.

(5) The occupier must comply with the requirement within the stated period, unless the occupier has a reasonable excuse.

Maximum penalty for subsection (5)—50 penalty units.

Health records forming part of deceased estate

215.(1) This section applies if health records form part of a deceased estate.

(2) The personal representative of the deceased person concerned may deliver the records into the possession of the board to be dealt with under this division.

Health records of persons convicted of an offence against s 136(1) or (6) or 137

216.(1) This section applies to a person who is convicted of an offence against section 136(1) or (6) or 137.[38]

(2) The board may give the person notice to deliver health records in the possession or control of the person into the possession of the board to be dealt with under this division.

(3) The person must within 14 days after receiving the notice deliver the records into the possession of the board.

Maximum penalty—50 penalty units.

(4) If the person does not comply with the notice, the board may take and keep possession of the records.

Dealing with certain health records seized under s 169 or 170

217.(1) This section applies if, under section 169 or 170,[39] an inspector seizes health records that the board may take and keep possession of under section 214 or 216.

(2) The inspector must deliver the health records into the possession of the board to be dealt with under this division.

(3) Sections 175, 178 and 179[40] do not apply to health records delivered to the board under subsection (2).

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38 Section 136 (Taking of restricted titles etc.) or 137 (Claims by persons as to registration)

39 Section 169 (Seizing evidence at a place that may be entered without consent or warrant) or 170 (Seizing evidence at a place that may only be entered with consent or warrant)

40 Sections 175 (Forfeiture of seized things), 178 (Return of seized things) and 179 (Access to seized things)

How board may deal with health records

218.(1) This section applies if the board takes possession of a health record under this division.

(2) The board may—

(a) give the record to the person to whom the record relates; or

(b) if directed by the person, give the record to a registrant under a health practitioner registration Act chosen by the person; or

(c) if the board can not find the person after making reasonable inquiries, keep the record; or

(d) if the board can not find the person, after making reasonable inquiries, and decides it is no longer necessary to keep the record, destroy the record.

(3) To remove doubt, it is declared that the board is taken to be keeping a health record if another body stores the record on its behalf.

Destruction of health records

219.(1) This section applies if the board destroys a health record under section 218(2)(d).

(2) Compensation is not recoverable against the board because of the destruction of the record.

Division 2—Continuing professional education of registrants

Continuing professional education programs

220.(1) The board may develop or recognise a program for the continuing professional education of registrants in a profession.

(2) The board must give notice to all registrants in the profession, to whom the program is relevant, of details of the program.

(3) The program may state the minimum continuing professional education requirements a registrant in the profession needs to satisfy, in a stated period, to keep up-to-date with developments in the practice of the profession.

(4) A registrant who has satisfied the requirements in the stated period may advertise this fact.

(5) A registrant who has not satisfied the requirements in the stated period must not advertise that the registrant has satisfied the requirements.

Maximum penalty for subsection (5)—50 penalty units.

Division 3—Declared events

Definitions for div 3

221. In this division—

"declaration period" see section 222(3).

"declared event" means an event declared to be a declared event under section 222(1).

"interstate law" means a law of another State that provides for the same matter as this Act.

"local practitioner" means a person registered under this Act.

"participant" means a person who is officially participating in, or preparing for, a declared event.

"prepare" includes the following—

(a) train;

(b) practise;

(c) rehearse;

(d) acclimatise.

"visiting practitioner", in relation to a declared event, means a person who—

(a) is not a local practitioner; and

(b) is registered under an interstate law in a profession; and

(c) is appointed, employed, contracted or otherwise engaged to provide professional services to a participant in relation to the event.

Declaration of events

222.(1) The Minister may, by notice, declare a sporting, cultural or other event to be a declared event for this Act.

(2) The notice must be for an event taking place, or to take place, in the State that will or is likely to attract a significant number of participants.

(3) The notice must state a period during which the declaration is to remain in force (the **"declaration period"**).

(4) The declaration period for the declared event may include a period before or after the declared event takes place.

(5) The notice is subordinate legislation.

Deemed general registration of visiting practitioners

223.(1) This section applies to a visiting practitioner in relation to a declared event.

(2) Subject to subsections (4) and (5), the practitioner is taken to be a general registrant in the profession in which the practitioner is registered under an interstate law, during the declaration period for the event, in relation to the provision of professional services to a participant in the event.

(3) The practitioner's deemed general registration under subsection (2) is taken to be subject to any conditions of the practitioner's registration under an interstate law in a profession.

(4) Part 3, divisions 4 to 8 and 10[41] do not apply to the practitioner while the practitioner is taken, under subsection (2), to be a general registrant.

(5) The practitioner is not taken to be a registrant for the operation of sections 37(1)(b) and 208.[42]

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41 Part 3 (Registration), divisions 4 (Renewal of general registrations), 5 (Restoration of general registrations), 6 (Cancellation of general registrations), 7 (Reviewing probationary conditions on general registrations), 8 (Reviewing conditions of general registrations) and 10 (General provisions about registrations)

42 Sections 37 (Matters to be included in annual report) and 208 (Register to be kept)

Division 4—Other provisions

Protecting officials from liability

224.(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the board.

(3) In this section—

"official" means—

(a) a member; or

(b) a committee member who is not a board member; or

(c) the executive officer; or

(d) a person appointed by the board to conduct a health assessment of another person; or

(e) an inspector; or

(f) a person acting under the direction or authority of an inspector.

Protection for persons supervising probationary registrants

225.(1) This section applies to a person who, honestly and on reasonable grounds gives information to the board, or an entity prescribed under a regulation under section 62 or 94, about a probationary registrant in the person's capacity as—

(a) the registrant's supervisor or former supervisor for the supervised practice program, or the partial program; or

(b) a person who otherwise supervises, or previously supervised, the registrant in undertaking the supervised practice program, or the partial program.

(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.

(3) Without limiting subsection (2)—

(a) in a proceeding for defamation the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice, the person—

(i) does not contravene the Act, oath, rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

False or misleading information or documents

226.(1) A person must not give information to the board the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) A person must not give the board a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(3) Subsection (2) does not apply to a person if the person, when giving the document—

(a) tells the board, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

Certificates etc. not to be false or misleading

227. A registrant must not, in the registrant's professional capacity, sign or give to another person, a certificate, notice, report or other document the registrant knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

Application of provisions

228.(1) This section applies if a provision of this Act applies another provision of this Act for a purpose.

(2) The other provision, and any definition relevant to the other provision, apply with any necessary changes.

(3) Subsection (2) is not limited merely because a provision states how the other provision is to apply.

Approval of forms

229. The board may approve forms for use under this Act.

Examination fees

230. A person who sits an examination set and administered by the board under this Act must, before sitting the examination, pay the board the fee for the examination prescribed under a regulation.

Regulation-making power

231.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

(a) the grounds and processes for deciding that a professional practice setting is, or is not, a suitable place for probationary registrants to undertake supervised practice programs; and

(b) the accreditation of professional practice settings for supervised practice programs, including the fees for accrediting professional practice settings; and

(c) supervisors and other persons who supervise registrants undertaking a supervised practice program, including—

  (i) the eligibility criteria for supervisors and other persons who supervise probationary registrants; and

  (ii) the grounds and processes for declaring a person ineligible to be a supervisor; and

  (iii) the accreditation of supervisors;

(d) fees, including the refunding of fees, for this Act;

(e) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

(3) Without limiting subsection (2)(d), a regulation may prescribe amounts as fees having regard to the costs of the board performing its functions under, or complying with—

(a) an Act in the legislative scheme; or

(b) another Act.

PART 10—TRANSITIONAL PROVISIONS

First members, and chairperson and deputy chairperson, of Medical Radiation Technologists Board of Queensland

232.(1) This section applies for, under the *Acts Interpretation Act 1954,* section 17,[43] appointing the following—

(a) the first members of the Medical Radiation Technologists Board of Queensland;

(b) the first chairperson or deputy chairperson of the Medical Radiation Technologists Board of Queensland.

(2) A reference in part 2, division 2 to a general registrant is taken to be a reference to a deemed general registrant.

(3) A reference in part 2, division 2 to a registrant member is taken to be a reference to a deemed general registrant who is appointed as a member of the Medical Radiation Technologists Board of Queensland under the *Acts Interpretation Act 1954,* section 17.

(4) In this section—

"deemed general registrant" means a person who has qualifications or experience in the practice of a profession that would, in the Minister's opinion, make the person eligible for registration in the profession under section 233.

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43 *Acts Interpretation Act 1954,* section 17 (Exercise of powers between enactment and commencement)

Transitional provision about registration

233.(1) Subsection (2) applies to a person who—

(a) holds a statement of accreditation in a profession, or equivalent document, issued by the Australian Institute of Radiography or a certificate of accreditation, or equivalent document, issued by the Australian and New Zealand Society of Nuclear Medicine; and

(b) has practised in the profession to which the statement or certificate relates within 5 years before the commencement of this section for a period that is, or periods the total of which is, not less than the equivalent of 48 weeks full-time work; and

(c) within 6 months after the commencement, applies for general registration in the profession.

(2) The board must register the person in the profession, without conditions, as if the person were a person eligible for general registration under part 3, division 2, subdivision 2.

(3) Subsection (4) applies to a person who, within 6 months of the commencement of this section applies for general registration in a profession and the person—

(a) holds a statement or certificate of accreditation in the profession, or an equivalent document, mentioned in subsection (1)(a); or

(b) has practised in the profession within 5 years before the commencement for a period that is, or periods the total of which is, not less than the equivalent of 144 weeks full-time work, and has a qualification, that is recognised by the board, in a profession (other than the profession in which the person has practised).

(4) The board must register the person in the profession as if the person were eligible for general registration under part 3, division 2, subdivision 2.

(5) Without limiting subsection (4), the board must consider whether to impose conditions on the person's general registration under section 59, including, for example, conditions relating to the nature and extent of the person's practice of the profession or the supervision of the person's practice of the profession.

Sections 141 and 144 ineffective for 6 months

234.(1) Sections 141 and 144[44] have no effect for 6 months after they commence.

(2) However, a person may give the board a notice mentioned in section 141 within the 6 month period.

Transitional provision for graduate practitioners

235.(1) This section applies to a graduate practitioner who—

(a) immediately before the commencement of this section, is undertaking his or her professional development year; and

(b) from the commencement, continues to undertake his or her professional development year.

(2) The graduate practitioner is taken, for the purposes of section 136, to be a registrant while undertaking the professional development year.

(3) In this section—

"accrediting body" means the Australian Institute of Radiography or the Australian and New Zealand Society of Nuclear Medicine.

"graduate practitioner" means a person who—

(a) is a graduate from an undergraduate medical radiation science degree course accredited by an accrediting body, regardless of the title of the course; or

(b) is assessed by an accrediting body to be the equivalent of a person mentioned in paragraph (a).

"professional development year" means the period, the equivalent of 48 weeks full-time work, during which a graduate practitioner must work under the guidance of another practitioner before the graduate practitioner is recognised as an accredited practitioner by an accrediting body.

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44 Sections 141 (Notification of business names etc.) and 144 (Information to appear in advertisements)

Certain Act has not been repealed

236.(1) This section applies if an Act mentioned in column 2 of the following table (the **"column 2 Act"**) has not been repealed—

Table

column 1	column 2
Chiropractors Registration Act 2000	*Chiropractors and Osteopaths Act 1979*
Dental Practitioners Registration Act 2000	*Dental Act 1971*
Dental Technicians and Dental Prosthetists Registration Act 2000	*Dental Technicians and Dental Prosthetists Act 1991*
Medical Practitioners Registration Act 2000	*Medical Act 1939*
Occupational Therapists Registration Act 2000	*Occupational Therapists Act 1979*
Optometrists Registration Act 2000	*Optometrists Act 1974*
Osteopaths Registration Act 2000	*Chiropractors and Osteopaths Act 1979*
Pharmacists Registration Act 2000	*Pharmacy Act 1976*
Physiotherapists Registration Act 2000	*Physiotherapists Act 1964*
Podiatrists Registration Act 2000	*Podiatrists Act 1969*
Psychologists Registration Act 2000	*Psychologists Act 1977*
Speech Pathologists Registration Act 2000	*Speech Pathologists Act 1979.*

(2) A reference in schedule 3, definition "health practitioner registration Act" to the Act mentioned in column 1 of the table shown opposite the column 2 Act is taken to be a reference to the column 2 Act.

PART 11—CONSEQUENTIAL AMENDMENTS OF ACTS

Amendment of Acts

237. Schedule 2 amends the Acts mentioned in it.

SCHEDULE 1

DECISIONS FOR WHICH INFORMATION NOTICES MUST BE GIVEN

section 191(2)

Section	Description of decision
51	Deciding to refuse to register an applicant for general registration as a general registrant
51, as applied by section 115	Deciding to refuse to register an applicant for special purpose registration as a special purpose registrant
57(2)	Deciding to register a person as a general registrant on probationary conditions, other than if section 57(6) applies
59	Deciding to register a person as a general registrant on conditions and deciding the review period applying to the conditions
77	Deciding to refuse to renew a general registration
77, as applied by section 80	Deciding to refuse to restore a general registration
77, as applied by section 123	Deciding to refuse to renew a special purpose registration
78	Deciding to renew a general registration on recency of practice conditions and deciding the review period applying to the conditions

SCHEDULE 1 (continued)

78, as applied by section 80	Deciding to restore a general registration on recency of practice conditions and deciding the review period applying to the conditions
90	Deciding to cancel a general registration
90, as applied by section 127	Deciding to cancel a special purpose registration
97(1)(b)(ii)	Deciding to extend probationary conditions on a general registration
97(1)(b)(ii) and (3)	Deciding to extend probationary conditions and imposing additional conditions on a general registration
108	Deciding to confirm or change conditions of a general registration and deciding the review period applying to the conditions
120	Deciding to register a person as a special purpose registrant on conditions
125	Deciding to renew a special purpose registration on conditions
132	Deciding to refuse to grant an application for the replacement of a certificate of registration
175(1)(c)	Decision resulting in a thing being forfeited to the State

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS OF ACTS

section 237

HEALTH ACT 1937

1. Section 5(1), definition “health practitioner registration Act”—

insert—

‘• *Medical Radiation Technologists Registration Act 2000*’.

HEALTH PRACTITIONER REGISTRATION BOARDS (ADMINISTRATION) ACT 1999

1. Schedule, definition “health practitioner registration Act’—

insert—

‘• *Medical Radiation Technologists Registration Act 2000*’.

HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999

1. Section 39(b)—

insert—

‘(va)a medical radiation technologists panel of assessors;’.

SCHEDULE 2 (continued)

2. Schedule, definition "health practitioner registration Act"—

insert—

'• *Medical Radiation Technologists Registration Act 2000*'.

3. Schedule, definition "health service provider", 'medical radiation technologist, nuclear medicine technologist or radiographer'—

omit, insert—

'medical imaging technologist, nuclear medicine technologist or radiation therapist'.

4. Schedule, definition "profession"—

insert—

'(ea) for a registrant registered under the *Medical Radiation Technologists Registration Act 2000*—the medical imaging technology profession, nuclear medicine technology profession or radiation therapy profession;'.

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) ACT 1998

1. Schedule, definition "health registration Act"—

insert—

'• *Medical Radiation Technologists Registration Act 2000*'.

SCHEDULE 2 (continued)

HEALTH RIGHTS COMMISSION ACT 1991

1. Schedule 1, part 1, item 9, 'radiographers,'—

omit.

2. Schedule 2—

insert—

'**4A.** Medical Radiation Technologists Board of Queensland'.

HEALTH SERVICES ACT 1991

1. Section 63(6), definition "health practitioner registration Act"—

insert—

'• *Medical Radiation Technologists Registration Act 2000*'.

RADIATION SAFETY ACT 1999

1. Section 209(3)(a)—

insert—

'(iv) to a board established under a health practitioner registration Act to enable the board to perform its functions under that Act or the *Health Practitioners (Professional Standards) Act 1999*; or'.

SCHEDULE 2 (continued)

2. Schedule 2, definition “health practitioner”—

omit, insert—

‘ **“health practitioner”** means—

(a) a person enrolled or registered as a nurse under the *Nursing Act 1992*; or

(b) a person registered as a chiropractor, dental prosthetist, dental technician, dentist, medical practitioner, medical imaging technologist, nuclear medicine technologist, occupational therapist, optometrist, osteopath, pharmacist, physiotherapist, podiatrist, psychologist, radiation therapist or speech pathologist under a health practitioner registration Act; or

(c) a person practising in a health-related field who is accredited by a professional body representing practitioners in the field.’.

3. Schedule 2, definition “health practitioner registration Act”—

insert—

‘• *Medical Radiation Technologists Registration Act 2000*’.

SCHEDULE 3

DICTIONARY

section 8

“accepted representations” see section 88(2).

“advertise” includes—

(a) placing an entry in a directory; and

(b) displaying a sign; and

(c) using printed stationery.

“appellant” see section 191(1).

“application fee” see section 42(1)(c)(ii).

“approved form” means a form approved by the board.

“assessment report” see section 48(1).

“authorised person”, for part 3, division 3, see section 63(1).

“board” means the Medical Radiation Technologists Board of Queensland.

“business name”, of a business, means a name or style under which the business is carried on.

“certificate of general registration” means a certificate of general registration issued under part 3.

“certificate of provisional general registration” means a certificate of provisional general registration issued under section 64(6).

“certificate of provisional special purpose registration” means a certificate of provisional special purpose registration issued under part 3, division 9.

“certificate of registration” means a certificate of general registration, certificate of provisional general registration, certificate of special purpose registration or certificate of provisional special purpose registration.

SCHEDULE 3 (continued)

"certificate of special purpose registration" means a certificate of special purpose registration issued under part 3, division 9.

"certified copy", of a certificate of registration, means a copy that is certified by the board as being a true copy of the certificate.

"chairperson" means the chairperson of the board appointed under section 19(1).

"committee" means a committee of the board established under section 33(1).

"convicted", of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

"corresponding law" means a law applying, or that applied, in another State, the Commonwealth or a foreign country that provides, or provided, for the same matter as—

(a) a health practitioner registration Act or the *Health Practitioners (Professional Standards) Act 1999*; or

(b) a provision of a health practitioner registration Act or the *Health Practitioners (Professional Standards) Act 1999.*

"declaration period", for part 9, division 3, see section 221.

"declared event", for part 9, division 3, see section 221.

"deputy chairperson" means the deputy chairperson of the board appointed under section 19(1).

"document production requirement" see section 182(5).

"educational institution" means a university, training institution or professional college engaged in the education of persons in the practice of a profession.

"executive officer" means the executive officer appointed under the *Health Practitioner Registration Boards (Administration) Act 1999.*

"executive officer", of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

SCHEDULE 3 (continued)

“facsimile warrant” see section 164(4).

“foreign regulatory authority” means—

(a) an interstate regulatory authority; or

(b) an entity established under a law applying in a foreign country, other than New Zealand, having functions similar to the board’s functions under this Act or the *Health Practitioners (Professional Standards) Act 1999.*

“general registrant” means a person registered, under part 3, as a general registrant, but does not include a provisional general registrant.

“general registration” means registration of a person as a general registrant under part 3.

“general registration period”see section 56(1).

“health assessment”, in relation to a person, includes—

(a) a physical, medical, psychiatric or psychological examination or test of the person; and

(b) asking questions to assess the person’s mental and physical health.

“Health Insurance Commission” means the Health Insurance Commission established under the *Health Insurance Commission Act 1973* (Cwlth), section 4.

“health practitioner registration Act” means any of the following Acts—

- this Act
- *Chiropractors Registration Act 2000*
- *Dental Practitioners Registration Act 2000*
- *Dental Technicians and Dental Prosthetists Registration Act 2000*
- *Medical Practitioners Registration Act 2000*
- *Occupational Therapists Registration Act 2000*
- *Optometrists Registration Act 2000*

SCHEDULE 3 (continued)

- *Osteopaths Registration Act 2000*
- *Pharmacists Registration Act 2000*
- *Physiotherapists Registration Act 2000*
- *Podiatrists Registration Act 2000*
- *Psychologists Registration Act 2000*
- *Speech Pathologists Registration Act 2000*.

“health records”, for part 9, division 1, see section 213.

“health service” means a service for maintaining, improving or restoring people’s health and wellbeing.

“impose”, a condition, includes change or confirm the condition.

“information notice”, for a decision of the board or an inspector, is a notice stating the following—

(a) the decision;

(b) the reasons for the decision;

(c) that the person to whom the notice is given may appeal against the decision within 28 days;

(d) how the person may appeal against the decision to the District Court;

(e) if the decision is that a person be registered on conditions, other than probationary conditions or additional conditions imposed under section 97(3)—

(i) for a general registration—the review period applying to the conditions; and

(ii) for conditions imposed because of the person’s mental and physical health, the details of which it has been decided under section 59(3) to record in the register—the details that must be recorded in the register for the period for which the conditions are in force;

(f) if the decision is that a person be registered on probationary conditions mentioned in section 57(2)(b)—

SCHEDULE 3 (continued)

(i) the part of the supervised practice program to be completed; and

(ii) the period in which the supervised practice program is to be completed;

(g) if the decision is that a general registration be renewed or restored on recency of practice conditions, the review period applying to the conditions;

(h) if the decision is that a registration be cancelled, a direction to the person to return the certificate of registration to the board within 14 days after receiving the notice;

(i) if the decision is that the conditions, other than probationary conditions or additional conditions imposed under section 97(3), imposed on a general registration be confirmed, the review period applying to the confirmed conditions;

(j) if the decision is that the conditions, other than probationary conditions or additional conditions imposed under section 97(3), imposed on a general registration be changed—

(i) the review period applying to the changed conditions; and

(ii) if the conditions were imposed because of the person's mental and physical health and it is decided under section 112(2) that details of the changed conditions must be recorded in the register, the details that must be recorded in the register for the period for which the changed conditions are in force; and

(iii) a direction to the person to return the certificate of registration to the board within 14 days after receiving the notice;

(k) if the decision is that probationary conditions imposed on a general registration be extended—the part of the supervised practice program to be undertaken and the period of the extension.

"inspector" means a person who is appointed as an inspector under section 155.

SCHEDULE 3 (continued)

“interstate law”, for part 9, division 3, see section 221.

“interstate regulatory authority” means an entity established under the law of another State or New Zealand having functions similar to the board’s functions under this Act or the *Health Practitioners (Professional Standards) Act 1999.*

“legislative scheme” see section 4.

“local practitioner”, for part 9, division 3, see section 221.

“medical condition” includes substance abuse or dependence.

“member” means a member of the board.

“notice” means written notice.

“occupier”, of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.

“office” means the Office of Health Practitioner Registration Boards under the *Health Practitioner Registration Boards (Administration) Act 1999*.

“original decision” see section 191(1).

“partial program” see section 57(2)(b)(i).

“participant”, for part 9, division 3, see section 221.

“personal details requirement” see section 180(5).

“place” includes premises, vacant land and a vehicle.

“place of seizure” see section 171.

“possess”, a health record, for part 9, division 1, see section 213.

“premises” includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) land where a building or other structure is situated.

“prepare”, for part 9, division 3, see section 221.

SCHEDULE 3 (continued)

"probationary conditions" means conditions mentioned in section 57 and includes those conditions extended under section 97(1)(b)(ii).

"probationary registrant" means a person registered as a general registrant on probationary conditions.

"profession" means the—

(a) medical imaging technology profession; or

(b) nuclear medicine technology profession; or

(c) radiation therapy profession.

"professional service" means—

(a) for the medical imaging technology profession—a medical imaging technology service; or

(b) for the nuclear medicine technology profession—a nuclear medicine technology service; or

(c) for the radiation therapy profession—a radiation therapy service.

"provisional general registrant" means a person registered, under section 64, as a provisional general registrant.

"provisional general registration" means registration of a person as a provisional general registrant under section 64.

"provisional special purpose registrant" means a person registered, under part 3, division 9, as a provisional special purpose registrant.

"provisional special purpose registration" means registration of a person as a provisional special purpose registrant under part 3, division 9.

"public members" see section 15(2)(b).

"public place" means a place that the public is entitled to use, is open to the public or is used by the public (whether or not on payment of money).

"recency of practice conditions" see section 78(2).

"recency of practice requirements" see section 72.

"register" means the register kept under section 208.

"registrant" means a person registered under part 3.

SCHEDULE 3 (continued)

“registrant members” see section 15(2)(a).

“registration” means registration under part 3.

“registration fee” see section 42(1)(c)(iii).

“relevant practical experience”, in the profession, means experience mentioned in section 58(1).

“renewable registration” means a general registration or special purpose registration.

“restoration fee” see section 82(1)(b)(i).

“restricted title” means—

(a) for the medical imaging technology profession—a title that consists of, or includes, the words ‘medical imaging technologist’ or ‘radiographer’; or

(b) for the nuclear medicine technology profession—a title that consists of, or includes, the words ‘nuclear medicine technologist’; or

(c) for the radiation therapy profession—a title that consists of, or includes, the words ‘radiation therapist’.

“review period”, applying to conditions imposed by the board or the District Court on a general registration, means the period, not more than 3 years after the decision to impose the conditions takes effect, within which the registrant may not apply for a review of the conditions under part 3, division 8.

“service agreement” means an agreement made under the *Health Practitioner Registration Boards (Administration) Act 1999,* between the executive officer and the board, for the provision of administrative and operational support by the office to the board.

“show cause notice” see section 87(1).

“show cause period” see section 87(2)(d).

“special activities” see section 114.

“special purpose registrant” means a person registered, under part 3, division 9, as a special purpose registrant, but does not include a

SCHEDULE 3 (continued)

provisional special purpose registrant.

“special purpose registration” means registration of a person as a special purpose registrant under part 3, division 9.

“supervised practice program” means a program mentioned in section 61(1).

“supervised practice report”, for a probationary registrant, means a report—

(a) providing an assessment of the registrant’s competence to practise in the profession as demonstrated while undertaking a supervised practice program or a partial program; and

(b) in the approved form, or if a form is not approved, that includes the information prescribed under a regulation.

“supervisor”, for a probationary registrant, means the general registrant who—

(a) is eligible under a regulation to be a supervisor; and

(b) has primary responsibility for the probationary registrant’s supervision while undertaking the supervised practice program or the partial program.

“user”, of a registrant’s services, includes a person who used the services.

“visiting practitioner”, for part 9, division 3, see section 221.

“warrant form” see section 164(5)(b).