

Hon. Mr. Stallworthy.

DENTISTS AMENDMENT.

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A BILL INTITULED

AN ACT to amend the Dentists Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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| 5  | 1. (1) This Act may be cited as the Dentists Amendment Act, 1930, and shall be read together with and deemed part of the Dentists Act, 1908 (hereinafter referred to as the principal Act).                    | Short Title.   |
| 10 | (2) Except as provided in section <i>twenty-seven</i> hereof, this Act shall come into force on the <i>first</i> day of <i>April</i> , nineteen hundred and <i>thirty-one</i> .                                | Commencement.  |
|    | 2. (1) Section two of the principal Act is hereby amended by repealing the definition of the term "Registrar-General".   | Transfer of Registrar-General's functions under principal Act to Director-General of Health. |
| 15 | (2) The powers, duties, and functions conferred or imposed on the Registrar-General by the principal Act are hereby transferred to, and shall hereafter be exercised and performed by, the Director-General of |  |

Health appointed under the Health Act, 1920. The references in the principal Act to the Registrar-General shall, where the context permits, be hereafter read as references to the Director-General of Health.

(3) The Registrar-General shall, on the request in writing of the Director-General of Health, deliver all applications, certificates, diplomas, registers, or other documents whatsoever in his possession in relation to the principal Act to the Director-General or to a Medical Officer of Health. 5

Dental Council  
constituted.

3. (1) For the purposes of the principal Act, there shall be established a Council, to be called the Dental Council. 10

(2) The Council shall consist of—

(a) The Director-General of Health:

(b) A dentist to be appointed on the recommendation of the Minister:

(c) A dentist, being a member of the Faculty of Dentistry in the University of Otago, to be appointed on the recommendation of the Minister: 15

(d) Two dentists to be appointed upon election in the prescribed manner by postal vote of the dentists living in the North Island: 20

(e) Two dentists to be appointed upon election in the prescribed manner by postal vote of the dentists living in the South Island.

(3) The members of the Council, other than the Director-General, shall be appointed by the Governor-General for a term of three years, save that any such member may be reappointed or may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Director-General. 25

(4) The powers of the Council shall not be affected by any vacancy in the membership thereof. 30

(5) If any member of the Council dies, retires, or otherwise vacates his office, the vacancy so created shall, within two months after the occurrence thereof, be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold office for the residue of the term for which his predecessor was appointed, and no longer. 35

Payment of  
allowances and  
travelling-expenses  
of members of  
Council.

4. The members of the Council, other than officers in the service of the Government, shall be paid such allowances as may be lawfully appointed, and all travelling-expenses reasonably incurred by them in respect of their attendance at meetings of the Council. 40

Chairman of Council.

5. (1) The Council, at its first meeting, shall appoint one of its members to be the Chairman of the Council, who shall preside at all meetings of the Council at which he is present.

(2) The Chairman so appointed shall hold office for a period of one year, or for such shorter period as he remains a member of the Council. 45

(3) If the Chairman ceases to be a member of the Council before the expiration of the period of one year aforesaid, the Council shall appoint some other member in his stead to be Chairman for the residue of the said period. 50

(4) At the expiration of the said period of one year the Council shall appoint a Chairman for the ensuing year, and the Chairman in office at the date of such appointment may be reappointed.

(5) If at any meeting of the Council the Chairman for the time being is not present, or there is no Chairman of the Council, the Council shall appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall have and 5 may exercise all the powers and functions of the Chairman for the purposes of that meeting.

6. (1) At any meeting of the Council four members shall form a quorum. Conduct of meetings.

(2) Every question before the Council shall be determined by a 10 majority of the votes of the members present at the meeting of the Council.

(3) The Chairman of the Council shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting-vote.

(4) In the absence from any meeting of the Council of the Director- 15 General and also of his Deputy, any officer of the Department of Health may be appointed by the Director-General to act in his stead, and while so acting shall for the purposes of this Act have all the powers of the Director-General on the Council. The fact that any officer so acts as a member of the Council shall be sufficient evidence of his authority so 20 to do.

7. (1) The Council shall hold its first meeting at such time and place as the Minister appoints for that purpose, and the Director-General shall send notice of the time and place so appointed to every member of the Council. First meeting of Council.

(2) Subsequent meetings of the Council may be summoned either 25 by the Chairman or by the Director-General. Subsequent meetings.

(3) Notice of the time and place of every such meeting shall be sent to every member of the Council at least *seven* clear days before the time appointed for that meeting.

8. Save as expressly provided in this Act or the principal Act, or in 30 regulations under the principal Act, the Council may regulate its own procedure as it thinks fit. Procedure of Council.

9. Notwithstanding anything in the principal Act, no person shall be entitled as of right to be registered under that Act if he is not a 35 fit person to be so registered by reason of the fact that— Qualifications for registration.

(a) He has been at any time convicted of any offence punishable by imprisonment with hard labour for a term of two years or upwards; or

(b) He is otherwise not of good fame or character.

10. (1) After the commencement of this Act the Director-General shall not register any person as a dentist under the principal Act except by direction of the Council or pursuant to an order of the Supreme Court as hereinafter provided. Registration by direction of Council or order of Court only.

(2) Section ten of the principal Act is hereby amended as follows:— Consequential amendments.

45 (a) By omitting the words "on application to the Registrar-General and on payment of the prescribed fee"; and

(b) By inserting, after the word "who", the words "satisfies the Council that he".

(3) Sections twelve and thirteen of the principal Act are both hereby 50 amended as follows:—

(a) By omitting the word "showing", and substituting in each case the words "who satisfies the Council"; and

(b) By omitting from both sections the words "upon payment of the fees".

(4) Section fourteen of the principal Act is hereby amended by omitting the word "Senate", and substituting the word "Council".

Notice of intention to apply for registration.

11. (1) Every person desiring to be registered under the principal Act shall cause at least one month's notice of his intention to apply for registration to be published in the *Gazette*, and also in some newspaper circulating in the district in which the applicant intends to practise; and shall, at least one month before the date of his application for registration, deposit in the office of the Medical Officer of Health nearest to the place where he intends to practise his diploma or other original evidence of his qualification, or a true copy of any such document certified as correct in the prescribed manner. 5 10

(2) Every notice under this section shall state such particulars as to the qualifications of the applicant and such other matters as may be prescribed.

Objections to proposed registration.

12. (1) Any person who has reason to believe that an applicant is not entitled to be registered or is not a fit person to be registered under the principal Act may, at any time before that applicant is so registered, object in writing to his registration, and shall specify the grounds of his objection. 15

(2) Any person so objecting as aforesaid may forward his objection to the Director-General or to the Medical Officer of Health in whose office any diploma or other documents have been deposited in accordance with the *last preceding* section. 20

Documents to be forwarded to Director-General.

13. At the expiration of one month after the deposit by the applicant of the evidence of his qualifications under section *eleven* hereof, the Medical Officer of Health in whose office any such document has been deposited shall forward to the Director-General all documents so received by him, and also all objections received by him in respect of the registration of that applicant. 25

Application for registration.

14. (1) Every person desiring to be registered under the principal Act, who has complied with the provisions of section *eleven* hereof, may make application to the Director-General to be registered under that Act. 30

(2) The applicant shall forward to the Director-General with his application a copy of the advertisement and *Gazette* notice referred to in the said section *eleven*. 35

(3) On receipt by the Director-General of any such application and of the copies of notices as aforesaid, he shall forthwith submit the application to the Council for its consideration.

(4) The Director-General shall submit to the Council with that application all diplomas and other documents in respect thereof forwarded to him by any Medical Officer of Health in pursuance of the *last preceding* section, and also all objections received by the Director-General personally in respect of that application. 40

Applications to be considered by Council.

15. (1) At its first meeting after any such application has been submitted to it, or so soon thereafter as practicable, the Council shall consider that application and shall give such directions to the Director-General in respect thereof as it thinks fit and as are hereinafter authorized. 45

(2) Before giving any such directions the Council may, if it thinks fit, examine on oath or otherwise any person applying to be registered under the principal Act, or any person objecting to that registration, or any other person, with respect to that application; and for the 50

purposes of that examination the Council may administer an oath to any person appearing before it.

(3) The Council may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application before the Council, or with respect to any objection to that application.

16. (1) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered under the principal Act, it shall so direct, and the Director-General shall thereupon register that person, and shall notify him accordingly.

Director-General to observe directions of Council.

(2) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is not entitled to be so registered, it shall direct accordingly, and the Director-General shall thereupon refuse to register that person, and shall notify the applicant accordingly.

17. If any applicant who has been refused registration as aforesaid is dissatisfied with the direction of the Council, he may apply to the Supreme Court for an order to the Director-General that the applicant be registered under the principal Act, and thereupon the Court may order that the person applying be so registered accordingly, or may make any such other order as it thinks fit, or may refuse to make any order in the matter, and in any such case the costs of the proceedings shall be in the discretion of the Court.

Appeal to Supreme Court from refusal to register.

18. Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any dentist, shall forthwith transmit by post to the Director-General a certificate under his hand of that death, with the particulars of the time and place of death; and on the receipt of that certificate the Director-General shall remove the name of the deceased dentist from the register.

Registrars to notify Director-General of death of dentist.

19. (1) Every dentist who at any time changes his address as appearing on the register shall, within three months thereafter, send to the Director-General a notice of his new address, and the Director-General shall thereupon correct the entry in the register relating to that dentist accordingly.

Dentists to notify changes of address; register to be amended accordingly.

(2) Every dentist who fails to comply with the provisions of the last preceding subsection shall be liable to a fine of five pounds.

20. (1) The Director-General may at any time, and shall if the Council so directs, send to any dentist by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on the register or has ceased to practise.

Name to be removed from register if dentist cannot be found, &c.

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Director-General, the Director-General shall, if the Council so directs, remove from the register the name of the dentist to whom the letter was so sent.

(3) Any person whose name has been removed from the register in pursuance of this section may apply to the Director-General to have his name restored to the register, and on proof to the satisfaction of the Council that his name has been removed by mistake the Director-General shall, if so directed by the Council, restore to the register the name of that person:

Provided that if any person is aggrieved by the refusal of the Council to restore his name to the register upon an application in that

behalf, he shall have the same right of appeal as if his application had been an application for registration under section *fourteen* hereof.

Additional diplomas, &c., may be entered in register.

21. Every dentist who obtains any dental diploma, other than that by virtue whereof he is registered, may apply to the Council to amend the register so far as it relates to the qualifications of that dentist; and on such application the Council shall, if satisfied that the applicant is entitled to the diploma in respect of which the application is made, direct the Director-General to amend the register accordingly, and the Director-General shall thereupon insert in the register particulars as to that diploma. 5 10

Removal from register of name of person wrongfully registered.

22. (1) If any person has been registered under the principal Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under that Act has been so registered, the Council shall cause the name of that person to be removed from the register, and the fact of that removal shall be notified by the Director-General in the *Gazette*. 15

Amendment of register where incorrect particulars as to qualifications appear.

(2) If any particulars appearing on the register in respect of the qualifications of any dentist are proved to the satisfaction of the Council to be or are to the knowledge of the Council false or erroneous in any respect, the Council shall direct the Director-General to erase those particulars from the register, or to otherwise amend the register, and the Director-General shall thereupon amend the register accordingly. 20

(3) The provisions of the *last preceding* subsection shall apply notwithstanding the fact that at the time when the entry in the register was made the dentist was actually possessed of the qualifications particulars whereof appear in the register, or that at that time the entry was otherwise correct. 25

(4) Any person whose name has been removed from the register in pursuance of subsection *one* hereof or any person the particulars of whose qualifications have been altered in pursuance of subsection *two* hereof, may, by motion, apply to the Supreme Court for an order to the Director-General for the restoration of his name to the register, or for the restoration to the register of any particulars as to his qualifications; and thereupon the Court may make such order in the matter as it thinks fit, or may refuse to make any order; and in any such case the costs of the proceedings shall be in the discretion of the Court. 30 35

Supreme Court may order removal of name from register if dentist guilty of grave misconduct or indictable offence.

23. (1) If any dentist is, in the opinion of the Council, guilty of any grave impropriety or infamous conduct in any professional respect, or if any dentist has been convicted (either before or after his registration) of an indictable offence punishable by imprisonment with hard labour for a term of two years or upwards, the Council may, with the leave in writing of the Attorney-General, apply to the Supreme Court for an order for the removal of the name of that person from the register, and the Court may make such order in the matter as it thinks fit: 40 45

Provided that the name of a dentist shall not be removed from the register under this section by reason of an indictable offence committed before the date of his registration if at that date the Council was aware of his conviction in respect of that offence.

(2) In any order under this section for the removal from the register of the name of a dentist the Court may fix a time after which the person whose name is so removed as aforesaid may apply for re-registration under the principal Act. 50

(3) At the expiration of such time any person whose name has been so removed may apply for re-registration, and all the provisions as to registration shall so far as applicable apply to re-registration under this section.

5 (4) If the Court does not fix any such time as aforesaid, the Council may refuse to consider any such application for such time as it thinks fit :

10 Provided that any person aggrieved by the refusal of the Council to consider such application may apply to the Court for an order directing the Council to consider that application, or directing the Director-General to enter in the register the name of that person, and thereupon the Court may make such order in the matter as it thinks fit.

15 24. (1) If the Council is satisfied that any person registered in New Zealand on the grounds mentioned in paragraph (a) of section ten of the principal Act as amended by section four of the Dentists Amendment Act, 1921, has since been removed for misconduct from any register of dentists in the United Kingdom or elsewhere in His Majesty's Dominions, or that any person registered in New Zealand on  
20 the grounds mentioned in paragraph (c) of the said section ten has since been removed for misconduct from any register of dentists or dental practitioners in the country in which his recognized certificate was granted, it may, with the consent in writing of the Attorney-General, by writing under the hand of the Chairman, direct the removal of his  
25 name from the register ; and the name shall be removed accordingly.

Removal of name from register after removal from British or foreign register.

(2) Notice of its intention to direct the removal of any name from the register pursuant to this section shall be given by the Council to the person affected, either personally or, if his whereabouts are unknown, by advertisement in such manner as the Council thinks sufficient, and  
30 his name shall not be removed from the register before the expiration of one month from the date of such notice.

(3) Any person whose name has been removed from the register by direction of the Council acting or purporting to act under the authority of this section may appeal to the Supreme Court, which may  
35 make such order in the matter as it thinks just, having regard to the merits of the case and to the public welfare.

25. (1) If the Council has reason to believe that any dentist has been guilty of grave impropriety or infamous conduct in a professional respect, it may cause to be served on him a notice specifying the  
40 grounds of its belief with sufficient particularity to enable the dentist to answer the same, and requiring him to appear before the Council, at a time and place to be specified, to show cause why he should not be suspended from the practice of his profession or be otherwise dealt with in accordance with this section.

Disciplinary powers of Council.

45 (2) If the dentist fails to appear before the Council in accordance with the terms of the notice, or, having appeared, fails to satisfy the Council either that he has not been guilty of the alleged impropriety or infamous conduct or that his conduct has not been of such a nature as to render the exercise of the powers of the Council under this  
50 section expedient in the interests of the public, the Council may, by writing under the hand of the Chairman, impose a penalty upon the dentist not exceeding *fifty* pounds, or, with the consent in writing of the Attorney-General, suspend the dentist from practice for a period not exceeding *twelve* months. In giving or withholding consent under

this subsection the Attorney-General shall consider only the gravity and nature of the impropriety or conduct charged, apart from the question whether the dentist has in fact been guilty of such impropriety or conduct.

(3) Every monetary penalty imposed by the Council under this section shall be recoverable as a debt due to His Majesty, and shall be paid into the Public Account to the credit of the Ordinary Revenue Account of the Consolidated Fund. 5

(4) While any order of suspension from practice under this section remains in force the dentist shall be deemed not to be a dentist, but forthwith on the expiry of such order his rights and privileges as a dentist shall be revived as from the date of such expiry. 10

(5) There shall be a right of appeal to the Supreme Court from an order of suspension or the imposition of a penalty under this section, and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case and to the public welfare. 15

(6) An order of suspension shall not take effect in any case until the expiration of twenty-one days after the notification by the Council to the dentist of the making of such order. If within the said period of twenty-one days the dentist gives due notice of appeal to the Supreme Court, such order shall not take effect unless and until it is confirmed by the Supreme Court or the appeal is for any reason dismissed by that Court : 20

Provided that, unless the Supreme Court otherwise orders, the period of suspension named in the order shall commence on the day when the order commences to have effect. 25

(7) The powers conferred on the Council by this section are in addition to its powers under section *twenty-three* hereof, and it shall not be obligatory on the Council to take any steps under this section before proceeding to exercise the powers conferred by the said section *twenty-three*. 30

No dentist to resume practice after discharge from mental hospital without license from Council.

26. (1) If any dentist is at the commencement of this Act or thereafter becomes an inmate of an institution under the Mental Defectives Act, 1911, whether as a patient or as a voluntary boarder, he shall not thereafter resume the practice of his profession as a dentist without a license in that behalf granted by the Council. 35

(2) Any dentist who has applied for a license under this section, and to whom the Council has refused to grant a license, shall have the same right of appeal to the Supreme Court as if an order of suspension from practice under the *last preceding* section had been made by the Council, and the Supreme Court may deal with such appeal as if it were an appeal from an order of suspension. 40

(3) Any dentist to whom this section relates who carries on the practice of his profession without having obtained a license from the Council commits an offence, and is liable on summary conviction to a fine of *one hundred* pounds, and to a further fine of *twenty* pounds for every day during which such offence continues. Until the issue of a license as herein provided, a dentist to whom this section relates shall be deemed not to be a dentist. 45

Prohibition of incorporation of new dental associations or increase of existing membership.

27. (1) After the passing of this Act no company, association, or other body of persons shall be incorporated for the purpose or with the object of carrying on, directly or indirectly, the practice of dentistry, and no company, association, or other body incorporated before the 50



passing of this Act shall thereafter alter its objects to include therein the carrying-on, directly or indirectly, of the practice of dentistry.

(2) Except as provided in subsection *four* hereof, no dentist shall after the passing of this Act become or be a member of any company, association, or other body incorporated either before or after the passing of this Act and having as its object or one of its objects the carrying-on, directly or indirectly, of the practice of dentistry.

(3) Every person, company, or association guilty of a breach of this section shall be liable to a fine of *twenty* pounds for every such offence, and after any conviction for any such offence shall be liable to a further fine of *five* pounds for every day during which such breach is continued.

(4) This section does not apply to unincorporated associations, and nothing contained therein shall prevent the members at the date of the passing of this Act of any incorporated association which is at that date lawfully carrying on the practice of dentistry from remaining members thereof, or shall prevent any such incorporated association from continuing so to carry on such practice so long as it has no members other than those who are members thereof at the passing of this Act.

(5) This section shall come into force immediately on the passing of this Act. Commencement.

28. (1) A copy of the register, certified by the Director-General to be a true copy, and arranged in alphabetical order of the surnames of the dentists referred to therein, shall in the month of December in each year be sent by the Director-General to the Minister of Internal Affairs, and shall be published in the *Gazette*. Copy of register to be gazetted annually.

(2) The *Gazette* containing a copy of the register published in pursuance of this section, or in pursuance of section eight of the principal Act, shall, unless the contrary is proved, be sufficient evidence in all judicial proceedings that, on the date of the certificate of the Director-General, or of the Registrar-General, as the case may be, shown on such copy, every person whose name appears therein as a dentist was duly registered as such with the qualifications and other particulars therein set forth; and also that every such person has continued to be so registered at all times after the date of the said certificate and before the date of the next publication in the *Gazette* of a copy of the register; and shall also be evidence as aforesaid that no person was or is at any time so registered whose name does not appear as a dentist in the copy of the register then last published.

(3) A certificate under the hand of the Director-General to the effect that any person was or was not registered as a dentist under the principal Act at any time or during any period specified in such certificate shall be conclusive evidence of the matters therein certified.

29. (1) The Director-General may at any time, and shall if the Council so directs, issue to any person who has given notice of his intention to apply for registration as a dentist under the principal Act a provisional certificate, which shall entitle that person to practise as a dentist pending the consideration of his application by the Council. Provisional practising certificate.

(2) Every such certificate shall, unless it has been cancelled or has lapsed, remain in force for the period stated therein, not exceeding three months, but any such certificate may be from time to time renewed.

(3) The holder of any such certificate shall, while such certificate remains in force, be deemed for all purposes to be a dentist.

(4) The Director-General may cancel that certificate at any time on the direction of the Council.

Fees.

30. (1) The Director-General or the Medical Officer of Health, as the case may be, shall take and receive the fees prescribed by regulations under the principal Act with respect to the matters specified in such regulations.

(2) Until the prescribed fee has been paid the Director-General or the Medical Officer of Health aforesaid may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable. 5

(3) All such fees and all other moneys received under the principal Act shall be paid into the Public Account to the credit of the Ordinary Revenue Account of the Consolidated Fund, and all expenses incurred in respect of the administration of that Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose. 10

Regulations.

31. The Governor-General may from time to time, by Order in Council, make regulations under the principal Act— 15

(a) Prescribing the form of the register and of notices, objections, applications, certificates, licenses, and other documents required under the principal Act :

(b) Prescribing the method of keeping the register and making entries and erasures therein : 20

(c) With respect to proceedings before the Council in connection with applications for registration, or other applications, or the removal from or restoration to the register of any name :

(d) Prescribing the fees payable in respect of registration under the principal Act, and in respect of the deposit of evidence of qualification, and in respect of the restoration of names after removal from the register, and in respect of any other alteration of or addition to the register ; and also prescribing fees for the issue of certificates of registration, licenses to resume practice after discharge from a mental hospital, provisional practising certificates, and other certificates, and for copies of certificates or licenses, and for inspections of the register : 25 30

(e) Providing for the issue to dentists of annual practising certificates, and prescribing the fee, not exceeding *one* pound, payable in respect thereof, and prohibiting the practice of dentistry by any person not holding such a certificate for the time being in force : 35

(f) Prescribing certificates, diplomas, memberships, degrees, licenses, letters, testimonials, or other titles, status, or documents granted in a British possession or in a foreign country which shall be recognized by the Council as qualifying persons holding them or any of them to be registered : 40

(g) Regulating the procedure of the Council :

(h) Prescribing the manner of holding elections of persons to be appointed as members of the Council upon election : 45

(i) Generally providing for such other matters as in the opinion of the Governor-General are necessary or expedient for the effective administration of the principal Act.

Repeals.

32. Sections seven, eight, nine, fifteen, sixteen, eighteen, twenty-four, and twenty-five of the principal Act are hereby repealed. 50