

MEDICAL AND DENTAL AUXILIARIES BILL

EXPLANATORY NOTE

THIS Bill makes provision for the registration and discipline of persons engaged in specified occupations auxiliary to medicine or dentistry. The Bill corresponds with the Professions Supplementary to Medicine Act 1960 of the United Kingdom; and its provisions are modelled on recent New Zealand registration Acts, e.g., the Dental Act 1963, and the Plumbers and Gasfitters Registration Act 1964.

Clause 1 relates to the Short Title of the Bill.

Clause 2 defines terms used in the Bill.

PART I

Registrable Occupations and Boards

Clause 3 declares that the occupations of chiropodist, dental technician, and optical dispenser shall be registrable occupations for the purposes of the Bill.

Clause 4 provides for the constitution by regulations of a Board for every registrable occupation. Where appropriate, one Board can be constituted for two or more occupations.

Clause 5 declares that the functions of a Board shall be to exercise a general supervision of the registrable occupation for which it is constituted, and specifies in detail the functions of a Board in relation to education, registration, and discipline.

Clauses 6 and 7 provide for the appointment of a Chairman and Deputy Chairman of each Board.

Clause 8 provides for the appointment, under the State Services Act 1962, of a Secretary to each Board.

Clause 9 sets out usual provisions governing meetings of a Board, and the quorum at a meeting.

Clause 10 provides for regulating the procedure of Boards.

Clause 11 makes normal provision for the payment of fees and travelling allowances.

Clause 12 authorises a Board to appoint subcommittees and to delegate certain functions to any such subcommittee.

No. 86—1

Price 1s. 6d.

PART II

Registration

Clause 13 makes provision (subject to *clause 17*) for the registration in respect of a registrable occupation of any person who satisfies the Board which exercises general supervision of the occupation that he holds the qualifications for registration prescribed in respect of the occupation.

Clauses 14 and 15 govern the making of applications for registration, and the consideration of any application by the appropriate Board.

Clause 16 provides that any direction of the Board as to the granting or refusal of registration shall be observed.

Clause 17 provides that no person shall be entitled as of right to be registered if he is not a fit person to be registered by reason of the fact that—

- (a) He has been at any time convicted of any offence punishable by imprisonment for a term of two years or upwards; or
- (b) He is otherwise not of good fame or character.

Clause 18 makes it an offence to procure or attempt to procure registration by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration.

Clause 19 specifies the mode of registration.

Clause 20 imposes an obligation on every registered person to notify any change of his address.

Clause 21 makes provision for the removal from the register of the name of any registered person who cannot be found, and for the restoration of any such name to the register.

Clause 22 provides for the amendment of the register if a person is wrongfully registered or if any particulars shown in the register are incorrect.

Clause 23 makes provision for the issue, on the direction of the Chairman of the Board, of a provisional certificate to a person who has applied for registration. Such a certificate entitles the person to whom it is issued, pending the consideration of his application by the Board, to perform such work as he would have been entitled to perform if he had been registered pursuant to his application.

Clause 24 provides for the register to be open to inspection.

PART III

Discipline

Clause 25 makes provision for the appointment of suitable persons to be investigators either generally or in relation to any particular case or class of cases.

Clause 26 provides that a formal complaint that any registered person has been guilty of any misconduct, or convicted of any offence, for which his name may be removed from the register shall be made to the appropriate Secretary. Every such complaint must be in writing and supported by such statutory declarations as the appropriate Secretary may require. Where any such Secretary receives such a complaint, he must refer it to a suitable investigator. If the investigator, after due inquiry, considers that the complaint has substance, he must refer it to the Board having jurisdiction in the matter to be dealt with as hereinafter provided.

Clause 27 provides that, upon a complaint being referred to a Board as aforesaid by an investigator, or upon a complaint being made by an investigator of his own motion, the Board may cause the name of any registered person to be removed from the appropriate register, and may order that person to pay any costs and expenses of and incidental to the inquiry by the Board and any preliminary inquiry by the investigator, if it is satisfied, after inquiry,—

- (a) That he has been convicted at any time by any Court in New Zealand of any offence for which the maximum punishment is not less than two years imprisonment; or
- (b) That he has been guilty of such improper or incompetent conduct in performing his duties or in charging for his work as, in the opinion of the Board, renders him unfit to be registered.

A Board is authorised to exercise the powers conferred on it by the clause in relation to a conviction on receipt of and pursuant to a certificate as to the conviction issued by the Registrar of the Court in which the person was convicted.

Clause 28 makes provision for an inquiry by a Board where a complaint is referred or made to it as aforesaid, or where it receives a certificate of conviction as aforesaid.

Clause 29 provides that a Board may require witnesses to attend and give evidence.

Clause 30 provides that witnesses and counsel shall have the same privileges and immunities in relation to matters before a Board as they would if the matters were proceedings in a Court of law. The clause also makes provision for the payment of witnesses expenses.

Clause 31 gives a Board power to suspend the registration of any person for a period not exceeding 12 months in any case where it has power to remove the name of the person from the register under *clause 27*. An order of suspension is not to take effect until the expiration of 28 clear days after the date of the notification by the Board to the person concerned of the making of the order or the sooner confirmation of the order by an Appeal Tribunal.

PART IV

General Provisions

Clause 32 provides that, after the expiration of six months from the date on which this Bill comes into force in relation to any registrable occupations, except as provided in regulations, no person shall engage in that occupation or hold himself out, whether directly or by implication, as being entitled to engage in that occupation, or use or permit to be used in connection with his business any written words, titles, or initials implying that he is registered in respect of that occupation or that he is qualified to engage in that occupation, unless he is registered in respect of that occupation. Contravention of this provision is made an offence.

Clause 33 makes provision for the carrying on for a limited period of a business in which a deceased registered person was carrying on his registrable occupation as owner or partner. The provision is designed to protect the deceased's interest in the goodwill and assets of the business, and to allow a reasonable period for the disposal thereof.

Clause 34 prohibits a registered person from engaging in his registrable occupation unless he is the holder of a current annual licence in respect of that occupation.

Clause 35 makes provision for an appeal from any decision of a Board to an Appeal Tribunal constituted by the Minister for the purposes of the appeal and consisting of a barrister and two assessors, of whom one shall be appointed by the Board concerned and one by the appellant. An appeal is to be lodged initially with the appropriate Secretary.

Clause 36 provides for all prescribed fees payable under the legislation to be paid to the appropriate Secretary or any officer of the Department of Health authorised in that behalf by the Director-General of Health. All fees and other money received under the legislation are to be paid into the Consolidated Revenue Account, and all expenses incurred under or in respect of the administration of the legislation are to be paid out of money to be from time to time appropriated by Parliament for the purpose.

Clause 37 provides that in any prosecution for an offence against the legislation, a certificate under the hand of the appropriate Secretary is to be sufficient evidence of the facts stated in the certificate in the absence of proof to the contrary.

Clause 38 provides that neither the members of a Board, nor any agent or servant of a Board, nor any investigator, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry or other proceedings under the legislation, unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in the proceedings has acted in bad faith.

Clause 39 provides that nothing in the Bill shall affect or derogate from the nine Acts specified in the clause.

Clause 40 contains detailed provision for the making of regulations for giving effect to the provisions of the legislation and for the due administration thereof.

Hon. Mr McKay

MEDICAL AND DENTAL AUXILIARIES

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A BILL INTITULED

An Act to make provision for the registration and discipline of persons engaged in occupations auxiliary to medicine or dentistry

BE IT ENACTED by the General Assembly of New Zealand 5
in Parliament assembled, and by the authority of the same,
as follows:

1. Short Title and commencement—(1) This Act may be cited as the Medical and Dental Auxiliaries Act 1966.

(2) This Act shall come into force on a date to be 10
appointed for the commencement thereof by the Governor-General by Order in Council, and different dates may be so appointed in relation to different registrable occupations.

2. Interpretation—In this Act, unless the context otherwise requires,— 15

“Annual licence” means a licence issued under section 34 of this Act:

“Appropriate Secretary” means the Secretary to the Board having jurisdiction in the matter in relation to which the expression is used: 20

“Board” means a Board constituted by or under regulations made under this Act:

“Chairman” means the Chairman of the Board in relation to which the expression is used:

“Investigator” means a person appointed to be an 25
investigator under section 25 of this Act:

“Material date” means, in relation to any occupation, the date six months after the date on which this Act comes into force in relation to that occupation:

“Minister” means the Minister of Health: 30

“Prescribed” means prescribed by regulations made under this Act:

“Provisional certificate” means a certificate issued under section 23 of this Act:

“Register” means the register kept under this Act in 35
respect of the particular registrable occupation in relation to which the word is used, and “registered” and “registration” have corresponding meanings:

“Registrable occupation” means any occupation that is declared by section 3 of this Act to be a registrable 40
occupation:

PART I

Registrable Occupations and Boards

3. **Registrable occupations**—The occupations of chiropodist, dental technician, and optical dispenser shall be registrable occupations for the purposes of this Act.

4. **Constitution of Boards**—(1) For every registrable occupation there shall be a Board, which shall be constituted in such manner and called by such name as may be prescribed: Provided that a Board may be so constituted, or jurisdiction may be conferred on an existing Board, in respect of two or more registrable occupations.

(2) The members of a Board, other than persons who are members by virtue of their office, shall be appointed by the Minister, and (except as otherwise provided in this section) shall hold office for a term of three years, but may from time to time be reappointed.

(3) Any such appointed member may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the appropriate Secretary.

(4) If any member of a Board, other than a person who is a member by virtue of his office, dies, resigns, or otherwise vacates his office as a member of the Board, the vacancy so created shall, as soon as practicable, be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be a member of the Board for the residue of the term for which his predecessor was appointed.

(5) Notwithstanding anything to the contrary in this Act, every member of a Board, unless he sooner vacates office under subsection (3) of this section, shall continue to hold office while the Board remains in existence until his successor comes into office.

(6) The powers of a Board shall not be affected by any vacancy in the membership thereof.

5. **Functions of Boards**—The functions of a Board shall be to exercise a general supervision of the registrable occupation for which it is constituted, and in particular—

(a) To advise and make recommendations to the Minister in respect of any matter affecting the education and registration of persons engaged or intending to become engaged in that registrable occupation:

- (b) To promote high standards of education and conduct among those persons:
- (c) To exercise disciplinary powers in accordance with the provisions of this Act in respect of registered persons engaged in that registrable occupation: 5
- (d) To conduct or direct the conducting of such examinations as may be prescribed, in relation to entry into that registrable occupation, as examinations to be conducted under this Act:
- (e) To consider applications for registration in respect of that registrable occupation: 10
- (f) To carry out such other functions and to exercise such other powers as may be prescribed or conferred on it by any other enactment.

6. Chairman of Board—(1) Except as otherwise provided 15
in any regulations made under this Act, every Board, at its first meeting held after the date on which it is constituted and in every third year thereafter, shall appoint one of its members to be Chairman of the Board. The retiring Chairman or any previous Chairman shall be eligible for reappointment. 20

(2) Except as otherwise provided in any regulations made under this Act, unless the Chairman resigns from that office or ceases to be a member of the Board, he shall hold the office of Chairman for the term or the remainder of the term for which the members of the Board are appointed, and thereafter 25
(while he remains a member of the Board) he shall continue to hold the office of Chairman until his successor is appointed.

(3) The Chairman shall preside at every meeting of the Board at which he is present.

(4) If the Chairman ceases to be a member of the Board 30
before the expiration of the period for which he has been appointed, the Board shall appoint some other member in his stead to be Chairman for the residue of the said period.

(5) If at any meeting of a Board the Chairman for the time being is not present, or there is no Chairman of the Board, 35
the Deputy Chairman shall preside at the meeting; and if the Deputy Chairman also is not present at the meeting, or there is no Deputy Chairman, the Board shall appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall have and may exercise all 40
of the powers and functions of the Chairman for the purposes of that meeting.

7. Deputy Chairman of Board—(1) Every Board, at any meeting, may appoint one of its members to be the Deputy Chairman of the Board.

5 (2) Except as otherwise provided in any regulations made under this Act, unless the Deputy Chairman sooner resigns from that office, or is appointed to be the Chairman of the Board, or ceases to be a member of the Board, he shall hold the office of Deputy Chairman of the Board for the term or
10 the remainder of the term for which the members of the Board are elected or appointed, and shall be eligible for reappointment.

(3) If the Deputy Chairman is appointed to be the Chairman of the Board, or ceases to be a member of the Board, he shall thereupon vacate the office of Deputy
15 Chairman.

(4) During any vacancy in the office of Chairman or in the absence of the Chairman from New Zealand or while the Chairman is incapacitated by sickness or otherwise, the Deputy Chairman shall have and may exercise and perform
20 all the powers and duties of the Chairman.

8. Secretary to Board—There shall from time to time be appointed under the State Services Act 1962 a Secretary to each Board.

9. Meetings of Board—(1) Every Board shall meet at least
25 once in each calendar year. Meetings of the Board shall be held at such times and places as the Chairman, or the appropriate Secretary on the direction of the Chairman or of the Director-General of Health, may from time to time appoint.

30 (2) Notice of the time and place of every such meeting, signed by the Chairman or by the Secretary, shall be sent to every member of the Board at least fourteen clear days before the time appointed for that meeting, but failure to comply with the provisions of this subsection shall not invalidate
35 anything done at any meeting of the Board.

(3) At any meeting of a Board a majority of the members thereof shall form a quorum.

(4) Every question before any meeting of a Board shall be
40 determined by a majority of the votes of the members present and voting thereon.

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

(6) In the absence from any meeting of a Board of any person who is a member of the Board by virtue of his office, that person may appoint any other person to act in his stead, and while so acting that other person shall, for the purposes of this Act, have all the powers of a member of the Board. The fact that any member of the Public Service so acts as a member of a Board shall be sufficient evidence of his authority so to do.

10. Procedure of Board—(1) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given upon the recommendation of a Board, make rules for regulating the procedure of that Board.

(2) In the absence of any such rules, or so far as the rules do not extend, a Board may regulate its procedure as it thinks fit.

11. Fees and travelling allowances—There shall be paid to the members of every Board, and to any investigators appointed under subsection (1) of section 25 of this Act, and to any members of an Appeal Tribunal appointed under section 35 of this Act, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if all such investigators and all members of any Appeal Tribunal and all members of any Board were members of a statutory Board within the meaning of that Act.

12. Subcommittees of Board—(1) A Board may appoint subcommittees consisting of two or more members of the Board, and may delegate to any such subcommittee any of the functions or powers of the Board:

Provided that the Board shall not delegate any power conferred on it in Part III of this Act.

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power or the performance of any function by the Board.

(3) Unless and until any such delegation is revoked, it shall continue in force according to its tenor.

PART II

Registration

13. **Qualifications for registration**—Except as provided in section 17 of this Act, every person shall be entitled to be registered in respect of a registrable occupation who satisfies the Board which exercises general supervision of that occupation that he holds the qualifications for registration prescribed in respect of that occupation and has paid the prescribed fee.

14. **Application for registration**—(1) Every person who is entitled to be registered under this Act may make application on the prescribed form to the appropriate Secretary to be registered accordingly, and shall at the same time provide such evidence of his personal character and other relevant matters as may be required by the Board concerned.

15 (2) The appropriate Secretary shall, on receipt by him of any such application and evidence, submit the same to the Board for its consideration.

15. **Applications to be considered by Board**—(1) At its first meeting after any such application has been submitted to it or as soon thereafter as practicable, the Board shall consider that application, and shall give such directions to the appropriate Secretary in respect thereof as it thinks fit and as are authorised by this Act.

25 (2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the person making the application, or any person objecting thereto, or any other person, with respect to the application; and for the purposes of any such examination the Chairman may, at any meeting of the Board, administer an oath to any person appearing before that meeting.

30 (3) The Board 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 Board or with respect to any objection to any such application.

35 16. **Directions of Board to be observed**—(1) If a Board, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered, it shall so direct, and the appropriate Secretary shall thereupon register that person, and shall notify him accordingly.

(2) If a Board, after considering any such application as aforesaid, is of the opinion that the applicant is not entitled to be registered, it shall direct accordingly, and the appropriate Secretary shall thereupon refuse to register that person, and shall notify him accordingly. 5

17. Restrictions on registration—No person shall be entitled as of right to be registered if he is not a fit person to be registered by reason of the fact that—

- (a) He has been at any time convicted of any offence punishable by imprisonment for a term of two years 10 or upwards; or
- (b) He is otherwise not of good fame or character.

18. Penalty for fraudulently obtaining registration—Every person who wilfully procures or attempts to procure himself or any other person to be registered by making or producing, 15 or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding three years.

19. Mode of registration—(1) Registration shall be effected 20 by the entry in the register kept for the purpose by the appropriate Secretary of the following particulars:

- (a) The name of the person registered;
- (b) Particulars as to the qualification or qualifications by virtue whereof he is registered; 25
- (c) His postal address (including the name of the street and the number of the house, where possible);
- (d) The date of registration; and
- (e) Such other particulars as may be prescribed.

(2) The appropriate Secretary shall, on application in that 30 behalf made to him at any time by a person so registered and on payment of the prescribed fee, issue to that person a certificate of registration.

20. Changes of address—(1) Every registered person who at any time changes his address as appearing in a register 35 shall, within one month thereafter, send to the appropriate Secretary a notice of his new address specifying where possible the name of the street and the number of the house, and that Secretary shall thereupon correct the entry in the register 40 relating to that person accordingly.

(2) Every such person who fails to comply with the provisions of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding ten pounds.

5 (3) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of any such offence may be laid at any time within three years from the date on which the person changed his address.

10 **21. Name may be erased from register if registered person cannot be found, etc.**—(1) The appropriate Secretary may at any time, and shall if the Board concerned so directs, send to any registered person by registered letter addressed to him at his address as appearing in the register kept by that Secretary an inquiry as to whether or not he desires to have
15 his name retained in that register.

(2) If no reply is received to that letter within six months from the date of the posting thereof, or if the letter is not delivered and is returned to the Secretary, or if the said registered person so requests, the Secretary shall, if the Board
20 so directs, remove from the register the name of the person to whom the letter was so sent.

(3) Notwithstanding anything in the preceding provisions of this section, if the Board has reason to believe that any registered person has died, it may direct the appropriate
25 Secretary to erase the name of that person from the register, and the Secretary shall erase that name accordingly.

(4) Any person whose name has been removed from the register in pursuance of this section may apply to the appropriate Secretary to have his name restored to the register,
30 and on proof to the satisfaction of the Board that his name has been so removed and on payment of the prescribed fee the Secretary shall restore to the register the name of that person.

35 **22. Amendment of register if person wrongfully registered or where particulars incorrect**—(1) If any person has been registered by reason of any false or fraudulent representation or declaration, made either orally or in writing, or if any person not entitled to be registered has been so registered, the Board concerned shall cause the name of that person to be
40 erased from the material register.

(2) If any particulars appearing in a register in respect of the name, qualifications, or address of any such person are proved to the satisfaction of the Board concerned to be, or are to the knowledge of that Board, false or erroneous in any respect, the Board shall direct the appropriate Secretary to 5
erase those particulars from the register, or otherwise to amend the register, and the Secretary shall thereupon, subject to payment of the prescribed fee (if any), amend the register accordingly.

(3) The provisions of subsection (2) of this section shall 10
apply notwithstanding the fact that at the time when the entry in the register was made the person was actually possessed of the qualifications particulars whereof appear in the register, or that at that time the entry was otherwise 15
correct.

23. Provisional certificates—(1) Notwithstanding anything to the contrary in this Act, subject to payment of the prescribed fee, the appropriate Secretary shall, if so directed by the Chairman of the Board, issue to a person who has 20
applied for registration a provisional certificate which shall entitle that person, pending the consideration of his application by the Board, to perform such work as he would have been entitled to perform if he had been registered pursuant to the application.

(2) Every such certificate shall, unless it has been cancelled 25
or has lapsed, remain in force for the period stated therein, not exceeding six months, but any such certificate may from time to time be renewed.

(3) The holder of any such certificate shall, while the certificate remains in force, be deemed for all purposes to be 30
registered in respect of the occupation specified in the certificate.

(4) The appropriate Secretary may cancel any provisional certificate at any time on the direction of the Board.

24. Register to be open to inspection—Every register shall 35
at all reasonable times be open to inspection by the public at the office of the appropriate Secretary in Wellington subject to the payment of the prescribed fee, if any.

PART III

Discipline

25. **Investigators**—(1) The Minister may from time to time, either generally or in relation to any particular case or class of cases, appoint any suitable person, not being a member of a Board, to be an investigator and may at any time revoke the appointment.

(2) No person appointed as an investigator under subsection (1) of this section shall be deemed by reason only of that appointment to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or of the Superannuation Act 1956.

(3) The Director-General of Health may from time to time, either generally or in relation to any particular case or class of cases, instruct any officer of the Department of Health to exercise the powers of an investigator either generally or in relation to any particular case or class of cases, and thereupon that person shall be deemed to be an investigator to the extent of that instruction.

26. **Complaints against registered persons**—(1) Every person (other than an investigator) who seeks to make a formal complaint that any registered person has been guilty of any misconduct, or convicted of any offence, for which his name may be removed from a register in accordance with section 27 of this Act shall make the complaint to the appropriate Secretary.

(2) Every such complaint shall be in writing and shall be supported by such statutory declarations as the appropriate Secretary may require.

(3) Where an appropriate Secretary has received any such complaint and such statutory declarations as he may require under subsection (2) of this section, he shall refer the complaint to a suitable investigator and that investigator shall, if after due inquiry he considers that the complaint has substance, refer it to the Board having jurisdiction in the matter to be dealt with as hereafter provided in this Act.

27. **Removal of name from register**—(1) Upon a complaint being referred to a Board as aforesaid by an investigator, or upon a complaint being made to a Board by an investigator of his own motion, the Board may cause the name of any registered person to be removed from the appropriate register, and may order that person to pay any costs and expenses of

and incidental to the inquiry by the Board and any preliminary inquiry by the investigator, if it is satisfied, after inquiry as hereafter provided in this Act, but not otherwise,—

- (a) That he has been convicted at any time by any Court in New Zealand of any offence for which the maximum punishment is not less than two years' imprisonment; or 5
- (b) That he has been guilty of such improper or incompetent conduct in performing his duties or in charging for his work as, in the opinion of the Board, renders him unfit to be registered. 10

(2) Notwithstanding anything in subsection (1) of this section, the Board may exercise the powers conferred on it by that subsection in relation to the conviction of any person on receipt of and pursuant to a certificate as to the conviction issued by the Registrar of the Court in which the person was convicted, whether or not a complaint has been made and whether or not an investigator has inquired into the matter. 15

28. Inquiry by Board into complaint—(1) Upon any complaint being referred or made to it as aforesaid or upon any such certificate of conviction being received, a Board shall hold an inquiry into the matter, and shall give to the person concerned not less than thirty days' notice in writing of its intention to hold an inquiry, and of the time and place of hearing, and of the nature of the charges to be inquired into. The notice may be served personally or by registered letter addressed to the person concerned at his last known place of business or abode. 20 25

(2) At the inquiry the person concerned shall be entitled to be present and to be heard, and may if he thinks fit be represented by counsel or otherwise. 30

(3) Every complaint that is referred or made to a Board by an investigator shall be prosecuted at the inquiry by that investigator or by such other person as he may appoint.

(4) At any inquiry the investigator who inquired into the complaint or any person so appointed by the investigator may be heard and may be represented by counsel or otherwise. 35

29. Witnesses may be required to attend and give evidence—(1) A Board, by notice in writing under the hand of its Chairman or Secretary, may, on tendering proper travelling expenses, require any person to attend and give evidence before it at any such inquiry. 40

(2) The Board may require any such evidence to be given on oath and either orally or in writing, and for that purpose the Chairman may administer an oath.

5 (3) Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding fifty pounds, who without lawful justification refuses or fails to attend and give evidence when required to do so by the Board, or to answer truly and fully any question put to him by a member of the Board.

10 **30. Further provisions regarding witnesses and counsel—**

(1) Witnesses and counsel shall have the same privileges and immunities in relation to matters before a Board as they would if the matters were proceedings in a Court of law.

15 (2) Every witness giving evidence or intending to give evidence at any inquiry before a Board shall be entitled in the discretion of the Board to such sum for his expenses and loss of time as the Board may determine.

31. Further disciplinary powers of Board—(1) In addition to the powers conferred on it by section 27 of this Act, a
20 Board may, in any case where it has power to remove the name of any person from the register under that section, by writing under the hand of the Chairman, suspend his registration for a period not exceeding twelve months.

25 (2) During any such period of suspension the person concerned shall be deemed not to be registered, but forthwith on the expiry of the period of suspension his rights and privileges as a registered person shall be revived as from the date of the expiry of the period.

30 (3) An order of suspension shall not take effect in any case until the expiration of twenty-eight clear days after the date of the notification by the Board to the person of the making of the order or the sooner confirmation of the order by an Appeal Tribunal. If within the said period of twenty-eight clear days the person gives due notice of appeal under
35 section 35 of this Act, the order shall not take effect unless and until it is confirmed by an Appeal Tribunal constituted under that section or the appeal is for any reason dismissed by such an Appeal Tribunal.

40 (4) Unless an Appeal Tribunal otherwise orders, the period of suspension specified in any order under this section shall commence with the day on which the order commences to have effect.

PART IV

General Provisions

32. Offences by unregistered persons—(1) Except as expressly provided in regulations made under this Act, no person shall, on or after the material date, engage in a registrable occupation or hold himself out, whether directly or by implication, as being entitled to engage in that occupation, or use or permit to be used in connection with his business any written words, titles, or initials implying that he is registered in respect of that occupation or that he is qualified to engage in that occupation, unless he is registered in respect of that occupation. 5 10

(2) Any person who acts in contravention of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day on which the offence continues. 15

33. Powers of personal representative—(1) On the death of a registered person who at the time of his death was carrying on a registrable occupation in relation to which this Part of this Act is in force in the course of a business of which he was the owner or in which he was a partner, it shall be lawful for his personal representative (with a view to the disposal of the deceased's share of the goodwill and assets of the business) to continue to carry on or assist to carry on that business under the management of another registered person for not more than five years from the date of death; and, if it is shown to the satisfaction of the Board supervising that registrable occupation that it is or may be impracticable satisfactorily to dispose of the deceased's share of the goodwill and assets of the business within the period, for such further period or periods as may be allowed by the Board. 20 25 30

(2) Subsection (1) of this section shall apply in the case of a person who at the time of his death was carrying on an occupation which subsequently becomes a registrable occupation in relation to which this Part of this Act is in force in the course of a business of which he was the owner or in which he was a partner, and who has died before the material date without being registered, subject to the substitution of a period of five years from the date on which his occupation became a registrable occupation in relation to which this Part of this Act is in force for the period specified in that subsection. 35 40 45

34. Annual licences—(1) In this section the term “year” means a period of twelve months beginning on the first day of April and ending with the thirty-first day of March next following.

5 (2) Notwithstanding anything to the contrary in the foregoing provisions of this Act, no registered person shall be entitled to engage in his registrable occupation unless he is the holder of a current annual licence in respect of that occupation issued in accordance with this section.

10 (3) Every person who engages in a registrable occupation in contravention of subsection (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds, and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day on
15 which the offence continues.

(4) Subject to the payment of the prescribed fee, the appropriate Secretary, on application in that behalf by any registered person, shall issue to him an annual licence, and any such licence shall be in force during the year in respect
20 of which it is issued:

Provided that, if at any time during the currency of any such licence the holder thereof ceases to be registered, the licence shall be deemed to be cancelled.

25 (5) Every person entitled to receive an annual licence under this section shall be deemed to have obtained that licence when he has duly applied to the appropriate Secretary for the same and has paid the prescribed fee.

30 (6) This section shall not apply in respect of any registrable occupation before the first day of April next following the material date, or at any time to a person holding a provisional certificate.

35. Appeals from decisions of Boards—(1) Every person who is dissatisfied with any decision of a Board relating to an application by him for registration under this Act, or to the
35 removal of his name from a register, or to the suspension of his registration, or to the imposition on him of any liability to pay costs or expenses, may, within twenty-eight days after the date on which notice of the decision has been given to him by the appropriate Secretary, give notice of appeal in the
40 prescribed manner to that Secretary.

(2) Upon receipt of a notice of appeal, the appropriate Secretary shall forthwith inform the Minister, who shall thereupon take all steps necessary for the constitution of an

Appeal Tribunal consisting of a barrister and two assessors, of whom one shall be appointed by the Board concerned and one by the appellant.

(3) The Appeal Tribunal so constituted shall as soon as practicable hear the appeal; and may confirm or vary or 5
cancel the decision of the Board, or may order the registration of the appellant or the restoration of his name to the register or the determination of the order of suspension, or the remission of the whole or any part of any liability to pay costs or expenses imposed on him, or may make such other order as 10
the case may require.

(4) The decision of not less than two members of the Appeal Tribunal shall be the decision of that Tribunal, and that decision shall be final and conclusive.

(5) On any appeal under this section the Appeal Tribunal 15
may make an order for the payment by or to the Board concerned or the appellant, as the case may be, of the costs and expenses of the Appeal Tribunal; and in any such case the costs so awarded may be recovered in any Court of competent jurisdiction as a debt due by the party against 20
whom they have been awarded to the party in whose favour they have been awarded.

(6) From the time an appeal is lodged under this section until a decision is given by the Appeal Tribunal, any appellant who is appealing against the removal of his name from the 25
register or the suspension of his registration shall be deemed to remain registered under this Act.

(7) On any appeal under this section the Appeal Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and all the provisions of 30
that Act except sections 11 and 12 (which relate to costs) shall apply accordingly.

36. Fees—(1) The appropriate Secretary, or any officer of the Department of Health authorised in that behalf by the Director-General of Health, as the case may be, shall take 35
and receive such fees in respect of such matters under this Act as are from time to time prescribed.

(2) Until the appropriate fee has been paid, the appropriate Secretary or any such officer of the Department of Health may decline to do any act, or to permit any act to be 40
done, or to receive any document in respect of which that fee is payable.

(3) All fees and other money received under this Act shall be paid into the Consolidated Revenue Account, and all expenses incurred under or in respect of the administration of this Act shall be paid out of money from time to time 5 appropriated by Parliament for the purpose.

37. Certificate of Secretary to be evidence—In any prosecution for an offence against this Act, a certificate purporting to be under the hand of the appropriate Secretary to the effect that any person is not registered or is not the holder of an 10 annual licence under this Act, or to the effect that his registration is suspended or is not in force, shall, in the absence of proof to the contrary, be sufficient evidence of any such fact which is stated in the certificate.

38. Protection of Board, etc.—Neither the members of a 15 Board, nor any agent or servant of a Board, nor any investigator, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry or other proceedings under this 20 Act, unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in the proceedings has acted in bad faith.

39. Act not to derogate from certain other Acts—Nothing in this Act shall affect or derogate from—
25 (a) The Chiropractors Act 1960; or
(b) The Dental Act 1963; or
(c) The Dietitians Act 1950; or
(d) The Medical Practitioners Act 1950; or
(e) The Nurses and Midwives Act 1945; or
30 (f) The Occupational Therapy Act 1949; or
(g) The Opticians Act 1928; or
(h) The Pharmacy Act 1939; or
(i) The Physiotherapy Act 1949.

40. Regulations—(1) The Governor-General may from 35 time to time, by Order in Council, make regulations for all or any of the following purposes:
(a) Constituting or providing for the constitution of any Board or Boards and prescribing the name of any such Board or the names of any such Boards;
40 (b) Defining the scope of the work which registration in respect of any registrable occupation entitles a registered person to perform:

- (c) Prescribing the qualifications, which may include specified minimum ages, required to be possessed by applicants for registration:
- (d) Providing for the issue of annual licences, and prescribing the fees payable in respect thereof: 5
- (e) Providing for the temporary registration of visitors to New Zealand:
- (f) Providing for the suspension of the registration of any person suffering from any mental or physical disability which, in the opinion of the Board supervising the material registrable occupation, renders him unfit to carry on that occupation: 10
- (g) Restricting the carrying on of a registrable occupation by a particular class or particular classes of registered persons: 15
- (h) Excluding the application of Part III of this Act, or declaring that an act or omission specified or described in the regulations shall or shall not be improper or incompetent conduct for the purposes of that Part: 20
- (i) Prohibiting, regulating, or restricting the carrying on of a registrable occupation by or in the course of the business of a company registered under the Companies Act 1955 or any other incorporated body:
- (j) Prescribing the qualifications required to be possessed by investigators: 25
- (k) Prescribing the form of and the method of keeping any register:
- (l) Prescribing the forms of application, certificates, and other documents required under this Act: 30
- (m) Prescribing the fees payable in respect of examination and registration, and in respect of the restoration of names after their removal from a register, and in respect of any other alteration of or addition to a register; and also prescribing fees for the issue of certificates of registration, provisional certificates, and other certificates, and for copies of certificates, and for inspections of any register: 35
- (n) Prescribing the courses of training to be undergone by persons desirous of becoming qualified for registration: 40
- (o) Prescribing the conditions under which any place may be recognised by a Board as an approved training school for the purposes of any registrable occupation: 45

- 5 (p) Prescribing or authorising a Board to prescribe the number of persons who may be undergoing a prescribed course of training at any one time, or accepted for training in any one year, in any approved training school:
- 10 (q) Prescribing or authorising a Board to prescribe the minimum educational qualifications which must be held by any person before he begins to undergo a prescribed course of training or can be accepted for training in any approved training school:
- 15 (r) Regulating the conduct of examinations under this Act, prescribing the subject-matter of such examinations, providing for the exemption of persons from any particular examination or any particular subject or subjects in any such examination, and prescribing or authorising a Board to prescribe the number of occasions on which a person may sit for any such examination or subject or subjects:
- 20 (s) Providing for the appointment of assessors and regulating the conduct of appeals under section 35 of this Act:
- 25 (t) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and the amount of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding one hundred pounds and, where the offence is a continuing one, a further amount not exceeding five pounds for every day or part of a day during which the offence has continued:
- 30 (u) Limiting the application of section 32 of this Act in relation to any particular registrable occupation, and exempting or providing for the exemption of any specified classes of persons from all or any of the provisions of this Act or of any regulations made under this Act:
- 35 (v) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.
- 40 (2) Any regulations made under paragraphs (c) to (v) of subsection (1) of this section may be expressed to apply to one or more registrable occupations, or, where in the opinion of the Governor-General it is convenient and appropriate so to do, to registrable occupations generally.