

**DENTAL TECHNICIANS ACT, 1979
(ACT No. 19 OF 1979)**

[ASSENTED TO 13 MARCH 1979]

[DATE OF COMMENCEMENT: 1 JUNE 1979]

(Afrikaans text signed by the State President)

as amended by

Transfer of Powers and Duties of the State President Act, No. 97 of 1986

Health and Welfare Matters Amendment Act, No. 118 of 1993

Abolition of Restrictions on the Jurisdiction of Courts Act, No. 88 of 1996

Dental Technicians Amendment Act, No. 43 of 1997

Dental Technicians Amendment Act, No. 24 of 2004

[with effect from 28 February 2007]

ACT

To consolidate and amend the laws relating to the profession of dental technician; to regulate the profession of dental technologist; and to provide for matters connected therewith.

[Long title substituted by s. 36 of Act 43 of 1997]

Definitions

1. In this Act, unless the context otherwise indicates-

“approved” means approved by the council under this Act;

“approved institution” means a training institution approved by the council under section 4;

“clinical dental technologist” means a person who has undergone training in treating patients requiring complete artificial dentures and who is registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974);

[Definition of “clinical dental technologist” inserted by s. 1 (a) of Act 43 of 1997]

“council” means the South African Dental Technicians Council referred to in section 2;

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“dental laboratory” means any place where artificial dentures or other dental appliances are made, repaired, altered or worked upon, or where any apparatus for the manufacture, repair or alterations of or the working upon such dentures or appliances has been installed;

“dental laboratory assistant” means any person employed as such by a dentist, clinical dental technologist, dental technician or dental technologist in terms of section 28;

[Definition of “dental laboratory assistant” substituted by s. 1 (b) of Act 43 of 1997]

“dental technician” means any person who is registered as a dental technician under section 18;

“dental technician contractor” means a dental technician or a dental technologist who, with due regard to the provisions of this Act, practises the profession of dental technician or dental technologist, as the case may be, on his or her own account, or who is a member of a partnership or an association of dental technicians or dental technologists, as the case may be, which practises that profession, or who is a member of a juristic person which carries on any business in which is performed any act specially pertaining to the profession of dental technician or dental technologist, as the case may be;

[Definition of “dental technician contractor” substituted by s. 1 (c) of Act 43 of 1997]

“dental technologist” means a person who has acquired a B.Tech. Dent.Tech. degree and who is registered as a dental technologist under section 18;

[Definition of “dental technologist” inserted by s. 1 (d) of Act 43 of 1997]

“dentist” means a person registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974);

“Department” means the national Department of Health;

[Definition of “Department” inserted by s. 1 (e) of Act 43 of 1997]

“Director-General” means the Director-General: Health;

[Definition of “Director-General” inserted by s. 1 (e) of Act 43 of 1997]

“informally trained person” means a person who has been employed as a dental laboratory assistant for a period of not less than five years under the supervision of a dentist or dental technician and who has been trained by such dentist or dental technician to perform the work of a dental technician;

[Definition of “informally trained person” inserted by s. 1 of Act 24 of 2004]

“inquiry” means an inquiry in terms of section 35;

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“inspector” means an inspector appointed under section 31;

“Minister” means the Minister of Health;

“prescribed” means prescribed by regulation;

“qualification” means any degree, diploma or certificate awarded after examination of a person's proficiency in a particular subject;

“register”, as a noun, means a register kept in terms of this Act, and when used in relation to any category or any member of any category of persons in respect of whom a register is kept, the register kept in respect of that category; and as a verb, means to enter in a register in terms of this Act, and the words **“registered”**, **“registrable”**, **“registration”** and all other words derived from the word **“register”** shall have a corresponding meaning;

“registrar” means the registrar appointed under section 13;

“regulation” means a regulation made in terms of section 50 of this Act;

“Secretary”

[Definition of “Secretary” deleted by s. 1 (f) of Act 43 of 1997]

“scheduled substance” means a scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);

“student dental technician” means any person who is studying dental technology at an approved institution or is undergoing practical training in an approved dental laboratory, and who has been registered as such under section 19;

[Definition of “student dental technician” substituted by s. 1 (g) of Act 43 of 1997]

“student dental technologist” means any person who is studying dental technology at an approved institution or is undergoing practical training in an approved dental laboratory, and who has been registered as such under section 19;

[Definition of “student dental technologist” inserted by s. 1 (h) of Act 43 of 1997]

“supplementary course” means specialized or advanced training in any aspect of the work of a dental technician;

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“**this Act**” includes the regulations;

“**training institution**” means an institution where persons are educated and trained for the profession of dental technician or dental technologist;
[Definition of “training institution” substituted by s. 1 (i) of Act 43 of 1997]

“**unmounted artificial teeth**” means artificial teeth which have not been fitted in any denture or dental appliance for the use of a particular person, or artificial teeth which were so fitted but have thereafter again been removed from any such denture or dental appliance.

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CHAPTER 1

**THE SOUTH AFRICAN DENTAL TECHNICIANS COUNCIL: OBJECTS,
FUNCTIONS AND POWERS (ss 2-15)**

The South African Dental Technicians Council

2. (1) The Dental Mechanics Board established by section 2 of the Dental Mechanics Act, 1945 (Act 30 of 1945), shall, notwithstanding the repeal of that Act by this Act, continue to exist and to be a juristic person, but shall as from the commencement of this Act be called "The South African Dental Technicians Council".

(2) The head office of the council shall be situated at Pretoria, but may, with the consent of the Minister, be moved to any other place in the Republic.

Objects of council

3. The objects of the council shall be-

- (a) to assist in the promotion of dentistry in the Republic;
- (b) to control all matters relating to the education and training of dental technicians or dental technologists and the exercising of the practices in the supplying, making, altering or repairing of artificial dentures or other dental appliances or any other work pertaining to such dentures or appliances;
[Par. (b) substituted by s. 2 (a) of Act 43 of 1997]
- (c) to promote liaison of the education and training, and the manner of the exercise of the practices, referred to in paragraph (b), both in the Republic and elsewhere, and to promote the standards of such education and training and the manner of the exercise of such practices in the Republic;
- (d) to promote good relations between dentists, clinical dental technologists, dental technicians and dental technologists and other supplementary dental health services personnel;
[Par. (d) substituted by s. 2 (b) of Act 43 of 1997]

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- (e) to advise the Minister on any matter falling within the scope of this Act; and
- (f) to communicate to the Minister information on matters of public importance acquired by the council in the course of the performance of its functions under this Act.

General powers of the council

4. The council may-

- (a) cause to be printed and published copies of the registers or of supplementary lists showing all alterations to the registers;
- (b) make extracts from the registers upon payment of the prescribed fees;
- (c) in accordance with the provisions of this Act, remove any name from a register or, upon payment of the prescribed fee, restore such name thereto;
- (d) appoint examiners and moderators, conduct examinations and award certificates, and charge the prescribed fees in respect of such examinations and the issue of such certificates;
- (e) approve training institutions in accordance with the prescribed conditions, inspect such institutions, and withdraw or suspend the approval of any such institution if the education or training provided at such institution is, in the opinion of the council, not satisfactory, or if any condition imposed in respect of the approval of such institution is not complied with: Provided that the council shall not without the consent of the Minister refuse to approve any such institution, or withdraw or suspend the approval thereof;
- (f) charge the prescribed fees in respect of any inspection it may deem necessary to enable it to consider any application for the approval of a training institution or the registration of a dental laboratory or any variation of a condition imposed in respect of an approved institution or a dental laboratory;
- (g) acquire, hire or dispose of property, borrow money on the security of the assets of the council, accept any donation or accept and administer any trust;

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- (h) consider any matter affecting dental technology, and make representations or take such action in connection therewith as the council may deem necessary;
- (i) conduct or arrange courses for the supplementary training of dental technicians or dental technologists and render financial assistance in respect of such courses;
[Par. (i) substituted by s. 3 of Act 43 of 1997]
- (j) perform such other functions as may be prescribed, and may generally do all such things as it may deem necessary or expedient for the purpose of achieving the objects of this Act.

Constitution of council

5. (1) From the date referred to in section 51 (4) the council shall consist of the following members, namely-

- (a) the Director of Oral Health of the Department of Health;
[Par. (a) substituted by s. 4 (1) (a) of Act 43 of 1997]
- (b) five persons appointed by the Minister, of whom-
 - (i) one shall be a dentist attached to a university having a dental faculty;
 - (ii) one shall be a dental technician or a dental technologist attached to an institution at which dental technicians or dental technologists are educated and trained; and
 - (iii) three shall be members of the public who shall be appointed after calling through the media for nominations by the public and who are not registered in terms of this Act or the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), of whom at least one shall be appointed on account of his or her knowledge of the law;
[Par. (b) substituted by s. 4 (1) (a) of Act 43 of 1997]
- (c) two dental technician contractors nominated and elected by dental technician contractors in the prescribed manner;

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(d) two dental technicians or dental technologists who practise the profession of dental technician or dental technologist, as the case may be, as employees and who are nominated and elected in the prescribed manner by dental technicians or dental technologists, as the case may be, thus practising that profession; and
[Par. (d) substituted by s. 4 (1) (b) of Act 43 of 1997]

(e) one dentist nominated and elected by dentists in the prescribed manner.
[Par. (e) substituted by s. 4 (1) (b) of Act 43 of 1997]

(2) Subject to the provisions of section 6 a member of the council shall hold office for a period of five years, but shall be eligible for re-appointment or re-election, as the case may be, for one further period of five years.
[Sub-s. (2) substituted by s. 4 (1) (c) of Act 43 of 1997]

(3) If the persons referred to in paragraph (c), (d) or (e) of subsection (1), as the case may be, fail to elect a member under those paragraphs, the Minister shall designate a person as a member, and a person so designated shall be deemed to have been elected in terms of the paragraph in question.

(4) The registrar shall make known by notice in the *Gazette* the appointment or election of any member of the council, the date of such appointment or election and the period for which the member has been appointed or elected.

Disqualification, vacation of office and filling of vacancies

6. (1) No person shall be elected or appointed as a member of the council-

- (a) who is an unrehabilitated insolvent;
- (b) who in terms of this Act or the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), is disqualified from practising his or her profession;
[Par. (b) substituted by s. 5 (a) of Act 43 of 1997]
- (c) who is not a South African citizen permanently resident in the Republic;

(2) A member of the council shall vacate his or her office if-

- (a) he or she becomes subject to any disqualification referred to in subsection (1);

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- (b) he or she ceases to hold any qualification necessary for his or her appointment;
- (c) he or she has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
- (d) (i) being an elected member, he or she tenders his or her resignation in writing to the registrar; or
(ii) being a member appointed or designated by the Minister, he or she tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation;
- (e) he or she becomes a patient or a State patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973);
- (f) he or she is convicted of an offence, whether in the Republic or elsewhere, in respect whereof he or she is sentenced to imprisonment without the option of a fine;
- (g) the Minister in the public interest terminates his or her membership.
[Sub-s. (2) amended by s. 46 of Act 97 of 1986 and substituted by s. 5 (b) of Act 43 of 1997]

(3) Any vacancy on the council arising from a circumstance referred to in subsection (2) and every vacancy caused by the death of a member, shall be filled by appointment or election, as the case may be, by the person or body by whom and in the manner in which the vacating member was required to be appointed or elected, and every member so appointed or elected shall hold office for the unexpired portion of the period of office of the vacating member.

Office-bearers

7. (1) At the first meeting of every newly constituted council the members of the council shall elect a president, a vice-president and a treasurer from among their own number.

(2) The president, vice-president and treasurer shall hold office during the terms of the office of the members of the council, unless the president, vice-president or treasurer sooner resigns or ceases to be a member of the council.

(3) The vice-president may, if the president is absent or is for any reason unable to act as president, perform the functions and exercise the powers of the president.

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(4) If both the president and the vice-president are absent from any meeting, the members present shall elect one of their number to preside at that meeting, and the person so presiding may at such meeting during such absence perform the functions and exercise the powers of the president.

(5) If both the president and the vice-president have been granted leave of absence, the members of the council shall elect one of their number, or, if the council is not in session, the executive committee shall designate a member of the council, to act as president during such absence.

(6) If the office of president, vice-president or treasurer becomes vacant, the members of the council shall at the first meeting after such vacancy has occurred, elect from among their number a new president, vice-president or treasurer, as the case may be, and the member so elected shall hold office for the unexpired portion of the period of office of his or her predecessor.

[Sub-s. (6) amended by s. 35 (d) of Act 43 of 1997]

(7) The president, vice-president or treasurer may vacate his or her office as president, vice-president or treasurer without terminating his or her membership of the council.

[Sub-s. (7) amended by s. 35 (d) of Act 43 of 1997]

Meetings of council

8. (1) The council shall meet at the times and places determined by the council, but shall meet at least twice in every year.

(2) (a) The president may at any time convene a special meeting of the council, to be held on such date and at such place as he or she may determine, and he or she shall, upon a written request by the Minister or a written request signed by at least six members of the board, convene a special meeting, to be held within thirty days after the date of receipt of the request, on such date and at such place as he or she may determine.

[Par. (a) amended by s. 35 (d) of Act 43 of 1997]

(b) Such written request shall state clearly the purpose for which the meeting is to be convened.

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Quorum and procedure at meetings

9. (1) A majority of the members shall constitute a quorum at any meeting of the council.

(2) (a) A decision of the majority of the members of the council present at any meeting shall subject to the provisions of paragraph (b) constitute a decision of the council.

(b) In the event of an equality of votes the member presiding at the meeting in question shall, in addition to his or her deliberative vote, also have a casting vote.

[Par. (b) amended by s. 35 (d) of Act 43 of 1997]

(3) No decision taken by the council or act performed under the authority of the council shall be invalid by reason only of a casual vacancy on the council or of the fact that a person who was not entitled to sit as a member of the council sat as a member when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

Executive committee of the council

10. (1) There shall be an executive committee of the council consisting of the president, the vice-president, the treasurer and such other members of the council as the council may designate, of whom at least one shall be a dentist and one shall be a dental technician or a dental technologist.

[Sub-s. (1) substituted by s. 6 of Act 43 of 1997]

(2) The executive committee may, subject to the directions of the council, during periods between meetings of the council exercise all the powers, other than a power referred to in section 36 (6), and perform all the functions of the council, but shall not have the power, except in so far as the council otherwise directs, to set aside or amend any decision of the council, and any act performed or decision taken by the executive committee shall be of force and effect unless it is set aside or amended by the council at its next ensuing meeting.

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Other committees of council

11. (1) The council shall-

- (a) establish disciplinary committees, each consisting of such number of persons, appointed by the council, as the council may determine but which shall include at least two members of the council, one of whom shall be the chairperson and the other the vice-chairperson of such committee, to investigate and report to the council on any complaint, charge or allegation referred to in section 35 (1);
- (b) establish an education committee consisting of such number of persons, appointed by the council, as the council may determine but which shall include at least one member of the council, who shall be the chairperson of such committee, and at least one representative of each institution where dental technicians or dental technologists are trained;
- (c) establish a service conditions committee for the purpose of investigating and determining conditions of employment of dental technicians or dental technologists (except dental technicians or dental technologists who are in the employment of the State or a provincial administration), consisting of such number of persons, appointed by the council, as the council may determine, but which shall include the president of the council, who shall be the chairperson of such committee;
- (d) establish a tariff committee for the purpose of investigating and determining the tariff of fees payable to a dental technician contractor for work done as a dental technician or a dental technologist, which shall consist of such number of persons appointed by the council as the council may determine but which shall include the president of the council, who shall be the chairperson of such committee.

[Sub-s. (1) substituted by s. 7 of Act 43 of 1997]

(2) A committee established in terms of subsection (1) shall, subject to the provisions of subsection (5), exercise such of the council's powers and perform such of the council's functions as the council may from time to time confer upon or assign to that committee.

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(3) The council may from time to time establish such other committees as it may deem necessary, each consisting of such number of persons, appointed by the council, as the council may determine, but which shall include at least two members of the council, to investigate and report to the council on any matter falling within the scope of the council's functions.

[Sub-s. (3) substituted by s. 3 of Act 118 of 1993]

(4) (a) Subject to the provisions of subsection (5) the council may delegate to any committee established in terms of subsection (3) such of its powers, in addition to the powers conferred upon such committee in terms of subsection (3), as the council may from time to time determine.

(b) The council shall not be divested of any power so delegated, and may amend or withdraw any decision of such committee.

(5) The council shall not delegate to a committee any power referred to in section 36 (6), and no penalty imposed by any committee established in terms of subsection (1) (a), other than a caution or a reprimand or a reprimand and a caution, shall be of force and effect until confirmed by the council: Provided that an order made by any such committee under section 43 (2) shall, if the committee so directs in the public interest, come into operation forthwith, but shall lapse after the expiration of a period of six months unless confirmed within that period by the council.

Determination of conditions of employment and tariff of fees

12. (1) The council may, notwithstanding anything to the contrary in any law contained, conduct an inquiry into and determine-

- (a) the conditions of employment of dental technicians or dental technologists who are employees, except dental technicians or dental technologists who are in the employment of the State or a provincial administration; and
- (b) the tariff of fees payable to a dental technician contractor for work done as a dental technician or a dental technologist.

[Sub-s. (1) substituted by s. 8 of Act 43 of 1997]

(2) Any association or body of persons which, in the opinion of the council, is representative of dentists, clinical dental technologists, dental technician contractors, dental technicians or dental technologists who are employees, may make representations to the council that the council conduct an inquiry for the purposes of making a determination of the conditions of employment or tariff of fees referred to in subsection (1), or for the purposes of effecting any

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amendment in terms of subsection (5), and any such association or body may, with the approval of the council, make representations, oral or written, to the council with regard to any such determination or amendment.

[Sub-s. (2) substituted by s. 8 of Act 43 of 1997]

(3) The provisions of section 36 (4) shall *mutatis mutandis* apply with reference to an inquiry in terms of this section.

(4) Any determination in terms of subsection (1), and any amendment in terms of subsection (5), shall be made known by the registrar by notice in the *Gazette*.

(5) The council shall, as often as it may become necessary, review a determination under subsection (1), or any particular item or items thereof, and may amend such determination or any such item or items.

(6) Any determination or amendment made known in terms of subsection (5) shall, subject to the provisions of subsection (7), as from the date of publication of the notice concerned, or a date, if any, fixed by the council for the purpose and specified in such notice, be binding on every person practising the profession to which such conditions of employment or tariff of fees, or any amendment thereof, relates.

(7) (a) The council may subject to such conditions as it may determine grant exemption to any person from complying with any determination referred to in subsection (6);

(b) The council may withdraw such exemption by giving one month's prior written notice to the person concerned.

Appointment of registrar and staff

13. (1) Subject to the provisions of subsection (3), the council-

- (a) shall appoint a registrar;
- (b) may appoint such other persons as it may deem necessary for carrying out its functions; and
- (c) may dismiss any person so appointed.

(2) The registrar shall act as secretary to the council and shall perform the functions and carry out the duties assigned to or imposed upon him or her by this Act or the council.

[Sub-s. (2) amended by s. 35 (d) of Act 43 of 1997]

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(3) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.

(4)

[Sub-s. (4) deleted by s. 9 of Act 43 of 1997]

Funds of council

14. (1) All registration and examination fees and any other fees payable under this Act, shall be paid to the council and shall constitute its funds, and the council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

(2) The council may invest any moneys not required for immediate use and may establish such reserve funds, and deposit therein such amounts, as it may deem necessary or expedient.

Rectification of errors and validation of irregular acts

15. If anything required to be done under this Act in connection with the appointment or election of any member of the council is omitted or is not done within the time or in the manner required by this Act, the Minister may order the taking of steps required to be taken in order to rectify the omission or error, or may validate anything done in an irregular manner, in order to give effect to the objects of this Act.

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CHAPTER 2

**EDUCATION, TRAINING AND REGISTRATION OF DENTAL TECHNICIANS AND
DENTAL TECHNOLOGISTS (ss 16-26)**

[Heading substituted by s. 10 of Act 43 of 1997]

Control of education and training

16. (1) Notwithstanding anything to the contrary in any law contained, no person or institution may offer or provide any education or training which is intended to qualify any person to practise the profession of dental technician or dental technologist, unless such education and training have been approved by the council.

[Sub-s. (1) substituted by s. 11 (a) of Act 43 of 1997]

(2) Any person or institution intending to offer or to provide the education and training referred to in subsection (1) shall, before offering or providing the education and training, apply to the council in writing for its approval of the education and training and shall furnish such particulars regarding the education and training as the council may require.

(3) The council may approve or refuse any application made in terms of subsection (2) and may, where it approves the application, impose any condition or make any requirement it may deem fit.

(4)

[Sub-s. (4) deleted by s. 82 of Act 88 of 1996]

(5) Any person who contravenes or fails to comply with any provision of this section or any condition or requirement referred to in subsection (3) shall be guilty of an offence and on conviction liable to a fine not exceeding R10 000.

[Sub-s. (5) substituted by s. 11 (b) of Act 43 of 1997]

Unregistered persons may not practise or be trained as dental technicians or dental technologists

17. No person shall practise the profession of dental technician or dental technologist, or be educated or trained as a dental technician or a dental technologist, unless he or she is registered in terms of this Act as a dental technician, dental technologist, student dental technician or student dental technologist, as the case may be.

[S. 17 substituted by s. 12 of Act 43 of 1997]

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Registration of dental technicians and dental technologists

18. (1) Any person who intends to be registered as a dental technician or a dental technologist in terms of this Act shall apply to the council in writing and shall submit the qualification which, in his or her submission, entitles him or her to registration, together with such proof of his or her identity and of the authenticity and validity of the qualification submitted, as may be required by the council.

(2) If the council is satisfied that the qualification and the other documents submitted in support of the application comply with the requirements of this Act, it shall, upon payment of the prescribed fee, cause the necessary entry to be made in the register and the registrar shall thereupon issue a registration certificate authorising the applicant, subject to the provisions of this Act or any other law, to practise the profession of dental technician or dental technologist, as the case may be.

[S. 18 substituted by s. 13 of Act 43 of 1997]

Registration of student dental technicians and student dental technologists

19. (1) Any person who intends to be registered as a student dental technician or a student dental technologist in terms of this Act shall apply in writing to the council, and such application shall be accompanied by the prescribed particulars and registration fee.

(2) If the council is satisfied that the applicant is entitled to registration, it shall cause the necessary entry to be made in the register, and the registrar shall thereupon issue to the applicant a registration certificate in the prescribed form.

(3) The person in charge of an approved institution shall forthwith notify the council of the termination of the education and training of a student dental technician or a student dental technologist at such institution, whether by reason of the abandonment or completion of education and training or the transfer of such student to another such institution or for any other reason.

[S. 19 substituted by s. 14 of Act 43 of 1997]

Keeping of registers

20. (1) The council shall keep separate registers in respect of dental technicians, dental technologists, student dental technicians and student dental technologists, and shall enter in the appropriate register the prescribed particulars of every person whose application is granted under section 18 or 19.

[Sub-s. (1) substituted by s. 15 of Act 43 of 1997]

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(2) The council shall keep the registers correctly and in accordance with the provisions of this Act, and shall remove therefrom the names of all registered persons in terms of section 24 and shall from time to time effect the necessary alterations in the names and addresses or qualifications of registered persons.

(3) Any registered person who changes his or her name or address shall in writing notify the registrar thereof within thirty days after such change.

[Sub-s. (3) amended by s. 35 (d) of Act 43 of 1997]

(4) (a) No qualification shall be entered in the register in respect of any person if the council is satisfied that such person does not hold such qualification.

(b) Any registration which is proved to the satisfaction of the council to have been made in error or as a result of misrepresentation or in circumstances not authorized by this Act, may be removed from the register, and an entry of the reason for such removal shall be made in the register.

(c) The person whose registration is removed from the register in terms of paragraph (b), shall be notified thereof in accordance with the provisions of section 24 (2).

(d) Any certificate issued in respect of the registration in question shall be deemed to be cancelled as from the date on which notice is so given.

Council may refuse registration

21. Notwithstanding any provision to the contrary in this Act contained, the council may refuse to register any person under section 18 or 19 or to restore the name of any person to a register, if, in the opinion of the council, such person is by reason of a conviction, in the Republic or elsewhere, of a prescribed offence, not fit to practise as a dental technician or a dental technologist, or to be a student dental technician or a student dental technologist.

[S. 21 substituted by s. 16 of Act 43 of 1997]

Minister may prescribe qualifications required for registration as dental technician or dental technologist

22. The Minister may, from time to time in consultation with the council, prescribe the qualifications obtained by virtue of examinations conducted by an approved institution which shall, if possessed alone or together with another qualification, entitle the possessor thereof to registration as a dental technician or a dental technologist in terms of this Act, if he or she complies, before or in

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connection with or after the acquisition of the qualification in question, with the conditions or requirements so prescribed.

[S. 22 substituted by s. 17 of Act 43 of 1997]

Registration subject to restrictions

23. (1) The council may, subject to the provisions of subsections (2) and (3), register as a dental technician or a dental technologist, as the case may be, any person who acquired a qualification or underwent training outside the Republic if such qualification or training entitled the person to practise as a dental technician or a dental technologist, as the case may be, in the country or state in which he or she acquired the qualification or underwent the training.

[Sub-s. (1) substituted by s. 18 of Act 43 of 1997]

(2) A person registered in terms of subsection (1) as a dental technician or a dental technologist shall be entitled to practise as such, only-

- (a) for the period or periods determined by the council, during which he or she shall satisfy the council that-
 - (i) he or she possesses professional knowledge and ability of a standard not lower than that prescribed in respect of dental technicians or dental technologists in the Republic; and
 - (ii) he or she is conversant with the laws of the Republic regarding dental practice and the practising of the profession of dental technician or dental technologist;
- (b) in the area or areas determined by the council; and
- (c) subject to any further conditions determined by the council.

[Sub-s. (2) substituted by s. 18 of Act 43 of 1997]

(3) The council may, for the purposes of subsection (2) (a) (i), and shall, for the purposes of subsection (2) (a) (ii), require the person concerned to sit for an examination (whether oral, written or practical or two or more such examinations) before examiners appointed by the council.

(4) If the council is satisfied that an applicant referred to in subsection (1) complies with the requirements of this Act, it shall exempt such applicant from all restrictions imposed in respect of him or her in terms of subsection (2), and if the council is not so satisfied it shall remove such person's name from the register.

[Sub-s. (4) amended by s. 35 (d) of Act 43 of 1997]

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Restricted registration of informally trained persons

23A. (1) Notwithstanding sections 16, 17, 18 and 22, the Minister may, on the recommendation of the council, prescribe conditions in terms of which an informally trained person may be registered by the council as a dental technician in terms of this Act.

(2) The regulation contemplated in subsection (1) shall at least provide for-

- (a) the application by an informally trained person for restricted registration as a dental technician;
- (b) the establishment by the council of a selection committee to consider every application contemplated in paragraph (a);
- (c) in informally trained person to undergo a practical examination at an approved institution before he or she may obtain restricted registration as a dental technician; and
- (d) the conditions in terms of which an informally trained person who obtained restricted registration as a dental technician may practise his or her profession.

[S. 23A inserted by s. 2 of Act 24 of 2004]

Removal of names from, and restoration thereof to, register

24. (1) The council may order the registrar to remove the name of any person from the register concerned if the council is satisfied that such person-

- (a) has died;
- (b) has left the Republic permanently or has been absent from the Republic for a continuous period of more than three years without the council's permission;
- (c) has failed to pay any money which he or she owes to the council within three months after the date on which a reminder has been sent to him or her by the registrar by registered post to his or her address as entered in the register;

[Par. (c) amended by s. 35 (d) of Act 43 of 1997]

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- (d) has failed to notify the registrar, within a period of three months as from the date of a written enquiry sent by the registrar to the address appearing in the register in respect of such person, of his or her present address;

[Par. (d) amended by s. 35 (d) of Act 43 of 1997]

- (e) has requested that his or her name be removed from the register, in which case such person may be required by the registrar to lodge with the registrar an affidavit or affirmation to the effect that no disciplinary or criminal proceedings are being or are likely to be instituted against him or her.

[Par. (e) amended by s. 35 (d) of Act 43 of 1997]

(2) Notice of the removal in terms of subsection (1) of his or her name from the register or the removal in terms of section 20 (4) or 23 (4) of an entry from the register, shall be given by the registrar to the person concerned by sending a letter embodying the notice of removal to such person at the address appearing in respect of him or her in the register.

[Sub-s. (2) amended by s. 35 (d) of Act 43 of 1997]

(3) As from the date on which notice is given in terms of subsection (2)-

- (a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and

- (b) such person shall cease to practise the profession of dental technician or dental technologist, as the case may be, or to perform any act which he or she was entitled to perform as a registered person,

[Par. (b) substituted by s. 19 of Act 43 of 1997]

until such time as his or her name or the entry removed from the register in terms of section 20 (4), as the case may be, is restored to the register.

[Sub-s. (3) amended by s. 19 of Act 43 of 1997]

(4) If-

- (a) it appears to the judge referred to in section 19 of the Mental Health Act, 1973 (Act 18 of 1973), from the documents submitted to him or her in terms of section 18 (3) of that Act, or it is brought to the notice of such judge in any other manner, that the person to whom the documents relate is a person registered under this Act and such person is declared a mentally ill person as contemplated in section 19 (1) (b) of that Act; or

[Par. (a) amended by s. 35 (d) of Act 43 of 1997]

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- (b) it is brought to the notice of a court that an accused person appearing before it is registered in terms of this Act, and the court in terms of section 77 (6) or 78 (6) of the Criminal Procedure Act, 1977 (Act 51 of 1977), directs that the accused person be detained pending the signification of the decision of the President,

the judge or court shall direct that a copy of the order declaring the person concerned a mentally ill person, or, as the case may be, a copy of the direction that the accused be detained pending the signification of the decision of the President, be transmitted to the registrar, and the registrar shall on receipt of the copy remove the name of the person concerned from the register.

[Sub-s. (4) amended by s. 35 (a) of Act 43 of 1997]

(5) A name which has been removed from the register in terms of this section or an entry which has been removed from the register in terms of section 20 (4), shall be restored to the register by the registrar if the person concerned-

- (a) applies on the prescribed form for such restoration;
- (b) pays any fee prescribed in respect of such restoration;
- (c) if his or her name has been removed from the register in terms of subsection (4), submits proof to the satisfaction of the council of his or her discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he or she was detained; and
[Par. (c) amended by s. 35 (d) of Act 43 of 1997]
- (d) complies with such other requirements as the council may determine.

Custody and publication of registers

25. The registers shall be kept at the office of the council, and the registrar shall at intervals to be determined by the council and in accordance with the directions of the council, cause copies of the registers and of any supplementary lists showing any alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published.

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Receipt as proof

26. A receipt purporting to be issued by or on behalf of the council in respect of the payment of annual fees shall be prima facie proof in proceedings in a court of law that such person is registered under the provisions of this Act: Provided that in the case of any person whose name-

- (a) appears in such register, but who is unable to produce such receipt, a certificate purporting to be signed by the registrar shall be proof that such person is registered under the provisions of this Act;
- (b) has been removed from the register since the date of issue of such receipt and has not been restored to the register, a certificate purporting to be signed by the registrar and stating that the name of such person has been removed from the register, shall be proof that such person is not registered under the provisions of this Act.

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CHAPTER 3

OFFENCES AND THE CONTROL OVER ARTIFICIAL TEETH (ss 27-34)

Acts which may be performed only by dentists, clinical dental technologists, dental technicians or dental technologists

27. (1) No person other than a dentist or clinical dental technologist, shall, for gain-

- (a) supply or undertake to supply any artificial denture or other dental appliance to any person for use by that person; or
- (b) make, repair, alter or work upon, or undertake to make, repair, alter or work upon, any artificial denture or other dental appliance unless the denture or appliance, or the impression, model or other direction for making, repairing or altering of or the working upon the denture or appliance, has been or is to be delivered to him or her by a dentist or clinical dental technologist, and the denture or appliance is to be returned or delivered, as the case may be, by him or her to the dentist or clinical dental technologist.

(2) No person other than a dentist or clinical dental technologist shall-

- (a) pretend or hold himself or herself out to be entitled or prepared to supply, make, repair, alter or work upon any artificial denture or other dental appliance otherwise than in accordance with the provisions of subsection (1); or
- (b) solicit or accept, for execution by any person in contravention of subsection (1), any order for the supply, making, repair or alteration of or the working upon any artificial denture or other dental appliance.

(3) No person, other than a person referred to in subsection (9), shall for gain practise the profession of dental technician or dental technologist or perform any act specially pertaining to the profession of dental technician or dental technologist, as the case may be, unless he or she has been registered as a dental technician or a dental technologist, as the case may be, under section 18.

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(4) In any prosecution for a contravention of any provision of subsection (1) or (3), the accused shall, unless the contrary is proved, be deemed to have performed the act in respect of which the prosecution is instituted for gain.

(5) No person who is not registered under section 18 shall hold himself or herself out to be registered as a dental technician or a dental technologist or use any name, title, description or symbol indicating or calculated to lead persons to infer that he or she is registered as a dental technician or a dental technologist.

(6) (a) No dental technician shall for his or her own account practise the profession of dental technician or shall be a member of a partnership or an association of dental technicians or dental technologists which practises that profession or shall be a member of a juristic person which carries on a business in which is performed any act specially pertaining to the profession of dental technician, unless he or she has, after having been registered as a dental technician performed the work of a dental technician and has acquired a National Higher Diploma in Dental Technology.

(b) The provisions of paragraph (a) shall not apply to any person who at the commencement of this Act so practised that profession or was then such member or then had the right to practise that profession or to be such a member.

(7) (a) The prohibitions in subsections (1) and (2) shall not replace those contained in section 38 (1) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974).

(b) The provisions of subsection (2) shall not imply that any dentist or clinical dental technologist who solicits, or allows any person to solicit on his or her behalf, any order referred to in that subsection, or accepts any such order so solicited, is not guilty of improper conduct, or that an inquiry under Chapter IV of the Medical, Dental and Supplementary Health Service Professions Act, 1974, may not be instituted against any such dentist or clinical dental technologist.

(8) Subject to the provisions of sections 19, 23 and 28 no person shall employ any other person to perform the work of a dental technician or a dental technologist or any act specially pertaining to the profession of dental technician or dental technologist, as the case may be, unless such other person is registered in terms of section 18.

(9) The prohibition in subsection (3) shall not apply in respect of-

(a) a dentist or clinical dental technologist;

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- (b) a student dental technician or a student dental technologist, if the act in question is performed for purposes of his or her training in dental technology;
- (c) a person registered in terms of section 23, provided he or she observes the restrictions in respect of such registration;
- (d) a dental laboratory assistant in the employment of a dental technician or a dental technologist who performs any act referred to in paragraphs (a) to (f) of subsection (1) of section 28 in the circumstances referred to in subsection (2) of that section.
[S. 27 substituted by s. 20 of Act 43 of 1997]

Dental laboratory assistants

28. (1) Notwithstanding the provisions contained in section 27 a dentist, a clinical dental technologist, a dental technician or a dental technologist may employ an unregistered person as a dental laboratory assistant to perform the following acts specially pertaining to the profession of dental technician or dental technologist, as the case may be, namely-

- (a) all plaster work in connection with artificial dentures or dental appliances;
[Par. (a) substituted by s. 21 (b) of Act 43 of 1997]
- (b) the flasking and deflasking of a dental prosthesis or appliance using either plaster or stone plaster;
- (c) the separating of dental flasks and the boiling out of wax contents;
- (d) the polishing only of plastic and metal dentures;
- (e) the packing of acrylic dentures;
[Par. (e) added by s. 21 (c) of Act 43 of 1997]
- (f) the manufacturing of record blocks and special impression trays.
[Par. (f) added by s. 21 (c) of Act 43 of 1997]
[Sub-s. (1) amended by s. 21 (a) of Act 43 of 1997]

(2) A dental laboratory assistant may perform the acts referred to in subsection (1) only as an employee in a dental laboratory under the continuous personal supervision of a dentist, a clinical dental technologist, a dental technician or a dental technologist.

[Sub-s. (2) substituted by s. 21 (d) of Act 43 of 1997]

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(3) Any unregistered person employed as a dental laboratory assistant, as contemplated in this section, may apply to the council in the prescribed manner for registration as a dental laboratory assistant provided that-

- (a) he or she-
 - (i) has acquired such certified qualification or equivalent qualification as the council may determine; or
 - (ii) is familiar with, and has appropriate experience concerning the performance of, the acts referred to in subsection (1);
- (b) he or she has been employed as a dental laboratory assistant for a period of not less than three years in a registered dental laboratory; and
- (c) his or her application is supported by an affidavit by an owner of a registered dental laboratory.
[Sub-s. (3) added by s. 21 (e) of Act 43 of 1997]

Persons who may be owners of dental laboratories or who may conduct or supervise dental laboratories

29. (1) Subject to the provisions of section 32A, no person other than a dental technician contractor or, subject to the provisions of subsection (3), a dentist or clinical dental technologist, may be the owner of a dental laboratory.
[Sub-s. (1) substituted by s. 22 (a) of Act 43 of 1997]

(2) The provisions of subsection (1) shall not apply to-

- (a) the State;
- (b) and (c)
[Paras. (b) and (c) deleted by s. 22 (b) of Act 43 of 1997]
- (d) any university or approved institution for the training of dental technicians or dental technologists; or
[Par. (d) substituted by s. 22 (c) of Act 43 of 1997]
- (e) any medical benefit scheme registered in terms of the Medical Schemes Act, 1967 (Act 72 of 1967),

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in respect of a dental laboratory used in connection with the training of dentists, clinical dental technologists, dental technicians and dental technologists or the rendering of dental services to its employees or to members of the public.

[Sub-s. (2) amended by s. 22 (d) of Act 43 of 1997]

(3) No dentist or clinical dental technologist-

- (a) shall be the owner of a dental laboratory in which work is performed for any person who is not a patient of that dentist or clinical dental technologist;
- (b) shall supervise or conduct any dental laboratory in which work is performed for any person who is not a patient of that dentist or clinical dental technologist or the partnership, association or juristic person of which that dentist or clinical dental technologist is a member.

[Sub-s. (3) substituted by s. 22 (e) of Act 43 of 1997]

(4) Subject to the provisions of subsection (5), no person except the following persons shall supervise a dental laboratory, namely-

- (a) a dentist or clinical dental technologist, provided the dental laboratory is one of which he or she or the partnership, association or juristic person of which he or she is a member, is the owner;

[Par. (a) substituted by s. 22 (f) of Act 43 of 1997]

- (b) any person who is or was a dental technician contractor;

- (c)

[Par. (c) deleted by s. 22 (g) of Act 43 of 1997]

- (d) a dental technologist.

[Par. (d) added by s. 22 (h) of Act 43 of 1997]

(5) From a date determined by the Minister by notice in the *Gazette*, no person who has not acquired a B.Tech. Dent.Tech. degree shall supervise any dental laboratory unless he or she supervised a dental laboratory on or before the date so specified or had the right to exercise such supervision.

[Sub-s. (5) substituted by s. 22 (i) of Act 43 of 1997]

(6) No person shall conduct a dental laboratory otherwise than under the continuous personal supervision of a person referred to in subsection (4) or, from the date determined in terms of subsection (5), otherwise than under the continuous personal supervision of the holder of a degree referred to in that subsection, or of a person who supervised a dental laboratory on or before that

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date or had the right to exercise such supervision.

[Sub-s. (6) substituted by s. 22 (i) of Act 43 of 1997]

Registration of dental laboratories

30. (1) No person shall conduct a dental laboratory unless it has been registered in terms of subsection (2) or has been exempted from registration under subsection (7): Provided that the registrar may in writing authorize the owner of a dental laboratory who has applied for the registration of such laboratory in terms of subsection (3), to conduct such laboratory for a period not exceeding six months, pending the registration of the laboratory by the council.

(2) The council shall keep a register in which shall be entered the name under which every dental laboratory entitled to be registered is conducted, the address or place at which such laboratory is conducted, the name and address of the owner of such laboratory and such other particulars relating to such laboratory or owner as the council may determine.

(3) Any person who desires that a dental laboratory be registered in terms of subsection (2) shall apply for such registration in the prescribed manner.

(4) The council shall not register a dental laboratory in terms of subsection (2) unless-

- (a) the laboratory is owned by a person who in terms of section 29 is permitted to be the owner thereof;
- (b) the prescribed fees have been paid;
- (c) the laboratory complies with the prescribed conditions and requirements; and
- (d) the board is satisfied that the laboratory will be supervised and conducted by a person who is in terms of section 29 entitled to do so.

(5) The council may cancel the registration of a dental laboratory-

- (a) if the prescribed annual fee has not been paid within the period prescribed; or

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- (b) if the council is satisfied that the laboratory no longer complies with the conditions and requirements referred to in subsection (4): Provided that the council shall, in the case of a dental laboratory registered before the date of publication of the relevant condition or requirement, allow the owner of such laboratory a reasonable period to comply with such conditions and requirements; or
- (c) if the provisions of section 29 are not complied with in respect of that laboratory.

(6) If the ownership of any dental laboratory registered in terms of this Act is transferred, the registration of such laboratory shall lapse.

(7) The provisions of this section shall not apply to any dental laboratory-

- (a) of which a dentist or clinical dental technologist is the owner and in which no person other than that dentist or clinical dental technologist performs any act specially pertaining to the profession of dental technician or dental technologist, as the case may be;
[Par. (a) substituted by s. 23 (a) of Act 43 of 1997]

- (b) and (c)
[Paras. (b) and (c) deleted by s. 23 (b) of Act 43 of 1997]

Appointment, duties and powers of inspectors

31. (1) The council may appoint inspectors to exercise and perform the powers and functions referred to in subsection (5).

(2) An inspector shall be furnished with a certificate, signed by the registrar, stating that such person has been appointed as an inspector under this Act.

(3) Any inspector shall at the request of any person affected by the exercise or the performance by such inspector of any power or function referred to in subsection (5) exhibit the certificate referred to in subsection (2) to such person.

(4) No inspector shall, except for the purposes of this Act or when required to do so as a witness in a court of law, disclose any information relating to any person, partnership, association, juristic person or business acquired in the performance of his or her duties.

[Sub-s. (4) substituted by s. 24 (a) of Act 43 of 1997]

(5) An inspector may for the purposes of this Act-

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- (a) without previous notice, at any time enter any registered dental laboratory or any other premises where he or she has reasonable cause to believe that any act specially pertaining to the profession of dental technician or dental technologist is being performed or has been performed, and make such examination and enquiry as he or she deems necessary;
[Par. (a) substituted by s. 24 (b) of Act 43 of 1997]
- (b) while he or she is on the premises or at any other time require from any person the production, then and there, or at a time and place determined by the inspector, of any book, document or thing which by this Act is required to be kept or exhibited or which relates to or which he or she has reasonable cause to suspect relates to matters dealt with in this Act and which is or has been on the premises or in the possession or custody or under the control of any such person or his or her employee;
[Par. (b) amended by s. 35 (d) of Act 43 of 1997]
- (c) at any time and at any place require from any person who has or is believed to have the possession or custody or control of any book, document or thing relating to any matter dealt with in this Act, the production thereof then and there, or at a time and place determined by the inspector; and
- (d) examine and make extracts from and copies of any such book or document, and may require from any person an explanation of any entry therein and may attach any such book, document or thing as in his or her opinion may afford evidence of an offence under this Act.
[Par. (d) amended by s. 35 (d) of Act 43 of 1997]

Discount, commission or remuneration, and direct billing of patient or medical aid scheme

32. (1) No dental technician or dental technologist shall offer or allow to or accept from any dentist any discount on the tariff of fees determined under section 12 (1) (b), or may in connection with his or her work as a dental technician or dental technologist, as the case may be, offer, allow or pay any commission or remuneration to a dentist, and no dentist may propose, offer, allow or accept such discount, commission or remuneration to or from any dental technician or dental technologist.

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(2) A dental technician contractor may, from a date determined by the Minister by notice in the *Gazette*, directly claim from the patient or medical aid scheme concerned for services rendered.

[S. 32 substituted by s. 25 of Act 43 of 1997 and by s. 3 of Act 24 of 2004]

Performance of certain acts or carrying on of certain business by partnership, association or juristic person

32A. (1) The performance of any act specially pertaining to the profession of dental technician or dental technologist, as the case may be, may be carried on in partnership: Provided that all members of such partnership shall be either dentists or clinical dental technologists on the one hand, or dental technicians or dental technologists or both, on the other hand.

(2) The performance of any act specially pertaining to the profession of dental technician or dental technologist, as the case may be, may be carried on in association: Provided that-

- (a) written proof of the formation of the association, including the names of all associates, shall be submitted to the council together with the application for registration of the dental laboratory;
- (b) the associates shall annually before 31 March submit an affidavit to the council confirming the continued existence of the association and re-stating the names of all associates;
- (c) in the case of an association of dentists or clinical dental technologists conducting a dental laboratory, only work for the patients of that association shall be done in that laboratory;
- (d) all the associates practise their profession and operate the laboratory on the same premises:

Provided further that all members of such association shall be either dentists or clinical dental technologists on the one hand, or dental technicians or dental technologists or both, on the other hand.

(3) (a) Subject to paragraph (b), a juristic person being an incorporated company or a close corporation may carry on any business involving the performance of any act specially pertaining to the profession of dental technician or dental technologist, as the case may be, as long as all the members of such juristic person are either dentists or clinical dental technologists on the one hand, or dental technicians or dental technologists or both, on the other hand.

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(b) If the members of such juristic person are dentists or clinical dental technologists conducting a dental laboratory, they may only perform work in the laboratory for patients of that juristic person and all the members of the juristic person shall practise their profession and conduct the laboratory on the same premises.

[Sub-reg. (3) substituted by s. 4 of Act 24 of 2004]

[S. 32A inserted by s. 26 of Act 43 of 1997]

Trading in and possession of unmounted artificial teeth

33. (1) No person other than a dentist, a clinical dental technologist or a dental technician contractor shall manufacture, import, buy or be in possession of any unmounted artificial teeth except under a permit issued in accordance with subsection (3): Provided that-

- (a) a dentist or clinical dental technologist may manufacture, import, buy or be in possession of unmounted artificial teeth solely for the purpose of supplying such artificial teeth to persons treated by him or her in the exercise of his or her practice as a dentist or clinical dental technologist, as the case may be; and
- (b) a dental technician contractor may manufacture, import, buy or be in possession of unmounted artificial teeth solely for the purpose of supplying such teeth to a dentist or clinical dental technologist in accordance with the provisions of this Act.

[Sub-s. (1) substituted by s. 27 of Act 43 of 1997]

(2) No person shall supply any unmounted artificial teeth to any person who is not a dentist, a clinical dental technologist, a dental technician contractor or the holder of a permit issued under subsection (3).

[Sub-s. (2) substituted by s. 27 of Act 43 of 1997]

(3) The council may, subject to the prescribed conditions and upon payment of the prescribed fees, issue a permit to any person authorizing such person to manufacture, import, buy or be in possession of unmounted artificial teeth for the purpose of supplying such artificial teeth to a dentist, a clinical dental technologist, a dental technician contractor or a person who is the holder of a permit issued under this section.

[Sub-s. (3) substituted by s. 27 of Act 43 of 1997]

(4) The conditions referred to in subsection (3) may authorize the board to withdraw, or suspend for a particular period, any permit in any case where any of the conditions subject to which the permit has been granted is not complied with.

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Register of transactions in unmounted artificial teeth

34. Any person to whom a permit has been issued under section 33 (3) shall keep a register in the prescribed form wherein he or she shall enter the prescribed particulars relating to all unmounted artificial teeth which he or she has manufactured, imported, bought, sold or supplied, or which he or she has in his or her possession, and shall at all reasonable times, at the request of any police official as defined in section 1 of the Criminal Procedure Act, 1977 (Act 51 of 1977), of or above the rank of sergeant or any inspector, produce such register and any unmounted artificial teeth which are in his or her possession, for the inspection of such policeman or inspector.

[S. 34 amended by s. 35 (d) of Act 43 of 1997]

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CHAPTER 4

DISCIPLINARY POWERS OF THE COUNCIL (ss 35-43)

Inquiry by council into charge of misconduct

35. (1) The council may institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any person registered under this Act and, on finding such person guilty of such conduct, may impose any of the penalties referred to in section 36 (1): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the council may postpone the holding of an inquiry until such case has been disposed of.

(2) Whenever the council is in doubt as to whether an inquiry should be held, it may in connection with the complaint, charge or allegation in question consult with, or seek information from, any person, including the person against whom the complaint, charge or allegation has been lodged.

Matters for, and procedure at, inquiry by council

36. (1) Any person registered under this Act who, after the holding of an inquiry referred to in section 35, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, shall be liable to one or other of the following penalties-

- (a) a caution or a reprimand or a reprimand and a caution; or
- (b) suspension for a specified period from practising or performing acts specially pertaining to his or her profession; or
[Par. (b) amended by s. 35 (d) of Act 43 of 1997]
- (c) removal of his or her name from the register; or
[Par. (c) amended by s. 35 (d) of Act 43 of 1997]
- (d) in the case of a student dental technician or a student dental technologist, extension of the prescribed period of education and training; or
[Par. (d) substituted by s. 28 (a) of Act 43 of 1997]
- (e) a fine not exceeding R10 000.
[Par. (e) added by s. 28 (b) of Act 43 of 1997]

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(2) Any person whose conduct is being inquired into in terms of section 35 shall be afforded an opportunity, by himself or herself or through his or her legal representative, of answering the charge and of being heard in his or her defence.

[Sub-s. (2) amended by s. 35 (d) of Act 43 of 1997]

(3) Any penalty imposed under subsection (1) shall be reduced to writing, and shall be signed by the president of the council and shall be made known to the bodies and persons prescribed, and thereafter such writing shall be dealt with in the prescribed manner.

(4) (a) The council or a committee referred to in section 11 (1) (a) may for the purposes of all inquiry take evidence and may, under the hand of the president of the council or the chairperson of such committee or the registrar, summon any witness and require the production of any book, record, document or thing, and may, through the president or such chairperson, administer an oath or affirmation to any witness, and may examine any book, record, document or thing which a witness has been required to produce.

[Par. (a) amended by s. 35 (b) of Act 43 of 1997]

(b) A summons to appear before the council or the committee as a witness or to produce to it any book, record, document or thing, shall be, as nearly as practicable, in the prescribed form and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it had been a subpoena in a civil matter in a magistrate's court.

(c) Any person summoned under this subsection shall obey the summons and any person who, having been duly summoned-

- (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
- (ii) refuses to take the oath or to make an affirmation when required by the president of the council or the chairperson of the committee concerned to do so;
[Sub-par. (ii) amended by s. 35 (b) of Act 43 of 1997]
- (iii) refuses to produce any book, record, document or thing which he or she has in terms of the summons been required to produce; or
[Sub-par. (iii) amended by s. 35 (d) of Act 43 of 1997]

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- (iv) attends before the council or committee but refuses to answer, or to answer fully and satisfactorily to the best of his or her knowledge and belief, any question lawfully put to him or her,
[Sub-par. (iv) amended by s. 35 (d) of Act 43 of 1997]

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000: Provided that a person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

[Sub-s. (4) amended by s. 28 (c) of Act 43 of 1997]

(5) The president of the council, where the council itself holds an inquiry, or the chairperson of a committee of the council, where such committee holds an inquiry under powers delegated to it by the council, shall appoint a person with adequate experience in the administration of justice as an assessor at such an inquiry to advise the council or such committee, as the case may be, on matters of law, procedure or evidence.

[Sub-s. (5) amended by s. 35 (b) of Act 43 of 1997]

(6) The council may on such conditions as it may determine-

- (a) terminate any suspension under subsection (1) before the expiry of the specified period;
- (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom.

(7) In any case in which the evidence in support of any complaint, charge or allegation is of a documentary nature, and in any other case which the council may think fit, the registrar may act as pro forma complainant in terms of this section.

(8) (a) A fine imposed under subsection (1) (e) shall be paid to the council within 14 days after such imposition.

(b) The imposition of a fine under subsection (1) (e) shall have the effect of a judgment in civil proceedings in the magistrate's court of the district in which the inquiry in terms of section 35 took place.

(c) The Minister may on the recommendation of the council amend the amount mentioned in subsection (1) (e) by notice in the *Gazette*.

[Sub-s. (8) added by s. 28 (d) of Act 43 of 1997]

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Ss.37-38

Act No. 19 of 1979

Postponement of imposition, and suspension of execution, of penalty

37. (1) Where the council finds a person referred to in section 36 (1) guilty of conduct referred to therein, it may-

- (a) postpone for such period and on such conditions as it may determine, the imposition of a penalty; or
- (b) impose any penalty mentioned in section 36 (1) (b) or (c), but order the execution of the penalty to be suspended for such period and on such conditions as it may determine.

(2) (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (a), the council is satisfied that the person concerned has observed all the relevant conditions, the council shall inform him or her that no penalty will be imposed upon him or her.

[Sub-s. (2) amended by s. 35 (d) of Act 43 of 1997]

(b) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the council is satisfied that the person concerned has observed all the relevant conditions throughout the period of suspension, the council shall inform him or her that the execution of the penalty will not be put into operation.

[Par. (b) amended by s. 35 (d) of Act 43 of 1997]

(c) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the council shall put the penalty into operation unless such person satisfies the council that the non-observance of the condition in question was due to circumstances beyond his or her control.

[Par. (c) amended by s. 35 (d) of Act 43 of 1997]

Effect of suspension, or removal from register

38. Any person who has been suspended or whose name has been removed from the register in terms of section 36 shall, if his or her profession is one which cannot be lawfully carried on under this Act by a person who is not registered, be disqualified from carrying on his or her profession, and his or her registration certificate shall be deemed to be withdrawn, until the period of suspension has expired or until his or her name has been restored to the register by the council.

[S. 38 amended by s. 35 (d) of Act 43 of 1997]

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Ss.39-42

Act No. 19 of 1979

Cognizance by council of conduct of registered persons under certain circumstances

39. (1) Any registered person who, either before or after registration, is convicted of any offence by a court of law in the Republic or elsewhere, may be dealt with by the council in terms of the provisions of this Chapter if the council is of the opinion that such offence constitutes conduct referred to in section 36 (1), and such person shall, upon proof of the conviction, be liable to one or other of the penalties referred to in that section: Provided that such person shall, before any penalty is imposed, be afforded an opportunity of tendering an explanation to the council in extenuation of the conduct in question.

(2) Whenever in the course of any criminal proceedings it appears to the court that there is *prima facie* proof of conduct referred to in section 36 (1) on the part of a registered person, the court shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the conduct, be transmitted to the council.

Penalty for false evidence

40. Any person who gives false evidence on oath or affirmation at an inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties applicable in respect of the crime of perjury.

Limitation of liability

41. Save as provided in this Act the council or a committee of the council or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

Acts or omissions in respect of which disciplinary action may be taken

42. The Minister shall from time to time, on the recommendation of the council, by notice in the *Gazette* specify the acts or omissions in respect of which the council may take disciplinary action under this Chapter: Provided that the powers of the council to inquire into and deal with any complaint, charge or allegation under this Chapter, shall not be limited to the acts or omissions so specified.

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S.43

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Restriction in, or suspension from, practice of registered person

43. (1) Whenever it appears to the council that any registered person-

(a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him or her to continue to practise; or

[Par. (a) amended by s. 35 (d) of Act 43 of 1997]

(b) has become addicted to the use of any scheduled substance, the council shall cause the matter to be investigated and may, if it deems it necessary, hold an inquiry, *mutatis mutandis* in accordance with the provisions of section 35 and the regulations in respect of such a person.

(2) If the council, after holding an inquiry under subsection (1), finds that any circumstance contemplated in subsection (1) exists in respect of the person concerned, it may by order-

(a) suspend such person for a specified period from practising his or her profession or performing any act specially pertaining to his or her profession; or

[Par. (a) amended by s. 35 (d) of Act 43 of 1997]

(b) impose such conditions as it may deem fit subject to which such person shall be entitled to continue practising his or her profession.

[Par. (b) amended by s. 35 (d) of Act 43 of 1997]

(3) The council may extend for any period the period of operation of any order made under subsection (2), or withdraw or in any other manner amend such order.

(4) The provisions of section 38 shall *mutatis mutandis* apply in respect of any person who has been suspended in terms of any provision of subsection (2).

(5) Any registered person who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000.

[Sub-s. (5) amended by s. 29 of Act 43 of 1997]

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CHAPTER 5

GENERAL AND SUPPLEMENTARY PROVISIONS (ss 44-52)

Penalty for false representation inducing registration, for false entries in register and for impersonation

44. Any person who-

- (a) procures for himself or herself or any other person registration under this Act, or any certificate, permit or receipt referred to in this Act, by means of a false representation, whether verbally or in writing;
[Par. (a) substituted by s. 30 (a) of Act 43 of 1997]
- (b) makes any unauthorized entry or alteration in or removal from a register or certified copy thereof or extract therefrom or on any certificate, permit or receipt issued under this Act;
- (c) wilfully destroys or damages or renders illegible any entry in the register or, without the permission of the holder thereof, any certificate, permit or receipt issued under this Act;
- (d) forges or, knowing it to be forged, utters any document purporting to be a certificate, permit or receipt issued under this Act;
- (e) impersonates any person registered in terms of this Act; or
- (f) makes a false declaration on any identification envelope issued in connection with an election contemplated in section 5 (1) (c), (d) or (e),

shall be guilty of an offence and liable on conviction to a fine not exceeding R40 000.

[S. 44 amended by s. 30 (b) of Act 43 of 1997]

Presumptions

45. (1) In any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered or who is not in possession of any document specified in the charge, the accused shall be deemed not to have

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been registered or not to have been in possession of such document at the time of the commission of the alleged offence unless the accused proves the contrary.

(2) In any criminal proceedings against any person appearing upon a charge of having performed an act which constitutes an offence under this Act if performed by him or her for gain, such person shall be deemed to have performed such act for gain if he or she has accepted any valuable consideration in respect of such act.

[Sub-s. (2) amended by s. 35 (d) of Act 43 of 1997]

Limitations in respect of persons not registered

46. (1) No remuneration shall be recoverable in respect of any act specially pertaining to the profession of a registered person when performed by a person who is not authorized under this Act to perform such act for gain.

(2) No person, other than a registered person, shall be eligible for or entitled to hold any appointment if such appointment involves the performance of any act which a person who is not registered may in terms of the provisions of this Act not perform for gain: Provided that nothing in this subsection contained shall be construed as prohibiting the education and training of any student in dental technology, or the employment of any student dental technician or any student dental technologist in any authorised dental laboratory with a view to registration under section 18.

[Sub-s. (2) amended by s. 31 of Act 43 of 1997]

Penalties

47. (1) Any person who contravenes any provision of this Act or who fails to comply with any such provision with which it is his or her duty to comply, shall, even where such contravention or failure is not elsewhere declared an offence, be guilty of an offence.

[Sub-s. (1) amended by s. 35 (d) of Act 43 of 1997]

(2) Any person guilty of an offence under this Act shall, where no punishment is expressly provided for such offence, be liable on conviction to a fine not exceeding R10 000.

[Sub-s. (2) substituted by s. 32 (a) of Act 43 of 1997]

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(3) Any person who-

- (a) contravenes or fails to comply with the provisions of section 27, 28, 29, 30 or 33;
- (b) contravenes or fails to comply with any condition of a permit issued under section 33;
- (c)
 - (i) hinders or obstructs an inspector in the exercise of his or her powers or the performance of his or her duties under section 31;
 - (ii) without valid excuse refuses or fails to answer to the best of his or her ability any question which an inspector in the exercise of his or her powers or the performance of his or her duties under the said section has put to him or her;
 - (iii) refuses or fails to comply to the best of his or her ability with any requirement made by an inspector in the exercise of his or her powers or the performance of his or her duties under the said section;
 - (iv) wilfully furnishes to any inspector any information which is false or misleading;
 - (v) falsely holds himself or herself out to be an inspector;
[Par. (c) substituted by s. 32 (b) of Act 43 of 1997]
- (d) contravenes or fails to comply with any determination made in terms of section 12,

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000.

[Sub-s. (3) amended by s. 32 (c) of Act 43 of 1997]

(4) Any person who contravenes or fails to comply with the provisions of section 32, 32A or 34 shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000.

[Sub-s. (4) substituted by s. 32 (d) of Act 43 of 1997]

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Forfeiture

48. The court convicting any person of a contravention of section 27, 29, 30 or 33 or of a failure to comply with the conditions of a permit issued under section 33 (3), may declare any unmounted artificial teeth in connection with which the contravention has taken place, or any material or equipment used for the purposes of or in connection with the contravention, to be forfeited to the State, and such teeth, material or equipment may thereupon be sold or otherwise disposed of as the Director-General may direct.

[S. 48 amended by s. 35 (c) of Act 43 of 1997]

Annual fees payable to council

49. (1) (a) The Minister may on the recommendation of the council at any time by notice in the *Gazette* fix a fee to be paid annually to the council by every dentist, clinical dental technologist, dental technician and dental technologist.

(b) Different fees may be fixed in respect of dentists, clinical dental technologists, dental technicians and dental technologists.

[Sub-s. (1) substituted by s. 33 (a) of Act 43 of 1997]

(2) If any person liable to pay any annual fee fixed in terms of subsection (1), fails to pay such fee within the period specified in the notice in question, the council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of the provisions of section 24 (1) (c), such person's name shall not be restored to the register unless he or she has paid any annual fees which may be payable by him or her.

[Sub-s. (3) amended by s. 35 (d) of Act 43 of 1997]

(4) The council may by resolution exempt for an indefinite or definite period any dentist, clinical dental technologist, dental technician or dental technologist specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

[Sub-s. (4) substituted by s. 33 (b) of Act 43 of 1997]

Regulations

50. (1) The Minister may on the recommendation of the council make regulations relating to-

- (a) (i) the election of members of the council who shall be elected in terms of sections 5 (1) (c), (d) or (e);

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- (ii) the requirements with which a nomination of a candidate for election as a member of the council shall comply;
- (b) the conduct of the business, and the procedure at meetings, of the council and committees of the council and the manner in which minutes of such meetings shall be kept;
- (c) the allowance which may be paid to members of the council and of committees of the council when occupied with the affairs of the council: Provided that-
 - (i) the allowance which may be paid to any such member who is in the full-time service of the State shall not exceed the allowances to which he or she would be entitled in terms of the laws governing the public service;
[Sub-par. (i) amended by s. 35 (d) of Act 43 of 1997]
 - (ii) no such member shall be required to pay into the State Revenue Fund any such allowances;
- (d) the conditions of employment of the registrar and other persons and inspectors appointed by the council in terms of sections 13 (1) and 31;
- (e) the determination and payment of annual fees payable by the owner of a dental laboratory and any other prescribed fees;
- (f)
 - (i) the registration by the council of students in dental technology who are studying at an approved institution, the fees payable in respect of such registration and the removal from the relative registers by the council of the names of such students so registered;
 - (ii) the standards of general education required of such students as a prerequisite for such registration;
 - (iii) the duration of the curricula to be followed by such students at such institutions;
 - (iv) the minimum requirements of the curricula and the standards of education and examinations in dental technology which shall be maintained at any institution approved by the council for training in dental technology in order to obtain recognition under this Act of the

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qualifications in dental technology obtained at such institution;

- (g) (i) the nature and duration of the training to be undergone by any person who has obtained a qualification in dental technology prescribed under section 22, but who has not yet been registered as a dental technician or a dental technologist, as the case may be, the examination which the council may conduct in order to determine the competence of such a person and the period within which such a person shall pass the examination before he or she may be registered as a dental technician or a dental technologist, as the case may be;
[Sub-par. (i) substituted by s. 34 (a) of Act 43 of 1997]
- (ii) the registration by the council of persons undergoing such training and the fees payable in respect of such registration;
- (iii) the fees payable by candidates for such examinations;
- (iv) the appointment and remuneration of examiners for such examinations;
- (v) the issue of certificates by the council, and any other matter connected with such examinations or the issue of such certificates;
- (h) (i) the registers to be kept, and the permits and certificates that may be issued, in terms of this Act, the particulars which shall be recorded in the registers and the manner in which alterations may be effected in the registers;
- (ii) the conditions on which extracts from the registers and duplicate registration certificates may be made, including the payment of fees in respect thereof;
- (iii) the particulars to be furnished to the council to enable it to keep the registers;
- (iv) the form of the registers and or the certificates and permits which may be issued under this Act and the employees of the council who may issue such certificates or permits on instructions of the council;

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- (v) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the registers;
- (i) (i) the approval by the council of registered dental laboratories where persons may undergo practical training in dental technology and the accommodation, facilities, equipment and materials to be provided in such laboratories;
- (ii) the information to be rendered to the council by the person in control of such laboratories in respect of persons being trained at such laboratories or who have completed or abandoned such training;
- (j) (i) the qualifications required of candidates for supplementary courses or any other courses and examinations conducted or arranged by the council;
- (ii) the conditions subject to which candidates may be permitted to such courses or examinations, the fees payable by candidates, the appointment and remuneration of lecturers and examiners and any other matter incidental to such courses or examinations;
- (k) the conduct of an inquiry under Chapter 4, including-
 - (i) the manner in which a complaint, charge or allegation against a registered person shall be lodged;
 - (ii) the form of a summons and subpoena for the attendance of the registered person whose conduct is being investigated or of a witness at an inquiry, or for the production of any book, record, document or thing; and
 - (iii) the manner of instituting, and the procedure to be followed at, an inquiry, the appointment of a pro forma prosecutor and any other matter connected with the institution or holding of an inquiry;
- (l) the acts which shall for the purpose of this Act be deemed to be acts specially pertaining to the profession of dental technician or dental technologist, the scope of the employment of other registered persons, and the conditions under which registered persons may practise their professions;
[Par. (l) substituted by s. 34 (b) of Act 43 of 1997]

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- (m) the manner in which the accounts of the council shall be kept;
- (n) the circumstances, in addition to the circumstances referred to in this Act, in which any name may be removed from, or restored to, a register;
- (o) the books, accounts and records to be kept and the particulars to be entered therein by-
 - (i) an employer of a dental technician, dental technologist, student dental technician, student dental technologist and dental laboratory assistant; and
 - (ii) a dental technician contractor in respect of work done as a dental technician or a dental technologist for any dentist;
[Par. (o) substituted by s. 34 (c) of Act 43 of 1997]
- (p)
 - (i) the form in which and the conditions subject to which permits may be issued under section 33 (3) and the fees payable for such permits;
 - (ii) the form in which the register referred to in section 34 shall be kept and the particulars which shall be entered in such register;
- (q) occupational health conditions concerning harmful practices occurring, and the use of hazardous substances, in all dental laboratories;
[Par. (q) added by s. 34 (d) of Act 43 of 1997]
- (qA) the conditions on which an informally trained person may be registered by the council as a dental technician in terms of section 23A;
[Par. (qA) inserted by s. 5 (a) of Act 24 of 2004]
- (r) generally, any matter which in terms of this Act is required to be, or may be, prescribed or which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.
[Par. (r) added by s. 34 (e) of Act 43 of 1997]
[Sub-s. (1) amended by s. 34 (e) of Act 43 of 1997]

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(2) The Minister may, after consultation with the executive committee of the council, if the Minister deems it in the public interest, without the recommendation of the council make regulations relating to any of the matters referred to in subsection (1), or amend or repeal any regulation made in terms of that subsection.

[Sub-s. (2) substituted by s. 34 (f) of Act 43 of 1997]

(3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of R2 000.

[Sub-s. (3) substituted by s. 34 (f) of Act 43 of 1997]

(4) Any notice issued or order made under this Act may from time to time be amended or revoked by the authority which issued or made it.

(5) The Minister shall, not less than three months before any regulation is made in terms of this Act, cause the text of such draft regulation to be published in the *Gazette* together with a notice declaring his or her intention to make such regulation and inviting interested persons to furnish him or her with comments thereon or any representations they wish to make in regard thereto.

(6) The provisions of subsection (5) shall not apply in respect of-

- (a) any regulation which, after the provisions of subsection (5) have been complied with, has been amended by the Minister in consequence of representations received by him or her in pursuance of the notice issued thereunder; and
- (b) any regulation in respect of which the Minister is advised by the council that the public interest requires it to be made without delay.

[Sub-ss. (5) and (6) inserted by s. 5 (b) of Act 24 of 2004]

Repeal of laws

51. (1) Subject to the provisions of subsection (2), the Dental Mechanics Act, 1945 (Act 30 of 1945), the Dental Mechanics Amendment Act, 1947 (Act 33 of 1947), the Dental Mechanics Amendment Act, 1954 (Act 8 of 1954), the Dental Mechanics Amendment Act, 1972 (Act 43 of 1972), and the Dental Mechanics Amendment Act, 1976 (Act 17 of 1976), are hereby repealed.

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(2) Any proclamation, notice, regulation, rule, authorization or order issued, made or granted, or any registration, removal from a register, appointment or any other thing done, in terms of a provision of any Act repealed by subsection (1), shall be deemed to have been issued, made, granted or done under the corresponding provision of this Act.

(3) Any person registered under the Dental Mechanics Act, 1945, as a dental mechanic and whose registration as such was immediately before the commencement of this Act still in force, shall for the purposes of this Act be deemed to be registered as a dental technician in terms of section 18 of this Act.

(4) The members of the council as constituted immediately prior to the commencement of this Act shall continue to be members thereof, and the council shall be deemed to be duly constituted in terms of this Act, until a date determined by the Minister and published in the *Gazette*.

(5) If any member referred to in subsection (3) vacates his or her office the council shall, until the date referred to in that subsection, consist of the remaining members.

[Sub-s. (5) amended by s. 35 (d) of Act 43 of 1997]

Short title and commencement

52. This Act shall be called the Dental Technicians Act, 1979, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.