



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 120 of 1974

An Act to provide for the Registration of Occupational Therapists, and for other purposes.

[Assented to 5th December, 1974]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Occupational Therapists Act, 1974". Short title.

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

3. In this Act, unless the contrary intention appears— Definitions.
 - "the Board" means the Occupational Therapists Registration Board of South Australia:
 - "medical practitioner" means a legally qualified medical practitioner:
 - "member", in relation to the Board, means a member of the Board, and includes the member who is, for the time being, chairman of the Board:
 - "occupational therapist" means a person who initiates, supervises or controls any therapeutic activity of a kind commonly prescribed or recommended by medical practitioners or other professional workers concerned with health care for the amelioration or alleviation of physical or mental disorders or disabilities; and "occupational therapy" has a corresponding meaning:
 - "register" means the register kept pursuant to section 9 of this Act:
 - "registered" means registered under this Act; and "registration" has a corresponding meaning:
 - "Registrar" means the person for the time being holding, or acting in, the office of Registrar.

Establishment
of the Board.

4. (1) There shall be a Board entitled the "Occupational Therapists Registration Board of South Australia".

(2) The Board—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;
- (c) may in its corporate name and capacity sue and be sued;
- and
- (d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purporting to bear the common seal of the Board is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—

- (a) that the document bears the common seal of the Board;
- and
- (b) that the common seal was duly affixed.

Composition of
the Board.

5. (1) The Board shall consist of seven members appointed by the Governor, of whom—

- (a) one, who shall be chairman, shall be a legal practitioner nominated by the Minister;
- (b) one shall be the Director-General of Medical Services, or a person nominated by him;
- (c) one shall be a medical practitioner nominated by the Minister;
- (d) one shall be an occupational therapist nominated by the Minister;
- (e) one shall be a person nominated by the Council of the South Australian Institute of Technology;
- and
- (f) two shall be occupational therapists nominated by the Australian Association of Occupational Therapists South Australian Division Incorporated and approved of by the Minister.

(2) Any occupational therapist appointed to membership of the Board under paragraph (d) or paragraph (f) of subsection (1) of this section after the first appointments have been made under those paragraphs must be a registered occupational therapist.

Terms and
conditions of
office.

6. (1) Subject to this Act, a member of the Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) If a member of the Board is unable, or fails, for any reason to act in his capacity as a member, the Governor may appoint a suitable person to be a deputy of the member, and such a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove a member of the Board from office for—

- (a) mental or physical incapacity;
- (b) neglect of duty;
- (c) dishonourable conduct;
- or
- (d) any other cause considered sufficient by the Governor.

(4) The office of a member of the Board shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

7. (1) Three members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present. Quorum, etc., of the Board.

(2) The chairman shall preside at any meeting of the Board at which he is present.

(3) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(4) Each member present at a meeting of the Board shall be entitled to one vote on any matter arising for decision at that meeting, and the member presiding at the meeting shall, in addition to a deliberative vote, have a second or casting vote.

(5) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

8. (1) No act or proceeding of the Board shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member and any such act or proceeding shall be as valid and effectual as it would have been if the vacancy or defect had not existed. Validity of acts, etc., of the Board.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise, or purported exercise, of his or its powers or in the discharge, or purported discharge, of his or its duties under this Act.

Registrar, etc.

9. (1) The Board may appoint a person approved by the Minister to be Registrar of the Board and may appoint, with the approval of the Minister, such other employees as it considers necessary for the administration of this Act.

(2) The Registrar shall keep a register in which the names of all registered occupational therapists shall be entered.

Funds, etc.

10. (1) The assets of the Board shall consist of—

(a) all money received by way of fees;

(b) all gifts, devises and bequests made to the Board;

and

(c) all money or property which is acquired by the Board for any of the purposes of this Act.

(2) The Board may apply any of its funds—

(a) in payment of the expenses incurred by the Board in the administration of this Act, including the remuneration of the members of the Board, the Registrar, and other employees of the Board;

(b) in the furtherance of education and research in occupational therapy; and

(c) in the acquisition and maintenance of property which is necessary for the purposes of the Board.

(3) The Board shall cause proper accounts to be kept of its financial affairs.

(4) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Board.

(5) The provisions of section 41 of the Audit Act, 1921-1973, shall apply and have effect as if the Board were a public corporation referred to in that section.

Entitlement to registration.

11. (1) A person who proves to the satisfaction of the Board—

(a) that he is of good character;

(b) that he is competent in the use of the English language;

(c) that he—

(i) holds any of the prescribed qualifications for registration;

(ii) was engaged in the practice of occupational therapy in this State for at least thirty-six months (which may be continuous or discontinuous) during a period of four years last preceding the commencement of this Act;

or

(iii) holds qualifications in occupational therapy obtained in another country, which are recognized by the Board;

and

(d) that he is competent in the practice of occupational therapy, and has paid the prescribed fee to the Board is entitled, subject to this Act, to be registered under this Act as an occupational therapist.

(2) The Board shall not consider any application in which the applicant seeks to prove to the satisfaction of the Board that he has experience in the practice of occupational therapy in accordance with subparagraph (ii) of paragraph (c) of subsection (1) of this section unless that application is made within six months after the commencement of this Act.

12. (1) Subject to this Act, registration shall remain in force until the first day of July next ensuing after the grant of the registration. Renewal of registration.

(2) An application for the renewal of registration under this Act must be made in the prescribed form and must be accompanied by the prescribed fee.

(3) The application should be delivered to the Registrar not later than the last day of May preceding the expiry of the registration but the Board may, if it thinks fit, accept and deal with an application notwithstanding that it is delivered out of time.

(4) Where due application is made for the renewal of registration, the Board shall renew the registration for a period of twelve months expiring on the first day of July next ensuing after the expiration of the previous period of registration.

13. (1) The Registrar may of his own motion and shall at the direction of the Board, make any investigation that he or the Board considers necessary or expedient for the purpose of determining any application, or other matter before the Board. Registrar's powers of investigation.

(2) The Registrar shall make a written report upon every such investigation to the Board.

14. (1) The Board may, upon the complaint of any person, or of its own motion, inquire into the conduct of any registered occupational therapist. Inquiries.

(2) If, after conducting an inquiry under subsection (1) of this section, the Board is satisfied that the registered occupational therapist is unable, by virtue of some physical or mental illness or deficiency, properly to practise as an occupational therapist, it may de-register the occupational therapist and disqualify him temporarily or permanently from obtaining or holding registration under this Act.

(3) If, after conducting an inquiry under subsection (1) of this section, the Board is satisfied that the registered occupational therapist has been guilty of unprofessional conduct, the Board may exercise any one or more of the following powers:—

(a) it may censure the registered occupational therapist;

(b) it may impose a fine not exceeding two hundred dollars upon the registered occupational therapist;

or

(c) it may de-register the occupational therapist and disqualify him from obtaining or holding registration temporarily or permanently.

(4) Any fine imposed under this section may be recovered summarily by the Registrar.

15. (1) The Board shall give to the registered occupational therapist whose conduct is the subject of an inquiry and to any person upon whose application an inquiry is to be held, not less than seven days' notice of the time and place at which it intends to conduct the inquiry and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board. Procedure in relation to inquiry.

(2) If a person to whom notice has been given pursuant to subsection (1) of this section does not attend at the time and place fixed by the notice, the Board may hold the inquiry in his absence.

(3) The procedure at an inquiry shall be determined by the Board.

(4) Where the conduct of any registered occupational therapist becomes the subject of an inquiry conducted by the Board, he may be represented by counsel at the inquiry.

Powers of
Board as a
disciplinary
tribunal.

16. (1) For the purposes of an inquiry the Board may—

- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person whom the Board thinks fit to call before it;
- (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relevant to any matter being inquired into by the Board, which oath or affirmation may be administered by any member of the Board;

or

- (e) require any person appearing before the Board including the person whose conduct is the subject of the inquiry (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3) of this section, if any person—

- (a) who has been served with a summons to attend before the Board neglects or fails to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents, neglects or fails to comply with the summons;
- (c) misbehaves himself before the Board, wilfully insults the Board or any member thereof, or interrupts the proceedings of the Board;

or

- (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) A person shall not be obliged to answer a question put to him by the Board if the answer to that question would tend to incriminate him or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In the course of an inquiry the Board may—

(a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact therefrom that it considers proper;

or

(b) adopt, as in its discretion it considers proper, any findings or judgment of a court that may be relevant to the proceedings.

17. (1) The Board may, upon the determination of an inquiry under this Act, make such orders as to costs as the Board thinks just and reasonable. Fee or costs.

(2) Where the Board makes an order for the payment of a fine or costs against a person registered under this Act and the fine or costs are not paid within the time fixed by the Board, the Board may suspend the registration of that person until the fine or costs are paid, or for such period as the Board thinks fit.

(3) Where the Board has ordered the payment of a fine or costs, the fine or costs shall be recoverable summarily.

18. (1) A right of appeal to the Supreme Court shall lie against any order of the Board made in the exercise or purported exercise of any of its powers or functions under this Act. Appeal.

(2) The appeal must be instituted within one month of the making of the order appealed against but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The Supreme Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case—

(a) affirm, vary or quash the order appealed against, or substitute, or make in addition, any order that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Board for further hearing or consideration;

(c) make any further or other order as to costs or any other matter that the case requires.

(4) The Board shall, if so required by any person against whom an order has been made, state in writing the reasons for its order.

(5) If the reasons of the Board are not given in writing at the time of making an order and the appellant then requested the Board to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

19. (1) Where an order has been made by the Board and the Board or the Supreme Court is satisfied that an appeal against the order has been instituted, it may suspend the operation of the order until the determination of the appeal. Operation of order may be suspended.

(2) Where the Board has suspended the operation of an order under subsection (1) of this section the Board may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

Offences.

20. (1) After the expiration of the third month next following the commencement of this Act, a person, who is not for the time being a registered occupational therapist, shall not—

(a) assume, either alone or in combination with any other words or letters, the name or title of “occupational therapist”;

or

(b) use any name, title or description likely to cause any person reasonably to believe that he is registered under this Act.

Penalty: Two hundred dollars.

(2) Nothing in subsection (1) of this section shall be held to prohibit the use of the name or title “student occupational therapist” by any person undergoing a prescribed course of training.

Summary proceedings.

21. Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

22. The Governor may, upon the recommendation of the Board, make such regulations as he deems necessary or expedient for the purposes of giving effect to the provisions and objects of this Act, and, without limiting the generality of the foregoing, those regulations may—

(a) prescribe any form for the purposes of this Act;

(b) prescribe, and provide for the recovery of, fees for the purposes of this Act;

(c) prescribe a code of professional ethics to be observed by all registered occupational therapists;

or

(d) prescribe penalties not exceeding two hundred dollars for contravention of, or failure to comply with, any regulation.

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

M. L. OLIPHANT, Governor