

Queensland



OCCUPATIONAL THERAPISTS ACT 1979

**Reprinted as in force on 15 December 1995
(includes amendments up to Act No. 57 of 1995)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 15 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37 and 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of renumbered provisions.**

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OCCUPATIONAL THERAPISTS ACT 1979

[as amended by all amendments that commenced on or before 15 December 1995]

An Act to provide for the constitution of an Occupational Therapists Board, the establishment of a register of occupational therapists and the regulation of the practice of occupational therapy

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Occupational Therapists Act 1979*.

Definitions

4. In this Act—

“**approved form**” see section 37A.¹

“**board**” means the Occupational Therapists Board constituted under this Act.

“**fee**” includes tax.

“**occupational therapist**” means a person registered as an occupational therapist under this Act and whose name, at the material time, remains on the register.

“**register**” means the register of occupational therapists kept under this Act.

“**registrar**” means the registrar of the board.

¹ Section 37A (Approval of forms)

PART 2—ADMINISTRATION

Administration of Act

5. This Act shall be administered by the Minister and, subject to the Minister, by the board.

Constitution of board

6.(1) There is to be a board to be called the Occupational Therapists Board of Queensland which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(2) The board shall be a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, and of acquiring, holding, alienating, and otherwise dealing with property and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the board and, until the contrary is proved shall presume that it was duly affixed to any document on which it appears.

Members of board

7.(1) The board shall consist of 9 members appointed by the Governor in Council.

(2) The members of the board shall consist of—

- (a) 4 persons nominated by the Minister of whom at least 2 shall be occupational therapists; and
- (b) 3 occupational therapists acceptable to and nominated by the Minister from a panel or panels of names submitted by 1 or more associations accepted by the Minister as representative of occupational therapists; and
- (c) 1 person representing users of the services of occupational therapists; and

(d) a barrister or solicitor of the Supreme Court.

(3) Submission of a panel referred to in subsection (1A)(b) shall be made within the time and in the manner prescribed or, where not prescribed, as determined by the Minister, as the case may be, or in the event that insufficient names of occupational therapists acceptable to the Minister are submitted, the Governor in Council may appoint as a member of the board any person who is qualified as prescribed to be nominated as if the person's name had been duly submitted by the association or associations entitled to make the submission.

(4) A person may hold office as a member of the board in addition to any position the person holds in the public service.

Chairperson and deputy chairperson of board

8.(1) In every appointment of the whole number of members of the board the Governor in Council shall appoint members to be respectively the chairperson and deputy chairperson of the board.

(2) When a vacancy occurs in the office of chairperson or deputy chairperson of the board, the Governor in Council may appoint another member of the board to the vacant office.

(3) The chairperson shall preside at every meeting of the board at which the chairperson attends and in the chairperson's absence the deputy chairperson shall so preside.

(4) Where both the chairperson and deputy chairperson are absent from a meeting, another member of the board chosen for the purpose by the majority of the members present and voting shall preside.

(5) The deputy chairperson or other member who presides at a meeting of the board in place of the chairperson has and may exercise all the powers and authorities of the chairperson while he or she so presides.

(6) Save where the by-laws disentitle him or her to vote on the matter in issue, the chairperson, deputy chairperson or other member presiding at a meeting of the board is entitled to a deliberative vote on any matter before the meeting and, in the event of an equal division of votes thereon, is entitled to a second or casting vote.

Tenure of office

9.(1) The appointment of a member of the board is to be for a term of 3 years.

(2) A member of the board shall be eligible for reappointment if the member is qualified as prescribed to be nominated therefor.

(3) The office of a member of the board shall become vacant if the member—

- (a) dies; or
- (b) becomes bankrupt or compounds with his or her creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) is absent without prior leave granted by the board from 3 consecutive ordinary meetings of the board of which due notice has been given to the member; or
- (d) resigns office by signed notice delivered to the Minister; or
- (e) is convicted of an indictable offence; or
- (f) is removed from office by the Governor in Council by notification published in the gazette on the grounds of mental or physical incapacity to perform duties as a member or of conduct which in the opinion of the Governor in Council, shows the member to be unfit to be a member of the board.

(4) Attendance of a member of the board at the time and place appointed for an ordinary meeting of the board shall be deemed to constitute presence at a meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held, and the registrar shall enter in the minute book the names of all members who so attend.

(5) A resignation as member of the board shall be of no effect until notice in writing thereof is received by the Minister or until the operative date specified in the notice, whichever is the later.

Casual vacancies

10. When a vacancy occurs in the office of a member of the board during the term of office of the members then constituting the board, the Governor

in Council may, in accordance with section 7, appoint another person as a member, to hold office for the balance of his or her predecessor's term of office as a member.

Meetings of board

11.(1) The board shall meet as often as is necessary for the due administration of this Act, at such times and places as it thinks fit, and shall conduct its business in such manner as may be prescribed or, where or to the extent not prescribed, as it determines from time to time.

(2) A quorum at any meeting of the board shall be 5 members entitled to vote on the business before the meeting who at a duly convened meeting shall be competent to transact any business of the board and may exercise and perform all the powers, authorities, duties and functions of the board.

(2A) The decision of a majority of the members at a meeting of the board at which a quorum is present shall be the decision of the board.

(2B) If a member present at a meeting and entitled to vote abstains from voting the member is taken to have cast a vote for the negative.

(3) A proceeding or decision of the board shall not be invalidated or made ineffectual by reason only that—

- (a) the whole number of members had not been appointed at the time; or
- (b) any member was not entitled to take part in the proceeding or decision; or
- (c) there is a defect in the appointment of any member.

Committees

12.(1) The board may select persons to form an advisory committee or advisory committees to advise the board on any matter within the scope of the board's functions referred to the committee or to a particular committee by the board.

(2) A person may be a member of such a committee whether or not the person is a member of the board.

Entitlements of members of board or committees

13. Members of the board and members of a committee formed pursuant to section 12 shall be entitled to such fees and allowances as are approved by the Governor in Council.

Members of board etc. not affected by restrictive employment provisions

14. A provision of any enactment requiring the holder of an office to devote the whole of his or her time to the duties of the office or prohibiting the holder from engaging in employment outside the duties of the office shall not operate to hinder holding that office and also an appointment as member, chairperson or deputy chairperson of the board or of any advisory committee, or the acceptance and retention of remuneration payable to a member of the board under this Act.

Registrar and officers of board

15.(1) The Governor in Council may appoint under and for the purposes of this Act a registrar of the board and such other officers as the Governor in Council considers necessary for the effectual administration of this Act.

(1A) Appointees as aforesaid shall be appointed and hold their offices under, subject to and in accordance with the *Public Service Management and Employment Act 1988*.

(2) An officer of the public service may, in addition to the position the officer holds therein, be appointed the registrar or another officer under this Act.

(3) The registrar and any other officer under this Act may hold the appointment under this Act in conjunction with any other position in the public service.

Funds of board

16.(1) All moneys received by or on behalf of the board shall be paid into and form part of the funds of the board.

(2) Expenses of and incidental to the administration of this Act shall be

paid by the board from its funds.

(2A) Subsection (2) does not affect the liability, prescribed by any other Act, the board to pay from its funds the salaries of the registrar and the officers appointed for the effectual administration of this Act.

(3) The board shall enter or cause to be entered in such books, accounts and records required by the Auditor-General to be kept for the purpose a true account of all sums of money received and paid under this Act.

PART 3—REGISTRATION OF OCCUPATIONAL THERAPISTS

The register

17.(1) The board shall cause the registrar to keep in such form as it thinks fit a register (the “**register of occupational therapists**”) of the names and other prescribed particulars of persons who are entitled to be and who remain registered under this Act as occupational therapists.

(2) The register shall at all reasonable times be open to inspection at the office of the registrar by any person on payment of the prescribed fee.

(3) The registrar shall cause to be published—

- (a) by 30 June in each year the ‘list of occupational therapists, Queensland’ certified by the registrar as correct to 1 May in that year;
- (b) from time to time, as the registrar thinks desirable, a supplementary list indicating all alterations, additions, revisions and removals made in the register during the period indicated in such supplementary list and certified by the registrar to a date indicated in that list.

Qualification for registration

18.(1) Subject to this section, a person shall be entitled to be registered as an occupational therapist if the person applies to the board in the approved

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form, pays the prescribed fee for registration and satisfies the board that the person is of good fame and character, is medically fit to practise occupational therapy and that—

- (a) the person is the holder of a degree, diploma or certificate conferred after due examination by an educational institution in a State or Territory which institution is duly recognised in the State or Territory in which it is situated and by the board as competent to confer the same and which degree, diploma or certificate is recognised by the board and, where conferred outside Queensland, by the occupational therapists board or other registration authority in the State or Territory in which it is conferred as entitling the person to practise occupational therapy in that State or Territory; or
- (b) the person has passed through a regular course of study in an educational institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which—
 - (i) is approved by the board as equal to or higher than a qualification conferred after due examination by a university in Queensland which qualification is one referred to in paragraph (a); and
 - (ii) is recognised by the board as qualifying the applicant to practise occupational therapy in that country; or
- (c) the person has—
 - (i) passed through a regular course of study in an educational institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which is recognised by the board as qualifying the applicant to practise occupational therapy in that country; and
 - (ii) undergone such additional educational training which may include the undertaking and passing of examinations relative to the practice of occupational therapy as in the board's opinion is necessary to qualify the person to practice occupational therapy in Queensland.

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(1A) The board may, where it thinks fit, appoint a committee of assessors composed of medical practitioners (whether or not they are members of the board) and may require an applicant for registration to appear before the committee of assessors who shall determine the medical fitness to practise occupational therapy of an applicant and the board shall be bound by a certificate issued by the committee of assessors as to the medical fitness to practise occupational therapy of the applicant.

(2) A person who applies for registration under this Act as having a qualification prescribed by subsection (1)(b) or (c) shall not be entitled to be so registered unless—

- (a) the person satisfies the board that the person has a sound understanding of the English language and possesses sufficient knowledge of and sufficient skill in the expression of that language, both written and oral; and
- (b) the person satisfies the board that the person has an adequate knowledge of the conditions governing the practice of occupational therapy in Australia; and
- (c) if the board requires it—the person has undertaken and passed—
 - (i) a preliminary examination, conducted in the English language as may be approved by the board; and
 - (ii) a written examination relevant to the conditions governing the practice of occupational therapy in Australia and recognised by the board.

(3) For the purposes of subsection (2)(c), the board may appoint examiners who may include in any certificate by them to the board a condition that such certificate is given subject to the examinee being required to undertake a period of supervised practice in occupational therapy in Queensland.

(4) Where a conditional certificate is issued pursuant to subsection (3) the board may require the applicant for registration to undertake a period, as it determines, of supervised practice in occupational therapy in Queensland as approved by the board.

Conditional registration

19.(1) When a person has applied to the board for registration under the provisions of section 18(1)(b) or (c) and the board has required the person to undertake a period of supervised practice pursuant to section 18(4), the board may grant the person a certificate in the approved form of conditional registration.

(2) The practice of occupational therapy by a person who has been granted a certificate of conditional registration under this section shall be limited to supervised practice but, subject to this subsection and the conditions contained in the certificate, the person shall be deemed to be registered as an occupational therapist for as long as the certificate remains valid.

(3) If the person shall fail to carry out any of such conditions to the satisfaction of the board, the board may direct the registrar to cancel the certificate and that person shall thereupon cease to be deemed to be registered as an occupational therapist under this Act and the cancellation shall be deemed to be a refusal by the board of that person's application to be registered as an occupational therapist.

Registration for a limited period

20.(1) Subject to this Act, a person who makes application to the board in that behalf in the approved form and who satisfies the board that the person is of good fame and character and that the person is the holder of a degree, diploma or certificate in occupational therapy (in each case recognised by the board and obtained after due examination) conferred by an institution recognised in the State or Territory or other country wherein it is situated and by the board as authorised to confer such degree, diploma or certificate and that the person has come to Queensland—

- (a) at the request of a teaching institution, any State authority or any association recognised by the board as representative of occupational therapists for the purpose of teaching, lecturing, giving clinical demonstrations or engaging in research work; or
- (b) to undertake postgraduate study in occupational therapy;

shall be entitled to registration as an occupational therapist at all times during the period the person is so engaged.

(2) A person registered under this section shall notify the board forthwith upon ceasing to engage in the duties or study mentioned in subsection (1) and the board shall then direct the registrar to remove that person's name from the register.

(3) The board may at any time by notice in writing call upon a person registered under this section to show cause at a place, date and time specified by the board in such notice why the person's name should not be erased from the register.

(4) If such cause be not shown to the board's satisfaction as requested by the board, the board may direct the registrar to remove that person's name from the register.

Provisional registration

21.(1) When a person has applied to the board in the approved form to be registered as an occupational therapist and has paid the prescribed fee for registration, the chairperson, or (in the absence of the chairperson) a member of the board authorised generally in that behalf by the board, upon being satisfied that such person is entitled to be registered as an occupational therapist, may grant to such person a certificate in the approved form of provisional registration as an occupational therapist.

(2) A person who has been granted a certificate of provisional registration as an occupational therapist shall be deemed to be registered under this Act as an occupational therapist and this Act shall apply to and with respect to that person accordingly—

- (a) until the date stated in such certificate; or
- (b) until such later date as may be fixed by the board;

which stated date or later date (if any) fixed by the board shall not in any case be later than 6 months from the granting of such certificate.

(2A) However, the board may at any time before the date so stated or fixed, cancel such certificate and such person shall thereupon cease to be deemed to be registered as an occupational therapist under this Act, and such cancellation shall, for the purpose of this Act, be deemed to be a refusal by the board of the application by that person to be registered as an occupational therapist.

(3) If a person to whom a certificate of provisional registration has been granted becomes registered as an occupational therapist while that certificate is still in force the person's registration shall, unless otherwise decided by the board, date from the granting of that certificate.

Certificate of registration

22.(1) Every occupational therapist shall be entitled to obtain from the registrar a certificate of the occupational therapist's registration in the approved form.

(2) On application made to the board at any time and on payment of the prescribed fee, the board may issue to any occupational therapist a duplicate or certified copy of the occupational therapist's certificate of registration.

Annual licence fee

23.(1) Every occupational therapist shall pay to the board a prescribed annual licence fee.

(1A) The annual licence fee shall be paid to the board within the period in each year commencing on 1 January to and concluding on 30 April or, where another period is prescribed in respect thereof (the board being hereby thereunto authorised) within that other period in each year as so prescribed.

(1B) An occupational therapist shall at the time of the payment of the annual licence fee furnish the board with particulars of the occupational therapist's address for entry in the register.

(2) If an occupational therapist fails to pay the annual licence fee within the period as provided in subsection (1), the registrar shall thereupon remove the occupational therapist's name from the register.

(3) If the name of any person has been removed from the register pursuant to subsection (2) or section 24(1)(a) the board shall, subject to this Act, upon application by that person direct the registrar to restore the person's name to the register upon payment of the annual licence fee and such restoration fee as may be prescribed.

Removal of name from register

24.(1) The board may instruct the registrar to remove from the register the name of an occupational therapist—

- (a) who applies in writing to have his or her name removed therefrom;
- (b) whose name has at any time been ordered to be erased absolutely or for a limited period from a register of occupational therapists maintained under that or any other name by any other registration authority and whose name at the material time has not been restored to that register.

(2) If it comes to the notice of the board that any person whose name then appears on the register may be medically unfit to practise occupational therapy, the board may appoint a committee of assessors composed of medical practitioners (whether or not they are members of the board) and may require that person to appear before the committee of assessors.

(3) On being so required the person shall report to the committee of assessors at the time and place stipulated in the requisition and shall submit himself to examination by the committee of assessors and to such other tests or examinations as the committee of assessors may require.

(4) On completion of the examination and such other tests or examinations as are required the committee of assessors shall certify to the board as to the medical fitness of that person to practise occupational therapy.

(5) If a certificate issued to the board by a committee of assessors states that the person named therein is medically unfit to practise occupational therapy or has failed to appear before it or has failed to submit himself as prescribed by subsection (2), the board may by notice in writing call upon such person to show cause at a place, date and time specified by the board in such notice why the person's name should not be erased from the register.

(6) If such cause be not shown to the board's satisfaction as requested by

the board, the board may instruct the registrar to erase the name of that person from the register.

Disciplinary action

25.(1) When the board has reason to suspect that an occupational therapist—

- (a) has been convicted of an indictable offence; or
- (b) has been convicted of an offence against this Act; or
- (c) has failed to carry out a lawful demand of the board made pursuant to this Act; or
- (d) has been guilty of any conduct deemed by the board to be discreditable to an occupational therapist; or
- (e) is not or is no longer entitled under section 18 to be registered as an occupational therapist;

it may hold a full and proper inquiry into the matter in question and for that purpose shall notify the occupational therapist of the matter suspected against the occupational therapist and of the time and place when and where the inquiry will be held.

(1A) Notwithstanding any Act or law to the contrary, if a person is summarily convicted of an indictable offence the conviction shall, for the purposes of subsection (1)(a), be deemed to be a conviction of an indictable offence.

(1B) A notification required by subsection (1) to be given shall be in writing and shall be given to the occupational therapist in question personally or by post by registered letter or certified mail service.

(2) In the conduct of an inquiry the board—

- (a) shall afford the occupational therapist in question the opportunity of making defence to all allegations made against the occupational therapist, in person or by counsel or solicitor;
- (b) subject to subsection (1), shall have and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* save such as are by that Act reserved to a chairperson of

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a commission who is a judge of the Supreme Court.

(3) If upon its inquiry the board is satisfied of the truth of the matter referred to in subsection (1) it may, as it considers just in the circumstances do any 1 or more of the following things—

- (a) cancel the occupational therapist's registration and order his or her name to be removed from the register;
- (b) order that his or her registration as an occupational therapist be suspended for a period specified by it;
- (c) order that the occupational therapist pay to the board by way of penalty a sum fixed by the board but not exceeding \$1 000;
- (d) reprimand the occupational therapist.

(3A) The registrar shall secure compliance with an order of the board made under subsection (3)(a), (b), or (c) and, to that end, when the order is made under subsection (3)(b), shall enter in the register, against the relevant registration, a memorandum of the suspension of the registration and the cause thereof.

(4) Where the board has dealt with an occupational therapist under the provisions of subsection (3), the board may order that the occupational therapist pay to the board by way of costs such sum of money as it thinks fit.

(5) Any pecuniary penalty or costs ordered by the board to be paid to it pursuant to subsection (3) or (4) shall become due and payable forthwith, or, if the board allows time for payment thereof immediately upon the expiration of the time so allowed.

(6) The board may order the publication in such manner as it thinks fit of its findings upon an inquiry under this section.

Correction of register

26.(1) The registrar shall from time to time strike from the register the names of all occupational therapists who have died and make such alterations and amendments to the register as the board directs so that the register shall be an accurate record of the names, addresses and qualifications of occupational therapists.

(2) An occupational therapist shall notify the board of any change of name, address or other prescribed particulars and furnish particulars of such change within 21 days after the occurrence of the change.

Notification of board's determinations

27. When the board refuses an application of any person to be registered as an occupational therapist or makes an order under section 25 the registrar shall notify the person whose application is refused or against whom the order is made of the refusal or, as the case may be, the order, in writing addressed to the address of that person last known to the registrar.

Appeals

28.(1) A person aggrieved by—

- (a) a refusal by the board of the person's application to be registered as an occupational therapist; or
- (b) an order made against the person by the board under section 25;

may appeal therefrom to a judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the same and whose decision thereon shall be final and be given effect to by the board.

(2) An appeal shall be by way of re-hearing, and shall be instituted within 30 days after notification of the refusal or order to the person aggrieved, and no later, by filing a notice of appeal in the registry of the District Court at Brisbane and by complying with any rules of court made with respect thereto.

(3) The appellant shall serve a copy of the notice of appeal on the registrar of the board not later than 7 days after the notice is filed in the registry of the District Court.

(5) The proceeding on appeal under this section shall be deemed to be a proceeding before a District Court.

(6) If the judge hearing an appeal under this section is of the opinion that the appeal involves a question of special knowledge and skill, the judge may appoint 1 or more assessors who in the judge's opinion possess the special qualifications necessary for the particular case to assist the judge in the judge's determination.

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(6A) An assessor shall be paid such fees and expenses as the Governor in Council shall from time to time determine.

(6B) An assessor may advise the judge on any matter but all questions of law and fact shall be determined by the judge who shall place such weight (if any) as the judge thinks fit, on the advice.

(7) Where upon an appeal a District Court orders a penalty to be paid by an appellant it shall order the penalty to be paid to the board and, for the purposes of its enforcement, the order shall be deemed to be an order made by the board.

PART 4—MISCELLANEOUS

Prohibited practices

29.(1) A person who is not an occupational therapist shall not—

- (a) take or use the name or title of occupational therapist, occupationalist, occupation therapist, work therapist, functional therapist, ergotherapist, activities therapist, activity therapist, rehabilitation therapist, or hold himself or herself out as being one of the above, or assume, take, or use any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is assumed, taken or used, indicates or is capable of being understood to indicate or is calculated to lead persons to infer that the person is an occupational therapist or is qualified to practise occupational therapy;
- (b) without the written consent of the board, advertise—
 - (i) that the person is skilled in the practice of occupational therapy;
 - (ii) that the person is willing to practise occupational therapy;
 - (iii) that the person is competent to teach the practice of occupational therapy;
 - (iv) that the person is willing to instruct in the practice of occupational therapy.

Maximum penalty—10 penalty units.

(2) In subsection (1)(b)—

“**advertise**” includes advertise—

- (a) by publishing a statement or claim in any newspaper, magazine, periodical, circular, pamphlet, handbill, notice or other document; and
- (b) by communicating a statement or claim by means of a broadcast transmission, television transmission, or cinematograph; and
- (c) in any other prescribed manner.

Rules of practice

30.(1) The board may formulate rules governing the practice of occupational therapy, failure to comply with which on the part of an occupational therapist shall be deemed to constitute conduct discreditable to an occupational therapist.

(1A) A rule of practice must be approved by regulation.

(2) Nothing in this section prevents any matter not dealt with in the rules formulated under this section from being treated for the purposes of this Act as conduct discreditable to an occupational therapist.

Offences with relation to badges

31.(1) A person who is not an occupational therapist shall not use or wear any badge issued by the board.

(2) A person whose name has been removed from the register shall not while the person’s name remains so removed use or wear any badge issued to the person by the board.

(3) A person who is registered under this Act shall not wear any badge issued by the board other than the badge issued to such person by the board.

(4) A person shall not use or wear any colourable imitation of any badge issued by the board.

Penalty for fraudulent practices

32.(1) A person shall not—

- (a) make or cause to be made any falsification in the register or in any writing relating to the register or any false statement relating to the register; or
- (b) utter any false, forged or counterfeit certificate or writing pertaining to the person's qualification to practise occupational therapy; or
- (c) procure or attempt to procure registration under this Act for himself, herself or another person by making or producing, or causing to be made or produce, any false or fraudulent statement, declaration or representation, either verbal or in writing; or
- (d) falsely personate or represent himself or herself as being the person referred to in any certificate or writing presented to the board or in any certificate granted under this Act; or
- (e) fraudulently or by false representation obtain any certificate of registration under this Act; or
- (f) forge, alter or counterfeit any certificate of registration under this Act; or
- (g) utter any forged, altered or counterfeit certificate of registration under this Act knowing the same to have been forged, altered or to be counterfeit; or
- (h) falsely advertise or hold himself or herself out as having obtained a certificate of registration under or as being registered under this Act, or permit any such advertisement or holding out.

Maximum penalty—10 penalty units or 6 months imprisonment.

(2) The name of any person who procures registration under this Act by any means which contravene this section shall, upon the person being convicted in respect of that contravention, be removed from the register.

(3) The provisions of this section shall be in addition to and not in substitution for or in derogation of the provisions of the Criminal Code or any other Act.

(4) However, a person shall not be liable to be convicted both under this

Act and under the Criminal Code or any other Act in respect of the same act.

General penalty

33.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of 20 penalty units.

(2) All penalties recovered in respect of an offence against this Act shall be paid to the board.

Proceedings generally

34.(1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of the registrar, or a person authorised by the board in that behalf.

(2) A prosecution for an offence against this Act may be commenced within 1 year from the time when the matter of complaint arose or within 6 months after the matter of complaint comes to the knowledge of the complainant whichever is the period later to expire.

(3) Without prejudice to any other right or remedy available to the board with respect thereto all fees payable to the board under this Act and all penalties and costs ordered by the board to be paid to it under this Act may be recovered in a summary way under the *Justices Act 1886* or as a debt due and owing to the board by action in any court of competent jurisdiction.

Evidentiary provisions

35. In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the registrar certifying the state of any part of the register at a date or during a period specified in the certificate or certifying that a person named therein was not at a date or during a period specified therein an occupational therapist shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;

- (b) every part of the register, and an extract of any part of the register purporting to be certified as correct by the registrar shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) a statement in a complaint commencing the proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of its content;
- (d) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the board unless evidence is given to the contrary;
- (e) proof shall not be required of the appointment of the registrar or of any other officer appointed for the effectual administration of this Act or of the signature of the registrar.

Statutory declarations

36. For the purposes of this Act, the board may—

- (a) demand and accept a declaration under the *Oaths Act 1867* from any person for the purposes of this Act;
- (b) require an applicant to verify by way of declaration under the *Oaths Act 1967* (the taking of which being hereby authorised) information furnished to the board in respect of the application for registration.

By-law making power

37.(1) The board may make by-laws under this Act.

(2) A by-law may be made for or about—

- (a) the powers, duties and functions of the registrar and other officers appointed for the effectual administration of this Act;
- (b) the register and the manner of its keeping;
- (c) the making of applications to the board, and the effect of furnishing false particulars therein;

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- (d) the conduct of meetings of the board, the entitlement of members of the board to vote upon business before a meeting, and the conduct of proceedings before the board;
- (e) the common seal of the board, and the attesting of documents by or on behalf of the board;
- (f) the manner and method in which an occupational therapist may advertise himself or herself as qualified to practise occupational therapy and the place where that practice takes place;
- (g) the purposes for which fees are payable under this Act, the amounts of fees, the persons who are liable to pay fees, when fees are payable, the waiver of fees and the recovery of unpaid amounts of fees;
- (ga) the allowances payable under this Act and the purposes for which they are payable;
- (i) the penalties to be imposed for breaches of the by-laws but so that no such penalty shall exceed 10 penalty units;
- (j) regulating and controlling the use by occupational therapists of titles, letters or words indicating or describing their qualifications;
- (ja) prescribing titles, letters or words that shall or may be used to indicate or describe that any person is an occupational therapist or to indicate or describe any particular occupational therapy qualification;
- (jb) prohibiting the use by occupational therapists, in relation to their qualifications as occupational therapists or the practice by them of occupational therapy, of any titles, letters or words, other than those prescribed for such use or prohibiting any prescribed titles, letters or words from being so used and, in relation to occupational therapy qualifications, either generally or except to indicate or describe a particular qualification;
- (k) regulating, controlling and prohibiting canvassing or soliciting work or business by, for or on behalf of occupational therapists;
- (l) prescribing the kind of badge to be issued and regulating the issue

thereof.

(3) A by-law must be approved by the Governor in Council.²

Approval of forms

37A. The board may approve forms for use under this Act.

Regulation making power

37B. The Governor in Council may make regulations under this Act.

Approved forms

37C.(1) This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

(2) Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

(3) This section expires 6 months after it commences.

Power of board to make by-laws about fees

38. For the removal of doubt, it is declared that the board has always had power to make by-laws in respect of the matters specified in section 37(2)(g).

² A by-law is subordinate legislation (see *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a)).

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 December 1995. Future amendments of the Occupational Therapists Act 1979 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Occupational Therapists Act 1979 No. 51

date of assent 19 November 1979

ss 1–16 commenced 24 April 1980 (proc pubd gaz 26 April 1980 p 1599)

ss 17–38 commenced 12 December 1981 (proc pubd gaz 12 December 1981 p 1538)

as amended by—

Nursing Studies Act and Other Acts Amendment Act 1984 No. 74 pt 9

date of assent 18 October 1984

commenced on date of assent

Medical and Paramedical (Amendment of Inspectorial and Audit Provisions) Act 1987 No. 10 pt 8

date of assent 15 April 1987

commenced on date of assent

Health Legislation Amendment Act 1992 No. 66 pts 1, 10

date of assent 7 December 1992

ss 1–2 commenced on date of assent

ss 52–53, 57–59 commenced 18 December 1992 (1992 SL No. 450)

remaining provisions commenced 1 February 1993 (1992 SL No. 450)

Health Legislation Amendment Act 1993 No. 79 pts 1, 11

date of assent 17 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 14 March 1994 (1994 SL No. 84)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by 1995 Act No. 58 s 4 sch 1)

date of assent 28 November 1995

commenced on date of assent

5 List of annotations

Commencement

s 2 om R1 (see RA s 37)

Arrangement of Act

s 3 om R1 (see RA s 36)

Definitions

prov hdg sub 1992 No. 66 s 53

s 4 def “**approved form**” ins 1995 No. 57 s 4 sch 1

def “**fee**” ins 1992 No. 66 s 53

def “**medical practitioner**” om 1995 No. 57 s 4 sch 1

def “**Minister**” om 1992 No. 66 s 53

def “**registrar**” sub 1995 No. 57 s 4 sch 1

Constitution of board

s 6 amd 1995 No. 57 s 4 sch 1

Members of board

s 7 amd 1992 No. 66 s 54; 1993 No. 79 s 85; 1995 No. 57 s 4 sch 1

Increase in number of members

s 7A ins 1992 No. 66 s 55
om 1995 No. 57 s 4 sch 1

Chairperson and deputy chairperson of board

s 8 amd 1995 No. 57 s 4 sch 1

Tenure of office

s 9 amd 1993 No. 79 s 86; 1995 No. 57 s 4 sch 1

Meetings of board

s 11 amd 1992 No. 66 s 56; 1995 No. 57 s 4 sch 1

Entitlements of members of board or committees

s 13 sub 1984 No. 74 s 20; 1995 No. 57 s 4 sch 1

Funds of board

s 16 amd 1987 No. 10 s 23

Qualification for registration

s 18 amd 1995 No. 57 s 4 sch 1

Conditional registration

s 19 amd 1995 No. 57 s 4 sch 1

Registration for a limited period

s 20 amd 1995 No. 57 s 4 sch 1

Provisional registration

s 21 amd 1995 No. 57 s 4 sch 1

Certification of registration

s 22 amd 1995 No. 57 s 4 sch 1

Disciplinary action

s 25 amd 1995 No. 57 s 4 sch 1

Appeals

s 28 amd 1995 No. 57 s 4 sch 1

Prohibited practices

s 29 amd 1995 No. 57 s 4 sch 1

Rules of practice

s 30 amd 1995 No. 57 s 4 sch 1

Penalty for fraudulent practices

s 32 amd 1995 No. 57 s 4 sch 1

General penalty

s 33 amd 1995 No. 57 s 4 sch 1

Statutory declarations

s 36 amd 1995 No. 57 s 4 sch 1

By-law making power

prov hdg sub 1995 No. 57 s 4 sch 1

s 37 amd 1992 No. 66 s 57; 1995 No. 57 s 4 sch 1

Approval of forms

s 37A ins 1995 No. 57 s 4 sch 1

Regulation making power

s 37B ins 1995 No. 57 s 4 sch 1

Approved forms

s 37C ins 1995 No. 57 s 4 sch 1 (as amd by 1995 Act No. 58 s 4 sch 1)
exp 28 May 1996 (see s 37C(3))

Power of board to make by-laws about fees

s 38 prev s 38 om 1992 No. 66 s 58
pres s 38 ins 1992 No. 66 s 59

6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Public Service Act 1922	Public Service Management and Employment Act 1988	Public Service Management and Employment Act 1988 s 38(1)

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act s 32A
references to a State	Acts Interpretation Act s 36 def "State"
references to a Territory	Acts Interpretation Act s 36 def "Territory"
references to Queensland implied	Acts Interpretation Act s 35

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
7(1), 2nd sentence	7(2)
7(1), 3rd sentence	7(3)
7(1), 4th sentence	7(4)
9(4)(a)	9(4)
9(4)(b)	9(5)
11(2), 2nd sentence	11(2A)
11(2), 3rd sentence	11(2B)
12, 1st sentence	12(1)
12, 2nd sentence	12(2)

15(1), 2nd sentence	15(1A)
15(2), 2nd sentence	15(3)
16(2), 2nd sentence	16(2A)
18(1), 2nd sentence	18(1A)
19(2), 2nd sentence	19(3)
20(3), 2nd sentence	20(4)
21(2), proviso	21(2A)
23(1), 2nd sentence	23(1A)
23(1), 3rd sentence	23(1B)
24(2)(a)	24(2)
24(2)(a), 2nd sentence	24(3)
24(2)(a), 3rd sentence	24(4)
24(2)(b)	24(5)
24(2)(b), 2nd sentence	24(6)
25(1), 2nd sentence	25(1A)
25(1), 3rd sentence	25(1B)
25(3), 2nd sentence	25(3A)
28(6), 2nd sentence	28(6A)
28(6), 3rd sentence	28(6B)
32(3), proviso	32(4)
37(2)(j), 1st unnum para	37(2)(ja)
37(2)(j), 2nd unnum para	37(2)(jb)