

**NOTICE 1389 OF 2003****DEPARTMENT OF HEALTH****DENTAL TECHNICIANS AMENDMENT BILL, 2003**

The Minister of Health intends to table the Dental Technicians Amendment Bill, 2003 in Parliament during this year.

Interested persons are invited to submit any substantiated comments or representations on the Dental Technicians Amendment Bill, 2003 to the Director-General of Health: Private Bag X828, Pretoria, 0001 [for the attention of the Director: Oral Health (Dr Smit)] within one month of the date of publication of this notice.

**GENERAL EXPLANATORY NOTE:**

[            ]        **Words in bold type in square brackets indicate omissions from existing enactments**

\_\_\_\_\_        **Words underlined with the solid line indicate insertions in existing enactments**

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**BILL**

To amend the Dental Technicians Act, 1979, so as to provide for the recognition of informally trained persons for purposes of restricted registration as dental technicians on conditions determined by the Dental Technicians Council and prescribed by the Minister; and to provide for matters connected therewith.

BE IT ENACTED by Parliament of the Republic of South Africa, as follows:-

**Amendment of section 1 of Act 19 of 1979 as amended by section 1 of Act 43 of 1997**

1. Section 1 of the Dental Technicians Act, 1979 (hereinafter referred to as "the principal Act"), is hereby amended by the insertion of the following definition after the definition of "**Director-General**":

"informally trained person" means a person who has been employed as a dental laboratory assistant and worked for a period of not less than five (5) years under the supervision of a dentist or dental technician who trained such informally trained person in the activities of a dental technician;".

**Insertion of section 23A in Act 19 of 1979**

2. The following section is hereby inserted in the principal Act after section 23:

**"23A. Restricted registration of an informally trained person**

- (1) Notwithstanding the provisions of sections 16, 17, 18 and 22, the Minister may on the recommendation of the council, prescribe the conditions in terms of which an informally trained person can be registered by the council as a dental technician in terms of this Act.
- (2) Regulations relating to the conditions referred to in subsection (1) shall at least provide for -
- (a) the application by an informally trained person for restricted registration as a dental technician;
  - (b) establishment by the council of a selection committee to consider every application referred to in paragraph (a);
  - (c) an informally trained person to undergo a practical examination at an approved institution before he or she can 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 can practise his or her profession.”

**Amendment of section 32 of Act 19 of 1979 as amended by section 25 of Act 43 of 1997**

3. Section 32(2) of the principal Act is hereby amended by the substitution in subsection (2) for the word “shall” of the word “may”.

**Amendment of section 32A of Act 19 of 1979 as amended by section 26 of Act 43 of 1997**

4. Section 32A(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) 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: Provided that all members or such juristic person shall be either dentists or clinical dental technologists on the one hand, or dental technicians or dental technologists or both, on the other hand, provided that -

- (a) in the case of a juristic person being an incorporated company or a close corporation of dentists or clinical dental technologists conducting a dental laboratory, only work for patients of that juristic person being an incorporated company or close corporation shall be

done in that laboratory; or

- (b) all the members of such juristic person, being an incorporated company or a close corporation practice their profession and operate the laboratory on the same premises.

**Amendment of section 50 of Act 19 of 1979 as amended by section 34 of Act 43 of 1997**

5. Section 50 of the principal Act is hereby amended by -

- (1) the insertion of the following paragraph in subsection (1) after paragraph (q):

“(qA) conditions in terms of which an informally trained person can be registered by the council as a dental technician in terms of section 23A of this Act;” and

- (2) insertion of the following subsections after subsection (4):

“(5) The Minister shall not less than three months before any regulation is made under subsection (1), cause the text of such 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 any 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.”.

#### **Short title and commencement**

6. This Act shall be called the Dental Technicians Amendment Act, 2003 and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS  
OF THE DENTAL TECHNICIANS AMENDMENT BILL, 2003  
(hereinafter referred to as "the amendment bill")**

**1. SCOPE OF AMENDMENT BILL**

The amendment bill proposes amendments to the Dental Technicians Act, 1979 (Act No. 19 of 1979) (hereinafter referred to as "the principal Act").

**2. AMENDMENTS TO PRINCIPAL ACT**

**(1) Amendment of section 1 of the principal Act**

**(a) *Current position***

Currently the principal Act does not recognize informally trained persons and therefore the expression "informally trained person" is neither used in the principal Act nor defined in the principal Act.

**(b) *New position***

A definition for the expression "informally trained person" is inserted into section 1 of the principal Act.

**(c) *Reason***

A new section 23A is inserted in the principal Act by the amendment bill which provides for the restricted registration of informally trained persons. In order to give a clear understanding of what an "informally trained person" is for purposes of the principal Act, such expression is defined in section 1 of the principal Act.

**(2) Insertion of new section 23A in the principal Act**

**(a) *Current position***

Currently the principal Act does not provide for the recognition of informally trained persons for purposes of restricted registration as dental technicians.

**(b) *New position***

A new section 23A is inserted in the principal Act by the amendment bill in order to provide for the recognition of informally trained persons and to enable the Minister to make regulations regarding the conditions in terms of which an informally trained person can be registered by the council as a dental technician in terms of the Act.

**(c) *Reason***

A number of historically disadvantaged people worked as laboratory assistants in dental laboratories for many years during which they were illegally trained to perform some work of a dental technician. Although they were employed as laboratory assistants, they illegally did some work of a dental technician. It has therefore become imperative to allow these people the opportunity to obtain restricted registration as dental technicians in order to legally perform work they were trained to do.

(3) **Amendment of section 32 of the principal Act**

(a) **Current position**

Currently section 32(2) of the principal Act determines that a dental technician contractor, shall, 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.

Note: such a notice has not yet been published in the *Gazette* due to the problems created by the word "shall".

(b) **New position**

Section 32(2) of the principal Act is amended by the amendment bill by the substitution for the word "shall" of the word "may."

(c) **Reason**

The reason for replacing the word "shall" with the word "may" is to make it possible for a dental technician contractor to negotiate direct payment with his or her client, the dentist. There are quite a number of small one man dental laboratories which do not have the infra structure to directly claim from the medical aids or patients.

(4) **Amendment of section 32A(3) of the principal Act**

(a) **Current position**

Currently section 32A(3) allows a dental technician and a dental technologist or a dentist and a clinical dental technologist to do work for any member of the public which should not happen as they should only be able to work for their own clients or patients.

(b) **New position**

Subsection (3) of section 32A is replaced by a new subsection (3) which limits a dental technician and a dental technologist or a dentist and a clinical dental technologist to do work only for their own clients or patients. The new subsection (3) is also in line with the current subsection (2) of section 32A of the principal Act.

(c) **Reason**

The substitution of the current subsection (3) is necessary in order to bring it in line with the intention of the rest of the principal Act in that a dental technician and a dental technologist or a dentist and a clinical dental technologist must only do work for their own clients or patients.

(5) **Amendment of section 50(1) of the principal Act**

(a) **Current position**

Currently section 50(1) of the principal Act does not provide for the Minister to make regulations regarding the conditions in terms of which an informally trained person can be registered by the council as a dental technician in terms of section 23A of the Act.

(b) **New position**

Section 50(1) of the principal Act is amended by the insertion of a new paragraph (qA) which provides for the Minister to make regulations regarding the conditions in terms of which an informally trained person



can be registered by the council as a dental technician in terms of section 23A of the Act.

(c) **Reason**

Section 50 of the principal Act lists all the issues which can be determined by the Minister by regulation and therefore the circumstances in terms of which an informally trained person can obtain restricted registration in terms of section 23A must also be listed.

(6) **Insertion of new subsections in section 50 of the principal Act**

(a) **Current position**

Currently section 50 of the principal Act does not determine that a draft regulation must first be published for comment before it can be published in final form.

(b) **New position**

Section 50 of the principal Act is amended by the insertion of a new subsection (5) and (6) which *inter alia* determines that the Minister shall not less than three months before any regulation is made, publish such regulation for comment first, unless the Minister deems it in public interest to publish a regulation without delay.

(c) **Reason**

The practice within the National Department of Health is to publish any regulation, whether an Act requires it or not, for comment first before publishing it in final form. This practice allows the public and interested parties to submit comments on a draft regulation. This practice has already been incorporated in certain Acts administered by the National Department of Health for example the Foodstuff, Cosmetics and Disinfectants Act, 1972, the Health Professions Act, 1974 and the Pharmacy Act, 1974.

3. **FINANCIAL IMPLICATIONS**

The amendment bill does not have any financial implications for the State.

4. **COMMUNICATION IMPLICATIONS**

The amendment bill has no communication implications in addition to the commencement of the amendment bill as an Act of Parliament being published in the *Government Gazette*.

5. **ORGANISATIONAL AND PERSONNEL IMPLICATIONS**

The amendment bill has no organisational or personnel implications for the State.

6. **CONSULTATION**

Currently no parties were consulted. The amendment bill was drafted by the Dental Technicians Council and the Directorate: Oral Health.

7. **PARLIAMENTARY PROCEDURE**

The State Law Advisors and the Department of Health are of the opinion that the amendment bill must be dealt with in accordance with section 75 of the Constitution.