

REPUBLIC OF SOUTH AFRICA

DENTAL TECHNICIANS AMENDMENT BILL

*(As introduced in the National Assembly as a section 76 Bill; explanatory summary of Bill
published in Government Gazette No 24869 of 19 May 2003)
(The English text is the official text of the Bill)*

(MINISTER OF HEALTH)

[B 63—2003]

ISBN 0 621 33954 7

No. of copies printed 1 800

- (c) an 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.”

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

3. Section 32 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 10

“(2) A dental technician contractor [shall] 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.”

Amendment of section 32A of Act 19 of 1979, as inserted by section 26 of Act 43 of 1997 15

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

“(3) (a) [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: **Provided that**, as long as all the members of such juristic person [shall be] are either dentists or clinical dental technologists on the one hand, or dental technicians or dental technologists or both, on the other hand. 20

(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.” 25

Amendment of section 50 of Act 19 of 1979, as amended by section 34 of Act 43 of 1997 30

5. Section 50 of the principal Act is hereby amended—

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

“(qA) the conditions on which an informally trained person may be registered by the council as a dental technician in terms of section 23A;” 35

(b) by the addition of the following subsections:

“(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. 40

(6) The provisions of subsection (5) shall not apply in respect of— 45

(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 50

(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 is called the Dental Technicians Amendment Act, 2003, and comes 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

1. The Bill proposes amendments to the Dental Technicians Act, 1979 (Act No. 19 of 1979) ("the Act").

2.1 Amendment of section 1 of the Act:

(a) **Current position**

The Act does not at present recognise informally trained persons and therefore the expression "informally trained person" is neither used nor defined in the Act.

(b) **New position**

The insertion in section 1 of the Act of a definition of "informally trained person" is proposed.

(c) **Reason**

The Bill seeks to insert a new section 23A in the Act, which is to provide for the restricted registration of informally trained persons. In order to give a clear understanding of what an "informally trained person" is for the purposes of the Act, a definition of the expression is proposed.

2.2 Insertion of new section 23A in the Act:

(a) **Current position**

The Act does not at present provide for the recognition of informally trained persons for the purposes of restricted registration as dental technicians.

(b) **New position**

The Bill seeks to insert a new section in the Act 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 may be registered by the South African Dental Technicians Council ("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 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 persons the opportunity to obtain restricted registration as dental technicians in order to legally perform work they were trained to do.

2.3 Amendment of section 32 of the Act:

(a) **Current position**

In terms of section 32(2) of the Act 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.". Such a notice has not yet been published in the *Gazette* due to the problems created by the word "shall".

(b) **New position**

The Bill seeks to amend section 32(2) of the Act 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-person dental laboratories which do not have the infrastructure to claim directly from medical aid schemes or patients.

2.4 Amendment of section 32A(3) of the Act:

(a) **Current position**

In terms of section 32A(3) of the Act a dental technician and a dental technologist or a dentist and a clinical dental technologist may work for any member of the public.

(b) *New position*

The Bill seeks to amend section 32A of the Act by the substitution for subsection (3) of a new subsection in terms of which dentists and clinical dental technologists who conduct a dental laboratory may only work for their own clients or patients.

(c) *Reason*

The amendment is necessary in order to bring it in line with the intention of the rest of the Act, namely that a dental technician and a dental technologist or a dentist and a clinical dental technologist may only do work for their own clients or patients.

2.5 Amendment of section 50(1) of the Act:**(a) *Current position***

There is at present no provision in the Act in terms of which the Minister may make regulations regarding the conditions under which an informally trained person can be registered by the council as a dental technician.

(b) *New position*

The Bill seeks to amend section 50(1) of the Act by the insertion of a provision in terms of which the Minister may make regulations regarding the conditions under which an informally trained person may be registered by the council as a dental technician in terms of section 23A of the Act.

(c) *Reason*

Section 50 of the Act lists all the issues which the Minister may determine by regulation. The circumstances under which an informally trained person may obtain restricted registration in terms of section 23A must also be listed.

2.6 Amendment of section 50 of the Act:**(a) *Current position***

Section 50 of the Act does not at present require that a draft regulation must be published for comment before it may be published in its final form.

(b) *New position*

The Bill seeks to amend section 50 of the Act so that the Minister must, not less than three months before any regulation is to be made, publish such regulation for comment, unless the Minister deems it in the public interest to make the 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 before publishing it in its final form. This practice allows interested parties to submit comments on a draft regulation and has already been incorporated in certain laws administered by the National Department of Health, for example the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), the Health Professions Act, 1974 (Act No. 56 of 1974), and the Pharmacy Act, 1974 (Act No. 53 of 1974).

3. FINANCIAL IMPLICATIONS FOR STATE

The Bill does not have any financial implications for the State.

4. CONSULTATION

The Bill was drafted by the Dental Technicians Council and the Directorate: Oral Health of the National Department of Health and was published for public comment.

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Health are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely "Health services".