

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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No. 12578

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1454.

4 Julie 1990

No. 1454.

4 July 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

— 79 van 1990: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoep, 1990.

No. 79 of 1990: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1990.

MEDICAL, DENTAL AND SUPPLEMENTARY HEALTH SERVICE
PROFESSIONS AMENDMENT ACT, 1990

Act No. 79, 1990

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, so as to increase the number of members of the South African Medical and Dental Council; to further regulate the coming into operation of penalties imposed by a committee of the said council; to repeal or delete certain provisions; to provide for an additional penalty for and admissions of guilt in respect of improper or disgraceful conduct, and for the suspension of the operation of part of a penalty; to extend the power to make regulations; and to further regulate the levying of annual fees on certain registered persons; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 21 June 1990.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 5 of Act 56 of 1974, as amended by section 2 of Act 52 of 1978 and section 2 of Act 58 of 1984

5 1. (1) Section 5 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

10 “(d) four medical practitioners representing the universities at which faculties of medicine have been established and **[one dentist]** two dentists representing the universities at which faculties of dentistry have been established, designated from the staffs of such universities by the principals or rectors, as the case may be, of such universities: Provided that not more than one medical practitioner or dentist so designated shall be attached to the staff of
15 any one such university;”.

20 (2) The period for which the member of the said council who became a member thereof in terms of the amendment effected by subsection (1) is designated, shall terminate on the same date as that on which the period of office of the members of the South African Medical and Dental Council referred to in section 2 of the principal Act as that council was constituted immediately prior to the commencement of this Act, terminates.

Amendment of section 11 of Act 56 of 1974, as amended by section 3 of Act 52 of 1978 and section 4 of Act 58 of 1984

25 2. Section 11 of the principal Act is hereby amended by the substitution for the proviso to subsection (5) of the following proviso:

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5 “Provided that a penalty imposed by any such committee under section 42 (1) (b), (c) or (d) or an order made by [any such committee] it under section 51 (2) shall, if [the committee] it 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.”

Amendment of section 13 of Act 56 of 1974, as amended by section 4 of Act 52 of 1978

3. Section 13 of the principal Act is hereby amended by the deletion of paragraph (b) of subsection (1).

Repeal of section 13A of Act 56 of 1974, as inserted by section 5 of Act 52 of 1978

10 4. Section 13A of the principal Act is hereby repealed.

Amendment of section 26 of Act 56 of 1974, as amended by section 6 of Act 52 of 1978

5. Section 26 of the principal Act is hereby amended by the deletion of paragraph (a) of subsection (1).

Substitution of section 28 of Act 56 of 1974, as amended by section 7 of Act 52 of 1978

15 6. The following section is hereby substituted for section 28 of the principal Act:

“Exemption of certain registered persons holding qualifications referred to in section 26 (1) (c), from certain restrictions

28. (1) Any person who—

- 20 (a) holds a qualification [referred to in section 26 (1) (a) or] accepted under section 26 (1) (c); and
- (b) has for a period of at least two years been registered as a medical practitioner, dentist or psychologist under section 26 (1); and
- (c) being a medical practitioner or dentist—
- 25 (i) has, while being registered as contemplated in paragraph (b), practised as a medical practitioner or dentist for a period of at least two years at any hospital or similar institution in the Republic, of which at least one year shall have been at a hospital or similar institution approved for this purpose by the council; and
- 30 (ii) submits a certificate issued by the head of the hospital or institution at which such person practised as required by subparagraph (i) if such head is a medical practitioner or dentist or, if such head is not a medical practitioner or dentist, by a medical practitioner or dentist who has personal knowledge of such person's practice during the period of two years referred to in subparagraph (i) and, if the council so requires, by a medical practitioner or dentist indicated by the council, stating that such person was during such period professionally competent and of good character,
- 40 may apply to the council to be admitted to sit for an examination referred to in subsection (2).
- (2) If the council is satisfied that an applicant referred to in subsection (1) complies with the requirements of that subsection, it shall allow such applicant to sit for an examination prescribed under subsection (3), on a date and at a place determined and before examiners appointed by the council, for the purpose of ascertaining whether such applicant—
- 45 (a) possesses professional knowledge and skill which is of a standard not lower than that prescribed in respect of medical practitioners, dentists or psychologists, as the case may be, in the Republic;

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(b) has sufficient knowledge of the laws of the Republic applying to medical, dental or psychological practice, as the case may be; and
(c) is proficient in at least one of the official languages of the Republic.

5 (3) The Minister may from time to time, on the recommendation of the council, make regulations—

(a) prescribing the examination to be held for the purposes of this section;

(b) prescribing the fee to be paid by persons intending to sit for such examination; and

10 (c) prohibiting a person who has failed such an examination a prescribed number of times, from sitting again for such an examination.

(4) If a person has passed an examination referred to in subsection (3) to the satisfaction of the council, or is exempted from such examination under subsection (5), it shall exempt such person from all restrictions imposed in respect of such person under section 26 (2).

15 (5) The council may exempt a person referred to in subsection (1) and who has passed the examination referred to in section 26 (1A), from the examination referred to in subsection (3) in respect of subsection (2) (a) of this section.”

20 Amendment of section 42 of Act 56 of 1974, as amended by section 8 of Act 33 of 1976

7. Section 42 of the principal Act is hereby amended—

(a) by the addition to subsection (1) of the following paragraph:

“(d) a fine not exceeding R10 000.”; and

(b) by the addition of the following subsections:

25 “(8) If a person registered in terms of this Act (in this section referred to as the accused) is alleged to be guilty, as the case may be, of improper or disgraceful conduct or conduct which, when regard is had to such person’s profession, is improper or disgraceful and the council or a professional board on reasonable grounds is of the opinion that it shall impose a fine not exceeding R500 on conviction after an inquiry under section 41 or 48, the council may issue a summons as prescribed on which an endorsement is made by the council or a professional board that the accused may admit that he is guilty of the said conduct and that he may pay the fine stipulated without appearing at the said inquiry.

30 (9) Where a summons in terms of subsection (8) is issued against an accused, the accused may, without appearing at an inquiry in terms of section 41 or 48, admit his guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine (in this section referred to as the admission of guilt fine) to the council or the professional board concerned before a date specified in the summons.

35 (10) (a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the council or a professional board, as the case may be, within 14 days after such imposition.

40 (b) The imposition of a penalty shall have the effect of a civil judgment of the magistrate’s court of the district in which the inquiry under section 41 or 48 took place.

45 (11) The Minister may on the recommendation of the council amend the amount mentioned in subsection (8) by notice in the *Gazette*.”

Amendment of section 43 of Act 56 of 1974

50 8. Section 43 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

55 “(b) impose any penalty mentioned in paragraph (b) [or], (c) or (d) of section 42 (1), but order the execution of such penalty or any part of the penalty to be suspended for such period and on such conditions as may be determined by it.”;

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- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
 5 “(b) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1) (b), and the council is satisfied that the person concerned has observed all relevant conditions throughout the period of suspension, the council shall inform such person that such penalty or part thereof will not be executed.”; and
- (c) by the substitution for paragraph (c) of subsection (2) of the following paragraph:
 10 “(c) If the execution of a penalty or any part 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 such penalty or part thereof into operation, unless such person satisfies the council that the non-observance of the condition concerned was
 15 due to circumstances beyond his control.”.

Amendment of section 61 of Act 56 of 1974, as amended by section 10 of Act 33 of 1976, section 18 of Act 36 of 1977, section 9 of Act 43 of 1980, section 4 of Act 38 of 1982 and section 9 of Act 58 of 1984

9. Section 61 of the principal Act is hereby amended—
- 20 (a) by the insertion after paragraph (g) of subsection (1) of the following paragraph:
 “(gA) the returns and information to be furnished by any person registered under this Act;”;
- 25 (b) by the substitution for paragraph (m) of subsection (1) of the following paragraph:
 “(m) the conditions under which any [practitioner of a supplementary health service profession] registered person may practise his profession;”;
- (c) by the substitution for paragraph (t) of subsection (1) of the following paragraph:
 30 “(t) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.”; and
- (d) by the insertion after subsection (2) of the following subsection:
 35 “(2A) The provisions of any regulation made under subsection (1) (e) relating to fees payable under section 19 (5) (b) may vary according to the reason why a person’s name was removed from the register and the period during which it was so removed.”.

Amendment of section 62 of Act 56 of 1974

- 40 10. Section 62 of the principal Act is hereby amended by the substitution for the proviso to subsection (1) of the following proviso:
 “Provided that in prescribing such fee the council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to whether it is paid at,
 45 before or after a specific date.”.

Amendment of section 63 of Act 56 of 1974

11. Section 63 of the principal Act is hereby amended by the substitution for the second proviso to subsection (1) of the following proviso:
 50 “Provided further that in prescribing such fee, the council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to whether it is paid at, before or after a specific date.”.

Short title

12. This Act shall be called the Medical, Dental and Supplementary Health
 55 Service Professions Amendment Act, 1990.