

**HEALTH LEGISLATION (REASONS FOR DECISIONS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Physiotherapists Registration (Amendment) Bill 1987.

The objects of this Bill are to—

- (a) amend certain Acts under which health professional registration bodies are constituted to require those bodies to provide written reasons for their decisions on disciplinary matters as a matter of course and, in relation to other matters, on written request; and
- (b) to amend the Medical Practitioners Act 1938 to bring into line with the amendments referred to in paragraph (a) provisions in that Act which relate to the giving of reasons for decisions.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on assent.

Clause 3 gives effect to the Schedule of amendments.

Clause 4 provides that the amendments do not apply to decisions made before the commencement of the proposed Act.

Schedule 1 amends the following Acts to give effect to the objects stated above:

- Chiropractors Registration Act 1962
- Chiropractic Act 1978
- Dental Technicians Registration Act 1975
- Dentists Act 1934
- Medical Practitioners Act 1938
- Nurses Registration Act 1953
- Optical Dispensers Act 1963

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Optometrists Act 1930

Pharmacy Act 1964

Physiotherapists Registration Act 1945.

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SCHEDULE 1—AMENDMENTS



**HEALTH LEGISLATION (REASONS FOR DECISIONS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend various Acts with respect to the decisions of and orders made by bodies constituted under those Acts.

Health Legislation (Reasons for Decisions) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Health Legislation (Reasons for Decisions) Amendment Act 1987.

5 Commencement

2. This Act shall commence on the date of assent to this Act.

Amendments

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

10 Application of Act

4. The amendments made by this Act do not apply to decisions made before the date of assent to this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

15 Chiroprodists Registration Act 1962 No. 17—

Section 27A—

After section 27, insert:

Written statements of decisions

20 27A. (1) If the Board decides under section 26 to reprimand or caution a person, to remove a person's name from the register or to suspend a person's registration, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

25 (2) If the Board, the President or an authorised member of the Board makes a decision in relation to a person under any provision of this Act, other than section 26, the person may request in writing that the Board, President or member provide the person with a written statement of the decision.

30 (3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board, the President or the authorised member of the Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- 35 (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(6) Despite any other provision of this section, the Board, the President or a member is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board, the President or the member is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board, the President or the authorised member of the Board shall, within one month of a decision under section 26 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board, the President or the member is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board, the President or an authorised member of the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board, the President or an authorised member of the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Chiropractic Act 1978 No. 132—

Section 32A—

After section 32, insert:

Written statements of decisions

32A. (1) If the Board decides under section 23 to suspend a person's registration, to remove a person's name from the register or to reprimand or caution a person, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 23, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

(a) set out any findings on material questions of fact;

(b) refer to any evidence or other material on which the findings were based; and

(c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 23 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

(a) the confidential information is not included; or

(b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

(a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;

(b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and

(c) is information—

(i) that was supplied in confidence;

(ii) the publication of which would reveal a trade secret;

(iii) that was provided in compliance with a duty imposed by an enactment; or

(iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued***Dental Technicians Registration Act 1975 No. 40—**

Section 34A—

After section 34, insert:

Written statements of decisions

- 5 34A. (1) If the board decides to make an order under section 19 or 19A in respect of a person, the board shall, within one month of making the order, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.
- 10 (2) If the board makes a decision in relation to a person under any provision of this Act, other than sections 19 and 19A, the person may request in writing that the board provide the person with a written statement of the decision.
- (3) Any such request shall be made within 60 days after the decision to which it relates.
- 15 (4) The board shall provide a written statement of the decision within one month of receipt of such a request.
- (5) A written statement of a decision shall—
- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- 20 (c) give the reasons for the decision.
- (6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.
- 25 (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 19 or 19A or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—
- 30 (a) the confidential information is not included; or
- (b) the statement will not be provided,
- as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.
- 35 (8) In this section—
- “confidential information” means information that—
- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- 40 (b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
- 45 (i) that was supplied in confidence;

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- (iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Dentists Act 1934 No. 10—

Section 8AA—

After section 8, insert:

Written statements of decisions

8AA. (1) If the Board decides under section 8 to caution or reprimand a person, to suspend a person's registration or remove a person's name from the register or to impose a fine on a person, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 8, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 8 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

“confidential information” means information that—

- 5 (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- 10 (c) is information—
- (i) that was supplied in confidence;
- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- 15 (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Medical Practitioners Act 1938 No. 37—

- 20 (1) Section 26B (**Decisions of the Board in an inquiry**)—

Section 26B (2)–(7)—

Omit section 26B (2), insert instead:

- 25 (2) The Board shall, within one month of making the decision resulting from any such inquiry, make available to the person in relation to whom the inquiry was held and such other persons as it thinks fit a written statement of the decision.

(3) A written statement of a decision shall—

- 30 (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

- 35 (4) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

- 40 (5) If, because of subsection (4), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of the decision, give notice in writing to the person to whom the Board is required (or would, but for subsection (4), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

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SCHEDULE 1—AMENDMENTS—*continued*

(6) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (4), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(7) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

(2) Section 32k (**Decisions of a Committee**)—

Section 32k (2)–(7)—

Omit section 32k (2), insert instead:

(2) A Committee shall, within one month of making the decision resulting from any such inquiry, make available to the complainant, the registered medical practitioner concerned and such other persons as it thinks fit a written statement of the decision.

(3) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(4) Despite any other provision of this section, a Committee is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Committee is not required to provide the statement.

(5) If, because of subsection (4), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, a Committee shall, within one month of the decision, give notice in writing to the person to whom the Committee is required (or would, but for subsection (4), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(6) In this section—

“confidential information” means information that—

- 5 (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom a Committee is required (or would, but for subsection (4), be required) to provide a written statement of a decision; and
- 10 (c) is information—
- (i) that was supplied in confidence;
- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- 15 (iv) the provision of which by a Committee would be in breach of any enactment.

(7) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

20 (3) Section 32T (**Decisions of the Tribunal**)—

Section 32T (3)–(8)—

Omit section 32T (3), insert instead:

25 (3) The Tribunal shall, within one month of making the decision resulting from any such inquiry or appeal, make available to the complainant, the registered medical practitioner concerned and such other persons as it thinks fit a written statement of the decision.

(4) A written statement of a decision shall—

- 30 (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

35 (5) Despite any other provision of this section, the Tribunal is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Tribunal is not required to provide the statement.

40 (6) If, because of subsection (5), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Tribunal shall, within one month of the decision, give notice in writing to the person to whom the Tribunal is required (or would, but for subsection (5), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(7) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Tribunal is required (or would, but for subsection (5), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Tribunal would be in breach of any enactment.

(8) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

20 **Nurses Registration Act 1953 No. 10—**

(1) (a) Section 19 (9), (10)—

Omit the subsections.

(b) Section 19 (11)—

Omit “the notice relating to that action is served on that person in accordance with subsection (9) or on such later day as is specified in the notice”, insert instead “a written statement of the decision to take the action is provided to that person in accordance with section 19AA or on such later day as is specified in the statement”.

(2) Section 19AA—

After section 19, insert:

Written statements of decisions

19AA. (1) If the Board decides to take action under section 19 (1) in respect of a person, the Board shall, within one month of the decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 19 (1), the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

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- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

5 (6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

10 (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 19 (1) or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- 15 (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

20 (8) In this section—
“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- 25 (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - 30 (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

35 (9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Optical Dispensers Act 1963 No. 35—

Section 26A—

40 After section 26, insert:

Written statements of decisions

45 26A. (1) If the board decides under section 25 to reprimand or caution a person, to remove a person's name from the register or to suspend a person's licence, the board shall, within one month of its decision, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(2) If the board makes a decision in relation to a person under any provision of this Act, other than section 25, the person may request in writing that the board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

(a) set out any findings on material questions of fact;

(b) refer to any evidence or other material on which the findings were based; and

(c) give the reasons for the decision.

(6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 25 or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

(a) the confidential information is not included; or

(b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

(a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;

(b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and

(c) is information—

(i) that was supplied in confidence;

(ii) the publication of which would reveal a trade secret;

(iii) that was provided in compliance with a duty imposed by an enactment; or

(iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued***Optometrists Act 1930 No. 20—**

Section 15A—

After section 15, insert:

Written statements of decisions

- 5 15A. (1) If the board decides under section 15 to reprimand or caution a person, to remove a person's name from the register or to suspend the person's registration, the board shall, within one month of its decision, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.
- 10 (2) If the board makes a decision in relation to a person under any provision of this Act, other than section 15, the person may request in writing that the board provide the person with a written statement of the decision.
- (3) Any such request shall be made within 60 days after the decision to which it relates.
- 15 (4) The board shall provide a written statement of the decision within one month of receipt of such a request.
- (5) A written statement of a decision shall—
- (a) set out any findings on material questions of fact;
- 20 (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.
- (6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.
- 25 (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 15 or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—
- 30 (a) the confidential information is not included; or
- (b) the statement will not be provided,
- as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.
- 35 (8) In this section—
- “confidential information” means information that—
- 40 (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- 45 (c) is information—

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- (i) that was supplied in confidence;
- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- 5 (iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

10 **Pharmacy Act 1964 No. 48—**

Section 21A—

After section 21, insert:

Written statements of decisions

15 21A. (1) If, under section 20 or 20AA, the Board decides to make an order in respect of a person or decides to caution or reprimand a person, the Board shall, within one month of making its order or of deciding to caution or reprimand the person, provide the person, any person who made a complaint which resulted in the order or decision and such other persons as it considers appropriate, with a written statement of its decision.

20 (2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 20 and 20AA, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

25 (4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- 30 (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

35 (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 20 or 20AA or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- 40 (b) the statement will not be provided,

45 as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(8) In this section—

“confidential information” means information that—

- 5 (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- 10 (c) is information—
- (i) that was supplied in confidence;
- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- 15 (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

20 **Physiotherapists Registration Act 1945 No. 9—**

Section 25A—

After section 25, insert:

Written statements of decisions

25 25A. (1) If the Board decides under section 24 to remove a person’s name from the register or suspend a person’s registration, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

30 (2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 24, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

35 (4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- 40 (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

5 (7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 24 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

10 as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- 15 (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- 20 (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - 25 (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

**HEALTH LEGISLATION (REASONS FOR DECISIONS)
AMENDMENT ACT 1987 No. 275**

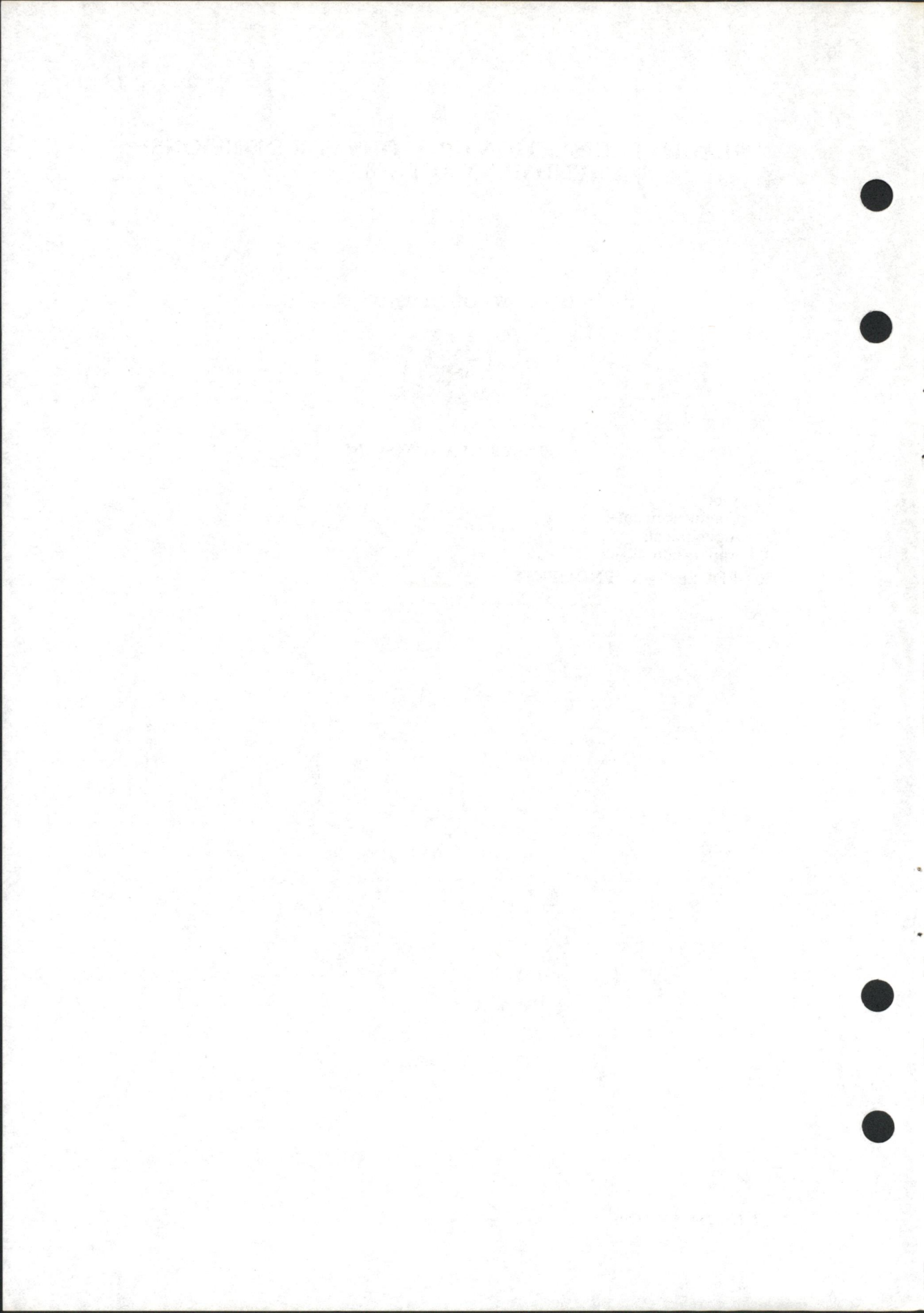
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS



**HEALTH LEGISLATION (REASONS FOR DECISIONS)
AMENDMENT ACT 1987 No. 275**

NEW SOUTH WALES



Act No. 275, 1987

An Act to amend various Acts with respect to the decisions of and orders made by bodies constituted under those Acts. [Assented to 16 December 1987]

Health Legislation (Reasons for Decisions) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Health Legislation (Reasons for Decisions) Amendment Act 1987.

Commencement

2. This Act shall commence on the date of assent to this Act.

Amendments

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

Application of Act

4. The amendments made by this Act do not apply to decisions made before the date of assent to this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Chiropodists Registration Act 1962 No. 17—

Section 27A—

After section 27, insert:

Written statements of decisions

27A. (1) If the Board decides under section 26 to reprimand or caution a person, to remove a person's name from the register or to suspend a person's registration, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board, the President or an authorised member of the Board makes a decision in relation to a person under any provision of this Act, other than section 26, the person may request in writing that the Board, President or member provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board, the President or the authorised member of the Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 23, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

(a) set out any findings on material questions of fact;

(b) refer to any evidence or other material on which the findings were based; and

(c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 23 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

(a) the confidential information is not included; or

(b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

(a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;

(b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and

(c) is information—

(i) that was supplied in confidence;

(ii) the publication of which would reveal a trade secret;

(iii) that was provided in compliance with a duty imposed by an enactment; or

(iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

Dental Technicians Registration Act 1975 No. 40—

Section 34A—

After section 34, insert:

Written statements of decisions

34A. (1) If the board decides to make an order under section 19 or 19A in respect of a person, the board shall, within one month of making the order, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the board makes a decision in relation to a person under any provision of this Act, other than sections 19 and 19A, the person may request in writing that the board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 19 or 19A or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with a duty imposed by an enactment; or
- (iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Dentists Act 1934 No. 10—

Section 8AA—

After section 8, insert:

Written statements of decisions

8AA. (1) If the Board decides under section 8 to caution or reprimand a person, to suspend a person's registration or remove a person's name from the register or to impose a fine on a person, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 8, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 8 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Medical Practitioners Act 1938 No. 37—

(1) Section 26B (**Decisions of the Board in an inquiry**)—

Section 26B (2)–(7)—

Omit section 26B (2), insert instead:

(2) The Board shall, within one month of making the decision resulting from any such inquiry, make available to the person in relation to whom the inquiry was held and such other persons as it thinks fit a written statement of the decision.

(3) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(4) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(5) If, because of subsection (4), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of the decision, give notice in writing to the person to whom the Board is required (or would, but for subsection (4), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(6) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (4), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(7) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

(2) Section 32k (**Decisions of a Committee**)—

Section 32k (2)–(7)—

Omit section 32k (2), insert instead:

(2) A Committee shall, within one month of making the decision resulting from any such inquiry, make available to the complainant, the registered medical practitioner concerned and such other persons as it thinks fit a written statement of the decision.

(3) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(4) Despite any other provision of this section, a Committee is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Committee is not required to provide the statement.

(5) If, because of subsection (4), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, a Committee shall, within one month of the decision, give notice in writing to the person to whom the Committee is required (or would, but for subsection (4), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(6) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom a Committee is required (or would, but for subsection (4), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by a Committee would be in breach of any enactment.

(7) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

(3) Section 32T (**Decisions of the Tribunal**)—

Section 32T (3)–(8)—

Omit section 32T (3), insert instead:

(3) The Tribunal shall, within one month of making the decision resulting from any such inquiry or appeal, make available to the complainant, the registered medical practitioner concerned and such other persons as it thinks fit a written statement of the decision.

(4) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(5) Despite any other provision of this section, the Tribunal is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Tribunal is not required to provide the statement.

(6) If, because of subsection (5), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Tribunal shall, within one month of the decision, give notice in writing to the person to whom the Tribunal is required (or would, but for subsection (5), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(7) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Tribunal is required (or would, but for subsection (5), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Tribunal would be in breach of any enactment.

(8) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Nurses Registration Act 1953 No. 10—

(1) (a) Section 19 (9), (10)—

Omit the subsections.

(b) Section 19 (11)—

Omit “the notice relating to that action is served on that person in accordance with subsection (9) or on such later day as is specified in the notice”, insert instead “a written statement of the decision to take the action is provided to that person in accordance with section 19AA or on such later day as is specified in the statement”.

(2) Section 19AA—

After section 19, insert:

Written statements of decisions

19AA. (1) If the Board decides to take action under section 19 (1) in respect of a person, the Board shall, within one month of the decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 19 (1), the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 19 (1) or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Optical Dispensers Act 1963 No. 35—

Section 26A—

After section 26, insert:

Written statements of decisions

26A. (1) If the board decides under section 25 to reprimand or caution a person, to remove a person's name from the register or to suspend a person's licence, the board shall, within one month of its decision, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(2) If the board makes a decision in relation to a person under any provision of this Act, other than section 25, the person may request in writing that the board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 25 or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued***Optometrists Act 1930 No. 20—**

Section 15A—

After section 15, insert:

Written statements of decisions

15A. (1) If the board decides under section 15 to reprimand or caution a person, to remove a person's name from the register or to suspend the person's registration, the board shall, within one month of its decision, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the board makes a decision in relation to a person under any provision of this Act, other than section 15, the person may request in writing that the board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 15 or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—

PROVISIONS RELATING TO WRITTEN STATEMENTS OF DECISIONS

- (i) that was supplied in confidence;
- (ii) the publication of which would reveal a trade secret;
- (iii) that was provided in compliance with any provision imposed by an enactment; or

(4) The Board shall provide a written statement of its decision in relation to a person if the Board decides to make an order in respect of a person or decides to caution or reprimand the person, any person who made a complaint which resulted in the order of decision and such other persons as it considers appropriate with a written statement of its decision.

(5) If the Board makes a decision in relation to a person under any provision of this Act, other than section 20 or 20A, the person may request in writing that the Board provide the person with a written statement of the decision.

(6) Any such request shall be made within 60 days after the date on which the Board provides a written statement of its decision to the person.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 20 or 20A, or in the case of a decision under section 20 or 20A, as soon as practicable, give notice in writing to the person to whom the Board is required to provide the statement, indicating that—

- (a) the confidential information is not included in the statement;
- (b) the reasons for the decision;

(8) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(9) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 20 or 20A, or in the case of a decision under section 20 or 20A, as soon as practicable, give notice in writing to the person to whom the Board is required to provide the statement, indicating that—

- (a) the confidential information is not included in the statement;
- (b) the reasons for the decision;

(10) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(11) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 20 or 20A, or in the case of a decision under section 20 or 20A, as soon as practicable, give notice in writing to the person to whom the Board is required to provide the statement, indicating that—

- (a) the confidential information is not included in the statement;
- (b) the reasons for the decision;

(12) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

(13) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 20 or 20A, or in the case of a decision under section 20 or 20A, as soon as practicable, give notice in writing to the person to whom the Board is required to provide the statement, indicating that—

- (a) the confidential information is not included in the statement;
- (b) the reasons for the decision;

(14) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

*Health Legislation (Reasons for Decisions) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

Physiotherapists Registration Act 1945 No. 9—

Section 25A—

After section 25, insert:

Written statements of decisions

25A. (1) If the Board decides under section 24 to remove a person's name from the register or suspend a person's registration, the Board shall, within one month of its decision, provide the person, any person who made a complaint which resulted in the decision and such other persons as it considers appropriate, with a written statement of its decision.

(2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 24, the person may request in writing that the Board provide the person with a written statement of the decision.

(3) Any such request shall be made within 60 days after the decision to which it relates.

(4) The Board shall provide a written statement of the decision within one month of receipt of such a request.

(5) A written statement of a decision shall—

- (a) set out any findings on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(6) Despite any other provision of this section, the Board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the Board is not required to provide the statement.

Health Legislation (Reasons for Decisions) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the Board shall, within one month of a decision under section 24 or receipt of a request under subsection (2), give notice in writing to the person to whom the Board is required (or would, but for subsection (6), be required) to provide the statement, indicating that—

- (a) the confidential information is not included; or
- (b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section—

“confidential information” means information that—

- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared;
- (b) relates to the personal or business affairs of a person, other than a person to whom the Board is required (or would, but for subsection (6), be required) to provide a written statement of a decision; and
- (c) is information—
 - (i) that was supplied in confidence;
 - (ii) the publication of which would reveal a trade secret;
 - (iii) that was provided in compliance with a duty imposed by an enactment; or
 - (iv) the provision of which by the Board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

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