

# PODIATRISTS BILL 1989

## NEW SOUTH WALES



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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, , 1989*

**NEW SOUTH WALES**



**Act No. , 1989**

An Act to regulate the practice of podiatry, to make provision for the registration of podiatrists, to regulate the qualifications for and the effect of such registration, to constitute the Podiatrists Registration Board and to specify its functions; to repeal the Chiropodists Registration Act 1962; and for related purposes.

**The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Podiatrists Act 1989.

**5 Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Part 1, section 37 and Schedule 3 commence on the date of assent.

**Definitions**

10 3. (1) In this Act—

“Board” means the Podiatrists Registration Board constituted under this Act;

“conduct” means any act or omission;

“member” means a member of the Board;

15 “podiatry” (previously known as chiropody) means the diagnosis, treatment and prevention of ailments or disorders of the foot within the accepted practice of podiatry in New South Wales;

“President” means the President of the Board;

“professional misconduct” includes—

20 (a) any conduct that demonstrates a lack of adequate—

(i) knowledge;

(ii) experience;

(iii) skill;

(iv) judgment; or

25 (v) care,

by a registered podiatrist in the practice of podiatry; and

(b) a registered podiatrist’s contravening (whether by act or omission) of a provision of this Act or the regulations; and

30 (c) a registered podiatrist’s failure to comply with an order made or a direction given by the Board under section 16; and

(d) any other improper or unethical conduct relating to the practice of podiatry;

“register” means the register of podiatrists under section 9;

“registered podiatrist” means a podiatrist registered under this Act;

35 “secretary” means the secretary of the Board.

(2) In this Act—



- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## 5                   PART 2—REQUIREMENT FOR REGISTRATION

### **Podiatry not to be practised by unregistered persons**

4. (1) A person (other than a registered podiatrist or a corporation which employs only registered podiatrists to perform the work of podiatry) shall not—

- 10 (a) practise podiatry for fee or reward; or
- (b) take or use any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is taken or used—
  - (i) indicates; or
  - 15 (ii) is capable of being understood to indicate; or
  - (iii) is calculated to lead a person to infer,

that the person practises podiatry or is qualified to practise podiatry.

Maximum penalty: 5 penalty units.

(2) Nothing in this section prevents—

- 20 (a) the practice of podiatry by a medical practitioner; or
- (b) the provision of basic foot care in the manner, and by persons with the skills or under the supervision, prescribed by the regulations; or
- (c) the practice of podiatry in such circumstances as may be prescribed by the regulations.

## 25                   PART 3—REGISTRATION

### **Registration**

5. (1) A person is registered under this Act if his or her name is entered in the register.

(2) A person who is granted a certificate of provisional registration shall, 30 while it continues to have effect, be taken to be a registered podiatrist.

(3) A person ceases to be a registered podiatrist if his or her name (for whatever reason) is removed from the register.

(4) If a person's registration is suspended, the person shall, except for the 35 purposes of Part 4, be taken not to be a registered podiatrist during the period of that suspension.

**Qualifications for registration**

6. (1) A person who is of good character and is of or above the age of 20 years is entitled to be registered as a podiatrist if—

- 5 (a) the person has completed the prescribed course of training and passed any examinations determined by the Board as sufficient to qualify a person to practise podiatry; or
- (b) the person has completed the course of training conducted by and received the diploma of the Australian Podiatry Association (N.S.W.); or
- 10 (c) the person is the holder of a diploma or a certificate of competency in podiatry obtained by examination after completing a course of study and training provided by a body, association or institution recognised by the Board.

(2) The Board may refuse to register the name of a person who is 15 otherwise entitled to be registered but—

- (a) who has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, renders the person unfit in the public interest to practise podiatry; or
- 20 (b) whose name has been removed from any register or roll established or kept under any law in any country providing for the registration or certification of podiatrists and the reason for the removal was an act or omission of a nature affecting the person's conduct in a professional respect for which, if done or omitted to be done in New South Wales, the Board would have been authorised under Part 4 25 to remove the person's name from the register, if registered in the register; or
- (c) who is an habitual drunkard or addicted to any deleterious drug.

**Adequacy of language**

30 7. A person shall not be registered under this Act unless the person proves to the satisfaction of the Board that the person has a knowledge of the English language adequate for the conduct of the practice of podiatry.

**Certificate of provisional registration may be granted**

35 8. (1) If a person applies to be registered, the President, on being satisfied—

- (a) that the person—
  - (i) is a person to whom section 6 (1) (a) or (b) applies; and
  - (ii) is of good character; or
- (b) that the person—
  - 40 (i) is entitled to a diploma or certificate referred to in section 6 (1) (a) or (b); and



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- (ii) will have the diploma or certificate conferred or granted in due course according to the practice of the body, association or institution conferring or granting the diploma or certificate; and
- (iii) is of good character,
- 5 may, on payment of the prescribed fee, grant to the person a certificate of provisional registration.
- (2) A certificate of provisional registration continues to have effect until it is cancelled or expires.
- (3) The President shall set an expiry date for each certificate of  
10 provisional registration granted by the President.
- (4) The expiry date shall be—
- (a) in the case of a person of or above 20 years of age—a date not later than 3 months after the granting of the certificate; or
- (b) in the case of a person of less than 20 years of age—a date not earlier  
15 than the date the person attains 20 years and not later than 3 months after that date.
- (5) The Board may, at any time before the date of expiry, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the  
20 certificate to be registered.
- (6) A holder of a certificate of provisional registration who is less than 20 years of age may practise podiatry only under the supervision of a person registered under section 10.
- (7) If a person to whom a certificate of provisional registration has been  
25 granted becomes registered under this Act during the currency of the certificate, the person's registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

**The register**

9. (1) If a person applies to be registered, the Board, on being satisfied  
30 that the person is entitled to be registered as a podiatrist, shall enter in a register—
- (a) the full name and address of the person; and
- (b) the date of registration; and
- (c) particulars of the qualification or qualifications in respect of which  
35 the registration is granted; and
- (d) such other particulars and matters as are directed by this Act or the regulations to be entered in the register.
- (2) The Board may, in relation to a registered podiatrist, also enter in the register, on payment of the prescribed fee—

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(a) particulars of such further or additional qualifications possessed by the registered podiatrist as the Board may direct to be entered in the register; and

5 (b) particulars of any certificate, diploma, membership, degree, licence, letters, testimonial or other title, status, document or description which the registered podiatrist is authorised by the Board to use as a registered podiatrist or in the practice of podiatry.

(3) The Board shall, on payment of the prescribed fee, supply a person with such extracts from the register as the person may require.

#### 10 Annual roll fee

10. (1) A registered podiatrist shall, on or before the prescribed date in each year, pay to the Board a roll fee of such amount as may be prescribed for the following year.

(2) Together with the roll fee, the registered podiatrist shall furnish 15 particulars of his or her address for entry in the register.

(3) If a registered podiatrist required by this section to pay a prescribed roll fee does not pay the fee for the following year before the prescribed date in any year, the Board shall notify the registered podiatrist, by letter addressed to him or her at the address appearing in the register, that if the 20 fee is not paid by the date prescribed under this subsection the person's name will be removed from the register.

(4) If a registered podiatrist who has been so notified fails to pay the fee on or before the date prescribed under subsection (3), the Board shall direct that the person's name be removed from the register.

25 (5) If a person's name is removed from the register under this section, the Board shall, on application in writing and if it is satisfied that the person is of good character, direct that the person's name be restored to the register on payment of such fee as is prescribed by the regulations.

30 (6) The Board may, in a particular case, waive all or such part of the fee as it thinks proper having regard to the circumstances of the case.

(7) In this section, "year" means a year ending on 30 June or on such other day as may be specified by the regulations.

#### Restoration of name to register

35 11. (1) If the Board directs the removal from the register of the name of any person, the name of that person shall not be again entered in the register, except by direction of the Board or by order of a court of competent jurisdiction.

(2) The Board may, if it thinks fit in any case, direct the secretary to restore to the register a name removed from it.



(3) The Board may, as a condition of restoration, require a person to pay such fee, not exceeding the prescribed registration fee, as it may from time to time direct.

(4) The secretary shall restore a name to the register on being directed to do so by the Board.

#### **Removal of name of deceased persons etc.**

12. The Board shall cause to be removed from the register the names of—

- (a) every deceased person; and
- 10 (b) every person who has ceased to possess or does not possess the qualifications in respect of which the person was registered; and
- (c) every person who has ceased to practise podiatry, otherwise than by reason of a suspension of registration under section 16.

### **PART 4—COMPLAINTS AND DISCIPLINARY PROCEEDINGS**

#### **Podiatrists' code of professional conduct**

15 13. The Board may establish a podiatrists' code of professional conduct setting out the rules of conduct which should be observed by a registered podiatrist in carrying on the practice of podiatry.

#### **Complaints**

20 14. (1) A person may make a complaint to the Board that a registered podiatrist—

- (a) has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, render the registered podiatrist unfit in the public interest to practise podiatry; or
- 25 (b) is an habitual drunkard or is addicted to any deleterious drug; or
- (c) has been guilty of professional misconduct; or
- (d) does not have sufficient physical or mental capacity to practise podiatry; or
- (e) is not of good character.

30 (2) A complaint shall—

- (a) be in writing; and
- (b) contain particulars of the allegations on which it is founded; and
- (c) be verified by statutory declaration.

(3) The Board may require the person making a complaint to provide 35 further particulars of the complaint.



(4) The Board shall, after receiving a complaint against a registered podiatrist, inform him or her of the nature of the complaint and, by notice, invite him or her to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he or she thinks fit.

(5) The Board may, after receiving such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under section 15.

### **Inquiries**

10 15. (1) The Board may determine that an inquiry be conducted into a complaint against a registered podiatrist under section 14.

(2) The inquiry shall be conducted either by the Board or by a Professional Standards Committee authorised by it under section 22 to conduct the inquiry.

15 (3) The secretary shall give not less than 7 days' notice of the inquiry to—

- (a) the registered podiatrist concerned; and
- (b) the person who made the complaint.

20 (4) An inquiry shall be conducted in accordance with the requirements (if any) of the regulations.

(5) In an inquiry—

- (a) the registered podiatrist concerned; and
- (b) the person who made the complaint,

are entitled to be heard and to be represented by a barrister or solicitor.

25 (6) In conducting an inquiry, the Board or a Professional Standards Committee is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks fit.

### **Consequences of misconduct etc.**

30 16. (1) If the Board (after an inquiry conducted by itself or a Professional Standards Committee) is satisfied that the subject-matter of a complaint against a registered podiatrist is proved, the Board may—

- (a) caution or reprimand the person; or
- (b) order that the person seek medical or psychiatric treatment or counselling; or
- 35 (c) direct that such conditions, relating to the person's practising podiatry, as it considers appropriate be imposed on the person's registration; or
- (d) order that the person complete such educational courses as are specified by the Board; or

- (e) order that the person report on his or her podiatry practice at the times, in the manner and to the persons specified by the Board; or
- (f) order that the person seek and take advice, in relation to the management of his or her podiatry practice, from such persons as are specified by the Board; or
- 5 (g) except in relation to a complaint made under section 14 (1) (a), by its order impose a fine on the person of an amount, not exceeding 40 penalty units, specified in the order; or
- (h) suspend the person's registration for such period as the Board thinks fit; or
- 10 (i) remove the person's name from the register,
- or exercise any combination of the powers conferred on it by paragraphs (a)–(i).
- (2) If a podiatrist's registration is suspended under this section, the secretary shall note in the register the suspension and its date and cause.
- 15

#### **Statement of decision under s. 16**

17. (1) If the Board decides to take any action under section 16 in respect of 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.
- 20
- (2) The provisions of section 25 (4)–(8) apply to a statement under this section in the same way as they apply to a statement referred to in section 25.

#### **25 Appeals**

18. (1) A person aggrieved by a decision of the Board under section 16 concerning the person may, within 3 months after the date on which notice of the decision is given to the person by the secretary, appeal against the decision to the District Court.
- 30 (2) A person aggrieved by the failure of the Board or other authorised person to register the person as a podiatrist may, within 6 months after the date of the relevant application, appeal against the failure to the District Court.
- (3) An appeal shall be made in accordance with the rules of court and shall be in the nature of a new hearing and new evidence may be given on the appeal.
- 35 (4) The District Court may make such order as it thinks fit, which shall be final and without appeal.
- (5) The Board shall give effect to the District Court's order.

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**PART 5—PODIATRISTS REGISTRATION BOARD AND  
PROFESSIONAL STANDARDS COMMITTEES**

**Podiatrists Registration Board**

19. (1) There is constituted by this Act a corporation under the  
5 corporate name Podiatrists Registration Board.

(2) The Board has the functions conferred or imposed on it by or under  
this or any other Act.

(3) The Board shall consist of 9 members appointed by the Governor.

(4) Of the members—

10 (a) 3 shall be registered podiatrists nominated by the Australian  
Podiatry Association (N.S.W.); and

(b) 6 shall be nominated by the Minister and shall comprise—

(i) 2 registered podiatrists, at least one of whom, in the opinion of  
the Minister, has expertise in matters relating to education; and

15 (ii) a barrister or solicitor; and

(iii) a person to represent the community; and

(iv) an officer of the Department of Health; and

(v) a medical practitioner.

(5) Schedule 1 has effect with respect to the members of the Board.

20 (6) Schedule 2 has effect with respect to the procedure of the Board.

(7) If the Australian Podiatry Association (N.S.W.), does not nominate a  
person within such time or in such manner as may be specified by the  
Minister by notice in writing to the Association, the Governor may instead  
appoint to be a member a person nominated by the Minister.

25 **Staff of the Board**

20. (1) A secretary and such other staff as may be necessary to enable  
the Board to exercise its functions shall be employed under the Public Sector  
Management Act 1988.

30 (2) The Board may, with the approval of the Minister, arrange for the  
use of the services of any staff or facilities of a government department, an  
administrative office or a public or local authority.

**Professional Standards Committees**

21. (1) The Board may establish Professional Standards Committees.

35 (2) The Committees have, in accordance with such terms of reference as  
are determined generally or in any particular case by the Board, the  
functions conferred or imposed on them by or under this Act.



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(3) If the Board decides to refer a matter to a Committee, the Board shall appoint 3 persons to sit as the Committee for the purpose of inquiring into the matter.

5 (4) For the purposes of inquiring into a matter, a Committee shall consist of—

(a) 2 registered podiatrists; and

(b) a person who is neither a registered podiatrist nor qualified to be a registered podiatrist, appointed from a panel of such persons for the time being nominated by the Minister,

10 one of whom shall be appointed by the Board as chairperson of that Committee.

(5) It does not matter that any or all of the members of a Committee are not members of the Board.

15 (6) One or more Committees may inquire into more than one matter at the same time.

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board at the same rate as a witness who gives expert evidence in the Supreme Court.

**Reference of matters to Professional Standards Committees**

20 22. The Board may, despite the other provisions of this Act, refer to a Professional Standards Committee for inquiry and report—

(a) an application to be registered as a podiatrist; or

25 (b) the question of whether the Board should, on a ground set out in section 12 (b) or (c), cause a person's name to be removed from the register; or

(c) the question of whether the Board should exercise its powers under section 16 in respect of a registered podiatrist.

**Proceedings before Professional Standards Committees**

30 23. The procedure for the calling of meetings of a Professional Standards Committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the Committee.

**Decisions of Professional Standards Committees**

35 24. (1) A decision supported by at least 2 members of a Professional Standards Committee on any question is the decision of the Committee.

(2) A Professional Standards Committee shall, as soon as practicable after concluding its inquiry, furnish its report to the Board.

**PART 6—MISCELLANEOUS****Written statements of decisions**

25. (1) If the Board, the President or a member authorised by the Board makes a decision in relation to a person under any provision of this Act, other than section 16, the person may request in writing that the Board, President or member provide the person with a written statement of the decision.

(2) Any such request shall be made no later than 60 days after the decision to which it relates.

10 (3) The Board, the President or the member shall provide a written statement of the decision within one month of receiving such a request.

(4) A written statement of a decision shall—

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

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

(c) give the reasons for the decision.

(5) 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.

20 (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 Board, the President or the member shall, within one month of a decision under section 16 or receipt of a request under subsection (1), give notice in writing to the person, indicating that—

(a) the confidential information is not included; or

(b) the statement will not be provided,

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

(7) In this section—

“confidential information” means information that—

35 (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; and

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

40 (c) is information—



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

#### 10 **Advisory committees**

26. (1) The Board may establish advisory committees to make recommendations to it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of an advisory  
 15 committee are not members of the Board.

(3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

#### **Board may examine witnesses on oath**

20 27. The Board may examine a person on oath or affirmation for the purposes of this Act.

#### **False entries in register, misrepresentation etc.**

28. A person who—

- (a) wilfully makes or causes to be made any false entry in or falsification  
 25 of the register; or  
 (b) wilfully procures or attempts to procure himself or herself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing; or  
 30 (c) aids or assists a person to commit an act referred to in paragraph (a) or (b); or  
 (d) utters or attempts to utter, or assert as true, before the Board any false, forged or counterfeit certificate, diploma, licence, letter, testimonial or other document or writing,

35 is guilty of an offence and is liable on conviction on indictment to be imprisoned for a period not exceeding 12 months.

#### **Proof of certain matters not required**

29. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

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- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any member of the Board; or
- 5 (d) the presence of a quorum at any meeting of the Board.

**Evidentiary certificates and evidence of entry in register**

30. (1) A document purporting to be a certificate signed by the secretary that certifies that on a specified date or during a specified period—

- (a) a person was or was not a registered podiatrist; or
  - 10 (b) a person's registration was suspended,
- is admissible in any proceedings and is evidence of the fact or facts stated in it.

(2) An entry in the register is admissible in any proceedings and is evidence of the fact or facts stated in it.

- 15 (3) A document purporting to be a copy of an entry in the register, purportedly signed by the secretary, is admissible in any proceedings and is evidence of the fact or facts stated in it.

**Fees**

31. The fees payable under this Act or the regulations shall—

- 20 (a) be paid to the secretary who shall transmit them to the Treasurer to be carried to the Consolidated Fund; or
- (b) in accordance with a determination by the Minister pursuant to section 32, be paid into the Podiatry Education and Research Account.

**25 Podiatry Education and Research Account**

32. (1) The Board shall establish a Podiatry Education and Research Account.

- (2) Such amounts as are determined by the Minister from time to time shall be paid by the Board from fees payable under this Act or the regulations into the Podiatry Education and Research Account.
- 30

(3) Money in the Podiatry Education and Research Account may be expended by the Board for or towards any one or more of the following:

- (a) podiatry education;
- (b) education or research for any public purpose connected with the practice of podiatry;
- 35 (c) the publication and distribution of information concerning this Act and the regulations;

(d) meeting administrative expenditure incurred with respect to the Account and the purposes for which it is used, or any related purpose.

(4) An expenditure of money under this section shall not be made unless it is authorised by a resolution supported by at least 6 members.

### **Proceedings for offences**

33. Proceedings for an offence against section 4 or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **10 Regulations**

34. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

15 (2) In particular, the regulations may make provision for or with respect to—

- (a) the proceedings of the Board; and
- (b) certificates of registration and provisional registration under this Act; and
- 20 (c) the manner in which a complaint in respect of any matter referred to in section 14 (1) may be referred to the Board; and
- (d) the procedure to be followed at and any matters incidental to the holding of an inquiry under section 15; and
- 25 (e) the courses of study and training for persons desiring to be registered under this Act; and
- (f) the conduct and the standard of examinations and the remuneration of examiners; and
- (g) the forms to be used for the purposes of this Act and the regulations; and
- 30 (h) the fees to be paid under this Act; and
- (i) the manner in which and the extent to which a podiatrist or a corporation engaged or associated in the practice of podiatry is authorised to advertise; and
- (j) the conduct of podiatry in a patient's home; and
- 35 (k) standards relating to premises in which podiatry is practised.

(3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

### **Repeal of Chiropractors Registration Act 1962 No. 17**

35. The Chiropractors Registration Act 1962 is repealed.



**Repeal of Chiropodists Registration Regulations**

36. The Chiropodists Registration Regulations are repealed.

**Savings and transitional provisions**

37. Schedule 3 has effect.

**5 SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD**

(Sec. 19 (5))

**Age of members**

1. A person of or above the age of 70 years is not eligible to be appointed as a member of the Board or to act in the office of a member.

**10 President and Deputy President of the Board**

2. (1) Of the members of the Board, one shall (in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor) be appointed as President of the Board and one shall be so appointed as Deputy President of the Board.

15 (2) The Governor may remove a member from the office of President or Deputy President.

(3) A person who is the President or Deputy President vacates office as President or Deputy President if the person—

- 20 (a) is removed from that office by the Governor; or  
 (b) resigns that office by instrument in writing addressed to the Minister; or  
 (c) ceases to be a member.

**Acting members and acting President**

25 3. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has all the functions of the member and shall be taken to be a member.

(2) The Deputy President of the Board may act in the office of President during the illness or absence of the President, and while so acting has all the functions of the President and shall be taken to be the President.

30 (3) The Governor may, from time to time, appoint a member to act in the office of President during the illness or absence of both the President and Deputy President, and the member, while so acting, has all the functions of the President and shall be taken to be the President.

(4) The Governor may remove any person from any office to which the person was appointed under this clause.

35 (5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

40 (6) For the purposes of this clause, a vacancy in the office of a member, the President or the Deputy President shall be taken to be an absence from office of the member. President or Deputy President.

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 SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*
**Terms of office**

4. Subject to this Schedule, a member shall hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**5 Remuneration**

5. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

- 10 6. (1) The office of a member becomes vacant if the member—
- (a) dies; or
  - (b) completes a term of office and is not re-appointed; or
  - (c) resigns the office by instrument in writing addressed to the Minister; or
  - 15 (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
  - (e) reaches the age of 70 years; or
  - (f) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent
  - 20 (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - 25 (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
  - 30 (i) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove a member from office at any time.
- (3) Without affecting the generality of subclause (2), the Governor may remove from
- 35 office a member who contravenes the provisions of clause 8.

**Filling of vacancy in office of member**

7. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

**Disclosure of pecuniary interests**

- 40 8. (1) If—



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 SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- 5 the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member—
- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- 10 (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- 15 (3) Particulars of any disclosure made under this clause shall be recorded by the Board in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the Board otherwise determines—
- 20 (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not—
- 25 (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.
- (7) This clause does not apply to or in respect of an interest of a member in a matter
- 30 which arises merely because the member is a podiatrist.
- (8) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

**Effect of certain other Acts**

9. (1) The Public Sector Management Act 1988 does not apply to or in respect of
- 35 the appointment of a member and a member is not, as a member, subject to that Act (except Part 8).
- (2) If by or under any other Act provision is made—
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- 40 (b) prohibiting the person from engaging in employment outside the duties of that office,

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SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE  
BOARD—*continued*

that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

- 5 (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

**Liability of members etc.**

10. No matter or thing done by—

- (a) the Board or a member; or
- (b) the secretary; or
- 10 (c) a Professional Standards Committee or a member of such a Committee; or
- (d) any other officer of the Board,

shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, or the exercise, or intended exercise, of any of his or her functions, subject  
15 or demand.

SCHEDULE 2—PROVISIONS RELATING TO THE PROCEDURE OF THE  
BOARD

(Sec. 19 (6))

**General procedure**

- 20 1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

**Quorum**

2. The quorum for a meeting of the Board is 5 members.

25 **Presiding member**

3. (1) The President or, in the absence of the President, the Deputy President of the Board or in the absence of both of them, another member of the Board elected to chair the meeting by the members present, shall preside at a meeting of the Board.

- 30 (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**Minutes**

- 35 5. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

*Podiatrists 1989***SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 37)

**PART 1—PRELIMINARY****Definitions**

- 5 1. In this Schedule—  
 “new Board” means the Podiatrists Registration Board constituted by section 19;  
 “old Board” means the Chiropodists Registration Board under the 1962 Act;  
 “the 1962 Act” means the Chiropodists Registration Act 1962.

**Regulations**

- 10 2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.  
 (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.  
 (3) To the extent to which any such provision takes effect from a date that is earlier  
 15 than the date of its publication in the Gazette, the provision does not operate so as—  
 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or  
 20 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of the publication.

**PART 2—PROVISIONS CONSEQUENT ON ENACTMENT OF THIS ACT****Members of old Board**

- 25 3. (1) A person who, immediately before the repeal of the 1962 Act, held office as a member of the old Board—  
 (a) ceases to hold office as such on that repeal; and  
 (b) is eligible (if otherwise qualified) to be appointed as a member of the new Board.  
 (2) A person who ceases to hold office as a member of the old Board because of the operation of this Act is not entitled to be paid any remuneration or compensation because  
 30 of ceasing to hold that office.

**Continuity of Board**

4. Anything done by or in relation to the old Board shall be taken to have been done by or in relation to the new Board.

**Appointments etc. before commencement**

- 35 5. For the purpose only of enabling the new Board to be constituted in accordance with this Act on or after (but not before) the commencement of section 19, appointments may be made under this Act, and anything else may be done, before that commencement, as if the whole of this Act commenced on the date of assent, but so that no appointment as a member of the new Board as so constituted takes effect before that commencement.

**40 First meeting of new Board**

6. The Minister shall call the first meeting of the new Board in such manner as the Minister thinks fit.



*Podiatrists 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***The secretary and other officers**

7. A person holding office as the secretary or other officer under the 1962 Act immediately before the repeal of that Act shall, on the commencement of section 20 of this Act, be taken to have been appointed as the secretary or other officer, as the case requires, under this Act and to have been appointed subject to the same terms and conditions as applied to the appointment immediately before that repeal.

**The Register**

8. The Register referred to in section 21 (1) of the 1962 Act shall be taken to be the register referred to in section 9 (1) of this Act.

**10 Registration etc. of chiropodist**

9. (1) A person who, immediately before the the repeal of the 1962 Act, was registered as a chiropodist under that Act shall, on the commencement of section 9 of this Act, be taken to be a registered podiatrist under this Act.

- 15 (2) A person who, immediately before the repeal of the 1962 Act, was the holder of a certificate of provisional registration under section 23 (1) of that Act shall, on the commencement of section 8 of this Act, be taken to be the holder of a certificate of provisional registration under this Act.

**Fees**

- 20 10. A fee paid or which remains unpaid under a provision of the 1962 Act immediately before its repeal shall be taken, on commencement of the relevant provisions of this Act, to have been paid or to remain unpaid under the provision of this Act which corresponds to that provision and shall be taken to have been so paid or to so remain unpaid for or in relation to the same period as that which applied to the fee under the 1962 Act.

**25 Applications for registration**

11. An application for registration as a chiropodist under the 1962 Act which had not been determined by the old Board before the repeal of that Act shall be taken to be an application for registration as a podiatrist under this Act.

**Appeals to the District Court**

- 30 12. (1) An appeal to the District Court under section 26 of the 1962 Act pending immediately before the repeal of that Act shall be continued and disposed of as if, except as provided by subclause (2), this Act had not been enacted.

35 (2) The decision of the District Court on any such appeal shall be final, shall be binding upon the new Board and the appellant and for the purposes of this Act shall be taken to be the final decision of the new Board.

**Complaints**

13. An inquiry under section 26 of the 1962 Act which had not been completed before the repeal of that Act shall, on the commencement of section 15 of this Act, be taken to be an inquiry made under that section and shall be dealt with accordingly.

**40 Construction of certain references**

14. A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind—

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SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (a) to the old Board shall, on the commencement of section 19 of this Act, be read as a reference to the new Board; and
  - (b) to the secretary under the 1962 Act shall, on the commencement of section 20 of this Act, be read as a reference to the secretary under this Act; and
  - 5 (c) to the Register referred to in section 21 (1) of the 1962 Act shall, on the commencement of section 9 of this Act, be read as a reference to the register referred to in section 9 (1) of this Act; and
  - 10 (d) to the registration of a person under the 1962 Act shall, on the commencement of section 9, be read as a reference to the registration of a person under this Act; and
  - (e) to a certificate of provisional registration under section 23 (1) of the 1962 Act shall, on the commencement of section 8 of this Act, be read as a reference to a certificate of provisional registration under section 8 (1) of this Act.
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# PODIATRISTS ACT 1989 No. 23

## NEW SOUTH WALES



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**SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS**

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**PODIATRISTS ACT 1989 No. 23**

NEW SOUTH WALES



**Act No. 23, 1989**

An Act to regulate the practice of podiatry, to make provision for the registration of podiatrists, to regulate the qualifications for and the effect of such registration, to constitute the Podiatrists Registration Board and to specify its functions; to repeal the Chiropodists Registration Act 1962; and for related purposes. [Assented to 20 April 1989]



**The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Podiatrists Act 1989.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

- (2) Part 1, section 37 and Schedule 3 commence on the date of assent.

**Definitions**

3. (1) In this Act—

“Board” means the Podiatrists Registration Board constituted under this Act;

“conduct” means any act or omission;

“member” means a member of the Board;

“podiatry” (previously known as chiropody) means the diagnosis, treatment and prevention of ailments or disorders of the foot within the accepted practice of podiatry in New South Wales;

“President” means the President of the Board;

“professional misconduct” includes—

- (a) any conduct that demonstrates a lack of adequate—

- (i) knowledge;
- (ii) experience;
- (iii) skill;
- (iv) judgment; or
- (v) care,

by a registered podiatrist in the practice of podiatry; and

- (b) a registered podiatrist’s contravening (whether by act or omission) of a provision of this Act or the regulations; and
- (c) a registered podiatrist’s failure to comply with an order made or a direction given by the Board under section 16; and
- (d) any other improper or unethical conduct relating to the practice of podiatry;

“register” means the register of podiatrists under section 9;

“registered podiatrist” means a podiatrist registered under this Act;

“secretary” means the secretary of the Board.

(2) In this Act—

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- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**PART 2—REQUIREMENT FOR REGISTRATION****Podiatry not to be practised by unregistered persons**

4. (1) A person (other than a registered podiatrist or a corporation which employs only registered podiatrists to perform the work of podiatry) shall not—

- (a) practise podiatry for fee or reward; or
- (b) take or use any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is taken or used—
  - (i) indicates; or
  - (ii) is capable of being understood to indicate; or
  - (iii) is calculated to lead a person to infer,

that the person practises podiatry or is qualified to practise podiatry.

Maximum penalty: 5 penalty units.

(2) Nothing in this section prevents—

- (a) the practice of podiatry by a medical practitioner; or
- (b) the provision of basic foot care in the manner, and by persons with the skills or under the supervision, prescribed by the regulations; or
- (c) the practice of podiatry in such circumstances as may be prescribed by the regulations.

**PART 3—REGISTRATION****Registration**

5. (1) A person is registered under this Act if his or her name is entered in the register.

(2) A person who is granted a certificate of provisional registration shall, while it continues to have effect, be taken to be a registered podiatrist.

(3) A person ceases to be a registered podiatrist if his or her name (for whatever reason) is removed from the register.

(4) If a person's registration is suspended, the person shall, except for the purposes of Part 4, be taken not to be a registered podiatrist during the period of that suspension.

**Qualifications for registration**

6. (1) A person who is of good character and is of or above the age of 20 years is entitled to be registered as a podiatrist if—

- (a) the person has completed the prescribed course of training and passed any examinations determined by the Board as sufficient to qualify a person to practise podiatry; or
- (b) the person has completed the course of training conducted by and received the diploma of the Australian Podiatry Association (N.S.W.); or
- (c) the person is the holder of a diploma or a certificate of competency in podiatry obtained by examination after completing a course of study and training provided by a body, association or institution recognised by the Board.

(2) The Board may refuse to register the name of a person who is otherwise entitled to be registered but—

- (a) who has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, renders the person unfit in the public interest to practise podiatry; or
- (b) whose name has been removed from any register or roll established or kept under any law in any country providing for the registration or certification of podiatrists and the reason for the removal was an act or omission of a nature affecting the person's conduct in a professional respect for which, if done or omitted to be done in New South Wales, the Board would have been authorised under Part 4 to remove the person's name from the register, if registered in the register; or
- (c) who is an habitual drunkard or addicted to any deleterious drug.

**Adequacy of language**

7. A person shall not be registered under this Act unless the person proves to the satisfaction of the Board that the person has a knowledge of the English language adequate for the conduct of the practice of podiatry.

**Certificate of provisional registration may be granted**

8. (1) If a person applies to be registered, the President, on being satisfied—

- (a) that the person—
  - (i) is a person to whom section 6 (1) (a) or (b) applies; and
  - (ii) is of good character; or
- (b) that the person—
  - (i) is entitled to a diploma or certificate referred to in section 6 (1) (a) or (b); and



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(ii) will have the diploma or certificate conferred or granted in due course according to the practice of the body, association or institution conferring or granting the diploma or certificate; and

(iii) is of good character,

may, on payment of the prescribed fee, grant to the person a certificate of provisional registration.

(2) A certificate of provisional registration continues to have effect until it is cancelled or expires.

(3) The President shall set an expiry date for each certificate of provisional registration granted by the President.

(4) The expiry date shall be—

(a) in the case of a person of or above 20 years of age—a date not later than 3 months after the granting of the certificate; or

(b) in the case of a person of less than 20 years of age—a date not earlier than the date the person attains 20 years and not later than 3 months after that date.

(5) The Board may, at any time before the date of expiry, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(6) A holder of a certificate of provisional registration who is less than 20 years of age may practise podiatry only under the supervision of a person registered under section 10.

(7) If a person to whom a certificate of provisional registration has been granted becomes registered under this Act during the currency of the certificate, the person's registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

**The register**

9. (1) If a person applies to be registered, the Board, on being satisfied that the person is entitled to be registered as a podiatrist, shall enter in a register—

(a) the full name and address of the person; and

(b) the date of registration; and

(c) particulars of the qualification or qualifications in respect of which the registration is granted; and

(d) such other particulars and matters as are directed by this Act or the regulations to be entered in the register.

(2) The Board may, in relation to a registered podiatrist, also enter in the register, on payment of the prescribed fee—

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- (a) particulars of such further or additional qualifications possessed by the registered podiatrist as the Board may direct to be entered in the register; and
  - (b) particulars of any certificate, diploma, membership, degree, licence, letters, testimonial or other title, status, document or description which the registered podiatrist is authorised by the Board to use as a registered podiatrist or in the practice of podiatry.
- (3) The Board shall, on payment of the prescribed fee, supply a person with such extracts from the register as the person may require.

**Annual roll fee**

10. (1) A registered podiatrist shall, on or before the prescribed date in each year, pay to the Board a roll fee of such amount as may be prescribed for the following year.

(2) Together with the roll fee, the registered podiatrist shall furnish particulars of his or her address for entry in the register.

(3) If a registered podiatrist required by this section to pay a prescribed roll fee does not pay the fee for the following year before the prescribed date in any year, the Board shall notify the registered podiatrist, by letter addressed to him or her at the address appearing in the register, that if the fee is not paid by the date prescribed under this subsection the person's name will be removed from the register.

(4) If a registered podiatrist who has been so notified fails to pay the fee on or before the date prescribed under subsection (3), the Board shall direct that the person's name be removed from the register.

(5) If a person's name is removed from the register under this section, the Board shall, on application in writing and if it is satisfied that the person is of good character, direct that the person's name be restored to the register on payment of such fee as is prescribed by the regulations.

(6) The Board may, in a particular case, waive all or such part of the fee as it thinks proper having regard to the circumstances of the case.

(7) In this section, "year" means a year ending on 30 June or on such other day as may be specified by the regulations.

**Restoration of name to register**

11. (1) If the Board directs the removal from the register of the name of any person, the name of that person shall not be again entered in the register, except by direction of the Board or by order of a court of competent jurisdiction.

(2) The Board may, if it thinks fit in any case, direct the secretary to restore to the register a name removed from it.



(3) The Board may, as a condition of restoration, require a person to pay such fee, not exceeding the prescribed registration fee, as it may from time to time direct.

(4) The secretary shall restore a name to the register on being directed to do so by the Board.

**Removal of name of deceased persons etc.**

12. The Board shall cause to be removed from the register the names of—

- (a) every deceased person; and
- (b) every person who has ceased to possess or does not possess the qualifications in respect of which the person was registered; and
- (c) every person who has ceased to practise podiatry, otherwise than by reason of a suspension of registration under section 16.

**PART 4—COMPLAINTS AND DISCIPLINARY PROCEEDINGS**

**Podiatrists' code of professional conduct**

13. The Board may establish a podiatrists' code of professional conduct setting out the rules of conduct which should be observed by a registered podiatrist in carrying on the practice of podiatry.

**Complaints**

14. (1) A person may make a complaint to the Board that a registered podiatrist—

- (a) has been convicted either in or outside New South Wales of an offence which, from the circumstances under which it was committed, render the registered podiatrist unfit in the public interest to practise podiatry; or
- (b) is an habitual drunkard or is addicted to any deleterious drug; or
- (c) has been guilty of professional misconduct; or
- (d) does not have sufficient physical or mental capacity to practise podiatry; or
- (e) is not of good character.

(2) A complaint shall—

- (a) be in writing; and
- (b) contain particulars of the allegations on which it is founded; and
- (c) be verified by statutory declaration.

(3) The Board may require the person making a complaint to provide further particulars of the complaint.



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(4) The Board shall, after receiving a complaint against a registered podiatrist, inform him or her of the nature of the complaint and, by notice, invite him or her to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he or she thinks fit.

(5) The Board may, after receiving such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under section 15.

**Inquiries**

15. (1) The Board may determine that an inquiry be conducted into a complaint against a registered podiatrist under section 14.

(2) The inquiry shall be conducted either by the Board or by a Professional Standards Committee authorised by it under section 22 to conduct the inquiry.

(3) The secretary shall give not less than 7 days' notice of the inquiry to—

- (a) the registered podiatrist concerned; and
- (b) the person who made the complaint.

(4) An inquiry shall be conducted in accordance with the requirements (if any) of the regulations.

(5) In an inquiry—

- (a) the registered podiatrist concerned; and
- (b) the person who made the complaint,

are entitled to be heard and to be represented by a barrister or solicitor.

(6) In conducting an inquiry, the Board or a Professional Standards Committee is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks fit.

**Consequences of misconduct etc.**

16. (1) If the Board (after an inquiry conducted by itself or a Professional Standards Committee) is satisfied that the subject-matter of a complaint against a registered podiatrist is proved, the Board may—

- (a) caution or reprimand the person; or
- (b) order that the person seek medical or psychiatric treatment or counselling; or
- (c) direct that such conditions, relating to the person's practising podiatry, as it considers appropriate be imposed on the person's registration; or
- (d) order that the person complete such educational courses as are specified by the Board; or

- (e) order that the person report on his or her podiatry practice at the times, in the manner and to the persons specified by the Board; or
- (f) order that the person seek and take advice, in relation to the management of his or her podiatry practice, from such persons as are specified by the Board; or
- (g) except in relation to a complaint made under section 14 (1) (a), by its order impose a fine on the person of an amount, not exceeding 40 penalty units, specified in the order; or
- (h) suspend the person's registration for such period as the Board thinks fit; or
- (i) remove the person's name from the register,

or exercise any combination of the powers conferred on it by paragraphs (a)–(i).

(2) If a podiatrist's registration is suspended under this section, the secretary shall note in the register the suspension and its date and cause.

#### **Statement of decision under s. 16**

17. (1) If the Board decides to take any action under section 16 in respect of 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) The provisions of section 25 (4)–(8) apply to a statement under this section in the same way as they apply to a statement referred to in section 25.

#### **Appeals**

18. (1) A person aggrieved by a decision of the Board under section 16 concerning the person may, within 3 months after the date on which notice of the decision is given to the person by the secretary, appeal against the decision to the District Court.

(2) A person aggrieved by the failure of the Board or other authorised person to register the person as a podiatrist may, within 6 months after the date of the relevant application, appeal against the failure to the District Court.

(3) An appeal shall be made in accordance with the rules of court and shall be in the nature of a new hearing and new evidence may be given on the appeal.

(4) The District Court may make such order as it thinks fit, which shall be final and without appeal.

(5) The Board shall give effect to the District Court's order.



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**PART 5—PODIATRISTS REGISTRATION BOARD AND  
PROFESSIONAL STANDARDS COMMITTEES****Podiatrists Registration Board**

19. (1) There is constituted by this Act a corporation under the corporate name Podiatrists Registration Board.

(2) The Board has the functions conferred or imposed on it by or under this or any other Act.

(3) The Board shall consist of 9 members appointed by the Governor.

(4) Of the members—

(a) 3 shall be registered podiatrists nominated by the Australian Podiatry Association (N.S.W.); and

(b) 6 shall be nominated by the Minister and shall comprise—

(i) 2 registered podiatrists, at least one of whom, in the opinion of the Minister, has expertise in matters relating to education; and

(ii) a barrister or solicitor; and

(iii) a person to represent the community; and

(iv) an officer of the Department of Health; and

(v) a medical practitioner.

(5) Schedule 1 has effect with respect to the members of the Board.

(6) Schedule 2 has effect with respect to the procedure of the Board.

(7) If the Australian Podiatry Association (N.S.W.), does not nominate a person within such time or in such manner as may be specified by the Minister by notice in writing to the Association, the Governor may instead appoint to be a member a person nominated by the Minister.

**Staff of the Board**

20. (1) A secretary and such other staff as may be necessary to enable the Board to exercise its functions shall be employed under the Public Sector Management Act 1988.

(2) The Board may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

**Professional Standards Committees**

21. (1) The Board may establish Professional Standards Committees.

(2) The Committees have, in accordance with such terms of reference as are determined generally or in any particular case by the Board, the functions conferred or imposed on them by or under this Act.



(3) If the Board decides to refer a matter to a Committee, the Board shall appoint 3 persons to sit as the Committee for the purpose of inquiring into the matter.

(4) For the purposes of inquiring into a matter, a Committee shall consist of—

(a) 2 registered podiatrists; and

(b) a person who is neither a registered podiatrist nor qualified to be a registered podiatrist, appointed from a panel of such persons for the time being nominated by the Minister,

one of whom shall be appointed by the Board as chairperson of that Committee.

(5) It does not matter that any or all of the members of a Committee are not members of the Board.

(6) One or more Committees may inquire into more than one matter at the same time.

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board at the same rate as a witness who gives expert evidence in the Supreme Court.

#### **Reference of matters to Professional Standards Committees**

22. The Board may, despite the other provisions of this Act, refer to a Professional Standards Committee for inquiry and report—

(a) an application to be registered as a podiatrist; or

(b) the question of whether the Board should, on a ground set out in section 12 (b) or (c), cause a person's name to be removed from the register; or

(c) the question of whether the Board should exercise its powers under section 16 in respect of a registered podiatrist.

#### **Proceedings before Professional Standards Committees**

23. The procedure for the calling of meetings of a Professional Standards Committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the Committee.

#### **Decisions of Professional Standards Committees**

24. (1) A decision supported by at least 2 members of a Professional Standards Committee on any question is the decision of the Committee.

(2) A Professional Standards Committee shall, as soon as practicable after concluding its inquiry, furnish its report to the Board.

**PART 6—MISCELLANEOUS****Written statements of decisions**

25. (1) If the Board, the President or a member authorised by the Board makes a decision in relation to a person under any provision of this Act, other than section 16, the person may request in writing that the Board, President or member provide the person with a written statement of the decision.

(2) Any such request shall be made no later than 60 days after the decision to which it relates.

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

(4) A written statement of a decision shall—

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

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

(c) give the reasons for the decision.

(5) 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.

(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 Board, the President or the member shall, within one month of a decision under section 16 or receipt of a request under subsection (1), give notice in writing to the person, 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.

(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; and

(b) relates to the personal or business affairs of a person, other than a person to whom the Board, the President or a member 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; or
- (ii) the publication of which would reveal a trade secret; or
- (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 a member 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.

#### **Advisory committees**

26. (1) The Board may establish advisory committees to make recommendations to it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of an advisory committee are not members of the Board.

(3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

#### **Board may examine witnesses on oath**

27. The Board may examine a person on oath or affirmation for the purposes of this Act.

#### **False entries in register, misrepresentation etc.**

28. A person who—

- (a) wilfully makes or causes to be made any false entry in or falsification of the register; or
- (b) wilfully procures or attempts to procure himself or herself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing; or
- (c) aids or assists a person to commit an act referred to in paragraph (a) or (b); or
- (d) utters or attempts to utter, or assert as true, before the Board any false, forged or counterfeit certificate, diploma, licence, letter, testimonial or other document or writing,

is guilty of an offence and is liable on conviction on indictment to be imprisoned for a period not exceeding 12 months.

#### **Proof of certain matters not required**

29. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—



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- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any member of the Board; or
- (d) the presence of a quorum at any meeting of the Board.

**Evidentiary certificates and evidence of entry in register**

**30. (1)** A document purporting to be a certificate signed by the secretary that certifies that on a specified date or during a specified period—

- (a) a person was or was not a registered podiatrist; or
- (b) a person's registration was suspended,

is admissible in any proceedings and is evidence of the fact or facts stated in it.

(2) An entry in the register is admissible in any proceedings and is evidence of the fact or facts stated in it.

(3) A document purporting to be a copy of an entry in the register, purportedly signed by the secretary, is admissible in any proceedings and is evidence of the fact or facts stated in it.

**Fees**

**31.** The fees payable under this Act or the regulations shall—

- (a) be paid to the secretary who shall transmit them to the Treasurer to be carried to the Consolidated Fund; or
- (b) in accordance with a determination by the Minister pursuant to section 32, be paid into the Podiatry Education and Research Account.

**Podiatry Education and Research Account**

**32. (1)** The Board shall establish a Podiatry Education and Research Account.

(2) Such amounts as are determined by the Minister from time to time shall be paid by the Board from fees payable under this Act or the regulations into the Podiatry Education and Research Account.

(3) Money in the Podiatry Education and Research Account may be expended by the Board for or towards any one or more of the following:

- (a) podiatry education;
- (b) education or research for any public purpose connected with the practice of podiatry;
- (c) the publication and distribution of information concerning this Act and the regulations;

(d) meeting administrative expenditure incurred with respect to the Account and the purposes for which it is used, or any related purpose.

(4) An expenditure of money under this section shall not be made unless it is authorised by a resolution supported by at least 6 members.

#### **Proceedings for offences**

33. Proceedings for an offence against section 4 or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

#### **Regulations**

34. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to—

- (a) the proceedings of the Board; and
- (b) certificates of registration and provisional registration under this Act; and
- (c) the manner in which a complaint in respect of any matter referred to in section 14 (1) may be referred to the Board; and
- (d) the procedure to be followed at and any matters incidental to the holding of an inquiry under section 15; and
- (e) the courses of study and training for persons desiring to be registered under this Act; and
- (f) the conduct and the standard of examinations and the remuneration of examiners; and
- (g) the forms to be used for the purposes of this Act and the regulations; and
- (h) the fees to be paid under this Act; and
- (i) the manner in which and the extent to which a podiatrist or a corporation engaged or associated in the practice of podiatry is authorised to advertise; and
- (j) the conduct of podiatry in a patient's home; and
- (k) standards relating to premises in which podiatry is practised.

(3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

#### **Repeal of Chiropractors Registration Act 1962 No. 17**

35. The Chiropractors Registration Act 1962 is repealed.



*Podiatrists 1989***Repeal of Chiropodists Registration Regulations**

36. The Chiropodists Registration Regulations are repealed.

**Savings and transitional provisions**

37. Schedule 3 has effect.

**SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD**

(Sec. 19 (5))

**Age of members**

1. A person of or above the age of 70 years is not eligible to be appointed as a member of the Board or to act in the office of a member.

**President and Deputy President of the Board**

2. (1) Of the members of the Board, one shall (in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor) be appointed as President of the Board and one shall be so appointed as Deputy President of the Board.

(2) The Governor may remove a member from the office of President or Deputy President.

(3) A person who is the President or Deputy President vacates office as President or Deputy President if the person—

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

**Acting members and acting President**

3. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has all the functions of the member and shall be taken to be a member.

(2) The Deputy President of the Board may act in the office of President during the illness or absence of the President, and while so acting has all the functions of the President and shall be taken to be the President.

(3) The Governor may, from time to time, appoint a member to act in the office of President during the illness or absence of both the President and Deputy President, and the member, while so acting, has all the functions of the President and shall be taken to be the President.

(4) The Governor may remove any person from any office to which the person was appointed under this clause.

(5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(6) For the purposes of this clause, a vacancy in the office of a member, the President or the Deputy President shall be taken to be an absence from office of the member, President or Deputy President.



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**SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued***

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**Terms of office**

4. Subject to this Schedule, a member shall hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration**

5. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

6. (1) The office of a member becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) reaches the age of 70 years; or
- (f) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings; or
- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (i) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a member from office at any time.

(3) Without affecting the generality of subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 8.

**Filling of vacancy in office of member**

7. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

**Disclosure of pecuniary interests**

8. (1) If—

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 SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*

(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member—

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause shall be recorded by the Board in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a member has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the Board otherwise determines—

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) This clause does not apply to or in respect of an interest of a member in a matter which arises merely because the member is a podiatrist.

(8) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

**Effect of certain other Acts**

9. (1) The Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act (except Part 8).

(2) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

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**SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued***

that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

**Liability of members etc.**

10. No matter or thing done by—

- (a) the Board or a member; or
- (b) the secretary; or
- (c) a Professional Standards Committee or a member of such a Committee; or
- (d) any other officer of the Board,

shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, or the exercise, or intended exercise, of any of his or her functions, subject the member, or the secretary, or person, so acting personally to any action, liability, claim or demand.

**SCHEDULE 2—PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD**

(Sec. 19 (6))

**General procedure**

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

**Quorum**

2. The quorum for a meeting of the Board is 5 members.

**Presiding member**

3. (1) The President or, in the absence of the President, the Deputy President of the Board or in the absence of both of them, another member of the Board elected to chair the meeting by the members present, shall preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**Minutes**

5. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.



**SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 37)

**PART 1—PRELIMINARY****Definitions**

1. In this Schedule—

“new Board” means the Podiatrists Registration Board constituted by section 19;

“old Board” means the Chiropodists Registration Board under the 1962 Act;

“the 1962 Act” means the Chiropodists Registration Act 1962.

**Regulations**

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of the publication.

**PART 2—PROVISIONS CONSEQUENT ON ENACTMENT OF THIS ACT****Members of old Board**

3. (1) A person who, immediately before the repeal of the 1962 Act, held office as a member of the old Board—

(a) ceases to hold office as such on that repeal; and

(b) is eligible (if otherwise qualified) to be appointed as a member of the new Board.

(2) A person who ceases to hold office as a member of the old Board because of the operation of this Act is not entitled to be paid any remuneration or compensation because of ceasing to hold that office.

**Continuity of Board**

4. Anything done by or in relation to the old Board shall be taken to have been done by or in relation to the new Board.

**Appointments etc. before commencement**

5. For the purpose only of enabling the new Board to be constituted in accordance with this Act on or after (but not before) the commencement of section 19, appointments may be made under this Act, and anything else may be done, before that commencement, as if the whole of this Act commenced on the date of assent, but so that no appointment as a member of the new Board as so constituted takes effect before that commencement.

**First meeting of new Board**

6. The Minister shall call the first meeting of the new Board in such manner as the Minister thinks fit.

*Podiatrists 1989***SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—continued****The secretary and other officers**

7. A person holding office as the secretary or other officer under the 1962 Act immediately before the repeal of that Act shall, on the commencement of section 20 of this Act, be taken to have been appointed as the secretary or other officer, as the case requires, under this Act and to have been appointed subject to the same terms and conditions as applied to the appointment immediately before that repeal.

**The Register**

8. The Register referred to in section 21 (1) of the 1962 Act shall be taken to be the register referred to in section 9 (1) of this Act.

**Registration etc. of chiropodist**

9. (1) A person who, immediately before the the repeal of the 1962 Act, was registered as a chiropodist under that Act shall, on the commencement of section 9 of this Act, be taken to be a registered podiatrist under this Act.

(2) A person who, immediately before the repeal of the 1962 Act, was the holder of a certificate of provisional registration under section 23 (1) of that Act shall, on the commencement of section 8 of this Act, be taken to be the holder of a certificate of provisional registration under this Act.

**Fees**

10. A fee paid or which remains unpaid under a provision of the 1962 Act immediately before its repeal shall be taken, on commencement of the relevant provisions of this Act, to have been paid or to remain unpaid under the provision of this Act which corresponds to that provision and shall be taken to have been so paid or to so remain unpaid for or in relation to the same period as that which applied to the fee under the 1962 Act.

**Applications for registration**

11. An application for registration as a chiropodist under the 1962 Act which had not been determined by the old Board before the repeal of that Act shall be taken to be an application for registration as a podiatrist under this Act.

**Appeals to the District Court**

12. (1) An appeal to the District Court under section 26 of the 1962 Act pending immediately before the repeal of that Act shall be continued and disposed of as if, except as provided by subclause (2), this Act had not been enacted.

(2) The decision of the District Court on any such appeal shall be final, shall be binding upon the new Board and the appellant and for the purposes of this Act shall be taken to be the final decision of the new Board.

**Complaints**

13. An inquiry under section 26 of the 1962 Act which had not been completed before the repeal of that Act shall, on the commencement of section 15 of this Act, be taken to be an inquiry made under that section and shall be dealt with accordingly.

**Construction of certain references**

14. A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind—

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**SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***

- (a) to the old Board shall, on the commencement of section 19 of this Act, be read as a reference to the new Board; and
- (b) to the secretary under the 1962 Act shall, on the commencement of section 20 of this Act, be read as a reference to the secretary under this Act; and
- (c) to the Register referred to in section 21 (1) of the 1962 Act shall, on the commencement of section 9 of this Act, be read as a reference to the register referred to in section 9 (1) of this Act; and
- (d) to the registration of a person under the 1962 Act shall, on the commencement of section 9, be read as a reference to the registration of a person under this Act; and
- (e) to a certificate of provisional registration under section 23 (1) of the 1962 Act shall, on the commencement of section 8 of this Act, be read as a reference to a certificate of provisional registration under section 8 (1) of this Act.

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[*Minister's second reading speech made in—  
Legislative Assembly on 2 March 1989  
Legislative Council on 12 April 1989*]