

DENTAL BILL 2017

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A BILL

i n t i t u l e d

An Act to provide for the establishment of the Malaysian Dental Council and the Malaysian Dental Therapists Board, to provide for the registration of dental surgeon and dental therapist, to regulate the practice of dentistry and for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Dental Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

2. In this Act, unless the context otherwise requires—

“practising address” means the address or addresses appearing on the practising certificate;

“principal practising address” means the address of the principal place of practice, which shall be the first practising address appearing on the annual practising certificate or the temporary practising certificate;

“resident” means practising in a certain locality as stated in the practitioner’s principal practising address;

“Conditional Register” means the Malaysian Register of Conditional Registration kept and maintained under subsection 25(2);

“Dental Therapists Register” means the Malaysian Register of Dental Therapists kept and maintained under subsection 25(3);

“Dental Register” means the Malaysian Register of Dental Practitioners kept and maintained under subsection 25(1);

“dentist” means a person registered in Division II of the Dental Register under the Dental Act 1971 [*Act 51*];

“prescribed”, where no mode is mentioned, means prescribed by regulations made under this Act;

“dental surgeon” means—

- (a) a dental surgeon registered in Division I of the Dental Register under the Dental Act 1971; or
- (b) a person registered as a dental surgeon under section 31 and for the purposes of Part IV, Part V and Part VI includes any person who is deemed to be registered as a dental surgeon under subsection 40(6);

“local training institution” means an institution of higher education which grants a dental degree and carries out all or part of its training within Malaysia;

“accredited local training institution” means a local training institution which conducts a dental programme which has been granted accreditation status by the Malaysian Qualifications Agency under the Malaysian Qualifications Agency Act 2007 [Act 679];

“recognized qualification” means a qualification listed in the Second Schedule;

“healthcare facility” means any premises in which members of the public receive healthcare services;

“Director General” means the Director General of Health, Malaysia;

“Head of Profession” means the Head of Profession for Dental Therapists in the Ministry of Health;

“Board” means the Malaysian Dental Therapists Board established under section 15;

“Council” means the Malaysian Dental Council established under section 3;

“Minister” means the Minister charged with the responsibility for health;

“Fitness to Practice Panel” means the Panel established under section 33;

“authorized officer” means any suitably qualified officer of the Ministry of Health authorized under section 70;

“Dental Therapists Registrar” means the Registrar of Dental Therapists referred to in subsection 24(3);

“Dental Registrar” means the Registrar of Dental Practitioners referred to in subsection 24(2);

“practitioner” means any dental practitioner or dental therapist registered under this Act;

“dental practitioner” means—

(a) a dental surgeon; or

(b) a dentist;

“Principal Director” means the head of the Oral Health services in the Ministry of Health;

“Chairman” means the Chairman of the Dental Therapists Board referred to in section 18;

“certificate” means a certificate of registration, annual practising certificate or temporary practising certificate;

“practising certificate” means an annual practising certificate or a temporary practising certificate;

“Professional Indemnity Cover” means any form of financial security for a practitioner in a professional liability action;

“premises” means any place, building or vehicle, whether permanent or temporary;

“appointed date” means the date on which this Act comes into operation;

“President” means the President of the Malaysian Dental Council.

PART II

THE MALAYSIAN DENTAL COUNCIL

Establishment of the Council

3. (1) A body corporate by the name of the Malaysian Dental Council is established.

(2) The Council shall have perpetual succession and a common seal.

(3) The Council may sue and be sued in its corporate name.

(4) Subject to and for the purposes of this Act, the Council may, upon such terms as it thinks fit, enter into contracts.

Functions of the Council

4. The Council shall have the following functions:

- (a) to recognize qualifications for registration of practitioners under this Act;
- (b) to approve post-graduate qualifications to register as dental specialists;
- (c) to register and issue certificates to dental practitioners;
- (d) to register and issue certificates to dental specialists;
- (e) to determine the criteria for registration of dental specialists;
- (f) to regulate examinations for registration of dental surgeons;
- (g) to regulate the period of compulsory service of dental practitioners;
- (h) to regulate the standards of practice of dental practitioners;
- (i) to regulate the ethics and professional conduct of dental practitioners;
- (j) to regulate the scope of practice of practitioners; and
- (k) to do such other things as may be required or permitted to do under this Act.

Powers of the Council

5. (1) The Council may do all things necessary or expedient for, or in connection with, the performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Council may—

- (a) approve or reject applications for registration of dental practitioners and dental specialists under this Act or approve any such applications subject to such conditions or restrictions as it thinks fit to impose;
- (b) impose as it thinks fit fees or any other charges as prescribed in the Fourth Schedule in the performance of its functions and the exercise of its powers;
- (c) pay allowances and other expenses of the members of the Council and committees;
- (d) employ such number of employees as the Council thinks necessary upon such terms and conditions of service as may be determined by the Council for carrying out the purposes of this Act;
- (e) pay remuneration, allowances and other benefits to the employees; and
- (f) appoint any practitioner to represent the Council in any committee, panel or institution where that person would subsequently make recommendations to the Council on all matters relating to qualifications for admission to the profession.

Membership of the Council

6. (1) The Council shall consist of the following members:

- (a) the Director General who shall be the President;
- (b) the Principal Director who shall be the Dental Registrar;

- (c) six dental surgeons from among the academic staff of the dental faculties of the accredited local training institutions to be appointed by the Minister, three of whom shall be from the public sector and three of whom shall be from the private sector;
- (d) six dental surgeons to be nominated by the President and appointed by the Minister, of whom three shall be from the public sector and three shall be from the private sector;
- (e) four dental surgeons from the public sector, resident in Peninsular Malaysia, to be elected by the dental surgeons resident in Peninsular Malaysia;
- (f) four dental surgeons from the private sector, resident in Peninsular Malaysia, to be elected by the dental surgeons resident in Peninsular Malaysia;
- (g) one dental surgeon resident in Sabah to be elected by the dental surgeons resident in Sabah;
- (h) one dental surgeon resident in Sarawak to be elected by the dental surgeons resident in Sarawak; and
- (i) two dental therapists who are members of the Board nominated by the Board and appointed by the Minister.

(2) A dental surgeon shall not be appointed as a member of the Council under paragraph (1)(c) or (d) or elected to be a member of the Council under paragraphs (1)(e) to (h) unless—

- (a) he is a citizen of Malaysia;
- (b) he resides in Malaysia;
- (c) he holds a valid annual practising certificate; and
- (d) he has been registered with the Council and practising in Malaysia for not less than seven years.

(3) A dental surgeon shall not be eligible to nominate a member of the Council under paragraphs (1)(e) to (h) unless—

(a) he is a citizen of Malaysia; and

(b) he holds a valid annual practising certificate.

(4) The nomination and election of the members of the Council referred to in paragraphs (1)(e) to (h) shall be conducted in the prescribed manner.

(5) A dental surgeon shall not at the same time serve as a member of the Council in more than one capacity.

(6) The provisions of the First Schedule shall apply to the members of the Council.

Power of Minister to appoint members of the Council

7. (1) For the purposes of paragraphs 6(1)(e) to (h), the Minister may appoint any dental surgeon qualified to be so nominated or elected to be the member of the Council if the dental surgeons fail to nominate the member of the Council by such date as may be specified in the notice of and request for nomination.

(2) Any dental surgeon appointed under subsection (1) shall be deemed to be a member as if he had been duly nominated or elected.

Disqualification from appointment, nomination or election

8. (1) A dental surgeon shall not be qualified to be appointed, nominated or elected as a member of the Council under paragraphs 6(1)(c) to (h) if—

(a) he has been found guilty by a court of any offence involving fraud, dishonesty or moral turpitude, or of any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine;

(b) he is an undischarged bankrupt;

- (c) his name has at any time been removed from the Dental Register; or
- (d) his name has been removed from any register of dental practitioners or its equivalent maintained in any place outside Malaysia as a result of any misconduct or disciplinary proceedings.

(2) Any dental surgeon whose name has been suspended from the Dental Register shall not be eligible to be appointed, nominated or elected, as the case may be, under paragraphs 6(1)(c) to (h) for a period of six years after the expiration of the suspension.

(3) Any dental surgeon who has been reprimanded under paragraph 58(1)(c), shall not be eligible to be appointed, nominated or elected, as the case may be, under paragraphs 6(1)(c) to (h) for a period of three years from the date of such reprimand.

(4) A member who has been appointed or elected under this Act shall be deemed to have vacated his seat as a member of the Council if—

- (a) he is no longer a citizen of Malaysia;
- (b) he no longer resides in Malaysia;
- (c) he no longer holds a valid annual practising certificate;
- (d) he is an undischarged bankrupt;
- (e) he is no longer eligible under subsection 6(1);
- (f) he, subject to the periods stipulated in subsections (2) and (3), has been punished by the Council under section 58;
- (g) his name has been removed from any register of dental practitioners maintained in any place outside Malaysia as a result of any misconduct or disciplinary proceedings;
or
- (h) he has been found guilty by a court for any offence involving fraud, dishonesty or moral turpitude, or for any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine.

Revocation and resignation of members of the Council

9. (1) The Minister may, at any time after consulting the President, revoke the appointment of any member of the Council appointed under paragraph 6(1)(c), (d) or (i).

(2) The member of the Council appointed under paragraph 6(1)(c), (d) or (i) or elected under paragraphs 6(1)(e) to (h) may at any time resign his office by a notice in writing to the President.

Temporary exercise of functions of the President

10. (1) The Dental Registrar shall act as the President for the period when—

- (a) the office of the President is vacant;
- (b) the President is absent from duty or from Malaysia; or
- (c) the President is, for any other reason, unable to carry out his functions.

(2) The Dental Registrar shall, during the period in which he is carrying out the functions of the President under this section, be deemed to be the President.

Secretary to the Council

11. (1) The Director General shall appoint a dental officer of the Ministry of Health to be the Secretary to the Council.

(2) The Secretary shall be responsible for the following:

- (a) the day to day management of the affairs of the Council;
- (b) the implementation of the decisions of the Council; and
- (c) the carrying out of any other duties as directed by the Council.

(3) The Secretary shall, in carrying out his responsibilities, act under the power and direction of the Council.

(4) The Director General may appoint any officer of the Ministry of Health to assist the Secretary in carrying out his functions.

Committees of the Council

12. (1) The Council may establish committees as the Council considers necessary or expedient to assist the Council in the performance of its functions or in the exercise of its powers.

(2) A committee established under subsection (1)—

(a) shall be chaired by a dental surgeon appointed by the Council;

(b) shall be subject to, and act in accordance with, any direction given to the committee by the Council; and

(c) shall conform to any procedure determined by the Council.

(3) The Council may appoint any person as a member of any such committee.

(4) A member of a committee shall hold office for such term as the Council may specify in his letter of appointment and be eligible for reappointment.

(5) The Council may, at any time, revoke the appointment of any member of a committee.

(6) A member of a committee may, at any time, resign by giving a notice in writing to the President.

(7) The Council may, at any time, alter the composition of or dissolve a committee.

Allowances for members of the Council, etc.

13. The members of the Council and committees and any other person invited to attend any meeting or deliberation of the Council and the committees shall be paid such allowances or expenses as may be determined by the President.

Appointment of employees of the Council

14. (1) The Council may appoint or employ such number of employees on such terms and conditions as the Council thinks appropriate for carrying out the purposes of this Act.

(2) The employees referred to in subsection (1) shall be paid such remuneration, allowances and benefits and whose appointment shall be on such terms as the Council thinks fit.

(3) A person shall not be eligible for employment as an employee of the Council if he, directly or indirectly, by himself or his partner, has any share or interest in any contract or proposed contract with, for or on behalf of the Council.

PART III**THE MALAYSIAN DENTAL THERAPISTS BOARD****Establishment of the Board**

15. (1) A board by the name of the Malaysian Dental Therapists Board is established.

(2) The Board shall have perpetual succession and a common seal.

Functions of the Board

16. The Board shall have the following functions:

- (a) to register and issue certificates to dental therapists;
- (b) to register and issue certificates to post-basic dental therapists;
- (c) to regulate any examination for registration of dental therapists;
- (d) to regulate the standards of practice of dental therapists;
- (e) to regulate the ethics and professional conduct of dental therapists; and

- (f) to do such other things as may be required or permitted to do under this Act.

Powers of the Board

17. (1) The Board may do all things necessary or expedient for, or in connection with, the performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Board may—

- (a) approve or reject applications for registration of dental therapists and post-basic dental therapists under this Act or approve any such applications subject to such conditions and restrictions as it thinks fit to impose; and
- (b) appoint any practitioner to represent the Board in any committee, panel or institution where that person would subsequently make recommendations to the Board on all matters relating to the qualifications for admission to the profession.

Membership of the Board

18. (1) The Board shall consist of the following members:

- (a) the Principal Director who shall be the Chairman;
- (b) the Head of Profession of Dental Therapists who shall be the Dental Therapists Registrar;
- (c) one Council member nominated by the President;
- (d) one dental therapist who is employed as a tutor at the Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang, nominated by the Director of the Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang;

- (e) two dental therapists from among the academic staff of any of the local training institutions granting registrable qualifications for the training of dental therapists, nominated by the President;
- (f) one dental therapist, employed in the armed forces, nominated by the Director of Dental Services, Armed Forces Malaysia;
- (g) five dental therapists resident in Peninsular Malaysia, nominated by the Chairman;
- (h) two dental therapists resident in Sabah, nominated by the Chairman; and
- (i) two dental therapists resident in Sarawak, nominated by the Chairman.

(2) The members of the Board under paragraphs (1)(c) to (i) shall be appointed by the Minister.

(3) A dental therapist shall not be appointed as a member of the Board unless—

- (a) he is a citizen of Malaysia;
- (b) he resides in Malaysia; and
- (c) he holds a valid annual practising certificate.

(4) A dental therapist shall not at the same time serve as a member of the Board in more than one capacity.

(5) The Chairman may delegate any of his functions to the Dental Therapists Registrar who, in exercising such functions, shall be subject to the control, supervision and direction of the Chairman.

(6) The provisions of the First Schedule shall apply to the members of the Board.

Disqualification from nomination and appointment

19. (1) A dental therapist shall not be qualified to be nominated or appointed as a member of the Board under paragraphs 18(1)(d) to (i) if—

- (a) he has been found guilty by a court of any offence involving fraud, dishonesty or moral turpitude, or of any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine;
- (b) he is an undischarged bankrupt;
- (c) his name has at any time been removed from the Dental Therapists Register; or
- (d) his name has been removed from any register of dental therapist or its equivalent maintained in any place outside Malaysia as a result of any misconduct or disciplinary proceedings.

(2) Any dental therapist whose name has been suspended from the Dental Therapists Register shall not be eligible to be appointed or nominated, as the case may be, under paragraphs 18(1)(d) to (i) for a period of six years after the expiration of the suspension.

(3) Any dental therapist who has been reprimanded under paragraph 58(1)(c), shall not be eligible to be appointed or nominated, as the case may be, under paragraphs 18(1)(d) to (i) for a period of three years from the date of such reprimand.

(4) Where a member who has been appointed or elected under this Act is disqualified by reason of any provision of this Act, he shall be deemed to have vacated his seat.

Revocation and resignation of members of the Board

20. (1) The Minister may, at any time after consulting the Chairman, revoke the appointment of any member of the Board appointed under paragraphs 18(1)(d) to (i).

(2) The member of the Board appointed under paragraphs 18(1)(c) to (i) may at any time resign his office by a notice in writing to the Chairman.

Secretary to the Board

21. (1) The Director General shall appoint an officer of the Ministry of Health to be the Secretary to the Board.

(2) The Secretary shall be responsible for the following:

(a) the day to day management of the affairs of the Board;

(b) the implementation of the decisions of the Board; and

(c) the carrying out of any other duties as directed by the Board.

(3) The Secretary shall, in carrying out his responsibilities, act under the power and direction of the Board.

(4) The Director General may appoint any officer of the Ministry of Health to assist the Secretary in carrying out his functions.

Committees of the Board

22. The Board may establish committees as the Board considers necessary or expedient to assist the Board in the performance of its functions or in the exercise of its powers.

Allowances for members of the Board, etc.

23. The members of the Board and committees and any other person invited to attend any meeting or deliberation of the Board and the committees shall be paid such allowances or expenses as may be determined by the President.

PART IV

REGISTRATION OF PRACTITIONER

Chapter 1

Register

Registrar

24. (1) For the purposes of this Act, there shall be—

(a) a Dental Registrar; and

(b) a Dental Therapists Registrar.

(2) The Principal Director shall be Dental Registrar, who shall have the following functions:

(a) the issuance of certificates to dental practitioners; and

(b) the maintenance of the Dental Register, the Dental Temporary Practising Certificates Register and the Conditional Register.

(3) The Head of Profession of Dental Therapists shall be the Dental Therapists Registrar, who shall have the following functions:

(a) the issuance of certificates to dental therapists; and

(b) the maintenance of the Dental Therapists Register and the Dental Therapists Temporary Practising Certificates Register.

(4) The Dental Register, the Dental Therapists Register, the Conditional Register, the Dental Temporary Practising Certificate Register and the Dental Therapists Temporary Practising Certificate Register shall be maintained in both physical and electronic forms as prescribed.

Register

25. (1) The Dental Register shall consist of the following divisions:

- (a) Division I, which shall be in respect of persons registered as a dental surgeon;
- (b) Division II, which shall be in respect of persons registered as a dentist; and
- (c) Specialist Division, which shall be in respect of persons registered as a dental specialist.

(2) The Conditional Register shall consist of names and other particulars of persons registered under section 36.

(3) The Dental Therapists Register shall consist of the following divisions:

- (a) Division A, which shall be in respect of persons registered as a dental therapist; and
- (b) Division B, which shall be in respect of persons registered as a post-basic dental therapist.

(4) The Dental Temporary Practising Certificate Register and the Dental Therapists Temporary Practising Certificate Register shall consist of names and other particulars of persons registered under section 40.

(5) Any person may, on payment of the fee as prescribed in the Fourth Schedule, obtain an extract of an entry in the Dental Register, the Conditional Register, the Dental Therapists Register, the Dental Temporary Practising Certificate Register and the Dental Therapists Temporary Practising Certificate Register.

(6) The Dental Register and the Dental Therapists Register maintained under this Act shall be deemed to be a public document within the meaning of the Evidence Act 1950 [Act 56].

Alterations in Register

26. (1) The Dental Registrar or the Dental Therapists Registrar may insert and attest in the Dental Register or in the Dental Therapists Register, as the case may be—

- (a) any alteration which may come to his knowledge in the name or address of any dental practitioner or any dental therapist registered under this Act; and
- (b) any alteration in the qualifications, additional qualifications and other particulars required to be altered under this Act.

(2) Any person registered under this Act who obtains any dental qualification other than the qualification with which he was registered may apply to the Council or the Board to alter the Dental Register or the Dental Therapists Register so far as it relates to his qualifications.

(3) The Council or the Board shall decide what other degrees or additional qualifications shall be admitted to be entered in the Dental Register or the Dental Therapists Register.

Removal of names from Register

27. (1) The Dental Registrar or the Dental Therapists Registrar shall remove from the Dental Register or the Dental Therapists Register, as the case may be, the name and other particulars of a dental practitioner or a dental therapist—

- (a) who has died;
- (b) who is no longer practising dentistry;
- (c) who has, after due inquiry by a Fitness to Practice Panel, been found to be unfit to perform his professional duties by reason of his mental or physical infirmity or been found to be incompetent to carry out his professional duties as a dental practitioner or a dental therapist; or
- (d) who has, after due inquiry by the Council or the Board, as the case may be, been found to have been registered through an error as to his qualifications for registration, and was not at the time of his registration entitled to be registered.

(2) The Dental Registrar shall notify the dental practitioner, or the Dental Therapists Registrar shall notify the dental therapist, of the removal of his name under paragraph (1)(b), (c) or (d).

(3) The Dental Registrar or the Dental Therapists Registrar shall publish in the *Gazette* the names of every dental practitioner or dental therapist whose registration has been removed under paragraph (1)(b), (c) or (d).

Restoration of name in Register

28. (1) Where the registration of a practitioner has been removed under paragraph 27(1)(b), (c) or (d), he may apply to the Council or the Board, as the case may be, for his name to be restored to the Dental Register or the Dental Therapists Register, as the case may be.

(2) The Council or the Board, as the case may be, may at its discretion, upon application made to it, order that the name of the applicant be restored in the Dental Register or the Dental Therapists Register, as the case may be, subject to such conditions and restrictions as he may impose, or may reject the restoration of the name.

(3) Any practitioner whose name has been removed from the the Dental Register or the Dental Therapists Register by virtue of paragraph 27(1)(c) shall not be registered again unless he has been certified by a Fitness to Practise Panel that his mental or physical condition, as the case may be, warrants such registration.

Chapter 2

Registration

Qualifications for registration as dental surgeon

29. (1) A Malaysian citizen may apply to the Dental Registrar to be registered as a dental surgeon if—

(a) he holds a qualification granted by an accredited local training institution;

- (b) he has been certified by the Dental Qualifying Committee to have fulfilled the requirements of the Professional Qualifying Examination; and
- (c) he has proven to the satisfaction of the Dental Registrar that he is a fit and proper person and is of good character.

(2) Notwithstanding paragraph (1)(a), a Malaysian citizen who does not hold a qualification granted by an accredited local training institution may apply to the Dental Registrar to be registered as a dental surgeon if—

- (a) he has attended a dental training in a training institution where the standard of dental training and examination in that training institution meets the standard specified by the Council;
- (b) he has proven to the satisfaction of the Council that he is a fit and proper person and is of good character; and
- (c) he, having fulfilled the requirements under paragraphs (a) and (b), passes the Professional Qualifying Examination conducted by the Dental Qualifying Committee.

(3) The Council may order the applicant in subsection (2) to undergo further training before allowing such applicant to sit for the Professional Qualifying Examination.

(4) For the purposes of this section, the Dental Qualifying Committee is established—

- (a) to determine the standard and the assessment of Professional Qualifying Examination for a dental surgeon;
- (b) to conduct the Professional Qualifying Examination for a dental surgeon or appoint any other agency to conduct the Professional Qualifying Examination;
- (c) to certify any person who has fulfilled the requirements of the Professional Qualifying Examination; and
- (d) to conduct any examination for the registration of dental specialists.

Qualifications for registration as dental therapist

30. A Malaysian citizen may apply to the Dental Therapists Registrar to be registered as a dental therapist if—

- (a) he holds any of the recognized qualifications listed in the Second Schedule, granted by an institution specified in relation to that qualification; and
- (b) he has proven to the satisfaction of the Dental Therapists Registrar that he is a fit and proper person and is of good character.

Registration of dental surgeon and dental therapist

31. (1) An application for registration—

- (a) as a dental surgeon, shall be made to the Dental Registrar; and
- (b) as a dental therapist, shall be made to the Dental Therapists Registrar.

(2) The application under subsection (1) shall be made in the prescribed form together with the documents, information and particulars as may be determined by the Council or the Board, as the case may be, and such application shall be accompanied by the fee as prescribed in the Fourth Schedule.

(3) The Dental Registrar or the Dental Therapists Registrar shall consider the application under subsection (1), and may require the applicant to produce further information or documents in support of the application.

(4) Where the Dental Registrar approves the application under subsection (1) in relation to a dental surgeon, the Dental Registrar shall issue a certificate of registration to the applicant and enter his name in Division I of the Dental Register.

(5) Where the Dental Therapists Registrar approves the application under subsection (1) in relation to a dental therapist, the Dental Therapists Registrar shall issue a certificate of registration to the applicant and enter his name in Division A of the Dental Therapists Register.

(6) Where the Dental Registrar or the Dental Therapists Registrar refuses the application under subsection (1), the Dental Registrar or the Dental Therapists Registrar, as the case may be, shall notify the applicant of his decision by a notice in writing.

(7) Any applicant who is aggrieved by the decision of the Dental Registrar or the Dental Therapists Registrar under subsection (6) may, within thirty days from the date of the notice in subsection (6), appeal in writing to the Council or the Board, as the case may be, or appear before the Council or the Board, as the case may be, and be heard personally or through his advocate and solicitor.

Restriction on registration

32. (1) The Council or the Board may direct the Dental Registrar or the Dental Therapists Registrar, as the case may be, not to enter the name of any person applying for registration as a dental surgeon or a dental therapist in the Dental Register or the Dental Therapists Register if—

- (a) he has, at any time, been found guilty of an offence involving fraud, dishonesty or moral turpitude or an offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine;
- (b) he has, after due inquiry, been found by the Council or the Board to have been guilty of infamous conduct in any professional respect or to be otherwise not of good fame and character;
- (c) he has contravened any provisions of this Act or any regulations made under this Act;
- (d) his name has since been removed from the register of dental practitioners or register of dental therapists, or from the roll of any dental college or licensing body maintained in any place outside Malaysia, as a result of any misconduct or disciplinary proceedings; or
- (e) he has, after due inquiry by a Fitness to Practice Panel, been found to be incapable by reason of physical or mental infirmity, or been found to be incompetent to perform his professional duties.

(2) Where the Council or the Board refuses to enter the person's name in the Dental Register or the Dental Therapists Register, the Dental Registrar or the Dental Therapists Registrar, as the case may be, shall notify such person as soon as practicable of the refusal.

(3) Upon the inquiry under paragraph (1)(e), the applicant shall be entitled to appear before the Council or the Board, as the case may be, and be heard personally or by his advocate and solicitor.

Fitness to Practice Panel

33. (1) The Council or the Board may establish an *ad hoc* Fitness to Practice Panel to evaluate the medical condition of a dental practitioner or a dental therapist.

(2) The Fitness to Practice Panel shall consist of the following members:

(a) two medical practitioners, one of whom shall be a specialist; and

(b) one dental surgeon, who shall be the chairperson.

(3) In addition to the members specified in subsection (2), the Council or the Board shall appoint a dental therapist to be a member of the Fitness to Practise Panel in cases where the Fitness to Practise Panel is required to evaluate the medical condition of a dental therapist.

(4) The Fitness to Practice Panel—

(a) shall, by a notice in writing, require the dental practitioner or dental therapist to submit a medical report from a Government hospital in the prescribed form within two months from the date of the notice; and

(b) may, by a notice in writing, require the dental practitioner or dental therapist to appear before the Fitness to Practice Panel on a date, time and place as specified in the notice.

(5) The Fitness to Practice Panel shall report on its findings and make a recommendation to the Council or the Board, as the case may be, within four months of the date of the appointment of such Fitness to Practice Panel.

Registration as dental specialist

34. (1) A practitioner whose name does not appear in the Specialist Division of the Dental Register shall not practise as a dental specialist in that speciality.

(2) A dental surgeon may apply to be registered as a dental specialist if—

- (a) he is registered in Division I of the Dental Register;
- (b) he holds any post-graduate specialist qualification as specified by the Council;
- (c) he fulfills the requirements of and has been recommended as a specialist by the Dental Specialists' Evaluation Committee; and
- (d) he has proven to the satisfaction of the Dental Registrar that he is a fit and proper person and is of good character.

(3) An application for registration as a dental specialist shall be made to the Dental Registrar in the prescribed form together with such documents, information and particulars as may be determined by the Council and such application shall be accompanied by the fee as prescribed in the Fourth Schedule.

(4) Upon receiving the application under subsection (3), the Dental Registrar shall submit the application to the Dental Specialists' Evaluation Committee for assessment and recommendation.

(5) The Dental Specialists' Evaluation Committee shall consider the application under subsection (3) and may require the applicant to produce further information or documents in support of the application.

(6) The Dental Specialists' Evaluation Committee shall make recommendations to the Dental Registrar whether the application may be approved or refused.

(7) Where the Dental Registrar approves the application under subsection (3), the Dental Registrar shall issue a certificate of registration as a dental specialist to the applicant and enter his name in the Specialists' Division of the Dental Register.

(8) Where the Dental Registrar refuses the application under subsection (3), the Dental Registrar shall notify the applicant of his decision by a notice in writing.

(9) Any person who is aggrieved by the decision of the Dental Registrar under subsection (8) may, within thirty days from the date of the notice in subsection (8) appeal in writing to the Council or appear before the Council and be heard personally or through his advocate or solicitor.

(10) Any dental practitioner who is eligible to be registered in the Specialist Division of the Dental Register and is registered with the National Specialist Register shall be exempted from the fee as prescribed in the Fourth Schedule.

Registration as post-basic dental therapist

35. (1) A dental therapist may apply to be registered as a post-basic dental therapist if—

- (a) he is registered in Division A of the Dental Therapists Register;
- (b) he holds any of the registrable qualifications listed in the Third Schedule, granted by an institution specified in relation to that qualification; and
- (c) he has proven to the satisfaction of the Dental Therapists Registrar that he is a fit and proper person and is of good character.

(2) An application for registration as a post-basic dental therapist shall be made to the Dental Therapists Registrar in the prescribed form together with such documents, information and particulars as may be determined by the Board and such application shall be accompanied by the fee as prescribed in the Fourth Schedule.

(3) Where the Dental Therapists Registrar approves the application under subsection (2), the Dental Therapists Registrar shall issue a certificate of registration as a post-basic dental therapist to the applicant and enter his name in Division B of the Dental Therapists Register.

(4) Where the Dental Therapists Registrar refuses the application under subsection (2), the Dental Therapists Registrar shall notify the applicant of his decision by a notice in writing.

(5) Any person who is aggrieved by the decision of the Dental Therapists Registrar under subsection (4) may, within thirty days from the date of the notice in subsection (4), appeal in writing to the Board or appear before the Board and be heard personally or through his advocate and solicitor.

Conditional registration

36. (1) Any person may apply for conditional registration where such conditional registration is required to fulfill the conditions for registration or employment outside Malaysia if—

- (a) he holds a qualification granted by an accredited local training institution;
- (b) he has been certified to have fulfilled the requirements of the Professional Qualifying Examination; and
- (c) he has proven to the satisfaction of the Dental Registrar that he is a fit and proper person and is of good character.

(2) An application for conditional registration shall be made to the Dental Registrar in the prescribed form together with such documents, information and particulars as may be determined by the Council and such application shall be accompanied by the fee as prescribed in the Fourth Schedule.

(3) Where the Dental Registrar approves the application under subsection (2), the Dental Registrar shall issue a certificate of conditional registration to the applicant.

(4) Where the Dental Registrar refuses the application under subsection (2), the Dental Registrar shall notify the applicant of his decision by a notice in writing.

(5) Any applicant who is aggrieved by the decision of the Dental Registrar under subsection (4) may, within thirty days from the date of the notice in subsection (4), appeal in writing to the Council.

(6) A person who holds a certificate of conditional registration shall not practice dentistry in Malaysia and shall not be eligible to be granted a practising certificate.

Chapter 3

Practising Certificate

Practising certificate

37. (1) Any person who practices dentistry shall have a valid practising certificate.

(2) The practising certificate shall specify the principal practising address and all other places of practice of the practitioner.

(3) An application for a practising certificate—

(a) as a dental practitioner, shall be made to the Dental Registrar; and

(b) as a dental therapist, shall be made to the Dental Therapists Registrar.

(4) The application under subsection (3) shall be made in the prescribed form and such application shall be accompanied by—

(a) the evidence of sufficient continuing professional development points obtained as specified by the Council or the Board, as the case may be;

- (b) the evidence of Professional Indemnity Cover as required by the Council or the Board;
- (c) the evidence of approval or registration under the Private Healthcare Facilities and Services Act 1998 [Act 586] for every private healthcare facility to be entered in the practising certificate;
- (d) the fee as prescribed in the Fourth Schedule; and
- (e) any other documents or evidence, as may be required by the Dental Registrar or the Dental Therapists Registrar, as the case may be.

(5) Where the Dental Registrar or the Dental Therapists Registrar approves an application under subsection (3), the Dental Registrar or the Dental Therapists Registrar shall issue a practising certificate to the applicant authorizing the applicant to practise as a dental practitioner or a dental therapist for the period and at such healthcare facility as stated on the practising certificate.

(6) Where the Dental Registrar or the Dental Therapists Registrar refuses the application under subsection (3), the Dental Registrar or the Dental Therapists Registrar shall notify the applicant of his decision by a notice in writing.

(7) Any applicant who is aggrieved by the decision of the Dental Registrar or the Dental Therapists Registrar under subsection (6) may, within thirty days from the date of the notice in subsection (6), appeal in writing to the Council or the Board, as the case may be.

(8) A person who has been registered within two years of applying for a practising certificate shall be exempted from showing evidence of sufficient continuing professional development points obtained as required in paragraph (4)(a).

(9) Notwithstanding paragraph (4)(a), any dental practitioner or dental therapist who fails to obtain sufficient continuing professional development points as specified by the Council or the Board may appeal in writing to the President or the Chairman, as the case may be.

Annual practising certificate

38. (1) Any practitioner who makes an application for an annual practising certificate shall ensure that the application reaches the office of the Dental Registrar or the Dental Therapists Registrar, as the case may be, not later than the first day of November of the year prior to the year for which the application is made.

(2) Notwithstanding subsection (1), where the dental practitioner or the dental therapist applies for an annual practising certificate for the first time, such application may be made at any time during the year, and the applicant shall be granted an annual practising certificate for the remainder of the year in which the application is made.

(3) The annual practising certificate shall be in force until thirty-first December of the year in which it is issued.

(4) Any dental practitioner or dental therapist who fails to apply for the annual practising certificate in accordance with this Chapter shall be deemed to be suspended from the date the current annual practising certificate lapses.

(5) No annual practising certificate may be issued to a dentist unless a report on the inspection of the healthcare facility, in the prescribed form, has been received by the Dental Registrar, during the preceding twelve months, to the effect that the healthcare facility and conditions of practice of that dentist are satisfactory.

Lifting of suspension

39. (1) A dental practitioner or dental therapist who is deemed to be suspended under subsection 38(4) may apply for the annual practising certificate to the Dental Registrar or to the Dental Therapists Registrar, as the case may be, in the prescribed form together with the documents, information and particulars as may be determined by the Council or the Board, as the case may be, and such application shall be accompanied by the fee and charges for late application as prescribed in the Fourth Schedule.

(2) Where the Dental Registrar or the Dental Therapists Registrar approves an application under subsection (1), the Dental Registrar or the Dental Therapists Registrar shall issue an annual practising

certificate to the applicant and the annual practising certificate shall be in force until thirty-first December of the year in respect of which it is issued, and the suspension shall be lifted.

(3) A dental practitioner or dental therapist who has been granted an annual practising certificate under subsection (2) may, within thirty days from the date the suspension was lifted, appeal in writing to the Council or the Board, as the case may be, for the suspension to be removed from his record.

Temporary practising certificate

40. (1) A non-Malaysian citizen may apply to the Dental Registrar for a temporary practising certificate to practice dentistry in Malaysia if he fulfils the following conditions:

(a) he is registered outside Malaysia as a dental surgeon or the equivalent of a dental surgeon;

(b) he—

(i) has passed the Professional Qualifying Examination;
or

(ii) holds a qualification granted by an accredited local training institution and has been certified by the Dental Qualifying Committee to have fulfilled the requirements of the Professional Qualifying Examination;

(c) he has proven to the satisfaction of the Dental Registrar that he is a fit and proper person and is of good character; and

(d) he proves to the satisfaction of the Dental Registrar that he has an offer of employment or sponsorship.

(2) A non-Malaysian citizen may apply to the Dental Therapists Registrar for a temporary practising certificate to practice dentistry in Malaysia if he fulfils the following conditions:

(a) he is registered outside Malaysia as a dental therapist or the equivalent of a dental therapist;

- (b) he holds any of the recognized qualifications listed in the Second Schedule, granted by an institution specified in relation to that qualification;
 - (c) he has proven to the satisfaction of the Dental Therapists Registrar that he is a fit and proper person and is of good character; and
 - (d) he proves to the satisfaction of the Dental Therapists Registrar that he has an offer of employment or sponsorship.
- (3) A temporary practising certificate shall be in force for a maximum period of twelve months.
- (4) The holder of a temporary practising certificate shall not have more than one practising address except with the approval of the Council or the Board, as the case may be.
- (5) The Dental Registrar or the Dental Therapists Registrar may at any time cancel the temporary practising certificate granted under this section and such certificate shall lapse from the date of cancellation.
- (6) The holder of a temporary practising certificate shall, while the temporary practising certificate remains in force and subject to the conditions and restrictions specified in the temporary practising certificate, be deemed to be registered as a dental surgeon or a dental therapist, as the case may be.
- (7) Notwithstanding paragraph (1)(b), the Dental Registrar may issue a temporary practising certificate to any person who holds a specialist qualification, subject to such terms and conditions as the Dental Registrar may determine.
- (8) The Dental Registrar may, if he thinks fit, allow the holder of a temporary practising certificate to practice as a dental specialist by stating on the temporary practising certificate the specialty he is allowed to practice.

Privileges of persons having a practising certificate

41. (1) A dental practitioner or a dental therapist who has a valid practising certificate shall be entitled—

- (a) to charge reasonable fee for professional aid, advice, visit or dental treatment; and
- (b) to charge for the value of any dental appliances rendered, made or supplied by him to his patients.

(2) No person shall be entitled to recover in any court any charges referred to in subsection (1) unless at the date when such charges were accrued he was a dental practitioner or a dental therapist and had a valid practising certificate.

Display of certificate

42. (1) A practitioner shall display in a conspicuous place in the principal practising address, other than in a public healthcare facility or in a local training institution, the certificate of registration and the current practising certificate issued to him.

(2) A practitioner shall display in a conspicuous place in any other healthcare facility in which he practises dentistry, other than in a public healthcare facility or in a local training institution, the current practising certificate issued to him.

(3) A dental surgeon who has been issued with a certificate of registration as a dental specialist, shall display in a conspicuous place in the principal practising address, other than in a public healthcare facility or in a local training institution, the certificate of registration as a dental specialist.

(4) A dental therapist who has been issued with a certificate of registration as a post-basic dental therapist shall display in a conspicuous place in the principal practising address, other than in a public healthcare facility or in a local training institution, the certificate of registration as a post-basic dental therapist.

(5) Any practitioner who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Chapter 4

*General***Practising as dental therapist**

43. (1) A dental therapist in the private sector shall practise dentistry only under the direct supervision of a dental surgeon.

(2) For the purposes of this section, “direct supervision” means a dental surgeon shall be present at all times in the healthcare facility when the dental therapist carries out any treatment according to the treatment plan approved by a dental surgeon.

(3) A dental therapist who practises dentistry in the private sector shall carry out the procedures listed in the Fifth Schedule only.

(4) A post-basic dental therapist who practises dentistry in the private sector shall carry out only the procedures listed in the Fifth Schedule and the Sixth Schedule in relation to the discipline for which he is qualified.

(5) A dental therapist who practises dentistry in the public sector shall carry out dental procedures only under the supervision of a dental surgeon in the public sector.

Notification of change in address

44. (1) A dental practitioner or a dental therapist shall notify the Dental Registrar or the Dental Therapists Registrar, as the case may be, of any change in his home address or practising address within thirty days of such change.

(2) A dental practitioner or a dental therapist who fails to comply with subsection (1) commits an offence, and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Service of notice or correspondence

45. Where any notice or correspondence is required to be served or sent to a dental practitioner or a dental therapist, it shall be deemed to have been served or sent to him if it is served or sent by post to his principal practising address.

Signing of dental sick certificates and other documents

46. (1) A dental sick certificate or other document required by any written law to be signed by a duly qualified dental practitioner shall not be valid unless the certificate or document is signed by a dental surgeon.

(2) A dental surgeon who allows any other person to sign a dental sick certificate or other document required by any written law to be signed by a duly qualified dental practitioner shall be subject to disciplinary punishment by the Council.

(3) For the purposes of subsections (1) and (2), the words “duly qualified dental practitioner” or any words importing a person recognized by law as a qualified dental practitioner, when used in any written law with reference to such persons, shall be construed to mean a dental surgeon.

Community service for dental surgeon

47. A dental practitioner who intends to practise dentistry at any location other than the healthcare facility stated in his practising certificate as a community service—

(a) for a period of not more than seven consecutive days;
and

(b) for a total of not more than fourteen days in a year,

shall obtain an approval in writing from the Dental Registrar prior to the commencement of such community service.

Dental bodies corporate and companies

48. (1) A dental body corporate or a company may carry on the business of dentistry if—

(a) it carries on no business other than dentistry or some business ancillary to the business of dentistry; and

(b) at least half of the members of the Board of Directors of the dental body corporate or the company are dental surgeons.

(2) Notwithstanding subsection (1), a body corporate or a company may carry on the business of dentistry, if the dental treatment or dental service is provided—

- (a) in a hospital or an ambulatory care centre;
- (b) as part of a dental faculty or a dental school, in a local training institution;
- (c) for its employees by a dental practitioner, other than for profit; or
- (d) through a local authority or a statutory body by a dental practitioner.

(3) Any body corporate or company which fails to comply with this section commits an offence and any person who at the time of the commission of the offence—

- (a) was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or the company; or
- (b) was purporting to act in any capacity referred to in paragraph (a) or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or the company or was assisting in such management—
 - (i) may be charged severally or jointly in the same proceedings with the body corporate or the company; and
 - (ii) shall be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(4) Where any person would be liable under this Act or any of its subsidiary legislation to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any practitioner engaged by him, employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Exemption of dental surgeon on ships

49. A dental surgeon while in the discharge of his duties on ships on a full-time basis shall be exempted from the requirement of registration under this Act and shall be entitled to all the privileges of a dental practitioner under this Act.

Carrying out dental procedures

50. (1) A person who is pursuing a course of study in dentistry, either as a dental practitioner or a dental therapist, in any local training institution may carry out, in pursuance of such course of study, any dental investigation, dental examination or dental treatment of patients in any hospital, clinic, health centre, or other institution which is approved by the Director General for the purpose of this section, provided that the investigation, examination or treatment is carried out by a person under the control and supervision of a dental surgeon who holds a valid practising certificate.

(2) For the purpose of subsection (1), a person who is pursuing a course of study as a dental therapist shall only carry out the dental investigation, dental examination or dental treatment of patients as listed in the Fifth Schedule and Sixth Schedule.

(3) A person may carry out dental procedures falling within the meaning of the practice of dentistry, if that person is employed in the public service for that purpose and the dental procedures are carried out in the course of that person's employment and under the supervision of a dental specialist in the public service.

(4) A person who has been granted an approval in writing to sit for the Professional Qualifying Examination, may carry out dental procedures, provided such procedures are carried out—

- (a) with the approval of the Council while in the course of any training in preparation for the Professional Qualifying Examination; or
- (b) as a requirement of the Professional Qualifying Examination.

PART V

DISCIPLINARY PROCEEDINGS

Disciplinary authority

51. (1) The Council shall have disciplinary authority over all practitioners, and the Board shall have disciplinary authority over all dental therapists, registered under this Act.

(2) The Council may exercise disciplinary authority over any practitioner and the Board may exercise disciplinary authority over any dental therapist—

- (a) who has been guilty of infamous conduct in any professional respect;
- (b) who has contravened any provision of the Code of Professional Conduct or any guidelines endorsed or issued by the Council or the Board, as the case may be;
- (c) who allows an unregistered person to practice dentistry on the premises used by or under the control of such practitioner in the performance of his professional duties;
- (d) who by his presence, countenance, advice, assistance or cooperation has enabled an unregistered person, whether described as an assistant or otherwise, to practise dentistry;

- (e) who practises dentistry or provides dental services in premises in which an unregistered person practises dentistry;
- (f) who, in relation to a dental practitioner, allows a dental therapist to practise dentistry in the private sector when not under the direct supervision of a dental surgeon who holds a valid annual practising certificate;
- (g) who, in relation to a dental practitioner, allows a dental therapist practising in the private sector to carry out dental procedures not listed in the Fifth Schedule;
- (h) who, in relation to a dental therapist practising in the private sector, carries out dental procedures not listed in the Fifth Schedule;
- (i) who, in relation to a dental practitioner, allows a post-basic dental therapist practising in the private sector, carries out procedures not listed in the Fifth Schedule or the Sixth Schedule in relation to the discipline for which he is registered;
- (j) who, in relation to a post-basic dental therapist practising in the private sector, carries out dental procedures not listed in the Fifth Schedule or the Sixth Schedule in relation to the discipline for which he is registered;
- (k) who has been convicted by a court in Malaysia or elsewhere of any offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine;
- (l) who has obtained registration by fraud or misrepresentation;
- (m) who was not at the time of his registration entitled to be registered;
- (n) whose name has since been removed from the register of dental practitioners or register of dental therapist, or from the roll of any dental college or licensing body maintained in any place outside Malaysia, as a result of any misconduct or disciplinary proceedings; or
- (o) who has contravened any provisions of this Act or any regulations made under this Act.

Complaints Committee

52. (1) There shall be a Complaint Committee to manage any complaint or information received against any practitioner.

(2) The Complaints Committee shall consist of the following members who shall be appointed by the President:

- (a) a dental practitioner representing the Council;
- (b) a dental practitioner from the private sector who is not a member of the Council; and
- (c) a dental practitioner from the Oral Health Division of the Ministry of Health.

(3) The members of the Complaints Committee shall have at least ten years' experience as a dental surgeon and have not been subjected to any disciplinary punishments by the Council.

(4) The members of the Complaints Committee shall be appointed for a term not exceeding three years and be eligible for reappointment.

Complaints or information against practitioner

53. (1) All complaints or information received against a practitioner shall be made in writing and be forwarded to the Complaints Committee.

(2) The Complaints Committee shall deliberate on any complaint or information received against any practitioner based on the classification of complaints or information specified in section 54.

(3) The complaints or information received against any practitioner and the recommendation of the Complaints Committee shall be forwarded to the President for his decision.

Classification of complaints or information

54. The classification of complaints or information is as follows:

- (a) where the complaint or information involves any of the offences referred to in paragraphs 51(2)(a) to (j), and

is in relation to a dental practitioner only or to a dental practitioner and a dental therapist, the complaint or information shall be referred to a Preliminary Investigation Committee;

- (b) where the complaint or information involves any of the offences referred to in paragraphs 51(2)(a), (b), (c), (d), (e), (h) and (j), and is in relation to a dental therapist only, the complaint or information shall be referred to a Disciplinary Committee;
- (c) where the complaint or information involves any of the offences referred to in paragraphs 51(2)(k) to (o), and is in relation to a dental practitioner, the complaint or information shall be referred to the Council;
- (d) where the complaint or information involves any of the offences referred to in paragraphs 51(2)(k) to (o), and is in relation to a dental therapist, the complaint or information shall be referred to the Board; or
- (e) where the complaint or information involves an offence committed by a practitioner against this Act or any other Act, the complaint or information shall be referred to the Principal Director.

Preliminary Investigation Committee

55. (1) There shall be a Preliminary Investigation Committee to investigate any complaint or information against a practitioner or any disciplinary matter that may be inquired into by the Council.

(2) The Preliminary Investigation Committee shall consist of the following seven members who shall be appointed by the President:

- (a) where the case involves only a dental practitioner—
 - (i) six dental surgeons, each of whom shall be a dental surgeon of not less than ten years' experience; and

- (ii) one lay person; or
- (b) where the case involves a dental practitioner and a dental therapist—
 - (i) five dental surgeons, each of whom shall be a dental surgeon of not less than ten years' experience;
 - (ii) one dental therapist; and
 - (iii) one lay person.

(3) The Preliminary Investigation Committee shall determine whether or not there shall be an inquiry based on its investigation and shall recommend its findings to the Council.

Disciplinary Committee

56. (1) There shall be a Disciplinary Committee to investigate any complaint or information against a dental therapist or any disciplinary matter that may be inquired into by the Board.

(2) The Disciplinary Committee shall consist of the following seven members who shall be appointed by the President:

- (a) five dental therapists;
- (b) one dental surgeon; and
- (c) one lay person.

(3) The Disciplinary Committee shall determine whether or not there shall be an inquiry based on its investigation and shall recommend its findings to the Board.

Dismissal of complaints

57. The Complaints Committee may recommend to the President for a summary dismissal of any complaint or information received under section 53 if the Complaints Committee is satisfied that—

- (a) the name and address of complainant is unknown or untraceable;

- (b) the complaint or information does not constitute an ethical issue or an offence under this Act or any other Act;
- (c) the complaint or information received is doubtful; or
- (d) the complainant has withdrawn the complaint in writing.

Disciplinary punishments

58. (1) The Council or the Board may, in the exercise of its disciplinary authority, impose any one or more of the following punishments:

- (a) order the name of the practitioner to be removed from the Dental Register or the Dental Therapists Register;
- (b) order the name of the practitioner to be suspended from the Dental Register or the Dental Therapists Register for any period as the Council or the Board thinks fit;
- (c) order the practitioner to be reprimanded; or
- (d) caution or advise the practitioner.

(2) Notwithstanding subsection (1), the Council or the Board may suspend the application of the punishment under paragraph (1)(a), (b) or (c), subject to such conditions as the Council or the Board thinks fit, which may include any of the following, for a period not exceeding two years:

- (a) direct such practitioner to seek medical treatment;
- (b) direct such conditions relating to the practitioner's practise of dentistry or the provision of dental services, as it considers appropriate, be imposed on the practitioner's registration;
- (c) direct the practitioner to undergo educational courses or programmes as determined by the Council or the Board; or
- (d) direct that the practitioner report on his dental practice to such practitioners or persons as determined by the Council or the Board, as the case may be.

(3) The Council or the Board, may make such order as the Council or the Board thinks fit, with regard to the payment of the costs of the Dental Registrar or the Dental Therapists Registrar and of any complainant or of the practitioner, and any other costs incurred which may be recovered as a civil debt.

Certificate to be returned

59. (1) A practitioner whose name has been removed or suspended from the Dental Register or the Dental Therapists Register shall, within seven days of the pronouncement of the order under section 58, surrender to the Dental Registrar or the Dental Therapists Registrar, as the case may be, his certificate of registration and all valid practising certificates, and the punishment shall take effect immediately.

(2) Where the practitioner or his advocate and solicitor was not present before the Council or the Board at the time of the pronouncement of the order, the Dental Registrar or the Dental Therapists Registrar, as the case may be, shall send a notice of the order made by the Council or the Board to the practitioner.

(3) The notice in subsection (2) shall be sent to the practitioner's principal practising address, or his last known address, if that address differs from his principal practising address and it appears to the Dental Registrar or the Dental Therapists Registrar that such service is more effective.

(4) Upon receiving the notice under subsection (2), the practitioner shall surrender his certificate of registration and all valid practising certificates to the Dental Registrar or the Dental Therapists Registrar, as the case may be, within fourteen days of the date of the notice, and the punishment shall take effect immediately.

(5) Any practitioner who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(6) The Dental Registrar or Dental Therapists Registrar shall publish the name of any person removed or suspended from practice under this section.

Appeal

60. (1) Any person who is aggrieved by an order made against him by the Council in the exercise of its disciplinary authority may appeal to the High Court within thirty days from the date of the making of the order.

(2) For the purpose of subsection (1), the practice in relation to such appeal shall be subject to the rules of court applicable in the High Court.

(3) Any person who is aggrieved by an order made against him by the Board in the exercise of its disciplinary authority may appeal to the Council, by a notice in writing, within thirty days from the date of the making of the order.

Reinstatement of name in Register

61. Any practitioner whose name has been removed from the Dental Register or the Dental Therapists Register pursuant to an order of the Council or the Board under paragraph 58(1)(a) shall, if his appeal is allowed, be reinstated in the Dental Register or Dental Therapists Register and the Dental Registrar or the Dental Therapists Registrar shall issue a certificate of registration and a practising certificate to him.

PART VI

OFFENCES

Prohibition of practice of dentistry by unregistered persons

62. (1) A person who is not registered under this Act shall not practice dentistry.

(2) For the purposes of subsection (1), a person shall be deemed to be practising dentistry within the meaning of the Act, if—

- (a) he treats or attempts to treat or professes to treat, cure, relieve or prevent any disease, deficiency, lesion or pain of the human teeth or the oral and maxillo-facial complex and its related structures;

- (b) he performs or attempts to perform any operation or procedure on human teeth or the oral and maxillo-facial complex and its related structures;
- (c) he inserts or attempts to insert any artificial teeth or appliance for the restoration, regulation or improvement of the teeth or its related structures;
- (d) he performs any radiographic work in connection with human teeth, the oral cavity or the oral and maxillo-facial complex and its related structures;
- (e) he performs or attempts to perform reconstructive surgery with grafts or flaps to restore or in an attempt to restore defects in the oral and maxillo-facial region;
- (f) he performs or attempts to perform oral and facial plasty or restoration in the oral and maxillo-facial complex and its related region;
- (g) he gives any treatment, advice or attendance on or to any person in connection with the fitting or insertion for the purpose of fitting or fixing of artificial teeth or a crown or bridge or an appliance for the restoration or regulation of the human teeth or oral and maxillo-facial complex;
- (h) he gives any anaesthetic or sedative in connection with any such operation or treatment as mentioned in this subsection; or
- (i) he holds himself out whether directly or indirectly as practising dentistry.

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding six years or to both.

Falsely personating as a practitioner

63. (1) A person who is not registered under this Act shall not—

- (a) personate a practitioner under this Act;
- (b) claim to be qualified to practise dentistry;
- (c) take or use any name or title, addition or description, implying that—
 - (i) he is a practitioner;
 - (ii) he is recognized by law as a practitioner; or
 - (iii) he is qualified to heal or treat dental disorders or derangements whether by dentistry or any other means of any kind or description;
- (d) take or use any instrument or dental material to induce any person to believe that he is qualified to practice dentistry;
- (e) use the term “dental clinic”, “dental dispensary”, “dental hospital” or the equivalent of any of these terms in any other language on the signboard over his place of practice, in purported practise of dentistry; or
- (f) use a symbol designed by the Council or the Board for the use of practitioners only.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding six years or to both, and in the case of a continuing offence, shall be liable to a further fine not exceeding one thousand ringgit for every day during which the offence continues after conviction.

(3) For the purpose of subsection (1)—

- (a) the taking or using by any person of the terms “dental surgeon”, “dental specialist”, “qualified dentist”, “doctor of dental surgery”, “professor of dentistry”, “surgeon

dentist”, “dentist”, “dental therapist”, “dental nurse”, “dental hygienist”, “dental clinic”, “dental dispensary”, “dental hospital” or the equivalent of any of these terms in any other language in relation to the practice of dentistry shall be deemed to be the taking or using of a name, title, addition or description to induce any person to believe that he is qualified to practise dentistry;

- (b) the using by any person of any dental instrument or material used exclusively by persons qualified to practise dentistry shall be deemed to be the using of an instrument or material to induce a person to believe that he is qualified to practise dentistry; and
- (c) any person, other than a practitioner, a medical practitioner or a dealer in medical or dental equipment, appliance or instrument, who has in his possession any one or more equipment, appliance or instrument commonly used in the practice of dentistry, such as a dental chair, a dental cutting unit, a dental forceps, a dental syringe, a dental mirror or a dental probe, shall be deemed to be pretending to be registered under this Act and to be qualified to practise dentistry.

Falsely describing vocation

64. A dentist who—

- (a) uses, in describing his vocation, any term other than the term “dentist”; or
- (b) pretends to be, take or use the name or title of a dental surgeon, surgeon dentist, qualified dentist, doctor of dental surgery, professor of dentistry or any name, title or description implying that such dentist possesses or holds any qualification to practise other than as a dentist,

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Fraudulent registration

65. Any person who, either orally or in writing, fraudulently procures or causes the procurement of a certificate by making or causing to be made, or producing or causing to be produced, a false or fraudulent declaration, certificate, application or representation commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding six years or to both.

Offences relating to practising certificate

66. (1) A practitioner who practises dentistry without a valid practising certificate commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) A practitioner who knowingly practises dentistry with a person who does not have a valid practising certificate commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(3) A practitioner who employs a person who does not have a valid practising certificate to practise dentistry commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(4) Any person who contravenes this section shall not be entitled to recover any fee, charge, reward, disbursement or cost incurred during the time when he or any other such person mentioned in this section does not have valid practising certificate.

Falsely displaying certificate

67. Any person who displays or permits to be displayed in any premises—

(a) a certificate of registration;

(b) a practising certificate;

- (c) a certificate of registration as a specialist;
- (d) a certificate of registration as a post-basic dental therapist;
or
- (e) a certified copy of any of (a), (b), (c) or (d),

bearing his name or photograph at any time when his name is not in the Dental Register or the Dental Therapists Register or he does not hold a valid practising certificate, commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or imprisonment for a term not exceeding six years or to both.

Employing a person who is not a practitioner

68. Any person who employs a person who is not a practitioner under this Act to perform the duties and responsibilities of a practitioner commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding six years or to both.

Covering

69. A practitioner who—

- (a) allows an unregistered person to practise dentistry on the premises used by the practitioner in the performance of his professional duties;
- (b) by his presence, countenance, advice, assistance, or cooperation has enabled an unregistered person, whether described as an assistant or otherwise, to practise dentistry;
or
- (c) practises dentistry in the premises in which an unregistered person practises dentistry,

commits an offence and shall, on conviction, be liable to a fine of not more than of three hundred thousand ringgit or to imprisonment for a term not exceeding six years or to both.

PART VII
ENFORCEMENT

Authorized officer

70. (1) The Director General may in writing authorize any public officer as an authorized officer to exercise the powers of enforcement under this Act.

(2) The authorized officer shall be issued with an authority card in such manner as the Director General shall determine.

(3) For the avoidance of doubt, it is declared that for the purpose of this Act, an authorized officer shall have all or any of the powers of a police officer of whatever rank in relation to police investigations in seizable cases as provided under the Criminal Procedure Code [Act 593], and all powers shall be in addition to the powers provided for under this Act and not in derogation thereof.

Production of official authority card

71. An authorized officer exercising powers under this Act shall at all times carry and produce the authority card issued under subsection 70(2) in the course of entering or inspecting any premises.

Duty to assist authorized officer

72. (1) Whenever an authorized officer exercises his powers under this Act, the practitioner or the owner or occupier of any premises used or believed to be used as a place to practise dentistry and any person found in that premises shall—

- (a) provide the authorized officer with the assistance as the authorized officer may reasonably require;
- (b) give the authorized officer all reasonable information in related matter; and

- (c) produce to the authorized officer any book, record or document in his possession or custody or under his control or within his power to furnish, relating to the affairs of the place of practice.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power to seal

73. (1) Where, by reason of its nature, size or amount, it is not practicable to remove any record, dental or medical equipment, appliance, material, or other things, the authorized officer shall by any means—

- (a) place the record, dental or medical equipment, appliance, material, or other things in a room, compartment or cabinet located in that premise; and
- (b) mark, fasten and seal the container, door or opening providing access to the room, compartment or cabinet.

(2) Where an authorized officer has reasonable cause to believe that any premises is being used as a place to practice dentistry by an unregistered person, the authorized officer may by any means seal the premises.

(3) The person occupying or using the premises as a place to practise, may within twenty-one days of such sealing, produce to the Director General the certificate of registration and practising certificate of the alleged unregistered person referred to in subsection (2).

(4) The seal under subsection (2) shall be removed if the person referred to in subsection (3) complies with the requirement of that subsection.

(5) Any person who breaks, tampers with or damages such seal or removes such record, dental or medical equipment, appliance, material, or other things under seal or attempts to do so commits an offence, and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding four years or to both.

Forfeiture of goods seized

74. (1) All goods seized in exercise of any power conferred under this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any goods seized in exercise of any power conferred under this Act shall be made by the court before which the prosecution with regard thereto has been held and an order for the forfeiture of the goods seized shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the goods seized were the subject matter of or were used in the commission of the offence, even though no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any goods seized in exercise of any power conferred under this Act, such goods shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless a claim to such goods is made before the date in the manner as set out in subsections (4), (5) and (6).

(4) Any person asserting that he is the owner of such goods and that they are not liable to forfeiture may personally or by his agent authorized in writing give written notice to an authorized officer that he claims the same.

(5) On receipt of such notice the authorized officer shall refer the matter to a court for decision.

(6) The court to which the matter is referred shall issue a summons requiring the person asserting that he is the owner of the goods and the person from whom they were seized, to appear before it and upon his appearance or default to appear, due service of the summons being proved, the court shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such goods were the subject matter or were used in the commission of such offence shall order the same to be forfeited or may, in the absence of such proof, order their release.

(7) All goods forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the directions of the Director General.

Cost of holding goods seized

75. Where any goods seized in the exercise of any power under this Act held in the custody of the Government pending the completion of any proceedings in respect of an offence under this Act, the cost of holding such goods in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

76. No person shall, in any proceedings before any court in respect of any goods seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Institution of prosecution

77. No prosecution for or in relation to any offence under this Act shall be instituted without a written sanction of the Public Prosecutor.

PART VIII**MISCELLANEOUS****Compulsory service**

78. (1) The Director General or any person authorized by the Director General may issue a written notice to any dental surgeon who obtains registration under section 31 to assume appointment as a dental surgeon in such post and on such date as specified in the written notice.

(2) A dental surgeon served with the written notice under subsection (1) shall comply with such written notice, and if he fails to do so he shall be served with a show cause notice by the President.

(3) Any dental surgeon served with the show cause notice under subsection (2) shall reply to the show cause notice within thirty days of the date of the receipt of such notice.

(4) Where the President accepts the explanation in the reply to the show cause notice, he shall decide on the action to be taken on the dental surgeon.

(5) Where the President refuses the explanation in the reply to the show cause notice, he shall direct the Dental Registrar to remove the name of the dental surgeon from the Dental Register.

(6) Where any dental surgeon fails to reply to the show cause notice served under subsection (2) within the specified time, the President shall direct the Dental Registrar to remove the name of the dental surgeon from the Dental Register.

(7) Any dental surgeon whose name has been removed from the Dental Register under subsection (5) or (6) may appeal in writing to the Minister and shall, if his appeal is allowed, be reinstated in the Dental Register.

(8) The decision of the Minister under subsection (7) may be made subject to such terms and conditions as the Minister thinks fit.

(9) Where a written notice under subsection (1) has been served on any dental surgeon, the Director General may cancel the written notice, and, if he thinks fit, cause to be served on the dental surgeon a further written notice.

Period of service

79. (1) A dental surgeon who commences to serve in a post in pursuance of a written notice issued under section 78, shall continue to serve in that post or in such other subsequent post as may be determined by the Director General for a continuous total period to be prescribed.

(2) Any dental surgeon who fails to comply with subsection (1) shall be served with a show cause notice by the President.

(3) Any dental surgeon served with the show cause notice under subsection (2) shall reply to the show cause notice within thirty days of the date of the receipt of such notice.

(4) Where the President accepts the explanation in the reply to the show cause notice, he shall decide on the action to be taken on the dental surgeon.

(5) Where the President refuses the explanation in the reply to the show cause notice, he shall direct the Dental Registrar to remove the name of the dental surgeon from the Dental Register.

(6) Where any dental surgeon fails to reply to the show cause notice served under subsection (2) within the specified time, the President shall direct the Dental Registrar to remove the name of the dental surgeon from the Dental Register.

(7) Any dental surgeon whose name has been removed from the Dental Register under subsection (5) or (6) may appeal in writing to the Minister and shall, if his appeal is allowed, be reinstated in the Dental Register.

(8) The decision of the Minister under subsection (7) may be made subject to such terms and conditions as the Minister thinks fit.

Power of Minister

80. (1) The Minister may, by order published in the *Gazette*, grant reduction as he considers appropriate or complete exemption from the period of service—

- (a) in respect of any particular person;
- (b) generally, in respect of any class of persons for such period as he may specify; or
- (c) generally, in respect of all persons for such period as he may specify.

(2) The Minister may, upon application being made to him by any person liable to undergo the period of service under section 79, grant to such person a postponement from commencing or completing such service, for such period as he thinks appropriate.

(3) The decision of the Minister under subsection (2) shall be final.

Prescribed fees

81. Any fees and charges payable under this Act shall be as prescribed in the Fourth Schedule.

Code of Professional Conduct

82. (1) The Council shall establish the Code of Professional Conduct to be observed by all practitioners to the extent and in such manner as it considers appropriate.

(2) Practitioners shall comply with the provisions as specified in the Code of Professional Conduct.

(3) If it comes to the knowledge of the Council that there is an alleged breach of the Code of Professional Conduct, the matter shall be referred to the Complaints Committee.

Guidelines and directives

83. (1) The Council or the Board may issue guidelines and directives as the Council or the Board considers necessary or expedient.

(2) The guidelines and directives issued under this section shall be complied with by all practitioners.

(3) Any practitioner who fails to comply with the guidelines or directives shall be subjected to the disciplinary authority of the Council or the Board, as the case may be.

Returns, reports and information

84. The Council and the Board shall furnish the Minister with the returns, reports and information with respect to its activities as he requires.

Required information

85. (1) The Council and the Board may call for such information as it may require to be furnished by any practitioner whose name is in the Dental Register or Dental Therapists Register and such practitioner shall furnish the information within thirty days of being required to do so.

(2) Where there is any change in the information furnished to the Council or the Board, the practitioner shall notify the Council or the Board, as the case may be, of the change within three months from the occurrence of the change.

(3) Any practitioner who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Authorized dental practitioner deemed as Government dental officer

86. (1) The Director General may authorize in writing, any dental practitioner who is registered under this Act and who is not in the public service to undertake any of the following functions in any hospital, clinic or health centre or in any other similar institution:

(a) to investigate, examine, treat or manage any patient; or

(b) to perform an autopsy or post-mortem investigation on any deceased person.

(2) A dental practitioner referred to in subsection (1) shall be deemed to be a Government dental officer for the purpose of the Criminal Procedure Code and other applicable laws in Malaysia during the time he is carrying out such functions.

Liability of the Government for torts

87. (1) The authorized dental practitioner referred to in section 86 who, at the request of or by arrangement with the Government, carries out any investigation, examination, treatment or management of any patient or performs an autopsy or post-mortem investigation on any deceased person in any Government hospital, clinic or health centre or in any other similar institution of the Government shall be deemed to be a public officer for the purpose of section 5 of the Government Proceedings Act 1956 [Act 359].

(2) Notwithstanding subsection 6(4) of the Government Proceedings Act 1956, proceedings may be brought against the Government in respect of any act, neglect or default of the dental practitioner done or committed in the course of or in relation to the investigation, examination, treatment, management, autopsy or post-mortem investigation under subsection (1).

Legal practitioners

88. The Council may appoint legal practitioners who shall have the following functions:

- (a) to assist the Council, the Board or any of their committees during any inquiry relating to disciplinary matters;
- (b) to institute and conduct any civil proceedings on behalf of the Council or the Board; and
- (c) to assist the Council, the Board or any of their committees in any matter relating to this Act or subsidiary legislations made under this Act.

Compounding of offences

89. (1) The Minister may, on the recommendation of the Council, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act and any regulations made under this Act that may be compounded;

- (b) the criteria for compounding such offence; and
- (c) the method and procedure for compounding such offence.

(2) The authorized officer may, with the written consent of the Public Prosecutor, compound any offence committed by any person under this Act and any regulations made under this Act and prescribed to be a compoundable offence by making a written offer to the person suspected of committing the offence to compound the offence on payment to the authorized officer of an amount of money not exceeding fifty per cent of the amount of the maximum fine for that offence within the time specified in the offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(4) If the amount specified in the offer is not paid within the time specified in the offer or such extended time as the authorized officer may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(5) Where an offence has been compounded under this section—

- (a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and
- (b) any goods seized in connection with the offence, may be released immediately subject to such terms and conditions as may be imposed.

Delegation of functions and powers

90. (1) The Council may, in writing, delegate any of its functions and powers, except the power to make subsidiary legislation, to—

- (a) a member of the Council;
- (b) the Secretary to the Council; or
- (c) a committee of the Council.

(2) Any person and Committee delegated with such functions and powers shall be bound to observe and have regard to all conditions and restrictions imposed by the Council and all requirements, procedures and matters specified by the Council.

(3) Any functions and powers delegated under this section shall be performed and exercised in the name and on behalf of the Council.

(4) The delegation under this section shall not preclude the Council itself from performing or exercising at any time any of the delegated functions and powers.

Power to amend Schedules

91. The Minister may, after consultation with the Council, by order published in the *Gazette*, amend the Schedules to this Act.

Regulations

92. (1) The Council may, with the approval of the Minister, make regulations as may be necessary or expedient for giving full effect or the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe—

- (a) the form and contents of the Dental Register, the Dental Therapists Register, the Conditional Register, the Dental Temporary Practising Certificate Register and the Dental Therapists Temporary Practising Certificate Register;
- (b) the amount of fees and charges in respect of any matter under this Act;
- (c) the form of any certificate required for carrying out the purpose of this Act;

- (d) the procedure for the election of members of the Council or the Board;
- (e) the procedure for the receipt of complaints or information in relation to any disciplinary matter that may be inquired into by the Council;
- (f) the procedure for the establishment of the Preliminary Investigation Committees to make a preliminary investigation into complaints or information touching on any disciplinary matter that may be inquired into by the Council;
- (g) the procedure for receipt of complaints or information in relation to any disciplinary matter that may be inquired into by the Board;
- (h) the procedure for the establishment of the Disciplinary Committees to make a preliminary investigation into complaints or information touching on any disciplinary matter that may be inquired into by the Board;
- (i) the procedure for the establishment of a Dental Qualifying Committee for the purpose of the evaluation of applications for the Professional Qualifying Examination and conducting the Professional Qualifying Examination for dental practitioners;
- (j) the procedure for the establishment of a Dental Specialists' Evaluation Committee for the purpose of the evaluation of applications for registration as dental specialists; and
- (k) any other matter required to be prescribed under this Act.

(2) Regulations made under this section may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding one hundred thousand ringgit or imprisonment for a term not exceeding two years or both for such offence.

PART IX

REPEAL, SAVINGS AND TRANSITIONAL

Repeal and dissolution

93. (1) The Dental Act 1971 is repealed (the repealed Act).

(2) The Malaysian Dental Council established under the repealed Act is dissolved (the dissolved Council) in six months from the appointed date.

(3) Notwithstanding the repeal of the Dental Act 1971 under subsection (1), the repealed Act shall not affect order and regulations issued or made under or by virtue of the repealed Act and in force immediately before the commencement of this Act and such order and regulations shall remain in force and shall continue to remain in force as if every such order and regulations were issued or made under or by virtue of this Act until replaced or revoked by any order or regulations issued or made under or by virtue of this Act.

Transfer of powers, etc.

94. The powers, rights, privileges, liabilities, obligations and duties which immediately before the appointed date were those of the dissolved Council shall devolve on the Council established by this Act as from that date.

Existing contracts

95. All deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed date shall have full force and effect against or in favour of the Council established by this Act and shall be enforceable as fully and effectually as if, instead of the dissolved Council or any person acting on behalf of the dissolved Council, the Council established by this Act had been named therein or been a party thereto.

Membership of dissolved Council

96. (1) Notwithstanding anything to the contrary, the members of the dissolved Council and the members of any committee appointed under the repealed Act who held office before the appointed date shall cease to hold office after six months from the appointed date.

(2) Nothing in subsection (1) shall affect the accountability of the outgoing members of the dissolved Council.

Savings for practising certificate

97. (1) Notwithstanding the repeal and dissolution under section 93 or any provision of this Act to the contrary, every person who, before the appointed date holds a valid practising certificate issued to him under the repealed Act shall, on the appointed date, be deemed to have a practising certificate under this Act for the remainder of the year in which this Act comes into operation and shall be subject to the terms and conditions as the Council established by this Act may impose.

(2) The provisions of this Act relating to the cancellation, suspension and renewal of practising certificate shall apply to all persons deemed to have valid practising certificate under subsection (1).

Savings for register

98. (1) Every person who, immediately before the appointed date was registered in Division I of the Dental Register under the repealed Act, shall on the appointed date, be deemed to be registered as a dental surgeon in Division I of the Dental Register under this Act.

(2) Every person who, immediately before the appointed date was registered in Division II of the Dental Register under the repealed Act, shall on the appointed date, be deemed to be registered as a dentist in Division II of the Dental Register under this Act.

(3) All registers kept and maintained under the repealed Act shall on the appointed date be deemed to be registers kept and maintained under this Act.

Continuance of pending applications, etc.

99. (1) All applications, approvals or decisions, on appeal or otherwise, pending before the dissolved Council under the repealed Act shall, on the appointed date, be dealt with by the Council in accordance with the provisions applying under this Act.

(2) All applications, approvals or decisions, on appeal or otherwise, pending before the Minister under the repealed Act shall, on the appointed date be dealt with by the Minister in accordance with the provisions applying under this Act.

(3) All dental instruments, certificates and documents lodged with the dissolved Council before the appointed date shall, on the appointed date, be deemed to have been lodged with the Council established by this Act.

Continuance of civil and criminal proceedings

100. (1) Neither the repeal under section 93 nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act before the appointed date and the prosecution of such offences shall be taken in accordance with the repealed Act.

(2) Any proceedings, whether civil or criminal, cause of action or disciplinary action pending or existing before a Preliminary Investigation Committee, the Council or any court immediately before the appointed date by or against the dissolved Council or any person acting on behalf of the dissolved Council may be continued or instituted by or against the Council established by this Act by or against the dissolved Council or such person as if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the appointed date against a decision given immediately before the appointed date in any legal proceedings to which the dissolved Council was a party may be brought by or against the Council established by this Act.

Training

101. Every person who immediately before the appointed date was undergoing a period of training pursuant to subsection 12(3) of the repealed Act shall, on the appointed date, be allowed to complete the period of training and be allowed to be registered under section 31 of this Act, provided that they fulfil subsection 12(3) of the repealed Act.

Dental school

102. A Malaysian citizen who graduates from any of the dental schools listed in the Second Schedule to the repealed Act within five years from the appointed date shall be eligible to be registered under section 31 of this Act.

Reference in law or document to dissolved Council

103. A reference in any law or document in force immediately before the appointed date to the dissolved Council shall on the appointed date be construed as a reference to the Council established by this Act.

Reference to the repealed Act

104. Any reference to the repealed Act in any written law shall be construed as a reference to this Act and any reference to any specific provision of the repealed Act in any written law shall be construed as a reference to a provision of this Act which corresponds as nearly as may be to such specific provision.

FIRST SCHEDULE

[Subsections 6(6) and 18(6)]

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL AND THE BOARD

Tenure of office

1. (1) Subject to such conditions as may be specified in his instrument of appointment, a member of the Council—

(a) who is appointed under paragraphs 6(1)(c), (d) and (i); or

(b) who is elected under paragraphs 6(1)(e) to (h),

shall, unless he sooner resigns or vacates his office or the appointment is revoked, hold office for a term not exceeding three years and shall be eligible for reappointment or re-election, provided that the member shall not hold office for more than two consecutive terms.

(2) A member of the Board appointed under paragraphs 18(1)(d) to (i), unless he sooner resigns or vacates his office or his appointment is sooner revoked, shall hold office for a term not exceeding three years and is eligible for re-appointment, provided that no member of the Board is eligible to hold office for more than two consecutive terms.

Vacation of office

2. (1) A member of the Council or the Board, as the case may be, shall be deemed to have vacated his office if—

- (a) he dies;
- (b) he is no longer a resident in the constituency that elected him or that he represents;
- (c) he is no longer practising in the relevant sector under which he was elected or appointed;
- (d) he absents himself from three consecutive meetings of the Council or the Board or, he attends less than fifty percent of the meetings of the Council or the Board in a year, without leave from the President or Chairman, as the case may be;
- (e) he becomes an undischarged bankrupt;
- (f) he is of unsound mind or is otherwise incapable of discharging his duties;
- (g) he has been convicted on a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment whether in itself only or in addition to or in lieu of a fine;
- (h) his conduct, whether in connection with his duties as a member of the Council, the Board or otherwise, has been such as to bring discredit to the Council or the Board, as the case may be;

- (i) his name has at any time been removed as a result of disciplinary proceedings, from—
 - (i) the Dental Register;
 - (ii) the Dental Therapists Register; or
 - (iii) any register of dental practitioners or dental therapists or the equivalent maintained in any place outside Malaysia;
- (j) his resignation is accepted by the President or Chairman, as the case may be; or
- (k) his appointment is revoked by the Minister.

(2) Where any dental surgeon who is a member by virtue of paragraphs 6(1)(e) to (h) dies before completion of his term of office, resigns or otherwise ceases to be a member by reason of any provision of this Act, a dental surgeon shall be elected in his place, for the residue of the term for which such dental surgeon might have held office if he had not died, resigned or ceased to be a member.

(3) Notwithstanding subsection (2), the vacancy of any member elected under paragraphs 6(1)(e) to (h) shall not be filled for the residue of that term, if his term of office would have come to an end within twelve months by effluxion of time.

(4) The Council or the Board shall not be prevented from performing any of its functions or exercising any of its powers under this Act by any vacancy in its membership.

Chairperson of Council and Board meeting

3. (1) The President shall preside at all meetings of the Council and the Chairman shall preside at all meetings of the Board.

(2) In the absence of the President at any meeting of the Council or the Chairman at any meeting of the Board, for any reason, the Dental Registrar or the Dental Therapists Registrar, as the case may be, shall preside at the meeting.

(3) In the absence of the President and the Dental Registrar at any meeting of the Council or the Chairman and the Dental Therapists Registrar at any meeting of the Board, for any reason, any other member of the Council appointed by the President or any other member of the Board appointed by the Chairman, as the case may be, shall preside at the meeting.

(4) The Dental Registrar, the Dental Therapists Registrar or the member appointed under subparagraph (3), as the case may be, shall—

- (a) during the period in which he is performing the functions of the President under this paragraph be deemed to be the President; or

- (b) during the period in which he is performing the functions of the Chairman under this paragraph be deemed to be the Chairman.

Frequency and venue of meetings

4. (1) The Council or the Board and the committees shall hold as many meetings as are necessary for the efficient performance of its functions and such meetings shall be held at such places and times as specified in a written notice issued on behalf of the President in respect of the Council, the Chairman in respect of the Board or the chairman of the committee in respect of the committee, provided that meetings are held at least twice a year.

(2) The members of the Council or the Board may request a meeting of the Council or the Board, as the case may be, by submitting a requisition notice to the Secretary in accordance with subparagraph (3).

(3) A requisition notice under subparagraph (2) shall contain the signatures of at least—

- (a) three members of the Council and shall specify the matters to be discussed by the Council; or
- (b) three members of the Board and shall specify the matters to be discussed by the Board.

Quorum

5. (1) The quorum for meetings of the Council shall be eight and the quorum for meetings of the Board shall be five.

(2) The quorum for meetings of committees shall be not less than half of the members of the committee.

Council, Board and committee may invite others to a meeting

6. The Council, the Board or a committee may invite any person to attend any meeting or deliberation of the Council, the Board or the committee for the purpose of advising the Council, the Board or the committee on any matter under discussion, but such person shall not be entitled to vote at the meeting or deliberation.

Casting vote

7. The decision of the Council or the Board shall be adopted by a simple majority of votes of the members present and voting, and in the case of an equality of votes, the President or the Chairman, as the case may be, shall have a casting vote in addition to his deliberative vote.

Minutes

8. (1) The Council, the Board and the committees shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) The minutes of meetings of the Council, the Board and the committees, if duly signed, shall, in any legal proceedings, be admissible as *prima facie* evidence of the facts stated in the minutes without further proof.

(3) Every meeting of the Council, the Board and the committees of which minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

(4) A committee shall make available copies of the minutes of all its meetings to the Council should the Council request for it or to the Board should the Board request for it.

Procedure

9. The Council, the Board and the committees may regulate its own procedure.

Disclosure of interest

10. (1) A member of the Council, the Board or a committee or any person invited to attend the meeting of the Council, the Board or a committee, having directly or indirectly, any interest in relation to any matter under discussion by the Council, the Board or the committee shall disclose to the Council, the Board or the committee, as the case may be, the fact and nature of his interest.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the meeting of the Council, the Board or the committee, as the case may be.

(3) After the disclosure under subparagraph (1), the member of the Council, the Board or the committee or any person invited to attend the a meetings of the Council, the Board or the committee—

(a) shall not take part or be present in any deliberation or during the making of any decision of the Council, the Board or the committee, as the case may be, about the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Council, the Board or the committee, as the case may be, in the deliberation or during the making of any decision about the matter.

Validity of acts and proceedings

11. No act done or proceedings taken under this Act shall be questioned on the ground of—

- (a) any vacancy in the membership of, or any defect in the constitution of, the Council, the Board or a committee; or
- (b) any omission, defect or irregularity not affecting the merits of the case.

Office of the Council or the Board

12. The office of the Council and the Board shall be at such place as the Director General may determine.

SECOND SCHEDULE

[Section 2, paragraphs 30(a) and 40(2)(b)]

RECOGNIZED QUALIFICATIONS FOR REGISTRATION OF DENTAL THERAPISTS

<i>Country in which qualification is granted</i>	<i>Institution granting qualification</i>	<i>Qualification awarded</i>
Malaysia	Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang	Diploma Kejururawatan Pergigian
	Kolej Latihan Pergigian Malaysia	Diploma Kejururawatan Pergigian
	Sekolah Latihan Pergigian Malaysia	Diploma Kejururawatan Pergigian
	Sekolah Latihan Pergigian Malaysia	Sijil Kejururawatan Pergigian

THIRD SCHEDULE
[Paragraph 35(1)(b)]

REGISTRABLE QUALIFICATIONS FOR REGISTRATION OF
POST-BASIC DENTAL THERAPISTS

<i>Country in which qualification is granted</i>	<i>Discipline</i>	<i>Institution granting qualification</i>	<i>Qualification awarded</i>
Malaysia	Orthodontics	Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang	Sijil Pos Basik Ortodontik
	Orthodontics	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Ortodontik Jururawat Pergigian
	Orthodontics	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Ortodontik
	Orthodontics	Sekolah Latihan Pergigian Malaysia	Sijil Pos Basik Ortodontik
	Oral Surgery	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Bedah Mulut Jururawat Pergigian
	Paediatric Dentistry	Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang	Sijil Pos Basik Pergigian Pediatrik
	Paediatric Dentistry	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Pergigian Pediatrik
	Paediatric Dentistry	Sekolah Latihan Pergigian Malaysia	Sijil Pos Basik Pergigian Pediatrik
	Periodontics	Institut Latihan Kementerian Kesihatan Malaysia (Pergigian) Georgetown, Pulau Pinang	Sijil Pos Basik Periodontik
	Periodontics	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Pengkhususan Periodontik

<i>Country in which qualification is granted</i>	<i>Discipline</i>	<i>Institution granting qualification</i>	<i>Qualification awarded</i>
	Periodontics	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Perawatan Periodontik
	Periodontics	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Periodontik
	Periodontics	Sekolah Latihan Pergigian Malaysia	Sijil Pos Basik Periodontik
	Periodontics (Community)	Kolej Latihan Pergigian Malaysia	Sijil Pos Basik Periodontik

FOURTH SCHEDULE

[Section 81]

FEES AND CHARGES

TYPE OF APPLICATION	FEE (RM)
1. Registration as a dental surgeon	300
2. Conditional registration	300
3. Registration as a dental specialist (per specialty)	1,200
4. Copy of certificate of registration as a dental surgeon or dental specialist or a certificate of conditional registration	100
5. Registration as a dental therapist	50
6. Registration as a post-basic dental therapist	200
7. Copy of certificate of registration as a dental therapist or post-basic dental therapist	50
8. Annual practising certificate with—	
(a) a principal practising address only	100
(b) two practising addresses	200
(c) three or more practising addresses	300
9. Copy of annual practising certificate	50

	TYPE OF APPLICATION	FEE (RM)
10.	Change of particulars or address on annual practising certificate	30
11.	Charges for late application for annual practising certificate	100
12.	Temporary practising certificate	200
13.	Temporary practising certificate for a specialist (per specialty)	500
14.	Copy of temporary practising certificate	50
15.	Evaluation of qualification for Professional Qualifying Examination	300
16.	Search on or extracts from the Dental Register or the Dental Therapists Register	500
17.	Letter of Good Standing	50
18.	Translation of certificate of registration or practising certificate	100
19.	Guidelines issued by the Council	30
20.	Copy of records of disciplinary proceedings	250

FIFTH SCHEDULE

[Subsections 43(3) and (4), subsection 50(2) and paragraphs 51(2)(g), (h), (i) and (j)]

PROCEDURES THAT MAY BE CARRIED OUT BY A DENTAL THERAPIST

1. A dental therapist may carry out the following procedures:
 - (a) clinical procedures on persons below the age of 18 years;
 - (b) dental health promotion, education and instruction; and
 - (c) intra-oral photography on instruction of the dental surgeon.
2. The clinical procedures that may be carried out by a dental therapist referred to in subparagraph (1)(a) shall be limited to the following:
 - (a) oral examination;
 - (b) Class I, II, III and V restorations, using direct restorative materials;

- (c) administration of local infiltration anaesthesia;
- (d) extraction of primary teeth;
- (e) placement of fissure sealant;
- (f) application of topical fluoride gel and paste; and
- (g) supra-gingival scaling and polishing.

SIXTH SCHEDULE

[Subsection 43(4), subsection 50(2) and paragraphs 51(2)(i) and (j)]

PROCEDURES THAT MAY BE CARRIED OUT BY A POST-BASIC DENTAL THERAPIST

A dental therapist registered in Division B of the Dental Therapists Register as a post-basic dental therapist may carry out, in addition to the procedures in the Fifth Schedule, the following procedures in relation to the discipline for which he is trained:

A. Procedures for the discipline of periodontics

1. Pocket charting
2. Placement of desensitizing agent
3. Removal of suture
4. Root planing and debridement
5. Electric pulp test
6. Taking of impressions for study model
7. Taking of intra-oral x-ray

B. Procedures for the discipline of orthodontics

1. Preparation of teeth for banding and bonding
2. Insertion of elastic separators
3. Taking of impressions for study models
4. Taking of intra-oral x-ray

C. Procedures for the discipline of oral surgery

1. Taking of vital signs
 - (a) Blood pressure
 - (b) Pulse
 - (c) Body temperature
 - (d) Ventilation rate
2. Removal of sutures
3. Simple post-surgical wound dressing
4. Oral toilet
5. Taking of impressions for study model
6. Taking of intra-oral x-rays

D. Procedures for the discipline of paediatric dentistry

1. Scrub nurse and runner in the operating theatre
2. Preparation of equipment and materials for sedation procedures
3. Removal of splints
4. Removal of suture
5. Oral toilet
6. Taking of impressions for study models
7. Taking of intra-oral x-rays

EXPLANATORY STATEMENT

The proposed Dental Act 2017 (“the proposed Act”) seeks to establish the Malaysian Dental Council and the Malaysian Dental Therapist Board. The functions of the Malaysian Dental Council and Malaysian Dental Therapist Board are mainly to control and regulate dental practitioners and dental therapists by way of registration as well as to regulate the practice of dentistry. With the establishment of the new Malaysian Dental Council and Malaysian Dental Therapist Board, the Malaysian Dental Council established under the Dental Act 1971 will be dissolved.

PART I

2. Part I of the proposed Act contains preliminary matters.

Clause 1 contains the short title and seeks to empower the Minister to appoint the date of commencement of the proposed Act and to appoint different dates for the coming into operation of different provisions of the proposed Act.

Clause 2 contains the definitions of certain expression used in the proposed Act.

PART II

3. Part II of the proposed Act provides for the establishment of the Malaysian Dental Council.

Clause 3 seeks to provide for the establishment of the Council which shall be a regulatory body for the profession of dentistry.

Clause 4 sets out the functions of the Council which includes to recognize the qualifications for registration of practitioners under the proposed Act, to approve post-graduate qualifications to register as dental specialists, to register and issue certificates to dental practitioners and to determine the criteria for the registration of dental specialists, etc.

Clause 5 sets out the powers of the Council which includes to approve or reject applications for registration of dental practitioners and dental specialists under the proposed Act, impose fees or any other charges, etc.

Clause 6 contains provisions on the membership of the Council.

Clause 7 seeks to empower the Minister to appoint members of the Council if the dental surgeons fail to nominate or elect a member of the Council any of the dental surgeons referred to in paragraphs 6(1)(e) to (h) by such date as may be specified in the notice of and request for nomination and any dental surgeon so appointed shall be deemed to be a member as if he had been duly nominated or elected.

Clause 8 contains provisions on the circumstances where a dental surgeon is disqualified from being appointed, nominated or to be elected as a member of the Council.

Clause 9 seeks to empower the Minister after consulting the President to revoke the appointment of any member of the Council appointed under paragraph 6(1)(c), (d) or (i) and a member of the Council appointed under paragraph 6(1)(c), (d) or (i) or elected under paragraphs 6(1)(e) to (h) may at any time resign his office by a notice in writing to the President.

Clause 10 seeks to empower the Dental Registrar to act as the President for the period when the office of the President is vacant, the President is absent from duty or from Malaysia or the President is, for any other reason, unable to carry out his functions.

Clause 11 contains provisions on the appointment and the responsibilities of the Secretary to the Council.

Clause 12 seeks to empower the Council to establish committees to assist it in the performance of its functions or in the exercise of its powers.

Clause 13 seeks to provide for the allowances or expenses for members of the Council and committees and any other person invited to attend any meeting or deliberation of the Council and the committees.

Clause 14 contains provisions on the appointment of employees of the Council for carrying out the purposes of this proposed Act.

PART III

4. Part III of the proposed Act provides for the establishment of the Malaysian Dental Therapist Board.

Clause 15 seeks to provide for the establishment of the Board.

Clause 16 sets out the functions of the Board which includes to register and issue certificates to dental therapists and post-basic dental therapists, to regulate any examination for registration of dental therapists, to regulate the standards of practice of dental therapists, etc.

Clause 17 sets out the powers of the Board which includes to approve or reject applications for registration of dental therapists and post-basic dental therapists under the proposed Act, to approve any such applications subject to such conditions and restrictions as it thinks fit to impose, etc.

Clause 18 contains provisions on the membership of the Board.

Clause 19 contains provisions on the circumstances where a dental therapist is disqualified from being nominated or appointed as a member of the Board.

Clause 20 seeks to empower the Minister after consulting the Chairman to revoke the appointment of any member of the Board appointed under paragraphs 18(1)(d) to (i) and a member of the Board appointed under paragraphs 18(1)(c) to (i) may at any time resign his office by a notice in writing to the Chairman.

Clause 21 contains provisions on the appointment and the responsibilities of the Secretary to the Board.

Clause 22 seeks to empower the Board to establish committees to assist it in the performance of its functions or in the exercise of its powers.

Clause 23 seeks to provide for the allowances for members of the Board or committees and any other person invited to attend any meeting or deliberation of the Board and the committees.

PART IV

5. Part IV of the proposed Act deals with the registration of practitioner.

Chapter 1 contains provision relating to register.

Clause 24 seeks to provide that the Principal Director shall be the Dental Registrar and the Head of Profession of Dental Therapists shall be the Dental Therapists Registrar.

Clause 25 seeks to provide that the Dental Registrar shall maintain a Dental Register, a Conditional Register and a Dental Temporary Practising Certificates Register and the Dental Therapists Registrar shall maintain a Dental Therapist Register and a Dental Therapists Temporary Certificates Register, in both physical and electronic forms.

Clause 26 seeks to provide that the Dental Registrar or the Dental Therapists Registrar may insert and attest in the Dental Register or the Dental Therapist Register, respectively, any alteration which may come to his knowledge in the name or address of any dental practitioner or any dental therapist registered under the proposed Act and any alterations in the qualifications, additional qualifications and other particulars required to be altered under the proposed Act.

Clause 27 seeks to empower the Dental Registrar or the Dental Therapist Registrar to remove from the Dental Register or the Dental Therapists Register, the name and other particulars of a dental practitioner or a dental therapist, who has died, who is no longer practising dentistry, who has, after due inquiry by a Fitness to Practice Panel, been found to be unfit to perform his professional duties by reason of his mental or physical infirmity or been found to be incompetent to carry out his professional duties as a dental practitioner or a dental therapist or who has, after due inquiry, been found to have been registered through an error as to his qualifications for registration, and was not at the time of his registration entitled to be registered.

Clause 28 seeks to restore name in the Register of a practitioner whose registration has been removed under paragraph 27(1)(b), (c) or (d).

Chapter 2 contains provision relating to registration.

Clause 29 seeks to provide for the qualifications for registration as a dental surgeon.

Clause 30 seeks to provide for the qualifications for registration as a dental therapist.

Clause 31 seeks to provide for the registration of dental surgeon and dental therapist.

Clause 32 seeks to provide for the circumstances where the Council or the Board may direct the Dental Registrar or the Dental Therapists Registrar, not to enter the name of any person applying for registration as a dental surgeon or a dental therapist in the Dental Register or the Dental Therapists Register.

Clause 33 seeks to provide for the establishment of a Fitness to Practice Panel to evaluate the medical condition of a dental practitioner or a dental therapist.

Clause 34 seeks to provide that a practitioner whose name does not appear in the Specialist Division of the Dental Register shall not practise as a dental specialist in that speciality.

Clause 35 seeks to provide for the application for registration as a post-basic dental therapist.

Clause 36 seeks to provide that any person may apply for conditional registration if such registration is required to fulfill the conditions for registration or employment outside Malaysia provided that the person holds a qualification granted by an accredited local training institution, he has been certified to have fulfilled the requirements of the Professional Qualifying Examination and he has proven to the satisfaction of the Dental Registrar that he is a fit and proper person and is of good character.

Chapter 3 contains provisions relating to practising certificate.

Clause 37 seeks to provide that any person who practices dentistry is required to have a valid practising certificate.

Clause 38 contains provision relating to an application of an annual practising certificate for practitioner.

Clause 39 seeks to provide that a dental practitioner or dental therapist who is deemed to be suspended under subsection 38(4) of the proposed Act may apply for the annual practising certificate to the Dental Registrar or to the Dental Therapist Registrar. This *clause* also provide that if a Dental Registrar or the Dental Therapist Registrar approves an application such application, the Dental Registrar or the Dental Therapist Registrar shall issue an annual practising certificate to the applicant and the annual practising certificate shall be in force until thirty-first December of the year in respect of which it is issued, and the suspension shall be lifted.

Clause 40 seeks to provide that a non-Malaysian citizen may apply to the Dental Registrar or to the Dental Therapist Registrar, as the case may be, for a temporary practising certificate to practice dentistry in Malaysia provided that the non-Malaysian citizen fulfills the condition provided under paragraphs 40(1)(a), (b), (c) and (d) or paragraphs 40(2)(a), (b), (c) and (d) of the proposed Act.

Clause 41 seeks to provide that a dental practitioner or a dental therapist who has a valid practising certificate shall be entitled to charge reasonable fees for professional aid, advice, visit or dental treatment and to charge for the value of any dental appliances rendered, made or supplied by him to his patients.

Clause 42 seeks to provide that a practitioner shall display his certificate of registration and the current practising certificate in a conspicuous place in which he practices dentistry.

Chapter 4 contains provision relating to general matters pertaining to practising as dental therapist, notification of change in address, the service of notice or correspondence, etc.

Clause 43 seeks to provide that a dental therapist in the private sector shall practise dentistry only under a direct supervision of a dental surgeon.

Clause 44 seeks to provide that a dental practitioner or a dental therapist shall notify of any change in his home address or practising address to the Dental Registrar or the Dental Therapist Registrar, within thirty days of such change and that failure to do so is an offence.

Clause 45 provides for the service of notice or correspondence to a dental practitioner or a dental therapist.

Clause 46 deals with the signing of dental sick certificates and other documents required by any written law by a duly qualified dental practitioner.

Clause 47 seeks to provide that a dental practitioner who intends to practise dentistry at any location other than the healthcare facility stated in his practising certificate as a community service or a period of not more than seven consecutive days and for a total of not more than fourteen days in a year must obtain an approval in writing from the Dental Registrar prior to the commencement of such community service.

Clause 48 seeks to allow a dental body corporate or company to carry on the business of dentistry provided that the dental body corporate or company carries on no business other than dentistry or some business ancillary to the business of dentistry and at least half of the members of the Board of Directors of the dental body corporate or company are dental surgeons.

Clause 49 seeks to exempt all dental surgeon from registration under the proposed Act while in the discharge of their duties on ships on full-time basis and such dental surgeon shall be entitled to all the privileges of dental practitioners under the proposed Act.

Clause 50 seeks to provide that a person who is pursuing a course of study in dentistry, either as a dental practitioner or a dental therapist, in any local training institution may carry out, in pursuance of such course of study, any dental investigation, dental examination or dental treatment of patients in any hospital, clinic, health centre, or other institution which is approved by the Director General for the purpose of this *clause*, provided that the investigation, examination or treatment is carried out by a person under the control and supervision of a dental surgeon who holds a valid practising certificate.

PART V

6. Part V of the proposed Act deals with the disciplinary proceedings of the Council and the Board.

Clause 51 seeks to provide that the Council shall have disciplinary authority over all practitioners registered under the proposed Act whereas the Board shall have disciplinary authority over all dental therapist registered under the proposed Act.

Clause 52 seeks to provide for the appointment of a Complaint Committee by the President to manage any complaint or information received against any practitioner.

Clause 53 seeks to provide that all complaints or information received against a practitioner shall be made in writing and be forwarded to the Complaints Committee.

Clause 54 deals with the classification of complaints or information.

Clause 55 seeks to provide for the appointment of a Preliminary Investigation Committee by the President to investigate on any complaint or information against a practitioner or any disciplinary matter that may be inquired into by the Council.

Clause 56 seeks to provide for the appointment of a Disciplinary Committee by the President to investigate on any complaint or information against a dental therapist or any disciplinary matter that may be inquired into by the Board.

Clause 57 seeks to provide that the Complaints Committee may recommend to the President for a summary dismissal of any complaint or information received under section 53 of the proposed Act.

Clause 58 sets out the disciplinary punishments that may be imposed by the Council or the Board in exercising its disciplinary authority.

Clause 59 seeks to provide that a practitioner whose name has been removed or suspended from the Dental Register or the Dental Therapists Register shall surrender his certificate of registration and practising certificate to the Council or the Board within seven days of the pronouncement of an order under section 58 of the proposed Act.

Clause 60 seeks to provide that any person who is aggrieved by an order made against him by the Council in the exercise of its disciplinary authority may appeal to the High Court within thirty days from the date of the making of the order.

Clause 61 seeks to provide that any person whose name has been removed from the Dental Register or the Dental Therapists Register pursuant to an order of the Council or the Board under paragraph 58(1)(a) be reinstated in the Dental Register or Dental Therapists Register if his appeal is allowed and the Dental Registrar or the Dental Therapists Registrar shall issue a certificate of registration and a practising certificate to him.

PART VI

7. Part VI of the proposed Act contains provisions relating to offences.

Clause 62 seeks to provide for the offences relating to a person who practices dentistry but is not registered under the proposed Act.

Clause 63 seeks to provide for the offences for falsely personating as a practitioner.

Clause 64 seeks to provide for the offences relating to a dentist who falsely describe his vocation.

Clause 65 seeks to provide for the offences relating to fraudulent registration.

Clause 66 seeks to provide for the offences relating to practising certificate.

Clause 67 seeks to provide for the offences relating to a person who falsely displays or permits to be displayed in any premises certificate of registration, practising certificate, etc.

Clause 68 seeks to provide for the offence of employing a person who is not a practitioner under the proposed Act to perform the duties and responsibilities of a practitioner.

Clause 69 seeks to provide for the offence of covering of an unregistered person.

PART VII

8. Part VII of the proposed Act contains provisions relating to enforcement.

Clause 70 seeks to empower the Director General to authorize any public officer as an authorized officer to exercise the powers of enforcement under the proposed Act.

Clause 71 seeks to provide that an authorized officer exercising the powers under the proposed Act shall at all times carry and produce the authority card issued under the proposed subsection 70(2) of the proposed Act in the course of entering or inspecting any premises.

Clause 72 seeks to provide for the duty of the practitioner or the owner or occupier of any premises used or believed to be used as a place to practise dentistry and any person found in that premises to assist all authorized officer in exercising his power under the proposed Act.

Clause 73 seeks to provide that the authorized officer shall place the record, dental or medical equipment, appliance, material or other things in a room, compartment or cabinet located in that premises and mark, fasten and seal the container, door or opening providing access to the room, compartment or cabinet if, by reason of their nature, size or amount, it is not practicable to remove any record, dental or medical equipment, appliance, material or other things.

Clause 74 seeks to provide that all goods seized in the exercise of any powers conferred under the proposed Act shall be liable to forfeiture.

Clause 75 seeks to provide for the cost of holding goods seized in the custody of the Government pending completion of any proceeding in respect of an offence under the proposed Act.

Clause 76 seeks to provide that there is no cost or damages arising from seizure to be recoverable unless such seizure was made without reasonable cause.

Clause 77 seeks to provide that the prosecution for an offence under this proposed Act shall be instituted only with a written sanction of the Public Prosecutor.

PART VIII

9. Part VIII of the proposed Act deals with miscellaneous provisions.

Clause 78 seeks to provide that the Director General or any person authorized by the Director General may issue a written notice to any dental surgeon who has been registered under section 31 of the proposed Act to assume appointment as a dental surgeon in such post and on such date as specified in the written notice.

Clause 79 seeks to provide that a dental surgeon who commences to serve in a post in pursuance of a written notice issued under section 78 of the proposed Act, shall continue to serve in that post or in such other subsequent post as may be determined by the Director General for a continuous total period to be prescribed.

Clause 80 seeks to empower the Minister to grant reduction as the Minister considers appropriate or complete exemption from the period of service.

Clause 81 seeks to provide that any fees and charges payable under the proposed Act shall be as prescribed in the Fourth Schedule.

Clause 82 seeks to provide that the Council shall establish the Code of Professional Conduct to be observed by all practitioners.

Clause 83 seeks to empower the Council to issue guidelines and directives as the Council may think necessary or expedient.

Clause 84 seeks to provide for the responsibility of the Council and the Board to furnish the Minister with the returns, reports and information with respect to its activities as the Minister may require.

Clause 85 seeks to provide for the responsibility of a practitioner whose name is on the Dental Register or Dental Therapists Register to furnish any information to the Council or to the Board within thirty days of being required to do so.

Clause 86 seeks to provide that the Director General may authorize a dental practitioner who is registered under the proposed Act and who is not in the public service, to investigate, examine, treat or manage any patient or to perform an autopsy or post-mortem investigation on any deceased person and that in doing so he shall be deemed to be a Government dental officer.

Clause 87 seeks to provide that the Government is liable for torts committed by any dental practitioner referred to in the proposed section 86 who at the request of or by arrangement with the Government, carries out any investigation, examination, treatment or management of any patient, or performs an autopsy or post-mortem investigation of any deceased person in any Government hospital, clinic or health centre or in any other similar institution of the Government.

Clause 88 seeks to allow the Council to appoint legal practitioners to assist the Council, the Board or any of their committees during any inquiry concerning disciplinary matters, to institute and conduct any civil proceedings on behalf of the Council or the Board, etc.

Clause 89 seeks to provide for provisions on the compounding of offences.

Clause 90 seeks to allow the Council to delegate any its functions and powers, except the power to make subsidiary legislation, to a member of the Council, the Secretary of the Council or a committee of the Council.

Clause 91 seeks to empower the Minister, after consultation with the Council, amend the Schedules to the proposed Act by order published in the *Gazette*.

Clause 92 seeks to empower the Council, with the approval of the Minister, to make regulations under the proposed Act.

PART IX

10. Part IX of the proposed Act deals with repeal, savings and transitional provisions.

Clause 93 seeks to provide for the repeal of the Dental Act 1971 and dissolution of the Council established under the repealed Act.

Clause 94 seeks to provide that the powers, rights, privileges, liabilities, obligations and duties which immediately before the appointed date were those of the dissolved Council shall devolve on the Council established by the proposed Act as from that date.

Clause 95 seeks to provide that the existing contracts subsisting immediately before the date of coming into operation of the proposed Act shall have full force and effect against or in favour of the Council established by the proposed Act.

Clause 96 seeks to provide that the members of the dissolved Council and the members of any committees appointed under the repealed Act who held office before the date comes into operation of the proposed Act shall cease to hold office after six months from the date of coming into operation of the proposed Act.

Clause 97 seeks to provide that every person who, before the date comes into operation of the proposed Act holds a valid practising certificate issued to him under the repealed Act shall on the date comes into operation of the proposed Act be deemed to have a practising certificate under the proposed Act for the remainder of the year in which the proposed Act comes into operation and shall be subject to the terms and conditions as the Council established by the proposed Act may impose.

Clause 98 seeks to provide that every person who, immediately before the coming into operation of the proposed Act was registered in Division I of the Dental Register under the repealed Act, shall on the coming into operation of the proposed Act be deemed to be registered as a dental surgeon under Division I of the Dental Register under the proposed Act and every person who immediately before the coming into operation of the proposed Act was registered in Division II of the Dental Register under the repealed Act, shall on the coming into operation of the proposed Act be deemed to be registered as a dentist under Division II of the Dental Register under the proposed Act.

Clause 99 seeks to provide for the provision relating to the continuance of pending applications, approval or decisions, etc.

Clause 100 seeks to provide for the provision relating to the continuance of civil and criminal proceedings.

Clause 101 seeks to provide that every person who immediately before the date of the coming into operation of the proposed Act was undergoing a period of training pursuant to subsection 12(3) of the repealed Act shall on the coming into operation of the proposed Act, be allowed to complete the period of training and be allowed to be registered under section 31 of the proposed Act, if and when they fulfil subsection 12(3) of the repealed Act.

Clause 102 seeks to provide that a Malaysian citizen who graduates from any of the dental schools listed in the Second Schedule of the repealed Act within five years from the date of the coming into operation of the proposed Act shall be eligible to be registered under section 31 of the proposed Act.

Clause 103 seeks to provide that a reference in any law or document in force immediately before the appointed date to the dissolved Council shall be construed as a reference to the Council established by the proposed Act.

Clause 104 seeks to provide that a reference to the repealed Act or any specific provision of the repealed Act in any written law shall be construed as a reference to this Act and the provision of this Act which corresponds as nearly as may be to such specific provision.

The First Schedule seeks to provide for the supplementary provisions relating to the Council and the Board.

The Second Schedule sets out the recognized qualifications for registration of dental therapists.

The Third Schedule sets out the registrable qualifications for registration of post-basic dental therapists.

The Fourth Schedule sets out the fees and charges payable under the proposed Act.

The Fifth Schedule sets out the procedures that may be carried out by a dental therapist.

The Sixth Schedule sets out the procedures that may be carried out by a post-basic dental therapist.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)2908]