

**NON-GOVERNMENTAL ORGANIZATION**

**NOTICE 127 OF 2017**

**NON-GOVERNMENTAL ORGANISATION**

**SOUTH AFRICAN DENTAL TECHNICIANS COUNCIL**

Take notice that Notice 864 published in Government Gazette 40480 dated 9 December 2016 is hereby withdrawn.

**NON-GOVERNMENTAL ORGANIZATION**

**NOTICE 864 OF 2016**

**SOUTH AFRICAN DENTAL TECHNICIANS COUNCIL**

**INVITATION TO COMMENT ON THE DENTAL TECHNOLOGY  
PROFESSIONS DRAFT BILL: DEADLINE FOR COMMENT 15 APRIL  
2017**

1. The draft Dental Technology Professions Bill (hereinafter referred to as “the Bill”) aims to-

- provide a legislative framework for the transformation and restructuring of the dental technology profession into a profession which is broadly representative of the Republic's demographics;
- ensure that the values underpinning the Constitution are embraced and that the rule of law is upheld;
- ensure that dental technology services are accessible by inter alia introducing the practice of clinical dental technology;
- regulate the dental technology profession;
- regulate the import and export manufacturing, sale or distribution of goods or dental technology specific equipment required, used, manufactured and repaired for use in the practice of dental technology and to regulate persons possessing, trading in, exporting, importing or carrying of unmounted artificial teeth or any dental or oral prosthesis or part or component thereof;
- to repeal the South African Dental Technicians Act, 1979; and
- provide for matters connected therewith.

2. The Bill is available for download on the website of the South African Dental Technicians Council at the following address: <http://www.sadtc.org.za>, alternatively, a copy of the Bill will be made available on request, which request should be directed to the person referred to in paragraph 4 below.

3. Any person wishing to comment on the Bill is invited to submit written comments to the South African Dental Technicians Council on or before **15 April 2017**.

Comments should be marked for the attention of The Registrar: Ms P Nkuna:

(a) if they are forwarded by post, be addressed to -

**The South African Dental Technicians Council  
P.O. Box 14617,  
Hatfield,  
PRETORIA  
0028;**

(b) if delivered by hand, be delivered at –

South African Dental Technicians Council  
954 Cnr Hill & Arcadia Street, Arcadia, Pretoria;

(c) if they are delivered by e-mail, they can be sent to registrar@sadtc.org.za; or

(d) if it is faxed, they can be faxed to **012 342 4134/4469**.

4. For further information, please contact Ms P Nkuna at **012 342 4134**.

## DRAFT BILL

To repeal the South African Dental Technicians Act, 1979 and to provide for the control and regulation of the dental technology profession within the Republic of South Africa, to provide for the establishment of the South African Dental Technology Professions Council as a juristic person, to provide for the registration of members of the dental technology profession, to create a new oral health category of clinical dental technologist, to provide for the recognition and accreditation of certain persons by the Council, to provide for specialist dental technology training, the control over education and training and accreditation of educational institutions where dental technology training and education is provided, to provide for measures designed to protect the public from unethical practices, to provide for the control over training and conduct of dental technology practitioners, to regulate dental technology laboratories, dental traders and the import, export and carrying of any unmounted artificial teeth, any dental and oral prostheses and any custom made components used in dental technology practice or a dental laboratory, to provide for the inspection and monitoring of dental technologists, dental laboratories, dental traders and training and accreditation of educational institutions where dental technology training and education is provided, to provide for measures in order to maintain a high standard of professional conduct and integrity by members of the dental technology profession, to provide for the establishment of independent disciplinary mechanisms by the establishment of a disciplinary and appeal committees, and to provide for matters connected therewith.

### Preamble

**WHEREAS** section 22 of the Bill of Rights of the Constitution establishes the right to freedom of trade, occupation and profession, and provides that the practice of a trade, occupation or profession may be regulated by law;

### AND IN ORDER TO—

- provide a legislative framework for the transformation and restructuring of the dental technology profession into a profession which is broadly representative of the Republic's demographics;
- ensure that the values underpinning the Constitution are embraced and that the rule of law is upheld;
- ensure that dental technology services are accessible;
- regulate the dental technology profession in the public interest;



BE IT ENACTED by the Parliament of the Republic of South Africa as follows:-

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- 117. Code of conduct and code of ethics
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In this Act, unless the context otherwise indicates—

**'administrative non-compliance penalty' or 'penalty'** means a penalty imposed by the Council under section 146 of this Act;

**'appeal committee'** means an appeal committee established under section 129;

**'approved'** means approved by the Council under this Act;

**'approved institution'** means a training institution approved by the Council under section 74;

**'authorised holder'** means a person or juristic person to whom an authorisation has been issued under section 99 of this Act;

**'authorisation'** means any authorisation issued under Part 1 of Chapter 8 of this Act;

**'beneficial interest'**, when used in relation to a dental laboratory or denture clinic, means the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person to receive or participate in any distribution in respect of the shareholding, membership or as beneficiary in such dental laboratory or denture clinic's business;

**'business name'** means a name under which a registered practitioner carries on a practice or under which the business of a dental laboratory or denture clinic is carried on;

**'business rescue practitioner'** means a person appointed, or two or more persons appointed jointly, in terms of Chapter 6 of the Companies Act, 2008 (Act 71 of 2008) to oversee a company during business rescue proceedings in terms of that Act;

**'clinical dental technologist'** means a person who is registered clinical dental technologist under section 89 of this Act;

**'Code of Conduct'** means the Code of Conduct contemplated in Schedule 1 which is applicable to members of the Council;

**'code of ethics'** means a written code, setting out rules and standards relating to ethics, ethical conduct and practice which will be applicable to the dental technology profession and its enforcement through the Council and its structures as determined by rule;

**'company'** means a juristic person incorporated in terms of the Companies Act, 2008 (Act 71 of 2008), or a juristic person that, immediately before 1 May 2011–

(a) was registered in terms of the–

(i) Companies Act, 1973 (Act 61 of 1973); or

(ii) Close Corporations Act, 1984 (Act 69 of 1984), if it has subsequently been converted in terms of Schedule 2 of the Companies Act, 2008 (Act 71 of 2008);

(b) was in existence and recognised as an existing company in terms of the Companies Act, 1973 (Act 61 of 1973); or

(c) was deregistered in terms of the Companies Act, 1973 (Act 61 of 1973), and has subsequently been re-registered in terms of Companies Act, 2008 (Act 71 of 2008);

**'Constitution'** means the Constitution of the Republic of South Africa;

**'controlled item'** means controlled items specified in a notice published by the Council in the *Gazette* in terms of section 149(3) of this Act;

**'Council'** means the South African Dental Technology Professions Council;

**'dental laboratory'** means any place where artificial dentures or other dental appliances are made, repaired, altered or worked upon, or where any apparatus or milling device for the creation, making, repair or alteration of or the working upon such dentures or appliances has been installed or where the design, milling or making in full or in part of dental and oral prostheses or related appliance are undertaken;

**'dental laboratory assistant'** means any person regulated under section 85;

**'dental technician'** means a person who is registered as dental technician under section 57 of this Act;

**'dental technology'** means the discipline which is concerned with the design or creation of dental and oral prostheses and includes the make, repair or alteration of artificial dentures or other dental appliances;

**'dental technology profession'** means the collective of practitioners registered under section 57 of this Act;

**'dental technologist'** means a person who is registered as a dental technologist under section 57 of this Act;

**'dental technological services'** means the services rendered by the dental technology profession as contemplated in paragraph (a), (b) or (c) of subsection (1) of section 68 of this Act;

**'dental technologist with restricted registration'** means a person registered under section 59 of this Act;

**'dental trader'** means a person, company, juristic person or intermediary registered under section 108 of this Act;

**'dentist'** means a person registered as such under the Health Professions Act, 1974 (Act 56 of 1974);

**'denture clinic'** means the practice facility of a clinical dental technologist including the area in which clinical work and laboratory work are performed by such clinical dental technologist;

**'Department'** means the national Department of Health;

**'Director-General'** means the Director-General: Department of Health;

**'disciplinary committee'** means the committee established under section 118;

**'export'** means transporting, taking, sending or removing goods out of the Republic or to take or send goods required, used, or repaired in full or in part for use in the practice of dental technology from the Republic to a state or territory outside the Republic or to cause such goods to be so taken or sent out of the Republic;

**'exporter'** means in relation to goods required, used or repaired in full or in part for use in the practice of dental technology exported or to be exported from the Republic, the person or juristic person who exported, is in the process of exporting or intends to export those goods from the Republic and includes—

(a) a person who at the time when the goods are exported or in the process of being exported from or to the Republic—

(i) is the owner of the goods;

(ii) carries the risk in respect of the goods; or  
 (iii) is beneficially interested in the goods in any way whatsoever;

(b) a person who actually transports or attempts to transport the goods out of the Republic;

**'first or second incidence'** means a first or second incidence of non-compliance under section 146(2), (3) or (4) in a period of 36 months;

**'foreigner'** means a person who is not a South African citizen;

**'goods'** means any wares, supplies, merchandise, articles, products, commodities, substances required, used, manufactured or repaired for use in the practice of dental technology in the Republic but does not include any medical device as defined in the Medicines and Related Substances Amendment Act, 2015;

**'information system'** means a system for generating, sending, receiving, storing, displaying or otherwise processing of data messages;

**'import'** means transporting, sending or bringing goods required, used or repaired in full or in part for use in the practice of dental technology from outside the Republic into the Republic or to cause such goods to be brought into the Republic;

**'importer'**, in relation to any particular goods required, used or repaired in full or in part for use in the practice of dental technology, means a person or juristic person who brings those goods, or causes them to be brought, from outside the Republic into the Republic, with the intention of making them available for supply in the ordinary course of business to the dental technology profession;

**'import and export tax'** means—

(a) an export or import duty imposed in terms of the Customs Duty Act, 2014 (Act 30 of 214) on goods exported or imported from or to the Republic; or

(b) any other tax, levy or duty on goods exported or imported from or to the Republic in terms of any legislation;

**'inquiry'** means an inquiry as contemplated under section 118 of this Act;

**'inspector'** means an inspector appointed under section 113 of this Act ;

**'intermediary'** means a person or juristic person who, in the ordinary course of business and for remuneration or gain, engages in the business of—

(a) representing another person or juristic person with respect to the actual or potential supply of any goods or services

required, used, manufactured, repaired for use in the practice of dental technology;

(b) accepting possession of any goods from a person or juristic person for the purpose of offering the goods for sale to the dental technology profession; or

(c) offering to sell to a consumer, soliciting offers for or selling to a consumer any goods required, used, manufactured, repaired for use in the practice of dental technology that belongs to a third person, or service to be supplied by a third person, but does not include a person whose activities as an intermediary are regulated in terms of any other national legislation;

**'juristic person'** includes—

(a) a company or close corporation registered in terms of legislation whether in the Republic or elsewhere;

(b) a partnership or an association; or

(c) a trust as defined in the Trust Property Control Act, 1988 (Act 57 of 1988);

**'manufacture'** includes produce, assemble, alter, modify, adapt, convert or process for use in the practice of dental technology in the Republic;

**'milling'** means the machining process used in the making or creation of any artificial denture or other dental appliance, dental or oral prostheses or any workpiece used in dental technology whether manually, by automated machine tools or by computer numerical control;

**'Minister'** means the Minister of Health;

**'police officer'** means a member of the South African Police Service established in terms of the South African Police Service Act, 1995 (Act 68 of 1995);

**'practise'** means full time practise as a member of the dental technology profession and includes—

(a) any person attached to a university or educational institution at which students are educated and trained in dental technology and who is employed in the education and training of such students at such university or educational institution; or

(b) a consultant who from time to time furnishes advice to other practitioners or acts as *locum tenens* for such practitioners from time to time;

**'practitioner'** means a person who practises as a member of the dental technology profession and who is registered under section 57 in a particular category and a 'member of the dental technology profession' shall have a corresponding meaning;

**'practitioner in community service'** means a person registered as a practitioner under community service under section 57 of this Act;

**'premises'** means any site, property, building, structure or any part of a site, property, building or structure;

**'private dwelling'** means any part of a structure that is occupied partly as a residence or used wholly for the purposes of a residence;

**'prescribed'** means prescribed by regulation;

**'president'** means the president of the Council;

**'qualification'** means any degree, diploma, certificate or any other qualification approved by Council, awarded after examination of a person's proficiency in a particular subject;

**'re-export'** means to export imported goods as contemplated under section 104 of this Act;

**'records'** means any information contained in a register kept in accordance with the provisions of this Act—

(a) regardless of form or medium, including any of the following:

(i) information produced, recorded or stored by means of any computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored; or

(ii) information recorded in any file, book or register;

(b) in the possession or under the control of the Council; and

(c) regardless of when it came into existence;

**'register'**, when used as a verb, means to enter in a register, the words 'registered', 'registerable', 'registration' and all other words formed with or derived from the word 'register' having a corresponding meaning;

**'register'** when used as a noun, means a register kept in accordance with the provisions of this Act, and when used in relation to any registration category or a member of any such category of persons in respect of which a register is kept, means the register kept for that category;

**'Registrar'** means the Registrar appointed under section 28 of this Act;

**'regulation'** means a regulation made under section 150 of this Act;

**'rule'** means a rule made under section 149 of this Act;

**'specialist dental technologist'** means a person registered as a specialist dental technologist under section 57 of this Act;

**'spouse'**, shall mean a person who is—

(a) a lawful husband or wife; or



- (b) a life partner (including same sex life partner); or
- (c) a husband or wife in terms of the Recognition of Customary Marriages Act, 1998 or the tenets of any religion;

**'student clinical dental technologist'** means any person who is studying advanced specialist clinical dental technology at an approved training or educational institution or is undergoing theoretical, practical training or Work Integrated Learning in one form or another in an approved dental laboratory or denture clinic and who has been registered as such under section 57 of this Act;

**'student dental technician'** means any person who is studying dental technology at an approved university or training or educational institution or is undergoing theoretical, practical training or Work Integrated Learning in one form or another in an approved dental laboratory and who has been registered as such under section 57 of this Act;

**'student dental technologist'** means any person who is studying dental technology at an approved training or educational institution or is undergoing theoretical, practical training or Work Integrated Learning in one form or another in an approved dental laboratory and who has been registered as such under section 57 of this Act;

**'student specialist dental technologist'** means any person who is studying advanced specialist dental technology at an approved training or educational institution or is undergoing theoretical, practical training or Work Integrated Learning in one form or another in an approved dental laboratory, and who has been registered as such under section 57 of this Act;

**'supplementary course'** means specialized or advanced training in any aspect of the work of a dental technologist or clinical dental technologist;

**'this Act'** includes the regulations;

**'training institution'** means an institution approved by Council where persons are educated and trained for the dental technology profession;

**'transit'** means the conveyance of goods required, used or repaired in full or in part for use in the practice of dental technology in the Republic;

**'unmounted artificial teeth'** means artificial teeth which have not been fitted in any denture or dental appliance for the use of a particular person, or artificial teeth which were so fitted but have thereafter again been removed from any such denture or dental appliance and includes any sample of such teeth, denture or

dental appliance supplied or issued to a registered practitioner or dentist;

'vice-president' means the vice-president of the Council.

## 2. Application of Act

This Act is applicable to—

- (a) all members of the dental technology profession registered in terms of this Act;
- (b) the operation and ownership of dental laboratories and denture clinics registered in terms of this Act;
- (c) persons possessing, trading in, exporting, importing or carrying of unmounted artificial teeth or any dental or oral prostheses or part or component thereof;
- (d) dental traders involved in the import, export, manufacturing, sale or distribution of goods or dental technology-specific equipment required, used, manufactured and repaired for use in the practice of dental technology; and
- (e) education and training institutions where dental technology education and training is provided for by such institutions.

## 3. Objects of Act

The object of this Act is to provide a legislative framework for the dental technology profession that embraces the values underpinning the Constitution in order to broaden access to the dental technology profession and to protect and promote the public interest.

## CHAPTER 2

### Part 1

#### Establishment, objects, powers, functions and responsibilities of the South African Dental Technology Professions Council

## 4. Continued existence and change of name of the South African Dental Technicians Council

(1) The South African Dental Technicians Council established by section 2 of the Dental Technicians Act, 1979 (Act 19 of 1979), continues to exist as a juristic person under the name of the South African Dental Technology Professions Council, notwithstanding the repeal of that Act by this Act.

(2) The head office of the Council shall be situated in Pretoria.



## 5. Objects of the Council

The objects of the Council shall be—

- (a) to regulate the practice and continued professional development of the dental technology profession, the operation of dental laboratories, denture clinics and the operation of the business of dental traders registered in terms of this Act;
- (b) to facilitate the realisation of the goal of a transformed and restructured dental technology profession that is accountable, efficient and independent;
- (c) to exercise oversight over the dental technology profession in the Republic;
- (d) to enhance and maintain the integrity and future of the dental technology profession in the Republic;
- (e) to determine, enhance and maintain appropriate standards of professional practise and ethical conduct of the members of the dental technology profession in the Republic;
- (f) to control and promote high standards of education and training of professional practise in the dental technology profession and the approval of training institutions;
- (g) to promote access to the dental technology profession;
- (h) to promote and pursue a dental technology profession that broadly reflects the demographics of the Republic;
- (i) to control all matters relating to the education and training of the members of the dental technology profession;
- (j) to promote good relations between members of the dental technology profession and other oral healthcare services personnel;
- (k) to exercise effective control over the dental technology profession, dental laboratories, denture clinics, dental traders and all such persons who are registered or regulated in terms of this Act;
- (l) to determine the norms of professional conduct and ethics in respect of persons practising the dental technology profession;
- (m) to advise the Minister on any matter falling within the scope of this Act; and
- (n) to communicate to the Minister information on matters of public importance acquired by the Council in the course of the performance of its functions under this Act.

## 6. Powers of the Council

- (1) The Council may, in order to achieve its objects,—

- (a) open and maintain at least one bank account in the name of the Council;
- (b) acquire or hire movable or immovable property;
- (c) develop, mortgage, let, sell or otherwise dispose of or burden movable or immovable property of the Council;
- (d) accept, draw, endorse, issue, make, pay or perform any other act in respect of negotiable instruments;
- (e) make donations and grants in support of projects related to its objects;
- (f) institute or defend legal proceedings on behalf of the Council;
- (g) spend and invest funds of the Council;
- (h) enter into contracts in the furtherance of the objects of the Council;
- (i) impose administrative non-compliance penalties;
- (j) invest Council funds;
- (k) borrow or raise money;
- (l) accept any donation or grant;
- (m) insure against any risk;
- (n) exercise or perform any power or function conferred or imposed upon it by or under this Act or any other law;
- (o) consider any matter affecting the dental technology profession and make representations or take such action in connection therewith as the Council may deem necessary;
- (p) conduct, arrange or oversee courses for the supplementary training of members of the dental technology profession and render financial assistance in respect of such courses;
- (q) conduct, arrange or oversee courses for the continuing professional development of members of the dental technology profession and accredit any service provider to conduct such courses;
- (r) establish and administer a bursary scheme to provide equal opportunities for all aspirant entrants to the dental technology profession in order to have a profession that broadly reflects the demographics of the Republic;
- (s) take steps in the furtherance of the dental technology profession which is consistent with national health policy as determined by the Minister;
- (t) make rules on all matters provided for in this Act or which the Council considers necessary or expedient in order that the objects of this Act may be achieved;
- (u) perform such other functions as may be prescribed, and do all such things as the Council deems necessary or expedient to

achieve the objects of this Act within the framework of national health policy determined by the Minister; and

(v) to perform such other functions as may be prescribed, and may generally do all such things as it may deem necessary or expedient for the purpose of achieving the objects of this Act and in the furtherance of the dental technology profession.

(2) The Council may, with regard to education in the dental technology profession—

(a) conduct accreditation visits to any educational institution which conducts training and education in dental technology;

(b) either conditionally or unconditionally grant, refuse or withdraw accreditation in respect of any educational institution and their educational programmes with regard to dental technology;

(c) consult with the Council on Higher Education established in terms of the Higher Education Act, 1997 (Act 101 of 1997) regarding matters relevant to education in dental technology;

(d) consult with the South African Qualifications Authority established by the South African Qualifications Authority Act, 1995 (Act 58 of 1995), or any body established by it and any association accredited in terms of this Act to determine competency standards for the purpose of registration related to the education and training of members of the dental technology profession;

(e) establish mechanisms for registered persons to gain recognition of their qualifications and professional status in other countries;

(f) enter into an agreement with any person or body of persons, within or outside the Republic, with regard to the recognition of any examination or qualification for the purposes of this Act;

(g) enter into an agreement with any professional body outside the Republic with regard to the reciprocal recognition of any other council or professional body regulating the dental technology profession in that country;

(h) give advice or render assistance to any educational institution, accredited association or examining body with regard to educational facilities for and the training and education of registered persons and prospective entrants to the dental technology profession;

(i) determine, after consultation with registered persons, accredited associations and other stakeholders in the dental technology profession or oral healthcare profession, conditions relating to and the nature and extent of continuous

professional development and training of members of the dental technology profession;

(3) (a) The Council may establish such juristic person as it deems necessary in order to acquire or hire movable or immovable property;

(b) designate such members of Council to act as members, directors or trustees in respect of any juristic person or trust established by the Council or established by any other person or accredited association in order to further enhance, promote and pursue the objects of the Council in respect of the dental technology profession.

## **7. Functions of Council**

The functions of the Council are to—

(a) regulate the dental technology profession so as to promote and protect the interests of the public;

(b) register practitioners, dental laboratories, denture clinics, authorised holders and dental traders in terms of this Act;

(c) institute and enforce disciplinary action against registered persons contravening the provisions of this Act or the code of conduct and the code of ethics applicable to the dental technology profession;

(d) take appropriate steps to prohibit persons or juristic persons from unregistered practice, unregistered operation of dental laboratories, denture clinics, dental traders or authorised holders in the Republic;

(e) support the functioning of disciplinary and appeal structures established under this Act;

(f) ensure and promote a high standard of education and training in the dental technology profession;

(g) to provide strategic direction on corporate governance of the Council in order to attain the objects referred to in section 5 of this Act;

(h) advise the Minister on any matter referred to it by the Minister or on any matter it considers necessary to achieve the objects of this Act;

(i) to exercise its powers and discharge its responsibilities in the best interest of the public and in accordance with the national health policy as determined by the Minister;

(j) to be transparent and accountable to the dental technology profession and the public in achieving its objectives when performing its functions and exercising its powers;

- (k) to uphold and maintain professional and ethical standards within the dental technology profession;
- (l) to ensure that persons registered in terms of this Act behave towards users of dental health services in a manner that respects their constitutional rights to equality and dignity in accordance with the Constitution; and
- (m) to submit to the Minister an annual report within three months after the approval of the financial statements of the Council which report must include details as to how the Council has fulfilled its objectives under this Act.

## 8. The responsibilities of Council

- (1) The Council has the following responsibilities–
  - (a) to determine, oversee and revise the corporate governance structures within the Council;
  - (b) to determine, oversee and revise the human resources policies and human resources strategies of the Council;
  - (c) to oversee the determination and compilation of the corporate governance plan in respect of the Council;
  - (d) to determine the policy for conditions of employment and remuneration, allowances, subsidies and other service benefits of employees of the Council.
- (2) The Council must, within six months from the close of each financial year or such other period as may be agreed to by the Minister, after a request by the Council, submit the audited financial statements to the Minister.
- (3) The Council must apply due care and diligence when investing any money or incurring any expenditure from the funds of the Council.
- (4) The Council must determine its financial year.

## 9 Restriction on use of name

No person may under a name containing the words 'South African Dental Technicians Council', or 'South African Dental Technology Professions Council' or the acronyms 'SADTC', 'SADTPC', 'DTPCSA' or the translation thereof in any other official language–

- (a) conduct his, her or its affairs or business or carry on his, her or its occupation or trade;
- (b) be registered or licensed under any law; or
- (c) falsely claim to be acting on behalf of the Council.

## CHAPTER 2

### Part 2

#### Composition of Council, disqualification, vacation, termination and removal of office of members of Council

#### 10. Composition of Council

(1) From the date referred to in subsection (10) of section 151 the Council shall consist of the following members, namely—

(a) a representative of the Department appointed by the Minister;

(b) three persons appointed by the Minister, of whom—

(i) one shall be attached to an approved academic institution at which students are educated and trained in dental technology;

(ii) one shall be a member of the public who shall be appointed after calling through the media for nominations by the public and who is not registered in terms of this Act or the Health Professions Act, 1974 (Act 56 of 1974); and

(iii) one shall be a member of the public who shall be appointed after calling through the media for nominations by the public and who are not registered in terms of this Act or the Health Professions Act, 1974 (Act 56 of 1974), and who shall be appointed on account of his or her knowledge of the law, who is in good standing and enrolled on the roll of legal practitioners under section 30 of the Legal Practice Act, 2014 (Act 28 of 2014); and

(c) five practitioners of which two must be dental technicians, two dental technologists and one a clinical dental technologist who are nominated and elected by the respective members of the dental technology profession of that particular category.

(2) Subject to the provisions of section 13 a member of the Council shall hold office for a period of five years and shall be eligible for re-appointment or re-election, as the case may be, for one further period of five years.

(3) A member may only be re-appointed or re-elected as a member of the Council after the expiry of a further period of five years after such members' re-appointment or re-election as contemplated under in subsection (2).

(4) If the persons referred to in paragraph (c) of subsection (1), as the case may be, fail to elect a member under those paragraphs, the Minister must appoint a person from such category as set out in paragraph (c) of subsection (1) as a member of the Council, and a person or persons so appointed

shall be deemed to have been elected in terms of the paragraph in question.

(5) The procedure for the nomination and election of members of the Council are as prescribed.

(6) The Minister shall notify the Registrar in writing of the names of the members appointed in terms of subsection (1) or (3) of this section.

(7) The Registrar shall make known by notice in the *Gazette* the appointment or election of any member of the Council, the date of such appointment or election and the period for which the member has been appointed or elected.

## 11. President and vice-president of Council

(1) At the first meeting of the newly constituted Council, the members of the Council must elect and appoint a president and vice-president from their number.

(2) The president and vice-president hold office for a period of five years from the date of their election and may be re-elected and re-appointed for one further term, unless such president or vice-president resigns or ceases to be a member of the Council.

(3) The vice-president must, if the president is absent or is for any reason unable to act as president, perform all the functions and exercise all the powers of the president.

(4) If both the president and vice-president are absent from any meeting, the members present must elect a person from among themselves to preside at that meeting and the person so presiding must, during that meeting and until the president and vice-president resumes duty, perform all the functions and exercise all the powers of the president.

(5) If both the president and vice-president have been given leave of absence, the members of the Council must elect a person from among themselves to act as president until the president and vice-president resumes duty or is removed from office in terms of section 13.

(6) If the office of president or vice-president becomes vacant, the members of the Council must, at the first meeting or as soon as possible thereafter, elect from among themselves a new president and vice-president and such president or vice-president shall hold office for the remainder of the term of the Council.

(7) The president or vice-president may vacate his or her office as such, without relinquishing his or her membership of the



Council, unless his or her membership has been terminated in accordance with section 13.

(8) The member appointed under subparagraph (a) of subsection (1) of section 10 may not be appointed as president or vice-president of the Council.

## 12. Disqualification and vacation of office

(1) No person shall be elected or appointed as a member of the Council if he or she—

(a) is an unrehabilitated insolvent;

(b) has not acquired South African citizenship in terms of Chapter 2 of the South African Citizenship Act, 1995 (Act 88 of 1995);

(c) who is not in good standing with the Council;

(d) has been removed from any office of trust on account of misconduct;

(e) has been convicted of—

(i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or

(ii) theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), an offence under the Prevention of Organised Crime Act, 1998 (Act 121 of 1998) or any other offence involving dishonesty;

(f) holds any office as a political office bearer or is a member of the executive of an accredited association or any dental technology stakeholder association; or

(g) has been permanently admitted to a health establishment for care, treatment and rehabilitation services as a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002), or is a State patient as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002);

(2) A member of the Council shall forthwith vacate his or her office if—

(a) he or she becomes subject to any disqualification referred to in subsection (1);

(b) he or she ceases to hold any qualification necessary for his or her appointment;

(c) (i) being an elected member, he or she tenders his or her resignation in writing to the president; or



- (ii) being a member appointed by the Minister, he or she tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation;
- (d) he or she, having been elected under section 10 is no longer in full time practice as a member of the dental technology profession;
- (e) becomes a political office bearer or is elected to the executive of any accredited association or dental technology stakeholder association during his or her term of office; or
- (f) the Minister in the public interest terminates his or her membership.

### 13. Removal of members of Council

(1) The Minister may remove a member of the Council so appointed by the Minister from office on account of—

(a) an adverse finding by the Council in respect of any transgression of the Code of Conduct applicable to Council members on the part of such Council member;

(b) incapacity or incompetency which, in the opinion of the Minister, debars such member from serving as a member of the Council;

(c) absence from three consecutive meetings of the Council without the permission of the president and approval by the Council, except on good cause shown;

(2) The Minister may suspend a member of the Council so appointed by the Minister from office in anticipation of the institution of proceedings for the removal of a member which proceedings have to be instituted within 30 days following such suspension.

(3) A member so appointed by the Minister who is suspended from office may not perform or exercise any of the powers or functions of that office or receive any allowances.

(4) The Minister must follow due process of law if he or she intends to remove or suspend a member from office.

(5) The Council may remove an elected member of the Council from office on account of—

(a) an adverse finding by a disciplinary committee in respect of any transgression of the code of conduct and code of ethics applicable to the members elected under paragraph (c) of subsection (1) of section 10;

(b) an adverse finding by the Council in respect of any transgression of the Code of Conduct applicable to Council members on the part of such Council member; or

(c) a request by the body who elected that member in terms of paragraph (c) of subsection (1) of section 10, on good cause shown by the body in question.

#### **14. Vacancies in Council and filling thereof**

(1) A vacancy in the Council occurs when—

(a) the term of office of a member expires or terminates as contemplated in section 10 or 12;

(b) a member dies;

(c) a member is removed from office as contemplated in section 13; or

(d) the resignation of a member takes effect.

(2) A vacancy must be filled as soon as practicably possible.

(3) Any vacancy on the Council arising from a circumstance referred to in subsection (1) shall be filled by appointment or election, as the case may be, by the Minister or body by whom and in the manner in which the vacating member was required to be appointed or elected, and every member so appointed or elected shall hold office for the unexpired portion of the period of office of the vacating member.

#### **15. Dissolution of Council**

(1) If the Minister loses confidence in the ability of the Council to perform its functions effectively and efficiently, the Minister must—

(a) provide the Council with his or her reasons for holding such view;

(b) give the Council a reasonable opportunity to respond to those reasons; and

(c) afford the Council a hearing prior to any decision to be taken by the Minister.

(2) If, after taking the steps provided for in subsection (1), the Minister still does not have confidence in the ability of the Council to perform its functions effectively and efficiently, he or she must institute an independent investigation into the ability of the Council to perform its functions effectively and efficiently in order to make recommendations to him or her.

(3) The Department may recover from the Council the reasonable and necessary costs incurred as a result of an investigation as contemplated in subsection (2).

(4) If, after receiving the recommendations such investigation as contemplated in subsection (2), the Minister still has concerns in

the ability of the Council to perform its functions effectively and efficiently, and the Minister is of the view that it is in the best interests of the administration of justice that the Council be dissolved, he or she must, in order to do so, approach the High Court with an application for an order dissolving the Council, together with any terms or conditions that the court deems appropriate.

(5) (a) If the Council is dissolved pursuant to a court order contemplated in subsection (4), the Minister must, having regard to the provisions of section 10, appoint at least seven persons as members of the interim Council and give effect to any conditions or terms contained in the court order.

(b) The interim Council must be appointed within 21 days after the dissolution of the Council and must be appointed for a period determined by the Minister or the court, which period may not exceed twelve months.

(6) (a) The Minister must from among the members of the interim Council designate a president of the interim Council who holds office as president for such period as the Minister may determine.

(b) The interim Council must elect a vice-president from among its members and the vice-president holds office as vice-president for such period as the interim Council may determine at the time of his or her appointment.

(7) The president of the interim Council may, at any time of his or her own accord, or must, at the written request of not fewer than four members, convene a special meeting of the interim Council.

(8) Four members of the interim Council form a quorum for a meeting of the interim Council.

(9) Sections 10, 11, 12 and 13 apply with the necessary changes required by the context in respect of the interim Council.

## CHAPTER 2

### Part 3

#### Conflict of interest, liability of Council members, validation of irregular acts by Minister and annual report

#### 16. Conflict of interest of members of Council

(1) A member of the Council may not be present during, or take part in, the discussion of, or the taking of a decision on, any matter before the Council in which that member or his or her

spouse, family member, business partner or associate or employer has a direct or indirect financial interest.

(2) Upon appointment or election of a person as a member of the Council, that person must submit to the president of the Council a written statement in which he or she declares whether or not he or she has any interest as contemplated in subsection (1).

(3) If any of the Council members acquires or contemplates acquiring an interest which could possibly be an interest contemplated in subsection (1), he or she must immediately in writing declare that fact to the president.

(4) If an organisation or enterprise in which the Council member has an interest contemplated in section (1) is requested to offer its services to the Council, the Council member must immediately, in writing, declare his or her interest to the president.

(5) Subsections (1), (2), (3) and (4) apply in respect to any interim Council as contemplated in paragraph (a) of subsection (5) of section 15.

## **17. Code of Conduct**

The Code of Conduct contained in Schedule 1 applies to every member of the Council.

## **18. Liability of Council members**

(1) A member of Council is not personally liable in respect of anything reflected in any report submitted by the Council to the Minister.

(2) A member of Council is not personally liable in respect of anything done or omitted in good faith in the exercise or the performance of a duty in terms of or by virtue of this Act, or in respect of anything that may result therefrom.

## **19. Remuneration of members of Council**

A member of the Council or interim Council is paid the remuneration and allowances approved by the Minister, after consultation with the Council or interim Council, as the case may be, as well as all the necessary and reasonable expenditure incurred in the performance of the functions of the Council of such member.

## 20. Validation of irregular acts by Minister

If anything required to be done under this Act in connection with the appointment or election of any member of the Council is omitted or is not done within the time or in the manner required by this Act or the rules the Minister may order the taking of steps required to be taken in order to rectify the omission or error, or may validate anything done in an irregular manner, in order to give effect to the objects of this Act.

## 21. Annual report

(1) The Council must submit an annual report on its activities to the Minister within three months after the financial statements of the Council has been approved by the Council.

(2) The Council shall cause the annual report referred to in subsection (1) to be published on the website of the Council.

## CHAPTER 2

### Part 4

#### Meetings of Council, committees of Council, delegation of powers and dissolution of Council

## 22. Meetings of Council

(1) The Registrar must convene the first meeting of the newly constituted Council within 30 days after the appointment and election of its members.

(2) The Council must hold at least three meetings a year at venues which may be determined by the Council from time to time.

(3) The Council may, in addition to the meetings contemplated in subsection (2), hold further meetings at any venue as the Council may determine from time to time.

(4) Decisions of the Council may be taken on a round-robin basis as and when necessary.

(5) The president may, at any time of his or her own accord, or must, at the written request of not fewer than five members, convene a special meeting of the Council.

(6) The Registrar must attend all meetings of the Council.

(7) The Registrar is responsible for the administrative and secretarial work incidental to the performance of the functions of the Council.

## 23. Quorum and procedure at meetings of Council

- (1) The majority of the members of the Council constitute a quorum at any meeting of the Council.
- (2) The Council must in the rules determine a procedure for convening meetings and the procedure for the conduct of meetings.
- (3) The Council must keep a record of its proceedings and decisions.
- (4) A decision of the majority of the members present of the Council constitutes a decision of the Council.
- (5) In the event of a deadlock in the voting the president has a casting vote in addition to a deliberative vote.

## 24. Establishment of executive committee and other committees of Council

- (1) The Council must at its first meeting establish an executive committee and all such permanent committees as contemplated under section 24 and determine such committees' powers and functions.
- (2) The executive committee consists of-
  - (a) the president and vice-president; and
  - (b) two other members of the Council appointed by the Council.
- (3) The Registrar shall *ex officio* be a member of the executive committee.
- (4) The member appointed under subparagraph (a) of subsection (1) of section 10 may not be appointed as a member of the executive committee.
- (5) The executive committee is responsible for the day to day performance of the powers, functions and responsibilities of the Council in between meetings of the Council.
- (6) The executive committee shall not have the power to set aside or amend any decision of the Council, and any act performed or decision taken by the executive committee shall be of force and effect unless it is set aside or amended by the Council at its next ensuing meeting.
- (7) The Council may direct the executive committee to perform such tasks as the Council considers appropriate.
- (8) A member of the executive committee holds office for so long as he or she is a member of the Council, unless he or she is removed as a member of the executive committee by the Council,

or until his or her membership of the Council terminates in terms of this Act.

(9) (a) The president is *ex officio* chairperson of the executive committee for his or her term as member of Council.

(b) The vice-president is *ex officio* deputy chairperson of the executive committee for his or her term as member of the Council.

(10) A member appointed under paragraph (b) of subsection (2) shall serve as member of the executive committee for one year whereafter he or she may be re-appointed for a further term of one year.

(11) The executive committee may meet as often as it deems necessary and dispose of its business in the manner it considers appropriate.

(12) (a) The majority of the members appointed in terms of paragraph (a) or (b) of subsection (2) constitutes a quorum at any of its meetings.

(b) The executive committee must determine a procedure for convening meetings and the procedure for the conduct of meetings.

(c) The executive committee must keep a record of its proceedings and decisions.

(d) A decision of the majority of the members present at a meeting constitutes the decision of the executive committee.

(e) In the event of a deadlock in the voting the chairperson has a casting vote in addition to a deliberative vote.

(f) The Registrar shall not have any voting rights in respect to decisions taken by the executive committee.

## 25. Committees of Council

(1) The Council must establish the following permanent committees each consisting of so many persons, appointed by the Council—

- (a) an audit, quality and risk committee;
- (b) an education and training committee;
- (c) a continuous professional development committee;
- (d) a legal and professional conduct committee; and
- (e) a fees and coding committee.

(2) Subject to subsection (3), a member of any committee established under subsection (1) shall serve as a member of such committee and such appointment may be renewed annually.

(3) Save for a committee established under paragraph (a) of subsection (1) the member of Council appointed to a committee



established under subsection (1) is the chairperson of such committee for the term appointed as member of Council.

(4) The committee established under paragraph (b) of subsection (1) must include at least one member of each approved training institution.

(5) The Council may establish any other *ad hoc* committee as it may deem necessary, each consisting of so many persons, appointed by the Council from the dental technology profession or such other persons as the Council may decide from time to time.

(6) The Council—

(a) must determine the terms of reference, powers and functions and constitution of a committee established in terms of subsection (1) or (5);

(b) must appoint a member of a committee as chairperson of such committee;

(c) may, on good cause shown and after complying with due process of law, remove a member of such committee at any time; and

(d) may determine such committees' procedure; and

(e) may at any time dissolve and reconstitute any such committee.

(7) The Council must, in the rules, determine the procedure for the conduct of meetings of such committee established under subsection (1) or (5).

(8) When constituting any committee of the Council the following factors must, as far as practicable, be taken into account—

(a) the racial and gender composition of South Africa;

(b) the objects of the committee in question; and

(c) representation of persons with disabilities.

## 26. Delegation of powers of Council

(1) The Council may resolve to delegate any of its powers to the executive committee.

(2) A delegation in terms of subsection (1)—

(a) is subject to any conditions and directions as the Council may impose; and

(b) does not divest the Council of the responsibility for the exercise of the power or the performance of the power.

(3) The Council may confirm, vary or revoke any decision taken in consequence of a delegation, but no variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.



## 27. Dissolution of Council and attachment of records or information system of Council

(1) The Council may only be dissolved in terms of an Act of Parliament.

(2) The records or information system of the Council may not be attached in execution by any judgement creditor pursuant to any judgment against the Council.

## CHAPTER 3

### Part 1

### Appointment of Registrar and staff of Council

## 28. Appointment of Registrar

(1) The Council must, after consultation with the Minister, appoint a Registrar.

(2) The Registrar may be appointed only after—

(a) the Council has by notice in the *Gazette* and the media invited interested parties to apply, or be nominated for appointment;

(b) the Council has compiled a shortlist of suitable persons nominated or who have applied, in terms of subparagraph (a), who are eligible to be appointed as Registrar, and published such list in the *Gazette* for public comment for a period of not less than 30 days.

(3) After receipt of the comments referred to in paragraph of subsection (2), and the evaluation of the persons referred to in that subsection, and subject to subsection (1), the Council must appoint the Registrar.

(4) When appointing the Registrar in terms of subsection (1) the Council must take into account the following factors:

(a) such person's management experience;

(b) such person's relevant technical knowledge or experience of the dental technician profession; and

(c) such person's suitability and competence for the efficient discharge of the Registrar's powers and duties under this Act.

(5) The Registrar is appointed on such conditions as may be agreed upon by the Council and the Registrar, including conditions providing for remuneration and allowances as the Council may determine.

(6) A person may not be appointed as Registrar if he or she—

(a) is an unrehabilitated insolvent;

(b) has not acquired South African citizenship in terms of Chapter 2 of the South African Citizenship Act, 1995 (Act 88 of 1995);

(c) has been removed from an office of trust on account of misconduct;

(d) has been convicted of-

(i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or

(ii) theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), an offence under the Prevention of Organised Crime Act, 1998 (Act 121 of 1998) or any other offence involving dishonesty;

(e) has previously been a member of the Council;

(f) is a member of the current Council;

(g) is a political office bearer or appointed to the executive of any accredited association or dental technology stakeholder association;

(h) has been dismissed for misconduct from any employment or office of trust.

(7) The Registrar holds office on a full-time basis.

(8) The Registrar may not engage in any other paid employment and may not participate in any activity in respect of which he or she is in any way remunerated or receives any benefits or allowances without prior written approval of the Council.

(9) The Council may, in consultation with the Minister, at any time, discharge the Registrar from office-

(a) if he or she repeatedly fails to perform the duties of office efficiently;

(b) if he or she materially fails to comply with the conditions of the performance agreement entered into as contemplated in section 35;

(c) if, he or she, due to any physical illness, mental illness or any other cause becomes incapable of performing the functions of the office of Registrar or performs them inefficiently; or

(d) for misconduct; or

(e) becomes a political office bearer; or

(f) becomes a member of the executive of any accredited association or stakeholder group in the dental technology profession.

(10) The Registrar vacates his or her office immediately if he or she-

(a) is convicted-

(i) whether in the Republic or elsewhere of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or

(ii) of any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), the Companies Act, 1973 (Act 61 of 1973), Prevention of Organised Crime Act, 1998 (Act 121 of 1998), or is convicted of contravening this Act;

(b) is convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine;

(c) becomes a political office bearer;

(d) becomes a member of the executive of any accredited association or stakeholder group in the dental technology profession; or

(e) has been permanently admitted in a health establishment for care, treatment and rehabilitation services as a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002), or is a State patient as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002).

(11) The Registrar may not delegate to any member of the Council or any committee of the Council any power, duty or responsibility assigned to him or her in terms of this Act.

## 29. Duties of Registrar

(1) The Registrar is the head of the Council's administration and manages the day to day functioning and management of the Council.

(2) The Registrar must perform the powers, duties and responsibilities conferred or imposed upon him or her by this Act and such powers that may be delegated to him or her by the Council.

(3) In the exercise of the powers and performance of duties referred to in this Act, the Registrar is accountable solely and directly to the Council.

## 30. Responsibilities of Registrar

(1) The Registrar—

(a) may take any decision in the exercise of his or her powers;

(b) is responsible for the submission to the Council of an annual report concerning the activities of the Council; and

(c) is responsible to exercise all powers granted to and duties imposed on the Registrar in terms of this Act.

(2) The Registrar, subject to the directions of the Council, is responsible for—

- (a) the appointment of staff of the Council;
- (b) the organisation and management of the staff of the Council;
- (c) the formation and development of an efficient administration;
- (d) the establishment and maintenance of a register of all persons and institutions who are subject to registration under this Act;
- (e) the maintenance of discipline in respect of staff of the Council;
- (f) the effective utilisation of staff of the Council to achieve maximum operational results; and
- (g) such other responsibilities assigned by Council from time to time.

### **31. Powers of Registrar**

(1) The Registrar must appoint inspectors in order to monitor and enforce regulatory compliance with the Act.

(2) The Registrar may on behalf of the Council, in the prescribed manner, issue any certificate, registration or authorisation required in terms of this Act.

### **32. Delegation of powers, duties and responsibilities of Registrar**

(1) The Registrar may—

- (a) delegate in writing management or other duties to employees with appropriate skills to assist the Registrar in the management and the control over the functioning of the Council;
- (b) delegate in writing any of the Registrar's powers or responsibilities in terms of this Act to an employee of the Council; or
- (c) instruct in writing an employee of the Council to perform any of the Registrar's duties or responsibilities in terms of this Act.

(2) A delegation under subsection (1)—

- (a) may be issued subject to any conditions the Registrar may impose; and
- (b) does not divest the Registrar of the power to exercise the powers and perform the duties and responsibilities personally.

### **33. Appointment of acting Registrar**

(1) When the Registrar is absent from the Republic or otherwise unable to fulfil the duties of the Registrar, he or she must, appoint a suitably experienced member of the staff of the Council to act as Registrar.

(2) The period of appointment of an acting Registrar in subsection (1) may not exceed 30 days.

(3) The Council must appoint an acting Registrar—

(a) during a vacancy in the office of Registrar;

(b) during any period of absence of the Registrar exceeding 30 days in terms of subsection (1); or

(c) for any other reason when the Registrar is unable to perform the functions of the office of Registrar.

(4) A person appointed in subsection (3) must not continue to act as Registrar for more than 12 months.

(5) A person appointed as acting Registrar as contemplated in subsection (1) or (3) has the responsibilities, powers and functions of the Registrar.

(6) A person appointed as acting Registrar as contemplated in subsection (3) for a period longer than 30 consecutive days must be paid such remuneration and allowances as the Council determines.

### **34. Consultation**

The Registrar must in the performance of his or her functions and responsibilities consult with registered accredited associations, registered persons, bodies, forums or stakeholder organisations or committees engaged in the dental technology profession to attain the objects contemplated in section 5 of this Act.

### **35. Performance**

During the term of office of the Registrar, he or she must not carry on any activity inconsistent with the performance of the Registrar's duties and obligations under this Act.

### **36. Council and Registrar must enter into agreement about the performance by the Registrar of his or her functions, duties and responsibilities**

(1) The Council and the Registrar must in consultation enter into an agreement or agreements about the performance of the Registrar's functions in terms of this Act.

(2) The agreements contemplated in subsection (1) must be in writing and relate to—

(a) the Council's requirements in respect of the Council's scope of business, efficiency and financial performance, and achievement of objectives;

(b) the principles to be followed by the Council for the purposes of business planning;

(c) such measures as may be necessary to protect the financial soundness of the Council;

(d) the principles to be followed at the end of a financial year in respect of any surplus in the accounts of the Council; and

(e) any other matter relating to the review of his or her duties and responsibilities and the attainment of the objectives as agreed to in the performance agreement.

(3) A copy of the performance agreement must be open to inspection by the public at the head office of the Council during business hours.

### **37. Conflict of interest**

(1) The Registrar, or a member of staff of the Council, must—

(a) perform his or her or their duties with honesty, care and diligence; and

(b) disclose any conflict of interest.

(2) The Registrar, or a member of staff of the Council, must not—

(a) engage in any activity that may undermine the integrity of the Council;

(b) make private use of, or profit from, any confidential information obtained as a result of his or her appointment as Registrar or member of staff of the Council; or

(c) divulge any information referred to in paragraph (b) to any third party, except as required as part of his or her official functions within the Council as contemplated in the Act.

(3) The Registrar, or a member of staff of the Council must, on appointment, submit to the Council a written statement in which it is declared whether or not that member has any direct or indirect interest, financially or otherwise, which—

(a) may constitute a conflict of interest in respect of his or her functions as a member of staff of the Council; or

(b) could reasonably be expected to compromise the Council in the performance of its functions.

(4) If the Registrar or any member of staff of the Council acquires an interest contemplated in subsection (3), he or she must immediately in writing declare that fact to the Registrar in the case of any staff member of Council and to the Council in the case of the Registrar.

(5) The Registrar or a member of staff of the Council may not be present at, or take part in, the discussion of or the taking of a decision on any matter in which the Registrar or that member has an interest contemplated in subsection (3).

(6) The Registrar must keep a register of the interests of members of staff disclosed in terms of subsection (3) and must update that register from time to time.

(7) The register contemplated in subsection (6) must be open to inspection by the public at the head office of the Council during business hours.

### **38. Correction of errors by Registrar**

(1) The Registrar may authorize—

(a) the correction of any clerical error or error in translation appearing in any document submitted or issued in terms of this Act, or in a register kept in terms of this Act;

(b) the amendment of any document for the amendment of which no express provision is made in this Act;

(c) the condonation or correction of any irregularity in procedure in any proceedings before him or her, if such condonation or correction is not detrimental to the interests of any person or the functioning of its office.

(2) The Registrar may exercise the authority under subsection (1) of his or her own accord or upon request in writing.

(3) Where the Registrar intends exercising his or her authority under subsection (1) of his or her own accord, he or she shall give notice of his or her intention to any person who in his or her opinion has an interest in the matter, and shall give such person an opportunity of being heard before exercising his or her authority.

(4) The Registrar must keep a register of such corrections made under subsection (1) and must report such corrections to the executive committee.

### **39. Staff of Council**



(1) The Registrar in consultation with the Council may appoint such other employees as are necessary to enable the Council to properly carry out its functions.

(2) The Council pays its employees out of its funds such remuneration, allowances, subsidies and other benefits as determined and directed by the Council's remuneration policy.

#### **40. Limitation of liability**

No employee of the Council is liable in respect of anything done or omitted in good faith in the exercise of a power or the performance of a duty in terms of or by virtue of this Act, or in respect of anything that may result therefrom.

#### **41. Duty of confidentiality**

A person acting on behalf or under the direction of the Council, must, both during or after his or her term of office or employment, treat as confidential the personal information of members of the dental technology profession which comes to his or her knowledge in the course of the performance of his or her official duties, except if the communication of such information is required by law or in the proper performance of his or her duties.

#### **42. Security of confidential information held by Council**

(1) Subject to the Promotion of Access to Information Act, 2000 (Act 2 of 2000) and the Protection of Personal Information Act, 2013 (Act 4 of 2013) and other relevant legislation, no employee of the Council may disclose information submitted to the Council in connection with any registered person, registered laboratory or denture clinic, unless—

- (a) he or she is ordered to do so by a court of law; or
- (b) the person who made such application or give such instruction consents thereto in writing;
- (c) such person of necessity requires it for the performance of his or her functions in terms of this Act;
- (d) he or she is a person who of necessity supplies it in the performance of his or her functions in terms of this Act;
- (e) such disclosure is made for purposes of monitoring, evaluating, investigating or considering activity relating to the Council, or a member of staff of the Council; or

(f) such information is disclosed to a competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution.

(2) No person may disclose information kept in any register in terms of this Act unless such disclosure is made in accordance with paragraph (a)–(f) of subsection (1).

(3) Where a disclosure contemplated in subsection (2) is to be made, the person concerned must be informed thereof timeously.

## CHAPTER 3

### Part 2

#### Funding and finances of Council and powers and responsibilities of accounting officer of Council

#### 43. Funding of Council

(1) The Council is funded from–

- (a) fees, including fees in respect of–
  - (i) continuous professional development;
  - (ii) special projects;
  - (iii) registration fees for all categories which requires registration in terms of the Act;
  - (iv) inspection fees;
  - (v) annual fees;
  - (vi) penalty fees;
  - (vii) exit level examination fees;
  - (viii) accreditation fees;
  - (ix) fees payable by authorised holders, dental traders, any person or juristic person required to register in terms of this Act; and
  - (x) regulatory monitoring and compliance fees; or
  - (xi) any other fees prescribed from time to time which is payable by any person or juristic person under this Act;
- (b) interest on invested cash balances;
- (c) loans granted in terms of subsection (2);
- (d) money lawfully accruing from any other source;
- (e) any cost orders made in respect of disciplinary proceedings under Chapter 10 of this Act;
- (f) fines paid or recovered in respect of an offence under this Act;
- (g) administrative non-compliance penalty; and
- (h) monies appropriated by Parliament.

(2) The Council may raise money by way of loans.

(3) (a) The Council may accept money or other goods donated or bequeathed to the Council, provided that no donation or bequest

may be accepted if such donation or bequest is in conflict with any of the functions, powers, duties and responsibilities of Council, conflicts with the fundamental values as enshrined in the Constitution or require the Council to render a countervailing performance as a requirement for the granting of such donation or bequest.

(b) Subject to the provisions of paragraph (a) of subsection (4) the Council must utilize any donations or bequests contemplated in paragraph (a) subsection (3) in accordance with the conditions (if any) imposed by the donor, testator or contributor in question.

(c) Details of any such donation or bequest shall be specified in the relevant annual report of the Council.

(5) All fees payable under this Act, shall be paid to the Council and shall constitute its funds, and the Council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

(6) The Minister may, with the concurrence of the Minister of Finance, grant to the Council, out of money appropriated by Parliament, such amounts as he or she considers necessary in order to enable the Council to carry out its functions.

(7) The Council may invest any moneys not required for immediate use and may establish such reserve funds, and deposit therein such amounts, as it may deem necessary or expedient.

#### **44. Registrar accounting officer of Council**

(1) The Registrar is the accounting officer of the Council.

(2) As accounting officer the Registrar is responsible to administer –

- (a) all income and expenditure of the Council;
  - (b) all revenue collected by the Council;
  - (c) all assets and the discharge of all liabilities of the Council;
- and

(d) oversee the proper and diligent implementation and adherence to sound financial management principles.

#### **45. Powers of accounting officer for funds of Council**

(1) The Registrar–

(a) must deposit all monies received by the Council with a bank approved by the Council;

(b) may invest any monies of the Council which are not required for immediate use with a bank approved by the Council

or in such other manner as the Council may determine in the rules;

(c) is charged with the responsibility of accounting for money received or paid out for or on account of the Council; and

(d) must cause the necessary accounting and other related records to be kept, including proper records of all the assets and liabilities of the Council.

#### **46. Responsibilities of accounting officer**

(1) The Registrar as accounting officer must—

(a) keep full and proper records of all moneys received and expenses incurred by, and of all assets, liabilities and financial transactions of, the Council; and

(b) ensure that the Council has and maintains—

(i) effective, efficient and transparent systems of financial and risk management and internal control;

(ii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;

(iii) a system for properly evaluating all projects involving expenditure of capital prior to a final decision on the project;

(c) take effective and appropriate steps to—

(i) collect all moneys due to the Council;

(ii) prevent unauthorised, irregular or fruitless and wasteful expenditure and losses resulting from criminal conduct; and

(iii) manage available working capital efficiently and economically;

(d) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the Registrar's responsibilities are considered and, when necessary, bring those considerations to the attention of the Council;

(e) be responsible for the management, including the safeguarding and the maintenance, of the assets and for the management of the liabilities of the Council;

(f) settle all contractual obligations and pay all moneys owing by the Council within 30 days of the due date or within a period to which the relevant creditor has agreed;

(g) ensure that expenditure of the Council is in accordance with the budget and decisions of the Council;

(h) keep full and proper records of the financial affairs of the Council in accordance with any prescribed norms and standards;

(i) submit the financial statements of the Council within two months after the end of the financial year to an auditor for auditing;

(j) submit within four months after the end of a financial year to the Council—

(i) an annual report on the activities of the Council during that financial year;

(ii) the financial statements for that financial year after those financial statements have been audited; and

(iii) an independent auditor's report on those financial statements.

**47. Accounting officer's responsibilities relating to budgetary control**

(1) The accounting officer is responsible for ensuring that—

(a) expenditure of the Council is in accordance with the budget of the Council; and

(b) effective and appropriate steps are taken to prevent unauthorised expenditure.

(2) The accounting officer, for the purposes of subsection (1), must—

(a) take effective and appropriate steps to prevent any overspending of the budget of the Council;

(b) report to the Council any impending—

(i) under collection of revenue due;

(ii) shortfalls in budgeted revenue; and

(iii) overspending of the Council's budget; and

(c) comply with any remedial measures imposed by the Council to prevent overspending of the budget.

(3) The accounting officer of the Council may utilise a saving in the amount appropriated under one budget item towards the defrayment of excess expenditure under another budget, unless the Council directs otherwise.

**48. Duties of accounting officer in relation to bookkeeping and auditing of funds of Council**

(1) The accounting officer shall cause proper records to be kept of all moneys received or expended by it, of all its assets and liabilities and of all financial transactions entered into by it, and shall as soon as possible after the end of each financial year cause statements of account and a balance sheet to be prepared showing, with all appropriate particulars, the moneys received

and the expenditure incurred by it during, and its assets and liabilities at the end of, that financial year.

(2) (a) The records, statements of account and balance sheet of the Council shall be audited by a person registered as an accountant and auditor under the Auditing Profession Act, 2005 (Act 26 of 2005), and appointed by the Council.

(b) Copies of such documents so audited shall be open for inspection at the office of the Council during office hours by persons who are registered in terms of this Act.

#### **49. Fiduciary responsibilities of accounting officer**

(1) The accounting officer and other officials with responsibility under this Chapter must—

(a) act with fidelity, honesty, integrity and in the best interests of the Council in managing its financial affairs;

(b) disclose all material facts which are available to that person or reasonably discoverable, and which in any way might influence any decision or action in terms of this Act; and

(c) seek to prevent any prejudice to the financial interests and good reputation of the Council.

(2) For the purposes of paragraph (b) of subsection (1), any disclosure must be made—

(a) in the case of the accounting officer to the Council; and

(b) in the case of any other person, to the accounting officer.

(3) No person having any responsibility under this Act—

(a) may act in a way that is inconsistent with the Act; or

(b) may use their position or any confidential information obtained in the exercise of their responsibilities for personal gain or to benefit improperly themselves or any other person.

#### **50. Delegation of powers by accounting officer**

(1) The accounting officer may—

(a) in writing delegate any of his or her powers as accounting officer to a suitably experienced member of staff of the Council; or

(b) instruct any member of staff of the Council to perform any of the duties assigned to the accounting officer in terms of this Act.

(2) A delegation or instruction to a member of staff of the Council in terms of subsection (1)—

(a) is subject to any limitations and conditions prescribed in terms of this Act or as the Council may impose;

(b) is subject to any limitations and conditions the accounting officer may impose;

(c) may either be to a specific individual or to the holder of a specific post in the relevant department of the Council; and

(d) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(3) The accounting officer may confirm, vary or revoke any decision taken by a member of staff of the Council as a result of a delegation or instruction in terms of subsection (1), subject to any rights that may have become vested as a consequence of the decision.

#### **51. Acting accounting officer**

If the post of Registrar is vacant, or if the Registrar is unable to perform the functions of the post, the acting Registrar shall be the accounting officer of the Council for the period of his or her appointment as acting Registrar.

### **CHAPTER 3**

#### **Part 3**

#### **Unauthorised, irregular or fruitless and wasteful expenditure, procurement management policy, prohibition on contracts and interference with members of Council and staff**

#### **52. Unauthorised, irregular or fruitless and wasteful expenditure**

(1) Without limiting liability in terms of common law or other legislation—

(a) a member of the Council is liable for unauthorised expenditure if that member knowingly or after having been advised by the Registrar that the expenditure is likely to result in unauthorised expenditure instructed an official of the Council to incur such expenditure;

(b) the Registrar is liable for unauthorised expenditure deliberately or negligently incurred by him or her, subject to subsection (3);

(c) any member of the Council who deliberately or negligently made or authorised an irregular expenditure is liable for that expenditure; or

(d) any member of the Council who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.



(2) The Council must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure, unless the expenditure—

(a) in the case of unauthorised expenditure, is—

(i) authorised in an adjustments budget; or

(ii) certified by the Council, after investigation by a Council committee, as irrecoverable and written off by the Council; and

(b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a Council committee, certified by the Council as irrecoverable and written off by the Council.

(3) If the Registrar becomes aware that the Council, or the executive committee, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the Registrar is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure, provided that the Registrar has informed the Council or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The Registrar must promptly inform the president in writing—

(a) of any unauthorised, irregular or fruitless and wasteful expenditure incurred by the Council;

(b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and

(c) of the steps that have been taken—

(i) to recover or rectify such expenditure; and

(ii) to prevent a recurrence of such expenditure.

(5) Disciplinary proceedings must be instituted against a person charged with the commission of an offence relating to unauthorised, irregular or fruitless and wasteful expenditure whether or not it is written off in terms of subsection (2).

(6) The Registrar must report to the South African Police Service all cases of alleged—

(a) irregular expenditure that constitute a criminal offence; and

(b) theft and fraud that occur in the Council.

(7) The Council must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—

(a) the charge is against the Registrar; or

(b) the Registrar fails to comply with subsection (6).

**53. Implementation of procurement management policy**

The accounting officer must—

- (a) implement the procurement management policy;
- (b) take all reasonable steps to ensure that proper mechanisms are in place to prevent dishonesty, favouritism and unfair and irregular practices;
- (c) ensure that contracts concluded for the supply of services and goods are properly enforced;
- (d) monitor the performance of contractors; and
- (e) regularly report to the Council on—
  - (i) the management of contracts and the performance of contractors; and
  - (ii) the implementation of the procurement management policy.

**54. Prohibition on contracts**

No contract to provide goods or services to the Council may be awarded to—

- (a) a member of the Council;
- (b) a spouse of a member of the Council;
- (c) a member of staff of the Council;
- (d) a spouse of a member of staff;
- (e) the Registrar or his or her spouse;
- (f) a person in the employ of the State or a spouse of such person;
- (g) a family member of a person mentioned in paragraph (a) to (f); or
- (h) any entity in which a person mentioned in paragraphs (a) to (f) is a director or has a controlling or other financial interest.

**55. Interference**

(1) No person may—

- (a) impede, interfere with, or improperly influence, members of the Council; or
- (b) impede, interfere with, or improperly influence impede any member of staff in fulfilling their responsibilities in terms of this Act.

## CHAPTER 4

### Part 1

#### Registration of members of the dental technology profession

##### 56. Registration a prerequisite for practising

No person shall be entitled to practise as a member of the dental technology profession within the Republic unless he or she is registered in terms of this Act.

##### 57. Categories of registration

(1) The categories in which a person may register in the dental technology profession are—

- (a) student dental technician;
- (b) student dental technologist;
- (c) student clinical dental technologist;
- (d) student specialist dental technologist;
- (e) practitioner in community service;
- (f) dental technician;
- (g) dental technologist;
- (h) clinical dental technologist;
- (i) specialist dental technologist.

(2) A person registered under subsection (1) shall pay the prescribed fee for registration in such category so registered.

##### 58. Registration requirements and scope of practice

(1) (a) Any person who wishes to register in any category under section 57 must apply to the Council in the form as determined by rule.

(b) An application contemplated in paragraph (a) must be accompanied by—

(i) proof that the applicant has acquired South African citizenship in terms of Chapter 2 of the South African Citizenship Act, 1995 (Act 88 of 1995) or in the case of a foreigner such information that the Council may consider necessary in addition to the requirements required in subparagraph (ii), (iii) and (iv);

(ii) proof of the applicant's qualifications;

(iii) the prescribed registration fee; and

(iv) any further information relating to the application that the Council may consider necessary or as determined by rule.

(2) If the Council is not satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act, he or she may refuse to issue a registration certificate to the applicant.

(3) If the Registrar is satisfied that the person requiring registration comply with the requirements of this Act, the Registrar shall, upon payment of the prescribed fee, cause the necessary entry to be made in the register and the Registrar shall thereupon issue a registration certificate authorising the applicant, subject to the provisions of this Act or any other law, to practise in the category so registered.

(4) (a) The Council may refuse to register or to restore the name of any person to a register if an applicant—

(i) has been convicted of an offence and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(ii) if the applicant has been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iii) has been permanently admitted in a health establishment for care, treatment and rehabilitation services as a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002), or is a State patient as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002);

(iv) if the applicant is declared by the High Court to be of unsound mind requiring a curator bonis to be appointed;

(v) for as long as the applicant is disqualified from registration as a result of any punishment imposed on him or her under this Act;

(vi) if the applicant is an unrehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration.

(b) For the purposes of paragraph (a) (ii), the Council must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.

(c) The Council must prior to making a decision referred to in paragraph (a) of subsection 4 afford the applicant the opportunity to make representations prior to a decision to issue the applicant with a notice of a refusal referred to in paragraph (a) of subsection (4) of this Act.

(5) The person in charge of an approved institution shall forthwith notify the Council of the termination of the education and training of a student dental technician, student dental technologist, student clinical dental technologist or specialist student dental technologist at such institution, whether by reason of the abandonment or completion of education and training or the transfer of such student to another such institution or for any other reason.

(6) Any entry which is proved to the satisfaction of the Council to have been made in error or through misrepresentation or in circumstances not authorised by this Act must be removed from the register and—

(a) a record of the reason for every such removal must be made in the register;

(b) the person in respect of whom such removal has been made must be notified thereof; and

(c) any certificate issued in respect of such registration is deemed to have been cancelled as from the date on which notice has so been given.

(7) The scope of practice in respect of each category of registration under section 57 must be determined by rule.

## **59. Registration subject to restrictions**

(1) The Council may, subject to the provisions of subsections (2) and (3), register a member of the dental technology profession or a foreigner in any particular category, if such person has acquired a qualification or underwent training outside the Republic if such qualification or training entitled the person to practise dental technology in the country or state in which he or she acquired the qualification or underwent the training and such education and training is of an equivalent standard and duration as in the Republic.

(2) A person registered in terms of subsection (1) as a member of the dental technology profession in any particular category shall be entitled to practise as such, only—

(a) for the period or periods determined by the Council, during which he or she shall satisfy the Council that—

(i) he or she possesses professional knowledge and ability of a standard not lower than that prescribed in respect of any member of the dental technology profession in any particular category in the Republic; and

(ii) he or she is conversant with the laws of the Republic regarding the dental technology profession as determined by the Council from time to time;

(b) in the area or areas determined by the Council; and

(c) subject to any further conditions determined by rule by the Council.

(3) The Council may, for the purposes of subparagraph (i) of paragraph (a) of subsection (2), and shall, for the purposes of subparagraph (ii) of paragraph (a) of subsection (2), require the person concerned to sit for an examination (whether oral, written or practical or two or more such examinations) before examiners appointed by the Council and such examination must comply with the registered statements of desired education and training outcomes and their associated assessment criteria as determined under the South African Qualifications Act, 1995 (Act 58 of 1995).

(4) The Council may extend, amend or vary any registration restrictions required for registration under subsection (1) on such conditions as the Council may deem appropriate.

(5) If the Council is satisfied that an applicant referred to in subsection (1) complies with the requirements of this Act, it shall exempt such applicant from all restrictions imposed in respect of him or her in terms of subsection (2), and if the Council is not so satisfied, it shall remove such person's name from the register.

## **60. Removal from register and restoration of registration to register**

(1) The Registrar must remove from the relevant register the name of any person registered in any particular category under section 57—

(a) who has died;

(b) who has ceased to be a citizen of the Republic or is a foreigner and has permanently left the Republic;

(c) who has been absent from the Republic for a continuous period of more than one year without notifying the Council;

(d) who has failed to pay any relevant prescribed fee;

(e) who has failed to notify the Registrar of any change in residential or the physical address of his or her practice within 30 days after any such change;

(f) who has requested that his or her name be removed from the register, in which case such practitioner may be required to lodge with the Registrar an affidavit or affirmation to the effect that no disciplinary or criminal proceedings are pending or are likely to be instituted against him or her;

(g) who has been found guilty of misconduct and such disciplinary committee or appeal committee has resolved to remove such practitioner;

(h) who has been registered through error or fraud;

(i) who has failed to furnish the Registrar, within a period to be determined by the Council, with such information as the Registrar may require under this Act;

(j) whose registration is proved to the satisfaction of the Council to have been made in error or through fraudulent misrepresentation or concealment of material facts or information or in circumstances not authorised by this Act.

(2) The Registrar must give notice of the removal of a person's name from the register in terms of paragraph (b), (c), (d), (e), (f), (g), (h) and (j) of subsection (1) by registered mail or electronic mail addressed to such person at the address of such person as it appears in the register.

(3) From the date on which the notice contemplated in subsection (2) was given—

(a) any registration certificate issued under this Act to the person concerned is considered to have been cancelled; and

(b) a person whose name has been removed from the register must cease to practise as a member of the dental technology profession and is precluded from performing any act which he or she, in his or her capacity as a registered person, was entitled to perform, until such time as his or her name is restored to the register.

(4) The Registrar must restore the name of a person whose name has in terms of this section been removed from the register if the person concerned—

(a) applies on the prescribed form for restoration of his or her name to the Registrar;

(b) pays the prescribed fee, if any;

(c) complies with such other requirements as the Council may, from time to time, determine by rule; and

(d) is otherwise eligible for registration.

(5) Any removal of registration as contemplated in subsection (1) must be done in accordance with due process of law.

## **61. Cancellation of registration by Council**

(1) (a) The Council may cancel the registration of a registered person if he or she—

(i) becomes disqualified from registration as contemplated in subsection (4) of section 58;



(ii) has erroneously been registered, or has been registered on information subsequently proved to be false; or

(iii) fails to pay the prescribed annual fee or portion thereof, within 60 days from it becoming due or within such further period as the Council may allow, either before or after the expiry of the 60 days.

(b) The Council must provide the registered person with a notice of a cancellation referred to in paragraph (a) of subsection (1) of this Act.

(2) If a person who is registered as a student dental technologist, student dental technician, student clinical dental technologist or student specialist dental technologist and qualifies to be registered in any other category under section 57, such application for registration must be made within thirty days after so qualifying and the Council must cancel his or her registration as a student dental technologist, student clinical dental technologist, student dental technician or student specialist dental technologist.

(3) The Council must at the written request of any registered person cancel his or her registration, but where an investigation into alleged misconduct by that person is in progress or is to be held, the registration may not be cancelled until the investigation has been concluded.

(4) Despite the cancellation of the registration of a registered person in terms of this section, that person remains liable for any fee, arrears or penalty imposed by the Council for the period that he or she was registered.

(5) If—

(a) it appears to a presiding officer when acting in terms of the Mental Health Act, 2002 (Act 17 of 2002), or from the documents submitted to him or her under Rule 57 of the Uniform Rules of Court, or it is brought to the notice of such presiding officer in any other manner, that the person has been declared of unsound mind or a curator bonis has been appointed for such person or such a person has been classified as a State patient in terms of the Mental Health Act, 2002 (Act 17 of 2002) ; or

(b) the court makes a finding in terms of section 78(6) of the Criminal Procedure Act, 1977 (Act 51 of 1977) and it is brought to the notice of a court that an accused person appearing before it is registered in terms of this Act,

the court shall direct that a copy of the order made in subparagraph (a) or (b), as the case may, be transmitted to the Registrar, and the Registrar shall on receipt of the copy cancel the registration of such person.

(6) Whenever it appears to the Council that a person registered in terms of the Act is or may be incapacitated as a result of disability or is or may be impaired, whether mentally or otherwise, to such an extent that—

(a) it would be detrimental to the public interest to allow him or her to continue to practise;

(b) he or she is unable to practise the profession of dental technology with reasonable skill and safety; or

(c) in the case of a student dental technician, student dental technologist, student clinical dental technologist or student specialist dental technologist has become unfit to continue with his or her educational programme, the Council must appoint a committee to conduct an inquiry in the manner determined by rule.

(7) If the Council after holding an inquiry finds the person registered in terms of the Act incapacitated or impaired as referred to in subsection (6), the Council may—

(a) allow that person to continue practising the profession and in the case of a student dental technician, student clinical dental technologist, student dental technologist or student specialist dental technologist to continue with the education programme under such conditions as it may think fit; or

(b) suspend that person for a specified period or stop that person from practising and, in the case of a student dental technician, student clinical dental technologist, student dental technologist or student specialist dental technologist, from continuing with his or her education and training programme.

(8) If a person referred to in subsection (7) applies for re-instatement, the Council must evaluate the person's ability to continue practising and may extend or withdraw the period of operation of the suspension.

(9) A practitioner suspended or whose name is removed from the register in terms of this section is disqualified from practising the profession of dental technology and his or her registration certificate is withdrawn until the period of suspension has expired or until his or her name is restored to the register.

(10) A practitioner registered under this Act who fails to comply with such conditions referred to in paragraph (a) of subsection (7) or contravenes the provisions of paragraph (b) of subsection (7) is guilty of an offence.

(11) The committee referred to in paragraph (c) of subsection (1) may appoint persons with relevant expertise and experience as assessors to advise such committee.

(12) For the purposes of this section 'impairment' refers to a condition which renders a practitioner incapable of practising the dental technology profession with reasonable skill and safety.

(13) A person whose registration has been cancelled in terms of subsection (1) may be restored if he or she:

(a) applies in the prescribed form for such restoration and pays the prescribed fees including any outstanding fees;

(b) satisfies the Council that he or she has maintained an adequate connection with, and recent practice in the category registration is required since qualifying for, or obtaining registration having regard to:

(i) the practitioner's registration history;

(ii) the period of absence from the profession;

(iii) activities relating to the practice in the profession of dental technology undertaken in the previous five years;

(iv) history of continued professional development completed; and

(v) any additional study undertaken or qualifications obtained during the period of absence from practice.

(14) (a) A person whose registration has been cancelled in terms of subsection (5) may be restored if he or she submits proof to the satisfaction of the Council of his or her discharge from curatorship or unconditional discharge as as a State Patient as contemplated in paragraph (c) of subsection (6) of section 47 of the Mental Health Care Act, 2002 (Act 17 of 2002), from the institution at which he or she was detained; and

(b) complies with such other requirements as the Council may determine by rule.

(15) Recent practice in paragraph (b) of subsection (13) means—

(a) having recently practised in one's intended scope of practice; or

(b) is deemed by Council to be:

(i) compliant in respect of continuing professional development; or

(ii) having an adequate connection in respect of the practice of dental technology within such period as the Council may determine by rule.

## **62. Return of certificates of registration on removal of name from register or cancellation of registration**

(1) Whenever the registration of any person under section 57 is withdrawn or such person applies for registration in any other

category such person shall forthwith return to the Council the certificate of registration issued to him or her under section 58.

(2) If the person cannot return the certificate as required, he or she must, by way of an affidavit, provide satisfactory reasons for the inability to return the certificate.

(3) The provisions of subsection (1) is not applicable to practitioners registered in terms of subsection (6) of section 58.

### **63. Issue of duplicate registration certificate**

(1) If the Registrar is satisfied—

(a) on proof submitted by the registered person concerned that a registration certificate has been destroyed; or

(b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost, the Registrar may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The Registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such person's registration as well as a statement to the effect that the said person is not disqualified from practising his or her profession and that no disciplinary steps are pending against him or her in terms of this Act.

(3) The Registrar may issue a certified extract from the register or a certificate under his or her hand to a person upon payment of the prescribed fee.

(4) A certificate may be issued subject to certain conditions imposed by the Council and such conditions must be indicated on the certificate.

### **64. Annual fees payable to Council**

(1) (a) The Minister may on the recommendation of the Council at any time by notice in the *Gazette* fix a fee to be paid annually to the Council by every member of the dental technology profession.

(b) Different fees may be fixed in respect of different categories of registered practitioners.

(2) If any person liable to pay any annual fee fixed in terms of subsection (1), fails to pay such fee within the period specified in the notice in question, the Council may recover such fee by action in a competent court and, cancel the registration of such person.

(3) If a person's name has been removed from the register in terms of this section such person's name shall not be restored to the register unless he or she has paid any annual fees or outstanding fees which may be payable by him or her and has complied with the requirements of registration as contemplated in section 58.

(4) The Council may by resolution grant postponement on such terms as the Council may determine to any member of the dental technology profession specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

(5) Any cancellation of registration as contemplated in subsection (2) must be done in accordance with due process of law.

## CHAPTER 4

### Part 2

**Restriction in or suspension from practice of registered person, exemption for equivalent or substantially equivalent qualifications, restricted registration of informally trained persons and Acts which may be performed only by members of the dental technology profession**

#### 65. Restriction in or suspension from practice of registered person

(1) Whenever it appears to the Council from evidence under oath that any registered person—

(a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him or her to continue to practise; or

(b) has become addicted to the use of any scheduled substance, the Council shall cause the matter to be investigated and may, if it deems it necessary, hold an inquiry, *mutatis mutandis* in accordance with the provisions of section 118 in respect of such a person.

(2) If the Council, after holding an inquiry under subsection (1), finds that any circumstance contemplated in subsection (1) exists in respect of the person concerned, it may by order—

(a) suspend such person for a specified period from practising his or her profession or performing any act specially pertaining to his or her profession; or

(b) impose such conditions as it may deem fit subject to which such person shall be entitled to continue practising his or her profession.

(3) The Council may extend for any period the period of operation of any order made under subsection (2), or withdraw or in any other manner amend such order.

(4) The provisions of subsection (9) of section 61 shall *mutatis mutandis* apply in respect of any person who has been suspended in terms of any provision of subsection (2).

(5) Any person who fails to comply with any order made under subsection (2) shall be guilty of an offence.

(6) Any order made as contemplated in subsection (2) must be done in accordance with due process of law.

#### 66. Exemption for equivalent or substantially equivalent qualifications

(1) Notwithstanding anything to the contrary in any other law contained, the Council may, on recommendation of the educational committee, unconditionally or on such conditions as it may in each case determine exempt an applicant from certain requirements for registration who has practised the profession of dental technology in another country from complying with the provisions of this Act by virtue of examinations conducted in another country.

(2) Exemption under subsection (1) shall only be granted to an applicant if the Council is satisfied that—

(a) (i) the applicant has lawfully and permanently returned to the Republic or declared his or her intention to so return to the Republic within a reasonable time; and

(b) the applicant is proficient in at least the English language; and

(c) the applicant referred to in subsection (1) has indeed practised as a dental technologist or any equivalent category in another country or is entitled to practise as such on account of his or her academic qualifications, and practical training or examinations, whether or not such practical training or examinations were a prerequisite for the completion of the academic qualifications concerned.

(d) the academic qualifications, practical training or examinations as contemplated in subparagraph (c) of subsection (2) shall be of an equivalent standard and duration as in the Republic;

(e) the Council is satisfied that he or she possesses professional knowledge and ability of a standard not lower than that prescribed in respect of any member of the dental technology profession in any particular category in the Republic; and

(f) he or she is conversant with the laws of the Republic that are applicable to the practice of the profession of dental

technology in the Republic as determined by rule by the Council from time to time.

(3) The Council may grant an applicant referred to in subsection (1) restricted registration subject to the successful completion of studies in the laws applicable to the practice of the profession of dental technology and the successful completion of any final exam and summative practical assessment conducted at an approved training institution as the Council may determine from time to time.

#### **67. Restricted registration of informally trained persons**

The Council may determine by rule—

- (a) the requirements for registration of informally trained persons;
- (b) the fees payable for registration of informally trained persons;
- (c) the scope of practice of informally trained persons; and
- (d) such other matters which the Council considers necessary or expedient to determine in respect of informally trained persons.

#### **68. Acts which may be performed only by members of the dental technology profession**

(1) No person other than a registered member of the dental technology profession shall—

(a) supply or undertake to supply or make any artificial denture or other dental appliance to or for any person;

(b) be concerned with the design, making or creation of dental and oral prostheses;

(c) repair, alter, work upon, or undertake to make, repair, alter or work upon, any artificial denture, dental and oral prostheses or other dental appliance,

unless the denture or appliance, or the impression, model or other direction for making, repairing or altering of or the working upon the denture or appliance, has been or is to be delivered to him or her by a dentist or clinical dental technologist and the denture or appliance is to be returned or delivered, as the case may be, by him or her to the dentist or clinical dental technologist.

(2) The provision of paragraph (c) of subsection (1) is not applicable in respect of any repair, alteration or work performed on such artificial denture, dental and oral prostheses or other dental appliance and such repair, alteration or work performed



that does not involve the taking of any impression: Provided that no additional clinical costs may be levied by such practitioner.

(3) No person other than a member of the dental technology profession shall—

(a) pretend or hold himself or herself out to be entitled or prepared to supply, make, repair, alter or work upon any artificial denture, dental and oral prostheses or other dental appliance otherwise than in accordance with the provisions of subsection (1); or

(b) solicit or accept, for execution by any person in contravention of subsection (1), any order for the supply, making, repair or alteration of or the working upon any artificial denture, dental and oral prostheses or other dental appliance.

(4) No person who is not registered under section 57 shall hold himself or herself out to be a member of the dental technology profession or use any name, title, description or symbol indicating or calculated to lead persons to infer that he or she is registered under section 57 of this Act.

(5) (a) No person registered as a dental technician under section 57 shall for his or her own account practise in the category of registered dental technician or shall be a member of a partnership or an association of persons which practises in the category of registered dental technician or shall be a member of a juristic person which carries on a business in which is performed any act specially pertaining to the dental technician profession, unless he or she has, after having been registered as contemplated in section 57 performed the work of a dental technician or supervised a dental laboratory and has acquired a qualification as determined by the Council by rule from time to time.

(b) The provisions of paragraph (a) shall not apply to any person who at the commencement of the Dental Technicians Act, 1979 (Act 19 of 1979) so practised that profession or was then such member or then had the right to practise that profession or to be such a member.

(6) The provisions of subsection (1) shall not imply that any person who solicits, or allows any person to solicit on his or her behalf, any service or order referred to in that subsection, or accepts any such order so solicited, is not guilty of misconduct, or that an inquiry under Chapter 10 of this Act may not be instituted against any such person.

(7) No person shall employ any other person to perform the work of a member of any category of registration under section 57 unless such other person is registered in terms of section 57.

(8) The prohibition in subsection (1) shall not apply in respect of—

(a) (i) a dentist when such dentist supplies or undertakes the work as contemplated in paragraph (a), (b) or (c) of subsection (1) for patients of such dentists' own practice or the partnership, association or juristic person of which that dentist is a member;

(ii) a dentist when he or she operates a dental laboratory registered with the Council in terms of the provisions of Chapter 6 of this Act;

(b) a student dental technician or a student dental technologist, if the act in question is performed for purposes of his or her training in dental technology;

(c) a person registered in terms of section 59, provided he or she observes the restrictions in respect of such registration; and

(d) a dental laboratory assistant in the employment of a dental laboratory who performs any act in accordance with such dental laboratory assistant's scope of practice.

## CHAPTER 4

### Part 3

#### Keeping of registers, custody and publication of registers, receipt as proof, receipt as proof and register as proof

#### 69. Keeping of registers, custody and publication of registers

(1) The Council shall keep separate registers in respect of each category of practice as contemplated in section 57, and shall enter in the appropriate register the prescribed particulars of every person whose application for registration is granted.

(2) The Council shall keep the registers correctly and in accordance with the provisions of this Act, and shall effect the necessary alterations in the names and addresses or qualifications of such registered persons in the appropriate register.

(3) Any registered person who changes his or her name or name under which he or she practices or residential or employment address shall in writing notify the Registrar thereof within thirty days after such change.

(4) No qualification shall be entered in the register in respect of any person if the Council is satisfied that such person does not hold such qualification.

## 70. Custody and publication of registers

Subject to the provisions of the Protection of Personal Information Act, 2013 (Act 4 of 2013) the registers shall be kept at the office of the Council, and the Registrar shall, at intervals to be determined by rule by the Council and in accordance with the directions of the Council, cause copies of the registers and of any supplementary lists showing any alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published.

## 71. Receipt as proof

A receipt purporting to be issued by or on behalf of the Council in respect of the payment of annual fees shall be prima facie proof in proceedings in a court of law that such person is registered under the provisions of this Act: Provided that in the case of any person whose name—

(a) appears in such register, but who is unable to produce such receipt, a certificate purporting to be signed by the Registrar shall be proof that such person is registered under the provisions of this Act;

(b) has been removed from the register since the date of issue of such receipt and has not been restored to the register, a certificate purporting to be signed by the Registrar and stating that the name of such person has been removed from the register, shall be proof that such person is not registered under the provisions of this Act.

## 72. Register as proof

(1) The register referred to in subsection (3) of section 58 serves as evidence of all matters which, in terms of this Act, are required or authorised to be noted therein.

(2) A certificate purporting to be signed by the Registrar to the effect that an entry has or has not been made in the register or that any other function authorised by this Act to be performed, has or has not been performed, is evidence of the matters specified in that certificate.

(3) A copy of an entry in the register or of a document in the custody of the Registrar or an extract from the register or from any such document, purporting to be certified by the Registrar, may be admitted in evidence in all courts without further proof or production of the original.

## CHAPTER 5

### Council may determine qualifications for registration, control of education and training, community service and conditions relating to continuing professional development

#### 73. Council may determine qualifications for registration

The Council may from time to time determine the qualifications obtained by virtue of examinations conducted by an approved institution which shall, if possessed alone or together with another qualification, entitle the possessor thereof to registration as a member of the dental technology profession in terms of this Act, if he or she complies, before or in connection with or after the acquisition of the qualification in question, with the conditions or requirements so determined.

#### 74. Control of education and training

(1) Notwithstanding anything to the contrary in any law contained, no person or institution, including a university established by or under an Act of Parliament, may offer or provide any education or training which is intended to qualify any person to practise the dental technology profession, unless such education and training have been approved by the Council.

(2) Any person or institution wishing to offer or to provide the education and training referred to in subsection (1) shall, before offering or providing the education and training, apply to the Council in writing for its approval of the education and training and shall furnish such particulars regarding the education and training as the Council may require.

(3) The Council may approve or refuse any application made in terms of subsection (2) and may, where it approves the application, determine any condition or requirements it deems fit, to which the education or training shall be subject.

#### 75. Community service

(1) A person who is intending to register for the first time to practise in a category under paragraph (f), (g) or (h) of subsection (1) of section 57 must perform remunerated community service for a period of one year at a public health facility or such other facility as the Minister, in consultation with the Council, may designate from time to time.

(2) A person referred to in subsection (1) must be registered in the category practitioner in community service.

(3) The Minister may, after consultation with the Council, make regulations concerning the performance of the service contemplated in subsection (1), including but not limited to—

- (a) the place at which such service is to be performed;
- (b) the conditions of employment pertaining to persons who perform such service; and
- (c) the fees payable to Council in respect of such registration as contemplated in subsection (2).

## 76. Conditions relating to continuing professional development

The Council may determine—

- (a) conditions relating to continuing professional development to be undergone by the dental technology profession in order to retain such registration;
- (b) the nature and extent of continuing professional development to be undergone by practitioners; and
- (c) the criteria for recognition by the Council of continuing professional development activities and accredited institutions, accredited associations or such other bodies or structures offering such activities.

## CHAPTER 6

Registration of dental laboratories, Council may refuse to register a dental laboratory, cancellation of registration of dental laboratory by Council, change of ownership of dental laboratory continuation of business of dental laboratory registered in terms of the Act by executor, trustee, liquidator, business rescue practitioner, curator or judgment creditor, register of dental laboratories, return of registration certificate, dental laboratory assistants, persons who may supervise dental laboratories and prohibition on the operation of a dental laboratory from a private dwelling

## 77. Registration of dental laboratories

(1) The provisions of this Chapter shall apply to—

- (a) dental laboratories conducted or operated by the State;
- (b) dental laboratories conducted or operated by any provincial government;
- (c) dental laboratories conducted or operated by a university having a dental faculty or educational institution;

(d) dental laboratories conducted or operated at an approved institution at which students are educated and trained in dental technology; and

(e) a dentist when such dentist employs one or more dental technicians or dental technologists in the supply or undertaking of the services as contemplated in paragraph (a), (b) or (c) of subsection (1) of section 68.

(2) No person shall operate or conduct a dental laboratory unless such dental laboratory has been registered in terms of this Chapter.

(3) A dentist registered under the Health Professions Act, 1974 (Act 56 of 1974) may not perform the services as contemplated in paragraph (a), (b) or (c) of subsection (1) of section 68 for other dentists.

(4) Any person who desires that a dental laboratory be registered in terms of subsection (2) shall apply to the Council for such registration in the form as determined by rule.

(5) On completion of the registration as contemplated in subsection (1), the Registrar must issue a registration certificate in respect such dental laboratory in the form as determined by rule.

(6) The certificate contemplated in subsection (5) must contain the particulars entered in the register in respect of such dental laboratory and any other matter that may be determined by rule.

## **78. Council may refuse to register a dental laboratory**

The Council shall not register a dental laboratory in terms of section 77 unless—

(a) the dental laboratory is owned by a person or persons who in terms of section 77 is authorised to be the owner thereof and all fees of such owner or owners have been paid;

(b) the prescribed fees have been paid;

(c) the dental laboratory complies with the conditions and requirements for registration determined rule by the Council from time to time;

(d) the Council is satisfied that the dental laboratory will be supervised and conducted by a person or persons who are in terms of section 86 entitled to do so; and

(e) the Council is satisfied that the provisions of any other relevant legislation including provincial legislation, ordinances, bye-laws or any town planning scheme that may be a requirement or applicable to the the operation of a dental laboratory has been complied with.

## 79. Cancellation of registration of dental laboratory by Council

(1) The Registrar may cancel the registration of a dental laboratory–

(a) if such dental laboratory has failed to comply with the provisions of this Act;

(b) if such laboratory was erroneously registered;

(c) if such dental laboratory was registered on the basis of incorrect information;

(d) if the Council is satisfied that the laboratory no longer complies with the conditions and requirements referred to in section 78: Provided that the Council shall, in the case of a dental laboratory registered before the date of publication of the relevant condition or requirement, allow the owner of such laboratory a reasonable period to comply with such conditions and requirements;

(e) if the owner or owners of such dental laboratory fails to pay any amount owing to the Council on the due date or any extended date; or

(f) if the owner or owners of such dental laboratory fails, without good reason, to comply with any rule made by Council in respect of dental laboratories.

(2) The Registrar must notify the owner or owners of such dental laboratory in writing of its intention to cancel such dental laboratories' registration and request the person to submit written representations, within a specified reasonable time, indicating the reasons why the registration should not be cancelled.

(3) If the Registrar is satisfied that no reasonable grounds exist for such dental laboratories' registration to continue, the registration must be cancelled and the registered owner or owners, as the case may be, must be notified accordingly.

(4) The Registrar must, at the written request of any registered dental laboratory, remove such dental laboratories' name from the register, but if an investigation into alleged misconduct by the registered owner or owners, as the case may be, of such dental laboratory is in progress or is to be held, such removal must not be made until any resultant misconduct proceedings have been concluded.

(5) A dental laboratory who was previously registered in terms of section 77 may apply for re-registration, if all the requirements of this Chapter applicable to the registration of dental laboratories have been complied with.



(6) Any cancellation of registration of a dental laboratory as contemplated in subsection (1) must be done in accordance with due process of law.

**80. Change of ownership of dental laboratory**

(1) An owner or owners of a dental laboratory shall forthwith notify the Council of any change in ownership or beneficial interest in a dental laboratory.

(2) Any person acquiring a dental laboratory as contemplated in subsection (1) may only operate or conduct such dental laboratory after such change in ownership or beneficial interest in that dental laboratory has been registered under section 77.

(3) If the ownership of any dental laboratory registered in terms of this Act is transferred or alienated in contravention of subsection (2) the registration of such dental laboratory shall lapse.

(4) Change of ownership in a dental laboratory in this section includes the transfer or abandonment of rights to ownership of a dental laboratory, and includes a sale, lease, assignment mortgage, pledge, delivery, payment, release, compromise, donation or any contract for the change of ownership or beneficial interest whether temporarily or permanently.

**81. Continuation of business of dental laboratory registered in terms of the Act by executor, trustee, liquidator, business rescue practitioner or curator**

(1) Notwithstanding anything to the contrary in this Act contained—

(a) the person responsible for reporting the estate of a person who owns a dental laboratory and registered in terms of this Act to the Master, or the executor of the deceased estate of such person who owns a dental laboratory may, subject to the laws relating to the administration of estates, for a period not exceeding 12 months after the death of such person who owns a dental laboratory, and for an additional period not exceeding 12 months, continue the dental laboratory business of the deceased, and such dental laboratory business shall be conducted under the continuous personal supervision of a member of the dental technology profession excluding a student dental technician, student dental technologist, dental technician or practitioner in community service;

(b) the executor shall, within 30 days of his or her appointment, inform the Council by hand, registered mail or electronic mail of his or her appointment and of the name and registration number of the deceased and the name and registration number of the dental laboratory and the name of the member who shall be responsible to the Council in respect of the dental laboratory business referred to in paragraph (a);

(c) the trustee in the insolvent estate of a dental laboratory registered in terms of this Act or the liquidator of a body corporate is entitled to carry on the business as a dental laboratory and may, subject to applicable laws, for a period not exceeding 12 months after such a final sequestration order or final liquidation order, and for such additional period as the Council may allow, continue the business of such a dental laboratory or body corporate, and such business shall be conducted under the continuous personal supervision of a member of the dental technology profession excluding a student dental technician, student dental technologist, dental technician or practitioner in community service;

(d) the trustee or liquidator shall, within 30 days of his or her appointment, deliver by hand, electronic mail or registered mail, to the Council the sequestration or liquidation order, as the case may be, referred to in paragraph (c), and the trustee or the liquidator shall inform the Council, in writing, of the name and registration number of the member who shall be responsible to the Council in respect of the business referred to in paragraph (c);

(e) the curator of the estate of a person who is carrying on business as a dental laboratory but who has been declared incapable of managing his or her affairs by an order of court, may, subject to applicable laws, for a period not exceeding 12 months after the order has been given and for such additional period as the Council may allow, continue such dental laboratory business, and such dental laboratory business shall be conducted under the continuous personal supervision of a member of the dental technology profession excluding a student dental technician, student dental technologist, dental technician or practitioner in community service;

(f) the curator referred to in paragraph (e) shall, within 30 days from the date on which the order was made, deliver by hand, electronic mail or registered mail, such order to the Council, and the curator shall inform the Council, in writing, of the name and registration number of the member who shall be

responsible to the Council in respect of the business referred to in paragraph (e);

(g) the business rescue practitioner of a body corporate carrying on business as a dental laboratory may, subject to applicable laws, for a period not exceeding the period of business rescue proceedings, subject to conditions determined by the Council, continue such dental laboratory business, and such dental laboratory business shall be conducted under the continuous personal supervision of a member of the dental technology profession excluding a student dental technician, dental technician, student dental technologist or practitioner in community service;

(h) the business rescue practitioner referred to in paragraph (g) shall, within 30 days of the granting or discharge of the order, deliver by hand, electronic mail or registered mail, such order to the Council, and such business rescue practitioner shall inform the Council, in writing, of the name and registration number of the member who shall be responsible to the Council in respect of the dental laboratory business referred to in paragraph (e).

(2) The reference to 'dental technician' in this section does not refer to a person as contemplated in paragraph (b) of subsection (5) of section 68.

## **82. Register of dental laboratories**

(1) The Council shall keep a register in which shall be entered—

- (a) the registered name of such dental laboratory;
- (b) the name under which such dental laboratory is registered by the Council;
- (c) the physical address at which such dental laboratory is conducted;
- (d) the name and address, including postal and electronic address, of the owner or owners of such laboratory; and
- (e) such other particulars relating to such dental laboratory or owner or owners as the Council may determine from time to time.

(2) Subject to the provisions of the Protection of Personal Information Act, 2013 (Act 4 of 2013) the register kept by Council in terms of subsection (1) must be open for inspection by the public at the head office of the Council during business hours.

(3) The register referred to in subsection (1) serves as evidence of all matters which, in terms of this Act, are required or permitted to be noted therein.

(4) A certificate purporting to be signed by the Registrar to the effect that an entry has or has not been made in the register or that any other function authorised by this Act to be performed, has or has not been performed, is evidence of the matters specified in that certificate.

(5) A copy of an entry in the register or of a document in the custody of the Registrar or an extract from the register or from any such document, purporting to be certified by the Registrar, may be admitted in evidence in all courts without further proof or production of the original.

### **83. Return of registration certificate**

(1) Any dental laboratory whose registration has been cancelled must return its certificate of registration to the Registrar within 30 days from the date upon which he or she is directed by the Registrar in writing to do so and furnish the Registrar with proof of such return.

(2) If such dental laboratory cannot return the certificate as required, the registered owner or owners, as the case may be, must, by way of an affidavit, provide satisfactory reasons for the inability to return the certificate of registration.

### **84. Issue of duplicate registration certificate in respect of dental laboratory**

(1) If the Registrar is satisfied—

(a) on proof submitted by the registered owner or owners of a dental laboratory that a registration certificate has been destroyed; or

(b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost, the Registrar may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The Registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such dental laboratories' registration.

(3) The Registrar may issue a certified extract from the register or a certificate under his or her hand to a person upon payment of the prescribed fee.

(4) A certificate may be issued subject to certain conditions imposed by the Council and such conditions must be indicated on the certificate.

## 85. Dental laboratory assistants

The Council may determine by rule—

- (a) the requirements for registration of dental laboratory assistants;
- (b) the fees payable for registration of dental laboratory assistants;
- (c) the scope of practice of dental laboratory assistants; and
- (d) such other matters which the Council considers necessary or expedient to determine in respect of dental laboratory assistants.

## 86. Persons who may supervise dental laboratories

(1) Subject to the provisions of subsection (2), no person except the following persons shall supervise a dental laboratory, namely—

- (a) a person referred to in subparagraph (i) of paragraph (a) of subsection (8) of section 68; and
- (b) a dental technologist registered under section 57.

(2) From a date determined by the Minister by notice in the *Gazette*, no person who has not acquired an approved and accredited qualification shall supervise any dental laboratory unless he or she supervised a dental laboratory on or before the date so specified or had the right to exercise such supervision.

(3) No person shall conduct a dental laboratory otherwise than under the continuous personal supervision of a person referred to in subsection (1) or, from the date determined in terms of subsection (2), otherwise than under the continuous personal supervision of the holder of approved and accredited qualification referred to in that subsection, or of a person who supervised a dental laboratory on or before that date or had the right to exercise such supervision.

(4) A dental laboratory referred to in this Chapter excludes the denture clinic owned and operated by a clinical dental technologist under Chapter 7 of the Act.

## 87. Prohibition on the operation of a dental laboratory from a private dwelling

No dental laboratory may be conducted or operated from—

- (a) a private dwelling; or
- (b) any building or outbuilding on property where a private dwelling is located and to which private dwelling access may be gained from such dental laboratory; or

- (c) from any premises on property—
  - (i) for which the local authority has not granted consent use rights; or
  - (ii) which has not been zoned for such use by the local authority.

## CHAPTER 7

### Part 1

#### Prohibition of practice as clinical dental technologist, registration requirements, removal of registration and restoration of registration to register, cancellation of registration by Council and annual fees

#### 88. Registration a prerequisite for practising as clinical dental technologist

No person shall be entitled to practise as a clinical dental technologist within the Republic unless he or she is so registered in terms of this Act.

#### 89. Registration requirements and scope of practice

(1) (a) Any person who wishes to register as a clinical dental technologist must apply to the Council in the form as determined by rule.

(b) An application contemplated in paragraph (a) must be accompanied by—

- (i) proof that the applicant has acquired South African citizenship in terms of Chapter 2 of the South African Citizenship Act, 1995 (Act 88 of 1995) or in the event of foreigner such information that the Council may consider necessary;
- (ii) proof of the applicant's qualifications;
- (iii) the prescribed registration fee; and
- (iv) any further information relating to the application that the Council may consider necessary.

(2) If the Council is not satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act, he or she may refuse to issue a registration certificate to the applicant.

(3) If the Registrar is satisfied that the person requiring registration comply with the requirements of this Act, the Registrar shall, upon payment of the prescribed fee, cause the necessary entry to be made in the register and the Registrar shall thereupon issue a registration certificate authorising the

applicant, subject to the provisions of this Act or any other law, to practise as clinical dental technologist.

(4) (a) The Council may refuse to register or to restore the name of any person to a register if an applicant—

(i) has been convicted of an offence and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(ii) if the applicant has been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iii) has been permanently admitted in a health establishment for care, treatment and rehabilitation services as a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002), or is a State patient as defined in section 1 of the Mental Health Care Act, 2002 (Act 17 of 2002);

(iv) if the applicant is declared by the High Court to be of unsound mind requiring a curator bonis to be appointed;

(v) for as long as the applicant is disqualified from registration as a result of any punishment imposed on him or her under this Act;

(vi) if the applicant is an unrehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration.

(b) For the purposes of paragraph (a) (ii), the Council must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.

(5) The Council must provide the applicant with a notice of refusal referred to in paragraph (a) of subsection (4).

(6) Any refusal of registration as contemplated in subsection (4) must be done in accordance with due process of law.

(7) Any entry which is proved to the satisfaction of the Council to have been made in error or through misrepresentation or in circumstances not authorised by this Act must be removed from the register and—

(a) a record of the reason for every such removal must be made in the register;

(b) the person in respect of whom such removal has been made must be notified thereof; and

(c) any certificate issued in respect of such registration is deemed to have been cancelled as from the date on which notice has so been given.



## 90. Removal from register and restoration of registration to register

(1) The Registrar must remove from the relevant register the name of any person registered as clinical dental technologist registered under section 89–

- (a) who has died;
- (b) who has ceased to be a citizen of the Republic or is a foreigner and has permanently left the Republic;
- (c) who has been absent from the Republic for a continuous period of more than one year without notifying the Council;
- (d) who has failed to pay any relevant prescribed fee;
- (e) who has failed to notify the Registrar of any change in residential or the physical address of his or her practice within 30 days after any such change;
- (f) who has requested that his or her name be removed from the register, in which case such practitioner may be required to lodge with the Registrar an affidavit or affirmation to the effect that no disciplinary or criminal proceedings are pending or are likely to be instituted against him or her;
- (g) who has been found guilty of misconduct and such disciplinary committee or appeal committee has resolved to remove such practitioner;
- (h) who has been registered through error or fraud;
- (i) who has failed to furnish the Registrar, within a period to be determined by the Council, with such information as the Registrar may require under this Act;
- (j) whose registration is proved to the satisfaction of the Council to have been made in error or through fraudulent misrepresentation or concealment of material facts or information or in circumstances not authorised by this Act.

(2) The Registrar must give notice of the removal of a person's name from the register in terms of paragraph (b), (c), (d), (e), (f), (g), (h) and (j) of subsection (1) by registered mail or electronic mail addressed to such person at the address of such person as it appears in the register.

(3) From the date on which the notice contemplated in subsection (2) was given–

- (a) any registration certificate issued under this Act to the person concerned is considered to have been cancelled; and
- (b) a person whose name has been removed from the register must cease to practise as a clinical dental technologist and is precluded from performing any act which he or she, in his or her capacity as a registered person, was entitled to perform, until such time as his or her name is restored to the register.

(4) The Registrar must restore the name of a person whose name has in terms of this section been removed from the register if the person concerned—

(a) applies on the prescribed form for restoration of his or her name to the Registrar;

(b) pays the prescribed fee, if any;

(c) complies with such other requirements as the Council may, from time to time, determine; and

(d) is otherwise eligible for registration.

(5) Any removal of registration as contemplated in subsection (1) must be done in accordance with due process of law.

## 91. Cancellation of registration by Council

(1) (a) The Council may cancel the registration of a clinical dental technologist if he or she—

(i) becomes disqualified from registration as contemplated in section 89;

(ii) has erroneously been registered, or has been registered on information subsequently proved to be false; or

(iii) fails to pay the prescribed annual fee or portion thereof, within 60 days from it becoming due or within such further period as the Council may allow, either before or after the expiry of the 60 days.

(b) The Council must provide the clinical dental technologist with a notice of a cancellation referred to in paragraph (a) of subsection (1).

(2) The Council must at the written request of any registered clinical dental technologist cancel his or her registration, but where an investigation into alleged misconduct by such clinical dental technologist is in progress or is to be held, the registration may not be cancelled until the investigation has been concluded.

(3) Despite the cancellation of the registration of a clinical dental technologist in terms of this section, that clinical dental technologist remains liable for any fee, arrears or penalty imposed by the Council for the period that he or she was registered.

(4) If—

(a) it appears to a presiding officer when acting in terms of the Mental Health Act, 2002 (Act 17 of 2002), or from the documents submitted to him or her under Rule 57 of the Uniform Rules of Court, or it is brought to the notice of such presiding officer in any other manner, that a clinical dental technologist has

been declared of unsound mind or a curator bonis has been appointed for such clinical dental technologist or such clinical dental technologist has been classified as a State patient in terms of the Mental Health Act, 2002 (Act 17 of 2002) ; or

(b) the court makes a finding in terms of section 78(6) of the Criminal Procedure Act, 1977 (Act 51 of 1977) and it is brought to the notice of a court that an accused person appearing before it is registered in terms of this Act,

the court shall direct that a copy of the order made in subparagraph (a) or (b), as the case may be, be transmitted to the Registrar, and the Registrar shall on receipt of the copy cancel the registration of such clinical dental technologist.

(5) Whenever it appears to the Council that a clinical dental technologist registered in terms of the Act is or may be incapacitated as a result of disability or is or may be impaired, whether mentally or otherwise, to such an extent that—

(a) it would be detrimental to the public interest to allow him or her to continue to practise; or

(b) he or she is unable to practise as a clinical dental technologist with reasonable skill and safety, the Council must appoint a committee to conduct an inquiry in the manner as determined by rule.

(6) If the Council after holding an inquiry finds the clinical dental technologist registered in terms of the Act incapacitated or impaired as referred to in subsection (5), the Council may—

(a) allow that clinical dental technologist to continue practising the clinical dental technology profession under such conditions as it may think fit; or

(b) suspend that clinical dental technologist for a specified period or stop that clinical dental technologist from practising.

(7) If a clinical dental technologist referred to in subsection (6) applies for re-instatement, the Council must evaluate the clinical dental technologist's ability to continue practising and may extend or withdraw the period of operation of the suspension.

(8) A clinical dental technologist suspended or whose name is removed from the register in terms of this section is disqualified from practising the profession of clinical dental technology and his or her registration certificate is withdrawn until the period of suspension has expired or until his or her name is restored to the register.

(9) A clinical dental technologist registered under this Act who fails to comply with the conditions referred to in paragraph (a) of subsection (7) or contravenes the provisions of paragraph (b) of subsection (7) is guilty of an offence.

(10) The committee referred to in paragraph (c) of subsection (1) may appoint persons with relevant expertise and experience as assessors to advise such committee.

(11) For the purposes of this section 'impairment' refers to a condition which renders a clinical dental technologist incapable of practising the clinical dental technology profession with reasonable skill and safety.

(12) A clinical dental technologist whose registration has been cancelled in terms of this subsection (1) may be restored if he or she:

(a) applies in the prescribed form for such restoration and pays the prescribed fees including any outstanding fees;

(b) satisfies the Council that he or she has maintained an adequate connection with, and recent practice in the category registration is required since qualifying for, or obtaining registration having regard to—

(i) the clinical dental technologist's registration history;

(ii) the period of absence from the profession;

(iii) activities relating to the practice in the clinical dental technology profession undertaken in the previous five years;

(iv) history of continued professional development completed; and

(v) any additional study undertaken or qualifications obtained during the period of absence from practice.

(13) (a) A clinical dental technologist whose registration has been cancelled in terms of subsection (4) may be restored if he or she submits proof to the satisfaction of the Council of his or her discharge from curatorship or unconditional discharge as a State Patient as contemplated in paragraph (c) of subsection (6) of section 47 of the Mental Health Care Act, 2002 (Act 17 of 2002), from the institution at which he or she was detained; and

(b) complies with such other requirements as the Council may determine.

(14) Recent practice in paragraph (b) of subsection (12) means—

(a) having recently practised in one's intended scope of practice; or

(b) is deemed by Council to be—

(i) compliant in respect of continuing professional development; or

(ii) having an adequate connection in respect of the practice of clinical dental technology within such period as the Council may determine by rule.

**92. Return of certificates of registration on removal of name from register or cancellation of registration**

(1) Whenever the registration of a clinical dental technologist is withdrawn or such clinical dental technologist applies for registration in any other category such clinical dental technologist shall forthwith return to the Council the certificate of registration issued to him or her under section 89.

(2) If the clinical dental technologist cannot return the certificate as required, he or she must, by way of an affidavit, provide satisfactory reasons for the inability to return the certificate.

**93. Issue of duplicate registration certificate**

(1) If the Registrar is satisfied—

(a) on proof submitted by a registered clinical dental technologist that a registration certificate has been destroyed; or

(b) by virtue of an affidavit submitted by the clinical dental technologist concerned, that a registration certificate has been lost,

the Registrar may issue a duplicate registration certificate to that clinical dental technologist upon payment of the prescribed fee.

(2) The Registrar may, upon payment of the prescribed fee, issue to any registered clinical dental technologist a certificate of status containing particulars relating to such clinical dental technologist's registration as well as a statement to the effect that the said clinical dental technologist is not disqualified from practising his or her profession and that no disciplinary steps are pending against him or her in terms of this Act.

(3) The Registrar may issue a certified extract from the register or a certificate under his or her hand to a clinical dental technologist upon payment of the prescribed fee.

(4) A certificate may be issued subject to certain conditions imposed by the Council and such conditions must be indicated on the certificate.

**94. Annual fees payable to Council**

(1) The Minister may, on the recommendation of the Council, at any time by notice in the *Gazette* fix a fee to be paid annually to the Council by every member of the clinical dental technology profession.

(2) If any clinical dental technologist liable to pay any annual fee fixed in terms of subsection (1), fails to pay such fee within the period specified in the notice in question, the Council may recover such fee by action in a competent court and, cancel the registration of such clinical dental technologist.

(3) If a clinical dental technologist's name has been removed from the register in terms of this section such clinical dental technologist's name shall not be restored to the register unless he or she has paid any annual fees or outstanding fees which may be payable by him or her and has complied with the requirements of registration as contemplated in section 89.

(4) The Council may by resolution grant postponement on such terms as the Council may determine to any clinical dental technologist specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

(5) Any cancellation of registration as contemplated in subsection (2) must be done in accordance with due process of law.

## CHAPTER 7

### Part 2

#### Prohibition on ownership of denture clinic and supervision of such denture clinic, operation of denture clinic from private dwelling prohibited and general prohibitions in respect to members of the clinical dental technology profession

#### 95. Prohibition on ownership of denture clinic and supervision of such denture clinic and carrying on of denture clinic by clinical dental technologist

(1) No clinical dental technologist—

(a) shall be the owner of a denture clinic in which work is performed for any person who is not a patient of that clinical dental technologist;

(b) shall supervise or conduct any denture clinic in which work is performed for any person who is not a patient of that clinical dental technologist or the partnership, association or juristic person of which that clinical dental technologist is a member.

(2) Subject to subsection (3) no clinical dental technologist shall perform work for any other denture clinic in respect of any person who is not a patient of that clinical dental technologist.

(3) A clinical dental technologist may sub-contract another clinical dental technologist or dental laboratory when specialised equipment and facilities are required in respect to the creation or

making of dental and oral prostheses for a patient of that clinical dental technologist.

(4) Subject to subsection (5) the practice of clinical dental technology may be carried on as a sole proprietorship, partnership, association, as an incorporated company or a close corporation.

(5) (a) All members of such partnership or association shall be registered in terms of this Act as clinical dental technologists.

(b) The performance of any act specially pertaining to the scope of practice of a clinical dental technologist, as the case may be, may be carried on in association: Provided that—

(i) written proof of the formation of the association, including the names of all associates, shall be submitted to the Council;

(ii) the associates shall annually before 31 March submit an affidavit to the Council confirming the continued existence of the association and re-stating the names of all associates;

(iii) in the case of an association, incorporated company or close corporation only work for the patients of that association, incorporated company or close corporation shall be done in that denture clinic;

(iv) one or more or all the associates practise their profession and operate the denture clinic on the same premises: Provided further that all members of such association shall be clinical dental technologists.

(c) An incorporated company or close corporation may carry on any business involving the performance of any act specially pertaining to the clinical dental technology as long as all the members, directors and shareholders of such juristic person are registered clinical dental technologists.

(6) Subject to the provisions of the Health Professions Act, 1974 (Act 56 of 1974), the Council may grant permission to a clinical dental technologist to practice in partnership, association or otherwise with a member or members of the Dental Therapy & Oral Hygiene profession who are registered under the provisions of the Health Professions Act, 1974 (Act 56 of 1974) under such conditions as the Council may determine from time to time.

## **96. Operation of denture clinic from private dwelling prohibited**

(1) No denture clinic may be conducted or operated from—

(a) a private dwelling;



(b) any building or outbuilding on property where a private dwelling is located and to which private dwelling access may be gained from such denture clinic; or

(c) from any premises on property—

(i) for which the local authority has not granted consent use rights; or

(ii) which has not been zoned for such use by the local authority.

(2) A clinical dental technologist may operate a mobile denture clinic on such conditions as the Council may determine by rule.

**97. General prohibitions in respect to members of the clinical dental technology profession**

(1) A registered clinical dental technologist may not—

(a) accept, request or insist on any commission, remuneration, pecuniary or otherwise, from a dentist or dental trader or manufacturer, wholesaler or retailer of any equipment, apparatus, instruments, appliances or material used in the course of his or her practice;

(b) pay, give or accept any commission or remuneration, pecuniary or otherwise, to any person for the recommendation of patients; or

(c) share any fees charged for a service with any dentist or dental trader.

(2) Subject to subsection (6) of section 95 a clinical dental technologist may not share the use a denture clinic with a person not registered in terms of this Act.

(3) No clinical dental technologist may practice in partnership, association or otherwise with a dentist, a student dental technician or student technologist.

(4) No clinical dental technologist who is registered in terms of this Act shall perform an act which prevents or is calculated to prevent the Council, Registrar or any inspector from carrying out any duty granted by or imposed under this Act.

**CHAPTER 8**

**Part 1**

**Prohibition on the import, export or transit of unmounted artificial teeth or any dental and oral prostheses, custom made components used in dental technology practice or a dental laboratory and issuance of authorisations**

**98. Prohibition on the import, export or transit of unmounted artificial teeth or any dental and oral prostheses custom made components used in dental technology practice or a dental laboratory**

(1) No person, juristic person or intermediary may import into or export from or re-export from South Africa—

- (a) any unmounted artificial teeth;
- (b) any dental and oral prostheses;
- (c) any custom made components used in dental technology practice, dental laboratory or denture clinic; or
- (d) any controlled item,

unless the person importing or exporting or re-exporting the unmounted artificial teeth or any dental and oral prostheses, custom made components used in dental technology practice, dental laboratory or denture clinic—

(i) is a registered dental technologist, registered dental laboratory or registered denture clinic under this Act; or

(ii) is registered under the Health Professions Act, 1974 (Act 56 of 1974);

(iii) is registered in terms of this Chapter as a dental trader; and

(iv) the Registrar has issued an authorisation in respect of the import into or export from or re-export from South Africa of any artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic as contemplated in subsection (1).

(2) No person, juristic person or intermediary may carry or be in possession on behalf of any person, juristic person or intermediary through the Republic of any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic without a transit authorisation issued by the Registrar in terms of section 99.

(3) The prohibition in subsection (1) and subsection (2) does not apply to a member of the dental technology profession or dentist who imports into or exports from the Republic any unmounted artificial teeth or any dental and oral prostheses custom made components used in dental technology practice, dental laboratory, for such member of the dental technology profession or dentist' own use in the Republic.

(4) Subject to subsection (3), any person, juristic entity or intermediary who contravenes subsection (1) or (2) is guilty of an offence.

**99. Application for import, export and transit authorisation**

(1) An application for an import, export or re-export authorisation from or to the Republic of any unmounted artificial teeth or any dental and oral prostheses custom made components used in dental technology practice, dental laboratory or denture clinic must be made to the Registrar —

(a) in the form and format and against payment of the fee as may be prescribed;

(b) contain the information as may be determined by rule;

(c) be signed by the applicant; and

(d) be accompanied or supported by such documents or information as may be determined by rule.

(2) An application for an authorisation to transit any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic shall be made to the Registrar —

(a) in the form and format determined by rule and against payment of the fee as prescribed;

(b) contain the information as may be determined by rule;

(c) be signed by the applicant; and

(d) be accompanied or supported by such documents or information as may be determined by rule.

(3) In considering any application for the registration of a person, juristic entity or intermediary as an importer or exporter of unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic in terms of subsection (1) or the issuance of an authorisation in terms of subsection (2) the Registrar—

(a) may request the applicant to submit any additional information before considering the application; and

(b) must consider the application if all application requirements have been complied with, and may—

(i) grant the application; or

(ii) refuse the application.

(4) The Registrar must—

(a) notify the applicant of his or her decision; and

(b) in the notification—

(i) give reasons for the decision to the applicant, if the application has been refused;

(ii) set out any special conditions subject to which the registration or authorisation is to be issued, if the application has been granted; and

(iii) draw the attention of the applicant to the fact that an appeal may in terms of Chapter 10 be lodged against the refusal of the application.

(5) If the Registrar grants an application for the registration of a person, juristic person or intermediary under subsection (1) and decides to grant an authorisation under subsection (2) the Registrar must register such person, juristic person or intermediary and issue the authorisation to such person, juristic or intermediary.

(6) The authorisation must be—

(a) handed to the applicant; or

(b) sent by registered post or secured electronic means to the applicant.

(7) An authorisation issued under subsection (2) must state at least—

(a) the name of the authorisation holder;

(b) the name of the person responsible for the transit of the unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic;

(c) the address of the premises from and to which the unmounted artificial teeth or any dental and oral prostheses is intended to be transported;

(d) the name of the transporter; and

(e) any special conditions as determined by rule subject to which the authorisation is issued;

(f) the date from which the authorisation takes effect;

(g) the date on which the authorisation lapses;

(h) any other relevant information as determined by the Registrar.

(8) Unless the Registrar directs otherwise in writing, no import, export or transit authorisation may be issued in respect of any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic which does not bear the prescribed identification marks.

(9) An authorisation granted under subsection (2) may only be issued upon proof that such import and export taxes that may be applicable to the import or export of any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic have been paid by the importer, exporter, the registered person, juristic entity or intermediary as the case may be.

(10) Any person, juristic entity or intermediary who contravenes a condition of this section is guilty of an offence.

#### **100. Duties of holder of authorisation**

(1) The holder of an authorisation issued in terms of this Chapter, must at the request of any police official or inspector produce for inspection—

(a) any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic in his or her possession or under his or her control;

(b) his or her authorisation; and

(c) any other document or certificate as may be determined by rule from time to time.

(2) The Registrar may direct the holder of an authorisation issued in terms of this Chapter to keep and maintain registers containing such information as he or she may direct.

#### **101. Suspension of import, export or transit authorisation**

(1) The Registrar may suspend an import, export or transit authorisation if the Registrar has information under oath that the holder of the authorisation has committed an offence in terms of this Act or has contravened any condition of such import, export or transit authorisation.

(2) An authorisation may be suspended for not more than seven days without affording the holder of the authorisation a hearing.

(3) A suspension may endure for a period longer than seven days if the—

(a) holder has been afforded an opportunity to make written representations to the Registrar;

(b) Registrar has given due consideration to the representations;

(c) Registrar deems it necessary in order to achieve the objects of this Act; and

(d) the suspension has been confirmed by a court.

(4) A holder of an authorisation may not import or export any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic or carry any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory

or denture clinic in transit for such period as the authorisation is suspended.

## 102. Termination of trading, import, export or transit authorisation

- (1) An import, export or transit authorisation terminates—
  - (a) on the date specified in the authorisation;
  - (b) if surrendered by the holder of the authorisation to the Registrar;
  - (c) if cancelled in terms of this Act; or
  - (d) the registration of the authorisation holder as dental trader is cancelled or withdrawn by the Council.
- (2) The Registrar may, by written notice, cancel an import, export or transit authorisation if the authorisation holder—
  - (a) no longer qualifies to hold the authorisation; or
  - (b) has contravened or failed to comply with any provision of this Act or any condition specified in the authorisation.
- (3) A notice contemplated in subsection (2) may only be issued if the Registrar has—
  - (a) given the holder 30 days' notice in writing to submit written representations as to why the authorisation should not be cancelled; and
  - (b) duly considered any representations received and all the facts pertaining to the matter.
- (4) If a notice contemplated in subsection (2) is issued, the former holder of a authorisation must dispose of any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic in his or her possession in such manner as the Registrar may determine.

## 103. Lapsing of authorisation

Where—

- (a) an authorisation has been granted for the proposed import, export or transit of any any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic; and
- (b) after the grant of the authorisation contemplated in paragraph (a) but before the import or export, as the case may be, of the any unmounted artificial teeth or any dental or oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic such

unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic become prohibited from being imported or exported for whatsoever reason the authorisation originally granted for such import or export shall lapse and a new authorisation shall be required for that proposed import, export or transit of such unmounted artificial teeth or any dental or oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic.

**104. Re-export of imported unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice or a dental laboratory**

(1) Where any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic have been imported by an unregistered person, unregistered juristic entity or unregistered intermediary, such unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic shall be re-exported or disposed of within such time and in a manner determined by the Registrar.

(2) Where any unmounted artificial teeth or any dental and oral prostheses or custom made components used in dental technology practice, dental laboratory or denture clinic are required to be re-exported under subsection (1), the importer shall re-export the goods within the period specified by the Registrar and satisfactory evidence of such re-export shall be produced to the Registrar within 7 days of such re-export.

**105. Defaced, lost or stolen authorisation**

(1) If an import, export or transit authorisation is lost or stolen, the holder of an authorisation must inform the Registrar by way of affidavit setting out the reasons for such defacement, loss or the circumstances of the theft of the authorisation within 24 hours of the discovery of defacement, loss or theft.

(2) If an import, export or transit authorisation is defaced, lost or stolen, the holder of the authorisation must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the manner determined by rule for a copy of the authorisation.



## 106. Council to keep register of authorisations issued

- (1) The Council shall keep a register in which shall be entered—
  - (a) the registered name of such person, juristic entity or intermediary to whom an authorisation has been issued;
  - (b) the name under which such person, juristic entity or intermediary is registered by the Council;
  - (c) the address or place at which such person, juristic entity or intermediary conducts its business;
  - (d) the name and address of the owner or owners of such person, juristic entity or intermediary; and
  - (e) such other particulars relating to such person, juristic entity or intermediary as the Council may determine from time to time.
- (2) Subject to the Protection of Personal Information Act, 2013 (Act 4 of 2013) the register kept by Council in terms of subsection (1) must be open for inspection by the public at the head office of the Council during business hours or by way of electronic access on the website of the Council.
- (3) The register referred to in subsection (1) serves as evidence of all matters which, in terms of this Act, are required or permitted to be noted therein.
- (4) A certificate purporting to be signed by the Registrar to the effect that an entry has or has not been made in the register or that any other function authorised by this Act to be performed, has or has not been performed, is evidence of the matters specified in that certificate.
- (5) A copy of an entry in the register or of a document in the custody of the Registrar or an extract from the register or from any such document, purporting to be certified by the Registrar, may be admitted in evidence in all courts without further proof or production of the original.

## CHAPTER 8

### Part 2

#### Prohibition on manufacture, trade or distribution by dental traders and registration of dental traders

## 107. Prohibition on manufacture, trade or distribution of certain goods and equipment by dental traders

- (1) No person, juristic entity or intermediary may manufacture, trade, offer, advertise, distribute, keep, display, transmit, consign, convey or deliver for sale, or exchange, or dispose of to

any person in any manner, whether for a consideration or otherwise, in the Republic of—

(a) any goods;

(b) computer equipment used in computer-aided design, computer aided manufacturing or rapid proto printing or similar technology which is used in respect of the manufacturing of dental or oral prosthesis or any custom made dental or oral prosthesis used in the practice of dental technology by a dental technologist, clinical dental technologist or dentist; or

(c) any other equipment used in the practice of dental technology as determined by rule by the Council, unless such person, juristic person or intermediary, as the case may be, is registered as a dental trader in terms of this Act.

(2) Any person, juristic entity or intermediary who contravenes a condition of this section is guilty of an offence.

#### **108. Application and register of dental traders**

(1) An application for the registration as a dental trader must be made to the Registrar—

(a) in the form and format and against payment of the fee as may be prescribed by rule;

(b) contain the information as may be required by rule;

(c) be signed by the applicant; and

(d) be accompanied or supported by such other documents or information as may be determined by rule.

(2) The Council shall keep a register in which shall be entered:

(a) the registered name of such dental trader;

(b) the name under which such dental trader is registered by the Council;

(c) the address or place at which such dental trader conducts its business as dental trader;

(d) the name and address of the owner or owners of such dental trader;

(e) the name and address of the recipient to which such dental trader has supplied such goods, computer equipment or any other equipment as contemplated under subparagraph (a), (b) or (c) of subsection (1) of section 107; and

(f) such other particulars relating to such dental trader as the Council may determine by rule from time to time.

(3) Subject to the Protection of Personal Information Act, 2013 (Act 4 of 2013) the register kept by the Council in terms of subsection (2) must be open for inspection by the public at the head office of the Council during business hours.

(4) The register referred to in subsection (2) serves as evidence of all matters which, in terms of this Act, are required or permitted to be noted therein.

(5) A certificate purporting to be signed by the Registrar to the effect that an entry has or has not been made in the register or that any other function authorised by this Act to be performed, has or has not been performed, is evidence of the matters specified in that certificate.

(6) A copy of an entry in the register or of a document in the custody of the Registrar or an extract from the register or from any such document, purporting to be certified by the Registrar, may be admitted in evidence in all courts without further proof or production of the original.

#### 109. Cancellation of registration of dental traders by Council

(1) The Registrar may cancel the registration of a dental trader—

(a) if such dental trader has failed to comply with the provisions of this Act;

(b) if such dental trader fails, without good reason and in the absence of an arrangement for deferred payment, to pay any amount owing to the Council on the due date or any extended date;

(c) was erroneously registered; or

(d) was registered on the basis of incorrect information.

(2) The Registrar must notify such dental trader in writing of its intention to cancel such dental traders' registration and request that such dental trader to submit written representations, within a specified reasonable time, indicating the reasons why the registration should not be cancelled.

(3) If the Registrar is satisfied that no reasonable grounds exist for such dental traders' registration to continue, the registration must be cancelled and the dental trader concerned must be notified accordingly.

(4) The Registrar must, at the written request of any registered dental trader, remove such dental traders' name from the register.

(5) A dental trader who was previously registered in terms of section 108 may apply for re-registration, if all the requirements of this Chapter applicable to the registration of dental traders have been complied with.

(6) Any cancellation of registration of a dental trader as contemplated in subsection (1) must be done in accordance with due process of law.

**110. Return of registration certificate**

(1) Any person whose registration as dental trader has been cancelled must return his or her certificate of registration to the Registrar within 30 days from the date upon which he or she is directed by the Registrar in writing to do so.

(2) If the person cannot return the certificate as required, he or she must, by way of an affidavit, provide satisfactory reasons for the inability to return the certificate.

**111. Issue of duplicate registration certificate**

The Registrar may, on application by a dental trader, issue a duplicate certificate of registration if the applicant—

(a) provides proof of his or her identity to the satisfaction of the Registrar;

(b) provides an affidavit in which he or she or it confirms that the certificate of registration has been lost, defaced or destroyed; and

(c) pays the prescribed fee.

**112. Annual fees payable by registered dental traders**

(1) The fees for the annual registration as a dental trader shall be prescribed.

(2) If any person liable to pay any annual fee fixed in terms of subsection (1), fails to pay such fee within the period specified in the notice in question, the Council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of the provisions of subsection (4) of section 109, such person's name shall not be restored to the register unless he or she has paid any annual fees which may be payable by him or her.

**CHAPTER 9**

**Monitoring of regulatory compliance by Council, compliance notices and enforcement of regulatory compliance by Council**

**113. Appointment of inspectors**

(1) The Registrar must appoint one or more persons as inspectors in order to monitor and enforce regulatory compliance with this Act.

(2) The Registrar must sign and issue to each inspector appointed by the Minister, a document which must state the full name and contain a photograph of such inspector and contain a statement indicating that—

(a) such inspector has been appointed in terms of subsection (1); and

(b) such inspector is empowered to exercise the powers entrusted to him or her in terms of this Act.

(3) The Registrar may limit the powers of inspectors when appointing such inspector in terms of paragraph (a) of subsection (1).

(4) The qualifications and requirements for persons appointed in terms of subsection (1) must be as prescribed.

#### **114. Monitoring of regulatory compliance**

(1) In order to monitor compliance with this Act and, subject to the conditions of his or her appointment, an inspector may at any reasonable time during office hours and on reasonable notice –

(a) enter into any laboratory, place or premises where a person or juristic person registered in terms of this Act conducts his or her or its profession or business;

(b) inspect such laboratory, place or premises;

(c) examine any object, make copies of extracts from any book or document found at such laboratory or on such place or premises that the inspector believes on reasonable grounds contains any information relevant to the administration of, and in compliance with this Act;

(d) require any person to furnish the inspector with such information or documents, returns or other particulars as may be necessary for the proper administration of this Act;

(e) while on the premises, or at any time thereafter, question any person who is or was on the premises, either alone or in the presence of any other person on any matter to which this Act relates;

(f) order any person who has control over or custody of any book, document or thing on or in those premises to produce to him forthwith, or at such time and place as may be determined by him, such book, document or thing; or

(g) at any time and place order any person who has the possession or custody of or is in the control of a book, document or thing relating to the business of an employer, to produce forthwith or at such time and place as may be determined by him, such book, document or thing.

(2) A person executing the inspection as contemplated in subsection (1) must show his or her authorisation to any person requesting it and may be accompanied by any other person reasonably required to assist him or her in conducting the inspection.

(3) No information obtained during the inspection contemplated in subsection (1) which is of a confidential, personal, commercially sensitive or proprietary nature may be made public or otherwise disclosed to any person without the permission of the person to whom that information relates or used for purposes of prosecution of such person.

### 115. Compliance notices

(1) Any person conducting an inspection as contemplated in section 114, may issue a compliance notice in the prescribed manner to the person in charge of the premises or to the person determined to be responsible to take appropriate corrective action in order to remove or rectify such condition if any provision of this Act has not been complied with.

(2) A compliance notice remains in force until the relevant provision of the Act has been complied with and the person conducting an inspection as contemplated in subsection 114, has issued a compliance certificate as prescribed in respect of that notice.

(3) A compliance notice issued in terms of subsection (1) must set out—

- (a) details of the conduct constituting non-compliance;
- (b) any steps the person must take and the period within which those steps must be taken;
- (c) anything which the person may not do, and the period during which the person may not do; and
- (d) the procedure to be followed in lodging an appeal against the compliance notice with the Registrar.

(4) Any person issuing a compliance notice may, on good cause shown, vary or cancel a compliance notice or extend the period within which the person must comply with the notice.

(5) If a person fails to comply with a compliance notice issued in terms of subsection (1) such person is guilty of an offence.

(6) A compliance notice issued under subsection (1) is subject to appeal to an appeal committee as contemplated in section 127.

(7) The provisions of section 127 to 132 shall *mutatis mutandis* apply to an appeal lodged under this section.

(8) An appeal lodged against the issuance of a compliance notice in terms of subsection (1) does not suspend the operation of such compliance notice pending the outcome of the appeal.

#### **116. Enforcement of regulatory compliance**

(1) Any inspector furnished with inspection authority in terms of this Act may conduct an investigation to determine whether the provisions of the Act are being or have been complied with and may, for that purpose, without giving prior notice, at all reasonable times —

(a) enter any place except a private residence in respect of which he has reason to believe that —

(i) any person there is performing an act in contravention of this Act or is connected with an act performed by a member of the dental technology profession;

(ii) there are books, records or documents to which the provisions of this Act are applicable;

(b) order any practitioner or the manager, employee or agent of any such practitioner —

(i) to produce to him the such person or laboratories' registration certificate issued under the provisions of this Act;

(ii) to produce to him any book, record or other document in the possession or under the control of such person, manager, employee or agent;

(iii) to furnish him, at such place and in such manner as he may reasonably specify, with such information in respect of that registration certificate, book, record or other document as he may desire;

(c) examine or make extracts from or copies of any such registration certificate, book, record or other document;

(d) seize and retain any such registration certificate, book, record or other document to which any prosecution or charge of conduct deserving sanction under this Act may relate: Provided that the person from whose possession or custody any registration certificate, book, record or other document was taken, shall at his request be allowed to make, at his own expense and under the supervision of the inspector concerned, copies thereof or extracts therefrom.

(2)(a) Where the inspector be suspects that a criminal offence has been or is being committed by the person who is the subject of the search, or where it seeks to search premises that are a private residence, an inspector in terms of subsection (1) may



conduct a search only on the authority of a warrant issued by a magistrate or judge.

(b) A magistrate or judge may issue a warrant only on written application by an inspector setting out under oath or affirmation the grounds why it is necessary for an inspector to gain access to the relevant premises or to conduct the search in question.

(c) The magistrate or judge may issue the warrant if it appears from information on oath or affirmation that —

(i) there are reasonable grounds for suspecting that a contravention of the Act has occurred or is occurring;

(ii) a search of the premises is likely to yield information pertaining to the contravention; and

(iii) the search is reasonably necessary for the purposes of the Act.

(3) The warrant contemplated in paragraph (a) of subsection (2) must specify the parameters within which the person executing such warrant may perform an entry, search or seizure.

(4) A warrant may be issued on any day and shall be in force until—

(a) it has been executed;

(b) it is cancelled by the person who issued it, or, if such person is not available, by any person with similar authority; or

(c) the expiry of one month from the date of its issue.

(5) Any person who acts on the authority of a warrant may use such force as may be reasonably necessary to overcome any resistance against the entry and search, including the breaking of any door or window, but such person must first audibly demand admission and state the purpose for which he or she seeks entry.

(6) Any person executing a warrant in terms of this section must immediately before commencing with the execution—

(a) identify himself or herself to the owner or person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy in a prominent place on the premises;

(b) supply such person at his or her request with particulars regarding his or her authority to execute such warrant; and

(c) must conduct the entry and inspection with strict regard for decency and order, and with regard to each person's right to dignity, freedom and privacy.

(7) Any person executing a warrant in terms of this section who removes anything from premises being searched must—

(a) issue a receipt for it to the owner or person in control of the premises; and

(b) return it as soon as practicable after it has served the purpose for which it was removed.

(8) Any person executing a warrant in terms of this section may be accompanied and assisted by a police officer and interpreter.

(9) No person is entitled to compensation for any loss or damage arising out of any *bona fide* action by an inspector or police official referred to in subsection (8) of this section.

(10) During any search under this section, only a female investigation officer or police officer may search a female person, and only a male investigation officer or police officer may search a male person.

## CHAPTER 10

### Part 1

Code of conduct, investigation of charge of misconduct, procedure for dealing with complaints of misconduct, procedure to be followed in disciplinary hearing, proceedings after disciplinary hearing and sanctions, appeal against conduct or finding of disciplinary committee, cognizance by disciplinary committee of conduct of registered persons under certain circumstances, penalty for false evidence at inquiry and administrative work of disciplinary committee

#### 117. Code of conduct and code of ethics

(1) The Council must develop a code of conduct including a code of ethics that applies to all members of the dental technology profession and may review and amend such code of conduct and code of ethics from time to time.

(2) The code of conduct and code of ethics serves as the prevailing standard of conduct, which members of the dental technology profession must adhere to, and failure to do so will constitute misconduct.

(3) The Council must take all reasonable steps to—

(a) publicise the existence of the code of conduct and code of ethics;

(b) inform members of the public of the contents of the code of conduct and code of ethics, including its enforcement procedures; and

(c) inform members of the public of how and where to obtain a copy thereof.

(4) The code of conduct and code of ethics and every subsequent amendment must be published in the *Gazette*.

(5) Before the Council publishes a conduct and code and code of ethics or any amendment thereof under this section, the Council

must publish a draft of the proposed code of conduct and code of ethics in the *Gazette* together with a notice, calling on interested persons to comment in writing within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

## 118. Investigation of charge of misconduct

(1) (a) The Council must, when necessary, establish one or more investigating committees, consisting of a person or persons appointed by the Council to conduct investigations of all complaints of misconduct against a practitioner.

(b) The provisions of subsection (4) is applicable to the appointment of a person or persons as contemplated in subsection (1).

(2) (a) An investigating committee may, for the purposes of conducting an investigation contemplated in subsection (1), direct any practitioner or an employee of that practitioner to produce for inspection any book, document or article which is in the possession, custody or under the control of that practitioner or employee which relates to the complaint in question: Provided that the investigating committee may make copies of such book, document or article and remove the copies from the premises of that practitioner.

(b) The practitioner referred to in paragraph (a) or employee in question may not, subject to the provisions of any other law, refuse to produce the book, document or article, even though he or she is of the opinion that it contains confidential information belonging to or concerning his or her client.

(c) Any person who performs any function under this subsection, may not disclose any information which he or she obtained in the performance of such a function, except—

(i) for the purposes of the investigation or a hearing by a disciplinary committee;

(ii) to any person authorised thereto by the Council, who of necessity, requires it for the performance of his or her functions under this Act;

(iii) if he or she is a person who, of necessity, supplies it in the performance of his or her functions under this Act; or

(iv) when required to do so by order of a court of law.

(3) An investigating committee must, after investigating a complaint, if it is satisfied that—

(a) the practitioner concerned may, on the basis of available *prima facie* evidence, be guilty of misconduct that, in terms of the

code of conduct and code of ethics, warrants misconduct proceedings, refer the matter to the Council for adjudication by a disciplinary committee; or

(b) the complaint should be dismissed on the grounds that the conduct in question does not warrant misconduct proceedings, as set out in the code of conduct and code of ethics, it must dismiss the complaint, inform the Council, the complainant and the practitioner of its finding and the reasons for it, whereafter the complainant may appeal in terms of paragraph (b) of subsection (1) of section 122, if the complainant is aggrieved by-

(i) the manner in which the investigating committee conducted its investigation; or

(ii) the outcome of the investigation of the investigating committee.

(4) The Council must, when necessary, establish one or more disciplinary committees, consisting of one legally qualified person with not less than seven years' experience as an attorney or advocate as presiding officer who must adjudicate complaints against a practitioner or practitioners referred to it in terms of paragraph (a) of subsection (3).

(5) The person or persons contemplated in subsection (4) may be appointed only after-

(a) the Counsel has by notice in the media invited interested parties who are eligible for appointment to apply; and

(b) the Council is satisfied that the applicants contemplated in paragraph (a) have suitable experience or possess the qualifications as referred to in subsection (4).

(6) When establishing disciplinary committees the following factors must, as far as is practicable, be taken into account-

(a) the racial and gender composition of South Africa;

(b) the ease of access by persons necessary for the finalisation of the matters in question;

(c) the need to promote the efficient resolution of complaints made in terms of this Act;

(d) national and provincial demographics; and

(e) the need to provide a cost-effective disciplinary system.

## **119. Procedure for dealing with complaints of misconduct**

(1) The Council must make rules to determine the procedure to be followed by investigation committees established under section 118 for dealing with all complaints of misconduct relating to practitioners.

(2) Particulars of all disciplinary hearings, including the particulars of—

- (a) the allegations of misconduct being dealt with;
- (b) the members of the disciplinary committees in question;
- (c) the practitioners involved in the dispute; and
- (d) the outcome thereof and any sanction imposed in terms of section 121, if applicable, must, subject to paragraph (a) of subsection (4) of section 120, be—
  - (i) published on the website of the Council;
  - (ii) updated, at least, once every month by the Council; and
  - (iii) available for inspection by members of the public during business hours of the Council.

## **120. Procedure to be followed in disciplinary hearing**

(1) A disciplinary committee must conduct disciplinary hearings subject to the provisions of this section.

(2) (a) A disciplinary committee may, for the purposes of this section, with prior approval of the Council, appoint a person to assist as assessor in the performance of its functions.

(b) The person appointed by the disciplinary committee under paragraph (a) of subsection (2) shall act assessor in respect of any matter relating to the practice of the profession of dental technology and such assessor shall not have a voice in any decision of the disciplinary committee.

(c) The person appointed by the disciplinary committee under paragraph (a) of subsection (2) shall be appointed from a list, compiled yearly by the Council consisting of members of the dental technology profession who have consented to such appointment and on such terms as the Council may determine by rule.

(3) (a) A disciplinary committee may, for the purposes of a hearing, subpoena any person who—

(i) in its opinion may be able to give material information concerning the subject of the hearing; or

(ii) it suspects or believes has in his or her possession or custody or under his or her control any book, document or object which has any bearing on the subject of the hearing, to appear before it at the time and place specified in the subpoena, to be questioned or to produce a book, document or object.

(b) A subpoena issued in terms of paragraph (a), must be—

(i) in the form determined in the rules;

(ii) signed by the chairperson of a disciplinary committee or, in his or her absence, any member of that committee; and

(iii) served on the person concerned as determined in the rules.

(4) (a) The proceedings of all disciplinary hearings are open to the public, unless the presiding officer of a disciplinary committee directs otherwise, on good cause shown, on application by a person having an interest in the matter, whereafter the provisions of section 154 (1) to (5) of the Criminal Procedure Act, 1977 (Act 51 of 1977), apply with the necessary changes required by the context.

(b) The complainant in the matter is entitled to be present during all proceedings in a disciplinary hearing relating to his or her complaint in the same manner as a complainant in criminal proceedings.

(5) A disciplinary committee may retain a book, document or object produced in terms of subsection (3) for the duration of the hearing.

(6) The presiding officer of a disciplinary committee may call upon and administer an oath to, or take an affirmation from, any witness at the hearing who was subpoenaed in terms of subsection (3).

(7) At a hearing the person charged—

- (a) (i) may be present at the hearing of the proceedings;
- (ii) may be assisted or represented by another person or a legal practitioner in conducting his or her defence proceedings;
- (iii) has the right to be heard;
- (iv) may call witnesses;
- (v) may cross-examine any person called as a witness in support of the charge; and
- (vi) may have access to any book, document or object produced in evidence; and

(b) (i) may admit at any time before conviction that he or she is guilty of the charge; and

(ii) may, in the case where he or she makes an admission in terms of subparagraph (i), be deemed to be guilty of misconduct as charged.

(8) (a) A witness who has been subpoenaed may not—

- (i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;
- (ii) refuse to be sworn in or to be affirmed as a witness;

(iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge all questions lawfully put to him or her; or

(iv) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

(b) A witness who has been subpoenaed must remain in attendance until excused by the chairman of the disciplinary committee from further attendance.

(c) A witness who has been subpoenaed may request that the names of the members of the disciplinary committee be made available to him or her.

(d) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law applies, with the necessary changes, in relation to the examination of, or the production of any book, document or object, to any person called in terms of this section as a witness.

(e) A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.

(f) A person may not prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is in terms of this section required to give or produce.

(9) If the misconduct with which the practitioner is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of the trial and conviction by that court is, on the identification of the practitioner as the accused person referred to in the record, sufficient proof of the commission by him or her of that offence, unless the conviction has been set aside by a competent court.

## 121. Proceedings after disciplinary hearing and sanctions

(1) (a) After the conclusion of a hearing a disciplinary committee must, within 30 days, decide whether or not the practitioner is guilty of misconduct.

(b) If a disciplinary committee finds that the practitioner is guilty of misconduct it must—

(i) inform the practitioner or his representative of the finding; and

(ii) inform the the practitioner or his representative of the right of appeal as provided for in terms of section 122.



(2) A practitioner found guilty of misconduct in terms of this section may–

(a) address a disciplinary committee in mitigation of sentence; and

(b) call witnesses to give evidence on his or her behalf in mitigation of sentence.

(3) If found guilty of misconduct, the disciplinary committee concerned may call witnesses to give evidence in aggravation of sentence and may–

(a) in the case of a practitioner–

(i) order him or her to pay compensation, with or without interest to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in the prescribed manner, on application by the Council;

(ii) impose upon him or her a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;

(iii) temporarily suspend him or her from practising or from engaging in any particular aspect of the practice of the dental technology profession, pending the finalisation of an application referred to in subparagraph (iv) (bb);

(iv) advise the Council to apply to the High Court for–

(aa) an order cancelling the registration of his or her name from the register;

(bb) an order suspending him or her from practice; or

(cc) any other appropriate relief;

(v) warn him or her against certain conduct and order that such warning be endorsed against his or her registration; or

(vi) caution or reprimand him or her;

(b) in the case of a dental laboratory –

(i) order it to pay compensation, with or without interest, to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in the prescribed manner on application by the Council;

(ii) impose upon it a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;

(iii) warn it against certain conduct;

(iv) advise the Council to apply to the High Court for the winding up of the dental laboratory; or

(v) caution or reprimand it; or

(4) (a) A disciplinary committee may–

(i) impose any combination of the sanctions in either subsection (3) (a) or (b); and

(ii) postpone the taking of any steps or suspend the imposition of any sanction on conditions as it may determine.

(b) In addition to the sanctions referred to in subsection (3), a disciplinary committee may order the practitioner or dental laboratory, as the case may, be to pay the cost occasioned by the investigation and the disciplinary hearing.

(5) (a) If the taking of any steps or the imposition of any sanction has been postponed or suspended for a particular period, and if at the end of that period the disciplinary committee is satisfied that the practitioner or dental laboratory concerned has substantially observed all the relevant conditions, the disciplinary committee must indicate in writing that no further steps will be taken or that the sanction will not be imposed.

(b) If a practitioner or dental laboratory fails to comply with any conditions determined in terms of this section, the disciplinary committee may impose a sanction for non-compliance or execute the sanction originally imposed, unless the practitioner or dental laboratory satisfies the disciplinary committee that the non-compliance was due to circumstances beyond his or her or its control, in which case the disciplinary committee may set further conditions as it deems fit.

(6) Any court with civil jurisdiction may, on the application of Council, grant an order for the recovery from the practitioner or dental laboratory concerned of any amount such practitioner or dental laboratory failed to pay in accordance with a sanction imposed in terms of this section, together with any interest thereon, after which the order so granted has the effect of a civil judgment of that court and must be executed in accordance with the law applicable in that court.

(7) (a) At the conclusion of a disciplinary hearing a disciplinary committee must notify the complainant, the Council in writing of the outcome of the hearing.

(b) If a disciplinary committee finds that the practitioner is not guilty of misconduct it must inform the complainant of the right of appeal as provided for in terms of section 122.

(8) The Council must give effect to the advice and decision of a disciplinary committee.

## **122. Appeal against conduct or finding of disciplinary committee**

(1) (a) A practitioner may within 30 days of being informed of the decision by a disciplinary committee, lodge an appeal with an

appeal committee established in terms of section 127 against a finding of misconduct by the disciplinary committee or against the sanction imposed, or both.

(b) A complainant who is aggrieved by—

(i) the manner in which an investigating committee conducted its investigation or the outcome of the investigating committee as referred to in section 118(3)(b)(i) and (i); or

(ii) the outcome of a disciplinary hearing referred to in section 120, may, as determined in the rules and within 30 days of being informed of the decision by the investigating committee or the disciplinary committee, as the case may be, lodge an appeal with an appeal committee established in terms of section 127 against any conduct or finding of the investigating committee or disciplinary committee, as the case may be.

(2) If a practitioner who has been found guilty of misconduct lodges an appeal in terms of subsection (1), the decision of the disciplinary committee may not be enforced before the appeal committee has decided the appeal.

(3) The provisions of subsection (2) of section 119 are applicable with the changes required by the context in respect of appeal committees.

(4) Any person who submits an appeal provided for in this Chapter must submit such appeal in accordance with the requirements determined by rule and payment of the fees determined by rule.

### **123. Cognizance by disciplinary committee of conduct of registered persons under certain circumstances**

(1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the disciplinary committee in terms of the provisions of this Chapter if the disciplinary committee is of the opinion that such offence constitutes misconduct, and shall be liable on proof of the conviction to one or other of the penalties referred to in section 144: Provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the disciplinary committee in extenuation of the conduct in question.

(2) Whenever in the course of any proceedings before any court of law it appears to the court that there is prima facie proof of unprofessional conduct on the part of a registered person, or of conduct which, when regard is had to such person's profession, is unprofessional, the court shall direct that a copy of the record

of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the Council.

**124. Penalty for false evidence at inquiry**

Any person who gives false evidence on oath at any inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

**125. Administrative work of disciplinary committee**

The administrative work of the disciplinary committee must be performed by employees of the Council.

**CHAPTER 10**

**Part 2**

**Review of decisions of Council and Registrar, composition of appeal committee, quorum and meeting of appeal committee, decisions of appeal committee and appeal against decision of appeal committee, general provisions regarding appeal committee, appeal against decision of appeal committee, limitation of liability and administrative work of appeal committee**

**126. Review of decisions of Council or Registrar**

(1) The Registrar or Council, as the case may be, must within 14 days after receipt of a written request for the review of a decision of the Registrar or Council, as the case may be, furnish such person with written reasons for such decision taken by the Registrar or Council.

(2) After receipt of the written reasons as contemplated in subsection (1) any person aggrieved by a decision of the Council or the Registrar, as the case may be, apply in writing for a review of that decision by the Council within 30 days of the date of furnishing such person with the reasons for the decision of the Council.

(3) In considering the request for the review of the decision of the Registrar or Council the Registrar or Council, as the case may be, may afford the aggrieved person the opportunity to appear in person and afford such person a reasonable opportunity to make further representations.

(4) Any person aggrieved by a decision of the Registrar or the Council not to review the decision as contemplated in subsection

(1) may within the period and in the manner as determined by rule appeal against such decision to an appeal committee contemplated in section 127.

## 127. Composition of appeal committee

(1) The Council must establish one or more appeal committees to consider and decide appeals.

(2) (a) An appeal committee must consist of two legal practitioners with not less than ten years' experience as an attorney or advocate appointed by the Council, one of whom the Council must designate as chairperson thereof.

(b) A decision of the majority of the members present at any proceedings of an appeal committee constitutes the decision of the appeal committee.

(c) In the event of a deadlock in the voting, the chairperson of the appeal committee has a casting vote, in addition to a deliberative vote.

(3) The members contemplated in paragraph (a) of subsection (2) may be appointed only after—

(a) the Counsel has by notice in the media invited interested parties who are eligible for appointment to apply; and

(b) the Council is satisfied that the applicants contemplated in paragraph (a) have suitable experience or possess the qualifications as referred to in subsection (2).

(4) An appellant, a person employed by the appellant, the Registrar, an employee of the Council, a member of the disciplinary committee or a civil servant may not be appointed as a member of an appeal committee.

(5) A person appointed under subsection (2) may be disqualified as a member of an appeal committee if he or she has any direct or indirect personal interest in the outcome of that appeal.

(6) The Council may, if the performance of an appeal committee is unsatisfactory, terminate the period of office of all the members of that appeal committee.

(7) In the event of the termination of office of all the members of an appeal committee the Council must forthwith appoint competent persons in terms of subsection (2).

(8) The Council must, subject to subsection (2), appoint a temporary replacement member for an appeal committee if, before or during an appeal, it transpires that any member of the appeal committee—

(a) has any direct or indirect personal interest in the outcome of that appeal; or

(b) will, due to illness, absence from the Republic or for any other good reason be unable to participate or continue to participate in that appeal.

(9) The Council is responsible for the remuneration and allowances of members of an appeal committee.

#### **128. Quorum and meetings of appeal committee**

(1) All the members of an appeal committee constitute a quorum for any meeting of the appeal committee.

(2) An appeal must take place on the date and at the place and time fixed by the appeal committee.

(3) The procedure at the appeal is determined by the chairperson of the appeal committee.

(4) The chairperson may for the purposes of the hearing of an appeal—

(a) summon any person who may give material information concerning the subject of the hearing or who has in his or her possession or custody or under his or her control any document which has any bearing upon the subject of the hearing, to appear before him or her at a time and place specified in the summons, to be interrogated or to produce that document, and the chairperson may retain for examination any document so produced;

(b) administer an oath to or accept an affirmation from any person called as a witness at the hearing; and

(c) call any person present at the hearing as a witness and interrogate him or her and require him or her to produce any document in his or her possession or custody or under his or her control.

#### **129. Conditions of service, remuneration, allowances of members of disciplinary committee and appeal committee and resignation of members of disciplinary committee and appeal committee**

(1) The conditions of office, remuneration and allowances of members of disciplinary committees or members of appeal committees must be determined by rule.

(2) A member of a disciplinary committee or an appeal committee may resign by notice in writing to the Council.

### 130. Decisions of appeal committee

An appeal committee may—

- (a) dismiss the appeal against the finding of a disciplinary committee and confirm the finding or sanction or both; or
- (b) uphold the appeal against the decision of a disciplinary committee wholly or in part and set aside or vary the finding or sanction or both.

### 131. General provisions regarding appeal committee

(1) Appeal committees may admit evidence of facts not before the Council or Registrar when such decision was made and which is the subject of the appeal only if—

(a) there is a reasonable explanation for the failure to timeously inform the Council or Registrar of the facts; and

(b) the Council or Registrar has had sufficient opportunity to verify the facts and to present any evidence to the appeal committee in this regard.

(2) A decision of an appeal committee contemplated in section 127 must be made in writing within 21 days of the hearing of the appeal and a copy must be furnished to the Council and the appellant.

(3) Any decision signed by the chairperson of an appeal committee is a decision of that appeal committee.

(4) The chairperson of an appeal committee must maintain a record of the proceedings.

(5) No person is excused from complying with this Act on the ground that an appeal is pending in terms of this section.

(6) An appeal lodged in terms of this section does not suspend any decision of the Council or Registrar pending the outcome of this appeal.

(7) If, during the hearing of an appeal, the chairperson or a member of an appeal committee dies or becomes unable to act as chairperson or member—

(a) the hearing may, with the consent of the appellant, proceed before another chairperson and members; or

(b) the hearing shall start from the beginning if such consent is not given.

(8) The appellant is entitled to be represented at an appeal before an appeal committee by an advocate or an attorney.



**132. Appeal against decision of appeal committee**

(1) Any person affected by a decision of an appeal committee may appeal to any provincial or local division of the High Court having jurisdiction.

(2) An appeal contemplated in subsection (1) must be noted and prosecuted as if it were an appeal against a judgment of a magistrate's court in a civil case and all court rules applicable to such an appeal apply to an appeal lodged in terms of subsection (1).

**133. Limitation of liability of members of disciplinary committee and appeal committee**

Save as is provided in this Act, the disciplinary committee or appeal committee or any member thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

**134. Administrative work of appeal committee**

The administrative work of an appeal committee must be performed by employees of the Council.

**CHAPTER 11**

**Extra-territorial jurisdiction, presumptions, forfeiture, liability of registered person or entity, advertising by registered persons, dental laboratories and denture clinics, cognisance by Council of conduct under certain circumstances**

**135. Extra-territorial jurisdiction**

(1) If a member of the dental technology profession commits an offence under this Act and such offence occurred outside the Republic, a court of the Republic, whether or not the act constitutes an offence at the place of its commission, has, subject to subsections (4) and (5), jurisdiction in respect of that offence if the person to be charged—

(a) is a citizen of the Republic;

(b) is ordinarily resident in the Republic;

(c) was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic at the time the offence was committed;

(d) is a company, incorporated or registered as such under any law, in the Republic; or

(e) any body of persons, corporate or unincorporated, in the Republic.

(2) Any offence committed in a country outside the Republic as contemplated in subsection (1), is, for purposes of determining the jurisdiction of a court to try the offence, deemed to have been committed—

(a) at the place where the complainant is ordinarily resident; or

(b) at the accused person's principal place of business.

(3) No prosecution may be instituted against a person in terms of this section with respect to conduct which formed the basis of an offence under this Act in respect of which such person has already been convicted or acquitted by a court of another jurisdiction.

(4) The institution of a prosecution in terms of this section must be authorised in writing by the National Director of Public Prosecutions.

### 136. Presumptions

(1) In any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered or who is not in possession of any document specified in the charge, the accused shall be deemed not to have been registered or not to have been in possession of such document at the time of the commission of the alleged offence unless the accused proves the contrary.

(2) In any criminal proceedings against any person appearing upon a charge of having performed an act which constitutes an offence under this Act, if performed by him or her for gain, such person shall be deemed to have performed such act for gain if he or she has accepted any valuable consideration in respect of such act.

### 137. Forfeiture

(1) The court convicting any person of a contravention of section 98 or 107 or of a failure to comply with the conditions of an authorisation issued under section 99, may declare—

(a) any dental and oral prostheses;

(b) any custom-made components used in the practice of dental technology, dental laboratory or denture clinic;

(c) any goods;

(d) computer equipment used in computer-aided design, computer aided manufacturing or rapid proto printing or similar technology which is used in respect of the creation of dental or oral prosthesis or any custom made dental or oral prosthesis used in the practice of dental technology; or

(e) any other equipment as determined by rule from time to time and used in the practice of dental technology, dental laboratory or denture clinic as contemplated in section 98 and 107 in connection with which the contravention has taken place to be forfeited to the Council.

(2) Artificial teeth and any controlled goods as contemplated in section 98 and 107 must be forfeited to the State and destroyed.

### 138. Liability of registered person

(1) A person registered in terms of this Act who, in the public interest informs the Council or other appropriate authority of an act or omission performed by any other registered person or juristic person, which act or omission endangers or is likely to endanger the safety or health of the public or fellow employees, is not liable in respect of the disclosure of such information.

(2) Any person who was registered in terms of this Act and whose registration was cancelled is liable for any action taken by him or her while he or she was registered.

### 139. Advertising by registered persons, dental laboratories or denture clinics

(1) In this section—

“*advertise*” means to advertise a dental technology practice, dental laboratory, denture clinic or to advertise a person as being a particular member of the dental technology profession, by—

- (a) distributing a newsletter or circular; or
- (b) placing an advertisement in a newspaper, magazine or journal, website or by way of electronic mail; or
- (c) placing an entry in a directory; or
- (d) displaying a sign; or
- (e) using printed stationery; or
- (f) doing any other thing.

(2) The following are permissible advertising matters for a dental technology practice, dental laboratory or denture clinic—

- (a) the name of the practice;
- (b) the following particulars for each practitioner owner or owners, as the case may be, who works in the dental technology practice, dental laboratory or denture clinic—
  - (i) name;
  - (ii) qualifications;
  - (iii) the name of any approved accredited association of which such practitioner, dental laboratory or denture clinic is a member;
- (c) the business address of the practice;
- (d) the places where the practice is carried on;
- (e) the telephone numbers of the practice (including any after hours number);
- (f) the type of practice, dental laboratory or denture clinic;
- (g) the days and hours that the dental technology practice, dental laboratory or denture clinic is attended;
- (h) an approved logo for the dental technology practice, dental laboratory or denture clinic;
- (i) a matter required to be included in an advertisement by another law to appear on the practice's, dental laboratories' or denture clinics' stationery;
- (j) for a practice in dental technology, dental laboratory or denture clinic work performed by the practice, dental laboratory or denture clinic and the materials used in performing the work or in providing the services.

(3) A practitioner, dental laboratory or denture clinic must not advertise in a way that—

- (a) is false, misleading or deceptive; or
- (b) is vulgar or sensational in a way that is likely to adversely affect the standing of the dental technology profession; or
- (c) implies superiority of the practice over other practices, dental laboratories or denture clinics; or
- (d) relates to anything other than the practice of dental technology profession or the business of a dental laboratory or denture clinic;
- (e) create any impression, unsupported by fact, of superior skills or qualifications.

(4) Every practitioner practicing the dental technology profession or operating a dental laboratory or denture clinic registered under this Act under a registered name or trade name

or a partnership or of a juristic person shall cause his or her name of practice or that of such dental laboratory or denture clinic to be conspicuously displayed and kept so displayed in a conspicuous place at the entrance of the place where the practice or dental laboratory or denture clinic is conducted.

#### 140. Cognisance by Council of conduct under certain circumstances

- (1) A registered person who—
  - (a) has been convicted of any offence by a court of law; and
  - (b) where the Council is of the opinion that such offence constitutes misconduct as contemplated in section 117, may be dealt with by the Council in terms of Chapter 10 of this Act.
- (2) Whenever in the course of any proceedings before any court of law it appears to the court that there is prima facie proof of unprofessional conduct on the part of a person registered in terms of this Act, the court must direct that a copy of the record of such proceedings or such portion thereof as is material to the issue to be transmitted to the Council.

### CHAPTER 12

#### Billing of patients and medical aid scheme, carrying on business of dental technology as juristic person and recognition and accreditation of certain persons, associations or organisations

#### 141. Billing of patients and medical aid scheme

- (1) Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him or her to do so, before rendering any professional services, inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he or she intends to charge for such services when so requested by the person concerned.
- (2) Any practitioner who in respect of any professional services rendered by him or her claims payment from any patient or medical aid scheme must furnish such patient or medical aid scheme of such patient with a detailed account within a reasonable period.
- (3) No practitioner shall, prior or after the rendition of the professional services as contemplated in paragraph (a), (b) and (c) of subsection (2) of section 66 of this Act, make or attempt to

make or to recover, or enter into any agreement or associate himself in any way with any other person for the purpose of making or fixing, excessive charges for any article or professional services supplied or to be supplied by him in his capacity as a practitioner.

(4) Any practitioner who contravenes any provision of subsection (3) shall be guilty of misconduct as contemplated in section 117 and the Council shall take cognizance of and deal with such conduct in terms of the provisions of Chapter 10.

#### **142. Carrying on business of dental technology as juristic person**

(1) Subject to subsection (2) the practice of dental technology may be carried on as a sole proprietorship, partnership, association, as an incorporated company or a close corporation.

(2) (a) All members of such partnership or association shall be registered in terms of this Act as dental technologists.

(b) The performance of any act specially pertaining to the scope of practice of a dental technologist, as the case may be, may be carried on in association: Provided that—

(i) written proof of the formation of the association, including the names of all associates, shall be submitted to the Council together with the application for registration of the dental laboratory;

(ii) the associates shall annually before 31 March submit an affidavit to the Council confirming the continued existence of the association and re-stating the names of all associates;

(iii) in the case of an association, incorporated company or close corporation only work for the patients of that association shall be done in that laboratory;

(iv) one or more or all the associates practise their profession and operate the laboratory on the same premises: Provided further that all members of such association shall be dental technologists.

(c) An incorporated company or close corporation may carry on any business involving the performance of any act specially pertaining to the dental technology profession as long as all the members, directors and shareholders of such juristic person are registered dental technologists.

(3) No member of the dental technology profession may practice in partnership, association or otherwise with a dentist or a student dental technician or student dental technologist or any person who is not registered in terms of this Act.

(4) The provisions of this section are not applicable to clinical dental technologists registered under Chapter 7.

**143. Recognition and accreditation of certain persons, associations or organisations**

(1) Any association, organisation, institute, institution or other body of registered persons which has as its main object the promotion and protection of the interests of its members as members of the dental technology profession may apply to the Council to be recognised as an accredited association.

(2) An application in terms of subsection (1) must be accompanied by the prescribed fee.

(3) The Council must, within 90 days from its first meeting, make rules in respect of the requirements and procedures for the recognition of such associations as contemplated in subsection (1).

(4) Any association, organisation, institute, institution or other body of registered persons seeking accreditation must apply in accordance with the procedures as determined by rule.

(5) The Council must—

(a) evaluate every application for accreditation in accordance with its procedures;

(b) issue a certificate of accreditation to applicants that meet required criteria specifying conditions applicable to such accreditation.

(6) The Council is the only institution which may accredit the association, organisation, institute, institution or other body of registered persons as contemplated in subsection (5).

(7) If the association, organisation, institute, institution or other body of registered persons comply with the requirements for accreditation the Council must issue such association, organisation, institute, institution or other body of registered persons with a certificate of accreditation.

(8) A certificate of accreditation is valid for a period of five years from the date of issue on condition that the association, organisation, institute, institution or other body of registered persons so accredited continues to comply with the relevant rules.

(9) An accredited association, organisation, institute, institution or other body of registered persons must, at least three months prior to the expiry of its certificate of accreditation, apply to the Council for the renewal thereof in the manner determined in the



rules and the application must be accompanied by the prescribed fee.

(10) An association, organisation, institute, institution or other body of registered persons whose certificate of accreditation has lapsed must, on the written request of the Registrar, return the certificate to the Council within 30 days from the date upon which it is directed by the Registrar to do so, unless it provides, by way of an affidavit, satisfactory reasons for not returning the certificate.

## CHAPTER 13

### Offences and penalties and administrative non-compliance penalty

#### 144. Offences and penalties

(1) Any person who—

(a) makes any unauthorized entry or addition or alteration in or removal from a register which is kept in terms of this Act, or an extract therefrom, or any certificate, receipt, authorisation, approval or other document issued under this Act;

(b) wilfully destroys or damages or renders illegible any entry in a register kept in terms of this Act or, without the permission of the holder thereof, a certificate, receipt, authorisation, approval or other document issued under this Act;

(c) forges or, knowing it to be forged, utters any document purporting to be a certificate, receipt, authorisation, approval or other document issued in terms of this Act;

(d) impersonates any person registered or deemed to be registered in terms of this Act;

(e) having appeared as a witness at an inquiry in terms of Chapter 10, refuses or fails without lawful cause to be sworn or to make an affirmation or to answer any question or to produce any book, document or record which he or she may lawfully be required to answer or to produce;

(f) having been duly summoned to appear at an inquiry in terms of Chapter 10, refuses or fails without lawful cause so to appear;

(h) obstructs or hinders a member of the Council or of the executive committee or of any other committee of the council or the Registrar, in the exercise of his or her or its powers or the performance of his or her or its functions under this Act;

(i) contravenes section 9, 41, 55(1), 56, 61(7)(a) or (b), 68(1),(3),(4),(5) or (7), 87(1), 88(1), 95(1), 96(1), 98(1) or (2) or fails to comply with the provisions of section 65(5), 74, 77, 80,

81, 97, 99, 107, 115(5), 116, 142 or 148 or fails to comply with any requirement under section 12(2), 28(10), 52, 62(1), 74, 75, 83, 86, 92(1), 95(6)(b), 100(1), 102(4), 105(1), 108(1), 110(1), 116, 141(1) or (2) or 142(2)(b)–  
shall be guilty of an offence and–

(i) on a first conviction of a contravention referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h) or (i) be liable to a fine or to imprisonment for a period not exceeding three years, or to both a fine and such imprisonment.

(ii) on a second or subsequent conviction of any contravention referred to in paragraph (i), whether the same or any other contravention referred to in that paragraph, be liable to a fine or to imprisonment for a period not exceeding fifteen years, or to both a fine and such imprisonment.

(2) Any fine paid or recovered in respect of an offence under this Act shall be paid over to the Council.

(3) A magistrate's court shall have jurisdiction to impose any penalty provided for by this section.

#### 145. **Penalty for false representation inducing registration and declaration in respect of election**

Any person who–

(a) procures for himself or herself or any other person registration under this Act, or any certificate, authorisation or receipt referred to in this Act, by means of a false representation, whether verbally or in writing; or

(b) makes a false declaration on any identification envelope issued in connection with an election contemplated in section 5 (1) (c), (d) or (e),  
shall be guilty of an offence and–

(i) on a first conviction of a contravention of this section be liable to a fine or to imprisonment for a period not exceeding three years, or to both a fine and such imprisonment.

(ii) on a second or subsequent conviction of any contravention referred to in paragraph (i) be liable to a fine or to imprisonment for a period not exceeding fifteen years, or to both a fine and such imprisonment.

#### 146. **Administrative non-compliance penalty**

(1) The purpose of this section is to ensure–

(a) the widest possible compliance with the provisions of this Act and the effective administration of this Act; and

(b) that an administrative non-compliance penalty is imposed consistently to the seriousness and duration of the non-compliance.

(2) In respect to the first or second incidence of any person, juristic person, dental trader failing to register in accordance with the provisions of this Act where so required the Council must impose the appropriate penalty in accordance with the amounts contained in Schedule 2.

(3) In respect to the first or second incidence of any person failing to apply for an authorisation for the importation or exportation of unmounted artificial teeth or any dental and oral prostheses, custom made components used in the practice of dental technology, dental laboratory or denture clinic in accordance with the provisions of this Act where so required the Council must impose the appropriate penalty in accordance with the amounts contained in Schedule 2.

(4) In respect to the first or second incidence of any person, juristic person, dental trader or authorisation holder failing to pay the annual fee for registration or the payment of any fee in respect of an import, export or transit authorisation in accordance with the provisions of this Act where so required the Council must impose the appropriate penalty in accordance with the amounts contained in Schedule 2.

(5) In respect to the imposition of any penalty under subsection (2), (3) or (4) the Registrar must cause to be delivered by hand or electronic mail to that person (hereinafter referred to as 'the infringer') an infringement notice which must contain the particulars contemplated in subsection (6).

(6) A notice referred to in subsection (5) must—

(a) specify the name and address of the infringer;

(b) specify the particulars of the alleged offence;

(c) specify the amount of the penalty payable;

(d) inform the infringer that, not later than 30 days after the date of delivery of the infringement notice as contemplated in subsection (5), the infringer may—

(i) pay the penalty;

(ii) make arrangements with the Registrar to pay the penalty in instalments; or

(iii) elect to be tried in court on a charge of having committed the alleged offence; and

(e) state that a failure to comply with the requirements of the notice within the time permitted, will result in the penalty becoming recoverable as contemplated in subsection (8).

(7) If an infringer elects to be tried in court on a charge of having committed the alleged contravention or failure, the Registrar must hand the matter over to the prosecuting authority and inform the infringer accordingly.

(8) If an infringer fails to comply with the requirements of a notice issued under this section, the Registrar may file with the clerk or Registrar of any competent court a statement certified by him or her as correct, setting forth the amount of the penalty payable by the infringer, and such statement thereupon has all the effects of a civil judgment lawfully given in that court in favour of the Council for a liquid debt in the amount specified in the statement.

(9) The Registrar may not impose a penalty contemplated in this section if the person concerned has been charged with a criminal offence in respect of the same set of facts or where such infringement amounts to a third or further incidence of non-compliance under subsection (2), (3) or (4) within a period of 36 months of the first incidence of non-compliance irrespective of the kind of non-compliance.

(10) No prosecution may be instituted against a person if the person concerned has paid a penalty in terms of this section in respect of the same set of facts.

(11) A penalty payable in terms of this section must be paid to the Council.

(12) The amount of the penalty in Schedule 2 will increase automatically by the same amount for each month, or part thereof, that the person fails to remedy the non-compliance within one month after receipt of the infringement notice.

(13) If a penalty has been imposed in respect of a first incidence of non-compliance and the duration of the non-compliance is less than five business days, the Registrar may, remit a portion of the penalty up to an amount of R2 000 if the Registrar is satisfied that—

(a) reasonable grounds for the non-compliance exist; and

(b) the non-compliance in issue has been remedied.

(14) The Registrar must, upon receipt of a remittance request, supported by proof of such circumstances, remit the penalty if the Registrar is satisfied that one or more of the circumstances referred to in subsection (15) rendered the person on whom the penalty was imposed incapable of complying with the relevant obligation under this Act.

(15) The circumstances referred to in subsection (14) are limited to—

(a) a natural disaster;

(b)a civil disturbance or disruption in services; or

(c)a serious illness or accident.

(16) A decision by the Registrar not to remit a penalty under subsection (14) is subject to review or appeal, as the case may be, under Chapter 10.

(17) The Minister may, from time to time and after consultation with the Council, by notice in the *Gazette*, adjust the penalty amounts referred to in Schedule 2 in accordance with the average of the consumer price index, as published from time to time in the *Gazette*, for the immediately preceding period of 12 months multiplied by the number of years that the amount referred to in the Schedule has remained the same.

#### **147. General prohibitions in respect to certain members of the dental technology profession**

(1) A registered practitioner may not—

(a)accept, request or insist on any commission, remuneration, pecuniary or otherwise, from a dentist or dental trader or manufacturer, wholesaler or retailer of any equipment, apparatus, instruments, appliances or material used in the course of his or her practice;

(b)pay, give or accept any commission or remuneration, pecuniary or otherwise, to any person for the recommendation of patients; or

(c)share any fees charged for a service rendered under paragraph (a), (b) or (c) of subsection (1) of section 68 with any dentist or dental trader or other person registered in terms of the Health Practitioners Act, 1957 Act 56 of 1957).

(2) A person who is registered under this Act may not share or permit the use of a dental laboratory with a person not registered in terms of this Act.

(3) No person who is registered in terms of this Act shall perform an act which prevents or is calculated to prevent the Council, Registrar or any inspector from carrying out any duty granted by or imposed under this Act.

(4) The provisions of this section do not apply to a registered clinical dental technologist.

#### **148. Restrictions on business names**

(1) Subject to the provisions of subsections (3) and (4), no person shall carry on business as a practitioner, dental laboratory or

denture clinic under any name, title or description which name, title or description—

(a) which is vulgar or sensational in a way that is likely to adversely affect the standing of the dental technology profession;

(b) which is not be confusingly similar or bears the same name as any other practitioner, dental laboratory or denture c clinic; or

(c) which does not falsely imply or suggest, or be such as would reasonably mislead a person to believe incorrectly, that the business—

(i) is part of, or associated with, any other person who is not a member of the dental technology profession;

(ii) is operated, sponsored, supported or endorsed by the State or by any organ of state or other person not being a member of the dental technology profession;

(iii) is owned, managed or conducted by a person or persons having any particular educational designation or who is a regulated person or entity;

(iv) is owned, operated, sponsored, supported or endorsed by, or enjoys the patronage of, any—

(aa) medical aid scheme; or

(bb) any association not accredited in terms of this Act or any international dental technology stakeholder organisation.

(2) The Council may, in respect to any person, dental laboratory or denture clinic who registers in terms of this Act, refuse to register the name or trading name of such person, dental laboratory or denture clinic if such name or trading name:

(a) may cause confusion with any other name or trading name of a registered person, dental laboratory or denture clinic;

(b) is false, misleading or deceptive;

(c) or contravenes the provisions of subsection (1).

(3) The provisions of subsection (1) shall not prohibit—

(a) the inclusion in the name, title or description of any business of a practitioner, dental laboratory or denture clinic of the surname of an owner thereof;

(b) the use in respect of any business of a practitioner, dental laboratory or denture clinic business of any name, title or description under which that business has lawfully been carried on immediately prior to the commencement of this Act.

## CHAPTER 14

### Rules and notices and regulations

#### 149. Rules and notices

(1) The Council may make rules or adopt policies not inconsistent with the Act relating to-

(a) Standards-

(i) competency standards for the dental technology profession;

(ii) professional practice standards for the dental technology profession;

(iii) technical standards applicable to the dental technology profession;

(iv) quality assurance standards for the dental technology profession;

(v) standard statements in respect of dental laboratories and denture clinics;

(vi) standard statements in respect of records and recordkeeping by members of the dental technology profession;

(b) accredited courses in respect of continuing professional development for the dental technology profession-

(c) dental laboratories or denture clinics-

(i) design requirements for dental laboratories;

(ii) infection control;

(iii) Occupational Health and Safety Standards for laboratories;

(iv) records and recordkeeping;

(v) standard statements in respect of hazardous substances.

(d) accreditation of stakeholder associations-

(i) application for accreditation of stakeholder recognition;

(ii) requirements for accreditation of stakeholder associations;

(iii) retention of accreditation of stakeholder associations; and

(iv) termination of accreditation of stakeholder associations;

(e) the meetings and conduct of Council-

(i) the conduct of the business, and the procedure at meetings, of the Council and committees of the Council and the manner in which minutes of such meetings shall be kept;

(ii) the conduct of the business and the procedure at meetings of the Council and committees of the Council and the manner in which minutes of such meetings shall be kept; and

(iii) the manner in which contracts shall be entered into on behalf of the Council;



(f) code of conduct and code of ethics for staff members of Council;

(g) the procurement of goods and services by the Council;

(h) the scope of practice of any practitioner registered under section 57 of this Act;

(i) (i) the minimum requirements of the curricula and the standards of specialized education required for registration as practitioner under section 57 of this Act;

(ii) the institutions and facilities at which studies in clinical dental technology may be taken or undergone and any other requirements in connection with such education or training;

(iii) the appointment and remuneration of moderators and examiners, as well as any other person required to assist in the examination of student clinical dental technologists;

(iv) the issue of certificates by the Council and any other matter incidental to such examinations or the issue of such certificates;

(v) any other matter incidental to the training of any person who may be registered under section 57 of this Act.

(h) practice protocols for clinical dental technologists in respect of—

- (i) referral for invasive procedures and oral pathology;
- (ii) practice management;
- (iii) clinical practice;
- (iv) denture laboratory practice;
- (v) ethical and safety issues;
- (vi) protecting the interests of patients;
- (vii) treatment options education;
- (vii) treatment planning and informed consent;
- (viii) billing and accounting of patients and medical aid funds;
- (ix) clinical treatment of patients;
- (x) hygiene and sterilization of clinical equipment;
- (xi) infection control;
- (xi) complaints management;
- (xii) maintaining patient confidentiality;
- (xiii) dealing with gender and racial issues;
- (xiv) a patient charter;
- (xvi) dealing with vulnerable and geriatric patients; and
- (xvii) any such other protocols or statement standards that

the Council considers necessary in respect to the practice of the clinical dental technology profession.

(i) practice protocols for dental technicians and dental technologists in respect of—

- (i) practice management;
- (ii) denture laboratory practice;
- (iii) ethical and safety issues;
- (iv) protecting the interests of patients;
- (v) treatment options education;
- (vi) treatment planning;
- (vii) billing and accounting of patients and medical aid funds;
- (viii) hygiene and sterilization of clinical equipment;
- (ix) infection control;
- (x) complaints management;
- (xi) maintaining patient confidentiality;
- (xiii) dealing with gender and racial issues;
- (xiv) a patient charter; and

(xv) any such other protocols or statement standards that the Council considers necessary in respect to the practice of the dental technology profession.

(j) generally, all matters which the Council considers necessary in respect to the practice of the dental technology profession in order that the objects of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(j) any matter which in terms of this Act is required to be or may be determined as rules.

(2) The Council shall, after consultation with dental technology stakeholders, not less than three months before any rule is made in terms of this Act, cause the text of such rule to be published in the *Gazette* together with a notice declaring the Council's intention to make such rule and inviting interested persons to furnish the Council with any comments thereon or any representations they may wish to make in regard thereto.

(3) The Council may publish a notice containing a list of controlled items to which this Act is applicable, including any component, equipment, system, processes and technology of whatever nature capable of being used in the design, development or creation of unmounted artificial teeth or any dental and oral prostheses, custom made components used in the practice of dental technology, a dental laboratory or denture clinic.

(4) Different rules may be made in terms of subsection (1) in respect of different categories of persons registered in terms of this Act.

(5) No rule or notice made in terms of this section or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the *Gazette*.

## 150. Regulations

(1) The Minister may, on the recommendation of the Council, make regulations relating to—

(a) (i) the election of members of the Council who shall be elected in terms of paragraph (c), (d) or (e) of subsection (1) of section 5 of this Act;

(ii) the requirements with which a nomination of a candidate for election as a member of the Council shall comply;

(b) the allowance which may be paid to members of the Council and of committees of the Council when occupied with the affairs of the Council: Provided that—

(i) the allowance which may be paid to any such member who is in the full-time service of the State shall not exceed the allowances to which he or she would be entitled in terms of the laws governing the public service;

(ii) no such member shall be required to pay into the State Revenue Fund any such allowances;

(c) any fees payable in terms of this Act, which may include—

(i) registration fees in respect to any person or juristic person who must register in terms of the Act;

(ii) annual fees in respect of any member of the dental technology profession provided for in this Act;

(iii) annual fees of dental traders, dental laboratories, denture clinics and importers and exporters of unmounted artificial teeth or any dental and oral prostheses;

(iv) fees payable for restoration of—

(aa) a name to a register from which it had been removed and such fees may vary according to the reason for the removal thereof and the period for which it was so removed;

(bb) a person who may be registered in terms of this Act;

(v) fees payable for the issuing of registration certificates and authorisations;

(vi) fees payable for examinations conducted by or on behalf of Council; and

(vii) fees payable for registration and accreditation of educational institutions, training facilities or activities for continuing professional development;

(d) the determination and payment of annual fees payable by the owner of a dental laboratory or denture clinic and any other prescribed fees in respect of dental laboratories or denture clinics;

(e)(i) the registration by the Council of students in dental technology who are studying at an approved institution, the fees payable in respect of such registration and the removal from the relevant registers by the Council of the names of such students so registered;

(ii) the standards of general education required of such students as a prerequisite for such registration;

(iii) the duration of the curricula to be followed by such students at such institutions;

(iv) the minimum requirements of the curricula and the standards of education and examinations in dental technology which shall be maintained at any institution approved by the Council for training in dental technology in order to obtain recognition under this Act of the qualifications in dental technology obtained at such institution;

(f)(i) the nature and duration of the training to be undergone by any person who has obtained a qualification in dental technology who has not yet been registered as a member of the dental technology profession, as the case may be, the examination which the Council may conduct in order to determine the competence of such a person and the period within which such a person shall pass the examination before he or she may be registered as a dental technician or a dental technologist, as the case may be;

(ii) the registration by the Council of persons undergoing such training and the fees payable in respect of such registration;

(iii) the fees payable by candidates for such examinations;

(iv) the appointment and remuneration or examiners for such examinations;

(v) the issue of certificates by the Council, and any other matter connected with such examinations or the issue of such certificates;

(g) the forms of the registers to be kept in terms of this Act and of all certificates or authorisations which may be issued under this Act and the manner in which alterations may be effected in such registers;

(h) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the register;

(i) the returns and information to be furnished by any person registered in terms of this Act;

(j)(i) the registers to be kept, and the authorisations and certificates that may be issued in terms of this Act the particulars which shall be recorded in the registers and the manner in which alterations may be effected in the registers;

(ii) the conditions on which extracts from the registers and duplicate registration certificates may be made, including the payment of fees in respect thereof;

(iii) the particulars to be furnished to the Council to enable it to keep the registers;

(iv) the form of the registers to be kept and or the certificates or authorisations which may be issued under this Act and the employees of the Council who may issue such certificates or authorisations on instructions of the Council;

(v) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the relevant register;

(k)(i) the approval by the Council of registered dental laboratories or denture clinics where persons may undergo practical training in dental technology and the accommodation, facilities, equipment and materials to be provided in such laboratories;

(ii) the information to be rendered to the Council by the person in control of such dental laboratories or denture clinics in respect of persons being trained at such dental laboratories or denture clinics who have completed or abandoned such training;

(l)(i) the qualifications required of candidates for supplementary courses or any other courses and examinations conducted or arranged by the Council;

(ii) the conditions subject to which candidates may be permitted to such courses or examinations, the fees payable by candidates, the appointment and remuneration of lecturers and examiners and any other matter incidental to such courses or examinations;

(m)(i) conditions relating to continuing professional development to be undergone by practitioners in order to retain such registration;

(ii) the nature and extent of continuing professional development to be undergone by practitioners;

(iii) the criteria for recognition by the Council of continuing professional development activities and of providers offering such activities;

(n)(i) the form in which and the conditions subject to which authorisations may be issued under Chapter 8 of this Act and the fees payable for such authorisations;

(ii) the form in which the register referred to in section 108 shall be kept in respect of dental traders and the particulars which shall be entered in such register;

(o) occupational health conditions concerning harmful practices occurring, and the use of hazardous substances, in all dental laboratories or dental clinics;

(p) community service in respect of members of the dental technology profession;

(q) dental traders and persons who import or export or trade in unmounted artificial teeth or any dental and oral prostheses;

(r) generally, any matter which in terms of this Act is required to be, or may be, prescribed or which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) The Minister may, after consultation with the executive committee of the Council, if the Minister deems it in the public interest, after consultation with the Council, make regulations relating to any of the matters referred to in subsection (1), or amend or repeal any regulation made in terms of that subsection.

(3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of R5 000.

(4) Any notice issued or order made under this Act may from time to time be amended or revoked by the authority which issued or made it.

## CHAPTER 15

### Transitional provisions, matters pending under previous Act and repeal of South African Dental Technicians Act, 1979 (Act 19 of 1979), application of the Act in respect of the State and short title and commencement

#### 151. Transitional provisions

(1) Any proclamation and regulation made under the Dental Technicians Act, 1979 (Act 19 of 1979) shall remain in force until

replaced by an Act of Parliament, or regulation made under this Act, as the case may be.

(2) Any authorisation, certificate, permission or registration issued in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) which was valid immediately before the commencement of this Act, remains valid for the period specified in the authorisation, certificate, permission, registration or determination, as the case may be, unless terminated, cancelled or suspended in terms of this Act.

(3) Any person who occupied a post or served in a particular capacity in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) immediately prior to the commencement of this Act continues to occupy or to serve in the corresponding post or capacity designated in this Act.

(4) A reference in the Dental Technicians Act, 1979 (Act 19 of 1979) to the Registrar appointed under section 13 of the Dental Technicians Act, 1979 (Act 19 of 1979) shall be construed as a reference to the Registrar in this Act.

(5) A reference in the Council appointed under section 5 of the Dental Technicians Act, 1979 (Act 19 of 1979) shall be construed as a reference to the Council in this Act.

(6) Any person who received any allowance, remuneration or other benefit or privilege by virtue of a post or capacity contemplated in subsection (3) must continue to receive such allowance, remuneration or other benefit or privilege from the same source and in the same manner after the commencement of this Act.

(7) Any person who received any allowance, remuneration, any leave, pension or other benefits which have accrued in any person's favour or other benefit or privilege by virtue of a post or capacity held by such person in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) immediately prior to the commencement of this Act is regarded as having been accrued in the person's favour.

(8) Any power exercised or duty performed by the Registrar or the Council by virtue of a provision of Dental Technicians Act, 1979 (Act 19 of 1979) immediately before the commencement of this Act, must be considered as having been exercised or performed by the Registrar or Council as the case may be.

(9) On the date of commencement of this Act—

(a) all assets, liabilities, rights and obligations of the South African Dental Technician Council, as it existed immediately prior to the commencement of this Act, pass to the Council established by this Act; and



(b) subject to this Act, anything done by or on behalf of the South African Dental Technicians Council is deemed to have been done by the Council.

(10) The Council which is in office at the time of the promulgation of this Act will be deemed to be the South African Dental Technology Professions Council established in terms of section 2 of the this Act and will dissolve at the end of the financial year following the commencement of this Act or a date determined by the Minister.

(11) Any rule, requirement, directive or decision made, put or issued or other thing done under or in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) as it was in force immediately prior to the commencement of this Act, shall be deemed to have been made, put, issued or done under or in terms of the corresponding provision of this Act.

(12) If on the date of commencement of this Act a different date is fixed for the commencement of Chapter 7 the reference to a clinical dental technologist in paragraph (c) of subsection (1) of section 10 shall be read to mean a dental technologist elected by dental technologists in the prescribed manner and such dental technologist shall hold office until Chapter 7 comes into operation whereafter a clinical dental technologist must be elected by clinical dental technologists in the prescribed manner.

(13) The clinical dental technologist elected after the commencement of Chapter 7 shall hold office for the unexpired portion of the period of office of the dental technologist referred to in subsection (12).

## 152. Matters pending under previous Act

(1) The promulgation of this Act does not affect any proceedings instituted in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) administered by the Council which were pending in a court of law immediately before the date of commencement of this Act, and such proceedings must be disposed of in the court in question as if this Act had not been passed.

(2) Criminal proceedings contemplated in subsection (1) must be regarded as having been pending if the person concerned had pleaded to the charge in question.

(3) Any administrative investigation or inquiry instituted in terms of the Dental Technicians Act, 1979 (Act 19 of 1979) which was pending must be disposed of as if this Act had not been passed.

(4) No proceedings may continue against any person in respect of any contravention of a provision of the Dental Technicians

Act, 1979 (Act 19 of 1979) if the alleged act or omission constituting the offence would not have constituted an offence if this Act had been in force at the time when the act or omission took place.

(5) (a) Despite the repeal of the Dental Technicians Act, 1979 (Act 19 of 1979), any person who, before such repeal, committed an act or omission which constituted an offence under that Act and which constitutes an offence under this Act, may after this Act takes effect be prosecuted under the relevant provisions of this Act.

(b) Despite the retrospective application of this Act as contemplated in paragraph (a), any penalty imposed in terms of this Act in respect of an act or omission which took place before this Act came into operation may not exceed the maximum penalty which could have been imposed on the date when the act or omission took place.

(6) All disciplinary proceedings which immediately before the commencement of this Act were underway or pending must be concluded as if this Act had not been passed.

(7) All appeal processes which immediately before the commencement of this Act were underway or pending must proceed as if this Act had not been passed.

### 153. Repeal of Dental Technicians Act, 1979

The Dental Technicians Act, 1979 (Act 19 of 1979) is hereby repealed.

### 154. Application of the Act in respect of the State

Chapter 6 shall bind the State.

### 155. Short title and commencement

(1) This Act shall be called the South African Dental Technology Professions Act, 2016, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

## Schedule 1 Code of Conduct for Councillors

### Preamble

In order to ensure that Councillors fulfil their obligations and support the achievement by the Council of its objectives set out in section 5 of the Dental Technology Professions Act, 2016, the following Code of Conduct is hereby established.

## 1 Definitions

In this Schedule—

**‘Council’** means the South African Dental Technology Professions Council established under section 4 of the Act;

**‘Councillors’** means the collective of appointed and elected members of the Council;

**‘dental technology profession’** means the members of the dental technology profession as a collective;

**‘Minister’** shall mean the Minister of Health;

**‘spouse’**, shall mean the following:

A person who is—

(a) a lawful husband or wife; or

(b) a life partner (including same sex life partner); or

(c) a husband or wife in terms of the Recognition of Customary Marriages Act, 1998 or the tenets of any religion; and

**‘the Act’** means the Dental Technology Professions Act, 2016.

## 2 General conduct of Councillors

A Councillor must—

(a) perform the functions of office in good faith, honestly and a transparent manner; and

(b) at all times act in the best interest of the Council and in such a way that the credibility and integrity of the Council are not compromised.

## 3 Voting at meetings

A Councillor may not vote in favour of or agree to a resolution which is before the Council or a committee of the Council which conflicts with any legislation or conflicts with the objects of the Act, the powers and responsibilities of the Council.

## 4 Attendance at meetings

A Councillor must attend each meeting of the Council and of a committee of which that Councillor is a member, except when—

(a) leave of absence is granted to him or her by the president or chairperson, as the case may be, or as determined by the rules of the Council; or

(b) that Councillor is required in terms of this Code of Conduct to withdraw from the meeting.

## **5 Disclosure of interests**

(1) A Councillor must—

(a) disclose to the Council, or to any committee of which that Councillor is a member, any direct or indirect personal or private business interest that that Councillor, or any spouse, business associate or family member of that Councillor may have in any matter before the Council or the committee; and

(b) withdraw from the proceedings of the Council or committee when that matter is considered by the Council or committee, unless the Council or committee decides that the Councillor's direct or indirect interest in the matter is trivial or irrelevant.

(2) A Councillor who, or whose spouse, business associate or family member, acquired or stands to acquire any direct benefit from a contract concluded with the Council must disclose full particulars of the benefit of which the Councillor is aware at the first meeting of the Council at which it is possible for the Councillor to make the disclosure.

## **6 Personal gain**

(1) A Councillor may not use the position or privileges of a Councillor, or confidential information obtained as a Councillor, for private gain or to improperly benefit another person.

(2) No Councillor may be a party to or beneficiary under a contract for the provision of goods or services to the Council.

## **7 Declaration of interests**

(1) When elected or appointed, a Councillor must declare in writing to the Council the following financial interests held by that Councillor:

- (a) shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust as trustee or beneficiary of such trust;
- (d) directorships;
- (e) other financial interests in any business undertaking;
- (f) employment and remuneration;
- (g) interest in property; and
- (j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a Councillor must be declared in writing to the Council annually.

## **8 Rewards, gifts and favours**

A Councillor may not request, solicit or accept any reward, gift or favour for—

- (a) voting or not voting in a particular manner on any matter before the Council or before a committee of which that Councillor is a member;
- (b) persuading the Council or any committee in regard to the exercise of any power, function or duty;
- (c) making a representation to the Council or any committee of the Council; or
- (d) disclosing privileged or confidential information.

## **9 Unauthorised disclosure of information**

(1) A Councillor may not without the permission of the president or the chairperson of a committee disclose any privileged or confidential information of the Council or committee to any unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information—

- (a) determined by the Council or committee to be privileged or confidential;
- (b) discussed in closed session by the Council or committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of any legislation.

(3) This item does not derogate from the right of any person to access information in terms of national legislation.

## **10 Intervention in administration**

A Councillor may not, except as provided by law—

- (a) interfere in the management or administration of the day to day business of the Council unless mandated by Council;
- (b) give or purport to give any instruction to any employee of the Council except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the Council or a committee; or
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the Council.

## **11 Bringing the Council or profession into disrepute**

A Councillor must at all time act in an exemplary manner and refrain from any conduct that is likely to bring the Council or the dental technology profession into disrepute.

## **12 Council property**

A Councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the Council to which that Councillor has no right.

## **13 Duty of president**

(1) If the president of the Council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the president must—

(a) authorise an investigation of the facts and circumstances of the alleged breach in accordance with the provisions of item 14;

(b) give the Councillor a reasonable opportunity to reply in writing regarding the alleged breach; and

(c) report the matter to a meeting of the full Council after paragraphs (a) and (b) have been complied with.

(2) The president must, in the event of such Councillors appointed by the Minister, report the outcome of the investigation to the Minister.

(3) The president must ensure that each Councillor when taking office is given a copy of this Code of Conduct and that a copy of the Code of Conduct is available in every room or place where the Council meets.

## **14 Breaches of Code**

(1) The Council may—

(a) investigate and make a finding on any alleged breach of a provision of this Code of Conduct; or

(b) establish a special committee—

(i) to investigate and make a finding on any alleged breach of this Code of Conduct; and

(ii) to make appropriate recommendations to the Council.

(2) If the Council or a special committee finds that a Councillor has breached a provision of this Code of Conduct, the Council may—

(a) reprimand the Councillor;

(b) institute disciplinary proceedings against such Councillor in the event that such councillor is a member of the dental technology profession elected under section 10 of this Act; and

(c) request the Minister to remove the Councillor from office in terms of section 13 of the Act if such Councillor is appointed under section 10 of this Act as a member of the Council.

(3) The Minister may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of sub-item (2) if the Council does not conduct an investigation contemplated in sub-item (1) and the Minister considers it necessary.

(4) If the Minister is of the opinion that an appointed Councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the Minister may—

(a) suspend the Councillor for a period and on conditions determined by the Minister; or

(b) remove the Councillor from office.

## 15 Investigations under the Code of Conduct

Any investigation in terms of this Code of Conduct must be conducted in accordance with the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

## Schedule 2

### Amount of Administrative Non-Compliance Penalty

|  |         |
|--|---------|
| First incidence under section 146 (2), (3) or (4)  | R 5000. |
| Second incidence under section 146 (2), (3) or (4) | R15000. |