

PHYSIOTHERAPISTS' REGISTRATION AMENDMENT ACT 1985

No. 74 of 1985

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SCHEDULE 1

AMENDMENT OF REFERENCES IN PRINCIPAL ACT TO THE SECRETARY



**PHYSIOTHERAPISTS' REGISTRATION AMENDMENT
ACT 1985**

No. 74 of 1985

AN ACT to amend the Physiotherapists' Registration Act 1951.

[Royal Assent 17 October 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Physiotherapists' Registration Amendment Act 1985*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commence-
ment.

(2) Section 7 shall commence on 14th September 1985, but if this Act does not receive the Royal assent on or before that date, that section shall be deemed to have commenced on that date.

(3) Except as provided in subsections (1) and (2), this Act shall commence on such day as may be fixed by proclamation.

Principal Act.

3—In this Act, the *Physiotherapists' Registration Act 1951** is referred to as the Principal Act.

Insertion in
Principal Act
of new
heading:
PART I
PRELIMINARY.

4—The Principal Act is amended by inserting the following heading before section 1:—

PART I
PRELIMINARY

Amendment of
section 2 of
Principal Act
(Interpre-
tation).

5—Section 2 of the Principal Act is amended as follows:—

(a) by inserting the following definition before the definition of “Association ”:—

“ approved physiotherapy services company ” means a physiotherapy services company that holds an approval granted and in force under Part V;

(b) by inserting the following definitions after the definition of “ Board ”:—

“ executive officer ”, in relation to a physiotherapy services company, has the meaning assigned to that expression in the *Companies (Tasmania) Code*;

“ list ” means the list of physiotherapy services companies required to be kept under section 18F;

“ officer ”, in relation to a physiotherapy services company, means any director, secretary, or executive officer of the company;

(c) by inserting the following definition after the definition of “ physiotherapy ”:—

“ physiotherapy services company ” means a body corporate the sole object of which is the provision of physiotherapy services;

(d) by omitting the definition of “ Secretary ” and substituting the following definitions:—

“ Registrar ” means the Registrar of the Board;

“ the regulations ” means regulations made and in force under this Act.

* No. 75 of 1951. For this Act as amended to 1959, see the Reprint of Statutes (1826-1959), Volume 4, page 606. Subsequently amended by No. 55 of 1965, No. 19 of 1968, No. 21 of 1973, No. 41 of 1982, and No. 29 of 1984.

6—The Principal Act is amended by inserting the following heading after section 2:—

Insertion in Principal Act of new heading:
PART II
THE PHYSIOTHERAPISTS' REGISTRATION BOARD.

PART II

THE PHYSIOTHERAPISTS' REGISTRATION BOARD

7—Section 3 (3) of the Principal Act is amended as follows:—

Amendment of section 3 of Principal Act (Physiotherapists' Registration Board).

(a) by omitting paragraph (a) and substituting the following paragraph:—

(a) one shall be a duly qualified medical practitioner nominated by the Australian Medical Association;

(b) by omitting from paragraph (b) “two” and substituting “three”.

8—(1) Section 8 (1) of the Principal Act is amended by omitting “Secretary to the Board and such other officers as the Board may consider necessary for the administration of this Act, and may pay to the Secretary” and substituting “Registrar of the Board and such other officers as the Board may consider necessary for the administration of this Act, and may pay to the Registrar”.

Amendment of section 8 of Principal Act (Registrar and officers).

(2) Section 8 (2) of the Principal Act is amended by omitting “Secretary to” (twice occurring) and substituting “Registrar of”.

9—The Principal Act is amended by inserting the following heading after section 8:—

Insertion in Principal Act of new heading:
PART III
REGISTRATION OF PHYSIOTHERAPISTS.

PART III

REGISTRATION OF PHYSIOTHERAPISTS

10—Section 9 of the Principal Act is amended as follows:—

Amendment of section 9 of Principal Act (Obligation to register).

(a) by inserting the following subsection after subsection (1):—

(1A) Subsection (1) does not prevent an approved physiotherapy services company from demanding or claiming a fee or reward for physiotherapy services rendered in its name or on its behalf by or on the authority of a person registered under this Act.

(b) by omitting from subsection (2) “one hundred dollars” and “two dollars” and substituting “\$500” and “\$10” respectively.

Amendment of
section 12 of
Principal Act
(Register of
Physio-
therapists).

11—Section 12 (5) of the Principal Act is amended by omitting “, and, if the Minister so directs, that copy shall, as soon as practicable after the receipt thereof by the Minister, be published in the *Gazette*”.

Insertion in
Principal Act
of new
heading:
PART IV
DISCIPLINE.

12—The Principal Act is amended by inserting the following heading after section 13:—

PART IV DISCIPLINE

Amendment of
section 14 of
Principal Act
(Removal of
name on
account of
misconduct,
etc.).

13—Section 14 of the Principal Act is amended as follows:—

(a) by inserting the following subsection after subsection (1):—

(1A) Without prejudice to the generality of the expression “misconduct in a professional respect”, the authorization or performance of a physiotherapy service by a person registered under this Act on behalf of a company that is not—

(a) an approved physiotherapy services company; or

(b) a body corporate that provides free physiotherapy services for its employees and does not provide physiotherapy services for any other person,

amounts to misconduct in a professional respect.

(b) by omitting from subsection (5) “ten dollars” and substituting “\$50”.

Insertion in
Principal Act
of new
sections 14A
and 14B.

14—The Principal Act is amended by inserting the following sections after section 14:—

Disciplinary
powers of
Board in
respect of
approved
physiotherapy
services
company.

14A—(1) Where, on the hearing of a charge under section 14 (1) (c), the Board finds that a person registered under this Act who is a member or officer of an approved physiotherapy services company is guilty of misconduct in a professional respect, the Board may—

(a) order the company to pay a fine of such amount, not exceeding \$5 000, as it thinks proper or order it to pay such a fine and require it to give to the Board an undertaking under this section;

- (b) require the company to give to the Board an undertaking under this section; or
- (c) cancel any approval held by the company under Part V and remove its name from the list.

(2) An undertaking given to the Board under this section is an undertaking—

- (a) to comply, during such period as the Board specifies, with such conditions as it may specify; and
- (b) that a person concerned in the management of the relevant approved physiotherapy services company will, at any time within that period, appear before the Board when required by it to do so.

(3) A condition referred to in subsection (2) may, without limiting the generality of that subsection, be a condition that the Board considers it necessary or desirable to impose, in the public interest, on the relevant physiotherapy services company.

(4) Where the Board is satisfied that an approved physiotherapy services company has failed to comply with an undertaking given by it under this section, the Board may—

- (a) exercise in relation to that company any of the powers under this section which it could have exercised if it had not required the company to enter into the undertaking; or
- (b) require the terms of the undertaking to be varied.

(5) Where the Board requires an approved physiotherapy services company to enter into an undertaking under this section, or requires the term of such an undertaking to be varied, and, within such time as the Board may allow, that undertaking is not given or so varied, the Board may exercise, in relation to the company, any of the powers under this section it could have exercised if it had not required the undertaking to be entered into or varied.

(6) Where the Board exercises any of its powers under this section in respect of an approved physiotherapy services company, the Board may, by action in a court of competent jurisdiction, recover from the company, as a debt due to the Board, any legal and other costs and any out-of-pocket expenses incurred by it in the exercise of the power.

Procedure on
hearings under
section 14A.

14B—(1) Where the Board proceeds to determine whether it should exercise any of the powers conferred on it by section 14A in respect of an approved physiotherapy services company, the following provisions apply:—

- (a) the Board shall, by notice served on the company, require the company to appear before the Board;
- (b) that notice shall state that the Board intends so to proceed and specify the matter in relation to which it so intends to proceed;
- (c) the company may appear before the Board by a member or an officer of the company authorized for that purpose by the company.

(2) A notice under subsection (1) (a) requiring an approved physiotherapy services company to appear before the Board shall be served at least 7 days before the day on which the company is required by the notice so to appear.

(3) If—

- (a) when served with a notice under subsection (1) (a), an approved physiotherapy services company fails to appear in accordance with the notice by a person to whom subsection (1) (c) applies; or
- (b) having so appeared, the person appearing on behalf of the company absents himself from the hearing of the matter to which the notice relates,

the Board may proceed as if the person appearing on behalf of the company were present.

(4) For the purposes of any proceedings under section 14A, the Board shall have and may exercise all the powers and authority conferred or imposed upon persons holding inquiries on commission by Division 2 of Part II of the *Evidence Act* 1910 but no person called as a witness upon any inquiry shall be compelled to answer any question criminating or tending to criminate him.

(5) In any proceedings under section 14A the Board may have counsel to appear before it to assist it in any matter arising in the course of those proceedings, and any person appearing on behalf of an approved physiotherapy services company before the Board in those proceedings may be represented by counsel.

(6) Where the Board exercises any of its powers under section 14A (1) in respect of an approved physiotherapy services company, the Board shall express its decision in the form of an order which shall be served on the company by the Board.

15—Section 15 of the Principal Act is amended by inserting the following subsections after subsection (1):—

Amendment of section 15 of Principal Act (Appeals).

(1A) A physiotherapy services company which is aggrieved by a decision of the Board exercising any of its powers under section 14A may appeal to the Supreme Court within 30 days after the service on it of the order referred to in section 14B (6).

(1B) On the hearing of an appeal under subsection (1A) the Supreme Court unless it dismisses the appeal, may, by order, quash or vary the decision to which the appeal relates or make such decision in the case as the Board could have made.

16—Section 17 of the Principal Act is amended by omitting “Two hundred dollars” and substituting “\$1 000”.

Amendment of section 17 of Principal Act (False entries in register, misrepresentation, &c.).

17—The Principal Act is amended by inserting the following Part after section 18:—

Insertion in Principal Act of new Part V.

PART V

BODIES CORPORATE PROVIDING PHYSIOTHERAPY SERVICES

Division 1—Preliminary

18A—In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation: Part V.

“approval” means an approval under section 18D;

“registered physiotherapist” means a person registered under this Act.

Division 2—Approvals in respect of physiotherapy services companies and related matters

18B—(1) A physiotherapy services company shall not provide any physiotherapy services unless it is the holder of an approval granted by the Board under section 18D authorizing the company to provide those services.

Obligation on physiotherapy services company to obtain approval of Board.

Penalty: \$5 000.

(2) Where a body corporate which is not a physiotherapy services company provides free physiotherapy services for its employees, nothing in this Part shall be construed as requiring the body corporate to obtain an approval referred to in subsection (1).

Application
for grant of
approval by
Board.

18c—(1) An application for the grant of an approval by the Board shall—

- (a) be in writing in a form provided by the Board;
- (b) be made on behalf of the applicant by a person who is concerned in the management of the applicant;
- (c) specify—
 - (i) the name of the applicant;
 - (ii) the registered office of the applicant within Tasmania;
 - (iii) the place or places where the applicant proposes to carry on business; and
 - (iv) the names and addresses of the members and officers of the applicant;
- (d) contain such particulars relating to the provision by the applicant of physiotherapy services as may be directed by the form; and
- (e) be accompanied by—
 - (i) a copy of the memorandum and articles of association of the applicant certified by a statement by the secretary or an executive officer of the applicant to be a true copy of that memorandum and those articles;
 - (ii) any other document prescribed by the regulations; and
 - (iii) the fee prescribed by the regulations.

(2) If the Board is not satisfied as to the particulars provided in an application under this section, the Board may serve on the applicant an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, with a statement in writing by a person who is concerned in the management of the applicant containing such further particulars in relation to the application as the Board specifies.

(3) Where, as a result of not being satisfied as to the particulars provided in an application under this section, the Board serves an instrument under subsection (2) requiring the applicant to provide it with a statement of further particulars in respect of the application, the Board may decline to consider the application until the applicant has provided it with such a statement and, where any such statement is so provided, the Board may refuse to grant the approval applied for until it is satisfied as to the particulars contained in the statement.

18D—(1) Where an application is made under section 18C Grant of approval. for the grant of the Board's approval, the Board shall, if—

- (a) the application is in accordance with that section and is accompanied by a copy of the documents and the fee referred to in subsection (1) (e) of that section;
- (b) the applicant has complied with any requirement under subsection (2) of that section made in respect of the application; and
- (c) the memorandum and articles of association of the physiotherapy services company to which the application relates comply with the prescribed requirements,

grant an approval to the company authorizing it to provide physiotherapy services.

(2) For the purposes of subsection (1) (c), the memorandum of a physiotherapy services company to which an application under section 18C relates shall be deemed to comply with the prescribed requirements if the memorandum—

- (a) provides that the sole object of the company is the provision of physiotherapy services by the company; and
- (b) provides that the company shall have the power to do all such acts or things as may be required or necessary to be done by a body corporate incorporated with the sole object of providing physiotherapy services.

(3) For the purposes of subsection (1) (c), the articles of association of a physiotherapy services company to which an application under section 18C relates shall be deemed to comply with the prescribed requirements if the articles—

(a) provide—

- (i) that, in the case of a company with more than 2 members, every member of the company shall be a registered physiotherapist;
- (ii) that, in the case of a company with only 2 members—
 - (A) both shall be registered physiotherapists; or
 - (B) one member shall be a registered physiotherapist and the other member shall be a legal practitioner or barrister, an accountant who is a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants, or such other person, not being a registered physiotherapist, as is approved by the Board;
- (iii) that, in the case of a company with only 2 members, one of whom is not a registered physiotherapist—
 - (A) the member of the company who is a registered physiotherapist shall take and hold at least 2 shares in the capital of the company;
 - (B) the member of the company who is not a registered physiotherapist shall take not more than one share in that capital, being a share in respect of which there is no right to vote at a general

meeting of members of the company, and which shall be held in trust by him for the member of the company who is a registered physiotherapist; and

- (c) the member of the company who is not a registered physiotherapist cannot be the chairman of the company;
 - (iv) that every director of the company shall be a registered physiotherapist, except in the case of a company with only 2 members, one of whom is a registered physiotherapist;
 - (v) in the case of a company with more than 2 members, for the transmission of the shares of a deceased member of the company to a registered physiotherapist;
 - (vi) in the case of a company with only 2 members, for the transmission of the share or shares of a deceased member of the company in such a way that subparagraphs (ii) and (iii) are complied with; and
 - (vii) that the total voting rights exercisable at a meeting of the members of the company shall be held by registered physiotherapists who are directors or members of the company; and
- (b) include provisions that are otherwise appropriate to a body corporate incorporated with the sole object of providing physiotherapy services.
- (4) An approval under this section by the Board shall be—
- (a) in writing; and
 - (b) sent by the Board to the physiotherapy services company by which the application for the approval was made.

(5) Where, on an application under section 18c, the Board refuses to grant an approval to the applicant, the Board—

- (a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and
- (b) where payment of the fee referred to in section 18c (1) (e) has been made, shall, unless the applicant agrees in writing to the amount of the fee being held in credit for it, refund that amount to the applicant.

Effect of
approval.

18E—An approval granted to a physiotherapy services company—

- (a) authorizes the company to provide physiotherapy services; and
- (b) is in force on and from the date specified in the approval as the date for the approval to come into force for a period of 12 months from that date, unless the approval ceases to be in force earlier,

and such an approval may, in accordance with section 18G, be renewed for successive periods of 12 months.

List of
approved
physiotherapy
services
companies.

18F—(1) The Board shall keep a list of physiotherapy services companies in respect of which it has granted approvals.

(2) The list shall be in such form as the Board determines.

(3) Where the Board grants an approval, the Board shall cause to be entered in the list—

- (a) the name of the physiotherapy services company to which the approval relates; and
- (b) particulars of the following matters:—
 - (i) the registered office of the company within Tasmania;
 - (ii) the place or places where the company proposes to carry on business;
 - (iii) the names and addresses of the members and officers of the company;
 - (iv) such other matters (if any) as the Board considers appropriate or as may be prescribed by the regulations for the purposes of this subsection.

(4) In addition to the particulars referred to in subsection (3) (b), the Board shall cause to be entered in the list particulars of the cancellation of an approval under section 14A and of the date of the cancellation.

(5) The Board may from time to time cause to be made in the list such alterations as it considers to be necessary.

(6) The Board shall cause a copy of the list, as existing on 1st January in each year, to be given to the Minister on or before 31st January in that year.

18G—(1) Subject to this section, a physiotherapy services company which holds an approval may, at any time before the expiry of the approval, apply to the Board for the renewal of the approval for a further period of 12 months. Renewal of approvals.

(2) An application by a physiotherapy services company under this section shall—

- (a) be in writing in a form provided by the Board;
- (b) be made on behalf of the applicant by a person who is concerned in the management of the applicant;
- (c) specify—
 - (i) the name of the applicant;
 - (ii) the registered office of the applicant within Tasmania;
 - (iii) the place or places where the applicant carries on business; and
 - (iv) the names and addresses of the members and officers of the applicant;
- (d) contain such particulars relating to the provision by the applicant of physiotherapy services as may be directed by the form; and
- (e) be accompanied by the fee prescribed by the regulations.

(3) If the Board is not satisfied as to the particulars provided in an application under this section, the Board may serve on the applicant an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, with a statement in writing by a person who is concerned in the management of the applicant containing such further particulars in relation to the application as the Board specifies.

(4) Where, as a result of not being satisfied as to the particulars provided in an application under this section, the Board serves an instrument under subsection (3) requiring the applicant to provide it with a statement of further particulars in respect of the application, the Board may decline to consider the application until the applicant has provided it with such a statement and, where any such statement is so provided, the Board may refuse to renew the approval, and the requirement shall be deemed not to have been complied with until the Board is satisfied as to the particulars contained in the statement.

(5) Subject to subsection (6), where an application is made under subsection (1) for the renewal of an approval, the Board shall, if—

(a) the application is in accordance with this section and is accompanied by the fee referred to in subsection (2) (e); and

(b) the applicant has complied with any requirement under subsection (3) made in respect of the application,

grant to the applicant the renewal of the approval applied for unless the application is withdrawn.

(6) The Board may refuse to grant to an applicant the renewal of the approval applied for if the applicant has contravened section 180.

(7) Subject to this Act, where an application for the renewal of an approval is made before the date on which the approval would, but for this subsection, have ceased to be in force (which date is, in this subsection, referred to as “the date of expiry”) and—

(a) the renewal is granted before the date of expiry—
on the grant of the renewal, the approval shall be in force for a period of 12 months commencing on the date of expiry; or

(b) the renewal is not granted before the date of expiry and the application is not withdrawn before the date of expiry—

- (i) the approval shall be deemed to continue to be in force on and from the date of expiry until the renewal is granted, the application is withdrawn, or the renewal is refused, whichever first occurs; and
 - (ii) on the grant of the renewal, the approval shall be in force for the remaining portion of the period of 12 months commencing on the date of expiry, and the renewal shall be expressed to have taken effect on and from that date.
- (8) The renewal under this section of an approval shall be—
 - (a) in writing; and
 - (b) sent by the Board to the physiotherapy services company by which the application for the renewal was made.
- (9) Where, on an application under subsection (1) for the renewal of an approval, the Board refuses to renew the approval, the Board—
 - (a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and
 - (b) where payment of the fee referred to in subsection (2) (e) has been made, shall, unless the applicant agrees in writing to the amount of the fee being held in credit for it, refund that amount to the applicant.
- 18H—The holder of an approval may, at any time, by notice in writing to the Board, inform the Board that it wishes to surrender the approval, and on receipt by the Board of the notice and the approval, the approval shall cease to be in force. Surrender of approval.
- 18I—(1) A person who—
 - (a) makes an application under section 18C or 18G; or
 - (b) in a statement provided by a physiotherapy services company pursuant to an instrument under section 18C (2) or 18G (3), makes a representation,False and misleading statements.

which is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time when the application or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

Appeal against
refusal of
application
for grant of
approval.

18J—(1) Where, on an application for the grant of an approval, the Board refuses to grant the approval, the physiotherapy services company which made the application may, within 21 days after the service on the company of a notice of refusal under section 18D (5) (a), appeal to the Supreme Court against the refusal.

(2) If, on the hearing of an appeal under subsection (1), the Supreme Court is satisfied that in all the circumstances of the case an approval ought to have been granted, it shall make an order directing that, subject to the payment of the fee for the approval, an approval be granted to the appellant to be in force on and from such date as is specified in the order.

(3) The Board shall give effect to any order made by the Supreme Court under subsection (2).

(4) Subject to this section, an appeal under subsection (2) shall be instituted, heard, and determined in accordance with the provisions of the rules of court of the Supreme Court relating to appeals from statutory tribunals (other than courts).

Appeal against
refusal of
application
for renewal
of approval.

18K—(1) Where, on an application for the renewal of an approval, the Board refuses to renew the approval, the applicant for renewal may, within 21 days after the service on the applicant of a notice of refusal under section 18G (9) (a), appeal against the refusal to the Supreme Court.

(2) The provisions of section 18J (2) to (4), with any necessary modifications, apply to and in respect of an appeal under subsection (1) of this section in the same way as they apply to and in respect of an appeal against a refusal to grant an approval.

Division 3—Miscellaneous

18L—An approved physiotherapy services company shall not provide a physiotherapy service for a person or cause or permit a physiotherapy service to be so provided unless the provision of that service is—

Restrictions on provision of physiotherapy services by approved physiotherapy services companies.

- (a) authorized on its behalf by a registered physiotherapist; or
- (b) performed on its behalf by a registered physiotherapist.

Penalty: \$5 000.

18M—(1) A physiotherapy services company shall—

Records to be kept by physiotherapy services companies.

- (a) keep in a form and manner approved by the Board records of—
 - (i) the name and address of each person for whom it provides a physiotherapy service;
 - (ii) the nature of the service provided for that person;
 - (iii) the date on which, and the time at which, that service is provided;
 - (iv) the name of each registered physiotherapist who authorized the provision of, or who performed, that service; and
 - (v) such other matters (if any) as the Board considers appropriate or as may be prescribed by the regulations for the purposes of this subsection; and
- (b) preserve each of those records for a period of 7 years after the last entry was made in it.

(2) A physiotherapy services company shall—

- (a) notify the Registrar in writing of the address of the place in Tasmania at which the records which it is required to keep under subsection (1) are kept or proposed to be kept—

- (i) if the company is providing physiotherapy services at the commencement of this Part—within 2 months after that commencement; or
 - (ii) if it is not providing those services at the commencement of this Part—within 2 months after it commences to provide those services; and
- (b) where the place at which the records are kept is subsequently changed to another place in Tasmania—notify the Board in writing of the address of the new place at which the records are kept within 14 days after the change takes place.
- (3) A physiotherapy services company which fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.
- (4) This section does not apply so as to require the preservation of records—
- (a) in respect of which the Board has notified a physiotherapy services company that preservation is not required; or
 - (b) of a physiotherapy services company which has gone into liquidation and which has been finally dissolved.

Power of Board to require physiotherapy services companies to provide it with information from records kept under section 18M.

18N—(1) Subject to subsection (2), the Board may serve on a physiotherapy services company an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, a statement in writing by a person who is concerned in the management of the company containing particulars of the information in the records kept by the company under section 18M, being a statement relating to such period as is specified in the instrument.

(2) Except with the consent of a patient or his legal guardian, information contained in a statement provided by a physiotherapy services company pursuant to an instrument under subsection (1) shall not include any clinical details of the symptoms, signs, or diagnosis of the patient.

(3) Where a physiotherapy services company on which an instrument is served under subsection (1) fails to—

- (a) provide the Board with a statement as required by the instrument; or
- (b) provide the Board with such a statement within such period as is specified in the instrument or such further period as the Board may allow,

the company is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$5 000.

(4) A person who, in a statement provided by a physiotherapy services company pursuant to an instrument under subsection (1), makes a representation which is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(5) It is a defence to a charge under subsection (4) if it is proved that, at the time when the representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

180—(1) A physiotherapy services company shall not make an alteration to its memorandum or articles of association unless the proposed alteration has been submitted to, and approved by, the Board.

Alteration to memorandum or articles of association of physiotherapy services company.

(2) An alteration to the memorandum or articles of association of a physiotherapy services company made in contravention of subsection (1) has no force or effect.

18P—(1) Notwithstanding anything in the *Companies (Tasmania) Code*, any other Code, or any enactment, the Commission or a member of the staff of the Commission is not entitled to require a physiotherapy services company to produce for the purposes of the inspection by it or him, to inspect, or take possession of—

Restrictions on the production, &c., to the National Companies and Securities Commission or its staff of case histories and other records.

- (a) the case history or similar record of a person for whom the company has provided a physiotherapy service (not being a record to which paragraph (b) applies); or

(b) any records kept by the company under section 18M, unless the Supreme Court has made an order authorizing the Commission or that member to do so.

(2) The Supreme Court may, on the application of the Commission, make an order authorizing the Commission or a member of the staff of the Commission to do all or any of the acts mentioned in subsection (1).

(3) On the making of an order under subsection (2), the Supreme Court may make such orders, including an order relating to the payment of costs, as it thinks fit.

(4) In this section—

“Commission” means the National Companies and Securities Commission established by the Commission Act;

“Commission Act” means the *National Companies and Securities Commission Act 1979* of the Commonwealth;

“member of the staff of the Commission” means—

(a) an employee of the Commission;

(b) a person whose services are available to the Commission by virtue of arrangements made under section 24 (1) or (2) of the Commission Act; or

(c) a person engaged under section 25 (1) of the Commission Act.

Personal liability of registered physiotherapists in respect of physiotherapy services authorized or performed by them on behalf of physiotherapy services companies.

18Q—(1) Notwithstanding any law to the contrary, where a registered physiotherapist authorizes or performs a physiotherapy service on behalf of a physiotherapy services company for a person, that physiotherapist is personally liable to that person in respect of the authorization or performance of that physiotherapy service or any matter or thing arising out of the authorization or performance of that physiotherapy service, whether the contract for the carrying out of that physiotherapy service was entered into between that physiotherapist and that person or not.

(2) Where more than one registered physiotherapist authorizes or performs a physiotherapist service on behalf of a physiotherapist services company for a person, those physiotherapists are jointly and severally personally liable to that person as provided in subsection (1).

(3) Where one or more registered physiotherapists are, pursuant to subsection (1) or (2), personally liable to a person in respect of the authorization or performance of physiotherapy on behalf of a physiotherapy services company or any matter or thing arising out of the authorization or performance of such a physiotherapy service, nothing in either of those subsections prevents that person from bringing an action in respect of the authorization or performance of that physiotherapy service or that matter or thing against the physiotherapy services company in addition to, or instead of, bringing the action against one or more of those physiotherapists.

18R—(1) Where an offence against this Act is committed by a physiotherapy services company, every person concerned in the management of the company shall be deemed also to have committed the offence and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Offences by
physiotherapy
services
company.

(2) A person referred to in subsection (1) may be convicted of an offence under that subsection whether or not the physiotherapy services company is charged with or convicted of the offence.

18s—Where the name of a physiotherapy services company is removed from the list pursuant to section 14A (1), the approval granted to it under this Part that was in force immediately before its name was so removed ceases to have effect, but again has effect if and when its name is restored to the list pursuant to section 18t.

Effect of
removal
from list.

18T—(1) Where the name of a physiotherapy services company has been removed from the list pursuant to section 14A (1) (c), the Board may, on the application of that company, restore its name to the list if it considers it proper to do so.

Restoration
to the list.

(2) An application under subsection (1) for the restoration of the name of a physiotherapy services company to the list shall—

(a) not be made to the Board—

(i) before the expiration of 12 months from the date of the removal of the company's name from the list; or

(ii) before the expiration of 12 months from the date on which such an application was previously made; and

(b) be made on behalf of the applicant by a person who is concerned in the management of the applicant.

(3) Where a physiotherapy services company makes an application under subsection (1), the Board may require a person who is concerned in the management of the company to attend personally before the Board for the purpose of proving facts on which the application depends.

Service of
instruments by
the Board.

18U—(1) Any notice or other instrument required or authorized by this Act to be served by the Board on a physiotherapy services company may be served on the company—

(a) by delivering it to the secretary of the company personally;

(b) by leaving it at the registered office of the company or at the place or principal place of business of the company in Tasmania with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(c) by sending it by post to the registered office of the company or to the place or principal place of business of the company in Tasmania.

(2) A reference in subsection (1) to the registered office of a physiotherapy services company includes a reference to a registered office that is outside Tasmania.

(3) The provisions of this section are in addition to the provisions of section 528 of the *Companies (Tasmania) Code*.

Insertion in
Principal Act
of new
heading:
PART VI
MISCELLANEOUS.

18—The Principal Act is amended by inserting the following heading before section 19:—

PART VI MISCELLANEOUS

Amendment of
section 19 of
Principal Act
(Evidentiary
provisions).

19—(1) Section 19 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (a) “Act; or ” and substituting “Act;”;

(b) by omitting from paragraph (b) "suspended," and substituting "suspended; or";

(c) by inserting the following paragraph after paragraph (b):—

(c) a company was or was not, on any date or during any period, an approved physiotherapy services company,

(2) Section 19 (2) of the Principal Act is amended by omitting all the words following "by the production of" and substituting "a document purporting to be a true copy of that entry, and purporting to be certified as such by the Registrar".

20—Section 20 of the Principal Act is amended by omitting "one hundred dollars" and substituting "\$500".

Amendment of section 20 of Principal Act (General penalty).

21—Section 25 (2) of the Principal Act is amended by omitting "forty dollars" and substituting "\$200".

Amendment of section 25 of Principal Act (Regulations).

22—Each of the provisions of the Principal Act specified in column 1 of Schedule 1 is amended by omitting "Secretary", as indicated in column 2 of that Schedule, and substituting "Registrar".

Amendment of references in Principal Act to the Secretary.

23—The person holding office under the Principal Act as Secretary to the Physiotherapists' Registration Board immediately before the day fixed by proclamation under section 2 (3) shall be deemed to have been appointed under the Principal Act (as amended by this Act) as Registrar of the Physiotherapists' Registration Board.

Transitional provision: Registrar.

SCHEDULE 1

Section 22

AMENDMENT OF REFERENCES IN PRINCIPAL ACT TO THE SECRETARY

COLUMN 1 Provision of Principal Act amended by omitting " Secretary " and substituting " Registrar "	COLUMN 2 Number of times word omitted appears in provision
Section 4 (2)	1
Section 10 (4)	1
Section 11 (1)	1
(4)	2
Section 12 (5)	1
Section 14 (7)	1
Section 15 (1)	1
Section 16 (2)	2
Section 18	1
Section 19 (1)	1
Section 23	2