

AUSTRALIAN CAPITAL TERRITORY

Nurses Ordinance 1988

No. 61 of 1988

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AUSTRALIAN CAPITAL TERRITORY

Nurses Ordinance 1988

No. 61 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 31 August 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARY PUNCH
Minister of State for the Arts
and Territories

An Ordinance to provide for the registration and enrolment of nurses, the supervision of nursing education and standards, and for related purposes

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Nurses Ordinance 1988*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister by notice in the *Gazette*.

Interpretation

3. (1) In this Ordinance, unless the contrary intention appears—
“Authority” means the Australian Capital Territory Health Authority ;

“Board” means the Nurses Board established under this Ordinance;

“Chairperson” means the Chairperson of the Board;

“Deputy Chairperson” means the Deputy Chairperson of the Board;

“determined fee” means the fee determined under section 60 for the purposes of the provision in which the expression occurs;

“enrolled” means enrolled under this Ordinance;

“enrolled nurse” means a person who is enrolled as an enrolled nurse;

“enrolled person” means a person who is enrolled as an enrolled nurse or as a mothercraft nurse;

“member” means a member of the Board, and includes the Chairperson;

“registered” means registered under this Ordinance;

“registered nurse” means a person who is registered as a general nurse, midwifery nurse, mental health nurse or infant nurse, as the case may be;

“Register” means the Register of Nurses kept pursuant to section 16;

“repealed Ordinance” means the *Nurses Registration Ordinance 1933*;

“Roll” means the Roll of Enrolled Nurses kept pursuant to section 30.

(2) A reference in this Ordinance to practising shall, unless the contrary intention appears, be read as a reference to practising in any branch of the nursing profession.

(3) Nothing in this Ordinance applies in relation to the carrying on by a person, in accordance with the laws of the Territory, of the business or profession of chiropractor, dentist, masseur, medical practitioner, osteopath, physiotherapist or podiatrist.

PART II—THE NURSES BOARD

Establishment of Board

4. There is established by this Ordinance a Board to be known as the Nurses Board.

Constitution of Board

5. (1) The Board shall consist of—

- (a) the Chairperson, and 4 other members of whom not more than 2 may be enrolled persons, appointed in accordance with the *Health Professions Boards (Procedures) Ordinance 1981*; and
 - (b) 4 members elected in accordance with the *Health Professions Boards (Elections) Ordinance 1980*.
- (2) A person is not eligible for appointment as a member unless—
- (a) the person is a registered nurse or enrolled person; and
 - (b) the person was, at all times during the immediately preceding 3 years entitled, under the law of a State or Territory, to practise nursing in that State or Territory.

Chairperson etc. of Board

6. (1) A person is not eligible for appointment as Chairperson or election as Deputy Chairperson, as the case requires, unless the person is a registered nurse.

(2) The Chairperson shall be the executive officer of the Board.

PART III—EDUCATION AND ASSESSMENT

Courses

7. (1) The Board may approve courses of education or training and hold examinations for the purposes of this Ordinance.

(2) The Board shall, as soon as practicable after the commencement of this Ordinance—

- (a) cause to be prepared a statement setting out particulars of the courses of education or training approved by the Board, and the examinations determined by the Board under subsection (1); and
- (b) cause copies of the statement to be made available, on request, to members of the public.

(3) The Board shall from time to time, as occasion requires, prepare a statement bringing up to date the particulars contained in the statement referred to in subsection (2) and make copies of the first-mentioned statement available, on request, to members of the public.

Examination arrangements

8. The Board may make an arrangement, including a reciprocal arrangement, for the conduct of examinations with a body in a State or another Territory empowered to register or enrol nurses by a law of that State or Territory.

Examination fees

9. A person is liable to pay the determined fee before undertaking an examination held by, or on behalf of, the Board.

PART IV—REGISTRATION**Persons entitled to apply for registration as general nurse**

10. A person is entitled to apply to the Board for registration as a general nurse if—

- (a) the person was, immediately before the commencement of this Ordinance, registered as a general nurse under the repealed Ordinance and the period of 5 years after that commencement has not expired;
- (b) the person has passed the appropriate examinations and completed the appropriate approved courses of education or training;
- (c) the person has completed a course of education or training in a State or another Territory or in a place outside Australia, being a course of education or training that would entitle the person to practise nursing in that State, Territory or place, and the person has passed such examinations and completed such supplementary training, if any, as the Board directs in the particular case; or
- (d) the person has undertaken a course of education or training referred to in paragraph (c) and has completed part of that course to the satisfaction of the Board and has passed such examinations and completed such supplementary training as the Board directs in the particular case.

Persons entitled to apply for registration as midwifery or mental health nurse

11. (1) A person is entitled to apply to the Board for registration as a midwifery nurse or a mental health nurse—

- (a) if the person was, immediately before the commencement of this Ordinance, registered as a midwifery nurse or a mental nurse, as the case may be, under the repealed Ordinance; and

(b) the period of 5 years after that commencement has not expired.

(2) A person, other than a person referred to in subsection (1), is entitled to apply to the Board for registration as a midwifery nurse or a mental health nurse if the person is registered, or has applied to the Board for registration, under this Ordinance as a general nurse and the person—

- (a) has passed the appropriate examinations and completed the appropriate approved courses of education or training;
- (b) has completed a course of education or training in a State or another Territory or in a place outside Australia, being a course of education or training that would entitle the person to practise as a midwifery nurse or mental health nurse, as the case may be, in that State, Territory or place, and the person has passed such examinations and completed such supplementary training, if any, as the Board directs in the particular case; or
- (c) has undertaken a course of education or training referred to in paragraph (b) and has completed part of that course to the satisfaction of the Board and has passed such examinations and completed such supplementary training as the Board directs in the particular case.

Persons entitled to apply for registration as infants' nurse

12. A person is entitled to apply to the Board for registration as an infants' nurse if the person—

- (a) was, immediately before the commencement of this Ordinance, registered as an infants' nurse under the repealed Ordinance; and
- (b) the period of 5 years after that commencement has not expired.

Application for registration

13. (1) An application for registration shall—

- (a) be in writing and signed by the applicant;
- (b) set out particulars of—
 - (i) the name of the applicant;
 - (ii) his or her professional address in the Territory or, if the applicant has no professional address in the Territory, his or her usual place of residence, whether within or outside the Territory;

- (iii) the qualifications of the applicant relevant to the practice of nursing;
 - (iv) the course of education or training undertaken by the applicant in the practice of nursing;
 - (v) the experience of the applicant as a nurse; and
 - (vi) the places in which the applicant has practised nursing; and
- (c) state whether or not the applicant's right to practise nursing in any place has, at any time, been suspended or cancelled.

(2) The Board may require an applicant to attend personally before the Board and, if the applicant fails to attend as required, may refuse the application.

Approval of application

14. Where a person has—

- (a) made application to the Board in accordance with section 13 for registration as a general nurse, a midwifery nurse, a mental health nurse or an infants' nurse; and
- (b) paid the determined fee;

the Board shall approve the application for registration of the person accordingly if the Board is satisfied that the person—

- (c) is entitled to apply for registration;
- (d) is a fit and proper person to be so registered; and
- (e) has an adequate knowledge of the English language.

Concurrent applications

15. (1) This section applies where a person applies under section 10 for registration as a general nurse, and, before the Board has determined that application, applies under subsection 11 (2) for registration as a midwifery nurse or a mental health nurse.

(2) Where this section applies—

- (a) the applicant is not required to pay the determined fee referred to in paragraph 14 (b) in relation to the application under subsection 11 (2); and

- (b) the Board shall not approve the application for registration as a midwifery nurse or a mental health nurse unless it approve the application for registration as a general nurse.

Register

16. The Board shall keep a register to be called the Register of Nurses.

Registration

17. Where the Board approves an application for registration of a person—

- (a) as a general nurse;
- (b) as an infants' nurse; or
- (c) in the case of a person who is not registered as a general nurse—as a midwifery nurse or a mental health nurse;

the Board shall register the person in accordance with section 22.

Certificate of registration

18. (1) The Board shall issue a certificate of registration to a person who is registered.

(2) Where a person to whom a certificate of registration is issued is subsequently registered as a nurse in a branch of nursing other than that specified in the certificate, the Board shall, upon production of the certificate by the person for the purpose, cause to be entered on the certificate particulars of the subsequent registration of the person.

(3) A certificate of registration issued and any entry made on that certificate under subsection (2), is evidence that the person specified in the certificate was registered on the date specified in the certificate or entry, as the case may be, as a nurse in the branch of the nursing profession specified in the certificate or entry.

(4) Where a person ceases to be registered, the Board may, by notice in writing given to the person at the person's professional address, as last recorded in the Register, or at the person's last-known place of residence, require the person, within 1 month after receipt of the notice to deliver the person's certificate of registration to the Board.

(5) A person shall not refuse or fail to comply with a notice given under subsection (4).

Penalty: \$100.

(6) Subsection (5) does not apply in relation to a person who satisfies the Board that the certificate has been lost or destroyed.

(7) Where a certificate of registration has been lost or destroyed, the Board shall, on payment of the determined fee, issue a duplicate certificate.

Provisional registration

19. (1) A person who has applied for registration under section 10 or 11 may apply to the Chairperson for provisional registration as a general nurse, a midwifery nurse or a mental health nurse.

(2) The Chairperson may, on payment of the determined fee, grant provisional registration to the applicant.

(3) Provisional registration shall, subject to subsection (4), remain in force for a period of 3 months from the date of the grant and is not renewable.

(4) If, within the period of 3 months referred to in subsection (3), the Board makes a decision on the application under section 10 or 11, as the case may be, the provisional registration ceases to be in force.

Temporary registration

20. (1) A person may apply to the Chairperson for temporary registration as a general nurse, a midwifery nurse or a mental health nurse if the person—

- (a) is entitled to practise nursing in a State or another Territory in a branch that is the same as, or substantially equivalent to, the branch specified in the application; and
- (b) intends to practise nursing, other than as a registered nurse or an enrolled person, in the Territory.

(2) The Chairperson may, on payment of the determined fee, grant temporary registration to the applicant.

(3) Temporary registration shall remain in force for a period of 3 months from the date of the grant and, subject to this section, may, upon application by the person to whom temporary registration was granted, and upon payment of the determined fee, be renewed for a further period of 3 months.

(4) Temporary registration shall not be granted or renewed under this section where the applicant has been temporarily registered for a period or periods which, in the aggregate, exceed 6 months during the period of 24 months immediately preceding the date of the person's application for temporary registration or renewal, as the case may be.

Special registration

21. (1) This section applies to a person who—

- (a) is entitled to practise nursing in a place outside Australia; and
- (b) is visiting the Territory in connection with research into, or the dissemination of knowledge of the theory and practice of, nursing.

(2) Upon application made to the Board on behalf of a person to whom this section applies by—

- (a) a hospital or a university, college of advanced education or other educational institution; or
- (b) a professional association whose objects include the promotion of research into, or the dissemination of knowledge of the theory and practice of, nursing;

and on payment of the determined fee, the Board may grant special registration to the person.

(3) Special registration granted under this section—

- (a) remains in force for such period, not exceeding 12 months, as is specified;
- (b) may be renewed, upon payment of the determined fee, for a further period of 12 months; and
- (c) may be granted subject to such restrictions and conditions as the Board thinks fit.

Registration—how effected

22. (1) Subject to section 17, registration of a person under this Part shall be effected by entering in the Register in relation to that person—

- (a) the particulars referred to in subparagraphs 13 (1) (b) (i), (iii) and (iv);
- (b) the registration number allotted to that person; and
- (c) the date of the registration.

(2) Registration of a person, other than a person referred to in paragraph 17 (c), as a midwifery nurse or a mental health nurse, shall be effected by adding to the particulars entered in the Register in relation to the registration of that person as a general nurse—

- (a) particulars of the person's qualifications as a midwifery nurse or a mental health nurse; and
- (b) the date of registration.

Effect of registration

23. A person who has been granted provisional, temporary or special registration shall, while the registration is in force, be deemed to be registered for the purposes of Parts VI and VII and sections 54, 55, 56 and 58.

Payment of annual fee

24. (1) The determined fee is due and payable by each registered nurse on or before 1 January in each year.

(2) Where a registered nurse does not pay the determined fee in accordance with subsection (1), the Board shall send to the registered nurse a notice requiring him or her to pay that fee within 1 month after the date of the notice and advising him or her that if he or she does not do so, the registration of the registered nurse will be cancelled.

(3) A notice under subsection (2) shall be posted to the registered nurse at the professional address as last recorded in the Register, or at the last-known place of residence, of the registered nurse.

(4) Where a registered nurse to whom a notice under subsection (2) has been sent does not comply with the requirements of the notice, the Board shall cancel the registration of the registered nurse.

(5) Where a person whose registration has been cancelled under subsection (4) pays the determined fee within 12 months after the date on which the person's registration was cancelled, the Board shall re-register the person.

Change of address

25. Where—

- (a) a change occurs in an address of a registered nurse entered in the Register under section 22;
- (b) a registered nurse establishes, or ceases to have, a professional address in the Territory; or
- (c) in the case of a registered nurse who has no professional address in the Territory—a change occurs in the address of his or her usual place of residence, whether within or outside the Territory;

the registered nurse shall, within 1 month after the change or establishment, as the case may be, notify the Chairperson in writing.

Penalty: \$100.

Alteration of Register

26. (1) The Board shall remove from the Register the name of a registered nurse who has died or ceased to be registered.

(2) The Board may, from time to time, at the request of a person or of its own accord, make such other alterations to particulars in the Register as are necessary.

(3) The Board shall not alter the Register by including particulars of a qualification obtained or held by a registered nurse other than a qualification that entitled the registered nurse to apply for registration.

(4) The Board shall not alter the Register at the request of a person unless the determined fee has been paid.

PART V—ENROLMENT

Persons entitled to apply for enrolment

27. (1) A person is entitled to apply to the Board for enrolment as an enrolled nurse—

- (a) if the person was, immediately before the commencement of this Ordinance, enrolled as a nursing aid under the repealed Ordinance; and
- (b) the period of 5 years after that commencement has not expired.

(2) A person is entitled to apply to the Board for enrolment as an enrolled nurse or as a mothercraft nurse if the person—

- (a) has passed the appropriate examinations and completed the approved courses of education or training;
- (b) has completed a course of education or training in a State or another Territory or in a place outside Australia, being a course of education or training that would entitle him or her to practise nursing in that State, Territory or place, and he or she has passed such examinations and completed such supplementary training, if any, as the Board directs in his or her case; or

- (c) has undertaken a course of education or training referred to in paragraph (b) and has completed part of that course to the satisfaction of the Board and has passed such examinations and completed such supplementary training as the Board directs in the particular case.

Application for enrolment

28. (1) An application for enrolment shall—

- (a) be in writing and signed by the applicant;
- (b) set out particulars of—
 - (i) the name of the applicant;
 - (ii) his or her professional address in the Territory or, if the person has no professional address in the Territory, his or her place of residence, whether within or outside the Territory;
 - (iii) the qualifications of the applicant relevant to the practice of nursing;
 - (iv) the education or training undertaken by the applicant in the practice of nursing;
 - (v) the experience of the applicant as a nurse; and
 - (vi) the places in which the applicant has practised nursing; and
- (c) state whether or not the applicant's right to practise nursing in any place has, at any time, been suspended or cancelled.

(2) The Board may require an applicant to attend personally before the Board and, if the applicant fails to attend as required, may refuse the application.

Approval of application

29. Where a person has—

- (a) made application to the Board in accordance with section 28 for enrolment as an enrolled nurse or as a mothercraft nurse; and
- (b) paid the determined fee;

the Board shall approve the application for the enrolment of the person and register the person accordingly if the Board is satisfied that the person—

- (c) is entitled to apply for enrolment;
- (d) is a fit and proper person to be enrolled; and

- (e) has an adequate knowledge of the English language.

Roll

- 30.** The Board shall keep a roll to be called the Roll of Enrolled Nurses.

Certificate of enrolment

31. (1) The Board shall issue to an enrolled person a certificate of enrolment.

(2) A certificate of enrolment is evidence that the person specified in the certificate was enrolled on the date specified in the certificate.

(3) Where a person ceases to be enrolled, the Board may, by notice in writing given to the person at the professional address of the person as last recorded in the Roll, or at the last-known place of residence of the person, require the person, within one month after receipt of the notice, to deliver the person's certificate of enrolment to the Board.

(4) A person shall not, without reasonable excuse, fail to comply with a notice given under subsection (3).

Penalty: \$100.

(5) Subsection (4) does not apply in relation to a person who satisfies the Board that the certificate has been lost or destroyed.

(6) Where a certificate has been lost or destroyed, the Board shall, on payment of the determined fee, issue a duplicate certificate.

Provisional enrolment

32. (1) A person who has applied under section 28 may apply to the Chairperson for enrolment as an enrolled nurse or mothercraft nurse.

(2) The Chairperson may, on payment of the determined fee, grant provisional enrolment to the applicant.

(3) Provisional enrolment granted under this section shall, subject to subsection (4), remain in force for a period of 3 months after the date of the grant and is not renewable.

(4) If, within the period of 3 months referred to in subsection (3), the Board makes a decision on the application under section 28, the provisional enrolment ceases to be in force.

Enrolment

33. Where—

- (a) the Board approves an application for the enrolment of a person; or
- (b) the Chairperson grants provisional enrolment to a person;

as an enrolled nurse or as a mothercraft nurse, enrolment of the person under this Part shall be effected by entering in the Roll in relation to that person—

- (c) the particulars referred to in subparagraphs 28 (1) (b) (i), (iii) and (iv);
- (d) the enrolment number allotted to that person; and
- (e) the date of the enrolment.

Effect of provisional enrolment

34. A person who has been granted provisional enrolment shall, while the enrolment is in force, be deemed to be enrolled for the purposes of Parts VI and VII and sections 54, 55, 56 and 58.

Notification of address and payment of annual fee

35. (1) The determined fee is due and payable by each enrolled person on or before 1 January in each year.

(2) Where an enrolled person does not pay the determined fee in accordance with subsection (1), the Board shall send to the enrolled person a notice requiring the person to pay that fee within 1 month after the date of the notice and advising the person that if he or she does not do so, the enrolment of that person will be cancelled.

(3) A notice under subsection (2) shall be posted to the person at the professional address of the person as last recorded in the Roll, or at the last-known place of residence, of the person.

(4) Where a person to whom a notice under subsection (2) has been sent does not comply with the requirements of the notice, the Board shall cancel the person's enrolment.

(5) Where a person whose enrolment has been cancelled under subsection (4) pays the determined fee within 12 months after the date on which the person's enrolment was cancelled, the Board shall re-enrol the person.

Change of address

36. Where—

- (a) a change occurs in an address of a person entered in the Roll under section 33; or

- (b) a person who is enrolled establishes, or ceases to have, a professional address in the Territory;

the person shall, within 1 month after the change or establishment, as the case may be, notify the Chairperson in writing.

Penalty: \$100.

Alteration of Roll

37. (1) The Board shall remove from the Roll the name of an enrolled person who has died or ceased to be enrolled.

(2) The Board may, from time to time, at the request of a person or of its own accord, make such other alterations to particulars in the Roll as are necessary.

(3) The Board shall not alter the Roll by including particulars of a qualification obtained or held by an enrolled person other than a qualification that entitled the person to apply for enrolment.

(4) The Board shall not alter the Roll at the request of a person unless the determined fee has been paid.

PART VI—CANCELLATION AND SUSPENSION

Cancellation or suspension

- 38. (1)** The Board may cancel the registration or enrolment of a person—
- (a) whose registration or enrolment has been obtained by fraud or misrepresentation;
 - (b) whose qualification, being a qualification that entitled the person to apply for registration or enrolment, is withdrawn or cancelled by the body which granted it;
 - (c) whose right to practise nursing in a State or another Territory is cancelled, suspended or otherwise withdrawn on a ground other than the non-payment of a fee;
 - (d) who, being a person whose registration or enrolment is suspended, is convicted of an offence against section 43, 44 or 45, or who fails to comply with a direction of the Board under subsection 39 (2);

- (e) who is convicted in the Territory or elsewhere of an offence punishable by imprisonment for a period of 1 year or longer or any other offence that renders the person unfit to practise nursing;
- (f) who is guilty of the practice of canvassing, or of employing an agent or canvasser, for the purpose of procuring patients or practice; or
- (g) who is unfit to practise nursing.

(2) The Board may suspend, for such period as it thinks fit, the registration or enrolment of a person—

- (a) whose right to practise nursing in a State or another Territory is suspended on a ground other than the non-payment of a fee; or
- (b) who is habitually drunk or is addicted to a drug.

(3) The Board may, instead of cancelling the registration or enrolment of a person referred to in paragraph (1) (e), (f) or (g)—

- (a) suspend the registration or enrolment of the person for such period as it thinks fit; or
- (b) reprimand the person.

(4) The Board may, instead of suspending the registration or enrolment of a person referred to in paragraph (2) (b), reprimand the person.

(5) The Board shall, on request in writing by a registered nurse or enrolled nurse, cancel or suspend his or her registration or enrolment, unless the person has been served with a notice under section 24 of the *Health Professions Boards (Procedures) Ordinance 1981*.

Suspension etc.—health grounds

39. (1) Subject to this section, the Board shall, where it is satisfied that the mental or physical condition of a registered nurse or an enrolled person is such as to render the person unfit to practise nursing, suspend the registration or enrolment of that person.

(2) If the Board is satisfied that—

- (a) the mental or physical condition of a registered nurse or an enrolled person is such as to render the person unfit to perform some but not all of the duties of a nurse; and
- (b) it would not be contrary to the public interest to give a direction under this subsection;

the Board may, by notice in writing, direct the person not to give or perform a nursing service specified in the notice.

- (3) The Board shall review a suspension or direction under this section—
- (a) before the expiration of the period of 12 months after giving the suspension or direction;
 - (b) after the expiration of that period—at intervals not exceeding 12 months; and
 - (c) subject to subsection (4), if requested to do so by the person to whom the suspension or direction relates.

(4) If the Board is satisfied that the physical or mental health of a person to whom a suspension or direction relates has changed, the Board may, by notice in writing, take such action under subsection (1) or (2) as it considers appropriate in the circumstances.

- (5) Where the Board—
- (a) suspends a person or gives a direction under this section; or
 - (b) reviews a suspension or direction under this section;

the person to whom the suspension or direction relates shall not be entitled to a review or further review of the suspension or direction, as the case may be, within a period of 3 months after the date of the suspension, direction or review.

(6) Where a person to whom a suspension or direction relates gives or performs a nursing service in contravention of that suspension or direction, the person shall, in giving or performing that service, be deemed to be a person other than a registered nurse or an enrolled person.

Inquiry by Board

40. (1) The Board shall hold an inquiry before—
- (a) cancelling or suspending the registration or enrolment of a person;
 - (b) reprimanding a person; or
 - (c) suspending a person or giving a direction under subsection 39 (2) or taking action under subsection 39 (4).

(2) Pending the holding of an inquiry, the Board may suspend temporarily the registration or enrolment of the person to whom the inquiry relates.

Effect of suspension

41. A person whose registration or enrolment has been suspended under section 38 or subsection 39 (1) or 40 (2) shall, during the period of the suspension, be deemed not to be registered or enrolled under this Ordinance.

Application for re-registration or re-enrolment etc.

42. (1) Where the registration or enrolment of a person has been cancelled or suspended, other than under subsection 24 (4), 35 (4), 39 (1) or 40 (2), the person may apply in writing to the Board for re-registration or re-enrolment, or for termination of the suspension, as the case may be.

(2) An application under subsection (1) shall specify—

- (a)** the change in the circumstances that has occurred since the date of the cancellation or suspension; and
- (b)** the reasons why the registration or enrolment of the person should be restored or the suspension should be terminated.

(3) If the Board is satisfied that, by reason of a change in circumstances, the registration or enrolment of the person should be restored, or the suspension should be terminated, as the case may be, it shall restore the registration or enrolment.

PART VII—THE CONDUCT OF THE PRACTICE OF NURSING

Persons who may practise nursing

43. (1) A person other than a registered nurse or an enrolled person shall not give or perform, for fee or reward, any nursing service.

Penalty: \$2,000.

(2) A registered nurse or an enrolled person shall not practise nursing under a name other than the name under which the registered nurse or enrolled person is registered or enrolled, as the case may be.

Penalty: \$200.

(3) In proceedings for an offence against subsection (1) or (2), a certificate given by the Chairperson that—

- (a) the person named in the certificate is not a registered nurse or an enrolled person; or
- (b) the name of a person named in the certificate is the name under which that person is registered or enrolled;

is evidence of that fact.

Use of title of nurse

44. (1) A person other than a registered nurse or an enrolled person shall not—

- (a) take or use, either alone or in combination with any other words or letters, the name or title of a nurse or a name, title, addition or description (including initials or letters placed after his or her name) indicating or implying that the person is a registered nurse or an enrolled person or that the person is a person who practises, or is qualified to practise, nursing; or
- (b) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise nursing or as being a person who practises nursing.

Penalty: \$1,000.

(2) An enrolled person shall not hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise nursing, or as being a person who practises nursing, as a registered nurse.

Penalty: \$1,000.

Registered nurse or enrolled person—provision of services etc.

45. (1) A registered nurse or an enrolled person shall not give or perform, for fee or reward, a nursing service in a branch of the nursing profession in relation to which the registered nurse or enrolled person is not registered or enrolled, as the case may be, unless the service is given or performed under the immediate supervision of a registered nurse who is registered in that branch.

Penalty: \$2,000.

(2) A registered nurse or an enrolled nurse shall not—

- (a) take or use, either alone or in combination with any other words or letters, a name, title, addition or description (including initials or letters placed after his or her name) indicating or implying that the person is registered or enrolled, or that the person is a person who practises or is qualified to practise as a nurse, in a branch of the nursing profession in relation to which the person is not registered or enrolled, as the case may be; or
- (b) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise in a branch of the nursing profession in relation to which the person is not registered or enrolled, as the case may be.

Penalty: \$1,000.

Employment of enrolled nurses

46. A person who employs an enrolled nurse shall not require or permit that nurse to practise nursing in the course of that employment otherwise than under the immediate supervision of a registered nurse.

Penalty:

- (a) in the case of a natural person—\$500;
- (b) in the case of a body corporate—\$2,500.

Signing of certificates

47. A person other than a registered nurse shall not sign any certificate or other document required or permitted by any law of the Commonwealth or of the Territory to be furnished by a nurse.

Penalty: \$500.

Recovery of fees

48. (1) Subject to subsection (3), a person other than a registered nurse or an enrolled person is not entitled to sue or counterclaim for, or set-off or otherwise recover, any remuneration for a nursing service.

(2) A registered nurse or an enrolled person is not entitled to commence an action for the recovery from a person of a fee or other remuneration for a nursing service given to that person, or a dependant of that person, unless the registered nurse or enrolled person has served or caused to be served on that person, by delivery to that person personally or by post addressed to that person at his or her last-known place of residence, an account for the fee or other remuneration setting out the amount claimed, a brief statement of the nature of the nursing service given, the date or dates on which it was given and the person to whom it was given.

(3) An action for the recovery of a fee or other remuneration for a nursing service may be commenced without the service of an account for that fee or remuneration in accordance with subsection (2) if the action is one in which an application could, but for that subsection, be made for an order under Part II of the Arrest on Mesne Process Act, 1902 of the State of New South Wales in its application to the Territory.

Review of accounts for fees for nursing service

49. (1) A person liable to pay a fee or other remuneration to a registered nurse or an enrolled person for a nursing service may, within 1 month after service upon him or her of an account for the fee or other remuneration in accordance with section 48, apply in writing to the Board to review the account.

(2) The Board shall, on receipt of an application under subsection (1), review the account and certify, under the hand of the Chairperson or the Deputy Chairperson, the amount which in the opinion of the Board, is a reasonable amount of the fee or other remuneration for the nursing service.

(3) The Board shall, in a certificate referred to in subsection (2), set out the facts on which the certificate is based.

(4) The Board may request a person to furnish such information as it thinks necessary or desirable for the purposes of a review under this section and may fix a time within which the information should be furnished.

(5) If a person does not furnish information requested by the Board under subsection (4) within the time fixed by the Board under that subsection, the

Board may proceed to review the account for the fee or other remuneration without that information.

(6) In reviewing an account for a fee or other remuneration under this section, the Board shall provide the parties to the application with any information furnished to the Board under subsection (4).

(7) In reviewing an account for a fee or other remuneration under this section, the Board shall have regard to the time occupied in giving, and the nature of, the nursing service and any other circumstances submitted by the registered nurse or enrolled person with respect to the provision of the nursing service.

(8) The Board shall cause a copy of a certificate of the Board under subsection (2) to be sent by post to the registered nurse or enrolled person at the professional address last recorded in the Register of that registered nurse or enrolled person.

(9) In proceedings for the recovery of a fee or other remuneration in respect of a nursing service, a certificate of the Board under subsection (2) in relation to that service is evidence that the amount certified in the certificate is a reasonable amount of fee or other remuneration for the nursing service.

Administration of estate of deceased nurse

50. Upon the death of a registered nurse who was at the time of death carrying on business as a nurse, an executor, administrator or trustee of the estate of the registered nurse may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, administrator or trustee, permits, if the practice of nursing in the business is carried on by a registered nurse.

Substitutes for registered nurses

51. A registered nurse shall not knowingly or recklessly employ a person other than a registered nurse as his or her locum.

Penalty: \$500.

Application

52. Nothing in this Part prohibits—

- (a) the giving or performance in any case of emergency of any nursing service by a person entitled to practise nursing under the law of a State or another Territory;

- (b) the giving or performance, for quarantine purposes, of any nursing service by a person entitled to practise nursing under the law of a State or another Territory; and
- (c) the giving or performance of any nursing service by a person who is undergoing a course of training or supplementary training for the purposes of section 7, 10, 11 or 27, if that nursing service is given or performed as part of that course or supplementary training.

PART VIII—MISCELLANEOUS

Offence—false statements

53. (1) The Board may, by notice in writing, require an applicant for registration or enrolment to furnish to the Board, either orally or in writing, such further information relating to the application as is specified in the notice.

(2) A person shall not, in purported compliance with a requirement under subsection (1), knowingly or recklessly furnish information that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Notification of decisions

54. (1) Where the Board makes a decision—

- (a) refusing to approve the registration of a person under section 14;
- (b) refusing to grant special registration under section 21;
- (c) specifying a restriction or condition under paragraph 21 (3) (c);
- (d) refusing to approve the enrolment of a person under section 29;
- (e) suspending the registration or enrolment of a person under subsection 38 (3);
- (f) refusing to re-register or re-enrol, or to terminate the suspension of, a person under section 42; or
- (g) refusing to extend the period under section 50;

the Board shall cause notice in writing of the decision to be given—

- (h) in the case of a decision referred to in paragraph (a), (b), (c), (d) or (f)—to the applicant;

- (i) in the case of a decision referred to in paragraph (e)—to the registered nurse or enrolled nurse, as the case requires; or
- (j) in the case of a decision referred to in paragraph (g)—to the executor, administrator or trustee, as the case requires.

(2) Where the Chairperson makes a decision refusing to grant, or to renew, temporary registration of a person under section 20, the Chairperson shall cause notice in writing of the decision to be given to the applicant.

(3) A notice under subsection (1) or (2) or under section 31 of the Procedures Ordinance, shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

(4) The validity of a decision referred to in subsection (1), or subsection 31 (1) of the Procedures Ordinance shall not be taken to be affected by a failure to comply with subsection (3).

(5) In this section, “Procedures Ordinance” means the *Health Professions Boards (Procedures) Ordinance 1981*.

Appeals

55. (1) Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board—

- (a) refusing to approve the registration of a person under section 14;
- (b) refusing to grant special registration under section 21;
- (c) specifying a restriction or condition under paragraph 21 (3) (c);
- (d) refusing to approve the enrolment of a person under section 29;
- (e) directing the cancellation of the registration or enrolment of a person under subsection 38 (1);
- (f) suspending the registration or enrolment of a person under subsection 38 (2) or 39 (1) or giving a direction under subsection 39 (2) or (4);

- (g) suspending the registration or enrolment of a person under subsection 38 (3);
- (h) reprimanding a person under subsection 38 (3) or (4) or paragraph 40 (1) (b);
- (i) refusing to re-register or re-enrol, or to terminate the suspension of, a person under section 42; or
- (j) refusing to extend the period under section 50.

(2) Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Chairperson refusing to grant, or to renew, temporary registration under section 20.

Payment of determined fees

56. Where a determined fee is payable under this Ordinance, the fee shall be paid to the Authority.

Committees

57. (1) The Board may appoint such committees as it considers necessary to undertake research or studies, and to advise the Board, in relation to the education and training of nurses, the practice of nursing and such other matters related to nursing as the Board determines.

(2) A committee appointed under this section shall consist of such persons (who may include members of the Board) as the Board thinks fit.

(3) A committee shall conduct such research or studies and make such investigations, and furnish to the Board such reports, in connection with the matter in relation to which it has been appointed, as the Board directs.

(4) A member of a committee is entitled to reimbursement of such of the expenses reasonably incurred by the member in the performance of his or her duties or functions as such a member as are approved by the General Manager of the Authority.

Inspection of Register or Roll

58. (1) A person may, on payment of the determined fee—

- (a) inspect an entry in the Register or the Roll; or
- (b) obtain a certified copy of an entry in the Register or the Roll.

(2) The Board may, on request by the registration authority of a State, Territory or place outside Australia and without payment by the registration

authority of a fee, forward a certified copy of the Register or the Roll to that registration authority.

(3) In this section, “registration authority” means a person or body empowered by or under the law of a State, Territory or place outside Australia to register, enroll or license nurses or otherwise to control the practice of nursing.

Publication of names of registered or enrolled persons

59. The Board shall, as soon as practicable after 1 January in each year, cause to be published in the *Gazette*, a list containing the name and professional address, if any, of each person registered or enrolled on that date.

Power to determine fees

60. The Minister may, by notice in the *Gazette*, determine fees for the purposes of this Ordinance.

Regulations

61. The Minister may make regulations not inconsistent with this Ordinance prescribing matters—

- (a) required or permitted by this Ordinance to be prescribed; or
- (b) which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance;

and, in particular, may make regulations—

- (c) in relation to the control of the professional conduct of registered nurses and the practice of nursing;
- (d) in relation to the control of the conduct of enrolled persons in the course of their employment; and
- (e) prescribing penalties not exceeding \$500 for offences against the regulations.

Repeal

62. The Ordinances specified in the Schedule are repealed.

PART IX—TRANSITIONAL

Application

63. (1) Subject to subsection (2), Part VII does not apply to or in relation to a person who, immediately before the commencement of this Ordinance, was registered or enrolled under the repealed Ordinance until the expiration of the period of 6 months after the commencement of this Ordinance.

(2) If, within the period of 6 months after the commencement of this Ordinance, a person referred to in subsection (1) applies to the Board for registration or enrolment—

- (a) the person is not required to pay the determined fee referred to in paragraph 14 (b) or 29 (b), as the case may be; and
- (b) Part VII does not apply to or in relation to the person until the Board has determined the application.

(3) Notwithstanding the repeal of the *Nurses Registration Ordinance 1933*—

- (a) sections 25, 27, 28H, 28J, 28L and 28M and Parts IV and IVA of that Ordinance continue to apply to a person who, immediately before the commencement of this Ordinance, was registered or enrolled under the repealed Ordinance; and
- (b) regulations 32 to 55 (inclusive) of the Nursing Regulations made under the repealed Ordinance and the Schedule to those Regulations (other than Forms A and B) continue to apply to a person who, immediately before the commencement of this Ordinance, was registered as a midwifery nurse under the repealed Ordinance;

unless—

- (c) if application has been made by that person under subsection (2)—the application has been determined; or
- (d) the period of 6 months after the commencement of this Ordinance has expired;

whichever first occurs.

Persons entitled to apply for registration as mental health nurses

64. (1) Notwithstanding the provisions of subsection 11 (2), a person, other than a person who is registered, or who is entitled to apply to the Board

for registration, under this Ordinance as a general nurse, is, subject to this section, entitled to apply to the Board for registration as a mental health nurse if the person would otherwise be entitled to apply to the Board under subsection 11 (2) for registration as a mental health nurse.

(2) An application by a person referred to in subsection (1) for registration as a mental health nurse shall be made before the expiration of the period of 10 years after the commencement of this Ordinance.

First Chairperson and members of Board

65. (1) Notwithstanding the provisions of section 5, the first Chairperson, Deputy Chairperson and members of the Board shall be the Chairperson, Deputy Chairperson and members of the Nurses Registration Board established under the repealed Ordinance holding office immediately before the commencement of this Ordinance as if the Chairperson, Deputy Chairperson or member had been appointed or elected, as the case requires, for the purposes of that section.

(2) Notwithstanding the repeal of the *Nurses Registration Ordinance 1933* by this Ordinance, the respective terms of office of the first Chairperson, Deputy Chairperson and members of the Board shall expire on the date on which those terms of office would have expired in accordance with the *Health Professions Boards (Procedures) Ordinance 1981* as in force immediately before the commencement of this Ordinance.

SCHEDULE

Section 62

ORDINANCES REPEALED

Nurses Registration Ordinance 1933
Nurses Registration Ordinance (No. 2) 1933
Nurses Registration Ordinance 1936
Nurses Registration Ordinance 1941
Nurses Registration Ordinance 1949
Nurses Registration Ordinance 1956
Nurses Registration Ordinance 1959
Nurses Registration Ordinance 1960
Nurses Registration Ordinance 1967
Nurses Registration Ordinance 1970
Nurses Registration Ordinance 1971
Nurses Registration Ordinance (No. 2) 1971
Nurses Registration Ordinance 1973
Nurses Registration Ordinance (No. 2) 1973
Nurses Registration (Amendment) Ordinance 1977

Nurses Registration (Amendment) Ordinance 1978

Nurses Registration (Amendment) Ordinance 1980

Nurses Registration (Amendment) Ordinance 1981

Nurses Registration (Amendment) Ordinance 1982

Nurses Registration (Amendment) Ordinance 1984

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 7 September 1988.