

WESTERN AUSTRALIA.

NURSES ACT 1968-1980

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Approved for Reprint 14 September 1981.

WESTERN AUSTRALIA.

NURSES.

No. 27 of 1968¹

[As amended by Acts:

- No. 9 of 1970, assented to 29 April 1970;
- No. 38 of 1973, assented to 18 October 1973;
- No. 130 of 1976,² assented to 9 December 1976;
- No. 87 of 1980,³ assented to 9 December 1980,

and reprinted pursuant to the Amendments Incorporation Act 1938.]

AN ACT to Consolidate and Amend the Law relating to the Nursing Profession.

[Assented to 25 October 1968.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Nurses Act 1968-1980*.

Short title.
Amended by
No. 87 of
1980, s. 1.

2. This Act shall come into operation on a date to be fixed by proclamation.¹

Commence-
ment.

¹ Came into operation 1 January 1970. See *Gazette* 29/12/69, p. 4341.

² Came into operation 1 July 1977. See *Gazette* 1/7/77, p. 1971.

³ Came into operation 14 August 1981. See *Gazette* 14/8/81, p. 3357.

Repeal.

3. The Nurses Registration Act 1921-1959 is hereby repealed.

Saving.

4. (1) Without prejudice to the operation of the Interpretation Act 1918, every application, registration certificate, registration, enrolment, record, register and other act or thing, done, made or given and all training, instruction and examinations undergone by any person under the repealed Act, shall be deemed to have been done, made, given or undergone under this Act, as if this Act had been in force at the time it was done, made, given or undergone.

(2) All matters and proceedings commenced under the repealed Act and pending or in progress on the coming into operation of this Act may be continued, completed and enforced under this Act.

Arrangement.

5. This Act is divided into Parts as follows—

PART I. PRELIMINARY Ss. 1-6.

PART II. ADMINISTRATION. Ss. 7-17.

PART III. REGISTRATION. Ss. 18-28.

PART IV. MISCELLANEOUS. Ss. 29-43.

Interpreta-
tion.
Amended by
No. 87 of
1960, s. 3.

6. (1) In this Act, unless the contrary intention appears—

“Board” means the Nurses Board of Western Australia established under this Act;

“certificate of registration” means a certificate of registration issued under section 20;

“chairman” means chairman of the Board;

“Department” means the Department of Health and Medical Services of the Public Service of the State;

“enrolled nurse” means a person who is registered as an enrolled nurse by the Board;

“Federation” means the body known as the Royal Australian Nursing Federation (Western Australian Branch) Industrial Union of Workers;

“medical practitioner” means a person who is a medical practitioner within the meaning of the Medical Act 1894;

“member” means a member of the Board;

“register” means the Register of Nurses kept pursuant to section 19;

“registered” means registered under this Act and registration has a corresponding meaning;

“registered nurse” means a person, not being an enrolled nurse, who is registered as a nurse by the Board;

“repealed Act” means the Nurses Registration Act 1921-1959;

“school of nursing” means a hospital or institution, or a group of hospitals or institutions, approved by the Board as a school for the education of nurses;

“section” means a section of this Act.

(2) In this Act words importing the feminine gender include the male.

PART II.—ADMINISTRATION.

7. (1) For the purposes of this Act, there shall be established a Board, to be known as the Nurses Board of Western Australia.

Nurses Board
of Western
Australia.

(2) The Board—

- (a) is a body corporate with perpetual succession and shall have a common seal;
- (b) is capable in its corporate name, of acquiring, holding and disposing of real and personal property, subject to any trust affecting the property, and of suing and being sued;

- (c) is capable of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer; and
- (d) has, subject to the Minister, the general administration of this Act.

(3) All courts and all persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume that it was duly affixed thereto.

Dissolution of
Nurses
Registration
Board.

8. (1) When the Board is established the Nurses Registration Board established under the repealed Act is dissolved and the members thereof shall go out of office.

(2) All the funds and property both real or personal that immediately before the date of the coming into operation of this Act were held by the Nurses Registration Board shall on that date vest in and belong to the Board, and all rights and liabilities of the firstmentioned Board immediately before that date shall become by force of this subsection the rights and liabilities of the Board.

Members.
Substituted
by No. 87 of
1980, s. 4.

9. (1) The Board shall comprise eighteen members, of whom —

- (a) four shall be persons recommended for appointment by the Council of the Federation, each of whom is registered as a general nurse, and who shall respectively represent—
 - (i) nursing education at a tertiary level;
 - (ii) nursing education within a school of nursing associated with a general hospital;
 - (iii) nursing education within a hospital associated with a school of nursing;
 - (iv) nursing administration within a hospital associated with a school of nursing;

- (b) four shall be persons recommended for appointment by the Council of the Federation, each of whom is registered as a general nurse, selected from amongst persons respectively—
 - (i) administering or practising domiciliary nursing;
 - (ii) practising in a general hospital associated with a school of nursing, other than in administration or education;
 - (iii) practising in a hospital associated with a school of nursing for paediatric care, other than in administration or education;
 - (iv) practising within a community service;
- (c) one shall be a person recommended for appointment by the Council of the Federation, being a person who is registered as a midwifery nurse and who is administering or practising in a hospital associated with a midwifery school of nursing;
- (d) three shall be persons recommended for appointment by the Minister, of whom—
 - (i) one shall be a person who is registered as a general nurse, who shall represent general nursing administration within the Department;
 - (ii) one shall be a person who is registered as a general nurse, who shall represent the community nursing administration within the Department;
 - (iii) one shall be a person who is registered as a mental health nurse, who shall represent administration or education within a hospital associated with a mental health school of nursing;

- (e) one shall be a person recommended for appointment by the body known as the Psychiatric Nurses' Association, being a person who is registered as a mental health nurse and who is practising in a hospital associated with a mental health school of nursing;
- (f) one shall be a person recommended for appointment by the Board, being a person who is a specialist in general education;
- (g) one shall be a person recommended for appointment by the Council of the body known as the Australian Medical Association (W.A. Branch), being a person practising in a hospital associated with a school of nursing;
- (h) two shall be persons recommended for appointment by the body known as the Hospital Employees Industrial Union, being persons each of whom is an enrolled nurse who is registered with the Board and who is practising in a general hospital associated with a school of nursing for enrolled nurses;
and
- (i) one shall be a person recommended for appointment by the Minister, being a person who is a medical practitioner and who shall represent the Department,

together, where the person appointed as chairman is not selected from amongst those members, with the person who is, pursuant to subsection (2) of this section, selected by the Minister and recommended for appointment as chairman.

(2) The Minister, having regard to but without being bound by any recommendation made by the members of the Board appointed pursuant to paragraphs (a) to (i) of subsection (1) of this section, may select a person, whether or not from amongst those members, who shall hold office as chairman of the Board, and if that person is not selected from amongst those members may recommend him for

appointment as a member of the Board in that office, but the Board may itself elect and appoint a deputy chairman from amongst its members, and a deputy chairman so appointed may exercise the functions, powers and duties of the chairman during any vacancy in the office of chairman, until the meeting of the Board next after the first day of June following, and may be re-appointed.

(3) If at any time any body fails or neglects, within the period specified in the request, to recommend a suitable person for appointment as member under subsection (1) of this section, after being requested by the Minister so to do, the Governor may, without the recommendation of that body, appoint any person who is otherwise eligible to be a member.

(4) A person recommended for appointment as member shall be appointed to that office by the Governor and shall, subject to this Act, hold the office for such term, not exceeding three years, as the Governor determines when making the appointment.

(5) In determining the term of office of any member appointed under this section the Governor may fix the term in such manner as to ensure that in so far as is practicable the expiration of the terms of office of members shall occur in rotation.

(6) Each member—

(a) who by reason of the expiration of the term of office ceases to be a member, may from time to time be re-appointed a member;

(b) may be, at any time, removed from office by the Governor—

(i) for disability, insolvency, neglect of duty, or misconduct;

(ii) if that member is absent, without prior leave granted by the Board, from four meetings of the Board of which due notice was given;
or

(iii) if the member ceases to hold the office or qualification by virtue of which the appointment was recommended;

and

(c) may, at any time, resign office by writing addressed to the Minister.

(7) The Governor may appoint a person, recommended for appointment in the same manner as was the member for whom that person is to act as deputy, to act as the deputy of a member, and—

(a) in the absence of a member, the deputy may exercise the functions, powers and duties of the absent member; and

(b) at the request of a member or of a deputy member, the Board may grant to that person leave of absence on such terms and conditions as the Board determines.

(8) If any member dies, resigns or is removed from office, the vacancy in the office of member so vacated shall be filled in the manner in which the appointment to the vacant office was made, and every member so appointed to a vacancy shall hold office for the residue of the term for which the predecessor of that member was appointed.

(9) A member whose term of office expires shall continue to act in the office until his successor comes into office.

(10) The powers of the Board are not affected by any vacancy in the membership of the Board, and if a quorum is present all acts and proceedings of the Board are valid and effectual notwithstanding the vacancy.

(11) All acts and proceedings of the Board are, notwithstanding any defect in the appointment of any member, or that any member was disqualified or not entitled to act, as valid as if the member had been duly appointed and was qualified and entitled to act and had acted as a member and as if the Board had been duly and fully constituted.

10. (1) The chairman shall preside, when present, at all meetings of the Board, and at meetings of the Board when the deputy chairman, but not the chairman, is present the deputy chairman shall preside.

Chairman to preside at meeting. Amended by No. 87 of 1980, s. 5.

(2) In the absence of the chairman and of the deputy chairman from any meeting of the Board, another member chosen for the purpose by the majority of members present and voting at the meeting, shall preside.

11. (1) Subject to this section, the meetings of the Board shall be held at such times and places as the chairman may determine.

Proceedings of Board. Amended by No. 130 of 1976, s. 4.

(2) The chairman shall, upon the request in writing of not less than four members, convene a meeting of the Board.

(3) At a meeting of the Board, nine members constitute a quorum.

Quorum.

(4) Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present thereat and voting.

Decision of Board.

(5) Except as otherwise prescribed, the Board may regulate its own procedure.

Procedure.

(6) No matter or thing done or omitted by the Board, or by any member or any officer of the Board in good faith in the execution or intended execution, of this Act, or the exercise or discharge, or intended exercise or discharge, of any of its or his powers, authorities, duties or functions shall subject the Board or the member or the officer to any liability.

Exemption from liability.

12. Each member is entitled to receive such fees and allowances as may be prescribed.

Remuneration of member.

13. (1) The Board, may appoint such advisory committees, as it thinks fit to advise it on such matters within the scope of the authority of the

Committees.

Board as are referred to those committees by the Board or as may be prescribed and to make such inquiries, recommendations or research with respect to any of those matters as the Board requests.

(2) For the purpose of carrying out its functions under this section, a committee appointed under this section may subject to the regulations co-opt and make use of the services of any person upon such terms and conditions as the Board approves.

(3) A person may be appointed to be a member of any committee under this section whether or not he is a member.

Delegation by
the Board.

14. (1) Subject to section 29, the Board may, in respect to any particular matter or class of matters by instrument in writing, delegate to a member or a committee consisting of members appointed by the Board all or any of its powers under this Act, except this power of delegation.

(2) Every delegation under this section—

- (a) may from time to time be varied by the Board;
- (b) is revocable at will by the Board;
- (c) does not prevent the exercise of any powers or the performance of a function by the Board; and
- (d) authorizes the delegate to exercise in accordance with the instrument of delegation, a power or function delegated under it by the Board.

Objects,
functions and
powers of
Board.
Amended by
No. 9 of
1970, s. 2;
No. 87 of
1980, s. 6.

15. The Board is established to consider the conditions affecting the education of nurses and the practice of the nursing profession in this State and to exercise its powers and functions under this Act with a view to maintaining an efficient, ethical, technical and professional standard in the practice of nursing and for those purposes the functions of the Board are—

- (a) to determine the requirements for admission to courses of nursing education under this Act for each branch of nursing;
- (b) to determine length, character, content and conduct of education courses under this Act for each branch of nursing;
- (c) to determine standards of examination for all types of nurse education under this Act; to conduct examinations under this Act; to appoint the places where and the times when those examinations shall be held and to appoint examiners in respect of those examinations, and decide upon their remuneration, and to give to, or withdraw from, institutions or bodies the approval of the Board to the conduct of examinations under this Act by those institutions or bodies;
- (d) to issue certificates for having passed examinations conducted under this Act to persons entitled thereto;
- (e) to be responsible for the granting of provisional approval to, and for approval for the purposes of this Act of, any hospital, school of nursing or other institution or any part of that hospital, school or institution as a school of nursing for the whole or part of any course of nursing education for the purposes of this Act and for the cancellation of the provisional approval or the approval;
- (f) to require any school of nursing to keep records as prescribed of all students for any branch of nursing;
- (g) to receive applications for registration; to authorize registration in proper cases and to issue and cancel certificates of registration;
- (h) to suspend the registration of any persons and to annul such suspension;
- (i) to remove the name of any person from the register and to restore that name thereto;

- (j) to be responsible for the regular inspection of all places where the education of nurses is carried out and for the inspection of any places where it is proposed to carry out that nursing education;
- (k) to assist in providing teaching facilities in connection with nursing and allied public services;
- (l) to authorize and carry out research and investigation into such matters concerning the education and registration of persons as the Board thinks necessary for the purposes of this Act and to assist in any such research and investigation and for those purposes to authorize in writing any person to investigate any records, facilities or procedures in any hospital, school of nursing or other institution approved or applying to be approved as a school of nursing;
- (m) to appoint and employ, subject to any relevant award or agreement in force under the Public Service Arbitration Act 1966, an Administrator (who may be charged also with the functions of the Registrar under this Act) to the Board and such other persons as the Board considers necessary for the effective exercise of its powers and functions under this Act, on such terms and conditions of employment as are determined by the Board; and
- (n) generally, within the scope of its authority, to do whatever may in its opinion be necessary for the effective administration of this Act.

Funds of the Board.
Amended by No. 38 of 1973, s. 2.

16. (1) The funds of the Board shall comprise—
- (a) all money received by the Board or the Registrar under this Act for the purposes thereof including all fees, expenses and pecuniary penalties and costs so received under section 30;

- (b) all money that is paid or payable to the Board by way of grant, gift, bequest or otherwise, and the proceeds of any gift to the Board other than money, subject to any trust relating to the gift;
- (c) moneys borrowed by the Board pursuant to subsection (1a) of this section; and
- (d) moneys appropriated from time to time by Parliament for the purposes of this Act.

(1a) The Board may with the approval of the Treasurer and subject to such terms and conditions as the Treasurer approves borrow moneys, and may for that purpose mortgage or charge any of its real or personal property.

(1b) The Treasurer on behalf of the State is hereby authorized to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Board under this section and the payment of interest thereon.

(1c) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to this section to be paid out of the Public Account, which Account is hereby to the necessary extent appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Board or otherwise in respect of a sum so paid by the Treasurer to be paid into the Public Account.

(2) The remuneration of the Registrar and other officers or employees of the Board appointed under this Act, and all other expenses of and incidental to the administration of the Act shall be paid by the Board out of its funds.

(3) The accounts of the Board shall once in each year, be audited by the Auditor-General, who has in respect thereof, all the powers that may be exercised by him under the Audit Act 1904.

(4) The Board may also apply its funds for or towards—

- (a) any public purpose connected with the nursing profession in the State;
- (b) the advancement of education and research in nursing; and
- (c) the carrying out of any of the objects of this Act.

(5) Each report of the Auditor-General on his audit of the accounts of the Board shall be sent to the Minister.

Superannuation of officers and employees of Board.
Amended by No. 9 of 1970, s. 3.

17. (1) The Board having regard to the desire of its officers and employees may enter into and carry out an agreement with any person for the purpose of providing pension, superannuation, sickness or family benefits of a similar nature for any of its officers or employees but no officer or employee of the Board is compelled to become a contributor for pension, superannuation or benefits under any agreement so entered into.

(2) For the purposes of subsection (1) of this section and the Superannuation and Family Benefits Act 1938, the Board shall, on and from the date of the coming into operation of this Act, be deemed to be such a Crown instrumentality as is referred to in the second paragraph of the definition of "Department" in section 6 of that Act.

PART III.—REGISTRATION.

Registrar.
Amended by No. 87 of 1980, s. 7.

18. (1) The Board shall cause a person to carry out the functions of the Registrar for the purposes of this Act.

(2) The Registrar shall keep a record of all proceedings of the Board and of all registrations, approvals, cancellations, revocations, suspensions and orders authorized, issued, imposed or made by the Board under this Act.

19. (1) The Board shall cause to be kept by the Registrar a register, to be called the Register of Nurses.

Register of
Nurses.
Amended by
No. 87 of
1980, s. 8.

(2) The register shall be divided as follows—

- (a) the register of General Nurses;
- (b) the register of Midwifery Nurses;
- (c) the register of Mental Health Nurses;
- (d) the register of Mothercraft Nurses;
- (e) the register of Children's Nurses;
- (f) the register of Dental Nurses;
- (g) the register of Child Health Nurses;
- (h) the register of Tuberculosis Nurses;
- (i) the register of Enrolled Nurses;
- (j) the register of Enrolled Mental Health Nurses.

(3) The Governor, on the recommendation of the Board—

- (a) may, by Order in Council published in the *Gazette*, declare that any division into which the register is from time to time divided, is closed;
- (b) may so declare that the register be further divided by including therein, a register for each such additional branch of nursing as is specified in the Order.

(4) An Order in Council made under subsection (3) of this section shall be given effect to by the Board and the Registrar according to its tenor.

(5) There shall be entered in the appropriate division of the register the name of every person who is registered, together with such other particulars as may be prescribed.

(6) The register shall, at all reasonable times, be open to inspection at the office of the Board by any person on payment of the prescribed fee.

(7) A certificate purporting to be signed by the Registrar certifying that the person therein specified was or was not registered in any particular division of the register at any particular time or during any period so specified or as to any entry in the register, or as to any act or proceeding of the Board or any committee thereof, is evidence of the facts so certified.

Registration
of Nurse.
Amended by
No. 37 of
1980, s. 9.

20. (1) A person who—

(a) has undertaken—

- (i) nursing education in the State, having completed the prescribed course of education and passed the prescribed examination for registration in respect of a branch of nursing to which section 19 refers;
- (ii) nursing in the State, and is the holder of a certificate of education as a nurse awarded by any institution or body approved by the Board for the purposes of this subparagraph; or
- (iii) nursing education in any part of the world other than the State, and to the satisfaction of the Board produces evidence of that education, undergoes further education, or passes examination, as the Board may require,

and has a sound knowledge of the English language and possesses sufficient skill in the expression of that language, both written and oral;

- (b) has paid the appropriate prescribed fee;
- (c) is, in the opinion of the Board of good character and reputation;
- (d) is of sound health or of such a state of health that no danger would be involved to the patients whom she attends,

may be registered in accordance with this section as a nurse in that branch of nursing, and if that person possesses the necessary qualifications for any other branch of nursing, she may be registered in respect of that other branch, but no institution or body shall be approved by the Board for the purposes of subparagraph (ii) of paragraph (a) of this subsection unless the Board is satisfied that the standard of education and of examination required by that institute or body are comparable to the corresponding standards prescribed by the Board.

(2) Application for registration shall be made to the Registrar in the prescribed form, and shall contain the prescribed particulars.

(3) The Registrar shall submit each application for registration to the Board for its determination.

(4) If the Board is satisfied that an applicant fulfils the requirements and has complied with the conditions of this Act relating to the branch of nursing in respect of which she seeks to be registered, the Board shall authorize the Registrar to register the applicant upon payment of the prescribed fee.

(5) The Registrar shall issue to each person so registered a certificate of registration in the prescribed form and a badge of a kind prescribed.

(6) Every certificate of registration—

(a) shall come into force on the date specified therein, and subject to this Act, shall continue in force until the thirty-first day of December in the year in which it was issued; and

(b) is evidence that the person specified therein is registered as so specified.

(7) A certificate of registration may be renewed as provided in section 21.

(8) On the cancellation or suspension of the registration of any person in respect of any branch of nursing, a certificate of registration held by that person in respect of that branch, automatically expires, or is of no effect for the period of suspension, as the case requires.

Renewal of
certificate of
registration.
Amended by
No. 37 of
1980, s. 10.

21. (1) The Registrar may renew any certificate of registration from year to year upon payment of the prescribed fee for each renewal.

(2) Subject to subsection (3) of this section, an application for renewal of a certificate of registration shall be made to the Registrar in the prescribed form containing the prescribed particulars at any time from the first day of November in the year in which the certificate expires to the thirty-first day of March in the succeeding year.

(3) Notwithstanding subsection (6) of section 20, a renewal of a certificate of registration shall take effect from the first days of January in the year to which the renewal relates.

(4) If any person fails to apply for the renewal of the certificate of registration held by her within the period prescribed by subsection (2) of this section, the Registrar shall remove her name from the register.

(5) A person whose name has been removed from the register under this section is entitled to make an application to be again registered on payment of the prescribed fee, and on the application and on the payment the Board shall, if the applicant is not otherwise disentitled to registration, cause her name to be restored to the register.

(6) Where the name of a person has been removed from the register under this Act that person shall be deemed to be a person who is not registered from the date her name is so removed until her name is restored to the register.

22. (1) Upon application by—

Temporary
registration.
Amended by
No. 87 of
1980, s. 11.

(a) the governing body of any school of nursing, or of any institution or body approved by the Board for the purpose of subparagraph (ii) of paragraph (a) of subsection (1) of section 20, on behalf of a person who—

- (i) is qualified in any part of the world other than the State to practise some branch of nursing; and
- (ii) being in the State, is interested in post-graduate teaching or research work in nursing, or is receiving post-basic tuition in nursing, or is desirous of obtaining a certificate of temporary registration for a purpose for which the Board considers the granting of such a certificate would be desirable;

or

(b) a nursing organisation or service, on behalf of a person who—

- (i) is currently registered in any part of Australia other than the State in respect of a branch of nursing to which section 19 refers; and
- (ii) is required to undertake temporary nursing duties in the State on behalf of that organisation or service for a period not exceeding three months or such further period as is approved by the Board,

the Board may direct the Registrar to effect temporary registration of that person, for the duration of the period to which the application relates and the Board approves, by recording in a special section of the register the name and other prescribed particulars relating to that person.

(2) A person who is so temporarily registered shall be deemed to hold a certificate of registration for the duration of the temporary registration, without any requirement to apply therefor or for a certificate of registration to issue.

Persons registered under repealed Act to be registered.

23. The Registrar shall enter in the appropriate division of the register the name of each person who, immediately preceding the coming into operation of this Act, was registered or enrolled or entitled to be registered or enrolled in a register kept under the repealed Act.

Registration in certain cases.

24. The Board may register by directing the Registrar to record in a special section of the appropriate division of the register, the name and other prescribed particulars of any person who satisfies the Board by such evidence (including examination, if the Board thinks necessary) as the Board requires that that person has training and experience or training or experience sufficient to enable the person to practise in the branch of nursing to which the division of the register relates.

Change of address. Amended by No. 87 of 1980, s. 12.

25. A person who, being registered, at any time changes her address as appearing in the register shall, as soon as practicable thereafter, send to the Registrar notice of her new address, and the Registrar shall thereupon correct the entry in the register relating to that person accordingly.

(2) [*Repealed by No. 87 of 1980, s. 12.*]

Offence of wrongfully procuring registration.

26. A person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure herself or any other person to be registered by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, is guilty of an offence.

Penalty: Two hundred dollars or imprisonment for three months.

27. Where a person has been registered by reason of any false or fraudulent representation or declaration, made either orally or in writing, or where any person not entitled to be registered has been registered, the Board shall cause the name of that person to be removed from the register.

Correction of register.

28. (1) The Board may, at any time, cause the register to be revised by making all necessary alterations in the registration of the names and other particulars of persons who are registered and shall direct the removal therefrom of the name of any person who—

Power of Board to rectify register.

- (a) has died;
- (b) has ceased to possess or does not possess the qualifications in respect of which she was registered;
- (c) has become an incapable person within the meaning of the Mental Health Act 1962.

(2) The Registrar may at any time, and shall if the Board so directs, send to any person who is registered, by registered letter addressed to her at her address as appearing in the register, an inquiry as to whether or not she desires to have her name retained on the register.

Vide Act No. 30 of 1918. S. 31 (4).

(3) If no reply is received to that letter within three months from the posting thereof, or if the letter is not delivered and is returned to the Registrar, the Registrar shall, if the Board so directs remove from the register the name of the person to whom the letter was so sent.

(4) If any person being registered, applies to the Registrar to have her name removed from the register, the Registrar shall, if the Board so directs, remove the name from the register accordingly.

(5) Subject to section 34, where a person whose name has been removed from the register pursuant to subsection (3) or (4) of this section, applies to the Registrar to have her name restored to the

Vide S. 21 (6) Ante.

register her name shall, if the person is not dis-entitled to registration, be restored to the register accordingly, on payment of such fee as may be prescribed.

(6) The Registrar General and every District Registrar under the Registration of Births, Deaths and Marriages Act 1961, upon registering the death of any person known to him to be registered, shall forthwith send notice of the death to the Registrar.

(7) The Director of Mental Health Services under the Mental Health Act 1962, upon becoming aware that any incapable person known to him to be registered has been admitted to an approved hospital under that Act, shall forthwith give notice of the name of that person to the Registrar.

PART IV.—MISCELLANEOUS.

Disciplinary
power of
Board.
Amended by
No. 87 of
1980, s. 13.

29. (1) If the Board is satisfied, in respect of any person who is registered that the person, whether before or after she became registered—

- (a) has been convicted in this State or elsewhere of any offence the commission of which, in the opinion of the Board, renders the person unfit to practise her calling of a nurse;
- (b) is addicted to alcohol or any deleterious drug to a degree that, in the opinion of the Board, renders the person unfit to so practise;
- (c) has been guilty of negligence, malpractice, impropriety or misconduct in respect of her calling of a nurse,

the Board may, according as it thinks just under the circumstances—

- (d) remove the name of the person from the register;

- (e) suspend the registration of the person for such period not exceeding twelve months as it determines, either absolutely or conditionally upon such terms as the Board thinks fit;
- (f) impose on the person a penalty of such amount not exceeding one hundred dollars, as it determines;
- (g) caution or reprimand that person; or
- (h) require the person to give a written undertaking to the Board to be of good behaviour for such period not exceeding two years as the Board thinks fit and to comply, during that period, with such conditions, if any, relating to her calling of nurse or nursing aide as the Board thinks fit to impose.

(2) Before exercising its power under this section, the Board shall cause to be given to the person concerned either personally or by registered post, a notice stating that it has reason to believe that a ground exists that entitles the Board to exercise its powers under this section, specifying the ground with sufficient particularity to enable the person to answer it, and requiring her to appear before the Board at the time and place specified in the notice, to show cause why the Board should not remove her name from the register or otherwise exercise its powers under this section.

Vide Act No.
30 of 1918,
s. 31 (4).

(3) A notice under subsection (2) of this section, may require the person to whom it is addressed to notify the Board in writing, not later than a date specified in the notice, being a date that is prior to the date proposed for the hearing by the Board, as to whether or not she intends to appear before the Board at the hearing to show cause.

(4) If the person fails to notify her intention as required by the notice under subsection (2) or notifies the Board that she does not intend to appear, she is not entitled to appear and be heard except by leave of the Board granted on such conditions as to payment of expenses or otherwise

as the Board thinks fit, and if no application is made for the leave the Board may proceed to hear and determine the matter of complaint in the absence of the person.

(5) Where a person has notified the Board that she intends to show cause why the Board should not exercise its powers under this section, the Board shall by resolution—

- (a) appoint a committee of members; and
- (b) delegate to the committee the power to make an inquiry under this section into the matter of complaint against the person and subject to section 30 to hear and determine the matter.

(6) A document purporting to be a copy of the resolution of the Board appointing the committee referred to in subsection (5) of this section, signed by the chairman or member presiding at the meeting at which that resolution was passed, is evidence of the appointment of the committee and of any delegation under that subsection and of the terms of the delegation.

Constitution
of disciplin-
ary commit-
tee and
powers
thereof.

30. (1) A committee appointed under subsection (5) of section 29, shall consist of five members of whom—

- (a) one shall be the chairman of the Board and he shall be the chairman of the committee;
- (b) three, at least, shall be persons who are registered.

(2) Subject to this section, a committee so appointed has power to make an inquiry under section 29 and to hear and determine any matter the subject of the inquiry and to exercise the powers of the Board in respect thereof, as though it were the Board.

(3) (a) A committee after it has completed any such inquiry shall forward to the Board, as soon as practicable thereafter, a copy certified under the hand of the chairman of the committee and one

other member thereof, of all evidence taken at the inquiry into a matter under section 29 together with its written report on the hearing and its determination on the matter the subject of the inquiry.

(b) A committee hearing the inquiry has power to order that the person in respect of whom the inquiry is held shall pay the costs and expenses of and incidental to the inquiry or such portion thereof as the committee orders.

(4) A determination of the committee is of no effect until it is confirmed by the Board after it has considered the copy of the evidence, and the report and determination of that committee, and the Board has power—

- (a) to determine that no penalty be imposed or no undertaking be required from the person who is registered to whom the determination relates;
- (b) to reduce a penalty determined by the committee by suspending registration for a period not exceeding twelve months or imposing a pecuniary penalty not exceeding one hundred dollars instead of removing the name of the person from the register, or by reducing any period of suspension of registration or any pecuniary penalty or by substituting a pecuniary penalty not exceeding fifty dollars for a period of suspension of registration; or
- (c) by reducing the amount of cost and expenses of and incidental to the inquiry ordered to be paid or order that no such costs are payable.

(5) An inquiry under section 29 shall be open to the public only if the Board so determines or if the complainant or registered person concerned requests that the inquiry be open to the public.

(6) Any hearing of any matter under section 29 may be adjourned from time to time and from place to place by the committee holding the inquiry thereon.

(7) (a) If a person who gives an undertaking to the Board pursuant to section 29 fails to be of good behaviour during the period specified in the undertaking or fails to comply with any condition so specified the Board may by notice as provided in subsection (2) of this section summon the person to appear at an inquiry into such failure.

(b) The provisions of section 29 apply, with such modification as the circumstances require, to the inquiry except that the committee appointed to hear the inquiry may impose only a pecuniary penalty not exceeding one hundred dollars for failure to comply with the undertaking.

(c) Nothing in this subsection affects the liability of a person to be otherwise dealt with under section 29 in relation to any matter referred to in subsection (1) of that section.

(8) Every pecuniary penalty imposed and costs and expenses ordered to be paid under this section are recoverable as a debt due to the Board and if the penalty or costs and expenses are not paid within the time specified by the Board in that behalf, or within such extended time as it may allow, the Board may suspend the registration of the person liable for the payment of the penalty until it is paid.

Further powers of committee.

31. For the purposes of an inquiry under section 29, a committee appointed to make the inquiry and the chairman thereof has all the powers, rights and privileges conferred by the Royal Commissions Act 1968 on a Royal Commission and the chairman thereof, and that Act applies, with such modifications as circumstances require, to any witness summoned by or appearing before the committee.

Suspension of certificate in certain cases.

32. (1) The Board may at any time by order under the hand of the chairman suspend any certificate of registration wholly or in respect of one or more branches of nursing, if more than one branch of nursing is specified therein, for such

period as the Board may think fit, if in the opinion of the Board formed after adequate inquiry and adequate notice thereof has been given to the person so specified it is necessary, on account of the physical or mental condition of that person in the interests of the public health to do so.

(2) A person whose certificate of registration has to her knowledge been—

- (a) wholly suspended under this section, shall not carry on the practice of any branch of nursing;
- (b) suspended under this section in respect of a branch of nursing, shall not carry on the practice of nursing of that branch,

while the suspension is in force.

(3) The Board may, at any time, by order remove the suspension imposed under this section and shall forthwith notify the person to whom the order relates, accordingly.

33. (1) Any person aggrieved by an order to remove her name from the register or to suspend her registration, or any terms imposed by the Board in relation to a conditional suspension of her registration, or any decision to refuse to register or restore her name in the register or renew her certificate of registration, may, within three months after the date on which notice is given to her by the Registrar that her name has been so removed or her registration suspended, or within three months after the date on which she applied to be registered or to have her name restored to the register or applied for renewal of her certificate of registration, as the case may be, appeal in accordance with the regulations against the order or decision as the case requires to the Local Court at Perth and the magistrate thereof shall hear the appeal sitting in chambers.

Appeal.
Amended by
No. 87 of
1980, s. 14.

(2) On the hearing of the appeal the Local Court may affirm or vary the order or decision appealed against, or may allow the appeal, and make such order, including an order as to costs of the appeal, as in the circumstances it thinks just.

Restoration
of name to
register.

34. (1) Where the name of a person is removed from the register by the Board pursuant to this Act, notification thereof shall be given to the person by the Registrar, and the name shall not be again entered in the register except by direction of the Board or by order of a court of competent jurisdiction.

(2) Subject to subsection (3) of this section, the Board may restore to the register the name of any person removed therefrom on the application of that person and on payment of any such fee as may be prescribed.

(3) If prior to her application the applicant has ceased to practise in the branch of nursing to which her application relates, for such period as in the opinion of the Board is likely to materially impair her efficiency therein, the Board may require the applicant to undergo further tuition and practise in that branch of nursing under supervision, before restoring her name to the register.

Surrender of
certificate
and badge.
Amended by
No. 87 of
1980, s. 15.

35. (1) Any person whose registration is suspended whose name is removed from the register pursuant to section 29 shall within fourteen days from the notification to her that the effect of the suspension so requires or that her name has been so removed, surrender to the Board any certificate of registration or badge issued to her by the Board and held by her.

Penalty: Fifty dollars.

(2) Where the suspension of the registration of a person ceases, or the terms imposed by the Board in relation to a conditional suspension do not require

the surrender to the Board of any certificate of registration or badge, the Board shall return any certificate of registration or badge to the person by whom it was surrendered.

36. Subject to section 41, a person who not being registered wears the uniform or any distinctive part of the uniform prescribed for any class of persons who are registered or uses any name, title, addition or description that might cause any person reasonably to believe that she is registered is guilty of an offence.

Offences by persons who are not registered.

37. A person who is registered for the time being, wears the uniform or any distinctive part of the uniform prescribed for any class of persons registered in a division of the register in which division her name is not registered, or uses any name, title, addition or description that might cause any person reasonably to believe that she is registered in a different division of the register from that in which she is in fact registered is guilty of an offence.

Offences by persons who are registered.

38. A person whose certificate of registration has been suspended in respect of a branch of nursing specified therein, shall not practise in that branch of nursing while the suspension of the certificate is in force.

Prohibition on practising while certificate of registration suspended.

39. (1) A person who is not registered shall not use or wear any badge prescribed for the use of a person who is registered.

Offences relating to badge.

(2) A person whose name has been removed from the register shall not until her name is restored to the register use or wear any badge issued to her by the Registrar.

(3) A person who is registered shall not wear any prescribed badge issued by the Registrar other than the prescribed badge so issued to her.

(4) A person shall not use or wear any colourable imitation of any prescribed badge.

Offence of practising as a class of nurse without registration therefor. Amended by No. 87 of 1980, s. 16.

40. (1) Subject to section 41, a person shall not for any fee or reward—

(a) practise nursing, unless registered with the Board;
or

(b) practise a branch of nursing, unless registered with the board in respect of that branch of nursing.

(2) A person who so practises is not entitled to recover any charge in any court for any nursing advice or attention given by her in contravention of this section, and in the case of a person so practising as a midwife in addition to any other penalty to which she is liable under section 42, she is liable to a further penalty not exceeding eighty dollars.

(3) A hospital or employing authority in the State shall not employ a nurse, unless that nurse is registered with the board.

Persons not registered practising in emergency. Amended by No. 87 of 1980, s. 17.

41. (1) Where a sufficient number of persons who are registered is not available to staff a hospital, if the governing body thereof requests a person who is not registered, to undertake therein for fee or reward, the duties of a nurse in a branch of nursing in respect of which she is eligible to be registered and the person carries out those duties, then subject to this section nothing in section 36 or subsection (1) or subsection (2) of section 40 applies to that person in respect of those duties.

(2) The governing body of the hospital shall, within a period of fourteen days, after the person commences to carry out the duties referred to in subsection (1) of this section, unless subsection (4) or subsection (5) of this section applies, notify the Registrar in writing accordingly and at the same time furnish to the Registrar the name, address, age

and qualifications of the person together with an application signed by the person for registration in a branch of nursing in respect of which she is eligible to be registered.

(3) The Board—

- (a) may, by notice under the hand of the chairman sent to the governing body and the person concerned, prohibit the person from carrying out duties in the circumstances referred to subsection (1) of this section and upon receipt of the notice by the person she shall cease to carry out those duties; or
- (b) may notify the person that she has been registered pursuant to her application referred to in subsection (2) of this section.

(4) Where a disaster situation exists and the person in charge of relief operations considers that a sufficient number of persons who are registered is not available he may request a person who is not registered to undertake the duties of a nurse in a branch of nursing in respect of which she is eligible to be registered and if the person carries out those duties then nothing in section 36 or in subsection (1) or subsection (2) of section 40 applies to that person in respect of those duties.

(5) Where an emergency or a disaster situation exists, and nursing members of the Australian Armed Forces provide nursing care with the approval of their commanding officer or the senior nurse involved, then the provisions of this Act do not apply to or in relation to those persons or that nursing care.

42. (1) A person who fails to comply with or contravenes a provision of this Act is guilty of an offence against this Act.

General penalty.
Amended by No. 87 of 1980, s. 18.

(2) A person guilty of an offence against this Act for which no penalty is expressly provided for the offence is liable to a penalty not exceeding two hundred dollars.

"This Act" includes regulations.
See s. 4 Act No. 30 of 1918.

(3) All complaints for offences against this Act shall be laid by the Registrar or by some other person appointed by the Board generally or in relation to any particular complaint.

Regulations.
Amended by
No. 87 of
1980, s. 19.

43. (1) The Governor may, upon the recommendation of the Board, make regulations for the purposes of this Act prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act and in particular and without limiting the foregoing provisions of this section, prescribing and regulating—

- (a) the courses of education and instruction to be undergone and the conditions to be fulfilled by persons desirous of becoming qualified for registration;
- (b) the educational qualifications and other conditions required to be possessed and to be fulfilled by persons desiring to enter on courses of education for registration in any division of the register;
- (c) the character, scope, standard and subjects for examinations of the several kinds required by the Board and the conditions and requirements to be fulfilled by candidates therefor respectively;
- (d) the forms of applications, certificates and other documents required under this Act;
- (e) the fees payable in respect of examination and of registration, in respect of any alteration of or addition to the register, and in respect of any other matters under this Act;
- (f) the form, design and character of any badge that may be issued to or worn by persons of any class who are registered and the conditions under which those badges may be issued, worn or used;
- (g) the supervision of education at schools of nursing;

- (h) the powers and duties of advisory committees established under this Act and of the members thereof and the fees payable to persons co-opted by those committees;
- (i) fines, not exceeding one hundred dollars, for a breach of any regulation under this section.

(2) No regulation shall be deemed to be invalid on the ground that it delegates to or confers on the Board or any other person or body a discretionary authority.