

NURSES.

No. 87 of 1980.

AN ACT to amend the Nurses Act 1968-1976.

[Assented to 9 December 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Nurses Amendment Act 1980*. Short title and citation.

(2) In this Act the Nurses Act 1968-1976 is referred to as the principal Act. Reprinted as approved for reprint 28 February 1978.

(3) The principal Act as amended by this Act may be cited as the Nurses Act 1968-1980.

Commence-
ment.

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

Section 6
amended.

3. Section 6 of the principal Act is amended—

(a) by deleting the definition of “register” and substituting the following definition—

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

(b) by deleting the definition of “school of nursing” and substituting the following definition—

“ “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; ” ;

and

(c) by inserting, in their appropriate alphabetical positions, the following definitions—

“ “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;

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

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

4. Section 9 of the principal Act is repealed and the following section is substituted—

Section 9
repealed and
substituted.

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

Members.

- (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.

Section 10
amended.

5. Section 10 of the principal Act is amended—

(a) by repealing subsection (1), and substituting the following subsection—

“ (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. ” ;

and

(b) in subsection (2)—

(i) by inserting after “chairman” the following—

“ and of the deputy chairman ” ;
and

(ii) by deleting “thereat”.

Section 15
amended.

6. Section 15 of the principal Act is amended—

(a) in paragraph (a), by deleting “training and instruction” and substituting the following—

“ nursing education ” ;

(b) in paragraph (b), by deleting “training” and substituting the following—

“ education ” ;

(c) in paragraph (c)—

(i) by deleting “training” and substituting the following—

“ education ” ;

and

(ii) by adding after “remuneration” the following—

“ , 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) in paragraph (e), by deleting “nurse training” and substituting the following—
“ nursing education ” ;
- (e) in paragraph (f), by deleting “training”;
- (f) in paragraph (j), by deleting “training” in each place where it occurs and substituting the following—
(i) in the first place where it occurs—
“ education ” ;
and
(ii) in the second place where it occurs—
“ nursing education ” ;
- (g) in paragraph (l)—
(i) by deleting “training” and substituting the following—
“ education ” ;
and
(ii) by deleting “the purpose”, where it secondly appears, and substituting the following—
“ those purposes ” ;
and
- (h) in paragraph (m), by deleting “a secretary” and substituting the following—
“ an Administrator (who may be charged also with the functions of the Registrar under this Act) ” .

7. Section 18 of the principal Act is amended in subsection (1) by deleting “appoint a person to be” and substituting the following—

“ cause a person to carry out the functions of ” .

Section 18
amended.

Section 19
amended.

8. Section 19 of the principal Act is amended—

(a) in subsection (1), by deleting “and Nursing Aides”;

(b) in subsection (2)—

(i) as to paragraph (b), by deleting “Midwives” and substituting the following—

“ Midwifery Nurses ” ;

(ii) as to paragraph (g), by deleting “Infant” and substituting the following—

“ Child ” ;

(iii) as to paragraph (i), by deleting “Nursing Aides” and substituting the following—

“ Enrolled Nurses ” ; and

(iv) by adding the new paragraph following—

“ (j) The register of Enrolled Mental Health Nurses. ” .

Section 20
amended.

9. Section 20 of the principal Act is amended in subsection (1)—

(a) by repealing paragraph (a) and substituting the following paragraph—

“ (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; ” ;

and

- (b) by inserting, at the end of the subsection after “branch”, the following—

“ , 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 ” .

10. Section 21 of the principal Act is amended in subsection (2) by deleting “during the first three months of the year next succeeding the year in which the certificate expires” and substituting the following—

“ 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 ” .

Section 21
amended.

Section 22
amended.

11. Section 22 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

“ (1) Upon application by—

(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. ” .

12. Section 25 of the principal Act is amended— Section 25 amended.

- (a) by deleting the subsection designation “(1)”; and
- (b) by repealing subsection (2).

13. Section 29 of the principal Act is amended in subsection (1)— Section 29 amended.

- (a) as to paragraph (a) and paragraph (c), by deleting “or nursing aide” in each case;
- (b) as to paragraph (c), by deleting “gross”;
- (c) as to paragraph (e), by adding after “determines” the following—
 - “ , either absolutely or conditionally upon such terms as the Board thinks fit ” ;
 - and
- (d) as to paragraph (f), by deleting “forty” and substituting the following—
 - “ one hundred ” .

14. Section 33 of the principal Act is amended in subsection (1) by inserting after “suspend her registration,” the following— Section 33 amended.

“ or any terms imposed by the Board in relation to a conditional suspension of her registration, ” .

Section 35
amended.

15. Section 35 of the principal Act is amended—

- (a) by inserting after the section designation “35.” the subsection designation “(1)”;
- (b) by inserting, after “person”, the following—
“ whose registration is suspended ” ;
- (c) by inserting, after “notification to her”, the following—
“ that the effect of the suspension so requires or ” ;

and

(d) by inserting the following subsection—

“ (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. ” .

Section 40
amended.

16. Section 40 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (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. ” ;

(b) in subsection (2), by deleting “forty dollars” and substituting the following—

“ eighty dollars ” ;

and

(c) by inserting the following subsection—

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

17. Section 41 of the principal Act is amended— Section 41 amended.

(a) in subsection (1), by inserting, before “40”, the following—

“subsection (1) or subsection (2) of section ” ;

(b) in subsection (2), by inserting, before “notify”, the following—

“ unless subsection (4) or subsection (5) of this section applies, ” ;

(c) in subsection (3), by deleting “the duties so referred to” and substituting the following—

“ duties in the circumstances referred to subsection (1) of this section ” ;

and

(d) by inserting the following subsections—

“ (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.” .

Section 42
amended.

18. Section 42 of the principal Act is amended in subsection (2) by deleting “one hundred dollars” and substituting the following—

“ two hundred dollars ” .

Section 43
amended.

19. Section 43 of the principal Act is amended in subsection (1)—

- (a) as to paragraph (a) and paragraph (b), by deleting “training” and in each case substituting the following—

“ education ” ;

- (b) as to paragraph (f), by deleting “or distinctive headdress” and “or that headdress ” ;

- (c) as to paragraph (g), by deleting “training” and substituting the following—

“ education ” ;

and

- (d) as to paragraph (i), by deleting “fifty dollars” and substituting the following—

“ one hundred dollars ” .