

1994
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Nurses (Amendment) Bill 1994

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Principal Act

PART II—AMENDMENTS OF PRINCIPAL ACT

4. Interpretation
5. Insertion—
 - 3A. Competence to practise nursing
 - 3B. Impairment
6. Courses
7. Repeal
8. Substitution—
 - Division 1—Qualifications for registration*
 10. Entitlement to registration as a general nurse
 11. Registration as a general nurse under mutual recognition principle

84038 1992/209 (T38/94)

TABLE OF PROVISIONS—continued

Section

- 12. Registration as a mental health nurse or midwife
- 13. Registration as a mental health nurse or midwife under mutual recognition principle
- 14. Registration at discretion of Board
- 15. Interim registration
- 15A. Conditions of registration in cases of impairment
- 15B. Refusal of registration where applicant convicted of offence
- 15C. Refusal of registration where applicant deregistered under foreign law
- 15D. Applicants to be competent and of good character
- 15E. Restriction on registration of deregistered or suspended persons
 - Division 2—Registration procedure*
 - 15F. Applications for registration
 - 15G. Applications to be considered and determined
 - 15H. Registration of applicants
 - 15J. Fee for registration pursuant to Mutual Recognition Act
 - 15K. Conditions of registration
 - Division 3—Register of Nurses*
- 9. Register
- 10. Substitution—
 - 17. Particulars to be entered in Register
- 11. Certificate of registration
- 12. Repeal
- 13. Change of address
- 14. Alteration of Register
- 15. Insertion—
 - 26A. Deregistration on basis of deregistration under foreign law
 - 26B. Imposition of conditions imposed under foreign law
 - 26C. Cessation of registration
 - Division 4—Annual fees*
 - 26D. Annual fee payable
 - 26E. Registration to be cancelled for non-payment
 - 26F. Entitlement to re-registration if fee paid
- 16. Substitution—
 - Division 1—Qualifications for enrolment*
 - 27. Entitlement to enrolment as an enrolled nurse
 - 28. Enrolment as an enrolled nurse under mutual recognition principle
 - 29. Interim enrolment
 - 29A. Conditions of enrolment in cases of impairment
 - 29B. Refusal of enrolment where applicant convicted of offence

TABLE OF PROVISIONS—continued

| | |
|---------|--|
| Section | |
| | 29C. Refusal of enrolment where applicant removed from roll under foreign law |
| | 29D. Applicants to be competent and of good character |
| | 29E. Restriction on enrolment of persons removed from roll or whose enrolment has been suspended |
| | <i>Division 2—Enrolment procedure</i> |
| | 29F. Applications for enrolment |
| | 29G. Applications to be considered and determined |
| | 29H. Enrolment of applicants |
| | 29J. Fee for enrolment pursuant to Mutual Recognition Act |
| | 29K. Conditions of enrolment |
| | <i>Division 3—Roll of Enrolled Nurses</i> |
| 17. | Roll |
| 18. | Insertion— |
| | 30A. Particulars to be entered in Roll |
| 19. | Certificate of enrolment |
| 20. | Repeal |
| 21. | Change of address |
| 22. | Alteration of Roll |
| 23. | Insertion— |
| | 37A. Removal from Roll on basis of removal from roll under foreign law |
| | 37B. Imposition of conditions imposed under foreign law |
| | 37C. Cessation of enrolment |
| | <i>Division 4—Annual fees</i> |
| | 37D. Annual fee payable |
| | 37E. Enrolment to be cancelled for non-payment |
| | 37F. Entitlement to re-enrolment if fee paid |
| 24. | Substitution— |
| | 38. Cancellation or suspension of registration or enrolment |
| | 39. Cancellation, suspension or restriction of right of practise on health grounds |
| | 39A. Practising when registration or enrolment suspended |
| | 39B. Power of Board to caution, reprimand etc. |
| | 39C. Power of Board to impose fines |
| 25. | Inquiry by Board |
| 26. | Effect of suspension |
| 27. | Application for re-registration or re-enrolment |
| 28. | Administration of estate of deceased nurse |
| 29. | Application |
| 30. | Substitution— |
| | 54. Review of decisions |

TABLE OF PROVISIONS—continued

Section

- 55. Notification of decisions
- 55A. Publication of notice of decision of Board or Tribunal
- 31. Publication of names of registered or enrolled nurses
- 32. Repeal
- 33. Persons entitled to apply for registration as mental health nurses
- 34. Repeal
- 35. Further amendments

PART III—TRANSITIONAL

- 36. Continuation of registration or enrolment
- 37. Persons granted provisional registration or enrolment
- 38. Applications for registration or enrolment
- 39. Failure by registered nurse to pay annual fee under repealed provisions
- 40. Failure by an enrolled person to pay annual fee under repealed provisions
- 41. Continuation of inquiries and reviews
- 42. Complaints relating to previous conduct
- 43. Existing directions

PART IV—MISCELLANEOUS

- 44. Renumbering of provisions

**SCHEDULE
FURTHER AMENDMENTS**

1994

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Nurses (Amendment) Bill 1994

A BILL

FOR

An Act to amend the *Nurses Act 1988* and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Nurses (Amendment) Act 1994*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Nurses Act 1988*.¹

5 PART II—AMENDMENTS OF PRINCIPAL ACT

Interpretation

4. Section 3 of the Principal Act is amended—

(a) by omitting from subsection (1) the definitions of "enrolled nurse" and "registered nurse" and substituting the following definitions:

10 " 'enrolled nurse' means a person—

- (a) whose enrolment as a nurse or mothercraft nurse is effected under section 30A;
- (b) who is to be deemed to be enrolled as an enrolled nurse or mothercraft nurse under this Act by virtue of section 25 of the Mutual Recognition Act; or
- (c) whose enrolment as an enrolled nurse or mothercraft nurse is continued under paragraph 36 (b) of the *Nurses (Amendment) Act 1994*;

15

'registered nurse' means a person—

- 20 (a) whose registration as a general nurse, mental health nurse or midwife is effected under section 17;
- (b) who is to be deemed to be registered under this Act as a general nurse, mental health nurse or midwife by virtue of section 25 of the Mutual Recognition Act; or
- 25 (c) whose registration as a general nurse, mental health nurse, midwife or infants' nurse is continued under paragraph 36 (a) of the *Nurses (Amendment) Act 1994*;

30

(b) by omitting from subsection (1) the definition of "enrolled person"; and

(c) by inserting in subsection (1) the following definitions:

35

" 'Mutual Recognition Act' means the *Mutual Recognition Act 1992* of the Commonwealth;

'registration authority' means a person or body empowered by a law of a place outside the Territory to register, enrol or license nurses or otherwise authorise practising nursing;".

5 **Insertion**

5. After section 3 of the Principal Act the following sections are inserted in Part I:

Competence to practise nursing

10 "3A. For the purposes of this Act, a person shall be taken to be competent to practise nursing only if the person—

- (a) has sufficient physical capacity, mental capacity and skill to practise nursing; and
- (b) has sufficient communication skills for practising nursing, including an adequate command of the English language.

15 **Impairment**

20 "3B. (1) For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise nursing.

"(2) For the purposes of subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder."

Courses

25 6. Section 7 of the Principal Act is amended—

- (a) by omitting from subsection (1) "approve" and substituting "accredit";
- (b) by omitting from subsection (1) "and hold examinations"; and
- 30 (c) by omitting from paragraph (2) (a) all the words after "training" and substituting "accredited by the Board".

Repeal

7. Sections 8 and 9 of the Principal Act are repealed.

Substitution

35 8. Sections 10 to 15 (inclusive) of the Principal Act are repealed and the following Divisions and Division heading substituted:

*“Division 1—Qualifications for registration***Entitlement to registration as a general nurse**

“10. (1) A person is entitled to be registered as a general nurse if—

(a) the person—

- 5 (i) is a graduate of a course of education or training in general nursing offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; and
- 10 (ii) has graduated from that course, or has practised as a general nurse, within the period of 5 years immediately preceding the date of application;

(b) the person—

- 15 (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in paragraph (a) and that qualifies the person to practise nursing in that place; and
- (ii) has undertaken such further education or training, gained such experience in practising nursing and passed such examinations as the Board requires; or

20 (c) the person—

- (i) has graduated from a course referred to in subparagraph (a) (i) more than 5 years before the date of application;
- (ii) has not practised as a general nurse within the period of 5 years immediately preceding the date of application; and
- 25 (iii) has undertaken such further education or training and passed such examinations as the Board requires.

30 “(2) For the purposes of subparagraphs (1) (a) (ii) and (c) (ii), a person shall be taken to have practised as a general nurse within the period of 5 years immediately preceding the date of application if the person has attended and satisfactorily completed a refresher course of education or training in general nursing, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory.

Registration as a general nurse under mutual recognition principle

35 “11. (1) A person who is registered as a general nurse under the law in force in a State, or another Territory, that is a participating jurisdiction

within the meaning of the Mutual Recognition Act is entitled to be registered as a general nurse under this Act.

5 “(2) If the person’s registration in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

10 “(3) If the person’s registration in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that registration is subject or conditions appropriate to give effect to any restriction to which that registration is subject.

Registration as a mental health nurse or midwife

“12. (1) A person is entitled to be registered as a mental health nurse if—

15 (a) the person—

- (i) is registered, or entitled to be registered, under this Act as a general nurse;
- 20 (ii) is a graduate of a course of education or training in mental health nursing offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; and
- (iii) has graduated from that course, or has practised as a general nurse or mental health nurse, within the period of 5 years immediately preceding the date of application;

25 (b) the person—

- (i) is registered, or entitled to be registered, under this Act as a general nurse;
- (ii) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in subparagraph (a) (ii) and that qualifies the person to practise mental health nursing in that place; and
- 30 (iii) has undertaken such further education or training, gained such experience in practising mental health nursing and passed such examinations as the Board requires; or

35 (c) the person—

- (i) is registered, or entitled to be registered, under this Act as a general nurse;

- 5
- (ii) has graduated from a course referred to in subparagraph (a) (ii) more than 5 years before the date of application;
 - (iii) has not practised as a general nurse or mental health nurse within the period of 5 years immediately preceding the date of application; and
 - (iv) has undertaken such further education or training and passed such examinations as the Board requires.

“(2) A person is entitled to be registered as a midwife if—

(a) the person—

- 10
- (i) is registered, or entitled to be registered, under this Act as a general nurse;
 - (ii) is a graduate of a course of education or training in midwifery offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; and
 - (iii) has graduated from that course, or has practised as a general nurse or midwife, within the period of 5 years immediately preceding the date of application;
- 15

(b) the person—

- 20
- (i) is registered, or entitled to be registered, under this Act as a general nurse;
 - (ii) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in subparagraph (a) (ii) and that qualifies the person to practise as a midwife in that place; and
 - (iii) has undertaken such further education or training, gained such experience in practising midwifery and passed such examinations as the Board requires; or
- 25

(c) the person—

- 30
- (i) is registered, or entitled to be registered, under this Act as a general nurse;
 - (ii) has graduated from a course referred to in subparagraph (a) (ii) more than 5 years before the date of application;
 - (iii) has not practised as a general nurse or midwife within the period of 5 years immediately preceding the date of application; and
- 35

(iv) has undertaken such further education or training and passed such examinations as the Board requires.

5 “(3) For the purposes of subparagraphs (1) (a) (iii), (c) (iii) and (2) (a) (iii) and (c) (iii), a person shall be taken to have practised as a general nurse, mental health nurse or midwife within the period of 5 years immediately preceding the date of application if the person has attended and satisfactorily completed a refresher course of education or training in general nursing, mental health nursing or midwifery, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory.

10 **Registration as a mental health nurse or midwife under mutual recognition principle**

15 “13. (1) A person who is registered as a mental health nurse or midwife in a State, or another Territory, that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a nurse of that kind under this Act.

“(2) If the person’s registration as a nurse of that kind in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration as a nurse of that kind under this Act is an entitlement to registration that is not subject to any condition.

20 “(3) If the person’s registration as a nurse of that kind in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration as a nurse of that kind under this Act is an entitlement to registration subject to the conditions to which that registration is subject or conditions appropriate to give effect to any restriction to which
25 that registration is subject.

Registration at discretion of Board

30 “14. (1) Where a person is a graduate of a course of education or training in general nursing, mental health nursing or midwifery that is not accredited by the Board or approved by a registration authority of a State or another Territory, the Board may register the person as a general nurse, mental health nurse or midwife on a temporary basis to enable him or her to—

- 35 (a) undertake a course of education or training approved by the Board;
or
(b) gain experience in practising nursing.

“(2) Where a person—

- (a) graduated from a course of education or training in general nursing, mental health nursing or midwifery more than 5 years before the date of application for registration; and

- (b) has not practised as a nurse of that kind within the period of 5 years immediately preceding the date of application;

5 the Board may register the person as a general nurse, mental health nurse or midwife on a temporary basis to enable him or her to undertake a course of education or training approved by the Board.

“(3) The Board may register a person as a general nurse, mental health nurse or midwife for the purpose of enabling the person to fill a teaching or research position if—

- 10 (a) the person has qualifications that the Board considers appropriate for that purpose; and
- (b) the application is supported in writing by the hospital, professional association, university or other institution by which it is proposed that the person be engaged for that purpose.

15 “(4) The Board may register a person as a general nurse, mental health nurse or midwife on a temporary basis if it is satisfied that it is in the public interest to do so.

“(5) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

Interim registration

20 “15. (1) An applicant for registration as a general nurse, mental health nurse or midwife may be granted interim registration where—

- (a) the applicant is entitled to registration as such a nurse under section 10 or 12 but it is not practicable to wait until the Board can consider the application; or
- 25 (b) the applicant would be entitled to registration as such a nurse under section 10 or 12 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

30 “(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant an applicant for registration interim registration in accordance with this section.

“(3) Interim registration granted to a person under this section remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- 35 (a) granted him or her registration;
- (b) refused his or her application for registration; or
- (c) cancelled the interim registration.

“(4) The Board may cancel a person’s interim registration for any reason that it considers proper and shall immediately give the person notice in writing of the cancellation.

5 “(5) A person who holds interim registration is for all purposes to be taken to be a registered.

Conditions of registration in cases of impairment

10 “15A. (1) The Board may impose conditions on a person’s registration as a registered nurse if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

“(2) Where conditions have been imposed on a person’s registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if satisfied—

- 15 (a) that the person no longer suffers from the impairment; or
(b) that the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

Refusal of registration where applicant convicted of offence

20 “15B. (1) Subject to subsection (3), the Board may refuse an application for registration if—

- (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and
25 (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise nursing.

“(2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

30 “(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Refusal of registration where applicant deregistered under foreign law

35 “15C. (1) Subject to subsection (3), the Board may refuse an application for registration if the applicant’s name has been removed from a foreign register of nurses for any reason relating to conduct of the person as

a nurse or on any basis relating to the person's physical or mental capacity to practise nursing.

5 “(2) A person's name shall be taken to have been removed from a foreign register of nurses if it is removed from any register or roll established or kept under any law of a State, another Territory or a place outside Australia providing for the registration, enrolment or licensing of nurses or the authorisation of persons to practise nursing.

10 “(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Applicants to be competent and of good character

“15D. (1) Subject to subsection (3), the Board shall not register a person as a general nurse unless satisfied that the person is competent to practise nursing and is of good character.

15 “(2) Subject to subsection (4), the Board shall not register a person as a mental health nurse or midwife unless satisfied that the person is competent to practise as a nurse of that kind and is of good character.

20 “(3) Subsection (1) does not apply in relation to a person who is entitled to registration as a general nurse pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act seeking registration as a general nurse.

25 “(4) Subsection (2) does not apply in relation to a person who is entitled to registration as a mental health nurse or midwife pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act seeking registration as such a nurse.

Restriction on registration of deregistered or suspended persons

30 “15E. (1) Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under section 26A or subsection 26E (2)) or suspended (otherwise than under subsection 40 (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 42.

35 “(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

“Division 2—Registration procedure

Applications for registration

5 “15F. (1) This section applies to an application for registration as a general nurse, mental health nurse or midwife, other than an application by a person who is entitled to registration as such a nurse pursuant to the Mutual Recognition Act and who lodges with the Board a notice under section 19 of that Act.

“(2) An application for registration to which this section applies shall—

- 10 (a) be in a form approved by the Board; and
(b) be accompanied by the determined fee.

Applications to be considered and determined

“15G. The Board shall consider each application under section 15F and—

- 15 (a) register the applicant in accordance with section 17 unconditionally or subject to conditions; or
(b) refuse the application.

Registration of applicants

20 “15H. Where a person who is applying for registration as a general nurse, mental health nurse or midwife, otherwise than under the Mutual Recognition Act—

- (a) complies with section 15F;
(b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so; and
25 (c) is entitled to registration as such a nurse in accordance with this Act;

the Board shall, subject to this Act, register the person as such a nurse in accordance with section 17.

Fee for registration pursuant to Mutual Recognition Act

30 “15J. A person who applies for registration under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

Conditions of registration

35 “15K. The conditions that the Board may impose on the registration of a person as a general nurse, mental health nurse or midwife at the time of registration include conditions relating to the duration of registration, the

aspects of practise in which the person may be engaged and conditions relating to any other matters the Board considers appropriate.

“Division 3—Register of Nurses”.

Register

- 5 **9.** Section 16 of the Principal Act is amended by adding at the end the following subsection:

“**(2)** The Register may be maintained by electronic means.”.

Substitution

- 10 **10.** Section 17 of the Principal Act is repealed and the following section substituted:

Particulars to be entered in Register

“**17.** The registration of a person as a general nurse, mental health nurse or midwife shall be effected—

- 15 **(a)** in the case of a person who is not currently registered under this Act—by entering in the Register—
- (i) the name of the person;
 - (ii) the person’s professional address in the Territory or, if he or she has no professional address in the Territory, his or her place of residence, whether within or outside the Territory;
 - 20 (iii) the branch of nursing in which the person is being registered;
 - (iv) the qualifications of the person relevant to practising that branch of nursing;
 - 25 (v) the course of education or training undertaken by the person in that branch of nursing;
 - (vi) any condition to which the person’s registration in that branch of nursing is subject;
 - (vii) the registration number allotted to the person;
 - 30 (viii) the date of registration in that branch of nursing;
 - (ix) the provision by virtue of which the person is entitled to be registered in that branch of nursing; and
 - (x) such other particulars (if any) as are prescribed; or

- (b) in the case of a person who is currently registered under this Act—
by adding to the particulars entered in the Register in relation to the
person—
- 5 (i) the additional branch of nursing in which the person is
being registered;
 - (ii) the qualifications of the person relevant to practising that
branch of nursing;
 - (iii) the course of education or training undertaken by the
person in that branch of nursing;
 - 10 (iv) any condition to which the person's registration in that
branch of nursing is subject;
 - (v) the date of registration in that branch of nursing;
 - (vi) the provision by virtue of which the person is entitled to be
registered in that branch of nursing; and
 - 15 (vii) such other particulars (if any) as are prescribed.”.

Certificate of registration

11. Section 18 of the Principal Act is amended—

- (a) by inserting after subsection (1) the following subsection:
- 20 “(1A) A certificate of registration shall state the provision by
virtue of which the person specified in the certificate is entitled to
be registered and set out any conditions to which his or her
registration is subject.”; and
- (b) by omitting subsections (4), (5) and (6) and substituting the
following subsections:
- 25 “(4) Where—
- (a) a person ceases to be registered; or
 - (b) the registration of a person is suspended;
- the Board may, by notice in writing given to the person, require
the person to deliver his or her certificate of registration to the
30 Board within 14 days.
- “(5) Where a person whose registration has been suspended
delivers his or her certificate of registration to the Board, the Board
shall retain the certificate during the period of the suspension and
return it to the person at the expiration of that period unless the
35 person's registration has sooner been cancelled.

“(6) Where, after a certificate of registration has been issued to a person—

(a) conditions are imposed on the registration of the person; or

5 (b) conditions imposed on the registration of the person are varied;

10 the Board may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

“(6A) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (4) or (6).

Penalty: \$500.”.

15 Repeal

12. Sections 19 to 24 (inclusive) of the Principal Act are repealed.

Change of address

13. Section 25 of the Principal Act is amended—

20 (a) by omitting from paragraph (a) “entered in the Register under section 22” and substituting “shown in the Register”; and

(b) by omitting the penalty provision and substituting the following penalty provision:

“Penalty: \$500.”.

Alteration of Register

25 14. Section 26 of the Principal Act is amended by omitting from subsection (1) “ceased to be registered” and substituting “whose registration has been cancelled”.

Insertion

30 15. After section 26 of the Principal Act the following sections and Division are inserted in Part IV:

Deregistration on basis of deregistration under foreign law

“26A. (1) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from a register kept under a law of a State or another Territory for any reason relating to—

(a) conduct of the person as a nurse; or
(b) the physical or mental capacity of the person to practise nursing;
the Board shall cancel the registration of the person.

“(2) Where—

- 5 (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register referred to in that subsection; and
(b) the person applies to the Board to be re-registered under this Act;
the Board shall re-register the person.

10 “(3) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register or roll kept under a law of a place outside Australia for any reason relating to—

- (a) conduct of the person as a nurse; or
(b) the physical or mental capacity of the person to practise nursing;
15 the Board may cancel the registration of the person.

“(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

Imposition of conditions imposed under foreign law

20 “26B. (1) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as a nurse under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

25 “(2) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration or enrolment of the person as a nurse under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person under this Act.

30 **Cessation of registration**

“26C. (1) A person who is registered as a general nurse ceases to be so registered—

- 35 (a) when the Board gives the person notice that his or her registration as a general nurse has been cancelled in accordance with this Act;
or

(b) if the registration is conditional and the period of registration is specified in a condition—when that period expires.

“(2) A person who is registered as a mental health nurse or midwife ceases to be so registered—

- 5 (a) when the Board gives the person notice that his or her registration as such a nurse, or as a general nurse, has been cancelled in accordance with this Act; or
- (b) if the registration is conditional and the period of registration is specified in a condition—when that period expires.

10 **“Division 4—Annual fees**

Annual fee payable

“26D. (1) A registered nurse shall, on or before 1 April in each year, pay the Territory the determined fee.

15 “(2) The Board shall cause to be sent to each registered nurse, not less than 1 month before 1 April in each year, a notice requiring him or her to comply with subsection (1).

“(3) The liability of a registered nurse for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

20 **Registration to be cancelled for non-payment**

“26E. (1) Where a registered nurse does not comply with subsection 26D (1), the Board shall cause to be sent to the nurse a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

25

“(2) The Board shall cancel the registration of a nurse to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

Entitlement to re-registration if fee paid

30 “26F. (1) A person whose name has been removed from the Register for failure to pay an annual fee is entitled to be re-registered if he or she—

- (a) makes application in a form approved by the Board; and
- (b) pays the determined fee.

35 “(2) The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person’s registration immediately before the removal of his or her name from the Register.

“(3) The Board may refuse to re-register a person under this section if it is satisfied that the person is not competent to practise nursing or is not of good character.

5 “(4) An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person’s name is authorised or required to be removed from the Register.”

Substitution

16. Sections 27, 28 and 29 of the Principal Act are repealed and the following Divisions and Division heading substituted:

10 *“Division 1—Qualifications for enrolment*

Entitlement to enrolment as an enrolled nurse

“27. (1) A person is entitled to be enrolled as a nurse, other than a mothercraft nurse, if—

15 (a) the person is a graduate of a course of education or training offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory for the training of persons to be enrolled nurses; or

(b) the person—

20 (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in paragraph (a) and that qualifies the person to practise nursing in that place; and

25 (ii) has undertaken such further education or training, gained such experience in practising nursing and passed such examinations as the Board requires.

“(2) A person is entitled to be enrolled as a mothercraft nurse if—

30 (a) the person is a graduate of a course of education or training offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory for the training of persons to be mothercraft nurses; or

(b) the person—

35 (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in paragraph (a) and that qualifies the person to practise mothercraft nursing in that place; and

- (ii) has undertaken such further education or training, gained such experience in practising nursing and passed such examinations as the Board requires.

Enrolment as an enrolled nurse under mutual recognition principle

5

“28. (1) A person who is an enrolled nurse under the law in force in a State, or another Territory, that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be enrolled as a nurse or mothercraft nurse under this Act.

10

“(2) If the person’s enrolment in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to enrolment under this Act is an entitlement to enrolment that is not subject to any condition.

15

“(3) If the person’s enrolment in the State or other Territory is subject to any condition or restriction, the person’s entitlement to enrolment under this Act is an entitlement to enrolment subject to the conditions to which that enrolment is subject or conditions appropriate to give effect to any restriction to which that enrolment is subject.

Interim enrolment

20

“29. (1) An applicant for enrolment as a nurse or mothercraft nurse may be granted interim enrolment where—

25

- (a) the applicant is entitled to enrolment as such a nurse under section 27 but it is not practicable to wait until the Board can consider the application; or
- (b) the applicant would be entitled to enrolment as such a nurse under section 27 except for the fact that a certificate or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

30

“(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant an applicant for enrolment interim enrolment in accordance with this section.

35

“(3) Interim enrolment remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- (a) granted him or her enrolment;
- (b) refused his or her application for enrolment; or
- (c) cancelled the interim enrolment.

“4) The Board may cancel a person’s interim enrolment for any reason it considers proper and shall immediately give the person notice in writing of the cancellation.

5 “5) A person who holds interim enrolment is for all purposes to be taken to be an enrolled nurse.

Conditions of enrolment in cases of impairment

10 “29A. (1) The Board may impose conditions on the enrolment of a person as an enrolled nurse if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

“2) Where conditions have been imposed on a person’s enrolment under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if satisfied—

- 15 (a) that the person no longer suffers from the impairment; or
(b) that the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

Refusal of enrolment where applicant convicted of offence

20 “29B. (1) Subject to subsection (3), the Board may refuse an application for enrolment if—

- (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and
25 (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise nursing as an enrolled nurse.

“2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

30 “3) Subsection (1) does not apply in relation to a person who is entitled to enrolment pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Refusal of enrolment where applicant removed from roll under foreign law

35 “29C. (1) Subject to subsection (3), the Board may refuse an application for enrolment if the applicant’s name has been removed from a foreign roll of nurses for any reason relating to conduct of the person as a

nurse or on any basis relating to the person's physical or mental capacity to practise nursing.

5 “(2) A person's name shall be taken to have been removed from a foreign roll of nurses if it is removed from any roll or register established or kept under a law of a State, another Territory or a place outside Australia providing for the enrolment, registration or licensing of nurses or the authorisation of persons to practise nursing.

10 “(3) Subsection (1) does not apply in relation to a person who is entitled to enrolment pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Applicants to be competent and of good character

“29D. (1) Subject to subsection (2), the Board shall not enrol a person as an enrolled nurse unless satisfied that the person is competent to practise as an enrolled nurse and is of good character.

15 “(2) Subsection (1) does not apply to a person who is entitled to enrolment as an enrolled nurse pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act seeking enrolment as such a nurse.

Restriction on enrolment of persons removed from roll or whose enrolment has been suspended

20 “29E. (1) Subject to subsection (2), where the enrolment of a person under this Act has been cancelled (otherwise than under section 37A or subsection 37E (2)) or suspended (otherwise than under subsection 40 (2)) the person may not apply for re-enrolment or termination of the suspension, as the case may be, otherwise than under section 42.

25 “(2) Subsection (1) does not apply in relation to a person who is entitled to be re-enrolled pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

“Division 2—Enrolment procedure

30 Applications for enrolment

“29F. (1) This section applies to an application for enrolment as a nurse or mothercraft nurse, other than an application by a person who is entitled to enrolment as such a nurse pursuant to the Mutual Recognition Act and who lodges with the Board a notice under section 19 of that Act.

35 “(2) An application for enrolment to which this section applies shall—

- (a) be in a form approved by the Board; and
- (b) be accompanied by the determined fee.

Applications to be considered and determined

“29G. The Board shall consider each application under section 29F and—

- 5 (a) enrol the applicant in accordance with section 30A unconditionally or subject to conditions; or
(b) refuse the application.

Enrolment of applicants

“29H. Where a person who is applying for enrolment as a nurse or mothercraft nurse otherwise than under the Mutual Recognition Act—

- 10 (a) complies with section 29F;
(b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so; and
(c) is entitled to enrolment;

15 the Board shall, subject to this Act, enrol the person as such a nurse in accordance with section 30A.

Fee for enrolment pursuant to Mutual Recognition Act

“29J. A person who applies for enrolment under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

20 **Conditions of enrolment**

“29K. The conditions that the Board may impose on the enrolment of a person as an enrolled nurse at the time of enrolment include conditions relating to the duration of enrolment, the aspects of practice in which the person may be engaged and conditions relating to any other matters the
25 Board considers appropriate.

“Division 3—Roll of Enrolled Nurses”.

Roll

17. Section 30 of the Principal Act is amended by adding at the end the following subsection:

- 30 “(2) The Roll may be maintained by electronic means.”.

Insertion

18. After section 30 of the Principal Act the following section is inserted:

Particulars to be entered in Roll

“30A. The enrolment of a person as a nurse or mothercraft nurse shall be effected—

- 5 (a) in the case of a person who is not presently enrolled under this Act—by entering in the Roll—
- (i) the name of the person;
 - (ii) the person’s professional address in the Territory or, if he or she has no professional address in the Territory, his or her place of residence, whether within or outside the Territory;
 - 10 (iii) the branch of nursing in which the person is being enrolled;
 - (iv) the qualifications of the person relevant to practising that branch of nursing;
 - 15 (v) the course of education or training undertaken by the person in that branch of nursing;
 - (vi) any condition to which the person’s enrolment in that branch of nursing is subject;
 - (vii) the enrolment number allotted to the person;
 - (viii) the date of enrolment in that branch of nursing;
 - 20 (ix) the provision by virtue of which the person is entitled to be enrolled in that branch of nursing; and
 - (x) such other particulars (if any) as are prescribed; or
- 25 (b) in the case of a person who is currently enrolled under this Act—by adding to the particulars entered in the Roll in relation to that person—
- (i) the additional branch of nursing in which the person is being enrolled;
 - (ii) the qualifications of that person relevant to practising that branch of nursing;
 - 30 (iii) the course of education or training undertaken by the person in that branch of nursing;
 - (iv) any condition to which the person’s enrolment in that branch of nursing is subject;
 - (v) the date of enrolment in that branch of nursing;

- (vi) the provision by virtue of which the person is entitled to be enrolled in that branch of nursing; and
- (vii) such other particulars (if any) as are prescribed.”.

Certificate of enrolment

5 **19. Section 31 of the Principal Act is amended—**

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

10 “(1A) A certificate of enrolment shall state the provision by virtue of which the person specified in the certificate is entitled to be enrolled and set out any condition to which his or her enrolment is subject.”; and

(b) by omitting subsections (3), (4) and (5) and substituting the following subsections:

 “(3) Where—

15 (a) a person ceases to be enrolled; or

(b) the enrolment of a person is suspended;

the Board may, by notice in writing given to the person, require the person to deliver his or her certificate of enrolment to the Board within 14 days.

20 “(4) Where a person whose enrolment has been suspended delivers his or her certificate of enrolment to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person’s enrolment has sooner been cancelled.

25 “(5) Where, after a certificate of enrolment has been issued to a person—

(a) conditions are imposed on the enrolment of the person; or

(b) conditions imposed on the enrolment of the person are varied;

30 the Board may, by notice in writing given to the person, require the person to deliver his or her certificate of enrolment to the Board within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

“(5A) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (3) or (5).

Penalty: \$500.”.

Repeal

- 5 20. Sections 32 to 35 (inclusive) of the Principal Act are repealed.

Change of address

21. Section 36 of the Principal Act is amended—

- (a) by omitting from paragraph (a) “entered in the Roll under section 33” and substituting “shown in the Roll”; and
- 10 (b) by omitting the penalty provision and substituting the following penalty provision:

“Penalty: \$500.”.

Alteration of Roll

- 15 22. Section 37 of the Principal Act is amended by omitting from subsection (1) “ceased to be enrolled” and substituting “whose enrolment has been cancelled”.

Insertion

23. After section 37 of the Principal Act the following sections and Division are inserted in Part V:

- 20 **Removal from Roll on basis of removal from roll under foreign law**

“37A. (1) Where the Board is satisfied that the name of a person who is enrolled under this Act has been removed from any roll or register kept under a law of a State or another Territory for any reason relating to—

- 25 (a) conduct of the person as a nurse; or
- (b) the physical or mental capacity of the person to practise nursing;
- the Board shall cancel the enrolment of the person.

“(2) Where—

- 30 (a) the name of a person whose enrolment has been cancelled under subsection (1) is restored to the roll or register referred to in that subsection; and
- (b) the person applies to the Board to be re-enrolled under this Act;
- the Board shall re-enrol the person.

“(3) Where the Board is satisfied that the name of a person who is enrolled under this Act has been removed from any roll or register kept under a law of a place outside Australia for any reason relating to—

- (a) conduct of the person as a nurse; or
 - 5 (b) the physical or mental capacity of the person to practise nursing;
- the Board may cancel the enrolment of the person.

“(4) The Board may re-enrol a person whose enrolment has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

10 **Imposition of conditions imposed under foreign law**

“37B. (1) Where the Board is satisfied that after a person has been enrolled under this Act a condition has been imposed on the enrolment of the person as a nurse under a law of a State or another Territory, the Board shall impose a similar condition on the enrolment of the person under this Act.

- 15 “(2) Where the Board is satisfied that after a person has been enrolled under this Act a condition has been imposed on the enrolment or registration of the person as a nurse under a law of a place outside Australia, the Board may impose a similar condition on the enrolment of the person under this Act.

20 **Cessation of enrolment**

“37C. A person who is enrolled as an enrolled nurse or a mothercraft nurse ceases to be so enrolled—

- (a) when the Board gives the person notice that his or her enrolment as such a nurse has been cancelled in accordance with this Act; or
- 25 (b) if the enrolment is conditional and the period of enrolment is specified in the condition—when that period expires.

“Division 4—Annual fees

Annual fee payable

- 30 “37D. (1) An enrolled nurse shall, on or before 1 April in each year, pay the Territory the prescribed fee.

“(2) The Board shall cause to be sent to each enrolled nurse, not less than 1 month before 1 April in each year, a notice requiring him or her to comply with subsection (1).

- 35 “(3) The liability of an enrolled nurse for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

Enrolment to be cancelled for non-payment

5 “37E. (1) Where an enrolled nurse does not comply with subsection 37D (1), the Board shall cause to be sent to the nurse a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her enrolment will be cancelled.

“(2) The Board shall cancel the enrolment of an enrolled nurse to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

10 Entitlement to re-enrolment if fee paid

“37F. (1) A person whose name has been removed from the Roll for failure to pay an annual fee is entitled to be re-enrolled if he or she—

(a) makes application in a form approved by the Board; and

(b) pays the determined fee.

15 “(2) The entitlement of a person to re-enrolment under this section is an entitlement to re-enrolment on the same terms and subject to the same conditions (if any) as applied to the person’s enrolment immediately before the removal of his or her name from the Roll.

20 “(3) The Board may refuse to re-enrol a person under this section if it is satisfied that the person is not competent to practise nursing or is not of good character.

“(4) An entitlement to re-enrolment under this section is subject to the provisions of this Act pursuant to which a person’s name is authorised or required to be removed from the Roll.”.

25 Substitution

24. Sections 38 and 39 of the Principal Act are repealed and the following sections substituted:

Cancellation or suspension of registration or enrolment

“38. The Board may—

30 (a) cancel the registration or enrolment of a person; or

(b) by order served on the person, suspend the registration or enrolment of the person for such period as the Board thinks fit;

if satisfied—

35 (c) that the registration or enrolment of the person was obtained by fraud or misrepresentation;

- 5 (d) that the nursing qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) that the person has contravened this Act or the regulations;
- (f) that the person has contravened a condition to which his or her registration or enrolment under this Act is subject;
- (g) that the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the Board, renders him or her unfit to practise as a nurse;
- 10 (h) that the person has engaged in canvassing, or employed an agent or canvasser, for the purpose of procuring patients or practice;
- (j) that the person is guilty of habitual drunkenness or addiction to a deleterious drug that renders him or her unfit to practise as a nurse;
- 15 (k) that the person has engaged in conduct, whether in practising nursing or not, that adversely affects practising nursing by the person;
- (m) that the person has engaged in any improper or unethical conduct relating to the practice of nursing;
- 20 (n) that the person has failed to exercise adequate judgment or care in practising nursing; or
- (p) that the person is not competent to practise nursing.

Cancellation, suspension or restriction of right of practise on health grounds

25 "39. (1) Subject to subsection (2), the Board shall, when it is satisfied that the mental or physical condition of a person who is registered or enrolled as a nurse renders him or her unfit to practise as a nurse—

- (a) cancel the registration or enrolment of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

30 "(2) The Board may, instead of cancelling or suspending the registration or enrolment of a person, where it is satisfied that the person is fit to give or perform some nursing services and that it would not be contrary to the public interest to make an order under this subsection, by order served on the person direct the person not to give or perform the

35 nursing services specified, whether individually or otherwise, in the order.

"(3) Where the Board has made an order under subsection (2) in relation to a person, it may, if so requested by the person, review the order

and, if satisfied that the mental or physical condition of the person has changed since the order was made, amend or revoke the order.

5 “(4) A person on whom an order under subsection (2) has been served who gives or performs a nursing service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered nurse or an enrolled nurse.

Practising when registration or enrolment suspended

10 “39A. Where a person whose registration or enrolment as a nurse has been suspended is convicted of an offence against section 43, 44 or 45, the Board may—

- (a) cancel the registration or enrolment of the person; or
- (b) by order served on the person, suspend the registration or enrolment of the person for such further period as the Board thinks fit.

15 Power of Board to caution, reprimand etc.

“39B. (1) Subject to subsection (2), the Board may do any 1 or more of the following in relation to the conduct of a registered nurse or an enrolled nurse:

- (a) caution or reprimand the nurse;
- 20 (b) order that the nurse seek and undergo medical or psychiatric treatment or counselling;
- (c) impose on the nurse’s registration or enrolment such conditions relating to practising nursing as the Board considers appropriate;
- 25 (d) order that the nurse seek and follow advice, in relation to the management of his or her nursing practice, from persons specified by the Board;
- (e) order that the nurse complete specified educational courses.

30 “(2) Paragraph (1) (e) does not apply in relation to a nurse who obtained registration or enrolment under this Act pursuant to the Mutual Recognition Act.

Power of Board to impose fines

35 “39C. (1) Subject to subsection (2), where the Board finds that a registered nurse or an enrolled nurse has failed to comply with an order of the Board under section 39B it may, by order served on the nurse, impose on him or her a fine not exceeding \$1,000.

“(2) The Board shall not impose a fine under subsection (1) in respect of conduct for which a court has already imposed a fine or other penalty.

“(3) A fine imposed under this section shall be paid to the Territory within the time specified in the order imposing the fine.

5 “(4) Where a nurse on whom the Board has imposed a fine under subsection (1) fails to pay the fine by the time specified in the order, the Board may—

- (a) cancel the registration or enrolment of the nurse; or
- (b) by order served on the nurse, suspend the registration or enrolment of the nurse for such period as the Board thinks fit.”.

Inquiry by Board

10 **25.** Section 40 of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “, other than under subsection 26A (1), section 26E, subsection 37A (1) or section 37E”;
 - (b) by omitting paragraphs (1) (b) and (c) and substituting the following paragraphs:
 - 15 “(b) making an order under subsection 39 (2); or
 - (c) taking any action under subsection 39B (1).”;
 - (c) by omitting from subsection (2) all the words after “may” and substituting “, by order served on the person to whom the inquiry relates, suspend temporarily the registration or enrolment of the person”.
- 20

Effect of suspension

26. Section 41 of the Principal Act is amended by omitting “or subsection 39 (1) or” and substituting “, subsection 39 (1), section 39A or subsection”.

25 **Application for re-registration or re-enrolment**

27. Section 42 of the Principal Act is amended—

- (a) by omitting from subsection (1) “subsection 24 (4), 35 (4), 39 (1)” and substituting “section 26A, subsection 26E (2), section 37A or subsection 37E (2)”; and
- 30 (b) by omitting from subsection (3) “determined” and substituting “terminated”.

Administration of estate of deceased nurse

28. Section 50 of the Principal Act is amended—

- 5
- (a) by omitting “, administrator” (first occurring) and substituting “or executrix of the will of the registered nurse, or an administrator, administratrix”; and
 - (b) by omitting “administrator” (second occurring) and substituting “executrix, administrator, administratrix”.

Application

10 29. Section 52 of the Principal Act is amended by omitting from paragraph (c) “section 7, 10, 11 or 27” and substituting “paragraph 10 (1) (a), (b) or (c), 12 (1) (a), (b) or (c), (2) (a), (b) or (c) or subsection 27 (1)”.

Substitution

30. Sections 54 and 55 of the Principal Act are repealed and the following sections substituted:

15 **Review of decisions**

“54. Application may be made to the Tribunal for review of a decision of the Board—

- (a) under subsection 14 (5), 15A (1), 26B (2), 29A (1) or 37B (2) to impose conditions on the registration or enrolment of a person;
- 20 (b) under subsection 15 (4) or 29 (4) to cancel the interim registration or enrolment of a person;
- (c) under subsection 15A (2) or 29A (2) to refuse to review conditions imposed on the registration or enrolment of a person;
- 25 (d) under subsection 15A (2) or 29A (2) to refuse to alter or remove conditions imposed on the registration or enrolment of a person;
- (e) under subsection 15A (2) or 29A (2) to impose new conditions on the registration or enrolment of a person;
- (f) under paragraph 15G (b) or 29G (b) to refuse to register or enrol a person;
- 30 (g) under subsection 26A (4), section 26F, subsection 37A (4), section 37F or subsection 42 (3) to refuse to re-register or re-enrol a person;
- 35 (h) under subsection 26A (3) or 37A (3) or paragraph 38 (a), 39 (1) (a), 39A (a) or 39C (4) (a) to cancel the registration or enrolment of a person;

- 5
- (j) under paragraph 38 (b), 39 (1) (b), 39A (b) or 39C (4) (b) or subsection 40 (2) to suspend the registration or enrolment of a person;
- (k) under subsection 39 (2) to make an order directing a person not to give or perform a nursing service;
- (m) under subsection 39 (3) to refuse to review an order directing a person not to give or perform a nursing service;
- (n) under subsection 39 (3) to refuse to amend or revoke an order directing a person not to give or perform a nursing service;
- 10
- (o) under subsection 39 (3) to amend an order directing a person not to give or perform a nursing service;
- (p) under subsection 39B (1) to take any action of a kind specified in that subsection in relation to a registered nurse or an enrolled nurse;
- 15
- (q) under subsection 39C (1) to impose a fine on a registered nurse or an enrolled nurse;
- (r) under subsection 42 (3) to refuse to terminate the suspension of the registration or enrolment of a nurse;
- 20
- (s) under subsection 49 (2) to certify the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for a nursing service;
- (t) under section 50 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased registered nurse, or the administrator, administratrix or trustee of the estate of a deceased registered nurse, may continue the business of the registered nurse; or
- 25
- (u) under section 50 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased registered nurse, or the administrator, administratrix or trustee of the estate of a deceased registered nurse, may continue the business of the registered nurse.
- 30

Notification of decisions

35 "55. (1) Where a decision of the kind referred to in section 54 (other than paragraph (b), (j), (k) or (q)) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 54 (a)—to the person on whose registration or enrolment conditions have been imposed;

- (b) in the case of a decision referred to in paragraph 54 (c) or (d)—to the person whose registration or enrolment is subject to the conditions;
- 5 (c) in the case of a decision referred to in paragraph 54 (e)—to the person on whose registration or enrolment new conditions have been imposed;
- (d) in the case of a decision referred to in paragraph 54 (f)—to the person whose application for registration or enrolment has been refused;
- 10 (e) in the case of a decision referred to in paragraph 54 (g)—to the person whose application for re-registration or re-enrolment has been refused;
- (f) in the case of a decision referred to in paragraph 54 (h)—to the person whose registration or enrolment has been cancelled;
- 15 (g) in the case of a decision referred to in paragraph 54 (m), (n) or (o)—to the person in relation to whom the order was made;
- (h) in the case of a decision referred to in paragraph 54 (p)—to the registered nurse or enrolled nurse in relation to whom the action has been taken;
- 20 (j) in the case of a decision referred to in paragraph 54 (r)—to the person whose registration or enrolment has been suspended;
- (k) in the case of a decision referred to in paragraph 54 (s)—to the person who requested the review of the account; or
- 25 (m) in the case of a decision referred to in paragraph 54 (t) or (u)—to the executor or executrix of the will of the deceased nurse or the administrator, administratrix or trustee of the estate of the deceased nurse.

“(2) A notice under subsection 15 (4) or 29 (4), or under subsection (1) of this section, shall—

- 30 (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- 35 (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

“(3) An order under paragraph 38 (b) or 39 (1) (b), subsection 39 (2), paragraph 39A (b), subsection 39C (1), paragraph 39C (4) (b) or subsection 40 (2) shall—

- (a) have endorsed on it or attached to it a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to make the order; and
- 5 (b) except where subsection 26 (11) of that Act applies—have endorsed on it or attached to it a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

10 “(4) The validity of a decision referred to in subsection (2) or (3) is not to be taken to be affected by a failure to comply with that subsection.

Publication of notice of decision of Board or Tribunal

“55A. The Chairperson may, if he or she thinks fit, cause a notice of a decision of the Board or of the Tribunal on application for review of a decision of the Board—

- 15 (a) cancelling the registration or enrolment of a person;
- (b) suspending, otherwise than under subsection 40 (2), the registration or enrolment of a person;
- (c) imposing a condition on the registration or enrolment of a person;
- (d) making or amending an order under subsection 39 (2);
- 20 (e) taking any action under subsection 39B (1); or
- (f) imposing a fine on a person under subsection 39C (1);

and the reasons for the decision, including the findings on material questions of fact, to be published in the *Gazette*.”

Publication of names of registered or enrolled nurses

25 31. Section 59 of the Principal Act is amended by omitting “January” and substituting “April”.

Repeal

32. Section 63 of the Principal Act is repealed.

30 **Persons entitled to apply for registration as mental health nurses**

33. Section 64 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:
- 35 “(1) Notwithstanding the provisions of subsection 12 (1), a person other than a person who is registered, or entitled to be

registered, under this Act as a general nurse is entitled to be registered as a mental health nurse if the person is otherwise entitled to be registered under paragraph 12 (1) (a)."; and

- 5 (b) by omitting from subsection (2) "the expiration of the period of 10 years after the commencement of this Act" and substituting "5 December 1998".

Repeal

34. Section 65 of the Principal Act is repealed.

Further amendments

- 10 35. The Principal Act is further amended as set out in the Schedule.

PART III—TRANSITIONAL

Continuation of registration or enrolment

36. A person who, immediately before the commencement of this Act—

- 15 (a) was registered as a general nurse, mental health nurse, midwife or infants' nurse; or
(b) was an enrolled nurse or mothercraft nurse;

continues to be registered or enrolled under the Principal Act as amended by this Act subject to the same conditions (if any) as applied to his or her registration or enrolment immediately before that commencement.

20

Persons granted provisional registration or enrolment

37. (1) A person who, immediately before the repeal of section 19 of the Principal Act by this Act, held provisional registration under that section shall, on the commencement of this Act, be taken to be a person who has been granted interim registration in accordance with section 15 of the Principal Act as amended by this Act.

25

(2) A person who, immediately before the repeal of section 32 of the Principal Act by this Act, held provisional enrolment under that section shall, on the commencement of this Act, be taken to be a person who has been granted interim enrolment in accordance with section 29 of the Principal Act as amended by this Act.

30

Applications for registration or enrolment

38. An application for registration or enrolment under the Principal Act as in force before the commencement of this Act that had not been determined before the commencement of this Act shall be taken to be an

35

application for registration or enrolment under the Principal Act as amended by this Act.

Failure by registered nurse to pay annual fee under repealed provisions

5 **39. (1)** A failure by a registered nurse to pay a fee that became payable by him or her under section 24 of the Principal Act as in force before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 26D of the Principal Act as amended by this Act.

10 **(2)** A registered nurse who was not registered under the Principal Act immediately before the commencement of this Act because his or her registration was cancelled for a failure by the nurse to pay a fee that had become payable by him or her under section 24 of the Principal Act as in force before the commencement of this Act shall be taken to have had his or
15 her registration cancelled for a failure to pay a fee which had become payable by him or her under section 26D of the Principal Act as amended by this Act.

Failure by an enrolled nurse to pay annual fee under repealed provisions

20 **40. (1)** A failure by an enrolled nurse to pay a fee that became payable by him or her under section 35 of the Principal Act as in force before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 37D of the Principal Act as amended by this Act.

25 **(2)** An enrolled nurse who was not enrolled under the Principal Act immediately before the commencement of this Act because his or her enrolment was cancelled for a failure by the nurse to pay a fee that had become payable by him or her under section 35 of the Principal Act as in force before the commencement of this Act shall be taken to have had his or
30 her enrolment cancelled for a failure to pay a fee which had become payable by him or her under section 37D of the Principal Act as amended by this Act.

Continuation of inquiries and reviews

35 **41. (1)** The provisions of the Principal Act as in force immediately before the commencement of this Act continue to apply in relation to an inquiry or review commenced under the Principal Act and pending immediately before the commencement of this Act.

40 **(2)** Any decision or order resulting from an inquiry or review to which this section applies shall be taken to have been made under the Principal Act as amended by this Act.

Complaints relating to previous conduct

5 42. (1) Subject to subsection (2), an inquiry may be held under the Principal Act as amended by this Act with respect to conduct or any other matter or thing that occurred before, or partly before and partly after, the commencement of this Act.

(2) An inquiry referred to in subsection (1) may only be held if it is an inquiry that could have been held before the commencement of this Act.

Existing directions

10 43. A direction having effect under subsection 39 (2) of the Principal Act immediately before the commencement of this Act is, by this section, converted to an equivalent direction under subsection 39 (2) of the Principal Act as amended by this Act.

PART IV—MISCELLANEOUS**Renumbering of provisions**

15 44. (1) The amended Act is further amended as provided by this section.

(2) The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.

20 (3) Any provision of the amended Act that refers to a section of that Act that has been renumbered by subsection (2) is amended by omitting that reference and substituting a reference to the section as so renumbered.

25 (4) A reference in a provision of a law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a section of the amended Act that has been renumbered by subsection (2) shall (except as regards the operation of the section before it was so renumbered) be construed as a reference to that section as so renumbered.

(5) In this section, "amended Act" means the Principal Act as amended by sections 4 to 35 (inclusive).

30

**SCHEDULE
FURTHER AMENDMENTS**

Section 35

Paragraph 5 (1) (a)—

Omit “persons”, substitute “nurses”.

Paragraph 5 (2) (a)—

Omit “person” (last occurring), substitute “nurse”.

Subsection 31 (1)—

Omit “person”, substitute “nurse”.

Subsections 37 (1) and (3)—

Omit “person”, substitute “nurse”.

Subsections 43 (1) and (2)—

Omit “enrolled person” (wherever occurring), substitute “enrolled nurse”.

Paragraph 43 (3) (a)—

Omit “enrolled person”, substitute “enrolled nurse”.

Subsection 44 (1)—

Omit “enrolled person” (first occurring), substitute “enrolled nurse”.

Paragraph 44 (1) (a)—

Omit “enrolled person”, substitute “enrolled nurse”.

Subsection 44 (2)—

Omit “enrolled person”, substitute “enrolled nurse”.

Subsection 45 (1)—

Omit “enrolled person” (wherever occurring), substitute “enrolled nurse”.

Subsections 48 (1) and (2)—

Omit “enrolled person” (wherever occurring), substitute “enrolled nurse”.

Subsections 49 (1), (7) and (8)—

Omit “enrolled person” (wherever occurring), substitute “enrolled nurse”.

SCHEDULE—continued**Paragraph 61 (d)—**

Omit “enrolled persons”, substitute “enrolled nurses”.

NOTE

1. Reprinted as at 31 August 1991. See also Act No. 14, 1993.

NOTE ABOUT SECTION HEADING

On the day on which the *Nurses Act 1988* is amended by this Act, the heading to section 45 of that Act is altered by omitting “person” and substituting “nurse”.

Printed by Authority of Liz Harley, ACT Government Printer

© Australian Capital Territory 1994