

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

NURSES (AMENDMENT) BILL 1994

EXPLANATORY MEMORANDUM

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Outline

The Nurses (Amendment) Bill 1994 ("the Bill") amends the *Nurses Act 1988* ("the Act") for the purpose of ensuring that the registration and certain other provisions of the Act are consistent with the requirements for registration and enrolment of nurses as recommended by the Australian Health Ministers' Advisory Council (AHMAC) and agreed to by the Australian Health Ministers' Conference and is one of a series of Bills to amend the ACT's legislation regulating health professions for a similar purpose.

The Nurses Act 1988

The Act regulates the registration and enrolment of persons as nurses and, in particular, Parts IV, V and VI, respectively, set out the qualifications and requirements for registration as a nurse, enrolment as a nurse and provide that disciplinary action may be taken by the Nurses Board, established under Part II of the Act, in respect of the conduct of a registered or enrolled nurse.

The Nurses (Amendment) Bill 1994

The Bill amends the Act to enable a person to be registered or enrolled as a nurse according to the qualifications held by the person and to otherwise ensure that the provisions relating to registration and enrolment of nurses and disciplinary action which may be taken under the Act comply with the approach to these matters which has been agreed between the States and Territories.

In particular the Bill recognises the entitlement of a person who is registered or enrolled as a nurse in a State or another Territory to registration or enrolment, as the case may be, in the ACT and provides for conditions which may be imposed upon a nurse's registration or enrolment in another jurisdiction or disciplinary action taken against a nurse in another jurisdiction to be applied in respect of the person's registration or enrolment in the Territory.

These provisions are intended to be consistent with the mutual recognition principle relating to occupations as set out in section 17 of the Commonwealth *Mutual Recognition Act 1992*.

The application of that principle to the Territory and to other jurisdictions has given rise to the desirability of adopting agreed minimum requirements for registration or enrolment as a nurse. Unless all jurisdictions where mutual recognition applies have the same standard for registration or enrolment of a person as a nurse, a jurisdiction with a lower standard will provide a means for a person who satisfies that standard, but not the higher standards required in other jurisdictions, to gain registration or enrolment in those other jurisdictions under the mutual recognition principle.

Financial implications

There are no financial implications arising from the Bill.

Details of the Bill are included in the Attachment.

NURSES (AMENDMENT) BILL 1994

Explanatory Memorandum

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MAIN AMENDMENTS

Clause 8- Repeal and substitution of new registration provisions for nurses

Clause 8 repeals sections 10, 11, 12, 13, 14 and 15 of the Act and divides Part IV of the Act into three new Divisions. Sections 10 to 15 set out the qualifications and registration requirements for registration as a nurse.

These provisions are replaced with proposed new sections 10, 11, 12, 13, 14, 15, 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15J and 15K dealing with requirements for registration as a nurse, including registration procedure.

Entitlement to registration as a general nurse

New section 10 deals with the requirements for registration as a general nurse where the applicant relies upon his or her qualifications and training.

New subsection 10(1) entitles a person to registration as a general nurse if -

- the person has, within the preceding 5 years, graduated from 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 or, not being a graduate within the preceding 5 years, has practised as a general nurse within the preceding 5 years;
- the person has completed a course of education or training in a place outside Australia which is substantially equivalent to an accredited or approved course offered by an Australian institution and qualifies the person to practise nursing in that place and has undertaken such further education or training, gained such experience in the practise of nursing and passed such examinations as the Board requires; or
- the person has graduated from an accredited or approved course more than 5 years previously or has not practised as a general nurse within the preceding 5 years but has undertaken further education or training and passed such examinations as the Board requires.

New subsection 10(2) explains what practise as a general nurse means for the purposes of the section

Registration as a general nurse under mutual recognition principle

New section 11 entitles a person who is registered as a general nurse in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act, which is defined by the insertion in section 3 of the Act of a new definition to mean the Commonwealth *Mutual Recognition Act 1992*, to registration as a general nurse under the Act.

New subsection 11(2) entitles such a person to unconditional registration under the Act where that person's registration in the State or other Territory is unconditional.

New subsection 11(3) qualifies the right of such a person to be registered under the Act by making registration subject to the same conditions (if any) as apply to the person's registration in the other jurisdiction where the person is registered.

Registration as a mental health nurse or midwife

New section 12 deals with the requirements for registration as a mental health nurse or a midwife where the applicant relies upon his or her qualifications and training.

New subsection 12(1) entitles a person to registration as a mental health nurse if -

- the person is registered, or entitled to be registered, under the Act as a general nurse and within the preceding 5 years has graduated from 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 or, not being a graduate within the preceding 5 years, has practised as a general nurse or a mental health nurse within the preceding 5 years;
- the person is registered, or entitled to be registered, under the Act as a general nurse, has completed a course of education or training in a place outside Australia which is substantially equivalent to an accredited or approved course in mental health nursing offered by an Australian institution and qualifies the person to practise mental health nursing in that place and

has undertaken such further education or training, gained such experience in the practise of mental health nursing and passed such examinations as the Board requires; or

the person is registered or entitled to be registered under the Act as a general nurse, has graduated from an accredited or approved course more than 5 years previously, has not practised as a general nurse or mental health nurse within the preceding 5 years but has undertaken further education and training and passed such examinations as the Board requires.

New subsection 12(2) entitles a person to registration as a midwife if -

the person is registered, or entitled to be registered, under the Act as a general nurse and has, within the preceding 5 years, graduated from 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 or, not being a graduate within the preceding 5 years, has practised as a general nurse or midwife within the preceding 5 years;

the person is registered, or entitled to be registered, under the Act as a general nurse, has completed a course of education or training in a place outside Australia which is substantially equivalent to an accredited or approved course in midwifery offered by an Australian institution and qualifies the person to practise as a midwife in that place and has undertaken such further education or training, gained such experience in practising midwifery and passed such examinations as the Board requires; or

the person is registered or entitled to be registered under the Act as a general nurse, has graduated from an accredited or approved course more than 5 years previously, has not practised as a general nurse or midwife within the preceding 5 years but has undertaken further education and training and passed such examinations as the Board requires.

New subsection 12(3) explains what practise as a general nurse, mental health nurse or midwife entails for the purposes of the section.

Registration as a specialist nurse under mutual recognition principle

New section 13 entitles 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 to registration as a nurse of that kind under the Act.

New subsection 13(2) entitles such a person to unconditional registration under this Act where that person's registration in the State or other Territory is unconditional.

New subsection 13(3) qualifies the right of such a person to be registered under the Act by making registration subject to the same conditions (if any) as apply to the person's registration in the other jurisdiction where the person is registered.

Registration at the discretion of the Board

New section 14 provides the Board with a discretion to register a person as a general nurse, mental health nurse or midwife in a range of circumstances notwithstanding that the person is not entitled to registration pursuant to **new sections 10, 11, 12 or 13**.

New subsection 14(1) enables the Board to register a person as a general nurse, mental health nurse or midwife on a temporary basis where the person is a graduate of a course of education or training which is not accredited or approved, for the purpose of enabling the person to undertake a course of education or training approved by the Board or to gain experience in the practise of nursing.

New subsection 14(2) enables the Board to register a person as a general nurse, mental health nurse or midwife on a temporary basis where the person graduated more than 5 years previously and has not practised as a nurse in the preceding 5 years, for the purpose of enabling him or her to undertake a course of education or training approved by the Board.

New subsection 14(3) enables the Board to 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 the person has qualifications that the Board considers appropriate for that purpose and 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.

New subsection 14(4) enables the Board to register a person as a general nurse, mental health nurse or midwife on a temporary basis where the Board is satisfied that it is in the public interest to do so.

New subsection 14(5) enables the Board to impose such conditions upon registration granted under this section as the Board considers appropriate.

Interim registration

New section 15 provides for the interim registration of an applicant for registration as a general nurse, mental health nurse or midwife.

New subsection 15(1) enables the interim registration of such an applicant, in the case of a person entitled to registration under **new section 10 or 12** -

- . where it is not practicable to wait for the Board to consider the application; or
- . where the applicant would be entitled to registration but 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.

New subsection 15(2) enables a person authorised by the Board to grant interim registration to an applicant for registration, in accordance with the section, on payment of the determined fee.

New subsection 15(3) provides that interim registration remains in force until the person to whom it is granted is given written notice that -

- . registration has been granted;
- . registration has been refused; or
- . the interim registration has been cancelled.

New subsection 15(4) gives the Board the discretion to cancel a person's interim registration for any reason it considers proper and requires the Board to immediately notify the person, in writing, of the cancellation.

The effect of **new subsection 15(5)** is that a person who holds interim registration is taken to be a registered general nurse, mental health nurse or midwife, as the case may be.

Conditions of registration in cases of impairment

New section 15A deals with conditions which may be imposed upon the registration of a person as a registered nurse where the person suffers from an impairment. The term impairment is defined in **new section 3B** (inserted by *clause 5*) to encompass a physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, a person's physical or mental capacity to practise nursing, and it includes habitual drunkenness or addiction to a deleterious drug.

New subsection 15A(1) enables the Board to impose conditions upon a person's registration where the Board is satisfied that the person suffers from an impairment and the conditions are reasonable having regard to the impairment.

New subsection 15A(2) enables the Board to review conditions imposed upon a person's registration under **new section 15A**, and to alter or remove such conditions or impose new conditions where the Board is satisfied that the person no longer suffers from the impairment or the degree of the impairment has reduced.

Refusal of registration where applicant convicted of offence

New section 15B gives the Board a discretion to refuse to register an applicant for registration if the applicant has been convicted of an offence in the Territory or elsewhere by a court for or in respect of an act or omission which, had it taken place in the Territory, would have constituted an offence where the Board is of the opinion that the conviction renders the person unfit, in the public interest, to practise nursing.

New subsection 15B(2) requires the Board to have regard to the nature of the offence and the circumstances in which it was committed in making its decision.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 15B(3)** specifies that **new subsection 15B(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Refusal of registration where applicant deregistered outside Territory

New section 15C gives the Board a discretion to refuse to register an applicant if the applicant's name has been removed from a nursing register kept under the law of another country, State or another Territory for any reason relating to the conduct of the person as a nurse or on any basis relating to the person's physical or mental capacity to practise nursing.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 15C(3)** specifies that **new subsection 15C(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applicants to be competent and of good character

New section 15D prohibits the Board from registering a person as a general nurse unless the Board is satisfied that the person is competent and of good character.

New subsection 15D(2) prohibits the Board from registering a person as a mental health nurse or midwife unless the person is competent to practise as a nurse of that kind and is of good character.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 15D(3)** specifies that **new subsection 15D(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Similarly, **new subsection 15D(4)** specifies that **new subsection 15D(2)** does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Restriction on registration of deregistered or suspended persons

New section 15E restricts the registration of persons whose registration has been cancelled or suspended. Other than a person whose registration has been cancelled

pursuant to **new section 26A**, that is, as a consequence of cancellation of the person's registration in another jurisdiction, or pursuant to **new subsection 26E(2)** for non-payment of a fee, or whose registration has been suspended pursuant to section 40(2) pending the outcome of an inquiry, a person may not apply for re-registration or termination of the suspension other than by applying to the Board pursuant to section 42.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 15E(2)** specifies that **new subsection 15E(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applications for registration

New section 15F applies to applications for registration other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

New subsection 15F(2) requires that an application for registration be in a form approved by the Board and be accompanied by the determined fee.

Applications to be considered and determined

New section 15G requires the Board to consider and determine all applications for registration under **new section 15F** and that determination of applications is to be by either registering the applicant, unconditionally or otherwise, or by refusing the application.

Registration of applicants

New section 15H requires that where a person who is applying for registration other than under the Mutual Recognition Act applies for registration in accordance with **new section 15F** and appears personally before the Board, or a nominee of the Board, if required to do so, and is entitled to registration in accordance with the Act, the Board shall register the applicant.

Fee for registration pursuant to Mutual Recognition Act

New section 15J requires an applicant for registration pursuant to the Mutual Recognition Act to pay the determined fee.

Conditions of registration

New section 15K provides that the conditions which the Board may impose upon registration at the time of registration relate to the duration of registration, the aspects of practise in which the person who is registered may be engaged and such other matters as the Board considers appropriate.

Clause 9 - Register

Clause 9 amends section 16 of the Act, which requires the Board to keep a register of nurses, by adding a new subsection 16(2) which enables the Register to be maintained by electronic means.

Clause 10 - Repeal and substitution of section 17

Clause 10 repeals section 17 of the Act, which provides that registration is effected by the entering of certain particulars in the Register, and substitutes a new section 17.

New paragraph 17(a) provides that, for persons who are not already registered under the Act, registration as a general nurse, mental health nurse or midwife is effected by entering in the Register -

- . the person's name;
- . the person's professional address or, if the person has no professional address, his or her residential address;
- . the branch of nursing in which the person is being registered;
- . the person's qualifications relevant to that branch of nursing;
- . details of the course of education or training undertaken by the person in that branch of nursing;
- . details of conditions upon the person's registration in that branch of nursing;
- . the person's registration number and the date of registration;
- . details of the provisions by virtue of which the person is registered; and
- . any other prescribed particulars.

New paragraph 17(b) provides that, for persons who are already registered under the Act, registration is effected by adding to the Register details of -

- . the additional branch of nursing in which the person is being registered;
- . the person's qualifications relevant to that branch of nursing;
- . the course of education or training undertaken by the person in that branch of nursing;
- . any condition upon the person's registration in relation to that branch of nursing;
- . the date of registration in that branch of nursing;
- . the provision by virtue of which the person is registered in that branch of nursing; and
- . any prescribed particulars.

Clause 11 - Certificate of Registration

Clause 11 amends section 18 of the Act dealing with certificates of registration.

Paragraph 11(a) inserts a new subsection (1A) to require that a certificate of registration indicates the provision by virtue of which a person is entitled to be registered and any conditions to which the person's registration is subject.

Paragraph 11(b) omits subsections 18(4), (5) and (6), dealing with the circumstances in which the Board may require a person to deliver his or her certificate of registration to the Board and inserts new subsections 18(4), (5), (6) and (6A).

New subsection 18(4) of the Act requires that where a person ceases to be registered or a person's registration is suspended the Board may, by written notice, require the person to deliver his or her certificate of registration to the Board within 14 days.

New subsection 18(5) requires, where a person whose registration has been suspended delivers his or her certificate of registration to the Board, that the Board retain the certificate for the duration of the suspension and return it to the person at the expiration of the period of suspension unless the person's registration is sooner cancelled.

New subsection (6) enables the Board to require, in writing, that a certificate be delivered to the Board within 14 days for the purpose of endorsing the certificate to indicate that conditions have been imposed upon the registration of the person to whom the certificate was issued or that conditions imposed upon the registration of that person have been varied.

New subsection (6A) makes it an offence for a person to fail to comply, without reasonable excuse, with a notice issued pursuant to new subsections (4) or (6) and provides a penalty of \$500.

Clause 12- Repeal of sections 19 to 24

Clause 12 repeals sections 19, 20, 21, 22, 23 and 24 of the Act providing for provisional, temporary and special registration, the means of effecting registration, the effect of registration and the payment of annual fees as new provisions dealing with these matters are included in the Bill.

Clause 14 - Alteration of the Register

Clause 14 amends section 26 of the Act providing for the amendment of the Register to include the requirement that the name of a registered nurse must be removed from the Register where the nurse's registration has been cancelled, rather than where the nurse ceases to be registered.

Clause 15 - Insertion

Clause 15 inserts new sections 26A, 26B, 26C, 26D, 26E and 26F. New sections 26A and 26B, respectively, enable the deregistration of a nurse or imposition of conditions upon the registration of a nurse where similar action has been taken against a nurse in another jurisdiction. New section 26C explains the circumstances in which registration ceases. New sections 26D, 26E and 26F relate to the payment of annual fees by registered nurses.

Deregistration on basis of deregistration under foreign law

New section 26A provides for the deregistration of a person where that person's name has been removed from a register of nurses kept under a law of a State or another Territory or a law of another country.

New subsection 26A(1) requires that the Board cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register kept under a law of a State or another Territory for any reason relating to the conduct of the person as a nurse or the physical or mental capacity of the person to practise nursing.

Where a person whose registration has been cancelled under **new subsection 26A(1)** has his or her name restored to the register for the removal from which the person's registration was cancelled and the person applies to the Board for re-registration, **new subsection 26A(2)** requires the Board to re-register the person.

New subsection 26A(3) gives the Board a discretion to cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register or roll kept under a law of a place outside Australia for any reason relating to the conduct of the person as a nurse or the physical or mental capacity of the person to practise nursing.

New subsection 26A(4) gives the Board a discretion to re-register a person whose registration has been cancelled under **new subsection 26A(3)** where the Board is satisfied that it is appropriate in the circumstances to re-register the person.

Imposition of conditions under foreign law

New section 26B provides for the imposition of conditions upon the registration of a person where conditions are imposed upon the registration of that person in another jurisdiction.

New subsection 26B(1) requires that where conditions are imposed upon the registration of a person as a nurse under the law of a State or another Territory the Board must impose similar conditions upon the registration of the person under this Act.

New subsection 26B(2) gives the Board a discretion to impose conditions similar to those it is satisfied have been imposed upon the registration of a person as a nurse under the law of a place outside Australia.

Cessation of registration

New section 26C deals with cessation of registration.

New subsection 26C(1) provides that a person ceases to be registered as a general nurse -

- 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
- if registration is conditional and the period of registration is specified in the condition - when that period expires.

New subsection 26C(2) provides that a person ceases to be registered as a mental health nurse or midwife -

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

Annual fee payable

New section 26D provides for the payment of an annual fee by registered nurses.

New subsection 26D(1) requires that on or before 1 April each year a registered nurse pay to the Board the determined fee.

New subsection 26D(2) requires that the Board send to each registered nurse, at least one month before the due date for payment, a notice requiring the nurse to pay the fee by the due date.

New subsection 26D(3) precludes a nurse from relying upon a failure of the Board to send such a notice as a basis for avoiding liability to pay the fee by the due date.

Registration to be cancelled for non-payment

New section 26E provides for the cancellation of a nurse's registration where the nurse fails to pay the annual fee.

New subsection 26E(1) requires that where a nurse fails to pay the determined fee by the due date the Board must send the nurse a notice requiring him or her to pay the fee by a day specified in the notice and advising him or her that if the fee is not paid by that later date his or her registration will be cancelled.

New subsection 26E(2) requires the Board to cancel the registration of a nurse who fails to pay the fee by the day specified in the notice under **new subsection 26E(1)**.

Entitlement to re-registration on payment of fees

New section 26F provides for the re-registration of a person where the person pays the determined fee.

New subsection 26F(1) entitles a person whose name has been removed from the Register for failure to pay the annual fee to re-registration if he or she applies in a form approved by the Board and pays the determined fee.

New subsection 26F(2) qualifies the entitlement of a person to re-registration by limiting it to a right to re-registration on the same terms and conditions (if any) as applied to the person's registration immediately prior to the removal of the person's name from the Register.

New subsection 26F(3) gives the Board a discretion to refuse re-registration to a person where the Board is satisfied that the person is not competent to practise nursing or is not of good character.

New subsection 26F(4) provides that a person's right to re-registration under **new section 26F** is subject to the other provisions of the Act.

Clause 16 - Repeal and substitution of new enrolment provisions for nurses

Clause 16 repeals sections 27, 28 and 29 of the Act and divides Part V of the Act into three new Divisions. Sections 27 to 29 set out the qualifications and enrolment requirements for enrolment as a nurse.

These provisions are replaced with proposed **new sections 27, 28, 29, 29A, 29B, 29C, 29D, 29E, 29F, 29G, 29H, 29J and 29K** dealing with requirements for enrolment including enrolment procedure.

Entitlement to enrolment based on qualifications and training

New section 27 deals with the requirements for enrolment as an enrolled nurse or a mothercraft nurse where the applicant relies upon his or her qualifications and training.

New subsection 27(1) entitles a person to enrolment as an enrolled nurse if -

- . 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
- . the person has completed a course of education or training in a place outside Australia which is substantially equivalent to an accredited or approved course offered by an Australian institution and qualifies the person to practise nursing in that place and he or she has undertaken such further education or training, gained such experience in the practise of nursing and passed such examinations as the Board requires.

New subsection 27(2) entitles a person to enrolment as a mothercraft nurse if -

- . 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
- . the person has completed a course of education or training in a place outside Australia which is substantially equivalent to an accredited or approved course in mothercraft nursing offered by an Australian institution and qualifies the person to practise mothercraft nursing in that place and he or she has undertaken such further education or training, gained such experience in the practise of mothercraft nursing and passed such examinations as the Board requires.

Enrolment under mutual recognition principle

New section 28 entitles a person who is an enrolled nurse in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act to enrolment as an enrolled nurse or mothercraft nurse.

New subsection 28(2) entitles such a person to unconditional enrolment where that person's enrolment in the State or other Territory is unconditional.

New subsection 28(3) qualifies the right of such a person to be enrolled by restricting enrolment under the Act to enrolment subject to the same conditions (if any) as apply to the person's enrolment in the other jurisdiction where the person is enrolled.

Interim enrolment

New section 29 provides for the interim enrolment of an applicant for enrolment as an enrolled nurse or as a mothercraft nurse.

New subsection 29(1) enables the interim enrolment of an applicant for such enrolment in the case of a person entitled to enrolment under **new section 27** -

- . where it is not practicable to wait for the Board to consider the application; or
- . the applicant would be entitled to enrolment as such a nurse 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.

New subsection 29(2) enables a person authorised by the Board to grant interim enrolment to an applicant for enrolment on payment of the determined fee.

New subsection 29(3) provides that interim enrolment remains in force until the person to whom it is granted is given written notice that -

- . enrolment has been granted;
- . enrolment has been refused; or
- . the interim enrolment has been cancelled.

New subsection 29(4) gives the Board the discretion to cancel a person's interim enrolment for any reason it considers proper and requires the Board to immediately notify the person, in writing, of the cancellation of his or her interim enrolment.

The effect of **new subsection 29(5)** is that a person who holds interim enrolment is taken to be an enrolled nurse or mothercraft nurse, as the case may be.

Conditions of enrolment in cases of impairment

New section 29A deals with conditions which may be imposed upon the enrolment of a person where the person suffers from an impairment.

New subsection 29A(1) enables the Board to impose conditions upon a person's enrolment where the Board is satisfied that the person suffers from an impairment and the conditions are reasonable having regard to the impairment.

New subsection 29A(2) enables the Board to review conditions imposed upon a person's enrolment under **new section 29A**, and to alter or remove such conditions or impose new conditions where the Board is satisfied that the person no longer suffers from the impairment or the degree of the impairment has reduced.

Refusal of enrolment where applicant convicted of offence

New section 29B gives the Board a discretion to refuse to enrol an applicant if the applicant has been convicted of an offence in the Territory or elsewhere by a court for or in respect of an act or omission which, had it taken place in the Territory, would have constituted an offence where the Board is of the opinion that the conviction renders the person unfit, in the public interest, to practise nursing as an enrolled nurse or mothercraft nurse.

New subsection 29B(2) requires the Board to have regard to the nature of the offence and the circumstances in which it was committed in making its decision.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of enrolment, **new subsection 29B(3)** specifies that **new subsection 29B(1)** does not apply in relation to a person who is entitled to enrolment pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Refusal of enrolment where applicant removed from roll outside Territory

New section 29C gives the Board a discretion to refuse to enrol an applicant for enrolment if the applicant's name has been removed from a nursing roll kept under the law of another country, State or another Territory for any reason relating to the conduct of the person as a nurse or on any basis relating to the person's physical or mental capacity to practise nursing.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of enrolment, new subsection 29C(3) specifies that new subsection 29C(1) does not apply in relation to a person who is entitled to enrolment pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applicant to be competent and of good character

New section 29D prohibits the Board from enrolling a person as an enrolled nurse unless the person is competent to practise as an enrolled nurse and is of good character.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of enrolment, new subsection 29D(2) specifies that new subsection 29D(1) does not apply in relation to a person who is entitled to enrolment pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

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

New section 29E restricts the enrolment of persons whose enrolment has been cancelled or suspended. Other than a person whose enrolment has been cancelled pursuant to new section 37A, that is, as a consequence of cancellation of the person's enrolment in another jurisdiction, or pursuant to new subsection 37E(2) for non-payment of a fee, or whose enrolment has been suspended pursuant to section 40(2) pending the outcome of an inquiry, a person may not apply for re-enrolment or termination of the suspension other than by applying to the Board pursuant to section 42.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of enrolment, **new subsection 29E(2)** specifies that **new subsection 29E(1)** does not apply in relation to a person who is entitled to enrolment pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applications for enrolment

New section 29F applies to applications for enrolment other than applications by persons who are entitled to enrolment pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

New subsection 29F(2) requires that an application for enrolment be in a form approved by the Board and be accompanied by the determined fee.

Applications to be considered and determined

New section 29G requires the Board to consider and determine all applications for enrolment under **new section 29F** and that determination of applications is to be by either enrolling the applicant, unconditionally or otherwise, or by refusing the application.

Enrolment of applicants

New section 29H requires that where a person who is applying for enrolment other than under the Mutual Recognition Act applies for enrolment in accordance with **new section 29F** and appears personally before the Board or its nominee, if required to do so, and is entitled to enrolment in accordance with the Act, the Board shall enrol the applicant.

Fee for enrolment pursuant to Mutual Recognition Act

New section 29J requires an applicant for enrolment pursuant to the Mutual Recognition Act to pay the determined fee.

Conditions of enrolment

New section 29K provides that the conditions which the Board may impose upon enrolment at the time of enrolment relate to the duration of enrolment, the aspects

of practice in which the person who is enrolled may be engaged and such other matters as the Board considers appropriate.

Clause 17 - Roll

Clause 17 amends section 30 of the Act, which requires the Board to keep a roll of nurses, by adding a new subsection 30(2) which enables the Roll to be maintained by electronic means.

Clause 18 - Particulars to be entered in the Roll

Clause 18 inserts new section 30A into the Act, to provide that enrolment is effected by the entering of certain particulars in the Roll.

New paragraph 30A(a) provides that, for persons who are not already enrolled under the Act, enrolment as an enrolled nurse or a mothercraft nurse is effected by entering in the Roll -

- . the person's name;
- . the person's professional address or, if the person has no professional address, his or her residential address;
- . the branch of nursing in which the person is being enrolled;
- . the person's qualifications relevant to that branch of nursing;
- . details of the course of education or training undertaken by the person in that branch of nursing;
- . details of conditions upon the person's enrolment in that branch of nursing;
- . the person's enrolment number and the date of enrolment;
- . the provision by virtue of which the person is enrolled; and
- . any prescribed particulars.

New paragraph 30A(b) provides that, for persons who are already enrolled under the Act, enrolment is effected by adding to the Roll details of -

- . the additional branch of nursing in which the person is being enrolled;
- . the person's qualifications relevant to that branch of nursing;
- . the course of education or training undertaken by the person in that branch of nursing;
- . conditions upon the person's enrolment in relation to that branch of nursing;
- . the date of enrolment in that branch of nursing;

the provision by virtue of which the person is enrolled in that branch of nursing; and
any prescribed particulars.

Clause 19 - Certificate of Enrolment

Clause 19 amends section 31 of the Act dealing with certificates of enrolment.

Paragraph 19(a) inserts a new subsection (1A) to require that a certificate of enrolment indicates the provision by virtue of which a person is registered and any conditions to which the person's enrolment is subject.

Paragraph 19(b) omits subsections 31(3), (4) and (5), dealing with the circumstances in which the Board may require a person to deliver his or her certificate of enrolment to the Board and inserts new subsections 31(3), (4), (5) and (5A).

New subsection 31(3) requires that where a person ceases to be enrolled or a person's enrolment is suspended the Board may, by written notice, require the person to deliver his or her certificate of enrolment to the Board within 14 days.

New subsection 31(4) requires, where a person whose enrolment has been suspended delivers his or her certificate of enrolment to the Board, that the Board retain the certificate for the duration of the suspension and return it to the person at the expiration of the period of suspension unless the person's enrolment is sooner cancelled.

New subsection 31(5) enables the Board to require, in writing, that a certificate be delivered to the Board within 14 days for the purpose of endorsing the certificate to indicate that conditions have been imposed upon the enrolment of the person to whom the certificate was issued or that conditions imposed upon the enrolment of that person have been varied.

New subsection 31(5A) makes it an offence for a person to fail to comply, without reasonable excuse, with a notice pursuant to new subsections 31(3) or (5) and provides a penalty of \$500.

Clause 20- Repeal of sections 32 to 35

Clause 20 repeals sections 32, 33, 34 and 35 of the Act providing for provisional enrolment, the means of effecting enrolment, the effect of provisional enrolment and the payment of annual fees as new provisions dealing with these matters are included in the Bill.

Clause 22 - Alteration of the Roll

Clause 22 amends section 37 of the Act providing for the amendment of the Roll to include the requirement that the name of an enrolled nurse must be removed from the Roll where the nurse's enrolment has been cancelled, rather than where the nurse ceases to be enrolled.

Clause 23 - Insertion

Clause 23 inserts new sections 37A, 37B, 37C 37D, 37E and 37F in Part V of the Act. New sections 37A and 37B, respectively, enable the cancellation of the enrolment of a nurse or imposition of conditions upon the enrolment of a nurse where similar action has been taken against a nurse in another jurisdiction. New section 37C explains the circumstances in which enrolment ceases. New sections 37D, 37E and 37F relate to the payment of annual fees by enrolled nurses.

Removal from Roll on basis of disciplinary action under foreign law

New section 37A provides for the cancellation of a person's enrolment where that person's name has been removed from a roll or register of kept under a law of a State or another Territory or a law of another country.

New subsection 37A(1) requires that the Board cancel the enrolment of a person where the Board is satisfied that the name of the person has been removed from a roll or register kept under a law of a State or another Territory for any reason relating to the conduct of the person as a nurse or the physical or mental capacity of the person to practise nursing.

Where a person whose enrolment has been cancelled under **new subsection 37A(1)** has his or her name restored to the roll or register for the removal from which the person's enrolment was cancelled and the person applies for re-enrolment, **new subsection 37A(2)** requires the Board to re-enrol the person.

New subsection 37A(3) gives the Board a discretion to cancel the enrolment of a person where the Board is satisfied that the name of the person has been removed from a roll or register kept under a law of a place outside Australia for any reason relating to the conduct of the person as a nurse or the physical or mental capacity of the person to practise nursing.

New subsection 37A(4) gives the Board a discretion to re-enrol a person whose enrolment has been cancelled under **new subsection 37A(3)** where the Board is satisfied that it is appropriate in the circumstances to re-enrol the person.

Imposition of conditions under foreign law

New section 37B provides for the imposition of conditions upon the enrolment of a person where conditions are imposed upon the enrolment of that person in another jurisdiction.

New subsection 37B(1) requires that where conditions are imposed upon the enrolment of a nurse under the law of a State or another Territory the Board must impose similar conditions upon the enrolment of the person under this Act.

New subsection 37B(2) gives the Board a discretion to impose conditions similar to those it is satisfied have been imposed upon the enrolment of a nurse under the law of a place outside Australia.

Cessation of enrolment

New section 37C deals with cessation of enrolment.

New subsection 37C(1) provides that a person ceases to be enrolled as an enrolled nurse or a mothercraft nurse -

- 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
- if enrolment is conditional and the period of enrolment is specified in the condition - when that period expires.

Annual fee payable

New section 37D provides for the payment of an annual fee by enrolled nurses.

New subsection 37D(1) requires that on or before 1 April each year an enrolled nurse pay to the Board the determined fee.

New subsection 37D(2) requires that the Board send to each enrolled nurse, at least one month before the due date for payment, a notice requiring the nurse to pay the fee by the due date.

New subsection 37D(3) precludes an enrolled nurse from relying upon a failure of the Board to send such a notice as a basis for avoiding liability to pay the fee by the due date.

Enrolment to be cancelled for non-payment

New section 37E provides for the cancellation of enrolment where an enrolled nurse fails to pay the annual fee.

New subsection 37E(1) requires that where an enrolled nurse fails to pay the determined fee by the due date the Board must send the enrolled nurse a notice requiring him or her to pay the fee by a day specified in the notice and advising him or her that if the fee is not paid by that later date his or her enrolment will be cancelled.

New subsection 37E(2) requires the Board to cancel the enrolment of an enrolled nurse who fails to pay the fee by the day specified in the notice under **new subsection 37E(1)**.

Entitlement to re-enrolment on payment of fees

New section 37F provides for the re-enrolment of a person where the person pays the determined fee.

New subsection 37F(1) entitles a person whose name has been removed from the Roll for failure to pay the annual fee to re-enrolment if he or she applies in a form approved by the Board and pays the determined fee.

New subsection 37F(2) qualifies the entitlement of a person to re-enrolment by limiting it to a right to re-enrolment on the same terms and conditions (if any) as applied to the person's enrolment immediately prior to the removal of the person's name from the Roll.

New subsection 37F(3) gives the Board a discretion to refuse re-enrolment to a person where the Board is satisfied that the person is not competent to practise nursing or is not of good character.

New subsection 37F(4) provides that a person's right to re-enrolment under **new section 37F** is subject to the other provisions of the Act.

Clause 24 - Repeal of sections 38 and 39 and substitution of new provisions

Clause 24 repeals sections 38 and 39 of the Act dealing with the cancellation and suspension of registration and inserts **new sections 38, 39, 39A, 39B and 39C**.

Cancellation or suspension of registration or enrolment

New section 38 deals with the cancellation and suspension of registration or enrolment and gives the Board a discretion to cancel the registration or enrolment of a person or, by order served on the person, suspend the person's registration or enrolment where the Board is satisfied that -

- . the registration or enrolment was obtained by fraud or misrepresentation;
- . the nursing qualification of the person has been withdrawn or cancelled by the body which granted it;
- . the person has contravened the Act or regulations;
- . the person has contravened a condition of his or her registration or enrolment;
- . the person has been convicted of an offence punishable by imprisonment for more than one year or of any offence which in the opinion of the Board renders the person unfit to practise as a nurse;
- . the person has engaged in canvassing, or employed an agent or canvasser, for the purpose of procuring patients or practice;
- . the person is guilty of habitual drunkenness or addiction to a deleterious drug that renders him or her unfit to practise as a nurse;
- . the person has engaged in conduct, whether in the practise of nursing or not, that adversely affects the practise of nursing by the person;

- the person has engaged in any improper or unethical conduct relating to the practise of nursing;
- the person has failed to exercise adequate judgement or care in the practise of nursing; or
- the person is not competent to practise nursing.

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

New section 39 deals with the cancellation, suspension or restriction of a person's right to practise on health grounds.

New subsection 39(1) requires that subject to the provisions of new subsection 39(2) the Board must cancel the registration or enrolment, or suspend the registration or enrolment of a person where it is satisfied that the physical or mental condition of the person renders him or her unfit to practise nursing.

New subsection 39(2) gives the Board the option, instead of cancelling or suspending a person's registration or enrolment, of directing, by order served on the person, that he or she not give or perform any specified nursing services.

New subsection 39(3) enables the Board, where it is requested to do so, to review the order and, where it is satisfied that the mental or physical condition of the person in respect of whom the order was made has changed, the Board may amend or revoke the order.

New subsection 39(4) deems a person upon whom the Board has served an order restricting practising rights and who provides a nursing service in contravention of that order to be other than a registered or enrolled nurse, as the case may be.

Practising when registration or enrolment suspended

New section 39A applies where a person whose registration or enrolment has been suspended and the person is convicted of an offence against section 43, 44 or 45, that is, practising as a nurse, using the title of a nurse or providing nursing services whilst suspended. It permits the Board to cancel the registration or enrolment of such a person or to order the further suspension of the registration or enrolment of such a person.

Power of Board to caution, reprimand, etc.

New section 39B provides the Board with a range of disciplinary and counselling options in addition to the options of cancellation, suspension or restriction of practising rights.

New subsection 39B(1) permits the Board to do one or more of the following in relation to the conduct of a registered nurse or enrolled nurse -

- . caution or reprimand the nurse;
- . order that the nurse seek and undergo medical or psychiatric treatment or counselling;
- . impose appropriate conditions relating to the practise of nursing;
- . 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;
- . order that the nurse complete specified educational courses.

However, in order to be consistent with the provisions of paragraph 20(4)(b) of the Mutual Recognition Act, **new subsection 39B(2)** specifies that **new paragraph 39B(1)(e)**, enabling the Board to order a nurse to complete specified educational courses does not apply to a person who has obtained registration pursuant to that Act.

Power of Board to impose fines

New section 39C provides the Board with a power to impose a fine upon a registered or enrolled nurse.

New subsection 39C(1) enables the Board to impose a fine not exceeding \$1000 where the Board finds that a registered nurse or enrolled nurse has failed to comply with an order of the Board under new section 39B. However, this power is qualified by the operation of **new subsection 39C(2)** which prohibits the Board from imposing a fine in respect of conduct for which a court has already imposed a fine or other penalty.

New subsection 39C(3) requires that the fine be paid to the Territory within the time specified in the order imposing the fine and **new subsection 39C (4)** empowers the Board to cancel or order the suspension of the registration or enrolment of a nurse where the nurse fails to comply with the order imposing the fine.

Clause 25 - Inquiry by Board

Clause 25 amends section 40 of the Act which requires the Board to conduct an inquiry before taking certain disciplinary action. **Paragraph 25(a)** removes the need to hold an inquiry when cancelling or suspending registration or enrolment under certain specified provisions of the Bill. **Paragraph 25(b)** removes existing paragraphs 40(1)(b) and (c) and instead requires the Board to hold an inquiry prior to -

- . making an order that a nurse not give or perform specified nursing services pursuant to **new subsection 39(2)**; or
- . taking any other disciplinary or counselling action under **new subsection 39B(1)**;

and **paragraph 25(c)** enables the Board by order served on the nurse to suspend his or her registration or enrolment pending the holding of the inquiry.

Clause 30 - Repeal of sections 54 and 55 and substitution of new provisions

Clause 30 repeals sections 54 and 55 of the Act dealing with appeals and the notification of decisions to affected persons and substitutes **new sections 54, 55 and 55A** dealing with these matters which reflect the altered discretionary powers of the Board.

Review of decisions

New section 54 enables a person to apply to the ACT Administrative Appeals Tribunal in respect of a decision of the Board to -

- . impose conditions upon registration or enrolment;
- . cancel interim registration or enrolment;
- . refuse to review conditions imposed on registration or enrolment;
- . refuse to alter or remove conditions imposed upon registration or enrolment;
- . impose new conditions upon registration or enrolment;
- . refuse to register or enrol a person;
- . refuse to re-register or re-enrol a person;
- . cancel registration or enrolment;
- . suspend the registration or enrolment of a person;
- . by order, direct a person not to give or perform a specified nursing service;

- refuse to review an order directing that a person not give or perform a specified nursing service;
- refuse to amend or revoke an order directing that a person not give a specified nursing service;
- amend an order directing that a person not give or perform a specified nursing service;
- take one of the forms of disciplinary or counselling action under **new section 39B** in relation to a registered nurse or an enrolled nurse;
- impose a fine on a person;
- refuse to terminate the suspension of registration or enrolment of a person;
- certify the amount which the Board believes is a reasonable amount of fees or remuneration for a nursing service; or
- refuse to extend beyond 6 months the period during which the executor or executrix of a deceased registered nurse's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased;
- fix a period longer than 6 months during which the executor or executrix of a deceased registered nurse's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased.

Notification of decisions

New section 55 deals with the notification of persons affected by decisions of the Board.

New subsection 55(1) requires the Board to give written notice of particular decisions of the Board in respect of which an appeal may be made to the ACT Administrative Appeals Tribunal to the person affected by the particular decision.

New subsection 55(2) requires that a notice to a person of a decision required under **new subsection 55(1)**, under **new subsection 15(4)** advising of the cancellation of interim registration or **new subsection 29(4)** advising of the cancellation of interim enrolment include a statement advising the person of his or her right to appeal to the Administrative Appeals Tribunal and of his or her rights in respect of the provision of a statement of reasons for the decision.

New subsection 55(3) imposes a similar requirement in respect of a notice to a person in relation to an order suspending the person's registration or enrolment, directing that a person not provide a specified nursing service or imposing a fine.

New subsection 55(4) prevents the validity of a decision of the Board dealt with in **new subsections 55(2) and (3)** from being affected by a failure to comply with the notification requirements of **new section 55**.

Publication of notice of decision of Board or Tribunal

New section 55A empowers the Chairperson of the Board, if he or she thinks fit, to publish in the Gazette a notice of a decision of the Board or the Tribunal in relation to various specified matters.

Clause 31 - Publication of names of registered or enrolled persons

Clause 31 amends section 59 of the Act which requires the Board to publish in the *Gazette*, as soon as practicable after 1 January each year, a list of registered and enrolled nurses, so that in future the list is published as soon as practicable after 1 April each year. This reflects the fact that by virtue of **new sections 26D and 37D** the date for payment of the annual fee by registered and enrolled nurses has been changed from 1 January to 1 April.

Clause 33 - Persons entitled to apply for registration as mental health nurses

Clause 33 amends section 64 which preserves the right of person to apply for registration as a mental health nurse even though the person is not registered or entitled to apply for registration as a general nurse, provided the person is otherwise qualified to apply for registration as a mental health nurse. However, such applications must be made within 10 years of the commencement of the Act. The Act commenced on 5 December 1988.

Section 64 allows for the phasing in of the then new registration requirements for mental health nurses. After the expiration of 10 years from 5 December 1988 only persons who are registered, or entitled to apply for registration, as a general nurse will be entitled to apply for registration as a mental health nurse.

The amendment to section 64 replaces references to sections of the Act repealed by the Bill with references to the relevant new provisions. This preserves the effect of section 64 of the Act.

TRANSITIONAL PROVISIONS***Clause 36 - Continuation of registration or enrolment***

Clause 36 preserves the registration or enrolment of persons who were registered or enrolled immediately before the commencement of the Bill under those provisions of the Act which are repealed by the Bill and replaced with new registration and enrolment provisions. Such registration or enrolment is subject to any conditions that applied prior to the commencement of the Bill.

Clause 37 -Provisional registration or enrolment

Clause 37 has the effect of treating provisional registration or enrolment under the Act, prior to its amendment by the Bill, as interim registration or enrolment under the new provisions.

Subclause 37(1) has the effect of converting provisional registration held by a person immediately prior to the repeal of section 19 to interim registration under new section 15.

Subclause 37(2) has the effect of converting provisional enrolment held by a person immediately prior to the repeal of section 32 to interim enrolment under new section 29B.

Clause 38 - Applications for registration or enrolment

Clause 38 treats an application for registration or enrolment under the provisions of the Act repealed by the Bill which had not been determined prior to the commencement of the new registration and enrolment provisions as an application for registration or enrolment under the new provisions.

Clause 39 - Failure by a registered nurse to pay annual fee under repealed provisions

Clause 39 has the effect of converting a failure by a registered nurse to pay an annual fee under provisions which are repealed by the Bill to a failure to pay under the equivalent new provisions.

Subclause 39(1) treats a failure to pay the annual fee under section 24, which is repealed by the Bill, as a failure to pay the annual fee under **new section 26D**.

Subclause 39(2) treats the cancellation of a registered nurse's registration for a failure to pay an annual fee under section 24, which is repealed by the Bill, as a cancellation of registration for failure to pay an annual fee under the provisions of **new section 26D**, thus entitling the person to apply for re-registration under the provisions of **new section 26F**.

Clause 40 - Failure by an enrolled nurse to pay annual fee under repealed provisions

Clause 40 has the effect of converting a failure to pay an annual fee by an enrolled person under provisions which are repealed by the Bill to a failure to pay under the equivalent new provisions.

Subclause 40(1) treats a failure to pay the annual fee under section 35, which is repealed by the Bill, as a failure to pay the annual fee under **new section 37D**.

Subclause 40(2) treats the cancellation of an enrolled nurse's registration for a failure to pay an annual fee under section 35, which is repealed by the Bill, as a cancellation of registration for failure to pay an annual fee under the provisions of **new section 37D**, thus entitling the person to apply for re-registration under the provisions of **new section 37F**.

Clause 41 - Continuation of inquiries and reviews

Subclause 41(1) preserves the application of the provisions of the Act in force immediately prior to the commencement of the amendments effected by the Bill in relation to any inquiry or review commenced under the Act and pending immediately before the commencement of the amendments.

Subclause 41(2) treats an order or decision resulting from an inquiry or review under the Act immediately prior to its amendment by the Bill as an order or decision made under the Act as amended by the Bill.

Clause 42 - Complaints relating to previous conduct

Subclause 42(1) enables the holding of an inquiry under the Act, as amended by the Bill, with respect to conduct or any other matter or thing that occurred before, or partly before or partly after, the commencement of the amendments.

However *subclause 42(2)* qualifies this provision by providing that such an inquiry may only be held if it is an inquiry which could have been held under the Act prior to the commencement of the amendments.

Clause 43 - Existing directions

Clause 43 converts a direction which has effect under subsection 39(2) of the Act before the commencement of the Bill to an equivalent direction under that subsection as amended by the Bill.

FORMAL, TECHNICAL AND CONSEQUENTIAL PROVISIONS

Clauses 1 and 2 - Short title and commencement

Clauses 1 and 2 are formal provisions dealing with the short title and the commencement of the Bill, respectively.

Clause 3 - Principal Act

Clause 3 is an interpretation provision which defines the term "Principal Act" to mean the *Nurses Act 1988*.

Clause 4 - Interpretation

Clause 4 amends section 3, an interpretation provision of the Act, by replacing the definitions for a number of terms in the Act with new definitions as a consequence of the changes made by the Bill and inserting definitions for new terms used in the Bill.

Clause 5 - Insertion

Clause 5 inserts new sections 3A and 3B in the Act which establish, respectively, what is meant by "competence to practise nursing" and "impairment".

Clause 6 - Courses

Clause 6 amends section 7 of the Act, enabling the Board to "approve" courses, by replacing the word "approve" with the word "accredit" to reflect the terms used in the main amendments made by the Bill. The clause also removes from section 7 the power of the Board to hold examinations as this function will not be undertaken by the Board.

Clause 7 - Repeal

Clause 7 repeals sections 8 and 9 of the Act. Section 8 enables the Board to make arrangements for the conduct of examinations, a function which is no longer required, and section 9 provides for the payment of fees for such examinations and therefore is redundant.

Clause 13 - Change of address

Clause 13 makes a consequential amendment to paragraph 25(a) of the Act which requires that a registered nurse notify the Chairperson of the Board of a change of address, by removing a reference to a provision of the Act which is repealed by the Bill. **Clause 13** also increases the maximum penalty for failure to comply with section 25 from \$100 to \$500.

Clause 21 - Change of address

Clause 21 makes a consequential amendment to paragraph 36(a) of the Act which requires that an enrolled nurse notify the Chairperson of the Board of a change of address, by removing a reference to a provision of the Act which is repealed by the Bill.

Clause 21 also increases the maximum penalty for failure to comply with section 36 from \$100 to \$500.

Clause 26 - Effect of suspension

Clause 26 consequentially amends section 41 of the Act, which provides that where a person's registration or enrolment has been suspended the person shall, for the period of the suspension, be deemed to be not registered or enrolled, as the case may

be. *Clause 26* replaces references to provisions of the Act which are repealed by the Bill with references to the corresponding new provisions.

Clause 27 - Application for re-registration or re-enrolment

Clause 27 amends section 42 of the Act, which enables a person to seek re-registration or re-enrolment or termination of a suspension on the grounds that by reason of a change in circumstances since the person's registration or enrolment was suspended or cancelled, the person should be re-registered or re-enrolled or the suspension of the person's registration or enrolment should be terminated. *Clause 27* replaces references to provisions of the Act which are repealed by the Bill with references to the corresponding new provisions and also corrects a transcription error.

Clause 28 - Administration of estate of deceased nurse

Clause 28 amends section 50 of the Act, providing for the administration of the estate of a deceased nurse, to overcome occurrences of sexist language.

Clause 29 - Application

Clause 29 amends paragraph 52(c) of the Act which restricts the application of the Act where nurse training is being conducted to replace references to provisions of the Act which are repealed by the Bill with references to the relevant new provisions.

Clause 32 - Repeal of section 63

Clause 32 repeals section 63 of the Act as it is a spent transitional provision.

Clause 34 - Repeal of section 65

Clause 34 repeals section 65, relating to the first Chairperson and members of the Board, as it is a spent provision.

Clause 35 - further amendments

Clause 35 further amends the Act as detailed in the Schedule to the Bill. These amendments reflect changed terminology introduced by the Bill.

Clause 44 - Renumbering of provisions

Clause 44 provides for the renumbering of the Act as amended by the Bill. As a consequence of the considerable number of amendments effected by the Bill the numbering of the provisions of the Act has become significantly disrupted. ***Clause 44*** renumbers the sections of the Act in a single series so that they bear consecutive numbers making the legislation more understandable to persons who use it.