

NURSES REGISTRATION (AMENDMENT) ACT 1987
No. 130

NEW SOUTH WALES



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NURSES REGISTRATION (AMENDMENT) ACT 1987 No. 130

NEW SOUTH WALES



Act No. 130, 1987

An Act to amend the Nurses Registration Act 1953 with respect to the reconstitution of the Nurses Registration Board and the enrolment of mothercraft nurses; and for other purposes. [Assented to 16 June 1987]

Nurses Registration (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Nurses Registration (Amendment) Act 1987".

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Schedule 1 shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Schedule 2 shall commence—

(a) on the date appointed and notified under section 2 (2) of the Nurses Registration (Amendment) Act 1985 for the commencement of Schedules 2 and 3 to that Act; or

(b) on the date of assent to this Act, whichever is the later date.

(4) Section 4, in its application to a provision of a Schedule, shall commence on the day on which the provision commences.

Principal Act

3. The Nurses Registration Act 1953 is referred to in this Act as the Principal Act.

Amendment of Act No. 10, 1953

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

5. Schedule 3 has effect.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE BOARD

(1) Section 3 (**Interpretation**)—

(a) Section 3 (1), definition of “Chairman”—

Omit the definition.

(b) Section 3 (1), definitions of “Deputy President”, “President”—

In section 3 (1), insert in appropriate alphabetical order:

“Deputy President” means the Deputy President of the Board.

“President” means the President of the Board.

(c) Section 3 (3)—

Omit the subsection.

(2) Section 5—

Omit the section, insert instead:

Members of the Board

5. (1) The Board shall consist of 18 members who shall be appointed by the Governor.

(2) Of the members—

(a) 7 shall be registered nurses elected in the prescribed manner by registered nurses who are eligible to vote at elections held for the purposes of this paragraph;

(b) 1 shall be an enrolled nurse or enrolled nurse (mothercraft) elected in the prescribed manner by the enrolled nurses and enrolled nurses (mothercraft) who are eligible to vote at elections held for the purposes of this paragraph;

(c) 1 shall be a registered nurse nominated by the New South Wales Nurses' Association;

(d) 1 shall be a registered nurse nominated by the Health and Research Employees Association of New South Wales;

(e) 1 shall be a registered nurse nominated by the NSW College of Nursing;

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
BOARD—*continued*

- (f) 1 shall be a registered nurse who is an officer of the Department of Health nominated by the Secretary of the Department of Health;
- (g) 1 shall be a barrister or solicitor nominated by the Minister;
- (h) 1 shall be a registered nurse nominated by the Minister for Education who, in the opinion of that Minister, has expertise in matters relating to nursing education; and
- (i) the remaining 4 shall be persons nominated by the Minister.

(3) Of the members of the Board, one who is a registered nurse shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as President and one (who may or may not be a registered nurse) shall be appointed as Deputy President.

(4) The Governor may remove a member from the office of President or Deputy President.

(5) A person who is President or Deputy President shall be deemed to have vacated office as President or Deputy President if the person—

- (a) is removed from that office by the Governor under subclause (4);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

(6) The Deputy President may act in the office of the President during the illness or absence of the President, and while so acting shall have and may exercise all the functions of the President and shall be deemed to be the President.

(7) For the purposes of this section, a vacancy in the office of the President shall be deemed to be an absence from office of the President.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
BOARD—*continued*

(8) Subject to this Act, a member of the Board shall hold office for such period, not exceeding 4 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

(9) A member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

(10) The Public Service Act 1979 does not apply to or in respect of the appointment of a member of the Board and a member is not, as a member, subject to that Act.

(3) Section 5A (**Provisions relating to the election of certain members of the Board**)—

(a) Section 5A (1)—

Omit “5 (1) (f)” wherever occurring, insert instead “5 (2) (a)”.

(b) Section 5A (2)—

Omit “5 (1) (f)” wherever occurring, insert instead “5 (2) (a) or (b)”.

(4) Section 6—

Omit the section, insert instead:

Presiding member

6. The President or, in the absence of the President, the Deputy President or, in the absence of both of them, another member of the Board elected to chair the meeting by the members present, shall preside at a meeting of the Board.

(5) Section 7 (**Vacation of office**)—

Section 7 (d)—

Omit the paragraph, insert instead:

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
BOARD—*continued*

- (d) if the member becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;

(6) Section 9 (**Appointments to casual vacancies**)—

(a) Section 9 (2)—

Omit “5 (1) (f)”, insert instead “5 (2) (a) and (b)”.

(b) Section 9 (2A)—

Omit “5 (1) (f)”, insert instead “5 (2) (a)”.

(c) Section 9 (2B)—

After section 9 (2A), insert:

(2B) Where a casual vacancy occurs in the office of a member of the Board elected as referred to in section 5 (2) (b), the member appointed to fill the vacant office shall be an enrolled nurse or enrolled nurse (mothercraft).

(7) Section 13A (**Delegation**)—

(a) Section 13A (1) (a)—

Omit “Chairman”, insert instead “President”.

(b) Section 13A (1) (a1)—

After section 13A (1) (a), insert:

(a1) the Deputy President;

Nurses Registration (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
BOARD—*continued*

(8) Section 18 (**Cancellation of registration and authorisation on account of death or disability etc**)—

Section 18 (1) (c)—

Omit the paragraph, insert instead:

- (c) every registered nurse who becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;

(9) Section 18AA—

After section 18, insert:

Notice of incapacity

18AA. If a registered nurse becomes—

- (a) a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958;
- (b) a forensic patient within the meaning of the Mental Health Act 1983; or
- (c) a protected person within the meaning of the Protected Estates Act 1983,

the prescribed person shall cause notice of that fact to be forwarded to the Board in accordance with the regulations.

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SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES(1) Section 3 (**Interpretation**)—

Section 3 (1), definition of “Roll”—

Omit the definition, insert instead:

“Roll” means the Roll of Nurses.

(2) Section 14 (**Functions of the Board**)—

(a) Section 14 (1) (d)—

Omit “nursing aides” wherever occurring, insert instead “enrolled nurses and enrolled nurses (mothercraft)”.

(b) Section 14 (1) (e), (h), (2) (c)—

Omit “a nursing aide” wherever occurring, insert instead “an enrolled nurse or enrolled nurse (mothercraft)”.

(c) Section 14 (1) (f)—

Omit “nursing aides”, insert instead “qualified nurses”.

(d) Section 14 (1) (i)—

Omit “nursing aides”, insert instead “nurses and enrolled nurses (mothercraft)”.

(e) Section 14 (1) (j)—

Omit “or nursing aide”.

(3) Section 15 (**Qualifications for registration**)—

Section 15 (2) (d)—

Omit “, midwifery nurse or a mothercraft nurse”, insert instead “or a midwifery nurse”.

(4) Section 16 (**Register of Nurses**)—

Section 16 (2) (b) (ii)—

Omit “, mothercraft nurses”.

Nurses Registration (Amendment) 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

(5) Section 18 (Cancellation of registration and authorisation on account of death or disability etc)—

Section 18 (2) (c)—

Omit the paragraph, insert instead:

- (c) has become a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983,

(6) Sections 22–22B—

Omit section 22, insert instead:

Roll of Nurses

22. (1) The Board shall keep a roll, to be called the Roll of Nurses

(2) There shall be, in the Roll—

- (a) List "A", in which shall be entered the relevant particulars of enrolled nurses; and
- (b) List "B", in which shall be entered the relevant particulars of enrolled nurses (mothercraft).

(3) The Registrar shall enter in the appropriate list of the Roll in the prescribed manner on payment of the prescribed fee—

- (a) the full name and address of every nurse entitled to enrolment in the list;
- (b) the date of the nurse's enrolment; and
- (c) particulars of the qualification or qualifications in respect of which the nurse is enrolled.

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

Nurses Registration (Amendment) 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

Qualifications for enrolment

22A. (1) Any person who—

- (a) has attained the prescribed age (if any); and
- (b) satisfies the Board that he or she is of good character,

is, on making an application in writing to the Board for the purpose and on paying to the Board the prescribed fee, entitled to be enrolled as a nurse in List "A" of the Roll and to be issued with a certificate of that enrolment, if—

- (c) the person satisfies the Board that the person—
 - (i) holds a prescribed certificate stating that the person has, for the prescribed period, received training in one or more hospitals or institutions in New South Wales; and
 - (ii) has received the prescribed tuition and passed the prescribed examinations; or
- (d) the person—
 - (i) holds one or more certificates or other documents that evidence that the person has, for a period of time that is approved by the Board for the purposes of this subparagraph, received training in one or more hospitals or institutions (all or some of which were outside New South Wales) and that the person has received tuition that, in the opinion of the Board, is substantially equivalent to the tuition prescribed for the purposes of paragraph (a) (ii); and
 - (ii) has passed such examinations as the Board may, in any particular case, require,

and the hospitals or institutions in which the person received the training were hospitals or institutions approved by the Board for the purposes of this subsection.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

(2) Any person who—

- (a) has attained the prescribed age (if any); and
- (b) satisfies the Board that he or she is of good character,

is, on making an application in writing to the Board for the purpose and on paying to the Board the prescribed fee, entitled to be enrolled as a nurse in List “B” of the Roll and to be issued with a certificate of that enrolment, if—

- (c) the person satisfies the Board that he or she holds a prescribed certificate stating that he or she has, for the prescribed period, attended the practice of such one or more hospitals or homes for children or such similar institutions as are approved by the Board and has passed such examinations as the Board prescribes;
- (d) the person satisfies the Board that he or she would, but for the commencement of Schedule 2 (6) to the Nurses Registration (Amendment) Act 1987, have been entitled to be registered as a mothercraft nurse;
- (e) the person satisfies the Board that he or she—
 - (i) has undergone a course in mothercraft nursing or equivalent training in any place, other than New South Wales;
 - (ii) is the holder of a diploma, certificate or other qualification to the effect that the person has successfully completed the course of training; and

*Nurses Registration (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

(iii) is registered or enrolled as a nurse with mothercraft or equivalent qualifications under the law in force at that place,

and the Board is of the opinion that the standard of that training and of each examination leading to that diploma, certificate or qualification is not lower than the standard provided for by or under this Act for the enrolment of nurses in List "B" of the Roll; or

(f) the person satisfies the Board that he or she—

(i) has undergone a course of training to obtain mothercraft or equivalent qualifications;

(ii) is the holder of a diploma, certificate or other qualification approved by the Board from an institution, person or body in any place, other than New South Wales, to the effect that the person has successfully completed the course of training; and

(iii) has passed such examinations, and has successfully completed such additional training, as the Board may in the particular case require,

and the Board is satisfied that the qualifications of the person are adequate for the purposes of enrolment as a nurse in List "B" of the Roll.

Application of certain provisions to enrolled nurses

22B. The provisions of sections 17–21, 25 and 26 apply to and in respect of a person enrolled as a nurse pursuant to section 22A in the same way as they apply to and in respect of a registered nurse and they so apply as if each reference in those provisions—

(a) to a registered nurse—were a reference to a person enrolled as a nurse;

(b) to a certificate of registration—were a reference to a certificate of enrolment;

*Nurses Registration (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

- (c) to registration as a nurse—were a reference to enrolment as a nurse; and
 - (d) to the Register—were a reference to the Roll.
- (7) **Section 23 (Unregistered and unenrolled persons not entitled to hold themselves out as nurses)—**
- (a) Section 23 (1)—
Omit “or an enrolled nursing aide”, insert instead “, enrolled nurse or enrolled nurse (mothercraft)”.
 - (b) Section 23 (1)—
Omit “a nursing aide”, insert instead “an enrolled nurse or enrolled nurse (mothercraft)”.
 - (c) Section 23 (4)—
After “registration”, insert “, enrolment”.
 - (d) Section 23 (5)—
After section 23 (4), insert:
 - (5) A nurse who is enrolled in a list of the Roll shall not—
 - (a) claim to be; or
 - (b) represent himself or herself to be,
 enrolled in some other list of the Roll.
- (8) **Section 28 (False or misleading entries and statements etc)—**
- Omit “a nursing aide”, insert instead “an enrolled nurse or enrolled nurse (mothercraft)”.
- (9) **Section 31 (Document under hand of Registrar to be prima facie evidence)—**
- Omit “a nursing aide”, insert instead “an enrolled nurse or enrolled nurse (mothercraft)” wherever occurring.

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SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
ENROLMENT AND REGISTRATION OF NURSES—*continued*

(10) Section 32 (**Financial provisions**)—

Section 32 (2)—

Omit “nursing aides”, insert instead “nurses and enrolled nurses (mothercraft)”.

(11) Section 35 (**Regulations**)—

(a) Section 35 (1) (e), (eb)—

Omit “a nursing aide” wherever occurring, insert instead “an enrolled nurse or enrolled nurse (mothercraft)”.

(b) Section 35 (1) (f), (h)—

Omit “nursing aides” wherever occurring, insert instead “enrolled nurses and enrolled nurses (mothercraft)”.

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“new Board” means the Nurses Registration Board under the Principal Act on the appointed day;

“old Board” means the Nurses Registration Board under the Principal Act before the appointed day.

*Nurses Registration (Amendment) 1987*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Members of old Board**

2. (1) A person who, immediately before the appointed day, held office as an elected member of the old Board under section 5 (1) (f) of the Principal Act shall (without further election) be deemed to have been duly appointed as a member of the new Board under section 5 (2) (a) of the Principal Act, as amended by this Act, and—

- (a) shall be deemed to have been so appointed—
 - (i) upon the same terms and conditions as those applicable to the person immediately before the appointed day; and
 - (ii) for the residue of the term of office for which the person so held office; and
- (b) is eligible (if otherwise qualified) for appointment or re-appointment under the Principal Act, as amended by this Act, with effect from the expiration of that term of office or from any subsequent time.

(2) Except as provided by subclause (1), a person who, immediately before the appointed day, held office as a member of the old Board—

- (a) shall cease to hold office as such on the appointed day; and
- (b) is eligible (if otherwise qualified) to be appointed as a member of the new Board.

Elections etc. before appointed day

3. For the purpose only of enabling the new Board to be constituted in accordance with the Principal Act, as amended by this Act, on or after (but not before) the appointed day, appointments may be made under the Principal Act, as so amended, and any other act, matter or thing may be done as if the whole of this Act had commenced on the date of assent to this Act, but so that no appointment as a member of the new Board as so constituted takes effect before the appointed day.

Saving relating to new Board

4. Until the commencement of Schedule 2, the new Board shall be deemed to be duly constituted in accordance with section 5 of the Principal Act, as amended by this Act, even though it does not include a member referred to in section 5 (2) (b) of that Act.

First meeting of new Board

5. The Minister shall call the first meeting of the new Board on or after the appointed day in such manner as the Minister thinks fit.

References to Chairman of the old Board and to old Board

6. On and from the appointed day, a reference in any other Act, or in any instrument made under any Act or in any instrument of any kind (enacted, made or executed before that day)—

- (a) to the Chairman of the old Board shall be read as a reference to the President appointed under the Principal Act, as amended by this Act; or

*Nurses Registration (Amendment) 1987*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(b) to the Nurses Registration Board shall be read as a reference to the new Board.

Roll of Nurses

7. The Roll of Nursing Aides kept under the Principal Act immediately before the commencement of Schedule 2 shall be deemed to have been established as List "A" of the Roll kept for the purposes of section 22 of the Principal Act, as amended by this Act.

Enrolment of mothercraft nurses and nursing aides

8. (1) Subject to the Principal Act, as amended by this Act—

- (a) a person registered as a mothercraft nurse immediately before the commencement of Schedule 2 is entitled to be enrolled as an enrolled nurse (mothercraft); and
- (b) the Board shall cause every such person to be enrolled as such, without application, as from the commencement of that Schedule.

(2) Subject to the Principal Act, as amended by this Act, a person entitled to be enrolled as a nursing aide immediately before the commencement of Schedule 2 is entitled to be enrolled as an enrolled nurse after that commencement.

References to nursing aides and mothercraft nurses

9. On and from the commencement of Schedule 2, a reference in any other Act or in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before that commencement)—

- (a) to a nursing aide—shall be read as a reference to an enrolled nurse; and
- (b) to a mothercraft nurse—shall be read as a reference to an enrolled nurse (mothercraft),

within the meaning of the Principal Act, as amended by this Act.

Saving of certain regulations etc

10. (1) An amendment made by this Act to the Principal Act does not operate so as to repeal any regulation in force immediately before the commencement of the amendment if the regulation could be made under that Act, as amended by this Act.

(2) If the old Board has approved any institution for the purposes of a provision of section 22 of the Principal Act (as in force before the commencement of Schedule 2) and that approval has not been revoked before the commencement, the institution shall be deemed to have been approved by the new Board for the purposes of section 22A of the Principal Act, as amended by this Act, and any diploma, certificate or qualification awarded to a person who has successfully completed a course at such an institution shall also be deemed to be recognised by the new Board.

Regulations of a savings or transitional nature

11. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

Nurses Registration (Amendment) 1987

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of its publication therein; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the other provisions of this Schedule (clause 2 excepted).