



Nurses Amendment Regulation 2004

under the

Nurses and Midwives Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Nurses and Midwives Act 1991*.

MORRIS IEMMA, M.P.,

Minister for Health

Explanatory note

The object of this Regulation is to amend the *Nurses Regulation 2003* (the **Principal Regulation**):

- (a) as a consequence of the commencement of the *Nurses Amendment Act 2003*, and
- (b) in relation to the election of members of the Nurses and Midwives Board (the **Board**).

In particular, this Regulation:

- (a) changes the name of the Principal Regulation to the *Nurses and Midwives Regulation 2003*, and
- (b) excludes personal telephone numbers and email addresses, and residential addresses, of candidates for any election of members of the Board from information that may be contained in candidate information sheets sent to voters for such an election, and
- (c) changes the voting procedures for such elections, by requiring completed ballot papers to be enclosed in an unmarked envelope, to ensure that when a vote is counted the identity of the voter is not revealed, and
- (d) extends to midwives a requirement, currently applying to nurses, for compliance with infection control standards, and

2004 No 513

Nurses Amendment Regulation 2004

Explanatory note

- (e) exempts a nurse or midwife who is found guilty or convicted of a parking offence or an offence under road transport legislation (with certain exceptions) from notification requirements that would otherwise apply under the *Nurses and Midwives Act 1991* in relation to any such finding or conviction, and
- (f) makes other amendments to the Principal Regulation of a consequential or machinery nature.

This Regulation is made under the *Nurses and Midwives Act 1991*, including sections 5, 9, 16, 18–20, 22, 24, 26, 28A, 28B, 33, 37, 42A, 42B, 42C and 78 (the general regulation-making power).

Nurses Amendment Regulation 2004

under the

Nurses and Midwives Act 1991

1 Name of Regulation

This Regulation is the *Nurses Amendment Regulation 2004*.

2 Commencement

This Regulation commences on 1 August 2004.

3 Amendment of Nurses Regulation 2003

The *Nurses Regulation 2003* is amended as set out in Schedule 1.

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 1 Name of Regulation

Omit “*Nurses Regulation 2003*”.

Insert instead “*Nurses and Midwives Regulation 2003*”.

[2] Clause 3 Definitions

Omit “(b1)” from the definition of *election* in clause 3 (1).

Insert instead “(c)”.

[3] Clause 3 (1), definitions of “qualified voter” and “the Act”

Omit the definitions. Insert instead in alphabetical order:

qualified voter means:

- (a) in relation to an election of a registered nurse under section 9 (2) (a) of the Act, a person who is a registered nurse, and
- (b) in relation to an election of a registered midwife under section 9 (2) (b) of the Act, a person who is a registered midwife, and
- (c) in relation to an election of an enrolled nurse or enrolled nurse (mothercraft) under section 9 (2) (c) of the Act, a person who is an enrolled nurse or enrolled nurse (mothercraft).

the Act means the *Nurses and Midwives Act 1991*.

[4] Clause 3 (2)

Omit the matter relating to sections 17 (a) and (b), 24 and 29.

Insert instead:

Section 24, in relation to the temporary
registration of a person to practise nursing

Form 1

Section 24, in relation to the temporary
registration of a person to practise
midwifery

Form 2

Section 28B

Form 3

- [5] Clause 4 Qualifications for registration in List “B”**
Omit the clause.
- [6] Clause 5 Functions not requiring registration**
Insert “or midwife” after “nurse” in clause 5 (c).
- [7] Clause 6 Roll of nurses**
Omit the clause.
- [8] Clause 7 Enrolment in List “A”**
Omit clause 7 (1).
- [9] Clause 8 Enrolment in List “B”**
Omit the clause.
- [10] Clause 9 Replacement certificates**
Insert “or midwife” after “nurse” wherever occurring in clause 9 (1).
- [11] Clause 10 Alterations of Register or Roll**
Omit “the Register”. Insert instead “a Register”.
- [12] Clause 11 Notice of election**
Omit “accredited nurses are” from clause 11 (1).
Insert instead “nurses are, or a midwife is,”.
- [13] Clause 11 (2) (a) (iii)**
Omit the subparagraph. Insert instead:
(iii) a registered midwife, and
- [14] Clause 11 (3) (a) (iii)**
Omit the subparagraph. Insert instead:
(iii) a registered midwife, and

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

[15] Clause 11 (3) (b)

Insert “or midwives” after “nurses”.

[16] Clauses 14 (6) and 29 (1)

Omit “(b1)” wherever occurring. Insert instead “(c)”.

[17] Clause 17 Candidate information sheets

Insert after clause 17 (5):

- (6) The returning officer must not include on the candidate information sheet any non-business telephone number or email address, or residential address, of a candidate.

[18] Clause 20 Distribution of ballot-papers

Insert “, together with a blank unsealed envelope (the *inner envelope*)” after “*Parliamentary Electorates and Elections Act 1912*” in clause 20 (a).

[19] Clause 20 (b)

Omit the paragraph. Insert instead:

- (b) a large unsealed reply-paid envelope addressed to the returning officer and bearing on the back the words “FULL NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature (the *outer envelope*), and

[20] Clause 22

Omit the clause. Insert instead:

22 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must place the completed ballot-paper in the inner envelope, and
- (c) must seal the inner envelope, and
- (d) must place the inner envelope in the outer envelope, and
- (e) must seal the outer envelope, and

- (f) must complete the person's full name and address on, and must sign, the back of the outer envelope, and
- (g) must return the outer envelope to the returning officer so as to be received before the close of the ballot.

[21] Clause 23

Omit the clause. Insert instead:

23 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any outer envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of each remaining outer envelope and, without opening the outer envelope:
 - (a) must provisionally accept the outer envelope and draw a line through the name on the roll that corresponds to the name on the back of the outer envelope, if satisfied that a person of that name is included in the relevant roll for the election, or
 - (b) must reject the outer envelope, if not so satisfied or if a name, address or signature does not appear on the back of the outer envelope.
- (3) The returning officer may reject (without opening it) any outer envelope if, after making such inquiries as the returning officer thinks fit:
 - (a) the returning officer is unable to identify the signature on the back of the outer envelope, or
 - (b) it appears to the returning officer that the signature on the back of the outer envelope is not the signature of the person whose name and address appear on the back of the outer envelope.

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

[22] **Clause 26 Scrutiny of votes**

Omit clause 26 (1). Insert instead:

- (1) The scrutiny of votes in a ballot must be conducted as follows:
 - (a) the returning officer must produce, unopened, the outer envelopes containing the ballot-papers accepted for scrutiny,
 - (b) the returning officer must then open each such outer envelope and extract any inner envelope contained in it,
 - (c) the returning officer must then place each such inner envelope in a locked ballot-box.
- (1A) However, if there is more than one inner envelope in the outer envelope, the returning officer must reject all the inner envelopes contained in the outer envelope.
- (1B) The scrutiny of votes in the ballot must then continue as follows:
 - (a) the returning officer must unlock the ballot-box, remove the inner envelopes and then remove the ballot-papers from the inner envelopes,
 - (b) the returning officer must then reject all ballot-papers in an inner envelope if the inner envelope contains more than one ballot-paper,
 - (c) the returning officer must then examine each remaining ballot-paper and reject those that are informal,
 - (d) the returning officer must then proceed to count the votes and ascertain the result of the ballot.

[23] **Clause 33 Infection control standards**

Omit "An accredited nurse" from clause 33 (1).

Insert instead "A nurse or midwife".

[24] **Clauses 33 (1) and (2) (b) and 36 (1) (a) and (b) and (2)**

Insert "or midwife" after "the nurse" wherever occurring.

[25] **Clause 33 (1)**

Insert "or midwifery" after "nursing".

[26] Clauses 33 (2) and 36 (1)

Omit “an accredited nurse” wherever occurring.

Insert instead “a nurse or midwife”.

[27] Clause 33 (2) (b)

Insert “or midwife’s” after “nurse’s”.

[28] Clause 35 Recognition of institutions and qualifications

Omit “10 (1) (h)” from clause 35 (1). Insert instead “10 (1) (g)”.

[29] Clause 37 Badges

Omit “NURSES REGISTRATION BOARD”.

Insert instead “NURSES AND MIDWIVES BOARD”.

[30] Clauses 38 and 38A

Omit clause 38. Insert instead:

38 Letters after name

- (1) Nurses may indicate their entitlement to practise as nurses by placing after their names the following letters:
 - (a) in the case of a registered nurse—“R.N.”,
 - (b) in the case of a nurse enrolled in List “A” of the Roll—“E.N.”,
 - (c) in the case of a nurse enrolled in List “B” of the Roll—“E.N. (M’craft)”.
- (2) Registered midwives may indicate their entitlement to practise as midwives by placing “R.M.” after their names.

38A Excluded offences (offences for which notice of conviction or criminal finding not required)

Sections 42A (1) (a), 42B (1) (a) and 42C of the Act do not apply in respect of any offence relating to the parking of a motor vehicle or any offence under the road transport legislation (within the meaning of the *Road Transport (General) Act 1999*), except for the following offences:

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

- (a) any offence under section 9 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to presence of prescribed concentration of alcohol in person's blood),
- (b) any offence under section 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to the use or attempted use of a motor vehicle while under the influence of alcohol or any other drug),
- (c) any offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving a motor vehicle on a road or road related area negligently) if the nurse or midwife is, by way of penalty, sentenced to imprisonment or fined a sum of \$200 or more,
- (d) any offence under section 42 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving a motor vehicle on a road or road related area furiously, recklessly or at a speed or in a manner that is dangerous to the public),
- (e) any offence under section 43 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to menacing driving),
- (f) any offence under section 70 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to failing to stop and give assistance after an accident),
- (g) any offence under section 19 (2) of the *Road Transport (General) Act 1999* (which relates to refusing to produce a driver licence, or to state correct name or home address, when required),
- (h) any offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998* (which relates to driving while unlicensed),
- (i) any other offence under the road transport legislation if the court orders the disqualification of the nurse or midwife from holding a driver licence.

[31] Schedule 1 Infection control standards

Insert "or midwife" after "nurse" wherever occurring in clauses 1 (2) and 7 (1) and (3) (b).

[32] Schedule 1, Parts 2 and 3, headings

Insert “**and midwives**” after “**nurses**” wherever occurring.

[33] Schedule 2

Omit the Schedule. Insert instead:

Schedule 2 Fees

(Clause 34)

Fees under the Act

Section 16 (5)	\$10
Section 18 (1) (a), (b), (c) or (e)	\$45
Section 18 (1) (d), if the place referred to in the paragraph is within Australia	\$45
Section 18 (1) (d), if the place referred to in the paragraph is outside Australia	\$50
Section 19 (1) (a) or (d)	\$45
Section 19 (1) (b)	\$50
Section 19 (1) (c), if the place referred to in the paragraph is within Australia	\$45
Section 19 (1) (c), if the place referred to in the paragraph is outside Australia	\$50
Section 19A (4)	\$150
Section 20 (4)	\$150
Section 22 (3)	\$12
Section 24 (1)	\$45
Section 26 (7)	\$10

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

Fees under the Act

Section 27 (1)	\$45
Section 28	\$45
Section 28A (1) (d)	\$45
Section 33 (4)	\$45

Fees under this Regulation

Clause 9 (1)	\$20
--------------	------

Note.

There is no fee prescribed for the purposes of section 23 (1) (d) of the Act. There is no fee prescribed for the purposes of section 26 (3) of the Act but there are fees prescribed for the purposes of sections 27 and 28 of the Act in respect of enrolment on the Roll of Nurses.

[34] Schedule 3 Forms

Omit Forms 1–4. Insert instead:

Form 1 Certificate of temporary registration to practise nursing

(Clause 3 (2))

Nurses and Midwives Act 1991 (section 24)

This is to certify that the Nurses and Midwives Board has temporarily registered *[name]* under the *Nurses and Midwives Act 1991* as a nurse, and has authorised that person as a nurse practitioner,* subject to the following conditions:*

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “and has authorised that person as a nurse practitioner,” or “subject to the following conditions:” if they are not appropriate.

Form 2 Certificate of temporary registration to practise midwifery

(Clause 3 (2))

Nurses and Midwives Act 1991 (section 24)

This is to certify that the Nurses and Midwives Board has temporarily registered *[name]* under the *Nurses and Midwives Act 1991* as a midwife, and has authorised that person as a midwife practitioner,* subject to the following conditions:*

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “and has authorised that person as a midwife practitioner,” or “subject to the following conditions:” if they are not appropriate.

Form 3 Certificate of temporary enrolment

(Clause 3 (2))

Nurses and Midwives Act 1991 (section 28B)

This is to certify that the Nurses and Midwives Board has temporarily enrolled *[name]* under the *Nurses and Midwives Act 1991* as a nurse, subject to the following conditions:*

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “subject to the following conditions:” if they are not appropriate.

2004 No 513

Nurses Amendment Regulation 2004

Schedule 1 Amendments

[35] Schedule 3, Forms 5–7

Omit “Nurses Regulation 2003” wherever occurring.

Insert instead “Nurses and Midwives Regulation 2003”.

[36] Schedule 3, Form 6

Omit item 2.

BY AUTHORITY
