

# Nurses and Midwives Regulation 2003

[2003-612]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Nurses Regulation 2003

### Authorisation

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New South Wales

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# Nurses and Midwives Regulation 2003



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Nurses and Midwives Regulation 2003*.

### 2 Commencement

This Regulation commences on 1 September 2003.

#### Note—

This Regulation replaces the *Nurses (General) Regulation 1997* and the *Nurses (Elections) Regulation (No 2) 1997* which are repealed on 1 September 2003 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**close of nominations** for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

**close of the ballot** for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

**election** means an election conducted under section 9 (2) (a), (b) or (c) of the Act for the purpose of electing members of the Board.

**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).

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer for an election.

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

- (2) In this Regulation, the forms set out in Schedule 3 are prescribed for the purposes of the following provisions of the Act and this Regulation:

**Provision of the Act**

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

**Provision of this Regulation**

Clause 14      Form 5

Clause 17      Form 6

Clause 18      Form 7

- (3) Notes included in this Regulation (except notes included in a form) do not form part of this Regulation.

## Part 2 Registration

### 4 (Repealed)

### 5 Functions not requiring registration

For the purposes of section 25 of the Act, the following functions are prescribed:

- (a) functions exercised to meet the needs of organ transplant patients and patients donating organs,
- (b) functions exercised as a member of a retrieval team that enters New South Wales to pick up a patient,
- (c) functions exercised while a nurse or midwife is on escort duty accompanying a patient on a journey that begins or ends outside New South Wales.

### 6 (Repealed)

## **7 Enrolment in List “A”**

- (1) (Repealed)
- (2) For the purposes of section 27 (a) (ii) of the Act:
  - (a) the prescribed tuition is the training in nursing given by the hospital or institution that the person attended, and
  - (b) the prescribed examinations are those conducted for the purposes of that subparagraph by:
    - (i) the TAFE Commission, or
    - (ii) any accredited providers of vocational training or higher education that are approved by the Board.
- (3) For the purposes of subclause (2) (b), **accredited** means accredited by a government department or public authority of the Commonwealth, or a State or Territory, with responsibility for vocational training or higher education.

## **8 (Repealed)**

## **9 Replacement certificates**

- (1) The Registrar may, on application by a nurse or midwife and on payment of the relevant fee set out in Schedule 2, issue a replacement certificate if satisfied that a certificate issued to the nurse or midwife under the Act has been lost or destroyed or the information that it certifies is no longer correct.
- (2) The Registrar may require an application under this clause for a replacement for a lost or destroyed certificate to be verified by a statutory declaration as to the circumstances in which the certificate was lost or destroyed.

## **10 Alterations of Register or Roll**

The Registrar may require such evidence as the Registrar thinks necessary before altering an entry in a Register or Roll.

## **Part 3 Elections**

### **Division 1 Calling of election**

#### **11 Notice of election**

- (1) As soon as possible after having been notified in writing by or on behalf of the Minister that one or more nurses are, or a midwife is, required to be elected, the returning officer must cause notice of that fact:
  - (a) to be sent to the Registrar, and

(b) to be published in a newspaper circulating generally throughout New South Wales.

(2) The notice to be sent to the Registrar:

(a) must state that an election is to be held for the purpose of appointing:

- (i) one or more registered nurses, or
- (ii) an enrolled nurse or enrolled nurse (mothercraft), or
- (iii) a registered midwife, and

(b) must fix a time and date for the close of nominations.

(3) The notice to be published in the newspaper:

(a) must state that an election is to be held for the purpose of appointing:

- (i) one or more registered nurses, or
- (ii) an enrolled nurse or enrolled nurse (mothercraft), or
- (iii) a registered midwife, and

(b) must specify the number of nurses or midwives required to be elected, and

(c) must call for nominations of candidates, and

(d) must specify the time and date fixed for the close of nominations, and

(e) must advise where nomination forms may be obtained and where nominations may be lodged, and

(f) must specify the qualifications that qualify a person to nominate a candidate.

(4) The date fixed for the close of nominations must not be earlier than 21 days, or later than 28 days, after the date on which the notice is published in the newspaper.

## **12 Postponement of close of nominations**

(1) The returning officer may postpone the close of nominations for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice calling for the nomination of candidates.

(2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.



## **Division 2 Nominations**

### **13 Qualifications for nominating candidates**

A person is qualified to nominate a candidate for election if the person is a qualified voter.

### **14 Nomination of candidates**

(1) A nomination of a candidate:

(a) must be in Form 5, and

(b) must be made by at least 3 persons (other than the candidate) who are each qualified voters, and

(c) must be lodged with the returning officer before the close of nominations.

(2) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.

(3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the Registrar to furnish the returning officer with such information regarding the person as the returning officer may specify.

(4) The Registrar must comply with such a requirement as soon as practicable.

(5) A candidate who has been nominated in an election may withdraw the nomination by notice in writing addressed to the returning officer that is forwarded in sufficient time to be received by the returning officer by the close of nominations.

(6) If a candidate consents to nomination for election in more than one of the classes specified in section 9 (2) (a), (b) and (c) of the Act and if all but one of the nominations of the candidate are not withdrawn by the close of nominations, the returning officer must reject all nominations of the candidate.

### **15 Uncontested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected in a class, those candidates are or that candidate is taken to have been elected.

### **16 Contested elections**

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected in a class, a ballot must be

held.

### **17 Candidate information sheets**

- (1) At any time before the close of nominations, a candidate may submit to the returning officer a statutory declaration, in Form 6, containing information intended for inclusion in a candidate information sheet.
- (2) If more than the required number of persons have been nominated as candidates by the close of nominations, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.
- (3) In drawing up a candidate information sheet, the returning officer may omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:
  - (a) to be false or misleading, or
  - (b) to be inappropriate for inclusion in the candidate information sheet, or
  - (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.
- (4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words "NO INFORMATION RECEIVED".
- (5) The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.
- (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.

## **Division 3 Ballot**

### **18 Preparation of roll**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held, the returning officer must cause notice of that fact to be sent to the Registrar.
- (2) The Registrar must provide the returning officer with:
  - (a) a roll of the persons who, in the opinion of the Registrar, are qualified to vote in the election, and
  - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in the roll.

- (3) The roll:
- (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll, and
  - (b) must be certified by the Registrar in accordance with Form 7.
- (4) This clause does not apply to an election held as a consequence of an earlier election that has failed if a roll for the earlier election has already been provided to the returning officer.

## **19 Printing of ballot-papers**

- (1) As soon as practicable after the close of nominations in an election, the returning officer:
- (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
  - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the roll for the election, and
  - (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person included in the roll.
- (2) A ballot-paper for an election must contain:
- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least the number of candidates to be elected by placing consecutive numbers (beginning with the number "1" and ending with the number equal to the number of candidates to be elected) in the squares set opposite their names in the order of the voter's preferences for them, and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number next higher than the number of candidates to be elected) in the squares set opposite their names in the order of

the voter's preferences for them.

## **20 Distribution of ballot-papers**

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the roll for the election:

- (a) a ballot-paper initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, together with a blank unsealed envelope (the **inner envelope**), and
- (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
- (c) if applicable, a candidate information sheet.

## **21 Duplicate ballot-papers**

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
  - (a) that the original ballot-paper has been spoilt, lost or destroyed, and
  - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

## **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.

## **Division 4 Scrutiny**

### **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.

### **24 Ascertaining result of ballot**

The result of a ballot must be ascertained by the returning officer as soon as practicable after the close of the ballot.

### **25 Scrutineers**

Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

### **26 Scrutiny of votes**

- (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.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:
- (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
  - (b) if it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper must not be rejected as informal merely because there is any mark or writing on it that is not authorised or required by this Regulation (not being a mark or writing referred to in subclause (2) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

## **27 Counting of votes**

- (1) If there is only one person to be elected:
- (a) the method of counting the votes so as to ascertain the result of the election is to be as provided in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
  - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is to be read as a reference to the

returning officer under this Regulation.

- (2) If there are 3 persons to be elected, the method of counting the votes is to be according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.

## **28 Notice of result of election**

As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister and the Registrar, in writing, of the name of the candidate elected.

## **Division 5 General**

### **29 Date of elections**

- (1) An election of members of the Board for the purposes of section 9 (2) (a), (b) or (c) of the Act is to be carried out on a date determined by the Minister.
- (2) Such dates are to be as near as practicable to 1 December in every third year after 1 December 1997.

### **30 Decisions of returning officer final**

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in an election, the decision of the returning officer on that matter is final.

### **31 Death of a candidate**

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

### **32 Offences**

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote, or
- (c) make a statement that the person knows to be false or misleading in a material particular (not being a statement verified by statutory declaration):

- (i) to the returning officer in connection with an election, or
- (ii) in any document that the person furnishes for the purposes of an election.

Maximum penalty: 5 penalty units.

## **Part 4 Miscellaneous**

### **33 Infection control standards**

- (1) A nurse or midwife must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 1 to the extent that they apply to the nurse or midwife in the practice of nursing or midwifery.
- (2) In determining whether or not a nurse or midwife has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to the following:
  - (a) whether the circumstances involved the provision of emergency treatment,
  - (b) whether the nurse's or midwife's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the nurse or midwife to comply with the standard (and whether the failure to provide such equipment was reported by the nurse or midwife to the Director-General).

### **34 Fees**

The fees set out in Schedule 2 are prescribed for the purposes of the provisions of the Act and this Regulation set out in that Schedule.

### **35 Recognition of institutions and qualifications**

- (1) A hospital, a nursing home or an educational or other institution (together with the curriculum for its course and the diploma, certificate or other qualification awarded by it) may be recognised by the Board under section 10 (1) (g) of the Act if and only if:
  - (a) curriculum details of the course that it offers or to which it contributes instruction, clinical experience or other training have been forwarded to the Board, and
  - (b) the objective of the course is the achievement by students of levels of educational and clinical competence approved by the Board, and
  - (c) the course itself is approved by the Board.
- (2) The Board is to notify its recognition in writing directly to the hospital, home or institution.
- (3) The hospital, home or institution is to notify the Board of any change of curriculum that occurs after details have been forwarded under this clause.



- (4) The Board may, by writing to the hospital, home or institution, revoke or vary its recognition if it is satisfied:
- (a) that the course is not being conducted in accordance with any conditions to which the recognition is subject, or
  - (b) that the course is not being conducted in accordance with the details received by the Board under this clause immediately before the Board granted recognition to the hospital, home or institution.

### **36 Notice of incapacity**

- (1) For the purposes of section 35 of the Act, the person required to cause notice of mental incapacity of a nurse or midwife to be forwarded to the Board is:
- (a) if the nurse or midwife is a patient at an institution because of that incapacity, the director of the institution, or
  - (b) if the nurse or midwife has become a protected person, the Protective Commissioner.
- (2) Notice for the purposes of section 35 of the Act is to be given by telephone within one day, and posted within 7 days, after the nurse or midwife is admitted to the institution or becomes a protected person.

### **37 Badges**

For the purposes of sections 5 (2) and 37 of the Act, the prescribed design for a badge is one having on it the words "NURSES AND MIDWIVES BOARD", a representation of the State arms of New South Wales, and appropriate letters or symbols to convey information as to the wearer's registration, enrolment or authorisation.

### **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:

- (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.

### **39 Payment of members of Committee**

For the purposes of section 51 (5) of the Act, a member of a Committee is entitled to be paid such remuneration as the Minister may from time to time determine.

### **40 Appeals against decisions of Committee**

For the purposes of section 57 (1) of the Act, the prescribed time within which an appeal may be made to the Tribunal against any finding or exercise of power referred to in that subsection is the time ending 21 days after:

- (a) notice of the reasons for the finding, or
  - (b) notice of the reasons for the exercise of power, or
  - (c) a statement under section 56 (2) of the Act, or
  - (d) a notice under section 56 (5) (b) of the Act,
- whichever is the later, is given to the appellant.

#### **41 Appeal with respect to a point of law**

- (1) An appeal referred to in section 58 (2) of the Act is to be made:
  - (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to the Deputy Chairperson so nominated), and
  - (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.
- (2) For the purposes of section 58 (2) of the Act, the prescribed time within which an appeal referred to in that subsection may be made to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to the Deputy Chairperson so nominated) is the time between the referral of the complaint and the commencement of the inquiry.

#### **42 Payment of ordinary members of Tribunal**

For the purposes of section 59 (8) of the Act, a member of the Tribunal (other than the Chairperson or a Deputy Chairperson) is entitled to be paid such remuneration as the Minister may from time to time determine.

#### **43 Payment of Chairperson and Deputy Chairperson of Tribunal**

For the purposes of section 60 (5) of the Act, the Chairperson or a Deputy Chairperson of the Tribunal is entitled to be paid at the same rate as a witness who gives expert evidence in the Supreme Court.

#### **44 Appeals against decisions of Tribunal**

For the purposes of section 67 (1) and (5) of the Act, the prescribed time within which an appeal may be made to the Supreme Court against a decision or exercise of power referred to in that subsection is the time ending:

- (a) on the date occurring 21 days after the date on which:
  - (i) notice of the Tribunal's reasons for the finding, or
  - (ii) notice of the Tribunal's reasons for the exercise of power, or

(iii) a statement under section 66 (3) of the Act, or

(iv) a notice under section 66 (6) (b) of the Act,

whichever is the later, is given to the appellant, or

(b) on such later date as the Supreme Court may allow in a particular case.

#### **45 Savings provision**

(1) Any act, matter or thing that, immediately before the repeal of the *Nurses (General) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

(2) Any act, matter or thing that, immediately before the repeal of the *Nurses (Elections) Regulation (No 2) 1997*, had effect under that Regulation continues to have effect under this Regulation.

## **Schedule 1 Infection control standards**

(Clause 33)

### **Part 1 Preliminary**

#### **1 Definitions**

(1) In this Schedule:

**AS/NZS 4187** means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*.

**AS/NZS 4815** means AS/NZS 4815:2001, *Office-based health care facilities not involved in complex patient procedures and processes—Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of the associated environment*.

**body substance** includes any human bodily secretion or substance other than blood.

**invasive procedure** means any one or more of the following:

(a) surgical entry into body tissue, cavities or organs,

(b) surgical repair of injuries,

(c) cardiac catheterisation and angiographic procedures,

(d) vaginal or caesarean delivery or any other obstetric procedure during which bleeding may occur,

- (e) the manipulation, cutting, or removal of any oral or peri-oral tissue, including tooth structure, during which bleeding may occur.

**patient** includes (but is not limited to) a person who is accessing medical or health services or who is undergoing any medical or health procedure.

**sharps** means any objects capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a nurse or midwife who is assisting in performing a procedure in the same way as they apply to a nurse or midwife who is actually performing the procedure.

## **Part 2 General standards applying to nurses and midwives**

### **2 General precautions and aseptic techniques**

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

### **3 Hand and skin cleaning**

- (1) Hands must be cleaned:
  - (a) immediately before and after any direct patient care, and
  - (b) immediately after handling blood or other body substances.
- (2) Subclause (1) does not apply in circumstances where treatment is required to be performed urgently and cleaning facilities are not readily available.
- (3) Hands may be cleaned by:
  - (a) using washing facilities involving water and a soap or antiseptic, or
  - (b) if any of the items specified in paragraph (a) are unavailable, using non-water cleansers or antiseptics.
- (4) Hands or other skin surfaces that are contaminated with a patient's blood or other body substances must be cleaned as soon as it is practicable to clean them.
- (5) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

#### **4 Protective gowns and aprons**

A gown or apron made of impervious material must be worn while performing any procedure where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

#### **5 Gloves**

- (1) Gloves must be worn while handling blood or other body substances.
- (2) In particular, gloves must be worn:
  - (a) during any procedure where direct contact is anticipated with a patient's blood or other body substances, mucous membranes or non-intact skin, and
  - (b) while suctioning a patient, and
  - (c) while handling items or surfaces that have come into contact with blood or other body substances, and
  - (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
- (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (4) Gloves must be changed and discarded:
  - (a) as soon as they are torn or punctured, and
  - (b) after contact with each patient.
- (5) Gloves must also be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

#### **6 Masks and protective eye wear**

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) A mask must be worn when in close contact with patients known to have an infectious disease (or suspected of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. A particulate mask capable of filtering to 0.3µm must be worn when in close contact with a patient known or suspected to be infected with tuberculosis.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.

- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable in which case it is to be cleaned in accordance with the manufacturer's instructions.

## **7 Sharps**

- (1) Sharps must not be passed by hand between a nurse or midwife and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.
- (2) A puncture-resistant tray must be used to transfer sharps.
- (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
  - (a) it is necessary to remove the needle for technical reasons, or
  - (b) the nurse or midwife is performing a procedure in which the needle is required to be bent.
- (4) A needle must not be bent after it is contaminated with blood or other body substances.
- (5) In any case where resheathing of a needle is required:
  - (a) the needle must be properly recapped, and
  - (b) the sheath must not be held in the fingers, and
  - (c) either a single-handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
- (6) Reusable sharps must, immediately after being used, be placed in a puncture-resistant container specially kept for that purpose and labelled as such.
- (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture-resistant container.

## **8 Management of waste**

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.

- (3) Nothing in this clause limits any other requirement under this Part.

### **Part 3 Specific standards applying to nurses and midwives**

#### **9 Sterile medications and solutions**

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.
- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.
- (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

#### **10 Anaesthetic breathing circuits**

- (1) This clause applies in any case where an anaesthetic breathing circuit is used.
- (2) If the breathing circuit uses a filter:
  - (a) the filter must be discarded after each patient, and
  - (b) the part of the breathing circuit between the patient and the filter must be discarded, or cleaned and disinfected, after each patient, and
  - (c) the part of the breathing circuit between the carbon dioxide absorber and the filter must be discarded, or be cleaned and disinfected, at the end of each procedure list.
- (3) If the breathing circuit does not use a filter, the breathing circuit must be discarded, or be cleaned and disinfected, after each patient.

#### **11 Invasive procedures**

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during invasive procedures.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a sharps tray that is being used in connection with an invasive procedure.
- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up



the suture needle and to draw it through tissue.

## **Part 4 Processing of instruments and equipment**

### **12 Cleaning of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning must involve water and mechanical or physical action (such as washing machines) and a cleaning agent.
- (4) All cleaning agents must be removed from instruments and equipment by rinsing prior to further processing.
- (5) In this clause, **cleaning agent** means a detergent and includes proteolytic enzyme substances.
- (6) The method of cleaning must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

### **13 Disinfection of instruments and equipment**

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must be disinfected before it is used with a disinfectant specified in the Australian Register of Therapeutic Goods (within the meaning of the [Therapeutic Goods Act 1989](#) of the Commonwealth), and the relevant manufacturer's instructions must be followed.
- (2) The process of disinfection must involve either thermal or chemical methods. Chemical disinfection may only be used in cases where thermal methods are unsuitable.
- (3) The method of disinfection must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

### **14 Sterilisation of instruments and equipment**

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.
- (2) The method of sterilisation must be compatible with the particular type of instrument or equipment concerned and consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
- (a) the relevant manufacturer’s instructions must be followed,
  - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Sterilizer Tests and Test Frequencies of AS/NZS 4815.

## Schedule 2 Fees

(Clause 34)

### Fees under the Act

Section 16 (5)	\$10
Section 18 (1) (a), (b), (c), (d) or (e)	\$60
Section 19 (1) (a), (b), (c) or (d)	\$60
Section 19A (4)	\$150
Section 20 (4)	\$150
Section 22 (3)	\$12
Section 24 (1)	\$60
Section 26 (7)	\$10
Section 27 (1)	\$60
Section 28	\$60
Section 33 (1)	\$50
Section 33 (4)	\$60

### Fees under this Regulation

Clause 9 (1)	\$20
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#### Note—

There is no fee prescribed for the purposes of section 23 (1) (d) or 28A (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.

## Schedule 3 Forms

### 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.

**Form 4**

(Repealed)

**Form 5 Nomination of candidate**

(Clause 3 (2))

*Nurses and Midwives Regulation 2003* (clause 14)

We nominate .....  
[name in full]  
of .....  
[postal address]

as a candidate for the following election:  
.....  
.....  
[specify the election to which the nomination relates]

We declare that we are each qualified to vote in the election.

Name in full	Address	Signature
.....		
.....		
.....		
.....		
.....		
.....		
.....		
.....		

**Note—**

This nomination must be completed by not less than 3 persons (other than the candidate), each of whom is qualified to vote in the election.

I, ....., consent to being a candidate at the election to which this nomination relates.

Postal address: .....  
Postcode: ..... Telephone No.: .....  
Date of birth: .....  
Dated: ..... Signed: .....

**Form 6 Statutory declaration**

(Clause 3 (2))

*Nurses and Midwives Regulation 2003* (clause 17)

I, ..... of ....., do solemnly and sincerely declare that:

- 1 My full name is .....
- 2 (Repealed)
- 3 My date of birth is .....
- 4 I am self-employed\*/employed by .....\*  
as .....

*[specify nature of employment]*

5 I hold the following qualifications (academic/professional):

.....  
.....

6 I am a member of the following organisations:

.....  
.....

7 I hold the following offices (other than employment):

.....  
.....

8 .....

.....  
.....

.....(See Note)

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the [Oaths Act 1900](#).

Declared at ..... this ..... day of ..... 20.....

Before me:

.....Justice of the Peace

.....*[signature]*

**Note—**

A candidate may include further information relating to the candidacy. Such information should not exceed 4 lines of typescript.

\* Delete whichever is inapplicable.

**Form 7 Certificate**

(Clause 3 (2))

[Nurses and Midwives Regulation 2003](#) (clause 18)

I certify that this roll contains the names (consecutively numbered and listed in alphabetical order) and addresses of those persons who, in my opinion, are qualified to vote in the following election in relation to which this roll has been prepared:

.....  
.....

*[specify the election to which the roll relates]*

The first and last entries in the roll are as follows:

First entry: No.: .....

Name: .....

Address: .....

Last entry: No.: .....

Name: .....

Address: .....

Dated: ..... Signed: .....