
NURSES' REGISTRATION ACT 1977

ANALYSIS

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NURSES' REGISTRATION

No. 71 of 1977

AN ACT to amend the Nurses' Registration Act 1952.

[21 September 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Nurses' Registration Act* Short title and citation. 1977.

(2) The *Nurses' Registration Act* 1952*, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 10 of 1952. For this Act as amended to 1959, see the Reprint of Statutes (1826-1959), Vol. 4, p. 498. Subsequently amended by No. 79 of 1960, No. 30 of 1962, No. 60 of 1963, No. 55 of 1965, No. 3 of 1966, No. 41 of 1967, No. 5 of 1968, No. 10 of 1974, and S.R. 1976, No. 184.

Division of
Act into Parts.

2 The Principal Act is amended—

(a) by inserting before section 1 the following heading:—

“ PART I

“ PRELIMINARY ”;

(b) by inserting before section 4 the following heading:—

“ PART II

“ THE NURSES' REGISTRATION BOARD ”;

(c) by inserting before section 10 the following heading:—

“ PART III

“ REGISTRATION OF NURSES ”; and

(d) by inserting before section 17 the following heading:—

“ PART V

“ MISCELLANEOUS ”.

Interpretation.

3 Section 3 of the Principal Act is amended by inserting after the definition of “ Board ” the following definition:—

“ ‘ certificate of registration ’ means a certificate of registration issued by the Board under section 10; ”.

Qualifications
for registration.

4 Section 11 of the Principal Act is amended—

(a) by omitting paragraph (c) of subsection (1) and substituting the following:—

“(c) is of good character,

and that she would not, if registered, be liable to have that registration cancelled or suspended as provided by this Act.”; and

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

“(4) Subject to subsection (5), a person (other than a person referred to in subsection (6)) who produces to the Board's satisfaction evidence that she is registered as a nurse in any part of the world other than this State may be registered under this Act in respect of the class of nursing for which that person is so registered if the Board is satisfied that—

(a) the standard of training undergone by that person for that class of nursing is satisfactory and that the scope of that training is substantially equivalent to that prescribed by or under this Act in relation to the training; and

- (b) the examinations passed by that person in relation to her registration are substantially equivalent to the examinations prescribed by or under this Act,

for the class of nursing in respect of which she seeks to be registered.

“(5) Notwithstanding that the Board is not satisfied that the standard of training undergone by a person referred to in subsection (4) or the scope of that training complies with the requirements of paragraph (a) of that subsection, that person may, subject to paragraph (b) of that subsection, be registered under this Act if—

- (a) she undergoes supplementary training as directed by, and to the satisfaction of, the Board; and
 (b) she passes such examinations (if any) as the Board directs,

in the class of nursing in respect of which she seeks to be registered.”.

5 After section 13 of the Principal Act the following section is inserted in Part III:—

“13A—(1) A person making an application for registration who is aggrieved by a decision of the Board on her application may appeal to the Supreme Court and, on such an appeal, the Court (unless it dismisses the appeal) may, by order, direct the Board to grant that person such registration as may be specified in the order or to grant her that registration on compliance with such terms and conditions as may be so specified.

Appeals against refusal of registration.
 Cf. No. 80 of 1959, s. 22.

“(2) The Board shall comply with an order made under this section.”.

6 Sections 14, 15, and 16 of the Principal Act are repealed and the following Part is substituted:—

“ PART IV

“ DISCIPLINARY AND OTHER PROCEDURES

“14—(1) The Board may require a registered nurse to appear before it to enable an inquiry to be held with respect to any complaint made to the Board concerning the conduct of that nurse in a

Inquiries into professional conduct.
 Cf. No. 80 of 1959, s. 24.

professional respect and if, on that inquiry, the Board is satisfied, in respect of any matter, that she has failed to carry out her professional duties adequately or properly to accept her professional responsibilities, it may censure or reprimand her.

“(2) Where, in the course of an inquiry under this section, the Board is of opinion that proceedings should be taken against the nurse under any other provision of this Part, it shall discontinue the inquiry and institute those proceedings.

“(3) Where a registered nurse has, in accordance with this section, been required to attend a meeting of the Board held for the purposes of an inquiry under this section with respect to a complaint concerning her conduct, and she fails, without good and sufficient reason, to attend that meeting, the Board may suspend every certificate of registration held by her until such time as the Board next meets for the purposes of the inquiry.

“(4) Where a registered nurse has, in accordance with this section, been twice required to attend such a meeting of the Board as is referred to in subsection (3), the Board may, without prejudice to the exercise of its powers under that subsection, carry out the inquiry in her absence.

“(5) For the purposes of this section, a requirement made of a registered nurse to attend a meeting of the Board shall be made by a notice in writing served on her at least 14 days before the date of the meeting in like manner as a summons may be served under section 15B.

Professional
misconduct.
Ibid., s. 25.

“ 14A—(1) On a charge against a registered nurse of professional misconduct in respect of any matter, the Board—

(a) if it finds that the conduct to which the charge relates is infamous conduct in a professional respect, may cancel every certificate of registration held by that nurse and remove her name from the register; or

(b) if it finds that that conduct is improper conduct in a professional respect, may deal with her case under section 15A.

“(2) A charge under this section may be made by the Board either on its own motion or upon a complaint made by any person.

“(3) Where the Board receives such a complaint as is referred to in subsection (2), it may require the person making the complaint—

- (a) to give further particulars of the grounds of the complaint; and
- (b) to verify by statutory declaration the complaint or those particulars.

“(4) Where, on consideration of such a complaint as is referred to in subsection (2) made in respect of a registered nurse and any further particulars that may have been furnished in relation thereto, the Board is of opinion that there has been established against her a *prima facie* case of infamous conduct in a professional respect it shall charge her under this section.

“(5) Nothing in this section shall be construed as preventing the Board from taking action under any of the following provisions of this Part in any case in which it considers it appropriate so to do.

“(6) Without prejudice to the generality of the expression, ‘improper conduct in a professional respect’, negligence or incompetence in practice amounts to improper conduct in a professional respect.

“14B—(1) Where a registered nurse has at any time been convicted in this State or elsewhere of—

Crimes and
drug offences.
Ibid., s. 26.

- (a) a crime, or of any offence that, if it had been committed in this State, would have been a crime; or
- (b) an offence under a law prohibiting or regulating the possession, sale, use, supply, or other dealing in or with any poison, drug, or similar substance,

the Board may cancel every certificate of registration held by that nurse and remove her name from the register or deal with her case under section 15A (otherwise than by the imposition of a fine).

“(2) This section does not apply in relation to a conviction for an offence if the person convicted gives the Board full particulars of the conviction before she is granted registration.

“14c Where a registered nurse has taken alcohol or drugs to excess and has thereby been rendered incapable of adequately performing the functions of a nurse or of assuming the full responsibilities of a nurse in the practice of nursing, the Board may cancel every certificate of registration held by that nurse and remove her name from the register or deal with her case under section 15A.

Taking of
alcohol and
drugs.
Ibid., s. 27.

Disabilities.
Ibid., s. 28.

“ 14D—(1) Where a registered nurse is incapable of adequately performing the functions of a nurse or assuming the full responsibilities of a nurse, the Board may suspend every certificate of registration held by that nurse for such period as it thinks proper or cancel every certificate of registration held by that nurse and remove her name from the register.

“(2) Subsections (5) and (6) of section 15B apply where a nurse is liable to have a certificate of registration suspended, or her name removed from the register, under this section.

Suspension of
certificates in
interests of
public health.

“ 14E The chairman of the Board may, at any time, by order under his hand, suspend a certificate of registration, wholly or in respect of one or more classes of nursing, if more than one class of nursing is specified in the certificate, for such period not exceeding 8 weeks as he thinks fit if it is necessary in the interests of the public health to do so.

Nurses removed
from register
or suspended
in other
jurisdictions.
Ibid., s. 29A.

“ 14F—(1) Where a registered nurse has, at any time, as a result of any proceedings against her, been excluded from practice in any jurisdiction outside this State (otherwise than for a specified period), the Board may cancel every certificate of registration held by that nurse and remove her name from the register.

“(2) Where, as a result of any proceedings against her a registered nurse is excluded from practice in any jurisdiction outside this State for a specified period, the Board may suspend for the like period every certificate of registration held by that nurse.

“(3) This section does not apply to the exclusion of a registered nurse from practice, unless that exclusion arises from a matter that relates to her conduct in a professional respect or would, in this State, afford grounds for the cancellation of the certificate or certificates of registration held by her and the removal of her name from the register or the suspension of every such certificate of registration, and, in particular, does not apply where the exclusion was imposed for political reasons or on account of the religious views of the nurse.

Withdrawal,
&c., of qual-
ifications, &c.
Ibid., s. 29B.

“ 14G—(1) Where a body or authority other than the Board withdraws, cancels, or revokes a qualification or certificate conferred or granted by it by virtue of the holding of which a person is registered as a nurse, the Board may cancel every certificate of regis-

tration issued to that person and remove her name from the register or deal with her case under section 15A (otherwise than by the imposition of a fine).

“(2) This section does not apply where the qualification or certificate was withdrawn, cancelled, or revoked for political reasons or on account of the religious views of the nurse.

“ 15—(1) Where a person has procured registration under this Act or the repealed Act by means of fraud, the Board may cancel every certificate of registration held by that person and remove her name from the register.

Removal from register on grounds of fraud:
Correction of register, &c.
Ibid., s. 29c.

“(2) A person may be registered in pursuance of any provision of this Act, notwithstanding that her name has been removed from the register pursuant to subsection (1), but, if it was so removed, the Board may, if it thinks fit, decide that she shall not be restored or shall not be registered until the expiration of such period as it may specify.

“(3) Where an entry in the register has been incorrectly made through inadvertence or otherwise, the Board may correct the entry and make any necessary corrections to the certificate or certificates held by the registered nurse to whom the entry relates.

“ 15A—(1) Where the Board may deal with the case of a registered nurse under this section, it may impose any one or more of the following penalties on the nurse:—

Subsidiary disciplinary powers.
Ibid., s. 29d.

- (a) Suspension of every certificate of registration held by that nurse for such period as it thinks proper;
- (b) An order for the payment of a fine of such amount, not exceeding \$200, as it thinks proper;
- (c) A requirement that she give to the Board an undertaking under this section; or
- (d) A reprimand.

“(2) An undertaking given to the Board under this section is an undertaking to comply, during such period as the Board specifies, with such conditions as it may specify and, at any time within that period, to appear before the Board when required by it to do so.

“(3) A condition referred to in subsection (2) may be a condition requiring the nurse to be of good behaviour or any other condition that the Board may consider it necessary or desirable to impose in the public interest.

“(4) Where a registered nurse has failed to comply with an undertaking given by her under this section, the Board may exercise in relation to her any of the powers it could have exercised if it had not required her to enter into the undertaking or may require the terms of the undertaking to be varied.

“(5) Where the Board requires a registered nurse to enter into an undertaking under this section, or requires the terms of such an undertaking to be varied, and, within such time as the Board may allow, that undertaking is not given or so varied, the Board may exercise in relation to her any of the powers that it could have exercised if it had not required the undertaking to be entered into or varied.

Procedure on
charges, &c.
Ibid., s. 29e.

“15B—(1) Where the Board charges a person with professional misconduct, it shall summon that person to appear before it by means of a summons stating that she is so charged and specifying the matters in respect of which she is so charged.

“(2) Except in a case to which subsection (1) applies, where the Board proceeds to determine whether, in pursuance of any provision of this Part (other than section 14), it should exercise any of the powers conferred on it by this Part in respect of any person, it shall summon her to appear before it by means of a summons stating that it intends so to proceed and specifying—

- (a) the provision pursuant to which it so intends to proceed; and
- (b) the matters in relation to which it so intends to proceed.

“(3) A summons under this section requiring a person to appear before the Board shall be served at least 14 days before the day on which she is required by the summons so to appear.

“(4) A summons under this section shall be sealed with the common seal of the Board and may be served on the person on whom it is required to be served—

- (a) by delivering it to her personally; or
- (b) by sending it by registered post addressed to her at her usual or last known place of abode or practice.

“(5) If a person duly served with a summons under this section fails to appear in accordance with the summons or, having so appeared, absents herself from the hearing of the charge or other matter to which the summons relates, the Board may proceed as if she were present.

“(6) In any proceedings to which this section relates, the Board may have counsel to appear before it to assist it in any matter arising in the course of those proceedings and any person appearing before the Board in those proceedings may be represented by counsel or by a registered nurse.

“(7) Where the Board exercises in respect of a registered nurse—

(a) its power under this Part to remove her name from the register or to suspend any certificate or certificates of registration held by her; or

(b) any of its powers under section 15A,

it shall express its decision in the form of an order which shall be served on, or notified to, her in the same way as a summons under this section.

“(8) Except as otherwise provided in section 14D, this section does not apply to proceedings under that section.

“15C—(1) Any finding of fact relating to the conduct of a registered nurse made in any proceedings in a court (whether in this State or elsewhere) to which she is a party is *prima facie* evidence of that fact in any proceedings under this Part.

a Evidence of facts found in other proceedings. *Ibid.*, s. 29F.

“(2) Where a qualification or certificate held by a registered nurse is withdrawn, cancelled, or revoked by the body or authority by whom it was conferred or granted, any finding of fact relating to the conduct of that nurse made in the proceedings as a consequence of which that qualification was so withdrawn, cancelled, or revoked that is notified to the Board by that body or authority is sufficient evidence of that fact in any proceedings under this Part.

“15D—(1) A person who is aggrieved by a decision of the Board under this Part—

Appeals to Supreme Court. *Ibid.*, s. 29G.

(a) removing her name from the register or suspending any certificate or certificates of registration held by her; or

(b) exercising any of its powers under section 15A,

may appeal to the Supreme Court and, on such an appeal the Court, unless it dismisses the appeal, may, by order, quash or vary the decision of the Board, or make such decision in the case as the Board could have done.

“(2) A decision made by the Board in respect of which an appeal is brought under this section has effect subject to any order made by the Supreme Court on that appeal, and any such order has the like effect as if it were made by the Board.

“(3) This section applies to a decision of the Board under section 14 (1) as it applies to a decision referred to in subsection (1).

Restoration to
the register.
Ibid., s. 29H.

“ 15E—(1) Where the name of a person has been removed from the register under this Part, the Board may, on the application of that person, restore her name to the register if it considers it proper to do so, and thereupon that person is entitled to obtain, on such conditions as may be prescribed, a certificate or certificates in respect of the same class or classes of nursing as the certificate or certificates held by that person and cancelled by the Board when her name was so removed from the register.

“(2) An application for the restoration of a name to the register shall not be made to the Board—

- (a) before the expiration of 12 months from the date of removal;
or
- (b) before the expiration of 12 months from the date on which such an application was previously made.

“(3) Subsection (2) does not apply where the name of the person has been removed from the register under section 14D.

“(4) The Board may require any person applying for the restoration of her name to the register to attend personally before the Board for the purpose of proving facts on which her application depends.

Powers of
Board in
respect of
conduct of
inquiries, &c.

“ 15F—(1) Subject to this section, where the Board holds an inquiry or hears a charge or exercises any of its other powers under this Part in relation to any matter, Division II of Part II of the *Evidence Act* 1910 applies to the inquiry, hearing, or matter as if—

- (a) the Board were such a board of inquiry as is referred to in section 14 (1) (b) of that Act; and
- (b) the subject of the inquiry or hearing or the matter were the matter into which it was appointed to inquire by its instrument of appointment.

“(2) Notwithstanding anything in the *Evidence Act* 1910, a person who attends before the Board for the purpose of giving

evidence when summoned to do so is entitled to be paid such fees, allowances, and sums by way of reimbursement of expenses as may be prescribed.

“ 15G Where a certificate of registration held by a person is suspended for a period, whether wholly or in respect of one or more classes of nursing, the certificate ceases to have effect during that period wholly or in respect of the class or classes of nursing, as the case requires.

Effect of suspension.
Ibid., s. 29j.

“ 16 Where—

Notification of removal from register, &c., to other authorities, &c.
Ibid., s. 29k.

- (a) the name of a person is removed from the register; or
- (b) a certificate of registration held by a person is suspended, whether wholly or in respect of one or more classes of nursing,

under this Part, the Board may notify the removal or suspension and the cause thereof to—

- (c) any authority outside the State by which she is registered as a nurse; and
- (d) any person by whom she is employed as a nurse.

“ 16A—(1) Where a certificate of registration held by a person is cancelled or is wholly suspended under this Part, that person shall, within 7 days after the date on which she receives notice from the Registrar of the cancellation or suspension of the certificate, surrender it to the Board.

Certificates to be surrendered in certain cases.
Cf. No. 12 of 1976, s. 37.

“(2) A person who fails to surrender a certificate of registration as required by subsection (1) is liable to a penalty of \$100, but it is a defence to a prosecution for an offence against this subsection if the defendant satisfies the court that the failure to surrender the certificate was due to its loss or destruction.

“(3) Where a person fails to surrender a certificate of registration as required by this section, that failure does not prejudice or affect the removal of that person's name from the register and the cancellation of the certificate or, as the case may be, the suspension of the certificate.”.

7 Section 18 of the Principal Act is amended—

Offences.

- (a) by omitting from subsection (1) the amount “ \$40 ” and substituting the amount “ \$200 ”;

- (b) by omitting paragraph (b) of subsection (2);
- (c) by omitting from that subsection the amount “ \$40 ” and substituting the amount “ \$100 ”; and
- (d) by omitting from subsection (5) the amount “ \$40 ” and substituting the amount “ \$100 ”.

Appeal from
decision of
Board.

Transitional
provisions.

8 Section 21 of the Principal Act is repealed.

9—(1) Where an application for registration under the Principal Act has been made to the Registrar, but has not been determined by the Board, before the commencement of this Act, the Board shall determine that application as if this Act had not been enacted.

(2) Where an inquiry by the Board under section 14 of the Principal Act has been commenced, but has not been completed, before the commencement of this Act, the Board shall continue and complete that inquiry, and, if necessary, exercise its powers under that section, as if this Act had not been enacted.

(3) Where an appeal under section 21 of the Principal Act has been instituted, but has not been determined, before the commencement of this Act, that appeal shall be continued and determined as if this Act had not been enacted.

LOCAL GOVERNMENT (PLANNING) ACT 1977

ANALYSIS

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| <p>PART I—PRELIMINARY</p> <p>1. Short title and citation.</p> <p>PART II—CONSEQUENTIAL AMENDMENTS RELATING TO PLANNING APPEALS</p> <p>2. Procedure on appeals.</p> <p>PART III—REPRESENTATION OF MARINE BOARDS ON MASTER PLANNING AUTHORITIES</p> <p>3. Representation of marine boards on master planning authorities.</p> <p>4. Marine board members.</p> <p>5. Financial contributions by marine boards.</p> | <p>6. Master plans.</p> <p>7. Withdrawal of marine boards from master planning authorities.</p>
<p>PART IV—APPROVAL OF BUILDING ESTATES AND SUBDIVISIONS</p> <p>8. Commencement of Part IV.</p> <p>9. Provisions relating to approval and rejection of proposal plans.</p> <p>10. Procedure on appeals in cases of delay in approvals.</p> <p>11. Delegation of functions of Commissioner to master planning authorities.</p> |
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