

MIDWIVES ACT 1928.

19 GEORGE V. An Act to consolidate the Law providing for the
 No. 3734. Registration and Better Training of Midwives
 and regulating their Practice.

[12th February, 1929.]

Midwives Act
1915.

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title
and
commencement.

1. This Act may be cited as the *Midwives Act* 1928, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Repeal.
Schedule.

2. The Acts mentioned in the Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed. Such repeal shall not affect any registration effected or any regulation made or any right accrued or any liability civil or criminal incurred or any matter or thing done under the said repealed Acts or any of them before the commencement of this Act.

Interpretation.
Ib. s. 2.
Midwives Act
1928 (No. 3537)
s. 2.

3. In this Act unless inconsistent with the context or subject-matter—

"Board."
"Medical
practitioner."
"Midwife."
"Prescribed."
"Register."

"Board" means the Nurses Board constituted under the *Nurses Registration Act* 1923 and the *Nurses Act* 1928.

"Medical practitioner" means a legally-qualified medical practitioner.

"Midwife" means a woman who is registered under this Act.

"Prescribed" means prescribed by this Act or by regulations made under this Act or any corresponding previous enactment.

"Register" means the Register of Midwives to be kept under this Act.

“ Regulations ” means regulations made by the Board under this Act or any corresponding previous enactment.

Any reference in any enactment to the Midwives Board shall unless inconsistent with the context or subject-matter be construed and take effect as if it were a reference to the Nurses Board aforesaid.

4. Nothing in this Act respecting midwives shall apply to medical practitioners.

5. The duties and powers of the Board shall be—

- (a) with the approval of the Governor in Council to make regulations—
- (i.) regulating their own proceedings:
 - (ii.) regulating the issue of certificates and the conditions of admission to the register of midwives:
 - (iii.) regulating the course of training and the conduct of examinations and the remuneration of the examiners:
 - (iv.) regulating the admission to the register of women already in practice or being trained as midwives:
 - (v.) regulating supervising and restricting within due limits the practice of midwives and defining the emergencies in which a midwife shall call in a medical practitioner to her assistance, and the scale of fees to be paid to such medical practitioner in such cases of emergency:
 - (vi.) deciding the conditions under which midwives may be suspended from practice:
 - (vii.) prescribing the particulars to be contained in any notice required to be given under this Act by a midwife: and
 - (viii.) prescribing the fees to be paid for examinations certificates and registration under this Act;
- (b) to appoint examiners;
- (c) to decide upon the places where and the times when examinations shall be held;
- (d) to publish annually the register of midwives duly registered under this Act;
- (e) to decide upon the removal from the register of the name of any midwife for disobeying the regulations or for other misconduct and also to decide (subject to the provisions of this Act) upon the restoration to the register of the name of any midwife so removed;
- (f) to issue and cancel certificates; and
- (g) generally, to do any other act or duty necessary for carrying out the provisions of this Act.

Midwives Act
1916.

“ Regulations.”

References to
Midwives Board.

Midwives Act
1928 (No. 3687)
s. 2.

Act not to
apply to
medical
practitioners.

Midwives Act
1916 s. 3.

2 Edw. VII.
c. 17 s. 16.

Duties and
powers of the
Board.

Ib. s. 5.

Comp. 2 Edw.
VII. c. 17 s. 2.

Midwives Act
1916 s. 4.

See House of
Lords Bill (No.)
cl. 5 (1) (e).

Midwives Act
1915 s. 8.
Publication of
regulations.

6. All regulations shall be published in the *Government Gazette* and when published shall have the force of law and be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

Register of
midwives.
Ib. s. 8.
Comp. 2 Edw.
VII. c. 17 s. 4.

7. (1) The Board shall cause to be kept a register of midwives containing the names of—

- (a) those midwives registered under this Act who were in practice as midwives at the commencement of the *Midwives Act 1915* ;
- (b) those midwives registered under this Act or any corresponding previous enactments who have been registered or certified in any other part of His Majesty's dominions ; and
- (c) all other midwives registered under this Act or any corresponding previous enactments.

(2) The entry on the register shall in each case indicate the conditions in virtue of which the certificate of registration was granted.^(a)

Registrar.
Midwives Act
1928 (No. 3587)
s. 2.

8. The registrar appointed under the *Nurses Act 1928* shall be the registrar for the purposes of this Act.

Register to be
gazetted when
directed by
Minister.

9. (1) The Board shall in the month of January in every year in which the Minister so directs cause a copy of the register corrected to the thirty-first day of December then last past to be published in the *Government Gazette*.

Midwives Act
1916 s. 8.
Supplementary
lists.

(2) In the month of January in every year in which a copy of the register is not published a supplementary list showing all alterations additions revisions and removals made in the register during the preceding twelve months shall be published in the *Government Gazette*.

Published
copies and lists
to be read
together.

(3) Every supplementary list so published shall be deemed to be part of the last published copy of the register and such last published copy shall be read and construed as subject to every such list.

Evidence by
registrar.

(4) Where a copy of the register has been published as aforesaid such copy supplemented by all supplementary lists referring to that register and published as aforesaid shall until the next publication of a copy of the register be evidence that the women specified therein as registered are registered under this Act and the absence of the name of any person from such published copy supplemented as aforesaid shall be *prima facie* evidence that such person is not registered under this Act.

Evidence of
registration by
certificate.

(5) In the case of any woman whose name does not appear in such published copy supplemented as aforesaid a certificate under the hand of the registrar to the effect that she is registered under this Act shall be evidence that she is so registered.

(a) See the *Nurses Act 1928*, section 4, for a provision enabling registered nurses to be registered as midwives in certain circumstances.

(6) A certificate purporting to be signed by the registrar that the name of a woman whose name appears in such published copy supplemented as aforesaid has been removed from the register and of the date of such removal shall be evidence that such woman is not registered under this Act and of the date as from which she ceased to be so registered.

Midwives Act
1916.

Evidence of
removal from
register by
certificate.

10. Any woman who not being registered under this Act takes or uses the name or title of midwife (either alone or in combination with any other word or words) or any name title addition description or designation implying that she is registered under this Act or is a person specially qualified to practise midwifery or is recognised by law as a midwife shall be liable to a penalty of not more than Twenty pounds.

Name
"midwife" not
to be taken by
woman not
registered.

Midwives Act
1915 s. 9.
2 Edw. VII.
c. 17 s. 1 (1).

11. (1) No man shall for gain attend women in childbirth^(a) and no woman unless she is registered under this Act shall for gain attend women in childbirth.

Man or
unregistered
woman not to
attend cases for
gain except in
certain cases.

Ib. s. 10.
Ib. s. 1 (2).

(2) Every man so acting and every woman so acting without being registered under this Act shall be liable to a penalty of not more than Twenty pounds.

(3) This section shall not apply to medical practitioners or to any person rendering assistance in a case of emergency.

12. No woman shall be registered under this Act until she has complied with the conditions prescribed nor unless she has attained the age of twenty-three years.

Registration.
Ib. s. 11.
Comp. *Ib.* s. 1
(9).

13. (1) No woman registered under this Act shall employ an unregistered person as her substitute.

Employment of
unregistered
substitute
forbidden.

Ib. s. 12.
Ib. s. 1 (4).

(2) Every midwife offending against this section shall be liable to a penalty of not more than Twenty pounds.

14. Registration under this Act shall not confer upon any woman any right or title—

Registration
not to carry
right to
medical
practice.
Ib. s. 13.
Ib. s. 1 (5).

(a) to be registered under the *Medical Act* 1928 ; or

(b) to assume any name title addition description or designation implying that she is by law recognised as a medical practitioner or that she is authorized to grant any medical certificate or any certificate of death or of still-birth or to undertake the charge of cases of abnormality or disease in connexion with parturition.

15. (1) Any woman who applies to be registered under this Act shall be so registered if the Board is satisfied that she is of good character and if she—

Qualifications
for registration
as midwives.
Midwives Act
1917 s. 2.

(a) held at the commencement of the *Midwives Act* 1915 a certificate in midwifery from the Women's Hospital Melbourne or such other certificate as is approved by the Board ; or

(a) The words "attend women in childbirth" in this section are not limited to such attendance as consists in the actual delivery of the child, but

include attending the mother during the illness occasioned by her confinement.—*Davetel v. Ward*, 1921 V.L.R., 69.

Midwives Act
1919 s. 2.

(b) before the first day of January One thousand nine hundred and twenty-one produced evidence satisfactory to the Board that at the commencement of the *Midwives Act* 1915 she had been in *bond fide* practice as a midwife for at least—

(i.) two years within Victoria or any other State in the Commonwealth of Australia or within the Dominion of New Zealand : or

(ii.) one year within Victoria or any other part of His Majesty's dominions and has passed such examination as the Board requires ;
or

(c) completes the prescribed course of training and passes the prescribed examinations ; or

(d) was at the commencement of the *Midwives Act* 1915 being trained as a midwife at some hospital approved by the Board and at the date of application has at that or some other hospital approved by the Board completed a period of training amounting to at least one year and has passed such examination as the Board prescribes.

Provision as to
nurses with
naval or
military forces.

(2) In the case of any woman who (whether before or after the commencement of this Act) has served outside Victoria in the war commencing in August One thousand nine hundred and fourteen as a nurse with His Majesty's naval or military forces or the naval and military forces of the Commonwealth paragraph (b) of sub-section (1) of this section shall be read and construed as if the words " before the first day of January One thousand nine hundred and twenty-one " in that paragraph were omitted.

Registration of
midwives
trained &c.
in British
dominions.
Midwives Act
1928 (No. 3587)
s. 3.

16. (1) Any woman who produces evidence satisfactory to the Board of having been trained and registered or enrolled or certificated as a midwife in any part of His Majesty's dominions (whether such training and registration or enrolment or certification are under any law in force in such part or are provided for or regulated by any institution or association in existence in such part) may on payment of the like fee as is prescribed in ordinary cases be registered under this Act :

Provided that the standard of training and examination for midwives in such part of His Majesty's dominions (whether under such law or, as the case requires, in any such institution or association) is, in the opinion of the Board substantially equivalent to the standard of training and examination prescribed in respect of midwives pursuant to this Act.

Power to
require
applicants
to pass
examination
or undergo
training.

(2) The Board may if it thinks expedient require any applicant for registration under this section to pass such examination as for the purposes of this section is prescribed and may in any special case require any applicant to undergo such supplementary training as the Board thinks fit.

17. (1) There shall be paid by every woman presenting herself for examination or registration such fees as are prescribed not exceeding—

Midwives Act
1915 s. 16.
Fee.
Comp. 2 Edw.
VII. c. 17 s. 6.

- (a) for examination : One pound one shilling ;
(b) for registration : Five shillings.

(2) There shall also be paid to the Board by every midwife a fee of Two shillings and sixpence during the month of December in each year subsequent to the year in which her registration is effected ; and if any midwife in any year makes default in paying such fee her name may be removed from the register but if she gives a satisfactory explanation of such default her name shall be restored to the register on payment of such fee (if any) not exceeding Ten shillings as the Board directs.

Annual fee for
renewal of
registration.
Midwives Act
1917 s. 3.
Midwives Act
1919 s. 3.
Midwives Act
1928 (No. 3587)
s. 5.

(3) All fees as aforesaid shall be paid to the Board.

(4) The Board shall apply such fees to the payment of expenses connected with examinations and certificates and to the general expenses of the Board in carrying this Act into execution.

(5) The Board shall as soon as practicable after the thirtieth day of June in each year publish a financial statement made up to that date and showing the receipts and expenditure including liabilities of the Board during the preceding twelve months which statement shall be audited by an auditor licensed by the Companies' Auditors Board.

Statement of
accounts and
audit.

(6) The Board shall submit to the Minister a copy of the statement so audited.

(7) When the copy of the financial statement has been submitted as aforesaid the Governor in Council may, by Order published in the *Government Gazette*, direct that the whole or any part of the balance of the fees and penalties paid or recovered under this Act or any corresponding previous enactment and paid to the Board shall be paid into the consolidated revenue, and the Board shall comply with the said direction accordingly.

Application of
balance of fees
and penalties
paid under
Act.
Ib. s. 4.

18. Before suspending any midwife from practice or removing the name of any midwife from the register for disobeying the regulations or for other misconduct the Board shall—

Notice to be
given upon
suspension from
practice or
removal from
register.

- (a) send to such midwife by registered letter a written statement of the disobedience or misconduct ; and
(b) afford her an opportunity of giving an explanation personally or in writing.

Midwives Act
1915 s. 17.

19 (1) Any woman who feels aggrieved by any decision of the Board in refusing to register her under this Act or in removing her name from the register may appeal therefrom to a police magistrate within three months after the notification of such decision to her.

Appeal from
decision of
Board.
Ib. s. 18.
Comp. *Ib. s. 4.*

(2) Such police magistrate shall entertain inquire into and decide upon the appeal and for that purpose may do all such matters and things relating thereto and in the same manner and to the same extent as he is empowered to do in the exercise of his ordinary jurisdiction ; and his decision shall be final and without appeal.

Midwives Act
1916 s. 19.
Return of
certificate.
See House of
Lords Bill (So.)
cl. 9.

20. (1) Any woman whose name is ordered to be removed from the register shall within fourteen days from the notification to her of the order surrender her certificate to the Board.

(2) If she fails to do so she shall be liable to a penalty of not more than Twenty pounds.

Temporary
suspension to
prevent spread
of infection.
Ib. s. 20.
2 Edw. VII.
c. 17 s. 8 (3).

Compensation
to midwife
temporarily
suspended from
practice.

See House of
Lords Bill (So.)
cl. 6 (2).

Notification of
practice.

Ib. s. 21.

Comp. *Ib.* s. 10.

21. The Board may—

(a) suspend any midwife temporarily from practice in accordance with the regulations if such suspension appears necessary to prevent the spread of infection ; and

(b) if it thinks fit pay her such reasonable compensation for loss of practice as in the circumstances seems just.

22. (1) Every woman registered under this Act shall—

(a) before holding herself out as a practising midwife or commencing to practise as a midwife in any place give notice in writing of her intention so to do together with her address to the Board ;

(b) give a like notice in the month of December in every year thereafter during which she continues to practise in such place ; and

(c) give a like notice within three days after any change of her address.

(2) Every notice under this section shall contain such particulars as are prescribed to secure the identification of the person giving it.

(3) Every woman who omits to give the said notices or any of them or knowingly or wilfully makes or causes or procures any other person to make any false statement in any such notice shall be liable to a penalty of not more than Twenty pounds.

Penalty for
obtaining a
certificate by
false
representation.
Ib. s. 22.
Comp. *Ib.* s. 11.

23. Every woman who procures or attempts to procure a certificate under this Act by making or producing or causing to be made or produced any false and fraudulent declaration certificate or representation either in writing or otherwise shall be guilty of a misdemeanour and shall be liable to be imprisoned for a term of not more than twelve months.

Penalty for
wilful
falsification of
the register.
Ib. s. 23.
Comp. *Ib.* s. 12.

24. Every person wilfully making or causing to be made any falsification in any matter relating to the register shall be guilty of a misdemeanour and shall be liable to be imprisoned for a term of not more than twelve months.

Penalty for
disobedience of
order of Board
or regulation.
Ib. s. 24.

25. Save as otherwise expressly provided every midwife—

(a) who fails neglects or refuses to comply with any lawful order or direction of the Board made pursuant to this Act or any regulation ; or

(b) who is guilty of a contravention of any regulation, shall be liable to a penalty of not more than Twenty pounds.

26. The Board shall for the purpose of conducting any investigation or inquiry authorized to be made under this Act have all the powers conferred upon a board appointed by the Governor in Council under sections fourteen fifteen and sixteen of the *Evidence Act* 1928.

Midwives Act 1915 s. 25. Powers conferred on Board in conducting investigations.

27. (1) In case of an emergency as defined in the regulations a midwife shall (where no medical practitioner engaged by or on behalf of the patient is in attendance) call in to her assistance a medical practitioner.

Medical assistance in case of emergency. *Midwives Act* 1915 s. 5.

(2) The midwife shall report forthwith to the Board each case of emergency in which she has called in a medical practitioner to her assistance stating the nature of the emergency and the name of the medical practitioner.

(3) The medical practitioner so called in may recover his fee from the patient or her husband or other person liable under the *Maintenance Act* 1928 for her confinement expenses :^(a)

Provided that where in any case it is shown to the satisfaction of the Board that the patient or her husband is unable to pay such fee the Board shall on the application of such medical practitioner pay him a fee according to the prescribed scale and such fee shall cover one subsequent visit with due allowance for mileage.

(4) It shall be a condition of the payment of such fee by the Board that the medical practitioner so called in shall state in his application to the Board the nature of the emergency.

28. The Board may from time to time publish reports and advice concerning the preservation of infant life.

Reports &c. as to preservation of infant life.

29. The Board shall present to the Minister on or before the thirtieth day of September in each year a report of its proceedings up to the preceding thirtieth day of June.

Midwives Act 1915 s. 27. Annual report of the Board. *Id.* s. 28.

30. (1) Any proceedings for the recovery of penalties under this Act may be taken by any person authorized by the Board either generally or in any particular case; and in any such proceedings no proof shall until evidence is given to the contrary be required of any such authority having been given by the Board.

See House of Lords Bill (Se.) cl. 24. Proceedings for recovery of penalties. *Id.* s. 29.

(2) All penalties recovered under this Act shall be paid to the Board to be applied towards the expenses of carrying this Act into execution.

Appropriation of penalties.

SCHEDULE.

Section 2.

Number of Act.	Title of Act.	Extent of Repeal.
2773	<i>Midwives Act</i> 1915	So much as is not already repealed.
2887	<i>Midwives Act</i> 1916	The whole.
2907	<i>Midwives Act</i> 1917	The whole.
3036	<i>Midwives Act</i> 1919	The whole.
3587	<i>Midwives Act</i> 1928	So much as is not otherwise repealed.

(a) See *Maintenance Act* 1928, sections 26-35.