

No. 6328.

NURSES ACT 1958.

An Act to consolidate the Law relating to the Nursing Profession.

[30th September, 1958.]

BE it enacted by the Queen'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):—

1. This Act may be cited as the *Nurses Act* 1958, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*, and is divided into Parts as follows:—

Short title,
commence-
ment and
division.

Part I.—Administration ss. 4–15.

Part II.—Training and Registration ss. 16–27.

Part III.—Practice of the Profession ss. 28–37.

Part IV.—Miscellaneous ss. 38–46.

2. (1) The Act mentioned in the Schedule to this Act to the extent thereby expressed to be repealed is hereby repealed accordingly.

Repeal.
Schedule.

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the repealed Act or existing or continuing under that Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if that Act had not been so repealed;
- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation by-law order nomination election registration application authority delegation roll badge publication approval determination appointment cancellation suspension notice proceeding appeal certificate liability or right made effected issued granted given accrued incurred or acquired or existing or continuing by or under the repealed Act before the commencement of this Act.

Interpretation.

No. 6035 s. 3.

“By-laws.”

“Council.”

“Enrolled.”

“Executive Committee.”

“Medical practitioner.”

“Nurse.”
“Nursing.”

“Part.”

“Prescribed.”

“Register”
&c.

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

“By-laws” means by-laws under this Act.

“Council” means the Victorian Nursing Council.

“Enrolled” means being on the roll of persons who are in possession for the time being of a current practising certificate in respect of any branch of nursing.

“Executive Committee” means the Executive Committee of the Council under this Act.

“Medical practitioner” means a legally qualified medical practitioner.

“Nurse” includes midwife and “nursing” includes the practice of midwifery.

“Part” means Part of this Act.

“Prescribed” means prescribed by this Act or the regulations or by-laws.

“Register” means the register kept under this Act and “registered” and “registration” have corresponding meanings.

- “Registered general nurse” means a general trained nurse who is registered as such under this Act. “Registered general nurse.”
- “Registered mental deficiency nurse” means a mental deficiency nurse who is registered as such under this Act. “Registered mental deficiency nurse.”
- “Registered mental nurse” means a mental nurse who is registered as such under this Act. “Registered mental nurse.”
- “Registered midwife” means a midwife who is registered as such under this Act. “Registered midwife.”
- “Registered mothercraft nurse” means a mothercraft nurse who is registered as such under this Act. “Registered mothercraft nurse.”
- “Registered nursing aide” means a nursing aide who is registered as such under this Act. “Registered nursing aide.”
- “Regulations” means regulations under this Act. “Regulations.”
- “Training school” means any hospital mental hospital institution school or other place wholly or partly used as a school for the training of persons in any branch of nursing which is for the time being approved by the Council as a training school for any of the purposes of this Act. “Training school.”

PART I.—ADMINISTRATION.

4. (1) There shall be a Council to be called the Victorian Nursing Council consisting of twenty-eight members appointed by the Governor in Council, and the Governor in Council may at any time remove any member of the Council. Victorian Nursing Council. No. 6035 s. 4.

(2) Of the members of the Council—

- (a) twelve shall be registered general nurses of whom—
- (i) one shall be nominated by the body known as the Hospital Matrons' Association of Victoria;
 - (ii) two shall be nominated by the body known as the Royal Victorian College of Nursing of whom one shall be a nurse engaged in public health duties;
 - (iii) one shall be nominated by the body known as the Victorian State Committee of the College of Nursing, Australia;
 - (iv) one shall be nominated by the body known as the Florence Nightingale Committee, Victorian Branch;
 - (v) one shall be a sister tutor holding a recognized diploma in that course and nominated by the body known as the Royal Victorian College of Nursing;

- (vi) six shall be registered general nurses elected in the prescribed manner by registered general nurses;
- (b) one shall be a registered midwife elected in the prescribed manner by registered midwives;
- (c) two shall be registered mental nurses or registered mental deficiency nurses of whom one shall be elected in the prescribed manner by registered mental nurses and registered mental deficiency nurses and one shall be also a registered general nurse nominated by the Mental Hygiene Authority;
- (d) two shall be persons nominated by the Minister of whom—
 - (i) one shall be appointed as representing mothercraft nurses;
 - (ii) one shall be appointed as representing nursing aides;
- (e) of the remaining eleven—
 - (i) one shall be nominated by the Hospitals and Charities Commission;
 - (ii) one shall be nominated by the Chief Health Officer of the Department of Health;
 - (iii) one shall be nominated by the Mental Hygiene Branch of the Department of Health;
 - (iv) two shall be registered medical practitioners nominated by the body known as the British Medical Association (Victorian Branch);
 - (v) one shall be a barrister and solicitor of the Supreme Court of Victoria;
 - (vi) one shall be an expert in the educational field;
 - (vii) one shall be a person associated with metropolitan public hospitals nominated by the Metropolitan Hospitals Association;
 - (viii) one shall be a person associated with country public hospitals nominated by the Country Hospitals Association;
 - (ix) one shall be a person nominated by the Bush Nursing Association of Victoria;
 - (x) one shall be a registered general nurse nominated by the Private Hospitals Association of Victoria.

(3) The Chief Nursing Officer of the Council and her deputy may also attend meetings of the Council but shall not be members thereof or entitled to vote thereat.

(4) If at any time any body or person fails or neglects to nominate or elect a suitable person for appointment to the Council after being so requested by the Minister and within the period specified by the Minister in the request the Governor in Council may without nomination or election appoint any otherwise eligible person to be a member of the Council.

5. (1) Each appointment of a member of the Council shall be for such period not exceeding three years as is specified in the instrument of appointment, and any member shall be eligible for re-appointment.

Term of office,
vacancies, &c.
No. 6035 s. 5.

(2) If any member of the Council is absent without permission of the Council from four consecutive meetings or becomes bankrupt or compounds with his creditors or is convicted of any indictable offence or becomes insane or is removed or resigns or dies his seat shall thereupon become vacant, and every such vacancy shall be deemed to be an extraordinary vacancy.

(3) On the occurrence of any vacancy the Governor in Council may subject to this Act appoint any eligible person to fill the vacancy, and any person appointed to fill an extraordinary vacancy shall hold office only for the remainder of the term for which his predecessor was appointed.

(4) Where an extraordinary vacancy exists in the office of an elected member the person who was next in order to the elected candidate or (as the case requires) to the last of the elected candidates at the last poll for such office, if such person can be ascertained, shall without further election be appointed by the Governor in Council to fill the vacancy.

(5) During any vacancy in the Council the continuing members subject to their being a quorum may act as if no vacancy existed.

6. (1) A quorum of the Council at any meeting shall consist of thirteen members of whom not less than seven shall be registered general nurses.

Proceedings
of Council.
No. 6035 s. 6.

(2) The Council shall meet at such times and places as it decides and subject to this Act and the regulations and by-laws may regulate its own proceedings.

7. (1) The Minister shall from time to time appoint a chairman of the Council from among the members of the Council and may at any time remove such chairman.

Chairman.
No. 6035 s. 7.

(2) At any meeting of the Council the chairman, or in his absence any member elected by the members present to act as chairman of the meeting, shall preside and in the case of an equality of votes shall have a second or casting vote.

(3) If at any such election there is an equality of votes it shall be decided by lot which of the members obtaining an equal number of votes shall act as chairman of the meeting.

Council to be
successor of
Nurses Board.
No. 6035
s. 8 (3), (4).

8. (1) It is hereby declared that as on the day the *Nurses Act* 1956 came into operation the Victorian Nursing Council became the successor in law of the Nurses Board under the *Nurses Act* 1928, which Board thereupon became dissolved and the members thereof went out of office, and the Council shall be deemed to be the same body as the said Board and no act matter or thing shall be affected or abated thereby.

(2) Expenses incurred by the Council or the Executive Committee before the commencement of the *Nurses Act* 1956 shall be borne by the Nurses Board.

Functions of
Council.
No. 6035 s. 9.

9. (1) The Council will act as adviser to the Minister on all nursing matters.

(2) The Council is established to co-ordinate policy in regard to nursing matters, and without affecting the generality of the foregoing and subject to this Act the functions of the Council shall be—

- (a) to authorize and carry out research and investigation into all matters concerning nursing under this Act and when deemed desirable by the Council to conduct or authorize for specified periods the conducting of special courses of any type of nurse training;
- (b) to consult with and advise the appropriate authorities concerning matters relative to the standards of the nursing profession and ancillary nursing services;
- (c) to maintain close co-operation with all statutory and non-statutory bodies concerned with the use and employment of nurses of all types;
- (d) subject to any direction of the Minister, given either generally or in a particular case, to determine after consultation with the appropriate authority the functions of any class of nurse or any ancillary nursing service for which the training in nursing of members of that class or service has prepared them;

- (e) to determine length and content of and educational standards for entrance into courses of training for all classes of nurses;
- (f) to recognize courses of training and standards of examination alternative or additional to those established under this Act which may be recognized for the purposes of registration under this Act;
- (g) to determine standards of instruction (including qualifications of tutors and lecturers and standards of facilities for teaching) for all types of nurse training;
- (h) to determine standards of examination for all types of nurse training under this Act and to be responsible for fixing dates and times when and places where examinations will be held, for the conduct of such examinations, and for the appointment of examiners;
- (i) to be responsible for the granting of provisional approval to, and for approval for the purposes of this Act of, any hospital school of nursing or other institution or any part of such hospital school or institution as a training school for the whole or part of any course of nurse training and for the cancellation of any such approval or provisional approval;
- (j) to be responsible for the registration of any person qualified in any branch of nursing who desires such registration, for the issue of certificates of registration and of annual practising certificates and for the cancellation of any such certificates;
- (k) to be responsible for the regular inspection of all places where the training of nurses is carried out, and for the inspection of any places where such training is proposed to be carried out;
- (l) to be responsible for the general control of the practice of midwifery by midwives;
- (m) to promote and where necessary to establish refresher courses for all types of nursing and to determine the length of and to approve training schools for such courses;
- (n) to authorize the publication of reports information and advice concerning all nursing matters;
- (o) to circulate to registered nurses of appropriate types information concerning maternal mortality and the preservation of infant life.

Executive
Committee.
No. 6035 s. 10.

10. (1) For the purpose of carrying out policy determined by the Council, there shall from time to time be appointed by the Council an Executive Committee consisting of—

- (a) the Chairman of the Council *ex officio*;
- (b) nine other members of the Council of whom not more than six shall be persons registered under this Act.

(2) If any member of the Executive Committee ceases to be a member of the Council or resigns or is removed by the Council from the Executive Committee for any specified reason he shall cease to be a member of the Executive Committee and the Council shall appoint a member of the Council to be a member of the Executive Committee in his place.

(3) Subject to the foregoing, members of the Executive Committee shall hold office until the first meeting of the Council after a periodical appointment of members of the Council and a new Executive Committee shall be appointed at such meeting.

(4) One of the members of the Executive Committee shall be selected by the Council as Chairman and another as Deputy Chairman of the Executive Committee.

(5) During any vacancy in the Executive Committee the continuing members subject to there being a quorum may act as if no vacancy existed.

(6) Six members of the Executive Committee shall constitute a quorum.

Function of
Executive
Committee.
No. 6035 s. 11

11. (1) Subject to this Act the administration of the funds and of the conduct of the day to day affairs of the Council (other than the determination of standards) may be delegated by the Council to the Executive Committee.

(2) Any such delegation shall be revocable at will and shall not prevent the exercise by the Council of any of the powers so delegated.

(3) Such delegation may include powers functions and duties as to—

- (a) the appointment and dismissal and, subject to the Minister, the determination of salaries and wages of all employes other than the Chief Nursing Officer and the Deputy Chief Nursing Officer;
- (b) the control of the funds of the Council;
- (c) the granting of provisional approval to and approval of training schools for the training of any type of nurse;

- (d) the registration of persons qualified in any branch of nursing and the issue of certificates of registration and annual practising certificates to such persons;
- (e) the cancellation of any such registration or certificate;
- (f) responsibility for the regular inspection of training schools for all classes of nurse training;
- (g) supervision of the practice of all branches of nursing;
- (h) generally, any matter respecting the day to day administration of the Council.

(4) Subject to this Act and to the by-laws the Executive Committee—

- (a) shall have and may exercise all powers functions and duties delegated by the Council;
- (b) shall hold meetings at least fortnightly on such days and at such times and places as the Executive Committee (or in the case of a first meeting the Council) determines;
- (c) shall keep an accurate record concerning the exercise of the powers and duties delegated by the Council;
- (d) shall report its proceedings to the Council from time to time.

12. The Council and the Executive Committee shall for the purposes of conducting any investigation or inquiry authorized to be made under this Act have all the powers conferred by sections fourteen to sixteen of the *Evidence Act 1958* upon a board appointed by the Governor in Council, which sections shall apply as if the Council or Executive Committee were such a board and the chairman of the Council or Executive Committee were the chairman of such a board.

Powers of inquiry.
No. 6035 s. 12.

13. (1) For the purposes of this Act the Council may with the approval of the Minister in respect of branches of nursing or of any other matter associated with the work of the Council establish advisory committees consisting of three members of the Council, one of whom shall be appointed by the Council as chairman.

Advisory committees.
No. 6035 s. 13.

(2) Subject to this Act and the regulations and by-laws each advisory committee shall report to the Council through the Executive Committee on any particular matter referred to it by the Council and may if the Council directs act as a standing committee to report from time to time upon any particular matter or any recurring problem.

(3) The Council may on the recommendation of any advisory committee co-opt persons having special knowledge to sit with that committee, and such co-opted persons shall be paid such fees and expenses as are prescribed.

Appointment
of officers.
No. 6035 s. 14.

14. (1) The Council may subject to any direction by the Minister whether given generally or in a particular case—

(a) appoint a Chief Nursing Officer a Deputy Chief Nursing Officer and such other persons as it deems necessary to enable the exercise of its functions and authorities and the carrying out of its duties and may dismiss any person so appointed;

(b) pay to any person so appointed such salaries and wages as it determines.

(2) The Chief Nursing Officer the Deputy Chief Nursing Officer and any other officer specified in the by-laws shall carry out such duties and may exercise such powers on behalf of the Council as are prescribed by the by-laws.

(3) If immediately prior to the appointment of any person as an officer of the Council such person was an officer of the public service such person shall—

(a) (while being or continuing to be or on ceasing to be an officer of the Council) be eligible to be appointed by the Public Service Board to some office in the public service with a classification and emolument corresponding with or higher than that which he held in the public service immediately prior to his appointment as an officer of the Council as if the period of his service with the Council had been service in the public service;

(b) for the purposes of section sixty-three of the *Public Service Act* 1958 be deemed to continue to be an officer of the public service while he is an officer of the Council.

(4) If immediately prior to the appointment of any person as an officer of the Council such person was an officer within the meaning of the *Superannuation Act* 1958 or any corresponding previous enactment he shall notwithstanding such appointment continue subject to that Act during his service with the Council to be an officer within the meaning of that Act.

(5) The Chief Nursing Officer the Deputy Chief Nursing Officer and any other officer required by the by-laws so to do shall attend all meetings of the Executive Committee but may not vote thereat.

(6) Subject to this Act and the by-laws the Executive Committee may regulate its own proceedings.

15. (1) If any dispute or question arises in respect of any action or decision of the Council under this Act affecting the duties or responsibilities of any statutory or non-statutory body, the Minister shall after due inquiry determine such dispute or question and his determination shall be final.

Powers of
Minister.
No. 6035 s. 15.

(2) All the powers rights and authorities conferred or imposed on the Council (whether by this or any other Act) shall whenever he deems fit be exercisable by the Minister, and when so exercised shall (if so ordered by the Minister) supersede any action decision order direction or notice of the Council.

(3) Every officer of or person employed by the Council shall at all times give effect to any order or direction of the Minister.

PART II.—TRAINING AND REGISTRATION.

16. (1) Subject to this Act and the regulations the Council may approve training schools for the purposes of this Act in respect of the various classes of nursing.

Training
schools.
No. 6035 s. 16.

(2) No training school in respect of any class of nursing shall be so approved unless the facilities thereat for teaching and training (including availability of sufficient and qualified staff) conform to the standards determined by the Council and unless there is provided thereat the prescribed course of training for the prescribed period.

(3) The periods of the courses of training for qualification for registration in respect of any class of nursing may vary for different classes and for different training schools for such classes, but shall respectively be for such periods or within such limits as are prescribed in respect of each class.

(4) In considering the case of any trainee nurse whose training has been discontinued in a training school for any reason whatsoever and who applies to resume training in another school the Council shall take into consideration the reasons for such discontinuance when deciding the further period of training necessary for such trainee nurse to complete the nurse training course.

17. (1) The governing body of every training school shall when so required by the Council whether generally or in any particular case issue an appropriate certificate to any person who has satisfactorily completed at such school the prescribed period of training or any part of such period under the prescribed curriculum in any class of nursing.

Certificate of
completion of
courses.
No. 6035 s. 17.

(2) The governing body of every training school shall in the prescribed form and within the prescribed period or at the prescribed time submit to the Council a report containing the

prescribed particulars concerning every trainee nurse who has discontinued training and such other reports in respect of nurses in training or of any aspect of nursing under this Act as are prescribed.

The register.
No. 6035 s. 18.

18. (1) The Council shall cause to be kept a register of the names and other prescribed particulars of persons who are qualified for and not disqualified from registration under this Act as—

- (a) general nurses;
- (b) midwives;
- (c) mental nurses;
- (d) mental deficiency nurses;
- (e) mothercraft nurses;
- (f) nursing aides;
- (g) nurses of any other branch of nursing or postgraduate nursing declared to be such by Order of the Governor in Council published in the *Government Gazette*.

(2) A separate part of the register shall be assigned to each such branch, and where any person is qualified for and not disqualified from registration in more than one branch of nursing the Council shall register such person's name in every appropriate part of the register.

(3) No male person shall be registered as a midwife or as a mothercraft nurse.

Qualification
for
registration.
No. 6035 s. 19.

19. (1) Subject to this Act no person shall be qualified to be or shall be registered in respect of any branch of nursing unless such person—

- (a) has completed the prescribed course of training, passed the prescribed examinations and attained the prescribed age for registration in such branch;
- (b) has paid the prescribed fees; and
- (c) has satisfied the Council that such person is of good character:

Provided that where in any locality a hospital approved by the Council for the training of midwives is not available any woman being a registered general nurse upon production to the Council of a certificate or certificates from any medical practitioner or practitioners showing that in any such locality or localities she has under the direction of a medical practitioner attended in childbirth not less than fifty women and has in the presence of a medical practitioner personally conducted not less than twenty cases of childbirth, and upon passing such examination as is prescribed and paying the prescribed fees and satisfying the Council that she is of good character, shall be entitled to be registered as a midwife.

(2) The Council may declare to be qualified for registration and register any person in respect of any branch of nursing who instead of completing the prescribed course of training and passing the prescribed examinations provides evidence satisfactory to the Council of having before the commencement of the *Nurses Act 1956* received from the Nurses Board a special certificate relating to such branch of nursing or of having been wholly or partly trained (whether before or after the commencement of this Act) in any part of the world other than Victoria and who in any such case undergoes such supplementary training (if any) and passes such examinations (if any) as the Council directs.

20. (1) Upon application in writing by the governing body of any training school, or of any body providing courses of training and examinations recognized by the Council for the purposes of registration under this Act, on behalf of any person—

Temporary
registration.
No. 6035 s. 20.

- (a) who is qualified in any part of the world other than Victoria to practise some branch of nursing; and
- (b) who is in Victoria or who proposes to come to Victoria for the purpose of further study in any branch of nursing—

the Council may temporarily register such person for the appropriate branch of nursing for the duration of such further study.

(2) Every person who is so temporarily registered shall be deemed to be in possession of an annual practising certificate under Part III. for the period of such temporary registration without any requirement to apply therefor or for a certificate to issue.

21. The Council may enter in the appropriate part of the register the name of any person who although not qualified for registration under this Act was before the commencement of the *Nurses Act 1956* entitled to registration on the Nurses Register the Midwives Register the Mothercraft Nurses Register the Mental Nurses Register or the Mental Deficiency Nurses Register aforesaid if such person is not disqualified from such registration under this Act or under the *Nurses Act 1956* or any Act repealed by that Act.

As to persons
entitled to
registration
before the
commence-
ment of
No. 6035.
No. 6035
s. 21 (3).

22. The Council may in its discretion register, by recording in a special section of the appropriate part of the register, the name and other prescribed particulars of any person who satisfies the Council by such evidence (including examination if deemed necessary) as the Council requires that such person has training and experience or training or experience sufficient to enable such person to practise the branch of nursing to which that part of the register relates.

Recording
registration
of certain
nurses.
No. 6035 s. 22.

Cancellation
and
suspension of
registration.
No. 6035 s. 23.

23. (1) The Council may by order cancel or suspend the registration in any one or more parts of the register of any registered person—

- (a) whose registration has been obtained by fraud or misrepresentation;
- (b) whose qualification for registration, if obtained wholly or in part elsewhere than in Victoria, has been (otherwise than for non-payment of a fee) in whole or in part withdrawn or cancelled by the public authority through which it was acquired or by which it was awarded;
- (c) who, whether before or after registration, has been convicted of any felony or misdemeanour or of any offence which if committed in Victoria would be a felony or misdemeanour;
- (d) who has been convicted of any offence against this Act or the regulations; or
- (e) whose registration may be cancelled or suspended for any cause prescribed by the regulations—

and during the period specified in the order of suspension or (as the case may be) upon the making of the order of cancellation such person shall cease to be so registered and shall be disqualified from registration on any part of the register specified by the Council in the order.

(2) The cancellation or suspension of the registration of any person may at any time and for such reasons as the Council thinks fit be annulled by order of the Council and thereupon the disqualification shall cease.

(3) Before so cancelling or suspending the registration of any person for any cause specified in paragraph (d) or (e) of sub-section (1) of this section the Council shall—

- (a) send by registered letter through the post addressed to such person at the address as appearing on the register notice in writing of the ground on which it is proposed to cancel or suspend the registration;
- (b) afford such person an opportunity of giving an explanation personally or in writing; and
- (c) hold full inquiry into the matter.

Appeals.
No. 6035 s. 24.

24. (1) When the Council orders the cancellation or suspension of the registration or refuses the registration of any person it shall by registered letter through the post addressed to such person at the address appearing on the register or the last known address notify such person of such order or refusal.

(2) Any person who feels aggrieved by any order of the Council cancelling or suspending the registration of such person or by any refusal to register such person may appeal therefrom to a stipendiary magistrate within three months after the notification of such order or refusal to such person.

(3) Such 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.

25. Every person registered under this Act on changing to a new address shall in writing notify the Council of such new address.

Change of
address.
No. 6035 s. 25.

26. Every registrar of births and deaths upon registering the death of any person known to him to be registered under this Act shall forthwith transmit notice of such death by post to the Council which shall thereupon cause the name of such person to be erased or removed from the register.

Duty of
registrars of
births and
deaths.
No. 6035 s. 26.

27. (1) The Council may from time to time make all necessary alterations in the registration of the names and other prescribed particulars of the persons registered under this Act and may from time to time cause to be posted to any registered person at such person's address as appearing on the register a registered letter stating that if no answer is returned to such letter within a period of six months from the date of the posting thereof the Council may cause the name of such person to be removed from the register, and if no answer is returned to such letter within such period the Council may remove the name of such person from the register accordingly.

Rectification
of register.
No. 5035 s. 27.

(2) Upon the personal application of any person whose name has been so removed and upon proof satisfactory to the Council of the former registration of such person and that such person is not otherwise disqualified to registration the Council shall cause such person's name to be restored to the appropriate part or parts of the register.

PART III.—PRACTICE OF THE PROFESSION.

28. (1) Every person registered under this Act who intends to practise in any branch of nursing in respect of which such person is registered shall give notice in the prescribed form to the Council of that intention.

Annual
practising
certificates.
No. 6035 s. 28.

(2) Every person who holds an annual practising certificate and who intends to continue to practise in the next succeeding year shall in the month of November in the current year give a notice in the prescribed form of that intention to continue.

(3) On receipt of such a notice of intention to practise or to continue to practise accompanied by the amount of the prescribed fee the Council shall issue to the person concerned a certificate (to be known as an "annual practising certificate"), or a renewal thereof, in respect of any branch of nursing in respect of which such person is registered and gives notice as aforesaid:

Provided that if such person has not, at any time within the period of five years before the first day of January in the year in respect of which the notice of intention to practise is given, held or been deemed under this Act to have held an annual practising certificate in respect of any branch of nursing concerned the Council may withhold the issue of the certificate in respect of any such branch of nursing until the person concerned has satisfactorily completed such refresher course of nursing as the Council directs:

Provided further that before issuing an annual practising certificate or a renewal thereof the Council may satisfy itself that such person is of sound health.

(4) The holder of an annual practising certificate shall within three days of any change of permanent address advise the Council in writing thereof.

Currency of
annual
practising
certificates.
No. 6035 s. 29.

29. (1) A new annual practising certificate shall take effect from the day of issue.

(2) A renewal of an annual practising certificate shall take effect from the first day of January in the year to which the renewal relates.

(3) Subject to this Act a new annual practising certificate or any renewal thereof shall expire on the thirty-first day of December in the year to which it relates, but shall be renewable from year to year.

(4) On cancellation or suspension of the registration of any person in respect of any branch of nursing any annual practising certificate held by such person in respect of such branch shall automatically expire or (as the case requires) be of no effect for the period of suspension.

Enrolment of
nurses holding
annual
practising
certificates.
No. 6035 s. 30.

30. (1) The Council shall cause to be kept rolls in respect of the several branches of nursing to which the register relates.

(2) Such rolls shall be in the prescribed form and shall contain the names and other prescribed particulars of persons who are registered under this Act and who are in possession of an annual practising certificate which is in force.

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

(4) In the month of January in every year in which a copy of any roll is not published a supplementary list showing all alterations additions revisions and removals made in or from such rolls during the preceding year shall be published in the *Government Gazette*.

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

(6) Any copy of any roll published as aforesaid shall be *prima facie* evidence that the persons specified therein as enrolled are or were registered and enrolled under this Act in respect of the relevant branch of nursing and the absence of the name of any person from such published copy shall be *prima facie* evidence that such person is not or was not (as the case may be) the holder of a current annual practising certificate in respect of the relevant branch of nursing.

(7) A certificate that any person is or was at any date or is not or was not at any date duly registered under this Act shall if signed by the officer of the Council authorized by the by-laws in that behalf be *prima facie* evidence of the fact stated in the certificate.

31. (1) Any person who practises any branch of nursing for fee or reward who does not hold an annual practising certificate in respect of that branch of nursing shall be guilty of an offence against this Act and in the case of a person so practising as a midwife shall in addition to any other penalty to which she is liable be also liable to a further penalty of not more than Twenty pounds.

Restriction on
practising
without
holding
annual
practising
certificate.
No. 6035 s. 31.

(2) No person shall be entitled to recover any charge in any court for any nursing advice or attention unless such person proves that at the time such advice or attention was provided such person was enrolled under this Act as being in possession of an annual practising certificate in respect of the branch of nursing concerned.

(3) No person who is not so enrolled in respect of any branch of nursing shall hold any appointment as a nurse in such branch of nursing in any hospital or mental hospital or in any subsidized public institution or society for affording relief to the sick or the infirm or the aged or in any children's home or institution.

Badges &c.
No. 6035 s. 32.

32. (1) On application to the Council in the prescribed form any nurse who is registered under this Act shall be entitled to receive—

- (a) a prescribed badge; and
- (b) a written authority to wear a prescribed distinctive head-dress—

appropriate to the class of nursing for which such nurse is registered.

(2) In the case of the loss or destruction of any such badge the Council may if it thinks fit issue another badge on payment of the cost thereof.

Offences as to
improper use
of titles,
badges &c.
No. 6035 s. 33.

33. (1) No person—

- (a) shall be entitled to or shall take or use (either alone or in combination with any other word or words or letters) the name or title of registered nurse or of any class of nurse for which a separate part of the register is kept or any name title initials addition or description implying that such person is registered under this Act whether generally or in respect of any branch of nursing or is recognized by law as being so registered; or
- (b) shall wear or use any prescribed badge or any prescribed distinctive head-dress—

unless such person is registered under this Act in respect of the branch of nursing concerned.

(2) No person registered as a midwife shall employ a person not registered as a midwife as her substitute.

Return of
badges &c. on
removal from
register.
No. 6035 s. 34.

34. (1) Any person whose registration in respect of any branch of nursing is cancelled shall within fourteen days from the notification to such person of the order of cancellation surrender to the Council every certificate and badge and written authority to wear a prescribed distinctive head-dress issued to such person in respect of such branch of nursing.

(2) The cancellation of registration shall be effectual notwithstanding such failure to surrender any such certificate badge or authority.

Exception as
to midwifery
in certain
localities.
No. 6035 s. 35.

35. Notwithstanding anything in this Act where in any locality a hospital approved by the Council pursuant to this Act for the training of midwives is not available any woman being a registered nurse may in that locality under the direction of a medical practitioner attend for gain women in childbirth.

36. (1) The Council may—

- (a) in accordance with the regulations suspend any midwife temporarily from practice 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.

Suspension of midwives to prevent infection.
No. 6035 s. 36.

(2) During the period of such suspension such midwife shall not practise as a midwife, but save as aforesaid nothing in this section shall affect her registration or annual practising certificate.

37. (1) In any case of emergency of a class prescribed by 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.

Duties of midwives in emergency cases.
No. 6035 s. 37.

(2) The midwife shall report forthwith to the Council 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 1958* for her confinement expenses:

Provided that where in any case it is shown to the satisfaction of the Council that the patient or her husband is unable to pay such fee the Council 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 Council that the medical practitioner so called in shall state in his application to the Council the nature of the emergency.

PART IV.—MISCELLANEOUS.

38. (1) There shall be paid to the Council by every candidate for examination or applicant for registration or for restoration of a name to the register after removal therefrom or for any certificate or renewal of a certificate such fees as are prescribed.

Fees.
No. 6035 s. 38.

(2) Such fees shall not exceed—

- (a) for any examination other than a final examination—
One guinea;
- (b) for final examination (if any) and registration in any one branch of nursing—Four guineas;
- (c) for any certificate or renewal of a certificate including an annual practising certificate—Ten shillings.

Victorian
Nursing
Council Fund.
No. 6035 s. 39.

39. (1) All fees and penalties paid or recovered under this Act shall be paid to the Council.

(2) All such fees and penalties and all other moneys received by the Council from any source whatsoever including any sums appropriated by Parliament for the purposes of this Act shall be paid into a fund to be known as the "Victorian Nursing Council Fund".

(3) The Governor in Council may by Order authorize the Council to invest the whole or any portion of the said fund in such manner and subject to such conditions as are set out in such Order.

(4) The Council shall apply moneys to the credit of the said fund in the payment of expenses connected with examinations and the general expenses of the Council under this Act.

Annual
statement
audit and
report.
No. 6035 s. 40.

40. (1) The Council shall as soon as practicable after the thirtieth day of June in each year prepare a financial statement made up to that date showing the receipts and expenditure (including liabilities of the Council) during the preceding twelve months which statement shall be inspected and reported upon as provided under the *Audit Act 1958* for the inspection of and reporting upon the books and accounts of persons in the public service, and the Council shall pay for any such inspection and report such amount as the Treasurer of Victoria thinks fit.

(2) The Council shall—

(a) submit a copy of the statement so audited to the Minister who shall cause the same to be published in the *Government Gazette*; and

(b) present to the Minister on or before the thirtieth day of June in each year a report of its proceedings under this Act up to the preceding thirty-first day of March.

Penalty for
false
declarations
&c.
No. 6035 s. 41.

41. Every person who—

(a) procures or attempts to procure registration or any certificate or renewal thereof or any badge or any written authority to wear a prescribed distinctive head-dress under this Act by making or producing or causing to be made or produced any false and fraudulent declaration certificate application notice or representation whether in writing or otherwise; or

(b) wilfully makes or causes to be made any falsification in or in any manner relating to the register or any registration or to any roll of persons holding annual practising certificates in respect of any branch of nursing—

shall be guilty of an offence and liable to imprisonment for a term of not more than twelve months.

42. (1) Save as otherwise expressly provided by or under this Act every person registered under this Act who—

General
penalty
provision.
No. 6035 s. 42.

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

(b) contravenes or fails to comply with any provision of this Act or the regulations—

shall be guilty of an offence against this Act.

(2) Every person guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty of not more than Fifty pounds.

43. Any proceedings under this Act may be taken by any person authorized by the Council or the Executive Committee either generally or in any particular case; and in such proceedings no proof shall until evidence is given to the contrary be required of any such authority having been so given.

Who may
take
proceedings.
No. 6035 s. 43.

44. The Council may with the approval of the Minister make by-laws applicable to the Council the Executive Committee or officers and employes of the Council for or with respect to—

By-laws.
No. 6035 s. 44.

(a) the conduct of proceedings of the Council or of the Executive Committee;

(b) the powers of and the duties that shall be carried out by the Chief Nursing Officer the Deputy Chief Nursing Officer and any other officer specified in the by-laws;

(c) the control supervision guidance regulation and discipline of officers and employes of the Council;

(d) the exercise of any authority delegated by the Council;

(e) generally, any matter whatsoever affecting nursing matters under this Act.

45. The Council with the approval of the Governor in Council may make regulations for or with respect to—

Regulations.
No. 6035 s. 45.

(a) regulating the issue of certificates of registration under this Act and the conditions of registration in any part of the register;

(b) prescribing standards and conditions with respect to examinations and the conduct of examinations and the remuneration of the examiners and any matters ancillary to or connected with such examinations;

(c) prescribing conditions (including conditions as to right of priority) for the admission of persons desiring to enter on courses of training in schools in receipt of aid from the State;

- (d) prescribing the educational qualifications required to be possessed by persons desiring to enter on courses of training for qualification for registration in any part of the register;
- (e) prescribing the age for admission into and the courses of training for qualification for registration (the periods of which may vary for different classes of training schools according to efficiency of the training provided at such schools and where the case so requires the number of beds provided thereat) and with respect to special branches of nursing, and in regard to such special branches prescribing the periods of the courses of training;
- (f) prescribing the conditions under which the manner in which and the periods for which special courses of training may be conducted;
- (g) prescribing the kinds of badges to be issued to registered persons and the distinctive head-dress for such persons and regulating the issue of such badges;
- (h) regulating the admission to the register of persons who at the commencement of the *Nurses Act 1956* were or had been already in practice in any branch of nursing or were being trained in any branch of nursing or of persons who have been nurses on war service or with the defence force of the Commonwealth of Australia;
- (i) regulating supervising and restricting within due limits the practice of any branch of nursing, and providing for temporary suspension of midwives to prevent spread of infection, defining the emergencies in which a midwife shall call in a medical practitioner to her assistance and prescribing the scale of fees to be paid to such medical practitioners;
- (j) prescribing the causes for which the conditions under which and the manner in which registered persons may be suspended from registration or the names of registered persons may be removed from any part of the register and the procedure for the annulment of any order for suspension or removal and for the restoration to any part of the register of the names of persons removed therefrom;
- (k) prescribing the particulars required to be given in any notice or report required under this Act;

- (l) prescribing the form of and the particulars to be contained in any register and in any roll of persons holding an annual practising certificate;
- (m) prescribing reasonable fees not exceeding in any case the amount (if any) specified in this Act to be paid by candidates for examinations or by applicants for registration or for restoration of names to any register after removal therefrom (otherwise than for default in payment of any annual fee) or for certificates including annual practising certificates and renewals thereof;
- (n) prescribing the manner of election and providing for the holding of elections under this Act of persons for appointment to the Council;
- (o) prescribing the powers and duties of advisory committees established under this Act and of the members thereof and the fees payable to persons co-opted by such committees;
- (p) prescribing penalties (not in any case exceeding Fifty pounds) for contravention of or failure to comply with the regulations;
- (q) generally, for or in respect of any matter or thing which by this Act is required or permitted to be prescribed or which is necessary or expedient to be prescribed for carrying this Act into effect.

46. (1) All regulations under this Act when approved by the Governor in Council shall be published in the *Government Gazette* and all such regulations 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, and a copy thereof shall be posted to each member of Parliament.

Publication
and repeal of
regulations.
No. 6035 a. 46

(2) Any regulation may (without prejudice to any other method of revocation) be revoked by Order of the Governor in Council.

Section 2.

SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
6035 ..	<i>Nurses Act 1956</i>	So much as is not otherwise repealed.
