ANALYSIS

<table>
<thead>
<tr>
<th>Title</th>
<th>9. Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Short Title and commencement</td>
<td>10. Notification of disability or suspected disability</td>
</tr>
<tr>
<td>2 Interpretation</td>
<td>11. Disciplinary powers of Council</td>
</tr>
<tr>
<td>3 Membership of Council</td>
<td>12. Publication of orders</td>
</tr>
<tr>
<td>4 Preliminary Proceedings Committee</td>
<td>13. Appeals to High Court</td>
</tr>
<tr>
<td>5 New sections substituted</td>
<td>14. Decisions on appeals</td>
</tr>
<tr>
<td>17 Qualifications for registration and enrolment</td>
<td>15. Penalties increased</td>
</tr>
<tr>
<td>17A New Zealand qualifications not to lead to registration as general nurse or obstetric nurse</td>
<td>16. Offence relating to enrolled nurses</td>
</tr>
<tr>
<td>6 Persons qualified overseas</td>
<td>17. Offences relating to obstetric nursing</td>
</tr>
<tr>
<td>7 Limitations as to age and character of applicants</td>
<td>18. Protection of Council in publishing disciplinary order or order of suspension</td>
</tr>
<tr>
<td>8 Certificates and badges</td>
<td>19. Functions and powers of Medical Officer of Health in relation to obstetric nursing</td>
</tr>
<tr>
<td></td>
<td>20. Regulations</td>
</tr>
</tbody>
</table>

1983, No. 147

An Act to amend the Nurses Act 1977

[16 December 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Nurses Amendment Act 1983, and shall be read together with and deemed part of the Nurses Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1984.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "annual practising certificate", the following definition:
“‘Area health board’ means an area health board constituted under the Area Health Boards Act 1983:’’.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “nurse”, the following definition:

“‘Nursing course’ means a course in comprehensive nursing or, as the case may require, a course in midwifery conducted at an institution specified in regulations made under this Act as an institution at which such a course may be conducted:’’.

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “nursing programme”, and substituting the following definition:

“‘Nursing programme’ means a programme of training conducted at a school of nursing in any hospital controlled by an area health board or a hospital board and leading to registration or enrolment as a nurse under this Act:’’.

3. Membership of Council—(1) Section 4 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Council shall consist of the following members:

“(a) The Director of the Division of Nursing in the Department of Health:

“(b) A medical practitioner to be appointed on the nomination of the Medical Superintendents’ Association of New Zealand:

“(c) A person to be appointed on the nomination of the Hospital Boards’ Association of New Zealand Incorporated:

“(d) A person employed in the Department of Education to be appointed after consultation with the Minister of Education:

“(e) Six nurses to be appointed on the nomination of the New Zealand Nurses Association Incorporated, of whom—

“(i) One shall be a person who is a nurse employed by an area health board or a hospital board as the head of its nursing services:

“(ii) One shall be a person who is employed to teach in a school of nursing of an area health board or a hospital board or in a Department of Nursing of a tertiary institution:
“(iii) One shall be a person who is employed in the Department of Health as a nursing officer in a health district within the meaning of the Health Act 1956:

“(iv) One shall be a person who is both a registered comprehensive nurse and a registered midwife, or is both a registered general and obstetric nurse and a registered midwife, and, in either case, is employed in the field of midwifery:

“(v) One shall be a person who is—

“(a) A registered comprehensive nurse; or

“(b) A registered general nurse; or

“(c) A registered general and obstetric nurse; or

“(d) An enrolled nurse—

and, in any case, is employed in the field of general nursing:

“(vi) One shall be a person who is—

“(a) A registered comprehensive nurse; or

“(b) A registered psychiatric nurse; or

“(c) A registered psychopaedic nurse—

and, in any case, is employed in the field of psychiatric or psychopaedic nursing:

“(f) One other appointed member who shall be a registered nurse:

“(g) One other appointed member who shall be a person who is not eligible for nomination for appointment under any of the preceding paragraphs of this subsection.”

(2) Section 4 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) Every member of the Council who becomes ineligible for appointment to the Council under the provision of subsection (1) of this section under which he was appointed shall cease to be a member of the Council.”

(3) Section 4 (6) of the principal Act is hereby amended by inserting, after the word “Council”, the words “ceases to be a member in accordance with subsection (4A) of this section, or”.

(4) Section 4 (7) of the principal Act is hereby amended by inserting, after the expression “subsection (2)”, the expression “or subsection (4A)”.

4. Preliminary Proceedings Committee—(1) Section 12 of the principal Act is hereby amended by omitting the expression
“Penal Cases Committee” wherever it occurs, and substituting in each case the expression “Preliminary Proceedings Committee”.

(2) Section 2 (1) of the principal Act is hereby amended by omitting the definition of the term “convener of the Penal Cases Committee”, and substituting the following definition:

“ ‘Convener of the Preliminary Proceedings Committee’ or ‘convener’ means the person who is for the time being the convener of the Preliminary Proceedings Committee in accordance with subsection (3) or subsection (4) of section 12 of this Act:”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting the definition of the term “Penal Cases Committee”, and substituting the following definition:

“ ‘Preliminary Proceedings Committee’ means the committee of that name appointed under section 12 of this Act:”.

(4) The principal Act is hereby further amended by omitting the expression “Penal Cases Committee” wherever it occurs in sections 14 (3) (c), 40 to 43, and 45 to 47, and substituting in each case the expression “Preliminary Proceedings Committee”.

5. New sections substituted—The principal Act is hereby amended by repealing section 17, and substituting the following sections:

“17. Qualifications for registration and enrolment—
(1) Subject to section 19 of this Act, every person shall be entitled to be registered as a comprehensive nurse who satisfies the Council—

“(a) That he has completed the nursing course and has passed the examination prescribed in respect of persons seeking to become registered comprehensive nurses;

or

“(b) That he is already registered or is entitled to be registered as a general and obstetric nurse and as a psychiatric nurse or psychopaedic nurse.

“(2) Every person shall be entitled to be registered as a general and obstetric nurse who satisfies the Council—

“(a) That he has completed the nursing programme and passed the examination prescribed in respect of persons seeking to become registered general and obstetric nurses; or

“(b) That he is a registered general nurse and has completed the nursing programme and passed the examination
prescribed in respect of registered general nurses seeking to become registered general and obstetric nurses.

“(3) Every person shall be entitled to be registered as a midwife who satisfies the Council—

“(a) That he is a registered comprehensive nurse or a registered general and obstetric nurse; and

“(b) That he has completed the nursing course and has passed the examination prescribed in respect of persons seeking to become registered midwives.

“(4) Every person shall be entitled to be registered as a psychiatric nurse who satisfies the Council that he has completed the nursing programme and passed the examinations prescribed in respect of persons seeking to become registered psychiatric nurses.

“(5) Every person shall be entitled to be registered as a psychopaedic nurse who satisfies the Council that he has completed the nursing programme and passed the examination prescribed in respect of persons seeking to become registered psychopaedic nurses.

“(6) Every person shall be entitled to be enrolled as an enrolled nurse who satisfies the Council that he has completed the nursing programme and passed the examination prescribed in respect of persons seeking to become enrolled nurses.

“(7) For the purposes of this section, in respect of nursing programmes, a person shall be deemed to have passed a prescribed examination if he has been accredited with passing the examination in accordance with regulations for the time being in force under this Act.

“17A. New Zealand qualifications not to lead to registration as general nurse or obstetric nurse—No person shall, on or after the 1st day of April 1984, be registered in those parts of the register relating to registered general nurses or registered obstetric nurses by reason of qualifications obtained in New Zealand, but nothing in this section shall affect the provisions of this Act relating to—

“(a) The restoration of the name of any person to that part of the register; or

“(b) The amendment of that part of the register.”

6. Persons qualified overseas—Section 18 of the principal Act is hereby amended by adding the following subsection:

“(3) In the application of this section in respect of any person seeking to become registered as a midwife, nothing in this section shall require that person to have successfully completed,
elsewhere than in New Zealand, a course of instruction equivalent to a course of instruction leading to registration as a registered comprehensive nurse or a registered general and obstetric nurse under this Act.”

7. Limitations as to age and character of applicants—Section 19 (b) of the principal Act is hereby amended by omitting the expression “and 6 months”.

8. Certificates and badges—Section 23 (l) of the principal Act is hereby amended by omitting the words “qualified by examination in New Zealand under this Act”, and substituting the words “entitled under section 17 of this Act to be registered or enrolled”.

9. Repeal—Section 27 of the principal Act is hereby repealed.

10. Notification of disability or suspected disability—The principal Act is hereby amended by repealing section 34, and substituting the following section:

“34. (l) In this section—

‘Hospital’ means—

“(a) Any institution within the meaning of the Area Health Boards Act 1983 or the Hospitals Act 1957:

“(b) Any licensed hospital within the meaning of Part V of the Hospitals Act 1957:

“(c) Any hospital within the meaning of the Mental Health Act 1969:

“(d) Any institution within the meaning of the Alcoholism and Drug Addiction Act 1966:

‘Medical Superintendent’, in relation to any hospital, means—

“(a) In the case of any institution within the meaning of the Area Health Boards Act 1983 or the Hospitals Act 1957, the medical practitioner (if any) who is in charge of that hospital:

“(b) In the case of any licensed hospital within the meaning of Part V of the Hospitals Act 1957, the manager of that hospital if he is a medical practitioner:

“(c) In the case of any hospital within the meaning of the Mental Health Act 1969, the Medical Superintendent of that institution:
“(d) In the case of any institution within the meaning of the Alcoholism and Drug Addiction Act 1966, the manager of that institution if he is a medical practitioner.

“(2) In any case where a registered nurse or an enrolled nurse is a patient of a hospital of which there is a Medical Superintendent, if the Medical Superintendent considers that the nurse is unable, because of mental or physical disability, to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from doing so, the Medical Superintendent shall forthwith give written notice to the Council of all the circumstances of the case.

“(3) In any case where a registered medical practitioner is in attendance on a registered nurse or an enrolled nurse and considers that the nurse is unable, because of mental or physical disability, to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from doing so, the medical practitioner in attendance on that nurse shall forthwith give written notice to the Council of all the circumstances of the case.

“(4) In any case where the Medical Officer of Health considers that any registered nurse or any enrolled nurse is unable, because of mental or physical disability, to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from doing so, the Medical Officer of Health shall forthwith give written notice to the Council of all the circumstances of the case.

“(5) In any case where the Medical Superintendent or other medical practitioner in charge of any hospital in which a registered nurse or an enrolled nurse is employed, or the head of nursing services of any such hospital, has reason to believe that the nurse is unable, because of mental or physical disability, to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from doing so, the Medical Superintendent or other person shall forthwith give written notice to the Council of all the circumstances of the case.

“(6) In any case where any Medical Superintendent, registered medical practitioner, Medical Officer of Health, or head of nursing services contemplates giving any such written
notice to the Council, he may seek whatever medical advice, whether psychiatric or otherwise, he considers appropriate to assist him in forming his opinion.

“(7) Any written notice given under any of subsections (2) to (5) of this section shall mention any difference between any such advice and the views of the Medical Superintendent, or registered medical practitioner, Medical Officer of Health, or head of nursing services as set out in the notice.

“(8) Upon receipt of any such notice, the registrar shall forthwith take all steps necessary to have it considered by the Council.”

11. Disciplinary powers of Council—(1) Section 42 (1) of the principal Act is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

“(a) Is convicted in any Court in New Zealand of any offence for which the maximum punishment is not less than 2 years’ imprisonment, or any offence against section 53A or section 54 of this Act; or

“(b) After due inquiry is found by the Council to have been guilty of professional misconduct; or

“(c) Has, whether before or after his registration or enrolment in New Zealand, had any penalty imposed on him by any nursing professional body outside New Zealand or has been censured or had his name removed from any register or roll by that body following disciplinary action being taken against him.”

(2) Section 42 (2) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Order that the nurse may, for a period not exceeding 3 years, practise only subject to such conditions as to employment, supervision, or otherwise as the Council may specify in the order.”

(3) Section 42 (2) (c) of the principal Act is hereby amended by omitting the expression “$100”, and substituting the expression “$1,000”.

(4) Section 42 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) No penalty shall be imposed under this section on any person—

“(a) By reason of any offence committed before the date of his registration or enrolment, as the case may be, if at that date the Council was aware of his conviction in respect of the offence; or
“(b) By reason of any action referred to in subsection (1) (c) of this section having been taken against the person before the date of his registration or enrolment, as the case may be, if at that date the Council was aware that that action had been taken.”

(5) Section 43 (3) of the principal Act is hereby amended by repealing paragraph (d) of the proviso, and substituting the following paragraphs:

“(d) To substitute an order under section 42 (2) (ba) of this Act for a period of suspension; or
“(da) To substitute a fine for a period of suspension or an order under section 42 (2) (ba) of this Act; or
“(db) To reduce the conditions or period of an order under section 42 (2) (ba) of this Act; or.”

12. Publication of orders—The principal Act is hereby amended by inserting, after section 48, the following section:

“48A. Where—

“(a) An order has been made under section 42 or section 43 of this Act against any registered or enrolled nurse by the Council, or where the Council has, under section 32 or section 33 of this Act, suspended from practice any registered nurse or any enrolled nurse, and no appeal therefrom has been brought within the time limited in that behalf; or

“(b) An order has been made under this Act by the High Court in respect of any registered nurse or any enrolled nurse,—

the Council may cause a notice stating the effect of the order to be published in the Gazette, the New Zealand Nursing Journal, and such other publications as may be directed by the Council.”

13. Appeals to High Court—(1) Section 49 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Any order of the Council under section 42 (2) (ba) of this Act imposing conditions of practice; or”.

(2) Section 49 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Any person who is dissatisfied with an order of a Medical Officer of Health under section 58 (2) of this Act may, within 28 days after the order has been served on him, appeal to the High Court against the order.”

(3) Section 49 of the principal Act is hereby further amended by adding, after subsection (4) (as added by section 2 (2) of the Nurses Amendment Act 1980), the following subsection:
“(5) The Court may, on the application of any person who has lodged an appeal under subsection (1A) of this section, direct that the order of the Medical Officer of Health that is the subject of the appeal shall be suspended pending the determination of the appeal.”

14. Decisions on appeals—Section 50 of the principal Act is hereby amended by adding the following subsections:

“(3) The Court may, in determining any appeal under section 49 (1A) of this Act, confirm or cancel the order of the Medical Officer of Health.

“(4) Where an order is cancelled by the Court under subsection (3) of this section, the Court may order the Department of Health to pay to the nurse concerned such compensation as it considers appropriate for earnings lost during the period the suspension was in force.”

15. Penalties increased—The principal Act is hereby amended:

(a) By omitting from section 51 (3) the expression “$50”, and substituting the expression “$200”;
(b) By omitting from section 52 (1) the expression “$200”, and substituting the expression “$1,000”:  
(c) By omitting from section 52 (2) the expression “$100”, and substituting the expression “$1,000”:  
(d) By omitting from section 53 the expression “$100”, and substituting the expression “$200”.

16. Offence relating to enrolled nurses—The principal Act is hereby amended by inserting, after section 53, the following section:

“53A. Every enrolled nurse commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who, other than in an emergency, practises nursing other than under the direction and supervision of a registered nurse or medical practitioner.”

17. Offences relating to obstetric nursing—(1) The principal Act is hereby amended by repealing section 54, and substituting the following section:

“54. (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who carries out obstetric nursing in any case where a medical practitioner has not undertaken responsibility for the care of the patient.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who carries
out obstetric nursing in any case where a medical practitioner has undertaken responsibility for the care of the patient, unless the person carrying out the obstetric nursing—

"(a) Is a registered midwife, registered general and obstetric nurse, or registered comprehensive nurse; or

"(b) Is a registered general nurse, registered obstetric nurse, or an enrolled nurse acting under the direction and supervision of a nurse of the kind specified in paragraph (a) of this subsection.

"(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who attends a woman in childbirth in an obstetric nursing capacity in any place other than an institution under the control of an area health board or a hospital board or any licensed hospital within the meaning of Part V of the Hospitals Act 1957, unless the person attending the woman is—

"(a) A registered general and obstetric nurse and registered midwife; or

"(b) A registered comprehensive nurse and registered midwife.

"(4) Nothing in this section shall apply to any person carrying out obstetric nursing in an emergency, or any medical practitioner carrying out obstetric nursing in any circumstances.

"(5) Nothing in this section shall apply to any registered midwife who, immediately before the 1st day of April 1984, was practising midwifery in New Zealand in any place or places other than an institution under the control of an area health board or a hospital board, or any licensed hospital within the meaning of Part V of the Hospitals Act 1957.

"(6) For the purposes of this section, the expression ‘carries out obstetric nursing’, in relation to any person, means that he—

"(a) Attends a pregnant woman in an obstetric nursing capacity for the purpose of providing an ante-natal service; or

"(b) Attends a woman in childbirth, or during the next succeeding 14 days, in an obstetric nursing capacity.

"(7) For the purposes of this section, any person who is suspended from practice under section 58 of this Act shall be deemed not to be or not to have been a registered nurse or an enrolled nurse during the period of suspension.”

(2) Regulation 34 of the Obstetric Regulations 1975 is hereby consequentially revoked.

(3) Regulation 26 of the Nurses Regulations 1979 is hereby consequentially revoked.
18. Protection of Council in publishing disciplinary order or order of suspension—Section 55 of the principal Act is hereby amended by inserting, after the words “this Act”, the words “or anything contained in any notice published under section 48A of this Act”.

19. Functions and powers of Medical Officer of Health in relation to obstetric nursing—The principal Act is hereby amended by repealing section 58, and substituting the following section:

“58. (1) Every Medical Officer of Health shall be charged with the supervision of all registered and enrolled nurses engaged in carrying out obstetric nursing (whether on their own account or otherwise) within his district.

“(2) The Medical Officer of Health may make an order prohibiting any nurse from carrying out obstetric nursing for such period, commencing with the date on which notice of the order is served on the person and not exceeding 1 month, as he considers advisable in any case where such suspension appears to him to be necessary in order to prevent the spread of infection or where he has reasonable grounds to suspect any such nurse to be practising in an unhygienic manner.

“(3) Every notice under subsection (2) of this section shall state the reason for the suspension and the grounds on which the suspension is based.

“(4) No suspension under this section shall apply to the carrying out of obstetric nursing by any nurse in the course of that person’s employment by an area health board or a hospital board.

“(5) For the purposes of this section, the expression ‘carrying out obstetric nursing’, in relation to any nurse, means that he—

“(a) Attends a pregnant woman in an obstetric nursing capacity for the purpose of providing an ante-natal service; or

“(b) Attends a woman in childbirth, or during the next succeeding 14 days, in an obstetric nursing capacity.”

20. Regulations—(1) Section 60 (1) of the principal Act is hereby amended by repealing paragraphs (r) and (w).

(2) Section 60 (1) (t) of the principal Act is hereby amended by omitting the words “prescribed nursing programme or will be accepted for that purpose in any school of nursing”, and substituting the words “nursing course or nursing programme”.

This Act is administered in the Department of Health.