

NURSES BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Nurses and Midwives Act 1945 and its amendments.

The major changes to existing law are as follows:

- (a) The name of the administering body is changed from the Nurses and Midwives Board to the Nursing Council of New Zealand and provision is made for its incorporation (*clause 3*).
- (b) The number of members is increased from 11 to 12 (*clause 4*).
- (c) A Penal Cases Committee is constituted (*clause 12*).
- (d) Provision is made for the Nursing Council to be responsible for its own finance (*clause 14*).
- (e) The Nursing Council will be required to submit an annual report to be laid before Parliament (*clause 15*).
- (f) Instead of keeping separate registers for the various classes of nurses, as at present, provision is made for the keeping of one register divided into parts. In addition, registered nursing aids will automatically become registered community nurses (*clause 16*).
- (g) Provision is made for the removal of a nurse's name from the register if the name has been removed from an overseas register (*clause 27*).
- (h) Provision is made for the temporary registration of visitors to New Zealand (*clause 30*).
- (i) The provisions relating to the suspension of nurses from practice for disability have been substantially amended (*clause 31*).
- (j) The term "school of nursing" replaces the term "training school".
- (k) A new provision enables the Nursing Council, with the approval of the Minister of Health, to adopt experimental nursing programmes (*clause 36*).
- (l) New provisions provide for complaints against nurses to be investigated by the Penal Cases Committee (*clauses 37 and 38*).
- (m) *Clauses 41 to 45* are new and are based on similar provisions in the Medical Practitioners Act 1968.
- (n) Appeals against decisions of the Nursing Council will be to the Administrative Division of the Supreme Court instead of to a Board of Appeal as at present (*Part V*).
- (o) A restriction is placed on the use of the title of "nurse" (*clause 51*).

Clause 1 relates to the Short Title and date of commencement.

The date of commencement is 1 April 1972.

Clause 2 defines various terms used in the Bill.

The term "registered nurse" will apply to all classes of nurses, while the term "registered general nurse" will apply to female general nurses.

PART I

NURSING COUNCIL OF NEW ZEALAND

Clause 3 constitutes the Nursing Council of New Zealand and declares it to be a body corporate.

Clause 4 provides for the membership of the Council.

Clause 5 provides for the appointment of the Chairman of the Council.

Clause 6 provides for the appointment of a Deputy Chairman.

Clause 7 provides for the appointment of a Registrar of Nurses and other employees.

Clause 8 provides for meetings of the Council.

Clause 9 empowers the Director-General of Health to authorise a nurse employed in the Department of Health to attend any meeting of the Nursing Council in the place of the Director of the Division of Nursing.

Clause 10 provides for the payment of remuneration and travelling allowances to members of the Council.

Clause 11 sets out the functions of the Council.

Paragraph (f) is new and provides for the Council to advise and exercise a general supervision of examinations not conducted by the Council.

Clause 12 is new and establishes a Penal Cases Committee for the purpose of investigating charges of misconduct made against registered nurses.

The clause is based on section 11 of the Medical Practitioners Act 1968, except that no provision is made for a solicitor to be a member of the Committee. The Committee is to consist of 3 members of the Nursing Council, of whom at least 2 are nurses.

Provision is made for the Committee to take the advice of a barrister or solicitor and for the Committee to instruct him to draw up proofs of evidence and otherwise prepare any case.

Clause 13 empowers the Council to appoint other committees.

Clause 14 makes provision for the Council to receive fees in respect of prescribed matters, and for the disbursement of fees and other money received by the Council.

The Public Bodies Contracts Act 1959 is declared to apply to contracts of the Council.

Clause 15 requires the Council to submit an annual report to be laid before Parliament.

PART II

REGISTRATION

Clause 16 provides for the keeping of a Register of Nurses.

Instead of keeping separate registers for the various classes of nurses, as at present, provision is made for the keeping of one register divided into parts.

Under subclause (5), registered nursing aids will automatically become registered community nurses.

Clause 17 sets out the qualifications required for registration.

In addition to providing for registration on passing the prescribed examinations, the clause provides for registration on obtaining "some other prescribed material qualification". See also *clause 58 (1) (r)* which provides for the making of regulations prescribing other qualifications.

Clause 18 provides for the registration of persons who qualified overseas.

The clause is different from the existing law.

Subclause (1) provides for a person who has qualified overseas to be registered if he has successfully completed a nursing course in accordance with a programme of instruction recognised as satisfactory by the Council, and the programme was undertaken in an institution recognised as satisfactory.

Subclause (2) makes provision for persons who are not eligible for registration under *subclause (1)* in that either the programme of instruction or the institution in which the programme was undertaken is not recognised by the Council as satisfactory.

Any such person may be registered if he—

- (a) Satisfies the Council that he has successfully completed a nursing course; and
- (b) Undergoes such further instruction and passes such examinations (if any) as may be specified by the Council; and
- (c) Satisfies the Council that he has a reasonable command of the English language.

Clause 19 sets out the minimum ages of persons applying for registration and provides that a person shall not be registered unless that person is of good character and reputation and is a fit and proper person to be registered. The clause repeats existing law except that the minimum age for registration as a midwife is reduced from 22 years to 21 years.

Clause 20 provides for applications for registration. There is no change from existing law.

Clause 21 is a new provision and provides for applications for registration to be considered by the Council. The clause is based on a similar provision in the Medical Practitioners Act 1968.

Clause 22, subclauses (1) to (3) are new provisions which provide for the registration of applicants and for the notification of applicants whose applications are declined. They are based on similar provisions in the Medical Practitioners Act 1968.

Subclause (4) provides that if a registered maternity nurse becomes registered as a midwife, her name is to be removed from the part of the register relating to maternity nurses. The subclause repeats existing law.

Clause 23, subclause (1) provides for the issue of certificates of registration and badges.

Subclause (2) is new and provides that every person whose name is removed from the register must deliver to the registrar every certificate and badge which has been issued to him.

Subclause (3) provides that failure to comply with *subclause (2)* constitutes an offence.

Clause 24 provides that particulars of additional diplomas, etc., may be entered in the register. The clause mainly repeats existing law except for the references to “degrees” and “other qualifications”, and the provisions of subclause (4) which provides for higher qualifications to be entered in the register at the time of registration.

Clause 25 is new and provides for the removal from the register of the names of registered persons who die or who cannot be found.

The clause is based on a similar provision in the Medical Practitioners Act 1968.

Clause 26 provides for the amendment of the register if any person is wrongfully registered or if any particulars of qualifications are incorrect.

The clause mainly repeats existing law, except that the reference to the correction of particulars of qualifications is new.

Clause 27 is a new provision which provides for the removal of a person's name from the register where the person's name has been received from an overseas register of nurses.

The clause is based on section 30 of the Medical Practitioners Act 1968.

Clause 28 provides for the amendment of the register on a change of name, and for the removal of a person's name from the register on the request of the person.

The clause mainly repeats existing law.

Clause 29 provides for the issue of provisional practising certificates. The clause repeats existing law.

Clause 30 is a new provision which provides for the temporary registration of visitors to New Zealand.

The clause is based on section 33 of the Medical Practitioners Act 1968.

Clause 31 provides for suspension from practice for disability. The clause substantially alters the existing law.

Subclause (1) empowers the Council to require any registered nurse to undergo a medical examination if it appears to the Council that the nurse is, owing to mental or physical disability, unable satisfactorily to practise and that, because the nurse may attempt to practise, it is necessary in the public interest to prevent the nurse from doing so.

Subclause (2) provides that, where a medical practitioner examines any nurse, he is to make a written report to the Registrar on the nurse's mental and physical capacity.

Subclause (3) empowers the Council to suspend a nurse from practice if, after considering the matter and allowing the nurse to be heard, the Council is satisfied that it is necessary.

Subclause (4) provides that a suspension shall take effect forthwith, but may at any time be revoked.

Subclause (5) provides that while a person is suspended from practice, the person shall be deemed not to be registered.

Subclause (6) empowers the Council to order a limited suspension by allowing a nurse to practise under special conditions, instead of suspending the nurse or revoking a suspension.

Subclause (7) applies the provisions of *subsections (4) and (5)* to a limited suspension.

Subclause (8) provides that, if the medical superintendent or other person in charge of a hospital or other institution in which any registered nurse is employed has reason to believe that the nurse is, because of mental or physical disability, unable satisfactorily to practise, he is to forthwith inform the Council.

Clause 32 makes it an offence to fraudulently obtain or attempt to obtain registration.

The clause mainly repeats existing law, except that the maximum penalty has been increased from imprisonment for 3 months or a \$100 fine to imprisonment for 12 months.

PART III

SCHOOLS OF NURSING AND NURSING PROGRAMMES

Clause 33 provides for the approval of schools of nursing. The term "school of nursing" is used instead of "training school". Some changes are made to the existing law.

Subclause (1) provides for the Council, with the concurrence of the Minister, to approve institutions as schools of nursing. At present, the Minister's concurrence is not required.

Subclause (2) provides that a private hospital or private charitable institution shall not be approved as a school of nursing unless it has at least 50 "free beds" and not less than 100 beds available for the instruction of student nurses. The present law refers only to the necessity for 40 "free beds".

Subclauses (3) to (5) repeat existing law, except that the revocation of approval of a school of nursing must have the Minister's concurrence.

Subclause (6) provides that the present approved training schools shall be deemed to have been approved as schools of nursing under the new provisions.

Subclause (7) provides that nothing in the clause shall prevent the enactment of regulations prescribing qualifications for registration which do not include the undertaking of a nursing programme at a school of nursing.

Clause 34 provides that a nursing programme relating to a class of nurse may include a nursing programme relating to another class of nurse.

This extends the existing provision which provides for the general nursing course of training to include the maternity nursing course.

Clause 35 provides for student nurses to be exempted from undertaking portion or portions of a nursing programme if they have undergone any period of instruction in a subject included in the programme. This will not include exemption from passing any examination.

The clause mainly repeats existing law.

Clause 36 is a new provision which enables the Council to adopt experimental nursing programmes for a trial period.

PART IV

DISCIPLINE

NOTE—Most of the clauses in this Part substantially alter the existing law and are based on similar provisions in the Medical Practitioners Act 1968.

Clause 37 provides for complaints against registered nurses.

Complaints are to be made to the Registrar of Nurses who is to notify the convener of the Penal Cases Committee. The convener will then decide whether the matter should proceed in accordance with *clause 38*.

Clause 38 provides for the investigation of any complaint by the Penal Cases Committee where the convener has decided that the matter should proceed. The function of the Committee is to frame a charge and refer it to the Council if the Committee considers that further inquiry should be made.

The clause is based on section 56 of the Medical Practitioners Act 1968.

Clause 39 sets out the disciplinary powers of the Nursing Council where a registered nurse—

- (a) Is convicted of an offence for which the maximum punishment is not less than 2 years' imprisonment; or
- (b) After due inquiry is found by the Council to have been guilty of professional misconduct.

Professional misconduct is defined in *clause 2* of the Bill.

The clause is based on similar provisions in the Medical Practitioners Act 1968.

Clause 40 sets out the procedure to be followed by the Council before exercising its disciplinary powers.

Clause 41 provides for the appointment of a legal assessor for the purpose of advising the Council on questions of law and procedure.

The clause is based on section 60 of the Medical Practitioners Act 1968.

Clause 42 empowers the Council and the Penal Cases Committee to require any person to give evidence before it.

The clause is based on section 61 of the Medical Practitioners Act 1968.

Clause 43 provides that witnesses and counsel shall have the same privileges and immunities in relation to inquiries and investigation before the Council or the Penal Cases Committee as if they were proceedings in a court of law.

The clause is based on section 62 of the Medical Practitioners Act 1968.

Clause 44 provides for the payment of witnesses' expenses.

The clause is based on section 63 of the Medical Practitioners Act 1968.

Clause 45 empowers the Council to adjourn disciplinary proceedings and to postpone any finding or judgment.

The clause is based on section 64 of the Medical Practitioners Act 1968.

PART V

APPEALS TO ADMINISTRATIVE DIVISION OF SUPREME COURT

At present, appeals from decisions of the Nurses and Midwives Board are made to a Board of Appeal consisting of a Magistrate and 2 assessors.

Under this Part of the Bill appeals from decisions of the Nursing Council are to be made to the Administrative Division of the Supreme Court.

Clause 46 sets out the matters on which appeals will lie.

Clause 47 provides that the Court may confirm, reverse, or modify the decision of the Council.

PART VI

ANNUAL PRACTISING CERTIFICATES, ETC.

Clause 48 provides for the issue of annual practising certificates. The clause mainly repeats existing law except that—

- (a) The financial year will begin on 1 April instead of 1 March:
- (b) The maximum fine for practising without a certificate is increased from \$10 to \$50:
- (c) Nurses employed by the Crown will no longer be exempted from holding annual practising certificates.

Clause 49 mainly repeats existing law and prohibits—

- (a) The use of the name or title of any class of registered nurse by an unregistered person:
- (b) The use of the name or title of a class of registered nurse by a registered nurse of another class:
- (c) The use of any certificate of registration or badge with intent to deceive.

The maximum fine is increased from \$20 to \$200.

Clause 50 repeats existing law and prohibits the wearing of nurses' badges or imitation badges by unregistered persons.

The maximum fine is increased from \$40 to \$100.

Clause 51 is a new provision which restricts the use of the title of nurse.

Clause 52 repeats existing law in a more restricted form.

The clause places restrictions on the carrying out of obstetric nursing.

PART VII

MISCELLANEOUS PROVISIONS

Clause 53 protects the Council and its committees, and their members and employees from criminal and civil liability in respect of anything done or omitted or of words spoken or written for the purpose of proceedings under the Bill, unless bad faith can be proved.

The clause is based on section 66 of the Medical Practitioners Act 1968.

Clause 54 provides that where a nurse, acting in that capacity, obtains or seeks the assistance of a medical practitioner, the nurse shall not be liable for the payment of any fees.

The clause applies to all nurses, whereas a similar provision in the existing law applies only to midwives and maternity nurses.

Clause 55 mainly repeats existing law and provides that hospital boards must appoint registered nurses to their nursing staff.

Clause 56 provides for Medical Officers of Health to exercise supervision over midwives and maternity nurses.

The clause mainly repeats existing law, except that the clause will not now apply in respect of any midwife or maternity nurse employed by a hospital board.

Clause 57 repeats existing law and provides for the certificate of the registrar to be evidence of certain matters.

Clause 58 provides for the making of regulations. Some alterations have been made to the existing law.

Clause 59 sets out certain transitional provisions.

Clause 60 provides for repeals and savings.

Hon. Mr McKay

NURSES

ANALYSIS

Title	24. Additional diplomas, etc., to be entered in register	
1. Short Title and commencement	25. Name may be removed from register if registered person cannot be found, etc.	
2. Interpretation	26. Amendment of register if person wrongfully registered or if particulars incorrect	
PART I		
NURSING COUNCIL OF NEW ZEALAND		
3. Constitution of Nursing Council of New Zealand	27. Removal of name from register after removal from overseas register	
4. Membership of Council	28. Amendment of register on change of name, and removal of name on request	
5. Chairman of Council	29. Provisional certificates	
6. Deputy chairman of Council	30. Temporary registration of visitors to New Zealand	
7. Registrar and other officers, etc.	31. Suspension from practice for disability	
8. Meetings of Council	32. Offences as to registration	
9. Deputy of Director of Division of Nursing	PART III	
10. Remuneration and travelling allowances	SCHOOLS OF NURSING AND NURSING PROGRAMMES	
11. Functions of Council	33. Approval of schools of nursing	
12. Penal Cases Committee	34. Inclusion of one nursing programme in another nursing programme	
13. Other committees	35. Credit for previous achievement	
14. Finance	36. Experimental programmes	
15. Annual report	PART IV	
PART II		
REGISTRATION		
16. The Register of Nurses	DISCIPLINE	
17. Qualifications for registration	37. Complaints against registered persons	
18. Persons qualified overseas	38. Penal Cases Committee to investigate complaint	
19. Limitations as to age and character of applicants		
20. Applications for registration		
21. Applications to be considered by Council		
22. Registration, etc.		
23. Certificates of registration and badges		

- 39. Disciplinary powers of the Council
- 40. Procedure
- 41. Appointment of legal assessor
- 42. Council and Penal Cases Committee may require evidence to be given
- 43. Immunity of witnesses and counsel
- 44. Witnesses' expenses
- 45. Power to adjourn and postpone

PART V

APPEALS TO ADMINISTRATIVE DIVISION
OF SUPREME COURT

- 46. Matters on which appeals lie
- 47. Decisions of the Court in respect of appeals under this Part

PART VI

ANNUAL PRACTISING CERTIFICATES,
ETC.

- 48. Annual practising certificates for registered persons

- 49. Prohibition on use of registered titles, etc.
- 50. Prohibition on unregistered persons wearing nurses' badges
- 51. Restriction on use of title of nurse
- 52. Offences relating to obstetric nursing

PART VII

MISCELLANEOUS PROVISIONS

- 53. Protection of Council, committees, and other persons
- 54. Liability for medical fees
- 55. Hospital board to appoint registered nurses, etc.
- 56. Functions of Medical Officer of Health in relation to midwives and maternity nurses
- 57. Certificate of registrar to be evidence of registration, etc.
- 58. Regulations
- 59. Transitional provisions
- 60. Repeals and saving Schedule

A BILL INTITULED

An Act to consolidate and amend the Nurses and Midwives Act 1945 and its amendments, and to constitute the Nursing Council of New Zealand, and to provide for the registration and control of nurses 5

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 Act 1971. 10

(2) Except as provided in subsection (10) of section 48 of this Act, this Act shall come into force on the 1st day of April 1972.

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 15

“Annual practising certificate” means a certificate issued under section 48 of this Act:

“Certificate of temporary registration” means a certificate issued under section 30 of this Act:

“Chairman” means the chairman of the Council appointed under section 5 of this Act: 20

- 5 “Convener of the Penal Cases Committee” or “con-
vener” means the person who is for the time being
the convener of the Penal Cases Committee in
accordance with subsection (2) or subsection (3) of
section 12 of this Act:
- “Council” means the Nursing Council of New Zealand
established under this Act:
- “Hospital board” means a hospital board constituted
under the Hospitals Act 1957:
- 10 “Medical Officer of Health” has the same meaning as
in the Health Act 1956:
- “Medical practitioner” means a medical practitioner
registered or conditionally registered under the
Medical Practitioners Act 1968:
- 15 “Minister” means the Minister of Health:
- “Nurse” or “registered nurse” includes a registered
community nurse, a registered general nurse, a
registered male nurse, a registered maternity nurse,
a registered midwife, a registered psychiatric nurse,
20 and a registered psychopaedic nurse:
- “Nursing programme” or “prescribed nursing pro-
gramme” means a course of training leading to
registration as a nurse under this Act and prescribed
by any regulations for the time being in force under
25 this Act:
- “Penal Cases Committee” means the committee of that
name appointed under section 12 of this Act:
- “Prescribed” means prescribed by this Act, or by regula-
30 tions for the time being in force under this Act, or
by the Council in accordance with any such regula-
tions:
- 35 “Private charitable institution” means an institution
maintained otherwise than by a hospital board and
in respect of which the Council is satisfied that its
object or one of its principal objects is the reception
and relief, without charge to the patients, of persons
requiring medical or surgical treatment or suffering
from disease:

- “Professional misconduct”, in relation to a nurse, means conduct which, in the judgment of the Council,—
- (a) Amounts to malpractice or negligence by that nurse in relation to the branch of nursing in respect of which he is registered; or
- (b) Brings or is likely to bring discredit on the nursing profession:
- “Provisional certificate” means a certificate issued under section 29 of this Act:
- “Register” means the Register of Nurses kept under section 16 of this Act:
- “Registered” means registered under the provisions of this Act or the corresponding provisions of any previous enactment; and “registration” has a corresponding meaning:
- “Registered community nurse”, “registered psychiatric nurse”, and “registered psychopaedic nurse” mean respectively a person whose name appears for the time being in that part of the register relating to registered community nurses, registered psychiatric nurses, or registered psychopaedic nurses, as the case may require; and “registered as a community nurse”, “registered as a psychiatric nurse”, and “registered as a psychopaedic nurse” have corresponding meanings:
- “Registered general nurse”, “registered maternity nurse”, and “registered midwife” mean respectively a woman whose name appears for the time being in that part of the register relating to registered general nurses, registered maternity nurses, or registered midwives, as the case may require; and “registered as a general nurse”, “registered as a maternity nurse”, and “registered as a midwife” have corresponding meanings:
- “Registered male nurse” means a man whose name appears for the time being in that part of the register relating to registered male nurses; and “registered as a male nurse” has a corresponding meaning:
- “Registrar” means the person appointed to be Registrar of Nurses under section 7 of this Act or holding office as registrar under section 59 of this Act; and includes any deputy registrar so appointed or holding office:

“School of nursing” means a school of nursing approved under section 33 of this Act.

(2) Every reference to a registered nurse in any enactment which came into force before the commencement of this Act, 5 and every reference to a registered general nurse in any other enactment, shall, unless the context otherwise requires, be read as a reference to a registered general nurse within the meaning of this Act.

(3) Every reference in any enactment to a registered 10 midwife, a registered maternity nurse, a registered male nurse, a registered psychiatric nurse, a registered psychopaedic nurse, or a registered community nurse, shall respectively, unless the context otherwise requires, be read as a reference to a registered midwife, a registered maternity 15 nurse, a registered male nurse, a registered psychiatric nurse, a registered psychopaedic nurse, or a registered community nurse, within the meaning of this Act.

(4) Every reference to the term “student nurse” and other similar terms in any enactment, rules, agreement, instrument, 20 or document whatsoever shall hereafter, unless the context otherwise requires, be read as a reference to the term “nursing student”, “general nursing student”, “male nursing student”, “midwifery student”, “maternity nursing student”, “community nursing student”, “psychiatric nursing student”, 25 or “psychopaedic nursing student”, as the case may require.

Cf. 1945, No. 7, ss. 2, 33 (1) (b) and (c); 1960, No. 18, s. 2; 1965, No. 35, s. 2; 1967, No. 105, s. 2 (1)

PART I

NURSING COUNCIL OF NEW ZEALAND

30 **3. Constitution of Nursing Council of New Zealand—**

(1) There is hereby established a Council to be known as the Nursing Council of New Zealand.

(2) The Council shall be a body corporate with perpetual 35 succession and a common seal, and may acquire, hold, and dispose of real and personal property, and bring and defend actions in any court, and do and suffer all that bodies corporate may do and suffer.

(3) The Council established under this Act shall succeed to the rights, duties, and responsibilities conferred and imposed on the Nurses and Midwives Board immediately before the commencement of this Act.

(4) Notwithstanding anything to the contrary in the Archives Act 1957, all or any of the public records (as defined in section 2 of that Act) which, in the opinion of the Director-General of Health, relate to the registration of nurses and which, at the date of commencement of this Act, are held by or in the possession of the Department of Health, may be transferred to and vested in the Council.

4. Membership of Council—(1) The Council shall consist of—

- (a) The Director of the Division of Nursing in the Department of Health: 15
- (b) A medical practitioner to be appointed on the nomination of the Medical Association of New Zealand:
- (c) A medical practitioner to be appointed on the nomination of the Medical Superintendents' Association of New Zealand: 20
- (d) A person to be appointed on the nomination of the Hospital Boards' Association of New Zealand Incorporated:
- (e) A person employed in tertiary education to be appointed after consultation with the Minister of Education: 25
- (f) Six nurses, to be appointed on the nomination of the New Zealand Nurses Association Incorporated, of whom—
 - (i) One shall be employed in a school of nursing where the whole of each of the nursing programmes prescribed for persons seeking to be registered as general nurses or male nurses or community nurses are provided, as its chief nursing officer: 30
 - (ii) One shall be employed by a hospital board as the principal tutor in any school of nursing: 35
 - (iii) One shall be employed in the Department of Health as the chief nursing officer of a Health District within the meaning of the Health Act 1956:
 - (iv) One shall be both a registered general nurse and a registered midwife: 40
 - (v) One shall be either another registered general nurse or a registered male nurse or a registered community nurse:
 - (vi) One shall be a registered psychiatric nurse: 45

(g) One other appointed member who shall be a registered general nurse actively engaged in teaching nursing students.

5 (2) The persons holding office immediately before the commencement of this Act as members of the Nurses and Midwives Board established under the Nurses and Midwives Act 1945 shall cease to hold office as such on the commencement of this Act, but any such person who is eligible to be appointed under subsection (1) of this section may be
10 appointed to be a member of the Council.

(3) The appointment of members of the Council shall be made by the Governor-General on the advice of the Minister, and every such member shall hold office for a term of 3 years. Subject to subsection (5) of this section, any such
15 member may from time to time be reappointed.

(4) Any appointed member of the Council may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to
20 the registrar.

(5) No appointed member of the Council shall hold office for more than 3 successive terms; but any member who retires after holding office for 3 successive terms shall be eligible for reappointment after he has ceased to hold office
25 for 1 year.

(6) If any appointed member of the Council dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold
30 office for the residue of the term for which his predecessor would have held office if the vacancy had not occurred, and, for the purposes of subsection (5) of this section, shall be deemed to have held office for the whole of that term.

(7) Unless he sooner vacates his office as provided in subsection (4) of this section, every appointed member of the Council shall continue in office until his successor comes into office, notwithstanding the provisions of subsection (3) of
35 this section.

(8) The powers of the Council shall not be affected by any
45 vacancy in its membership.

Cf. 1945, No. 7, s. 4 (2) to (6); 1957, No. 15, s. 5 (1);
1962, No. 90, s. 2 (1) and (2)

5. Chairman of Council—(1) The Council shall, at its first meeting held after the commencement of this Act and at its first meeting held after the first day of April in each year thereafter, appoint one of its members to be the chairman of the Council. Any such member may from time to time be reappointed as chairman of the Council. 5

(2) The chairman shall preside at all meetings of the Council at which he is present.

(3) The chairman appointed in each year shall hold office until his successor is appointed, or for such shorter period as he remains a member of the Council. 10

(4) If the chairman ceases to be a member of the Council before the expiration of the period for which he has been appointed, the Council shall appoint some other member in his stead to be chairman until the next occasion on which a chairman is appointed under subsection (1) of this section. 15

(5) If at any meeting of the Council the chairman for the time being is not present, or there is no chairman of the Council, the deputy chairman shall preside at the meeting; and, if the deputy chairman also is not present or there is no deputy chairman, the members present shall appoint one of their number to preside at that meeting. The deputy chairman or the person so appointed shall have and may exercise all the powers and functions of the chairman for the purposes of that meeting. 20 25

(6) The chairman shall have power to act in all matters, including the appointment of committees under section 13 of this Act, on behalf of the Council when the Council is not meeting:

Provided that, in any matter which by this Act requires a decision of the Council, he shall so act only if the authority to make a decision is not vested in a committee of the Council and he reasonably considers an urgent decision to be necessary, and he shall first consult at least one other member of the Council and he shall report to the next meeting of the Council the action he has taken. 30 35

Cf. 1945, No. 7, s. 5; 1963, No. 56, s. 3

6. Deputy chairman of Council—(1) The Council, at any meeting, may appoint one of its members to be its deputy chairman. 40

(2) Unless the deputy chairman sooner resigns from that office, or is appointed to be the chairman of the Council, or vacates his office as a member of the Council, he shall hold the office of deputy chairman of the Council for a term expiring with the 31st day of March in the year following 45

that in which he was last appointed as deputy chairman of the Council, and shall be eligible for reappointment.

(3) If the deputy chairman is appointed to be the chairman of the Council, or ceases to be a member of the Council, he shall thereupon vacate the office of deputy chairman.

(4) During any vacancy in the office of chairman or in the absence of the chairman from New Zealand or while the chairman is incapacitated by sickness or otherwise, the deputy chairman shall have and may exercise and perform all the powers and duties of the chairman.

7. Registrar and other officers, etc.—(1) The Council shall from time to time appoint a person to be the Registrar of Nurses and such deputy registrars and other employees and agents as it thinks fit, and may pay them such remuneration as it considers appropriate.

(2) A member of the Council may concurrently hold the post of registrar or any other office of employment under the Council.

Cf. 1945, No. 7, ss. 3 and 3A; 1960, No. 18, s. 3; 1963, No. 56, s. 2

8. Meetings of Council—(1) Meetings of the Council shall be held at such times and places as the chairman, or the registrar on the direction of the chairman, may from time to time appoint.

(2) Notice of the time and place of every meeting, signed by the chairman or by the registrar or other appropriate officer of the Council, shall be sent to every member of the Council at least 3 clear days before the time appointed for that meeting.

(3) At any meeting of the Council held for the purpose of hearing a charge of professional misconduct 7 members, at least 4 of whom shall be nurses, shall form a quorum and at any other meeting of the Council 8 members, at least 5 of whom shall be nurses, shall form a quorum.

(4) Every question before the Council shall be determined by a majority of the votes of the members present at the meeting of the Council and voting thereon.

(5) The chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(6) Except as expressly provided in this Act or in any regulations for the time being in force under this Act, the Council may regulate its procedure in such a manner as it thinks fit.

Cf. 1945, No. 7, s. 6; 1957, No. 15, s. 5 (2); 1962, No. 90, s. 2 (2) (b); 1963, No. 56, s. 4

9. Deputy of Director of Division of Nursing—(1) In the event of the Director of the Division of Nursing being unable to attend a meeting of the Council, the Director-General of Health may authorise a nurse employed in the Department of Health to attend the meeting in her place. 5

(2) While any person is attending any meeting of the Council pursuant to this section, he shall be deemed for all purposes to be a member of the Council.

(3) The fact that any such person so attends any meeting shall be sufficient evidence of his authority so to do in the absence of proof to the contrary. 10

Cf. 1945, No. 7, s. 6 (5)

10. Remuneration and travelling allowances—(1) The Council and every committee of the Council are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951. 15

(2) There may be paid to the appointed members of the Council and to members of any committee of the Council, out of the funds of the Council, remuneration by way of fees, salary or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 20

Cf. 1945, No. 7, s. 7; 1951, No. 79, s. 10 (1)

11. Functions of Council—The functions of the Council shall be— 25

- (a) To make recommendations with respect to the nursing programmes to be undertaken by candidates for examination under this Act in relation to the minimum standards required for registration under this Act: 30
- (b) To approve, subject to the concurrence of the Minister, hospitals and other institutions at which the whole or any portion of any prescribed nursing programme may be undertaken for the purposes of this Act: 35
- (c) To conduct examinations under this Act:
- (d) To appoint examiners and make all necessary arrangements for the purposes of the examinations:
- (e) To issue certificates of having passed examinations to persons entitled to them: 40
- (f) To advise on and exercise a general supervision of any examination conducted under this Act pursuant to any regulations requiring or enabling the examination to be conducted otherwise than by the Council:

- (g) To receive applications for registration under this Act, and to authorise registration in proper cases:
 - (h) To exercise disciplinary powers in accordance with the provisions of this Act:
 - 5 (i) Generally, within the scope of its authority, to do whatever may in its opinion be necessary for the effective administration of this Act:
 - (j) To perform such other functions as may be conferred on it by any other enactment.
- 10 Cf. 1945, No. 7, s. 8

12. Penal Cases Committee—(1) There shall be a committee of the Council to be known as the Penal Cases Committee, which shall have the functions and powers imposed or conferred on that committee by this Act, and which
15 shall consist of 3 members of the Council, of whom at least 2 shall be nurses.

(2) The members of the Penal Cases Committee shall be appointed by the Council, which shall nominate one of the members to be convener of the Penal Cases Committee, and
20 shall hold office at the pleasure of the Council.

(3) If, in relation to any particular complaint, the chairman is satisfied that it would be impracticable, inappropriate, or unduly inconvenient for a member of the Penal Cases Committee to serve on that committee for the purpose of
25 investigating that complaint, he may, subject to subsection (1) of this section, appoint some other person who is a member of the Council, to serve on that committee in the place of that member for that purpose, and that person shall, while he is so serving, be deemed to be a member of the Penal Cases
30 Committee, and, if he is appointed in the place of the convener, to be the convener of that committee.

(4) The Penal Cases Committee may at any stage of a case take the advice of a barrister or solicitor and may instruct him to draw up proofs of evidence and otherwise prepare the
35 case, and may be represented by him at any hearing before the Council in accordance with subsection (4) of section 38 of this Act.

(5) Subject to the provisions of this Act, the Council may from time to time make rules for regulating the procedure of
40 the Penal Cases Committee, and prescribing classes of cases which need not be referred to that Committee before they are considered by the Council.

(6) Subject to the provisions of this Act, in the absence of any such rules, or so far as the rules do not extend, the Penal Cases Committee may regulate its procedure as it thinks fit.

13. Other committees—(1) The Council may from time to time appoint committees, consisting of 2 or more persons, to inquire into and report to the Council on such matters within the scope of its functions as are referred to them by the Council, or to exercise on behalf of the Council any of its powers or functions, and, subject to section 40 of this Act, may from time to time delegate to any such committee any such power or function as aforesaid, other than the functions and powers conferred on the Council by sections 21 and 22 of this Act.

(2) Except in the case of a committee appointed for the purposes of section 40 of this Act, any committee appointed by the Council under this section may include persons who are not members of the Council.

(3) Every such committee shall be subject in all things to the control of the Council, and may at any time be discharged, altered, or reconstituted by the Council.

(4) Subject to any general or special directions given or conditions imposed by the Council, any committee to whom any power or function is delegated under this section may exercise that power or function in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.

(5) Every committee purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(6) Any delegation under this section may be revoked at any time.

(7) No delegation under this section shall prevent the exercise of any function or power by the Council.

14. Finance—(1) The registrar, or any other officer or servant of the Council authorised in that behalf by the Council, shall take and receive such fees in respect of such matters under this Act as may from time to time be prescribed.

(2) Until the appropriate fee has been paid, the registrar or any other officer of the Council may decline to do any act, or to permit any act to be done, or to receive any document, in respect of which that fee is payable.

(3) Subject to the provisions of this Act and to the terms of any trust or endowment, all money received under this section and all other money received by the Council shall be applied by the Council in paying all amounts which by this Act are required to be paid by the Council; and, subject thereto, all such money may be applied by the Council as follows:

10 (a) In payment of remuneration and travelling allowances and expenses to its members, employees, and agents, including any person referred to in section 10 of this Act:

15 (b) In payment of contributions to the National Provident Fund under the National Provident Fund Act 1950, or to any other superannuation fund or scheme established with the approval of the Minister of Finance, for the purpose of providing superannuation or retiring allowances for its employees:

20 (c) In payment of all costs and expenses incurred in doing whatever the Council or the Penal Cases Committee considers expedient in order that the Council or Committee may best accomplish the purposes for which it is established:

25 (d) In contributing towards the cost of nursing education and research, and providing scholarships and fellowships and making donations for any such purpose.

30 (4) All money received by the Council or by an employee of the Council shall as soon as practicable be paid into such bank account or accounts of the Council as the Council from time to time determines.

35 (5) The Council may from time to time invest any such money which is not for the time being required for any of the purposes specified in subsection (3) of this section in any manner authorised by the Trustee Act 1956 for the investment of trust funds.

(6) Every payment of money by the Council shall be authorised by a prior resolution of the Council or shall be submitted to the Council for confirmation at its first ordinary meeting after the date of payment.

(7) Every payment of money by the Council shall be by cheque, or other instrument (not being a promissory note or bill), signed by the registrar or some other officer approved by the Council, and countersigned by another such officer or by a member of the Council.

5

(8) The Council shall keep full and correct accounts of all money received and expended by it.

(9) The accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all the powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of the accounts of local authorities.

10

(10) As soon as practicable after the end of each financial year, the Council shall cause to be prepared and submitted to the Audit Office full and true statements and accounts of all its income and expenditure in that year, together with a balance sheet as at the last day of that year.

15

(11) For the purposes of this section the financial year of the Council shall be the period ending with the 31st day of March in each year or with such other date as the Council may from time to time determine.

20

(12) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The Nursing Council of New Zealand | 1971, No. 00—The Nurses Act 1971.”

25

15. Annual report—(1) As soon as practicable after the expiry of a period of 3 months after the end of each financial year, the Council shall furnish to the Minister a written report relating to the operation of this Act during the preceding financial year, and shall attach to the report a copy of its accounts for that year certified by the Audit Office.

30

(2) A copy of the report (including the accounts so certified attached thereto) shall be laid before Parliament within 28 days after the date of its receipt by the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within 28 days after the date of the commencement of the next ensuing session.

35

PART II

REGISTRATION

16. **The Register of Nurses**—(1) The Council shall maintain a register, to be called the Register of Nurses, which shall
5 consist of 7 parts relating respectively to registered community nurses, registered general nurses, registered male nurses, registered maternity nurses, registered midwives, registered psychiatric nurses, and registered psychopaedic nurses.

(2) The register shall be kept in such form, whether in
10 bound books or otherwise, as may be prescribed, or, if no form is prescribed, as the Council may determine.

(3) There shall be entered in the appropriate part of the register the name of every person registered under this Act together with such other particulars as may be prescribed.

15 (4) The several registers kept under the Nurses and Midwives Act 1945 shall be deemed to be parts of the register required to be kept by this section:

Provided that, if and to the extent that the Council sees fit so to direct, the names and other particulars appearing in
20 those registers may be transcribed into a new register kept under this Act.

(5) Notwithstanding any other provision of this Act, the names of all persons whose names appear, at the commencement of this Act, in the Register of Nursing Aids kept under
25 the Nurses and Midwives Act 1945, shall be entered, as soon as practicable after that commencement, together with all the particulars appearing in that register in relation to those names, in that part of the register kept under this Act relating to community nurses; and all such persons shall, as from the
30 date of such commencement, be registered community nurses without further authority than this section until they cease to be registered, or are deemed not to be registered, under the provisions of this Act.

(6) The Council shall cause the register to be kept open
35 for inspection during ordinary office hours by members of the public at its office or head office if it has more than one office.

(7) The Council may from time to time cause the register or any part of the register to be published in such form,
40 whether abbreviated or otherwise, as it thinks fit, and may charge any person purchasing a copy of the register or part, as the case may be, such reasonable fee as it thinks appropriate.

45 Cf. 1945, No. 7, ss 9, 21A; 1960, No. 18, s. 4; 1963, No. 56, s. 7; 1965, No. 35, s. 3

17. Qualifications for registration—(1) Except as otherwise provided in this Act,—

- (a) Every woman who satisfies the Council that she has undertaken the nursing programme and passed the examinations prescribed in respect of persons seeking to become registered general nurses, registered maternity nurses, or registered midwives, as the case may require, or that she has obtained in New Zealand some other material qualification prescribed for the purposes of this section; and
- (b) Every man who satisfies the Council that he has undertaken the nursing programme and passed the examinations prescribed in respect of persons seeking to become registered male nurses, or that he has obtained in New Zealand some other material qualification as aforesaid; and
- (c) Every person who satisfies the Council that he has undertaken the nursing programme and passed the examinations prescribed in respect of persons seeking to become registered community nurses, registered psychiatric nurses, or registered psychopaedic nurses, as the case may require, or that he has obtained in New Zealand some other material qualification as aforesaid—

shall be entitled to be registered in the appropriate part of the register.

(2) For the purposes of subsection (1) of this section, a person shall be deemed to have passed a prescribed examination if he has been accredited with passing that examination in accordance with any regulations, rules, or practice governing the school of nursing, in the case of an examination conducted by the school, or in accordance with regulations for the time being in force under this Act, in the case of any other prescribed examination.

Cf. 1945, No. 7, ss. 10 (a), 11 (1) (a), 12 (a), 13 (a), 14 (1) (a), 14A (1) (a), and 15A (1) (a); 1960, No. 18, ss. 5, 6, and 7; 1965, No. 35, s. 4; 1967, No. 105, s. 3 (2)

18. Persons qualified overseas—(1) Except as otherwise provided in this Act, any person who satisfies the Council that he—

- 5 (a) Has successfully completed, elsewhere than in New Zealand, a course of instruction as a nurse belonging to a class which is equivalent to one or more classes of nurses registrable under this Act, in accordance with a programme recognised by the Council as being satisfactory for the purposes of this subsection; and
- 10 (b) Undertook the programme in an institution so recognised—
shall be entitled to be registered in the part or parts of the register which the Council considers to be appropriate to
- 15 his case.
- (2) Except as otherwise provided in this Act, any person who is not eligible for registration under subsection (1) of this section but who—
- 20 (a) Satisfies the Council that he has successfully completed, elsewhere than in New Zealand, a course of instruction as a nurse belonging to a class which is equivalent to one or more classes of nurses registrable under this Act; and
- 25 (b) Undergoes, to the Council's satisfaction, such further instruction and passes such examinations (if any) as may be specified by the Council; and
- (c) Satisfies the Council that he has a reasonable command of the English language—
shall be entitled to be registered in the part or parts of
- 30 the register which the Council considers to be appropriate to his case.

35 Cf. 1945, No. 7, ss. 10 (b), 11 (1) (b), 12 (b), 13 (b), 14 (1) (b), 14A (1) (b), 15A (1) (b), and 15B; 1960, No. 18, s. 6; 1965, No. 35, ss. 4 and 5; 1967, No. 105, s. 3 (2)

19. Limitations as to age and character of applicants—

(1) No woman who is under 21 years of age shall be registered as a midwife.

(2) No person who is under 20 years of age shall be registered as a general nurse, a male nurse, a maternity nurse, a psychiatric nurse, or a psychopaedic nurse. 5

(3) No person who is under 18 years of age shall be registered as a community nurse.

(4) A person shall not be registered under this Act unless, in the opinion of the Council, that person is of good character and reputation and is a fit and proper person to be registered in accordance with his application. 10

Cf. 1945, No. 7, s. 16; 1957, No. 15, s. 2; 1960, No. 18, s. 8; 1963, No. 56, s. 6; 1965, No. 35, s. 6

20. Applications for registration—(1) Except as may be provided by regulations for the time being in force under this Act, every application for registration under this Act shall be made in writing addressed to the Council. Every application shall be accompanied by such fee as may be prescribed. 15 20

(2) No entry of the name of any person shall be made in the register except pursuant to a direction of the Council.

Cf. 1945, No. 7, s. 17

21. Applications to be considered by Council—(1) At its first meeting after any application under section 20 of this Act has been submitted to it or as soon thereafter as practicable, the Council shall consider the application, and shall give such directions to the registrar in respect of it as it thinks fit and as are authorised by or under this Act. 25

(2) Before giving any such directions the Council may, if it thinks fit, examine on oath or otherwise the person making the application, or any person objecting to it, or any other person, with respect to the application; and for the purposes of any such examination the chairman may administer an oath to any person. 30 35

(3) The Council may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application before the Council, or with respect to any objection to any such application.

22. Registration, etc.—(1) If the Council, after considering any application under section 21 of this Act, considers that the applicant is entitled to be registered in the manner specified in the application, it shall so direct, and the
5 registrar shall thereupon register that person in that manner, and shall notify him accordingly.

(2) If the Council, after so considering any such application, considers that the applicant is not entitled to be registered in the manner specified in the application, it shall direct
10 accordingly, and the registrar shall thereupon refuse to register that person in that manner.

(3) If the Council refuses to direct the registration of an applicant, it shall cause the applicant to be notified in writing of the reasons for its refusal.

15 (4) If a registered maternity nurse becomes registered as a midwife, the registrar shall remove her name from the part of the register relating to maternity nurses.

Cf. 1945, No. 7, s. 11 (2)

23. Certificates of registration and badges—(1) Every
20 registered nurse shall, on payment of any fee that may be prescribed, be entitled to receive a certificate of registration issued by or under the authority of the registrar, and, in the case of a person qualified by examination in New Zealand under this Act, shall also be entitled to obtain and wear a
25 badge of a kind approved by the Council bearing his name.

(2) Any person whose name is removed from the register under Part IV of this Act shall, within 14 days after the date on which written notice that his name has been so removed is received by him, deliver to the registrar every certificate
30 and badge which has been issued to him under this section and which he has not so delivered before that date.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$20 who fails to comply with the provisions of subsection (2) of this section.

35 Cf. 1945, No. 7, s. 18 (1); 1967, No. 105, s. 2 (2)

24. Additional diplomas, etc., to be entered in register—

(1) Any registered nurse who obtains any degree, certificate, diploma, licence, or other qualification approved by the Council for the purposes of this section, other than that by

virtue of which he is registered, may apply to the Council to amend the register so far as it relates to the qualifications of that person; and on any such application the Council, if it is satisfied that the applicant is entitled to the degree, certificate, diploma, licence, or other qualification, in respect of which the application is made, shall direct the registrar to amend the register accordingly, and the registrar shall thereupon, on payment of the prescribed fee (if any), insert in the register particulars of the degree, certificate, diploma, licence, or other qualification. 5 10

(2) The Council may, for the purpose of approving any degree, certificate, diploma, licence, or other qualification under this section, require the course of instruction or programme or examination relating to the course or programme to be such as may be approved or prescribed by the Council. 15

(3) The Council may at any time revoke any approval given for the purposes of this section.

(4) The provisions of this section shall, with the necessary modifications, apply in any case where the nurse holds, at the time of his application for registration, any degree, certificate, diploma, licence, or other qualification in addition to that by virtue of which he is registered. 20

Cf. 1945, No. 7, s. 19

25. Name may be removed from register if registered person cannot be found, etc.—(1) The registrar may at any time, and shall if the Council so directs, send to any registered nurse, by registered letter addressed to him at his last known address, an inquiry as to whether or not he desires to have his name retained in the register or has ceased to practise. 25

(2) If no reply is received to the letter within 6 months after it has been posted, or if the letter is not delivered and is returned to the registrar, the registrar shall, if the Council so directs, remove from every part of the register in which it appears the name of the nurse to whom the letter was sent. 30

(3) If the Council has reason to believe that any registered nurse has died, it may direct the registrar to remove the name of that person from the register, and the registrar shall remove that name accordingly from every part of the register in which it appears. 35

(4) Any person whose name has been removed from the register under this section may apply to the registrar to have his name restored to the register; and, on proof to the satisfaction of the Council that his name has been so removed, it shall direct the registrar to restore to the register the name of that person. 40 45

26. Amendment of register if person wrongfully registered or if particulars incorrect—

(1) If any person has been registered by reason of any false or fraudulent representation or declaration, made either orally or in writing, or if any
5 person not entitled to be registered has been registered, the Council shall order the name of that person to be removed from the material part of the register; and the registrar shall thereupon amend the register accordingly.

(2) If any particulars appearing in the register in respect
10 of the qualifications of any person who is registered are proved to the satisfaction of the Council to be, or are to the knowledge of the Council, false or erroneous in any respect, the Council shall order the registrar to remove those particulars from the material part of the register, or otherwise amend the
15 register; and the registrar shall thereupon amend the register accordingly.

(3) The provisions of subsection (2) of this section shall apply notwithstanding that at the time when the entry in the register was made the person actually possessed the quali-
20 fications particulars of which appear in the register, or that at that time the entry was otherwise correct.

Cf. 1945, No. 7, s. 23 (1)

27. Removal of name from register after removal from overseas register—

(1) If the Council is satisfied that the
25 name of a registered nurse has, since the date of his registration, been removed from any register of nurses in the country in which his foreign degree, diploma, or qualification was granted, it may, by writing under the hand of the chairman, direct his name to be removed from the register; and the name
30 shall accordingly be removed from every part of the register in which it appears.

(2) Notice of its intention to direct any name to be removed from the register pursuant to this section shall be given by the Council to the person affected, either personally or, if his
35 address is unknown, by advertisement in such manner as the Council thinks sufficient; and his name shall not be removed from the register before the expiration of 1 month after the date of the notice.

28. Amendment of register on change of name, and removal of name on request—(1) When it appears to the satisfaction of the Council that a registered nurse has changed his name, or that the name of any registered nurse is incorrectly stated in the register, the registrar shall, on payment of any fee that may be prescribed, correct any entry in the register relating to that nurse accordingly: 5

Provided that no fee shall be payable where the correction of the register is rendered necessary by reason of a mistake made by the Council or the registrar or any of the Council's employees. 10

(2) The Council may at any time, if it thinks fit, on the application of any registered nurse, cause the name of that nurse to be removed from the register or any part of the register. 15

Cf. 1945, No. 7, s. 23 (2) ; 1963, No. 56, s. 8

29. Provisional certificates—(1) Notwithstanding anything to the contrary in this Act, where it appears to the registrar that a person who has applied for registration is qualified for registration, the registrar may grant to that person a provisional certificate which shall entitle him, while the certificate is in force, to practise such calling as he would have been entitled to practise if he had been registered pursuant to the application pending consideration by the Council of that person's application. 20 25

(2) Every provisional certificate shall, unless it has been cancelled or has lapsed, remain in force for the period, not exceeding 3 months, stated in it, but any such certificate may from time to time be renewed for a further period not exceeding 3 months. 30

(3) The holder of a provisional certificate shall, while the certificate is in force, be deemed for all purposes to be registered in respect of the calling specified in the certificate.

(4) The registrar may cancel any provisional certificate at any time on the direction of the Council or may, without any such direction, refuse to renew any such certificate. 35

Cf. 1945, No. 7, s. 23A; 1963, No. 56, s. 9

30. Temporary registration of visitors to New Zealand—(1) Notwithstanding anything in this Act, if the Council is satisfied that any person is or will be visiting New Zealand for the purpose of giving instruction in nursing, and that— 40

(a) He is qualified for registration under this Act; or

(b) He is the holder of a qualification granted outside New Zealand and recognised by the Council as evidence that the holder has, for the purposes of this section, sufficient knowledge of and experience in the branch of nursing to which the qualification relates—

5 the Council may, if it thinks fit, issue to him a certificate of temporary registration entitling him to practise the calling in respect of which he is so qualified for registration or is the holder of a qualification, as the case may be, for such period as may be determined by the Council and specified in the certificate.

10 (2) Notwithstanding anything in this Act, if the Council is satisfied that any person is or will be visiting New Zealand for the purpose of obtaining experience as a nurse, or of carrying out research in nursing—

15 (a) In the Department of Health; or

20 (b) In any hospital or other institution, or in any organisation, or under other circumstances, approved by the Council for the purposes of this section,—

the Council may in its discretion, on payment of the prescribed fee (if any), issue to that person a certificate of temporary registration if it is satisfied that—

25 (c) The person is qualified for registration under this Act; or

30 (d) The person is the holder of a qualification granted outside New Zealand and recognised by the Council as evidence that the holder has, for the purposes of this section, sufficient knowledge of and experience in the branch of nursing to which the qualification relates.

(3) A temporary certificate issued under subsection (2) of this section shall entitle the person to whom it is issued to practice the calling in respect of which the certificate was issued in the Department of Health, or in the hospital, institution, or organisation, or under other circumstances, specified in the certificate, for such period as may be determined by the Council and be so specified.

40 (4) The provisions of sections 19 to 22 of this Act shall apply to every application for temporary registration under this section.

(5) The Council may from time to time, in its discretion, extend the period specified in any certificate under this section if it is satisfied that the circumstances in which it was

issued still exist. Where any such extension is granted the certificate shall be surrendered by the holder to the registrar who may cause the extension to be endorsed on the certificate or issue a new certificate.

(6) During the period specified in any certificate issued under subsection (1) of this section, or any extension of it, the holder of the certificate shall, unless it has been cancelled under this section, be deemed for all purposes to be registered in respect of the calling so specified. 5

(7) During the period specified in any certificate issued under subsection (2) of this section, or any extension of it, the holder of the certificate shall, unless it has been cancelled under this section, be deemed for all purposes to be registered in respect of the calling in respect of which the certificate was issued while he is practising that calling in the Department, hospital, institution, or organisation, or under other circumstances, specified in the certificate but not otherwise. 10 15

(8) The registrar may cancel any such certificate at any time on the direction of the Council.

31. Suspension from practice for disability—(1) If it appears to the Council that any registered nurse is (owing to mental or physical disability) unable satisfactorily to practise the calling in respect of which he is registered and that, because he may attempt to practise that calling, it is necessary in the public interest to prevent him from so doing, the Council may, by notice in writing under the hand of the chairman or registrar served on that person, require that person to submit himself for examination at the expense of the Council by a medical practitioner specified in the notice (in accordance with an arrangement between the Council and that medical practitioner) within such reasonable time (being not less than 7 days) as may be specified in the notice. 20 25 30

(2) Where a medical practitioner makes an examination of any nurse pursuant to subsection (1) of this section, he shall as soon as practicable thereafter make a written report to the registrar as to the mental and physical condition of the nurse examined so far as it affects the capacity of that nurse satisfactorily to practise the calling in respect of which he is registered. 35

(3) Where a notice in writing has been served on any person under subsection (1) of this section, the Council may— 40

(a) After the expiration of the time specified in the notice or on the earlier receipt by the registrar of a

written report in respect of the person from the medical practitioner named in the notice; and

(b) After considering the report (if any) and all relevant circumstances; and

5 (c) After giving the person a reasonable opportunity to be heard—

suspend the person from practice, if it is satisfied that the person is (owing to mental or physical disability) unable satisfactorily to practise the calling in respect of which
10 he is registered and that, because he may attempt to practise that calling, it is necessary in the public interest to prevent him from so doing.

(4) Any such suspension shall take effect forthwith upon its being made, but may at any time be revoked by the Council.

15 (5) While any person is so suspended from practice under this section, that person shall be deemed for the purposes of this Act, other than Part IV, not to be registered in any part of the register.

(6) Notwithstanding anything in subsections (1) to (5) of
20 this section, if the Council is satisfied that a registered nurse is (because of mental or physical disability) unable satisfactorily to practise the calling in respect of which he is registered except under special conditions, the Council may, instead of suspending that nurse under subsection (3) of this
25 section, or revoking a suspension under subsection (4) of this section, by writing under the hand of the chairman or deputy chairman suspend or continue the suspension of that nurse from practice, except practice in such hospital or other institution or with such organisation as may from time to time be specified by the Council, and in accordance with such
30 conditions, if any, as it may from time to time see fit to impose.

(7) Subsection (4) of this section shall apply to any suspension limited in terms of subsection (6) of this section in
35 the same manner and to the same extent as it applies to any other suspension under this section, and subsection (5) of this section shall apply in respect of any suspension so limited except in relation to practice in the hospital or other institution or with the organisation for the time being specified for the
40 purpose of the said subsection (6) in accordance with any conditions imposed thereunder.

(8) If the medical superintendent or other person in charge of a hospital or other institution in which any registered nurse is employed has reason to believe that the nurse is (because
45 of mental or physical disability) unable satisfactorily to

practise the calling in respect of which he is registered, he shall forthwith inform the Council of the matter, setting out the reason for his belief.

Cf. 1945, No. 7, s. 29; 1963, No. 56, s. 11

32. Offences as to registration—Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 12 months, who, for the purpose of obtaining registration under this Act (either for himself or for any other person)—

- (a) Either orally or in writing, makes any declaration or representation which to his knowledge is false or misleading in a material particular; or
- (b) Produces to the Council or makes use of any document knowing it to contain any such declaration or representation; or
- (c) Produces to the Council or makes use of any document knowing that it is not genuine.

Cf. 1945, No. 7, s. 22

PART III

SCHOOLS OF NURSING AND NURSING PROGRAMMES 20

33. Approval of schools of nursing—(1) Subject to subsection (2) of this section and to any regulations for the time being in force under this Act, the Council may, with the concurrence of the Minister,—

- (a) Approve any institution controlled or maintained by any Department of State or by any hospital board or by any private charitable institution, as a school of nursing for persons seeking to be registered in such capacity or capacities as may be specified by the Council;
- (b) Approve any private hospital licensed under Part V of the Hospitals Act 1957 as a school of nursing for persons seeking to be registered as general nurses or as community nurses.

(2) A private hospital or private charitable institution may not be approved as a school of nursing for persons seeking to be registered as general nurses unless provision is made in it for not less than 50 beds to be available at all times for occupation by patients receiving nursing and hospital service without charge to themselves, and for not less than 100 beds

to be available at all times for the instruction of persons seeking to be registered as nurses.

(3) The approval of any school of nursing under this section may, in the discretion of the Council, be so limited
5 that only a defined part of the prescribed nursing programme may be taken at that school.

(4) Subject to any regulations for the time being in force under this Act, the approval of any school of nursing by the Council may be at any time revoked by the Council with
10 the concurrence of the Minister.

(5) If a hospital board, or the licensee of any private hospital, or the controlling authority of any private charitable institution, is dissatisfied with any decision of the Council in refusing to approve the hospital or other institution controlled
15 or maintained by the hospital board, or the private hospital, or private charitable institution, as the case may be, as a school of nursing, or in revoking any such approval, the board, licensee, or authority may, within 3 months after the date of the notification of the Council's decision, apply to the
20 Administrative Division of the Supreme Court for an order that the decision of the Council be reversed; and thereupon the Court may, after having regard to any regulations for the time being in force under this Act relating to the approval of schools of nursing, make such order as it thinks
25 just, and the Council shall be bound by the terms of the order.

(6) Notwithstanding anything to the contrary in this section, every training school approved by the Nurses and Midwives Board under the Nurses and Midwives Act 1945
30 or any corresponding former enactment, and in existence as such at the commencement of this Act, shall be deemed to have been duly approved as a school of nursing under this section.

(7) Nothing in this section shall prevent the enactment of
35 regulations prescribing qualifications for registration which do not include the undertaking of a nursing programme at a school of nursing.

Cf. 1945, No. 7, s. 24; 1960, No. 18, s. 11; 1965, No. 35,
s. 7

34. Inclusion of one nursing programme in another nursing programme—For the purposes of qualification for registration in any capacity under this Act, the prescribed nursing programme required to be undertaken for registration in one capacity may include a nursing programme required to be undertaken for registration in another capacity, and references in this Act to the prescribed nursing programme shall be construed accordingly: 5

Provided that in any such case the examinations to be prescribed for registration in any such capacity shall be substantially equivalent to those prescribed in relation to any separate nursing programme for registration in the other capacity. 10

Cf. 1945, No. 7, s. 25A; 1957, No. 15 s. 3

35. Credit for previous achievement—(1) Where a person has undergone, either in New Zealand or elsewhere, any period of instruction in a subject included in a nursing programme prescribed in respect of the calling in which he seeks to be registered, the Council may from time to time, in its discretion, direct that it shall not be necessary for that person to undertake such portion or portions of the prescribed programme as the Council may determine. 15 20

(2) In giving any direction under this section the Council may make such modifications and impose such conditions as it thinks fit in respect of the programme to be undertaken by the person in respect of whom the direction is given. 25

(3) Every person in respect of whom any direction has been given under this section shall, when he has completed the nursing programme as modified by any such direction and has complied with any conditions imposed by the Council under this section, be deemed, for the purposes of the provisions of this Act relating to qualifications for registration, to have undertaken the prescribed nursing programme. 30

(4) Nothing in this section shall be deemed to render it unnecessary for any person to pass any prescribed examination. 35

(5) This section shall be read subject to any regulations made under paragraph (i) of subsection (1) of section 58 of this Act or the corresponding provisions of any previous enactment.

Cf. 1945, No. 7, s. 27; 1957, No. 15, s. 4

36. Experimental programmes—(1) If the Council considers that it would be advantageous for a trial to be held of a scheme comprising a nursing programme and examinations to be undergone and passed by any class of persons seeking registration, being a programme and examinations differing from, but appearing to the Council to be no less efficient than, the programme and examinations prescribed for that class, the Council may, with the approval of the Minister, by resolution adopt the scheme for such period as may be specified in the resolution and in relation to such schools of nursing as may be so specified, being schools of nursing appearing to the Council to be suitable for the purpose of carrying out the scheme.

(2) A scheme comprising a nursing programme and examinations adopted by a resolution of the Council under this section shall provide that, during the period for which it is adopted, persons who, to the satisfaction of the Council, undergo the programme and who pass the examinations shall, notwithstanding anything in any regulations for the time being in force under this Act, be entitled to registration.

(3) Any scheme adopted under this section may contain such incidental and supplementary provisions (including provisions for charging fees in respect of the sitting of examinations specified in the scheme) as appear to the Council to be requisite or expedient for the purposes of the scheme.

(4) The period for which a scheme is adopted under this section may from time to time, with the approval of the Minister, be extended by resolution of the Council for such period as may be specified in the resolution.

(5) Any scheme adopted under this section may from time to time, with the approval of the Minister, be extended by resolution of the Council to apply to such further school or schools of nursing as may be specified in the resolution.

PART IV

DISCIPLINE

37. Complaints against registered persons—(1) Except as otherwise provided by rules made under section 12 of this Act, every person who seeks to complain to the Council of the conduct of any registered nurse shall make the complaint to the registrar.

(2) Every such complaint (other than a complaint made by a Court) shall be in writing.

(3) When the registrar has received any complaint under this section, he shall notify the convener of the Penal Cases Committee of the complaint; and the convener may require that the complaint be supported by such statutory declarations as he may require, or decide that the matter need not proceed further, or forthwith proceed in accordance with section 38 of this Act. 5

(4) Without limiting the provisions of subsection (1) of this section, a complaint may be made under this section by any person in the service of the Crown acting in his official capacity. 10

38. Penal Cases Committee to investigate complaint—

(1) Except where the convener of the Penal Cases Committee decides that the matter need not proceed further, the convener shall, upon being notified of the complaint in accordance with section 37 of this Act, and having received any statutory declarations that he may require, cause the Penal Cases Committee to investigate the complaint and determine whether any further action shall be taken in respect of it. 15

(2) Before the Penal Cases Committee decides whether or not further action shall be taken in respect of the complaint— 20

(a) The convener shall post or deliver to the nurse concerned a notice specifying the substance of the complaint with sufficient particularity to enable that nurse to answer it and inviting him within such period (not being less than 14 days) as may be specified in the notice, to give the convener any written explanation he may wish to offer and to advise the convener if he wishes to be heard by the committee: 25 30

(b) The Penal Cases Committee shall allow the time specified in the notice to elapse, and shall give the nurse concerned reasonable opportunity to be heard, and shall give due consideration to any explanation he may make. 35

(3) Where at the conclusion of any such investigation the majority of the Penal Cases Committee considers that further inquiry should be made by the Council in relation to the subject-matter of the complaint, the committee shall frame an appropriate charge and refer it to the chairman of the Council who shall thereupon convene a meeting of the Council for the purpose of hearing the charge. 40

(4) Every charge that is referred to the chairman of the Council pursuant to subsection (3) of this section shall be

prosecuted at the hearing by the Penal Cases Committee, and the committee may for that purpose be represented by counsel or otherwise.

5 (5) No member of the Penal Cases Committee shall act as a member of the Council or of any other committee of the Council, at the hearing of, or deliberation and adjudication on, any charge arising out of a complaint which has been referred to the Penal Cases Committee under this section.

10 (6) Notwithstanding anything in subsections (1) to (5) of this section, if any member of the Penal Cases Committee has reason to believe that a registered nurse might have been guilty of professional misconduct, the committee may investigate the matter of its own motion, without any complaint under section 37 of this Act having been made, and subsections
 15 (2) to (5) of this section shall apply in any such case with any modifications that may be necessary.

39. Disciplinary powers of the Council—(1) If any registered nurse,—

20 (a) Is convicted by any Court in New Zealand of any offence for which the maximum punishment is not less than 2 years' imprisonment; or

(b) After due inquiry is found by the Council to have been guilty of professional misconduct,—

the Council may, if it thinks fit, impose in respect of that
 25 nurse any one of the penalties specified in subsection (2) of this section:

Provided that if the Council suspends or censures a nurse it may also fine him under paragraph (c) of that subsection.

30 (2) Where the Council is empowered to impose a penalty on any nurse, it may by writing under the hand of the chairman—

(a) Subject to subsection (4) of this section, order the name of that nurse to be removed from the register, and thereupon, subject to the provisions of this
 35 Act, that nurse shall cease to be registered.

(b) Subject to subsection (4) of this section, order that the nurse be suspended from practice for a period not exceeding 12 months:

40 (c) Impose a fine on the nurse not exceeding \$100:
 Provided that no such fine may be imposed under this paragraph in any case where the Council is proceeding under paragraph (a) of subsection (1) of this section, or where the Council is inquiring

into any act or omission which constitutes an offence for which the person has been convicted by any court and which is punishable by imprisonment or fine:

- (d) Order that the nurse be censured. 5
- (3) The Council may, by writing under the hand of the chairman, order any such nurse to pay any costs and expenses of and incidental to the inquiry by the Council and any investigation made by the Penal Cases Committee.
- (4) A person shall not be suspended from practice, nor shall the name of any person be removed from the register, under paragraph (a), of subsection (1) of this section by reason of any offence committed before the date of his registration, if at that date the Council was aware of his conviction in respect of the offence. 10 15
- (5) If any university or institution, having granted to any person a degree or diploma or other qualification registrable under this Act, exercises any power conferred by law of removing the name of that person from the rolls or register in which the degree, diploma, or qualification is recorded and notifies to the Council the fact of the removal,— 20
- (a) The registrar shall make a note of the fact in the register:
- (b) If the said university or institution notifies to the Council the findings of fact on which the decision to remove the name was based, the findings may (if the Council thinks fit) be treated, for the purposes of any inquiry under this section, as conclusive evidence of the facts found. 25
- (6) Every fine imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Council. 30
- (7) Subject to subsection (11) of this section, while any order of suspension from practice under this section remains in force, the person shall be deemed for the purposes of this Act, other than this Part, not to be registered; but forthwith on the expiry of the order his rights and privileges as a registered person shall be revived as from the date of the expiry. 35

- (8) Subject to subsections (9) and (10) of this section, any person whose name has been removed from any part of the register under this section, or from the corresponding register under the corresponding provisions of any previous enactment, may apply to the Council for the restoration of his name to the register; and the provisions of sections 19 to 22 of this Act shall, so far as they are applicable and with the necessary modifications, apply in respect of every such application.
- 10 (9) In any order under this section directing the name of any person to be removed from the register, the Council, and (in the event of an appeal against any such order) the Supreme Court, may fix a time after which the person whose name is so removed as aforesaid may apply to have his name
- 15 restored to the register.
- (10) If neither the Council nor the Supreme Court fixes any such time, the Council may refuse to consider any such application for such time as it thinks just.
- 20 (11) In any case where a person is registered in more than one part of the register, an order that his name be removed from the register or that he be suspended from practice may be limited to a specified part or specified parts of the register or to a specified calling or specified callings, as the case may require; and subsections (4), (7), (8), (9), (10), and
- 25 (12) of this section shall apply to any such order with such modifications as may be necessary.
- (12) An order that the name of a person be removed from the register, or an order of suspension or censure, shall not take effect, and no fine or costs or expenses shall be payable,
- 30 in any case until the expiry of a period of 28 days after the notification by the Council to the person affected of the making of the order. If within the said period of 28 days the person gives due notice of appeal, the order shall not take effect, and no fine or costs or expenses shall be payable,
- 35 unless and until it is confirmed by the Supreme Court or the appeal is for any reason dismissed by that Court.

Cf. 1945, No. 7, s. 33 (1), (2), (7), and (8)

- 40. Procedure**—(1) Before the Council exercises any power under section 39 of this Act, there shall be served on
- 40 the person concerned a notice containing a copy of the charge framed by the Penal Cases Committee, or, if there is no such charge, a notice stating that the Council has reason to believe that a ground exists entitling the Council to exercise its

powers under that section, specifying the ground with sufficient particularity to enable the person to answer the same. Every such notice shall specify the time, date, and place for the hearing of the matter by the Council.

(2) A notice under subsection (1) of this section may require the person to whom it is addressed to notify the Council in writing, not later than some specified date before the date proposed for the hearing of the matter, as to whether or not he intends to appear before the Council at the hearing. If he fails to notify his intention as required by the notice or notifies the Council that he does not intend to appear, he shall not be entitled to appear and be heard except by leave of the Council granted on such conditions as to the payment of costs or otherwise as the Council thinks fit.

(3) With the prior written consent of a person on whom a notice has been served under this section, and who has notified the Council that he intends to appear, a committee of the Council may hear and determine the matter:

Provided that the determination of the committee shall be of no effect until it has been confirmed by the Council, which shall have power to determine—

- (a) That no penalty be imposed; or
- (b) To reduce any penalty determined by the committee by suspending registration for a period or imposing a fine, instead of removing the name of the person from the register; or
- (c) To reduce any period of suspension of registration or any fine; or
- (d) To substitute a fine for a period of suspension; or
- (e) To substitute a censure for any of the said penalties; or
- (f) In the case of a person registered in more than one part of the register, to limit the removal of his name to a part or parts of the register or to limit his suspension to one or more registrable callings; or
- (g) To rescind or modify any order to pay costs and expenses.

(4) Sections 41 to 45 of this Act shall apply in respect of any proceedings before a committee under subsection (3) of this section as if they were proceedings before the Council, and for that purpose the committee and the chairman of the committee shall have the powers and discretions respectively conferred on the Council and the chairman of the Council by sections 42, 44, and 45 of this Act.

(5) In all proceedings under this Part of this Act, the Council shall observe the rules of natural justice, and may receive evidence notwithstanding that it would not be admissible in a court of law.

5 (6) The decision of a majority of the members of the Council present at any proceedings held under this Part of this Act shall be the decision of the Council.

(7) Unless the Council otherwise directs, proceedings held under this Part of this Act shall not be open to the general
10 public.

(8) Every order, decision, or determination of the Council under this Part of this Act shall be reduced to writing, shall contain a statement of the reasons on which it is based, and shall be signed by the chairman of the Council.

15 (9) A copy of every order, decision, or determination of the Council under this Part of this Act shall be served by the Registrar on the nurse in respect of which it was made.

Cf. 1945, No. 7, s. 33 (3), (4), and (5)

41. Appointment of legal assessor—(1) For the purposes of
20 advising the Council on questions of law and procedure arising in proceedings under this Part of this Act, the Council may appoint an assessor, who shall be a barrister or solicitor, to attend the proceedings.

(2) The Council shall pay to the assessor, by way of
25 remuneration and expenses for his services in respect of the proceedings, such sum as may be agreed upon between the assessor and the Council.

(3) Subject to any order made by the Council, all such remuneration and expenses shall be paid by the Council.

42. Council and Penal Cases Committee may require evidence to be given—(1) The Council and the Penal Cases
30 Committee, by notice in writing under the hand of the chairman of the Council or the convener of the Penal Cases Committee, as the case may require, may require any person
35 to attend and give evidence before it at any inquiry or investigation under this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such inquiry or investigation.

40 (2) The Council or Penal Cases Committee may require any such evidence to be given on oath, and either orally or in writing, and for that purpose the chairman of the Council or the convener of the Penal Cases Committee, as the case may require, may administer an oath to any person.

(3) Every person who, without lawful justification, refuses or fails to give evidence when required to do so by the Council or the Penal Cases Committee or to answer truly and fully any question put to him by the Council or committee, or to produce to the Council or committee any book or document required of him, commits an offence and is liable on summary conviction to a fine not exceeding \$100. 5

43. Immunity of witnesses and counsel—Witnesses and counsel shall have the same privileges and immunities in relation to inquiries and investigations before the Council or the Penal Cases Committee, as if they were proceedings in a court of law. 10

44. Witnesses' expenses—(1) Every witness giving evidence or intending to give evidence at the hearing of any inquiry or investigation under this Part of this Act shall be entitled in the discretion of the Council or the Penal Cases Committee to such sum for his expenses and loss of time as the Council or committee may determine. 15

(2) Subject to any order made by the Council or committee as to the payment of costs or expenses, all such witnesses expenses shall be paid by the Council. 20

45. Power to adjourn and postpone—Without prejudice to any other provision of this Act, the Council may from time to time adjourn the hearing of any proceedings pending before it under this Part of this Act and may postpone any finding or judgment until a further meeting of the Council. 25

Cf. 1945, No. 7, s. 33 (6)

PART V

APPEALS TO ADMINISTRATIVE DIVISION OF SUPREME COURT

46. Matters on which appeals lie—(1) Any person who is dissatisfied with— 30

- (a) Any decision of the Council, under any regulations for the time being in force under this Act, prohibiting him from sitting any examination; or
- (b) Any refusal of the Council of an application by him for registration; or 35
- (c) Any decision of the Council refusing to restore his name to the register or any part of the register under Part II of this Act; or

- (d) Any order of the Council directing his name to be removed from the register or any part of the register or directing his registration to be suspended; or
- 5 (e) Any order of the Council imposing a fine on him; or
- (f) Any order of the Council censuring him; or
- (g) Any order of the Council requiring him to pay costs and expenses of and incidental to any inquiry; or
- (h) Any decision of the Council amending or refusing to amend the particulars of his registration; or
- 10 (i) Any decision of the Council refusing to revoke his suspension under subsection (4) of section 31 of this Act; or
- (j) Any refusal of the Council to consider an application for the restoration of his name to the register
- 15 under section 39 of this Act—
- may, within 28 days after notice of the refusal, decision, or order has been communicated to him by the registrar, appeal to the Supreme Court against the refusal, decision, or order, as the case may be.
- 20 (2) For the purpose of this section and of section 47 of this Act, any decision of a committee of the Council appointed to exercise on behalf of the Council any power or function conferred on the Council under Part II of this Act shall be deemed to be a decision of the Council.
- 25 (3) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court.

- 47. Decisions of the Court in respect of appeals under this Part—**(1) The Court shall as soon as practicable hear any appeal under this Part of this Act, and may confirm, reverse,
- 30 or modify the decision of the Council, and in the case of an appeal against any decision of the Council under section 39 or section 40 of this Act, may substitute a different penalty for any penalty imposed by the Council, or may make such other order as it thinks just.
- 35 (2) Nothing in this section shall be construed to give the Court power to review any part of the Council's decision other than the part against which the appellant has appealed.

PART VI

ANNUAL PRACTISING CERTIFICATES, ETC.

48. Annual practising certificates for registered persons—

(1) In this section, the term “year” means the period of 12 months beginning on the first day of April in any year and ending on the last day of March next following. 5

(2) No person registered under this Act shall in any year be entitled to practise the calling in respect of which he is registered unless he is the holder of an annual practising certificate issued in respect of that year. 10

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$50 who practises his calling in contravention of subsection (2) of this section.

(4) The Council, on application made to it for the purpose by any person who is registered under this Act and on payment of the prescribed fee, shall issue to him an annual practising certificate, which shall be in force during the year in respect of which it is issued: 15

Provided that if at any time during the currency of any such certificate its holder ceases to be registered under this Act the certificate shall be deemed to be cancelled. 20

(5) Every person who is entitled to receive an annual practising certificate under this section shall be deemed to have obtained the certificate when he has duly applied for it to the Council and has paid the prescribed fee. 25

(6) Subject to subsection (7) of this section, this section shall apply with respect to the practice of a calling in the service of the Crown as well as to the practice of that calling otherwise than in the service of the Crown.

(7) Nothing in this section shall apply with respect to— 30

(a) Any person in so far as he is rendering nursing aid to any person in an emergency:

(b) Any person holding a provisional certificate for the time being in force under section 29 of this Act:

(c) Any person holding a certificate of temporary registration for the time being in force under section 30 of this Act. 35

(8) Any applicant for an annual practising certificate may be required, in any form prescribed for the purpose, to supply such personal particulars relating to the applicant, and such information as to the present employment of the applicant and as to the intention of the applicant to continue in practice, as may be specified in the form; and if any such form is not fully and properly completed the Council may refuse to issue the certificate for which application is made. 40 45

(9) Any regulations prescribing a fee for the purposes of this section may prescribe an additional fee payable by persons who have not applied for annual practising certificates in respect of either of the 2 years immediately preceding
 5 the year in respect of which the application is made, and who would have been required to obtain a certificate in respect of either of those preceding years if they had then been registered and practising their profession.

(10) Section 28 of the Nurses and Midwives Act 1945 shall
 10 cease to have effect on the last day of February 1972.

Cf. 1945, No. 7, s. 28; 1951, No. 81, s. 21

49. Prohibition on use of registered titles, etc.—(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$200, who—

- 15 (a) Not being registered, takes or uses the name or title of any class of registered person, either alone or in combination with any other words or letters, or any name, title, addition, or description, implying that he is registered or is recognised by law as registered
 20 or is qualified to be registered; or
- (b) Being a person whose name is included in any part of the register, takes or uses any name, title, addition, or description, or otherwise does any act of any kind falsely implying that his name is included in some
 25 other part of the register; or
- (c) With intent to deceive, makes use of any certificate of registration or badge issued to him or to any other person.

(2) Every person commits an offence, and is liable on
 30 summary conviction to a fine not exceeding \$100, who, knowing that some other person is not registered, makes any statement or does any act calculated to suggest that that other person is registered.

Cf. 1945, No. 7, ss. 36 and 37

35 **50. Prohibition on unregistered persons wearing nurses' badges**—Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$100, who—

- 40 (a) Not being a registered nurse, wears any badge of a kind approved by the Council under this Act, or wears any imitation of any such badge; or

- (b) Being a registered nurse, wears a badge approved by the Council under this Act of a kind which he is not entitled to wear, or wears any imitation of any such badge.

Cf. 1945, No. 7, s. 18 (2)

5

51. Restriction on use of title of nurse—(1) Subject to subsections (2), (3), and (4) of this section, every person who, not being registered, takes or uses the name or title of nurse, either alone or in combination with any other words or letters, with intent to cause any other person to believe that he is specially qualified to practise nursing or any branch of nursing, commits an offence, and is liable on summary conviction to a fine not exceeding \$100. 10

(2) Without prejudice to section 49 of this Act, nothing in subsection (1) of this section shall prevent— 15

(a) A Karitane nurse or a dental nurse from taking or using the name or title of nurse:

(b) A female assistant of a medical practitioner or dentist from taking or using the name or title of nurse-receptionist. 20

(3) Without prejudice to section 49 of this Act, nothing in this section shall prevent a person specified or belonging to a class specified, in any regulations for the time being in force under paragraph (v) of subsection (1) of section 58 of this Act, from using in circumstances so specified, names or titles so specified or the word nurse qualified in such other way as may be required or permitted by any such regulations. 25

(4) In this section—

(a) “Karitane nurse” means a person who has undergone the course of training and passed the examinations for Karitane nurses conducted by the Royal New Zealand Society for the Health of Women and Children Incorporated: 30

(b) “Dental nurse” means a person employed in the Department of Health as a dental nurse. 35

52. Offences relating to obstetric nursing—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who—

- 5 (a) Carries out obstetric nursing in any case where a medical practitioner has not undertaken responsibility for the care of the patient; or
- (b) Not being a registered midwife or a registered maternity nurse, carries out obstetric nursing in any case where a medical practitioner has undertaken
- 10 responsibility for the care of the patient.
- (2) Nothing in subsection (1) of this section shall prevent—
- (a) Any person from carrying out obstetric nursing in an emergency:
- 15 (b) Any person specified, or belonging to a class specified, in any regulations for the time being in force under paragraph (w) of subsection (1) of section 58 of this Act, from carrying out obstetric nursing to such extent, and in such areas and circumstances, and
- 20 subject to such conditions, as may be prescribed.
- (3) 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 a nursing capacity for
- 25 the purpose of providing an ante-natal service or ante-natal advice; or
- (b) Attends a woman in childbirth, or during the next succeeding 14 days, in a nursing capacity.

Cf. 1945, No. 7, s. 35

30

PART VII

MISCELLANEOUS PROVISIONS

- 53. Protection of Council, committees, and other persons**—
- Neither the Council, nor any committee of the Council, nor any member or employee of any of them, shall be under any
- 35 criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry, investigation, appeal, or other proceedings under this Act, unless it is proved to the satisfaction of the Court before which any
- 40 proceedings are taken that the Council, committee, member, or employee, as the case may be, has acted in bad faith.

54. Liability for medical fees—Where any nurse in his capacity as such obtains or seeks the assistance of a medical practitioner, with the consent of the patient if the patient is capable of giving such consent, the nurse shall be under no liability for the payment of the fees of the medical practitioner, and those fees shall be payable in the same manner as if the medical practitioner had been engaged by the patient himself. 5

Cf. 1945, No. 7, s. 31

55. Hospital board to appoint registered nurses, etc.— 10
Except with the approval of the Minister, given on a recommendation made by the Council on special grounds to be specified in the recommendation, a hospital board shall not appoint any person to the staff of any institution under the control of the hospital board to carry out the duties of any class of persons whose registration is provided for under this Act unless the person appointed is registered under this Act as a general nurse or otherwise, as the case may require: 15

Provided that nothing in this section shall be construed to restrict the employment in any such institution of persons undertaking a prescribed nursing programme or a nursing programme which is approved by the Council or the Minister for the purposes of this section. 20

Cf. 1945, No. 7, s. 32

56. Functions of Medical Officer of Health in relation to midwives and maternity nurses—(1) Every Medical Officer of Health shall be charged with the supervision of all registered midwives and registered maternity nurses engaged in the practice of their calling (whether on their own account or otherwise) within his district, and may temporarily suspend any such midwife or maternity nurse from practice for such period as he considers advisable in any case where such suspension appears to him to be necessary in order to prevent the spread of infection. 25 30

(2) Subsection (1) of this section shall have no application in respect of any midwife or maternity nurse employed by a hospital board. 35

(3) For the purposes of section 52 of this Act, any person who is suspended from practice under subsection (1) of this section shall be deemed not to be or not to have been a registered midwife or a registered maternity nurse, as the case may require, during the period of suspension. 40

Cf. 1945, No. 7, s. 30

57. **Certificate of registrar to be evidence of registration, etc.**—A certificate under the hand of the registrar to the effect that any person was or was not registered, or the holder of an annual practising certificate or of a provisional certificate or of a certificate of temporary registration, at any particular time or during any period specified in the certificate, or as to any entry in the register, or as to any act or proceeding of the Council or any committee of the Council, shall for all purposes be sufficient evidence of the matters specified in it in the absence of proof to the contrary.

Cf. 1945, No. 7, s. 39

58. **Regulations**—(1) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given after consultation by the Minister with the Council, make regulations for all or any of the following purposes:

- (a) Prescribing or providing for the Council to prescribe the form of and the method of keeping the register:
- 20 (b) Prescribing or providing for the Council to prescribe forms of application, certificates, and other documents for the purposes of this Act and requiring the use of such forms:
- (c) Prescribing the manner in which notices may be served under this Act and the times at which they shall be deemed to have been served:
- 25 (d) Prescribing the fees payable in respect of—
 - (i) Any application under this Act:
 - (ii) Examinations, registration, and temporary registration:
 - 30 (iii) The restoration of names after their removal from the register:
 - (iv) Any other alteration of or addition to the register:
- 35 (e) Prescribing fees for—
 - (i) The issue of certificates of registration, provisional certificates, annual practising certificates, and any other certificates under this Act:
 - (ii) The issue of copies of certificates:
 - (iii) Inspections of the register:
 - 40 (iv) Supplying to nurses any documents obtained by them from the Council for the purpose of seeking registration overseas:

- (f) Exempting or providing for the exemption of any nurse or class of nurse from liability to pay any such fees:
- (g) Authorising the refund or remission, in such circumstances as in accordance with the regulations the Council thinks fit, of any fees payable under this Act: **5**
- (h) Regulating the procedure of the Council:
- (i) Prescribing the nursing programmes to be undertaken for the purposes of qualification for registration in any capacity under this Act and providing for the Council to prescribe the details of such nursing programmes, prescribing the period within or throughout which any such programme shall be undertaken, and prescribing a shorter programme or shorter period, or providing for the modification of any programme or period, in respect of persons or classes of persons seeking registration in that capacity who are registered in any other capacity or who have undertaken the whole or any part of a prescribed nursing programme for the whole or any part of a prescribed period: **10**
- (j) Regulating the conduct of examinations under this Act, and prescribing the subject-matter of any such examinations: **15**
- (k) Providing for the exemption of persons from any particular examination or any particular subject or subjects in any examination: **20**
- (l) Prescribing or authorising the Council to prescribe the number of occasions on which a person may sit for any such examination or subject or subjects: **25**
- (m) Prescribing the minimum ages, not exceeding in any case the appropriate minimum age referred to in section 19 of this Act, of candidates for examination under this Act: **30**
- (n) Prohibiting persons who are not, in the opinion of the Council, of good character and reputation, and fit and proper persons to be registered in the class for which the examination is held, from sitting that examination: **35**

- (o) Prescribing the circumstances in which, and the conditions subject to which, a candidate may be accredited with passing a prescribed examination:
- 5 (p) Prescribing the conditions under which a hospital or other institution may be approved as a school of nursing and the circumstances in which any such approval may be revoked:
- 10 (q) Prescribing, or authorising the Council to prescribe, the number of persons that may be undertaking a prescribed nursing programme at any one time, or accepted for this purpose in any one year, in any school of nursing:
- 15 (r) Prescribing, in relation to a particular class or particular classes of persons registrable under this Act, qualifications obtainable in New Zealand, other than undertaking a prescribed nursing programme and passing a prescribed examination, entitling them to registration under section 17 of this Act:
- 20 (s) Providing for the further nursing education and examination of registered persons or any class of registered persons for the purpose of enabling them to obtain additional qualifications, and for the issue of diplomas or certificates to persons who undergo any such nursing education or pass any such examination:
- 25 (t) Prescribing the minimum educational qualifications which must be held by any person or class of person before he begins to undertake a prescribed nursing programme or can be accepted for that purpose in any school of nursing:
- 30 (u) Providing for the inspection of schools of nursing by persons appointed by the Council for that purpose, prescribing the functions, powers, and duties of persons so appointed, and prescribing the functions, powers, and duties of the Council in respect of such inspections:
- 35 (v) Specifying, for the purposes of subsection (3) of section 51 of this Act, the persons or classes of persons who may use specified names or titles or the word nurse, and prescribing the circumstances in which and the conditions subject to which the name, title, or word may be used:
- 40

- (w) Specifying, for the purposes of paragraph (b), of subsection (2), of section 52 of this Act, the persons or classes of persons who may carry out obstetric nursing, and prescribing the extent to which, the areas and circumstances in which, and the conditions subject to which, such nursing may be carried out by any such person: 5
- (x) Prescribing offences in respect of the contravention or non-compliance with any regulations made under this Act, and the amount of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$100, and, where the offence is a continuing one, a further amount not exceeding \$10 for every day or part of a day during which the offence has continued: 10 15
- (y) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Without limiting subsection (1) of this section, regulations may be made under this section in relation to the practice of their profession (whether on their own account or otherwise) by members of any class of nurses for all or any of the following purposes: 20
- (a) Safeguarding the health of patients:
- (b) Preventing the occurrence or spread of any infection: 25
- (c) Prohibiting or restricting the use by nurses or members of any particular class of nurses, except by medical direction or under medical supervision, or except in circumstances to be defined by regulations, of any instruments or drugs in the performance of their duties: 30
- (d) Prescribing methods and procedures to be followed in respect of all or any of the aforesaid matters:
- (e) Prescribing precautions to be taken and requirements to be complied with in respect of all or any of the aforesaid matters: 35
- (f) Requiring the keeping of charts, registers, and records in respect of patients who are not for the time being accommodated in a hospital:

- (g) Requiring information to be given to the Medical Officer of Health, or to such other officer of the Department of Health as may be prescribed, in respect of all or any of the aforesaid matters and in respect of the condition, treatment, or death of any patient who is not for the time being, or who was not at the time of his death, accommodated in a hospital.
- 5
- (3) For the purpose of enabling persons to become registered community nurses in different fields of nursing, such separate or alternative nursing programmes and different periods within or throughout which any such programme shall be undertaken, as are from time to time required, may be prescribed under paragraph (i) or subsection (1) of this section in respect of—
- 10
- (a) Men or women seeking to be registered as aforesaid; or
(b) Any particular school or class of school of nursing.
- Cf. 1945, No. 7, ss. 15A (2), 27 (6), and 41; 1951, No. 81, s. 22 (1); 1957, No. 15, s. 4; 1965, No. 35, s. 8; 1967, No. 105, s. 3 (4)
- 15
20

59. Transitional provisions—(1) Until the Council appoints a registrar and other employees under section 7 of this Act, the persons holding office as registrar or deputy registrar, or performing duties on behalf of the Nurses and Midwives Board, under the Nurses and Midwives Act 1945, immediately before the commencement of this Act, and any persons from time to time appointed in their place under the State Services Act 1962, shall continue to hold such offices or perform such duties under the Council.

25

(2) Any person referred to in subsection (1) of this section may hold his office under the Council either separately or in conjunction with any other office in the Public Service.

30

(3) At the end of any financial year in which the Council has made use of accommodation provided by the Crown, or of the services of persons in the Public Service, the Council shall pay to the Crown such sum in respect of that year as the Minister considers to be reasonable. Any such sum shall be recoverable by the Crown as a debt due by the Council.

35

(4) Notwithstanding the repeal of the Nurses and Midwives Act 1945, subsection (3) of section 5 of that Act shall continue to apply during any period between the 31st day of March 1972 and the date of the first meeting of the Council, as if that period were an interval between meetings of the Board established under that Act and as if in other respects references to the Council were substituted for the references to the Board appearing in that subsection subsequently to the first reference to the Board. 5

(5) For the purpose of applying the provisions of this Act during any period between the 31st day of March 1972 and the date of the first meeting of the Council, the Director-General of Health shall be deemed to be the chairman of the Council: 10

Provided that, for the purpose aforesaid, the powers of the chairman may be exercised by the officer of the Department of Health who presided at the last meeting of the Nurses and Midwives Board without prejudice to the right of the Director-General to exercise those powers himself if he sees fit to do so. 15 20

(6) All fees and other money payable to the Council under this Act in respect of any period after the 31st day of March 1972 shall, notwithstanding that they were received on or before that date and became payable into the Public Account, be paid without further appropriation than this section to the Council. 25

60. Repeals and savings—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) Every reference in any Act, Order in Council, Proclamation, notice, regulations, rules, agreement, deed, instrument, or document whatsoever to the Nurses and Midwives Board shall, unless the context otherwise requires, hereafter be read as a reference to the Nursing Council of New Zealand. 30

SCHEDULE

Section 60 (1)

ENACTMENTS REPEALED

- 1945, No. 7—The Nurses and Midwives Act 1945 (Reprinted 1968, Vol. 3, p. 2569).
- 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the the First Schedule as relates to the Nurses and Midwives Board, and so much of the Second Schedule as relates to the Nurses and Midwives Act 1945 (1957 Reprint, Vol. 4, p. 853).
- 1951, No. 81—The Statutes Amendment Act 1951: Sections 21 and 22 (Reprinted 1968, Vol. 3, p. 2602; 1957 Reprint, Vol. 15, p. 177).
- 1957, No. 15—The Nurses and Midwives Amendment Act 1957 (Reprinted 1968, Vol. 3, p. 2603).
- 1960, No. 18—The Nurses and Midwives Amendment Act 1960 (Reprinted 1968, Vol. 3, p. 2603).
- 1962, No. 90—The Nurses and Midwives Amendment Act 1962 (Reprinted 1968, Vol. 3, p. 2605).
- 1963, No. 56—The Nurses and Midwives Amendment Act 1963, (Reprinted 1968, Vol. 3, p. 2605).
- 1965, No. 35—The Nurses and Midwives Amendment Act 1965 (Reprinted 1968, Vol. 3, p. 2606).
- 1967, No. 105—The Nurses and Midwives Amendment Act 1967 (Reprinted 1968, Vol. 3, p. 2607).