

Queensland



# **HEALTH LEGISLATION AMENDMENT BILL 1996**

Queensland



**HEALTH LEGISLATION AMENDMENT  
BILL 1996**

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**1996**

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**A BILL**

**FOR**

**An Act to amend certain Acts administered by the Minister for  
Health, and for other purposes**

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**The Parliament of Queensland enacts—**

1

**Short title**

2

Clause 1. This Act may be cited as the *Health Legislation Amendment Act 1996*.

3

**Commencement**

4

Clause 2.(1) Sections 25 and 32 are taken to have commenced on 1 March 1993.

5

(2) Part 7 is taken to have commenced on 28 November 1995.

6

(3) Sections 7 to 10, 16, 17, 35(2), 41 to 43, 45 to 47, 54 and 55 commence on a day to be fixed by proclamation.

7

8

**PART 2—AMENDMENT OF DENTAL ACT 1971**

9

**Amended Act**

10

Clause 3. This part amends the *Dental Act 1971*.

11

**Amendment of s 4 (Meanings of terms)**

12

Clause 4.(1) Section 4, heading—

13

*omit, insert—*

14

**‘Definitions’.**

15

(2) Section 4, definition “**dental company**”, ‘incorporated in Queensland’—

16

17

*omit.*

18

(3) Section 4—

19

*insert—*

20

‘ **“company”** means a company or recognised company within the meaning of the Corporations Law.’. 1  
2

**Amendment of s 7 (Members of board)** 3

Clause **5.** Section 7(2)(d)— 4  
*omit, insert—* 5  
‘(d) a Queensland lawyer.’. 6

**PART 3—AMENDMENT OF HEALTH ACT 1937** 7

**Amended Act** 8

Clause **6.** This part amends the *Health Act 1937*. 9

**Amendment of s 5 (Interpretation)** 10

Clause **7.(1)** Section 5(1), definition **“dangerous drug”**— 11  
*omit.* 12

**(2)** Section 5(1), definition **“drug dependent person”**, ‘dangerous drugs or restricted drugs’— 13  
14

*omit, insert—* 15

‘controlled or restricted drugs or poisons’. 16

**(3)** Section 5(1)— 17

*insert—* 18

‘ **“controlled drug”** means an article or substance prescribed under a regulation to be a controlled drug.’. 19  
20

**Replacement of pt 4, div 3, heading (Cooking utensils, toys, wearing apparel, matches and paints)** 21  
22

Clause **8.** Part 4, division 3, heading— 23



	<i>omit, insert—</i>	1
	<i>‘Division 3—Cooking utensils, toys, wearing apparel, matches and use of lead’.</i>	2 3
	<b>Omission of ss 127 and 128</b>	4
Clause	<b>9.</b> Sections 127 and 128— <i>omit.</i>	5 6
	<b>Insertion of new pt 4, div 3A</b>	7
Clause	<b>10.</b> After section 129D— <i>insert—</i>	8 9
	<i>‘Division 3A—Paint</i>	10
	<b>‘Definitions</b>	11
	<b>‘129E.</b> In this division—	12
	<b>“standard”</b> means—	13
	(a) appendix P of the uniform standard; or	14
	(b) if appendix P of the uniform standard is changed under a regulation—appendix P as changed; or	15 16
	(c) if another standard is prescribed under a regulation—the other standard.	17 18
	<b>“uniform standard”</b> means the book titled ‘Standard for the uniform scheduling of drugs and poisons’ compiled by the Australian Health Ministers’ Advisory Council and published by the Commonwealth.	19 20 21
	<b>‘Person must comply with standard</b>	22
	<b>‘129F.</b> A person manufacturing, selling, supplying or using paint must comply with the standard.	23 24
	Maximum penalty—20 penalty units.	25

**‘Officer may take sample of paint**

**‘129G.(1)** This section applies to an officer who, under section 160, enters a house or premises to examine whether the standard has been, or is being, contravened.

**‘(2)** The officer may take, for examination or analysis—

(a) a sample of paint from—

(i) the house or premises; or

(ii) a fence, wall, post, gate or other structure or furniture in the house or on the premises; or

(b) a sample of the paint the person is using to paint—

(i) the house or premises; or

(ii) a fence, wall, post, gate or other structure or furniture in the house or on the premises.

**‘(3)** Subsection (2) applies only if—

(a) the officer believes, on reasonable grounds, that the standard has been, or is being, contravened; and

(b) the officer has—

(i) the consent of the occupier of the house or premises to take the sample; or

(ii) entered the house or premises under an order under section 160.

**‘(4)** If the officer is an officer of a local government, the officer may only exercise the powers mentioned in subsection (2) in the local government’s area.

**‘Chief health officer may give notice**

**‘129H.(1)** This section applies if, on the examination or analysis of a sample of paint taken under section 129G, the chief health officer is satisfied—

(a) the paint has been used, or is being used, in a way that contravenes the standard; or

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- (b) the paint has been used in a way that, if it had been used after section 129F commenced, it would have contravened the standard.

‘(2) The chief health officer may give a written notice (“**notice to comply**”) to—

- (a) the person who has allegedly contravened the standard; or  
 (b) the owner of the house, premises, structure or furniture.

‘(3) The notice to comply must state—

- (a) the act or omission comprising the alleged contravention; and  
 (b) the action the person must take to rectify the alleged contravention; and  
 (c) the day by which the person must take the action (the “**due date**”).

*Example of subsection (3)(b)—*

The notice may require the owner of a building painted in contravention of the standard to clean down and remove the paint.

‘(4) The period to elapse between the day the notice is given to the person and the due date must be reasonable, having regard to the action the person must take.

‘(5) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (5)—20 penalty units.

**‘Method of analysis may be prescribed**

‘**129I.** A regulation may, for this division, prescribe the method of analysis to be used for deciding whether paint manufactured, sold, supplied or used by a person complies with the standard.’

	<b>Amendment of s 130D (Order made upon medical practitioner’s recommendation)</b>	1 2
Clause	<b>11.</b> Section 130D(1)(c)— <i>omit.</i>	3 4
	<b>Amendment of s 130E (Conditional leave of absence or release on parole)</b>	5 6
Clause	<b>12.</b> Section 130E(3)— <i>omit.</i>	7 8
	<b>Amendment of s 131K (Uses of pesticides by unlicensed or immature persons)</b>	9 10
Clause	<b>13.(1)</b> Section 131K(1)— <i>insert—</i>	11 12
	‘Maximum penalty—20 penalty units.’	13
	<b>(2)</b> Section 131K(2) and (3)— <i>omit, insert—</i>	14 15
	‘ <b>(2)</b> A pest control operator must not use a pesticide unless the pest control operator is a licensee.	16 17
	Maximum penalty—20 penalty units.	18
	‘ <b>(3)</b> Subsection (2) does not apply to a pest control operator who uses a pesticide in the presence, and under the personal supervision, of a licensee.	19 20
	‘ <b>(4)</b> A licensee must not permit a person who is not a licensee to use or prepare a pesticide for use in carrying out a licensee’s activities as a pest control operator, unless—	21 22 23
	(a) the person is 18 years or more; and	24
	(b) the licensee is present during, and personally supervises, the use or preparation.	25 26
	Maximum penalty—20 penalty units.’	27

---

	<b>Amendment of s 131KA (Prohibited pesticides not to be used)</b>	1
Clause	<b>14.</b> Section 131KA—	2
	<i>insert—</i>	3
	‘Maximum penalty—20 penalty units.’.	4
	<b>Insertion of new s 181</b>	5
Clause	<b>15.</b> After section 180, in part 6—	6
	<i>insert—</i>	7
	<b>‘References to certain regulations and provisions</b>	8
	<b>‘181.</b> In an Act or document, a reference to any of the following regulations may, if the context permits, be taken to be a reference to the <i>Health Regulation 1996</i> , and a reference (whether express or implied) to a provision of any of the following regulations may, if the context permits, be taken to be a reference to the corresponding provision of the <i>Health Regulation 1996</i> —	9
	• Camping Ground Regulation 1987	10
	• Cancer Registration Regulation 1981	11
	• Hairdressers Regulation 1989	12
	• Hazardous Substances (Placarding) Regulation 1988	13
	• Health (Analysis Fees) Regulation 1981	14
	• Health (Analyst’s Certificate) Regulation 1993	15
	• Health (Dispensary) Regulation 1993	16
	• Health (Pest Control Operators) Regulation 1977	17
	• Health (Poisons—Fumigation) Regulation 1973	18
	• Health (Radioactive Substances) Regulation 1994	19
	• Health (Scientific Research and Studies) Regulation 1993	20
	• Hyperbaric Chamber Therapy Regulation 1989	21
	• Maltreatment of Children Regulation 1980	22
	• Mosquito Prevention and Destruction Regulation 1982	23
		24
		25
		26
		27
		28

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- Perinatal Statistics Regulation 1986 1
- Prescribed Substances Standards and Methods Regulation 1987 2
- Skin Penetration Regulation 1987 3
- Therapeutic Goods and Other Drugs Regulation 1982 4
- Vermin Control Regulation 1991.’. 5

**Amendment for “dangerous drug”** 6

- Clause **16.(1)** This section amends the following provisions— 7
- section 5(1), definition “**sale**” 8
  - section 101A(a)(ii) 9
  - section 144(1) and (3) 10
  - section 178(f)(iv). 11
- (2)** In the provisions mentioned in subsection (1), ‘dangerous drug’— 12  
*omit, insert—* 13  
‘controlled drug’. 14

**Amendment for “dangerous drugs”** 15

- Clause **17.(1)** This section amends the following provisions— 16
- section 107(3) 17
  - section 152(t), (u), (v), (y) and (z). 18
- (2)** In the provisions mentioned in subsection (1), ‘dangerous drugs’— 19  
*omit, insert—* 20  
‘controlled drugs’. 21

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**PART 4—AMENDMENT OF HOSPITALS  
FOUNDATIONS ACT 1982**

	<b>1</b>
	<b>2</b>
	<b>3</b>
Clause	<b>4</b>
	<b>5</b>
Clause	<b>6</b>
	<b>7</b>
	<b>8</b>
	<b>9</b>
	<b>10</b>
	<b>11</b>
	<b>12</b>
Clause	<b>13</b>
	<b>14</b>
	<b>15</b>
	<b>16</b>
	<b>17</b>
Clause	<b>18</b>
	<b>19</b>
	<b>20</b>
	<b>21</b>
Clause	<b>22</b>
	<b>23</b>

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‘the hospitals that are, or are to be, the associated hospitals for the body corporate’.

(2) Section 18(4), ‘within the associated hospital’—

*omit, insert—*

‘within the associated hospitals’.

**Amendment of s 57 (Winding-up of bodies corporate)**

Clause 23. Section 57(4)(d)—

*omit, insert—*

‘(d) to the principal place of business of a part 5.7 body—is a reference to—

(i) if there is 1 associated hospital of the body corporate—the principal office of the associated hospital; or

(ii) if there is more than 1 associated hospital of the body corporate—the principal office of the associated hospital prescribed under a regulation for this subparagraph.’.

**Amendment for ‘the associated hospital’**

Clause 24.(1) This section amends the following provisions—

- section 13(k)
- section 15(1)(j)
- section 18(3)(c)
- section 37(1)
- section 38(1) and (2)(a).

(2) In the provisions mentioned in subsection (1), ‘the associated hospital’—

*omit, insert—*

‘an associated hospital’.



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**PART 5—AMENDMENT OF MEDICAL ACT 1939**

		1
	<b>Act amended</b>	2
Clause	<b>25.</b> This part amends the <i>Medical Act 1939</i> .	3
	<b>Amendment of s 4 (Meanings of terms)</b>	4
Clause	<b>26.(1)</b> Section 4, heading—	5
	<i>omit, insert—</i>	6
	<b>‘Definitions’.</b>	7
	(2) Section 4, definition “medical company”, ‘incorporated in Queensland’—	8
	<i>omit.</i>	9
	(3) Section 4, definition “ <b>register</b> ”—	10
	<i>omit.</i>	11
	(4) Section 4—	12
	<i>insert—</i>	13
	‘ “ <b>company</b> ” means a company or recognised company within the meaning of the Corporations Law.	14
	“ <b>register</b> ” means—	15
	(a) for a medical practitioner—the register of medical practitioners; or	16
	(b) for a specialist—the register of medical practitioners and the register of specialists.’.	17
	(5) Section 4(2) and (3)—	18
	<i>omit.</i>	19
	<b>Insertion of new s 4C</b>	20
Clause	<b>27.</b> After section 4B, in part 1—	21
	<i>insert—</i>	22

	<b>‘References to legally qualified medical practitioners</b>	1
	<b>‘4C.</b> In an Act, a reference to a ‘legally qualified medical practitioner’ or words that imply a person is recognised in law as a medical practitioner or is a member of the medical profession, is a reference to a medical practitioner.’.	2 3 4 5
	<b>Amendment of s 8 (Constitution of board—president)</b>	6
Clause	<b>28.(1)</b> Section 8, heading—	7
	<i>omit, insert—</i>	8
	<b>‘Constitution of board’.</b>	9
	<b>(2)</b> Section 8(1)(a), ‘who’ to ‘thereof’—	10
	<i>omit.</i>	11
	<b>(3)</b> Heading before section 8(2)—	12
	<i>omit.</i>	13
	<b>(4)</b> Section 8(2A)—	14
	<i>omit, insert—</i>	15
	<b>‘(2A)</b> The Governor in Council is to appoint a member who is a medical practitioner to be the president.’.	16 17
	<b>(5)</b> After section 8(3A)—	18
	<i>insert—</i>	19
	<b>‘(3B)</b> A vacancy occurs in the office of president when the person holding the office resigns the office or ceases to be a member.	20 21
	<b>‘(3C)</b> A person resigning the office of president may continue to be a member.’.	22 23
	<b>(6)</b> Section 8(4), ‘may appoint’ to ‘prescribed’—	24
	<i>omit, insert—</i>	25
	‘is to appoint another member who is a medical practitioner’.	26
	<b>(7)</b> Section 8(4) and (6), ‘, including the president,’—	27
	<i>omit.</i>	28

	(8) Section 8(4A), ‘person’—	1
	<i>omit, insert</i> —	2
	‘member’.	3
	(9) Section 8(5), ‘other than the president’—	4
	<i>omit.</i>	5
	(10) Section 8(6), ‘(who’ to ‘prescribed)’—	6
	<i>omit.</i>	7
	<b>Amendment of s 9 (Disqualifications from membership of board)</b>	8
Clause	<b>29.</b> Section 9, ‘other than the president’—	9
	<i>omit.</i>	10
	<b>Amendment of s 35 (Extension of meaning of term “misconduct in a professional respect”)</b>	11
		12
Clause	<b>30.</b> Section 35(1)(h)—	13
	<i>omit.</i>	14
	<b>Replacement of pt 13 heading (Savings and transitionals)</b>	15
Clause	<b>31.</b> Part 13, heading—	16
	<i>omit, insert</i> —	17
	<b>‘PART 13—SAVINGS, TRANSITIONALS AND VALIDATIONS’.</b>	18
		19
	<b>Amendment of s 88 (Registration as medical practitioner)</b>	20
Clause	<b>32.</b> Section 88—	21
	<i>insert</i> —	22
	‘(3) In this section—	23
	“medical practitioner” includes a specialist.’	24

	<b>Insertion of new s 88A</b>	1
Clause	<b>33.</b> After section 88—	2
	<i>insert—</i>	3
	<b>‘Registration of certain medical practitioners and specialists</b>	4
	<b>‘88A.(1)</b> In this section—	5
	<b>“day of registration”</b> means the day the board purported to register a person as a specialist under a registration provision.	6 7
	<b>“registration provision”</b> means—	8
	(a) section 19(2), as in force from time to time, before its repeal by the <i>Medical Act Amendment Act 1980</i> ; or	9 10
	(b) section 19(3), as in force from time to time, before its repeal by the <i>Health Legislation Amendment Act 1992</i> .	11 12
	<b>‘(2)</b> This section applies if—	13
	(a) a person applied to be registered as both a medical practitioner and a specialist; and	14 15
	(b) the person’s entitlement to registration as a medical practitioner depended on the person satisfying a registration provision; and	16 17
	(c) the board purported, under the registration provision, to register the person as a specialist.	18 19
	<b>‘(3)</b> The person is taken to have been validly registered as a specialist from the day of registration, subject to the limitations and conditions imposed on the person’s registration.	20 21 22
	<b>‘(4)</b> The person is also taken to have been registered as a medical practitioner from the day of registration, subject to the same limitations and conditions imposed on the person’s registration as a specialist.	23 24 25
	<b>‘(5)</b> However, if, under subsection (3) or (4), the person’s registration is subject to a limitation about time, the limitation ends on the commencement of this section.	26 27 28
	<b>‘(6)</b> As soon as practicable after the commencement, the board must register the person as a medical practitioner.	29 30

‘(7) However, particulars of a limitation about time imposed on a person’s registration need not be recorded in the register. 1  
2

‘(8) This section expires on the day it commences.’. 3

## PART 6—AMENDMENT OF NURSING ACT 1992 4

### Act amended 5

Clause 34. This part amends the *Nursing Act 1992*. 6

### Amendment of s 4 (Definitions) 7

Clause 35.(1) Section 4, definition “legal practitioner”— 8  
*omit.* 9

(2) Section 4— 10

*insert—* 11

“annual licence certificate fee” see section 74(1).<sup>1</sup> 12

“payment period” see section 74(3).’ 13

### Amendment of s 11 (Council’s constitution) 14

Clause 36. Section 11(d)— 15  
*omit, insert—* 16

‘(d) 1 lawyer;’. 17

### Amendment of s 16 (Conduct of meetings) 18

Clause 37. Section 16— 19  
*insert—* 20

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<sup>1</sup> Section 74 (Fees for annual licence certificates)

‘(2) Without limiting subsection (1), the council may permit its members to participate in a particular meeting, or all meetings, by telephone, closed-circuit television or another form of communication.

‘(3) A member who participates in a meeting under a permission under subsection (2) is taken to be present at the meeting.’.

### **Insertion of new s 16A**

Clause 38. After section 16—

*insert—*

#### **‘Resolutions without meetings**

‘16A.(1) If at least a majority of members sign a document containing a statement that they are in favour of a resolution stated in the document, a resolution in those terms is taken to have been passed at a meeting of the council held on the day on which the document is signed or, if the members do not sign it on the same day, the day on which the last of the members forming the majority signs the document.

‘(2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the council, each member must immediately be advised of the matter and given a copy of the terms of the resolution.

‘(3) For subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by 1 or more members, are taken to be 1 document.’.

### **Amendment of s 23 (Terms of appointment)**

Clause 39. Section 23—

*insert—*

‘(2A) However, a member may waive payment in whole or part.’.

### **Amendment of s 47 (Committees of council)**

Clause 40. Section 47—

*insert—*

‘(2A) However a member of a committee of the council may waive payment in whole or part.’. 1  
2

**Amendment of s 53 (Inspection of register or roll etc.)** 3

Clause 41. Section 53— 4

*insert—* 5

‘(2) Subsection (1) does not apply to a particular prescribed under a by-law for this subsection. 6  
7

‘(3) The council may, at the request of the Australian Nursing Council Incorporated, supply that body with information about the particulars in the register or roll.’. 8  
9  
10

**Amendment of s 54 (Qualifications for registration or enrolment)** 11

Clause 42.(1) Section 54— 12

*insert—* 13

‘(2A) The person must also satisfy the council that the person is competent and fit to practise nursing.’. 14  
15

(2) Section 54(3), ‘The’ to ‘enrolment’— 16

*omit, insert—* 17

‘Without limiting subsection (2A), the person must satisfy the council’. 18

(3) Section 54(3), after ‘attend;’— 19

*insert—* 20

‘and’. 21

**Amendment of s 55 (Application for registration or enrolment)** 22

Clause 43. Section 55(c)(ii)— 23

*omit, insert—* 24

‘(ii) the annual licence certificate fee.’. 25

	<b>Amendment of s 58 (Registration or enrolment)</b>	1
Clause	<b>44.</b> Section 58—	2
	<i>insert—</i>	3
	‘(3) This section applies subject to section 72. <sup>2</sup> ’.	4
	<b>Amendment of s 59 (Refusal of application)</b>	5
Clause	<b>45.</b> Section 59(c), ‘register or roll’—	6
	<i>omit, insert—</i>	7
	‘annual licence certificate’.	8
	<b>Amendment of s 63 (Provisional registration or enrolment)</b>	9
Clause	<b>46.</b> Section 63(9)(c), ‘register or roll’—	10
	<i>omit, insert—</i>	11
	‘annual licence certificate’.	12
	<b>Amendment of s 64 (Temporary registration)</b>	13
Clause	<b>47.(1)</b> Section 64(1)(b)(ii)—	14
	<i>omit, insert—</i>	15
	‘(ii) the annual licence certificate fee;’.	16
	<b>(2)</b> Section 64(6)(c), ‘register’—	17
	<i>omit, insert—</i>	18
	‘annual licence certificate’.	19
	<b>Amendment of s 65 (Limited registration or enrolment)</b>	20
Clause	<b>48.</b> Section 65(2), (3) and (9), ‘conditions, limitations and restrictions’—	21

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<sup>2</sup> Section 72 (Restoration of registration or enrolment in certain cases)



	<i>omit, insert—</i>	1
	‘conditions’.	2
	<b>Amendment of s 66 (Concerns about condition of applicants and nurses)</b>	3 4
Clause	<b>49.</b> Section 66(5), ‘restrictions’—	5
	<i>omit, insert—</i>	6
	‘conditions’.	7
	<b>Amendment of s 67 (Immediate suspension of registration or enrolment by council)</b>	8 9
Clause	<b>50.(1)</b> Section 67(4), from ‘refer’—	10
	<i>omit, insert—</i>	11
	‘have the matter investigated. <sup>3</sup> ’.	12
	<b>(2)</b> Section 67(5)—	13
	<i>omit, insert—</i>	14
	<b>(5)</b> On receipt of the investigating inspector’s report, the council must immediately—	15 16
	(a) lift the suspension; or	17
	(b) prefer a charge against the suspended nurse, alleging a contravention of the code of conduct.	18 19
	<b>(6)</b> If a charge is preferred under subsection (5), the suspension applies until the determination of the matter referred to the committee for hearing and determination under section 104(1A). <sup>4</sup> .	20 21 22

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<sup>3</sup> See section 103 (Investigation by council).

<sup>4</sup> Section 104 (Referral of charge to professional conduct committee)

	<b>Amendment of s 70 (Cancellation or suspension of registration and enrolment in certain cases)</b>	1
		2
Clause	<b>51.(1)</b> Section 70(1)(c) and (2), ‘or a Territory’—	3
	<i>omit, insert—</i>	4
	‘, a Territory or a foreign country’.	5
	<b>(2)</b> Section 70(3)—	6
	<i>omit, insert—</i>	7
	<b>(3)</b> The suspension is to be for—	8
	(a) if the suspension is under the law of another State or a Territory—the same period as the suspension under the other law; or	9
		10
		11
	(b) if the suspension is under the law of a foreign country—the same period as, or a shorter period than, the suspension under the other law.’.	12
		13
		14
	<b>Amendment of s 71 (Requirements following cancellation or suspension of registration or enrolment)</b>	15
		16
Clause	<b>52.(1)</b> Section 71, after ‘suspended’—	17
	<i>insert—</i>	18
	‘under this division’.	19
	<b>(2)</b> Section 71—	20
	<i>insert—</i>	21
	<b>(2)</b> Subsection (1) does not apply to a cancellation of registration or enrolment under section 70(1)(b).	22
		23
	<b>(3)</b> However, the council may require a person whose registration or enrolment has been cancelled under section 70(1)(b) to surrender to the executive officer 1 or more of the items mentioned in subsection (1).’.	24
		25
		26
	<b>Amendment of s 72 (Restoration of registration or enrolment in certain cases)</b>	27
		28
Clause	<b>53.</b> Section 72(1), ‘section 70(1)(b), (c) or (d)’—	29

	<i>omit, insert—</i>	1
	‘the <i>Nursing Act 1976</i> , section 31, or section 70(1)(c) or (d)’.	2
	<b>Amendment of s 74 (Fees for annual licence certificates)</b>	3
Clause	<b>54.(1)</b> Section 74(1), after ‘certificate’—	4
	<i>insert—</i>	5
	‘(the “ <b>annual licence certificate fee</b> ”)’.	6
	<b>(2)</b> Section 74(3) to (7)—	7
	<i>omit, insert—</i>	8
	‘ <b>(3)</b> If a nurse, or midwife who is not a nurse, fails to pay the annual licence certificate fee within the period prescribed under a by-law (the “ <b>payment period</b> ”), the council must immediately cancel the nurse’s registration or enrolment or revoke the midwife’s authority to practise.	9 10 11 12
	‘ <b>(4)</b> A person whose registration or enrolment is cancelled or authority to practise is revoked under subsection (3) may apply to the council for reregistration, re-enrolment or reauthorisation in the form approved by the council.	13 14 15 16
	‘ <b>(5)</b> The application must be accompanied by the annual licence certificate fee and the restoration fee prescribed under a by-law.	17 18
	‘ <b>(6)</b> The council must reregister, re-enrol or reauthorise the applicant and issue an annual licence certificate to the applicant if it is satisfied—	19 20
	(a) the applicant has practised nursing or midwifery during the 5 years before the application; and	21 22
	(b) the applicant is qualified to be registered, enrolled or authorised.	23
	‘ <b>(7)</b> However, if the council is not satisfied the applicant has practised nursing or midwifery during the 5 years before the application, the council may reregister, re-enrol or reauthorise the applicant subject to the conditions of practice it considers appropriate.’.	24 25 26 27
	<b>Amendment of s 75 (Renewal of annual licence certificate)</b>	28
Clause	<b>55.(1)</b> Section 75(1), ‘period prescribed for the purposes of	29

	section 74(3)(b) —	1
	<i>omit, insert</i> —	2
	‘payment period’.	3
	(2) Section 75(2) —	4
	<i>insert</i> —	5
	‘(c) accompanied by the annual licence certificate fee.’.	6
	(3) Section 75(4), ‘period prescribed for the purposes of section 74(3)(b) —	7
	<i>omit, insert</i> —	8
	‘payment period’.	9
	(4) Section 75(4), ‘prescribed annual licence’ —	10
	<i>omit, insert</i> —	11
	‘annual licence certificate’.	12
	<b>Amendment of s 76 (Endorsement of annual licence certificates)</b>	13
	<b>Amendment of s 76 (Endorsement of annual licence certificates)</b>	14
Clause	56. Section 76(1)(a), ‘conditions, limitations and restrictions’ —	15
	<i>omit, insert</i> —	16
	‘conditions’.	17
	<b>Replacement of s 87 (Committee’s constitution)</b>	18
Clause	57. Section 87 —	19
	<i>omit, insert</i> —	20
	<b>‘Committee’s constitution</b>	21
	‘87. The committee consists of the following members —	22
	(a) 1 lawyer;	23
	(b) 12 registered nurses nominated by the council, of whom 6 are to be chosen by the council from a panel of names submitted by associations accepted by the council as representatives of nurses;	24
		25
		26

- (c) 3 persons, representing persons who use services provided by the nursing profession.’. 1  
2

**Amendment of s 91 (Terms of appointment)** 3

- Clause 58. Section 91— 4  
*insert*— 5  
‘(2A) However, a member may waive payment in whole or part.’. 6

**Amendment of s 94 (Acting chairperson)** 7

- Clause 59. Section 94, ‘legal practitioner’— 8  
*omit, insert*— 9  
‘lawyer’. 10

**Amendment of s 96 (Constitution of committee for particular proceeding)** 11  
12

- Clause 60. Section 96— 13  
*insert*— 14  
‘(3) The committee constituted by the chairperson alone, may make 15  
decisions and give directions only about the following— 16
- (a) whether an inspector appointed by the council has complied with 17  
section 103(5) and (6)(b);<sup>5</sup> 18
  - (b) the way or sufficiency of service of a notice of charge; 19
  - (c) the sufficiency of particulars of a charge, and whether further and 20  
better particulars of the charge should be given; 21
  - (d) the granting of leave to amend a notice of charge; 22
  - (e) requiring a person making an affidavit for a hearing to be present 23  
at the hearing for cross-examination; 24
  - (f) admissions of facts or documents; 25

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<sup>5</sup> Section 103 (Investigation by council)

- (g) the place, time and length of a hearing; 1
- (h) the issue of summonses by the chairperson to witnesses; 2
- (i) the giving of evidence at a hearing; 3
- (j) the exchange of affidavits of proposed witnesses; 4
- (k) the disclosure of reports of expert witnesses before a hearing; 5
- (l) whether the whole or a stated part of a hearing should not be open 6  
to the public; 7
- (m) applying for further directions.’. 8

### **Amendment of s 103 (Investigation by council) 9**

Clause **61.(1)** Section 103(1)— 10

*omit, insert—* 11

‘**103.(1)** This section applies if an investigation is to be conducted into a 12  
person’s conduct because of— 13

(a) a complaint under section 102(1); or 14

(b) the suspension of the registration or enrolment of a nurse under 15  
section 67(1).<sup>6</sup> 16

‘**(1A)** The investigation must be conducted by an inspector.’. 17

**(2)** Section 103(4) to (6)— 18

*omit, insert—* 19

‘**(4)** The inspector must— 20

(a) give the person an opportunity during the course of the 21  
investigation to make formal submissions to the inspector; and 22

(b) if subsection (1)(a) applies—give the person particulars of the 23  
complaint. 24

‘**(5)** On conclusion of the investigation, the inspector must give— 25

(a) to the council—a written report, in reasonable detail, of findings, 26  
and opinions based on the findings about the complaint or 27

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<sup>6</sup> Section 67 (Immediate suspension of registration or enrolment by Council)

conduct; and

- (b) to the person—a written outline of the report and general particulars of findings adverse to the person.

‘(6) If the executive officer suspects, on reasonable grounds, that the person may be suffering from an addiction to alcohol or drugs or another condition that impairs the person’s ability to practise nursing or midwifery, the officer may, by written notice, direct the person to undergo an assessment by the panel under division 5.’<sup>7</sup>

**Amendment of s 104 (Referral of complaint to professional conduct committee)**

Clause **62.(1)** Section 104, heading, ‘complaint’—

*omit, insert—*

‘charge’.

**(2)** Section 104—

*insert—*

‘**(1A)** If the council prefers a charge against a suspended nurse under section 67(5),<sup>8</sup> it must immediately refer the matter to the committee for hearing and determination.’

**Amendment of s 116 (Action by committee)**

Clause **63.(1)** Section 116(1)(d) and (2), ‘conditions, limitations and restrictions’—

*omit, insert—*

‘conditions’.

**(2)** Section 116(1)(h), after ‘appropriate’—

*insert—*

‘, including, for example, conditions under which a person may reapply

<sup>7</sup> Division 5 (Health assessments)

<sup>8</sup> Section 67 (Immediate suspension of registration or enrolment by council)

for registration or enrolment as a nurse or authorisation to practise midwifery or nursing’.

### **Amendment of s 137 (Appeals)**

Clause **64.** Section 137(1)(a)(vii), after ‘to’—  
*insert*—  
 ‘cancel or’.

### **Amendment of s 145 (Proceedings generally)**

Clause **65.** Section 145—  
*insert*—  
 ‘(1A) A proceeding for an offence against this Act must start—  
 (a) within 1 year after the commission of the offence; or  
 (b) within 1 year after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.’.

### **Amendment of s 148 (Regulations)**

Clause **66.** Section 148, heading—  
*omit, insert*—  
 ‘Regulation-making power’.

## **PART 7—AMENDMENT OF STATUTE LAW REVISION ACT 1995**

### **Act amended**

Clause **67.** This part amends the *Statute Law Revision Act 1995*.



*Health Legislation Amendment*

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**Amendment of sch 1, amendments of Health Act 1937**

Clause	<b>68.</b> Schedule 1, amendments of <i>Health Act 1937</i> , amendment 242,	1
	proposed section 183(3)(b), ' <i>Miscellaneous Provisions</i> '—	2
		3
	<i>omit, insert—</i>	4
	<i>'Revision'</i> .	5
		6