



# Nurses, Midwives and Health Visitors Act 1992

## 1992 CHAPTER 16

An Act to amend the Nurses, Midwives and Health Visitors Act 1979; and for connected purposes. [6th March 1992]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *The Central Council*

#### **1 Changes to constitution**

(1) In the Nurses, Midwives and Health Visitors Act 1979 (“the 1979 Act”) in section 1 (constitution etc. of United Kingdom Central Council for Nursing, Midwifery and Health Visiting) for subsections (2) to (7) there shall be substituted—

“(2) The Council shall consist of such number of members, not greater than 60, and a multiple of three, as is proposed and approved in accordance with section 2 of the Nurses, Midwives and Health Visitors Act 1992.

(3) Two-thirds of the members of the Council shall be appointed by the Secretary of State on being elected under the electoral scheme (“elected members”).

(4) Appointments otherwise than for the purposes of subsection (3) shall be made by the Secretary of State from among persons who—

- (a) are registered nurses, midwives, health visitors or medical practitioners, or
- (b) have such qualifications and experience in education or other fields as, in the opinion of the Secretary of State, will be of value to the Council in the performance of its functions.

- (5) In making appointments for the purposes of subsection (4), the Secretary of State shall have especially in mind—
- (a) the need to secure that the members of the Council include registered nurses, midwives and health visitors and persons living or working in each part of the United Kingdom, and
  - (b) the need to secure that qualifications and experience in the teaching of nursing, midwifery and health visiting are adequately represented on the Council.
- (6) The Council shall have a president and a vice-president appointed by the Council from among its members.
- (7) Schedule 1 to this Act shall have effect with respect to the constitution and administration etc. of the Council.
- (8) For the purposes of subsection (3), a person appointed as a replacement for an elected member shall be treated as an elected member.”
- (2) For Schedule 1 to that Act there shall be substituted the Schedule set out in Schedule 1 to this Act.

## **2 Section 1: preparatory**

- (1) Before the end of the period of six months beginning with the day on which this Act is passed, the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“the Council”) shall submit to the Secretary of State for his approval—
- (a) a proposal with respect to the number of members of which the Council is to consist after the coming into force of section 1 above, and
  - (b) a scheme for the election of persons to be appointed to the Council.
- (2) A scheme under subsection (1)(b) above shall include provision determining the professional, residential or other qualifications which a person must have to be eligible to vote or to be elected in an election held under the scheme.
- (3) The provision to be included in pursuance of subsection (2) above with respect to the qualifications which a person must have to be eligible to be elected in an election held under the scheme shall be such as to exclude from eligibility anyone who is not a registered nurse, midwife or health visitor living or working in the United Kingdom.
- (4) If the Secretary of State approves a proposal submitted to him under subsection (1)(a) above he shall signify his approval by order.
- (5) If the Secretary of State approves a scheme submitted to him under subsection (1)(b) above he shall give effect to it by order.
- (6) Orders under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **3 Constitution of standing committees**

In section 3(3) of the 1979 Act (power of Secretary of State to constitute standing committees)—

- (a) at the beginning there shall be inserted “If the Council (having regard to the duty imposed by section 2(6)) requests him to do so,”, and

- (b) the words from “including” to the end shall be omitted.

### *The National Boards*

## **4 Changes to constitution**

In section 5 of the 1979 Act (constitution of National Boards for Nursing, Midwifery and Health Visiting) for subsections (2) to (10) there shall be substituted—

- “(2) A National Board shall consist of—
- (a) a chairman appointed by the Secretary of State from among persons who are registered nurses, midwives or health visitors,
  - (b) such number of other members appointed by the Secretary of State as he may specify by order,
  - (c) the person for the time being appointed in pursuance of subsection (6) (a) to be the chief executive officer of the Board, and
  - (d) any person for the time being appointed in pursuance of subsection (6) (b) to an office under the Board which is specified for the purposes of this paragraph by the Secretary of State by order.
- (3) Appointments to a National Board for the purposes of subsection (2)(b) shall be made from among persons who—
- (a) are registered nurses, midwives or health visitors, or
  - (b) have such qualifications and experience in education or other fields as, in the opinion of the Secretary of State, will be of value to the Board in the performance of its functions.
- (4) The Secretary of State shall so exercise his powers under this section as to secure in relation to a National Board that a majority of the members of the Board are registered nurses, midwives or health visitors.
- (5) The Secretary of State may, with the consent of the Treasury—
- (a) pay such remuneration as he thinks fit to any person who is a member of a National Board by virtue of appointment by the Secretary of State, and
  - (b) make such provision as he thinks fit for the payment to or in respect of any such person of pensions, allowances or gratuities.
- (6) A National Board shall have—
- (a) a chief executive officer, and
  - (b) such other officers as the Secretary of State may by order specify for the purposes of this paragraph,
- appointed by the Board.
- (7) The Secretary of State may by order make such further provision with respect to the constitution and administration of a National Board as he thinks fit.
- (8) Without prejudice to the generality of subsection (7), provision under that subsection may include—
- (a) provision with respect to qualification for membership;
  - (b) provision for the appointment of a deputy chairman and with respect to his powers;

- (c) provision with respect to tenure of office of chairman, deputy chairman and other members;
- (d) provision with respect to the appointment of officers;
- (e) provision requiring payments to employees to be such as the Secretary of State may, with the consent of the Treasury, approve;
- (f) provision requiring powers with respect to the employment of staff to be exercised in accordance with written directions of the Secretary of State;
- (g) provision with respect to procedure, including the constitution of committees;
- (h) provision authorising the appointment of persons who are not Board members to committees of the Board.

(9) Orders under subsection (7) may include provision with respect to proof of documents.

(10) Orders under this section may make different provision in relation to different Boards.”

## 5 Functions

- (1) Section 6 of the 1979 Act (functions of National Boards) shall be amended as follows.
- (2) In subsection (1), in paragraph (a), for “provide, or arrange for others to provide, at institutions approved by the Board-” there shall be substituted “approve institutions in relation to the provision of-”.
- (3) In that subsection, after “and” at the end of paragraph (d) there shall be inserted—
  - “(da) perform such other functions relating to nurses, midwives or health visitors as the Secretary of State may by order prescribe.”
- (4) In that subsection, paragraph (e) (investigation of cases of alleged misconduct) shall be omitted.
- (5) In subsection (2), for the words from “have” to the end there shall be substituted “take account of any difference in the considerations applying to the different professions.”

## 6 Committees

The following provisions of the 1979 Act shall cease to have effect—

- (a) section 7 (standing committees of National Boards),
- (b) section 8 (joint committees of Central Council and National Boards), and
- (c) section 9 (local training committees of National Boards).

### *Registration*

## 7 Suspension

- (1) Section 12 of the 1979 Act (proceedings about the register) shall be amended as mentioned in subsections (2) to (4) below.

- (2) In subsection (1) (duty of Central Council to determine by rules when and how certain steps in relation to a person's registration may be taken) for the word "and" immediately following paragraph (b) there shall be substituted—
- (ba) a person's registration in the register or a part of it may be directed to be suspended, that is to say, not to have effect during such period as may be specified in the direction;
  - (bb) the suspension of a person's registration in the register or a part of it may be terminated; and"
- (3) In subsection (2) (proceedings to be heard and determined by committees of the Council) after "register" there shall be inserted ", for the suspension, or termination of the suspension, of a person's registration in the register".
- (4) At the end there shall be inserted—
- “(6) Where a person's registration in the register or a part of it is suspended under subsection (1)(ba), he shall be treated as not being registered in the register or part notwithstanding that his name still appears in it.”
- (5) In section 13(1) of that Act (decisions which a person may appeal against) after "register" there shall be inserted ", or to direct that his registration in the register be suspended.”.

## **8 Proceedings about the register: procedure**

- (1) Section 12 of the 1979 Act shall be amended as follows.
- (2) In subsection (2) (committees of the Council to be constituted to hear and determine proceedings about the register) for "hear and determine" there shall be substituted "deal with".
- (3) In subsection (3) (constitution of committees dealing with proceedings about the register)—
- (a) for "The committees shall be constituted from members of the Council; and" there shall be substituted "The committees need not be constituted exclusively from members of the Council, but the rules shall provide, in relation to committees constituted by them, that there shall only be a quorum if a majority of those present are members of the Council."; and
  - (b) the remainder of the subsection shall become subsection (3A).

## **9 Cautions**

After section 12 of the 1979 Act there shall be inserted—

### **“12A Cautions**

- (1) Without prejudice to the generality of section 12, rules under that section may make provision with respect to the giving, in the course of disciplinary proceedings, of cautions as to future conduct.
- (2) Rules under section 12 may also make provision with respect to the keeping by the Council of a record of any caution as to future conduct given in the course of disciplinary proceedings.

- (3) For the purposes of this section, “disciplinary proceedings” means proceedings for removal from the register or a part of it for misconduct.”

*Provisions relating to midwifery*

**10 Midwifery practice rules: consultation**

In section 4(3) of the 1979 Act (which requires the Council to refer proposals regarding midwifery practice rules to its Midwifery Committee) paragraph (b) (which requires the Council to consult the National Boards before acting on the Midwifery Committee’s report) shall be omitted.

**11 Notices of intention: notification of receipt**

In section 15(2) of the 1979 Act (local supervising authority to inform National Board of receipt of notice of intention to practise) for “National Board” there shall be substituted “Council”.

**12 Advice under section 16(4) of the 1979 Act: standards**

In section 16 of the 1979 Act (local supervision of midwifery practice) there shall be inserted at the end—

- “(5) The Council may by rules prescribe standards to be observed with respect to advice and guidance provided under subsection (4).”

*Miscellaneous*

**13 Finances of Central Council and National Boards**

- (1) Section 19 of the 1979 Act (finances of Central Council and National Boards) shall be amended as follows.
- (2) In subsection (3) (power of Secretary of State to make grants to Central Council and National Boards in respect of certain expenditure)—
- (a) paragraph (a) (expenses in connection with initial establishment) shall be omitted, and
- (b) at the end there shall be inserted—
- “(d) the coming into force (whether in whole or part) of any provision of the Nurses, Midwives and Health Visitors Act 1992.”
- (3) Subsection (4) (duty of Central Council to reimburse certain expenditure of National Boards not otherwise met) shall cease to have effect.

**14 Central Council rules: consultation**

In section 22 of the 1979 Act (duty of Central Council to consult about rules) after subsection (3) there shall be inserted—

“(3A) Subsection (3)(b) shall not require the Council to consult a National Board if the proposed rules do not appear to the Council to be relevant to the Board’s functions.”

*General and supplementary*

**15 Transitional provisions**

- (1) Notwithstanding paragraph 2(2) of Schedule 1 to the 1979 Act (period of office of member of Central Council), where a person is a member of the Council immediately before the day on which this Act is passed, the appointment by virtue of which he is then a member of the Council shall have effect as an appointment for a period ending immediately before the day on which section 1 above is brought into force.
- (2) Notwithstanding paragraph 2(1) of Schedule 2 to the 1979 Act (period of office of member of National Board), where a person is a member of a National Board immediately before the day on which this Act is passed, the appointment by virtue of which he is then a member of the Board shall have effect as an appointment for a period ending immediately before the day on which section 4 above is brought into force in relation to the Board.
- (3) Where immediately before ceasing to have functions under section 6(1)(e) of the 1979 Act a National Board is investigating in pursuance of that provision a case of alleged misconduct, it shall, as soon as practicable after ceasing to have functions under that provision, notify the Central Council of the case and supply to the Council such information about its investigation of the case as the Council may require.
- (4) In this section—
  - “the Central Council” means the United Kingdom Central Council for Nursing, Midwifery and Health Visiting; and
  - “National Board” means a body established by section 5(1) of the 1979 Act.

**16 Amendments and repeals**

- (1) Schedule 2 to this Act (minor and consequential amendments) shall have effect.
- (2) The enactments specified in Schedule 3 to this Act (which include certain provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule.

**17 Short title etc**

- (1) This Act may be cited as the Nurses, Midwives and Health Visitors Act 1992.
- (2) In this Act “the 1979 Act” has the meaning given by section 1(1) above.
- (3) This Act, except sections 2 and 15, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed in pursuance of this subsection for different provisions or different purposes of the same provision.
- (4) This Act extends to Northern Ireland.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### SUBSTITUTED SCHEDULE 1 TO THE 1979 ACT

#### “SCHEDULE 1

#### CONSTITUTION ETC. OF CENTRAL COUNCIL

##### *Variation of membership*

- 1 (1) If the Secretary of State approves a proposal submitted to him by the Council with respect to the number of its members, he shall by order amend section 1 as he thinks fit for the purpose of giving effect to the proposal.
- (2) The Secretary of State may not approve a proposal under this paragraph if the number proposed—
- (a) is greater than 60, or
  - (b) is not a multiple of 3.

##### *Variation of electoral scheme*

- 2 (1) The Council may vary the electoral scheme with the approval of the Secretary of State.
- (2) The Secretary of State may not approve a variation under this paragraph if it would have the effect of making anyone other than a registered nurse, midwife or health visitor living or working in the United Kingdom eligible to be elected in an election held under the scheme.
- (3) The Secretary of State shall signify his approval of a variation under this paragraph by order.

##### *Tenure of office of members and president etc.*

- 3 (1) Appointment as a member of the Council shall be for a period prescribed by the Secretary of State by order.
- (2) The period prescribed by the Secretary of State for the purposes of subparagraph (1) above shall not be less than 3 nor more than 5 years.
- 4 (1) This paragraph applies where a person (“the former member”) ceases to be a member of the Council before the end of the period for which he was appointed.
- (2) The vacancy left by the former member shall be filled by a person appointed by the Secretary of State for the remainder of the period for which the former member was appointed.



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- (3) If the former member was an elected member, the Secretary of State shall appoint under sub-paragraph (2) above a person nominated by the Council who shall have the same qualification for election under the electoral scheme as the former member had at the time of his appointment.
  - (4) If the former member was not an elected member, the Secretary of State shall, in making an appointment under sub-paragraph (2) above, have regard to the qualification by virtue of which the former member was appointed.
  - (5) In sub-paragraphs (3) and (4) above, references to an elected member include a replacement for such a member.
- 5
- (1) Where a member of the Council or any of its committees is absent from meetings for more than 6 months consecutively or is disqualified from practising as a nurse, midwife or health visitor, the Council may by resolution declare that he has ceased to be a member.
  - (2) An elected member shall cease to be a member if he ceases to hold any qualification by virtue of which he was elected.
  - (3) A person appointed as a replacement for an elected member shall cease to be a member if he ceases to hold any qualification by virtue of which he was appointed.
- 6
- If the president or vice-president ceases to be a member of the Council he shall also cease to be president or vice-president.

#### *Procedure*

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- (1) The Council may act notwithstanding—
    - (a) any vacancy among its members, or
    - (b) that by reason of one or more vacancies, less than two-thirds of the members of the Council are elected members (or their replacements).
  - (2) At any meeting of the Council the quorum shall be 20 members including, in the case of each part of the United Kingdom, at least one member living or working in that part.
  - (3) The Council may constitute committees of itself for the purpose of transacting particular business of the Council.
  - (4) Persons who are not members of the Council may be appointed by it as members of such committees; but not more than one-third of the members of such a committee shall be persons appointed by virtue of this sub-paragraph.
  - (5) The Council may, by means of standing orders, regulate its own procedure, that of its standing committees and that of any committees constituted under sub-paragraph (3) above, and may, to such extent and in such cases as may be permitted or required by orders of the Secretary of State or by its rules and standing orders, act through those standing and other committees.
  - (6) No defect in the appointment of any member shall invalidate any proceedings of the Council or of its committees.

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*Remuneration, allowances and pensions*

- 8 (1) The Council may pay to its President such remuneration, and make such provision for the payment of pensions, allowances or gratuities to or in respect of him, as it thinks fit.
- (2) The Council may pay to its members and to other persons appointed to serve on its committees such travelling and other allowances as it thinks fit.

*Documents*

- 9 A document purporting to be duly executed under the seal of the Council or to be signed on its behalf shall be received in evidence and shall be deemed to be so executed or signed unless the contrary is proved.”

SCHEDULE 2

Section 16.

MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) in the entry relating to the Chairman of any of the National Boards, for the words from “if” to the end there shall be substituted “or member of any of those Boards appointed at a salary”.
- 2 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, in the entry relating to the chairman of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland there shall be inserted at the end “or member of that Board appointed at a salary”.
- 3 In section 2(3) of the 1979 Act (duty of Central Council to make rules about training) after “kind” there shall be inserted “content”.
- 4 In section 6(1)(b) of that Act (duty of National Boards to ensure training courses meet Central Council’s requirements) after “their” there shall be inserted “kind”.
- 5 In section 16(2)(b) of that Act (duty of local supervising authority to report prima facie cases of misconduct by midwives) for “to the National Board for the part of the United Kingdom in which the authority acts” there shall be substituted “to the Council”.
- 6 In section 17(3) of that Act, for “Subsections (1) and (2) do” there shall be substituted “Subsection (1) does”.
- 7 In section 20(5) of that Act (duty to make annual report) there shall be inserted at the end “; and a report under this subsection shall, in the case of a report by any of the Boards, be in such form as the Secretary of State may require.”
- 8 (1) Section 23(1) of that Act (interpretation) shall be amended as follows.
- (2) In the definition of “elected members” for “section 5(4)(b)” there shall be substituted “section 1(3)”.
- (3) After that definition there shall be inserted—
- ““electoral scheme” means the scheme submitted and approved as set out in section 2 of the Nurses, Midwives and Health Visitors Act 1992 (with any variations under paragraph 2 of Schedule 1 to this Act);”.

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- 9 (1) Schedule 6 to that Act (adaptations for Northern Ireland and its National Board) shall be amended as follows.
- (2) In paragraph 1, for “7, 9, 17,” there shall be substituted “6”.
- (3) In paragraph 2, the Table shall be amended as follows—
- (a) in the first entry, in column 1, for “5(3), (4)(a), (5), (6) and (8)(a)” there shall be substituted “5(8)(e) and (f)”;
  - (b) in the second entry, in column 1, for “7, 9, 17(2),” there shall be substituted “6(1)(da),”;
  - (c) in the fourth entry, in column 1, for “Section” there shall be substituted “Sections 5(8)(e) and”;
  - (d) in the sixth entry, in column 1, for “20(5)” there shall be substituted “20(6)”.
- (4) After paragraph 2 there shall be inserted—
- “2A In section 5, for subsections (2) to (7) substitute—
- “(2) The National Board for Nursing, Midwifery and Health Visiting for Northern Ireland shall consist of—
    - (a) a chairman appointed by the Head of the Department of Health and Social Services for Northern Ireland from among persons who are registered nurses, midwives or health visitors;
    - (b) such number of other members appointed by the Head of the Department of Health and Social Services for Northern Ireland as that Department may specify by order;
    - (c) the person for the time being appointed in pursuance of subsection (6)(a) to be the chief executive officer of the Board; and
    - (d) any person for the time being appointed in pursuance of subsection (6)(b) to an office under the Board which is specified for the purposes of this paragraph by the Department of Health and Social Services for Northern Ireland by order.  - (3) Appointments to the Board for the purposes of subsection (2)(b) shall be made from among persons who—
    - (a) are registered nurses, midwives or health visitors, or
    - (b) have such qualifications and experience in education or other fields as, in the opinion of the Head of the Department of Health and Social Services for Northern Ireland, will be of value to the Board in the performance of its functions.  - (4) The powers conferred by this section shall be so exercised as to secure that a majority of the members of the Board are registered nurses, midwives or health visitors.
  - (5) The Department of Health and Social Services for Northern Ireland may, with the consent of the Department of Finance and Personnel in Northern Ireland—
    - (a) pay such remuneration as the Department of Health and Social Services for Northern Ireland thinks fit to any person who is a member of the Board by virtue of appointment by the Head of that Department, and

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- (b) make such provision as the Department of Health and Social Services for Northern Ireland thinks fit for the payment to or in respect of any person who is a member of the Board by virtue of such appointment of pensions, allowances or gratuities.
- (6) The Board shall have—
- (a) a chief executive officer, and
- (b) such other officers as the Department of Health and Social Services for Northern Ireland may by order specify for the purposes of this paragraph,
- appointed by the Board.
- (7) The Department of Health and Social Services for Northern Ireland may by order make such further provision with respect to the constitution and administration of the Board as it thinks fit.””
- (5) In paragraph 3(a), for “7 or 9” there shall be substituted “5 or 6”.
- (6) In paragraph 4, in the inserted section 23(2)(c), for “7 or 9” there shall be substituted “5 or 6”.

### SCHEDULE 3

Section 16.

#### REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part IV, the entry relating to the Chairman of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting.
1979 c. 36.	The Nurses, Midwives and Health Visitors Act 1979.	In section 3(3), the words from “including” to the end. Section 4(3)(b). Section 6(1)(e). Sections 7 to 9. In section 17, subsection (2) and, in subsection (4), the words “or (2)”. In section 19, subsections (3)(a) and (4). In section 23(2), the words “Schedule 2, Part I.” In Schedule 2, paragraphs 1 to 4 and 6 to 8. In Schedule 6, in paragraph 1, the word “2”, in paragraph 2, in the Table, in the first entry, in column 1, the words “and Schedule 2, paragraph 3”, in the second entry, in column 1, the words

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		“and Schedule 2, paragraphs 6(5) and 7”, the third entry and the eighth entry.

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