

SCHEDULE 1

Amendments relating to indemnity arrangements

PART 7

Amendments to the Nursing and Midwifery Order 2001 and related matters

23. The Nursing and Midwifery Order 2001⁽¹⁾ is amended in accordance with paragraphs 24 to 29.

Amendment of article 9

24. In article 9(2) (registration), in paragraph (2), after sub-paragraph (a) insert—

“(aa) satisfies the Registrar that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”.

Amendment of article 10

25. In article 10(3) (renewal of registration and readmission)—

(a) in paragraph (2), after sub-paragraph (a) insert—

“(aa) satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”;

(b) in paragraph (4), after sub-paragraph (a) (but before the following “and”) insert—

“(aa) the applicant satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”.

New article 12A

26. After article 12 insert—

“Indemnity arrangements

12A.—(1) Each practising registrant must have in force in relation to that registrant an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this article, an “indemnity arrangement” may comprise—

(a) a policy of insurance;

(b) an arrangement made for the purposes of indemnifying a person;

(c) a combination of the two.

(3) For the purposes of this article, “appropriate cover”, in relation to practice as a registered nurse or midwife, means cover against liabilities that may be incurred in

(1) [S.I. 2002/253](#).

(2) Amended by [S.I. 2007/3101](#).

(3) Amended by [S.I. 2007/3101](#).

practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The Council may make rules in connection with the information to be provided to the Registrar—

- (a) by or in respect of a person applying for registration (including an application for restoration or readmission) for the purpose of determining whether or not the Registrar is satisfied that if the person is registered, there will be in force in relation to that person by the time that person begins to practise, an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a person applying for renewal of their registration for the purpose of determining whether or not the Registrar is satisfied that if the person's registration is renewed, there will be in force in relation to that person by the time that person resumes practice, an indemnity arrangement which provides appropriate cover; and
- (c) by or in respect of a registrant for the purposes of determining whether at any time there is in force in relation to the registrant an indemnity arrangement which provides appropriate cover.

(5) Rules made under paragraph (4) may require information to be provided—

- (a) at the request of the Registrar; or
- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.

(6) The Council may also make rules requiring a registrant to inform the Registrar if there ceases to be in force in relation to that registrant appropriate cover under an indemnity arrangement.

(7) The Council may also make rules requiring a registrant to provide the Registrar with such information as is necessary for the purpose of satisfying the Registrar that there is or will be in force in relation to that registrant appropriate cover provided under an indemnity arrangement by an employer.

(8) If a registrant is in breach of paragraph (1)—

- (a) the Registrar may remove that person from the register; or
- (b) the person's fitness to practise may be treated for the purposes of article 22(1)(a)
 - (i) as being impaired by reason of misconduct, and the Registrar may accordingly refer the matter to persons appointed by it under article 22(5)(b)(i) (where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii).

(9) If an applicant breaches rules under paragraph (4), or there is a breach of rules under that paragraph in respect of the applicant the Registrar may refuse the applicant's application for—

- (a) admission (or readmission) to the register;
- (b) restoration to the register; or
- (c) renewal.

(10) If a registrant breaches rules under paragraph (4)(b) or (c), that person's fitness to practise may be treated for the purposes of article 22(1)(a)(i) as being impaired by reason of misconduct, and the Registrar may accordingly refer the matter to persons appointed by it under article 22(5)(b)(i) (where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii) .

(11) This article does not apply to a person who has an entitlement to be registered under article 39 and Schedule 2A (visiting midwives, and certain nurses from relevant European States), or article 39A (visiting general system nurses from relevant European States).”.

Amendment of article 33

27. In article 33 (restoration to the register of persons who have been struck off) in paragraph (7) (a), after “the relevant part of the register” insert “on his satisfying the Registrar as mentioned in article 10(4)(aa).”.

Amendment of article 37

28. In article 37(4) (appeals against Registrar’s decisions)—

(a) in paragraph (1), after sub-paragraph (aa) insert—

“(ab) removes the name of a registrant from the register on the grounds that the registrant has failed to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement;”;

(b) after paragraph (1), insert—

“(1A) Paragraph (1)(ab) does not apply where the removal is in consequence of a refusal of an application for renewal (including an application for readmission or restoration where registration has lapsed).”; and

(c) after paragraph (2A), insert—

“(2B) No appeal lies to the Council if the complaint of the person aggrieved is, in effect, that a provision of rules under article 7, 9, 10 or 12A is invalid.”.

Amendment of Schedule 4

29. In Schedule 4(5) (interpretation), insert the following definitions at the appropriate place—

““appropriate cover” is to be construed in accordance with article 12A(3);”; and

““indemnity arrangement” is to be construed in accordance with article 12A(2);”.

30. The Schedule to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004(6) is amended in accordance with paragraphs 31 to 33.

Amendment of rule 5

31. In rule 5(7) (application for admission to a part of the register), in paragraph (2), omit the “and” at the end of sub-paragraph (a)(iv) and after paragraph (a) insert—

“(aa) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;”.

(4) Amended by [S.I. 2007/3101](#).

(5) Schedule 4 has been amended by [S.I. 2007/3101](#) and [2008/1485](#).

(6) [S.I. 2004/1767](#).

(7) Amended by [S.I. 2007/3101](#).

Status: This is the original version (as it was originally made).

Amendment of rule 13

- 32.** In rule 13(8) (renewal of registration), in paragraph (1), after sub-paragraph (a) insert—
- “(aa) evidence that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;”.

Amendment of rule 15

- 33.** In rule 15(9) (readmission to the register), in paragraph (2), after “Rules 5(1)” insert—
- “, (2)(aa) and (b)”.

(8) Amended by [S.I. 2005/3354](#).
(9) Amended by [S.I. 2007/3101](#).