
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Nursing and Midwifery Order 2001 ([S.I. 2002/253](#)) (“the 2001 Order”) to include provisions relating to the regulation of nursing associates in England and to make consequential amendments in that regard. This Order also i) makes other miscellaneous amendments to the 2001 Order ii) amends other subordinate legislation and iii) makes consequential amendments to primary legislation.

Schedule 1 to this Order amends the 2001 Order as follows.

Paragraph 2 inserts article 2A (application to nursing associates) to provide that the application of the provisions in the 2001 Order which apply to nursing associates, is limited to England. This reflects that the regulation of nursing associates is limited to England.

Paragraph 3 amends article 3 (the Council and its Committees) to include nursing associates within the remit of the Nursing and Midwifery Council (“the Council”) and its Committees so that the Council can exercise its functions in relation to nursing associates, including the establishment of standards of education, training, conduct and performance.

Paragraph 4 amends article 5 (establishment of the register) to provide that the Council’s register is to include nursing associates and the Council must therefore establish standards of proficiency for admission to the nursing associate part of the register and prescribe the requirements to be met regarding the evidence to be provided by a nursing associate as to good health and good character in order to satisfy the Registrar that they are capable of safe and effective practice as a nursing associate.

Paragraph 5 amends article 6 (register) to provide that an order by the Privy Council in relation to the register may provide that an annotation is made to the register denoting that a registrant is a visiting nursing associate from relevant European States.

Paragraph 6 amends article 6A (temporary annotations with regard to emergencies involving loss of human life or illness etc.) so as to dis-apply this provision in relation to nursing associates meaning that in an emergency, unlike the position with nurses and midwives, the Registrar will not be able to annotate the register giving nursing associates temporary prescribing rights.

Paragraph 7 amends article 7 (supplemental provisions) to extend the scope of this provision to ensure that fees are not charged in respect of a visiting nursing associate from a relevant European State, who has an entitlement to register by virtue of article 39C of the 2001 Order.

Paragraph 8 amends article 9 (registration) to provide that a person applying to be registered as a nursing associate must satisfy the same registration requirements as nursing and midwifery applicants. It dis-applies these registration requirements to visiting nursing associates from relevant European States who seek registration in accordance with article 39C, in the same way as they are dis-applied in respect of visiting nurses and midwives. Paragraph 9 amends article 10 (renewal of registration and readmission) to dis-apply those provisions in relation to renewal of registration or readmission to the register and visiting nursing associates from relevant European States.

Paragraph 10 amends article 12A (indemnity arrangements) to dis-apply that provision in relation to visiting nursing associates from relevant European States exercising that entitlement in the same way as it is for visiting nurses and midwives.

Paragraph 11 amends article 13 (approved qualifications) to include nursing associate qualifications awarded in England within the scope of qualifications approved by the Council for admission to the nursing associates’ part of the register. It also allows those who have undergone training outside

the United Kingdom that is comparable to that of a nursing associate, to satisfy the Council that their qualification reaches the appropriate standards for admission to that part of the register, or if necessary have undertaken additional training or experience to so satisfy the Council following any test of competence it may require them to take. A new provision is also included for those who have training comparable to that of a nursing associate obtained in Scotland, Wales and Northern Ireland, to have those qualifications accepted for admission, or if necessary, to undergo additional training or experience to so satisfy the Council following any test of competence it may require them to take.

Paragraph 12 inserts article 13A (transitional provisions relating to admission to the register). The provision applies to those applying for admission to the nursing associates' part of the register, who have either been awarded a "specified qualification" or have commenced a course of education or training on or before 26th July 2019 leading to a "specified qualification". A "specified qualification" is defined to include certain pilot schemes approved by Health Education England in accordance with the Care Act 2014⁽¹⁾ for nursing associates and apprenticeships for nursing associates approved in accordance with section A1(3) of the Apprenticeship, Skills, Children and Learning Act 2009⁽²⁾.

Paragraph 13 amends article 15 (education and training) to insert paragraph (5A) which provides that the Council's duties under paragraph (5) of that article, where these relate to nursing associates, are exercisable in relation to universities and other bodies in England only.

Paragraph 14 amends article 16 (visitors) to allow a visitor to be selected from either the nurses' or nursing associates' parts of the register in respect of nursing associate courses.

Paragraph 15 amends article 19 (post registration training) to apply these provisions to visiting nursing associates from relevant European States in the same way as they apply to visiting nurses and visiting midwives.

Paragraph 17 revokes article 23 and 24 (screeners) as this power to make rules to appoint screeners has never been used and the Council do not intend to use screeners in fitness to practise procedures. A number of consequential amendments have been made to reflect this revocation (see paragraphs 16 and 19 to 25 of Schedule 1 to this Order).

Paragraph 18 amends article 25 (Council's power to require disclosure of information) to provide that the Council's power to require disclosure of information applies to nursing associates in the same way as it applies to nurses and midwives.

Paragraph 26 amends article 37 (appeals against Registrar's decisions) to provide that certain Registrar's decisions concerning registration which involve visiting nursing associates from relevant European states and nursing associates who are exempt persons who have been required to complete an adaptation period or pass an aptitude test have the same appeal rights to the Council against those decisions as visiting nurses and midwives and nurses and midwives who are exempt persons. Article 37 is also amended to allow panel members for appeals under that article brought by a nursing associate to include a registrant selected from the nurses' or the nursing associates' parts of the register.

Paragraph 27 amends article 38 (appeals) to provide that a nursing associate or a person applying to be registered as a nursing associate who appeals against a Council decision taken under article 37, or who appeals against certain Investigating Committee decisions must bring that appeal to the county court in England. This reflects that nursing associates are regulated in England only. Likewise "the appropriate court" to which a nursing associate can appeal an order of decision of the Fitness to Practise Committee will be to the High Court of Justice in England and Wales.

Paragraph 28 amends articles 39A (visiting general systems nurses from relevant European States) to reflect the closure of Sub-Part 2 of the Nurses' Part of the register to new applicants.

Paragraph 29 inserts article 39C (visiting nursing associates from relevant European States) to make similar provision to that in article 39A for visiting general systems nurses from relevant European

(1) 2014 c. 23.

(2) 2009 c. 22.

States which will ensure that nursing associates who benefit from regulation 12 of the General Systems Regulations⁽³⁾ have their qualifications and training recognised in England and to be registered in the nursing associate part of the register.

Paragraph 30 amends article 44 (offences) to provide that the offences in paragraphs (1), (2) and (3) of that article where they concern the nursing associate part of the register, the use of the nursing associate title or representations as to nursing associate qualifications are offences only where the representations are made, or the title is used in England. This is to reflect that fact that nursing associates are regulated in England only.

Paragraph 32 amends Schedule 4 (interpretation) to amend certain definitions to include reference to nursing associates and to insert definitions consequential on the regulation of nursing associates. It is also amended to omit the definition of Screeners.

Schedule 2 of this Order amends other subordinate legislation as a consequence of the amendments to the 2001 Order by this Order.

The Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004⁽⁴⁾ is amended by paragraphs 1 to 5 of Schedule 2 to this Order. The effect of these amendments is to i) change the name of that order to reflect the Council's wider remit ii) close Sub-Part 2 of the Nurses' Part of the register to new applicants after the appointed day and iii) open a new Nursing Associate Part of the register. Sub-Part 2 of the Nurses' Part of the register will remain effective for registrants registered in that Sub-Part before the appointed day. A new part of the register is opened for nursing associates in England who will use the title 'Nursing Associate'. Provision is made enabling an entry in the nursing associate part of the register to be annotated denoting that a registrant is a visiting nursing associate.

Schedule 2 to this Order also makes consequential amendments to the Nursing and Midwifery Council (Fitness to Practise) Rules 2004⁽⁵⁾, the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004⁽⁶⁾, the Nursing and Midwifery Council (Practice Committees)(Constitution) Rules 2008⁽⁷⁾, the Nursing and Midwifery Council (Constitution) Order 2008⁽⁸⁾ and the European Union (Recognition of Professional Qualifications) Regulations 2015.

Schedule 3 of this Order makes consequential amendments to primary legislation.

A report on the Consultation in relation to the Secretary of State's proposals to make this Order, is available at <https://www.gov.uk/government/consultations/regulation-of-nursing-associates-in-england> copies of which can be obtained by writing to the Department of Health and Social Care, Professional Regulation, Room 2W09, Quarry House, Quarry Hill, Leeds, LS2 7UE.

(3) The European Union (Recognition of Professional Qualifications) Regulations 2015 S.I. 2015/2059.

(4) S.I. 2004/1765.

(5) These Rules are Scheduled to S.I. 2004/1761.

(6) These Rules are Scheduled to S.I. 2004/1767.

(7) These Rules are Scheduled to S.I. 2008/3148.

(8) S.I. 2008/2553.