
STATUTORY INSTRUMENTS

2002 No. 253

NURSES AND MIDWIVES

The Nursing and Midwifery Order 2001

Made - - - - *12th February 2002*

Coming into force

articles 1 and 54(4) *12th February 2002*
remainder in accordance
with article 1(2)

At the Court at Buckingham Palace, the 12th day of February 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by a resolution of each House of Parliament in accordance with section 62(9) of the Health Act 1999⁽¹⁾;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4)(2) of that Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

GENERAL

Citation and commencement

1.—(1) This Order may be cited as the Nursing and Midwifery Order 2001.

(2) This article and article 54(4) come into force on the day on which this Order is made and the other provisions of this Order shall come into force on such day as the Secretary of State may specify.

(1) 1999 c. 8. An earlier draft of this Order was published for consultation in accordance with paragraph 9(1) of Schedule 3 to the Health Act.

(2) Section 62(4) applies section 126 of the National Health Service Act 1977, relevant amendments to which are made by the Health Act 1999.

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

Commencement Information

I1 Art. 1 in force at made date, see [art. 1\(2\)\(3\)](#)

Interpretation

2. This Order is to be interpreted in accordance with Schedule 4.

Commencement Information

- I2** [Art. 2](#) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I3** [Art. 2](#) in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see [art. 1\(2\)\(3\)](#)
- I4** [Art. 2](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I5** [Art. 2](#) in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)
- I6** [Art. 2](#) in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

[^{F1}Application to nursing associates

2A. The provisions of this Order that apply to nursing associates, and only to the extent that they apply to nursing associates, apply in respect of England only.]

F1 [Art. 2A](#) inserted (12.7.2018) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 2](#)

PART II

[^{F2}The Practice Committees]

F2 [Sch. 1 Pt. 2](#) heading substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), [art. 1\(4\)](#), [Sch. 1 para. 19\(c\)](#) (with [art. 3](#))

The Nursing and Midwifery Council and its Committees

3.—(1) There shall be a body corporate known as the Nursing and Midwifery Council (referred to in this Order as “the Council”).

(2) The principal functions of the Council shall be to establish from time to time standards of education, training, conduct and performance for [^{F3}nurses, midwives and nursing associates] and to ensure the maintenance of those standards.

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(3) The Council shall have such other functions as are conferred on it by this Order or as may be provided by the Privy Council by order.

[^{F4}(4) The over-arching objective of the Council in exercising its functions is the protection of the public.

(4A) The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives—

- (a) to protect, promote and maintain the health, safety and well-being of the public;
- (b) to promote and maintain public confidence in the professions regulated under this Order; and
- (c) to promote and maintain proper professional standards and conduct for members of those professions.]

[^{F5}(5) In exercising its functions, the Council shall—

- (a) have proper regard for—
 - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and
 - (ii) any differing interests of different categories of registrants;
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—
 - (i) the employment (whether or not under a contract of service) of registrants,
 - (ii) the education or training of nurses, midwives [^{F6}, nursing associates] or other health care professionals,
 - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
 - (iv) the regulation of health services, and
 - (v) the provision, supervision or management of health services.

(5A) In carrying out its duty to co-operate under paragraph (5)(b), the Council shall have regard to any differing considerations relating to practising as a nurse or midwife which apply in England, Scotland, Wales or Northern Ireland.

(5B) In paragraph (5), “health care professionals” means persons regulated by a body, other than the Council, mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (which relates to the Council for the Regulation of Health Care Professionals).]

(6) Before making any order under paragraph (3), the Privy Council shall consult the Council.

^{F7}(7)

[^{F8}(7A) The Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of Schedule 1.]

(8) Part I of Schedule 1 shall have effect with respect to the constitution of the Council [^{F9}and orders of the Privy Council under paragraph (7A)].

[^{F10}(9) There shall be two committees of the Council, to be known as—

- (a) the Investigating Committee; and
- (b) the Fitness to Practise Committee.]

[^{F11}(10) The two committees mentioned in paragraph (9) are referred to in this Order as “the Practice Committees”.]

(11) Each of the [^{F12}Practice Committees] shall have the functions conferred on it by this Order.

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(12) The Council may establish such other committees as it considers appropriate in connection with the discharge of its functions and delegate any of its functions to them, other than any power to make rules.

(13) The Council shall inform and educate registrants, and shall inform the public, about its work.

(14) Before establishing any standards or giving any guidance under this Order the Council shall consult representatives of any group of persons it considers appropriate including, as it sees fit, representatives of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; and
- (d) persons providing, assessing or funding education or training for registrants or prospective registrants.

(15) The Council shall publish any standards it establishes and any guidance it gives.

(16) Paragraphs (14) and (15) do not apply to guidance given to an individual which is particular to him.

(17) Part II of Schedule 1 shall have effect with respect to the [F13Practice Committees].

(18) Nothing in this Order shall require or permit any disclosure of information which is prohibited by or under any other enactment [F14or the [F15UK GDPR]].

^{F16}(19)

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| F3 | Words in art. 3(2) substituted (12.7.2018) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(2)(b), Sch. 1 para. 3(a) |
| F4 | Art. 3(4)(4A) substituted for art. 3(4) (26.9.2016) by Health and Social Care (Safety and Quality) Act 2015 (c. 28), s. 6(4), Sch. para. 5(2) ; S.I. 2016/906, reg. 2(b) |
| F5 | Art. 3(5)-(5B) substituted for art. 3(5) (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 1(a) |
| F6 | Words in art. 3(5)(b)(ii) inserted (12.7.2018) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(2)(b), Sch. 1 para. 3(b) |
| F7 | Art. 3(7) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 1(b) |
| F8 | Art. 3(7A) inserted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 1(c) |
| F9 | Words in art. 3(8) inserted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 1(d) |
| F10 | Art. 3(9) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 1(1)(a) (with art. 3, Sch. 1 para. 1(2)) |
| F11 | Art. 3(10) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 1(1)(b) (with art. 3, Sch. 1 para. 1(2)) |
| F12 | Words in art. 3(11) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 1(1)(c) (with art. 3) |
| F13 | Words in art. 3(17) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 1(1)(c) (with art. 3) |
| F14 | Words in art. 3(18) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 280(2) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g) |
| F15 | Words in art. 3(18) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 3 para. 39(2) (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1) |

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- F16** Art. 3(19) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 3 para. 39(3) (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I7** Art. 3(1)-(7), (9)(d), (12)-(16), (18) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)
- I8** Art. 3(8)(10)(11)(17) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)
- I9** Art. 3(8)(11)(17) in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see art. 1(2)(3)
- I10** Art. 3(9)(10) in force at 22.1.2003 in so far as not already in force as notified in the London Gazette (Issue 56816, published 10.1.2003), see art. 1(2)(3)
- I11** Art. 3(11)(17) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)
- I12** Art. 3(8) in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see art. 1(2)(3)

PART III

REGISTRATION

Registrar

4.—(1) The Council shall appoint a Registrar who shall hold office for such period and on such terms as the Council may determine.

(2) The Registrar shall have such functions as the Council may direct.

(3) The terms on which the Registrar holds office may, in addition to providing for his remuneration, include provision for the payment of such pensions, allowances or gratuities to or in respect of him, or such contributions or payments towards provision for such pensions, allowances or gratuities, as may be determined by the Council.

(4) Where the terms on which the Registrar holds office include provision for the payment to him of any allowances or expenses, the rate at which those allowances or expenses are paid shall be determined by the Council.

(5) If the Council appoints a deputy or assistant Registrar and that deputy or assistant Registrar is authorised by the Registrar to act for him in any matter, any reference in this Order to “the Registrar” shall include a reference to that deputy or assistant Registrar.

Commencement Information

- I13** Art. 4 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

Establishment and maintenance of register

5.—(1) In accordance with the provisions of this Order the Council shall establish and maintain a register of qualified [^{F17}nurses, midwives and nursing associates].

(2) The Council shall from time to time—

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- (a) establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register; and
- (b) prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Registrar that an applicant is capable of safe and effective practice as a ^{F18}nurse, midwife or nursing associate].
- (3) The Council shall—
 - (a) before prescribing the requirements mentioned in paragraph (2)(b), consult ^{F19}... the persons referred to in article 3(14); and
 - (b) publish those requirements.
- (4) The register shall show, in relation to each registrant, such address and other details as the Council may prescribe.
- ^{F20}(5)

- F17** Words in [art. 5\(1\)](#) substituted (12.7.2018 for specified purposes, 28.1.2019 in so far as not already in force) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(2\)\(b\)\(3\)](#), [Sch. 1 para. 4\(a\)](#)
- F18** Words in [art. 5\(2\)\(b\)](#) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 4\(b\)](#)
- F19** Words in [art. 5\(3\)\(a\)](#) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), [art. 1\(2\)\(e\)](#), [Sch. 4 para. 38\(a\)](#)
- F20** [Art. 5\(5\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 4\(c\)](#)

Commencement Information

- I14** [Art. 5\(2\)\(b\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I15** [Art. 5\(3\)\(a\)](#) in force at 7.7.2003 for specified purposes as notified in the London Gazette (Issue 56984, published 27.6.2003), see [art. 1\(2\)\(3\)](#)
- I16** [Art. 5](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

^{F21}Supplementary provisions as to necessary knowledge of English

- 5A.—**(1) The Council must publish guidance about—
- (a) the evidence, information or documents to be provided by an applicant for the purpose of satisfying the Registrar under article 9(2)(ba) that the applicant has the necessary knowledge of English; and
 - (b) the process by which the Registrar is to determine whether the Registrar is satisfied as mentioned in paragraph (a).
- (2) The Registrar must have regard to the guidance published under paragraph (1) in determining whether the Registrar is satisfied as mentioned in paragraph (1)(a).
- (3) Paragraphs (4) and (6) apply if, having considered any evidence, information or documents provided by the applicant in support of the applicant's application, the Registrar is not satisfied under article 9(2)(ba) that the applicant has the necessary knowledge of English.
- (4) The Registrar may request the applicant to provide further evidence, information or documents within such period as the Registrar may specify.

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^{F22}(5)

(6) The Registrar may require the applicant—

- (a) to undergo an examination or other assessment; and
- (b) to provide information in respect of that examination or assessment,

within such period as the Registrar may specify.

^{F23}(7)

(8) Guidance published under paragraph (1) may make different provision in relation to different cases or classes of case.

(9) In this article, references to an applicant are references to a person applying for registration in a part of the register or readmission to that part.]

F21 Art. 5A inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **33**; S.I. 2015/1451, art. 4

F22 Art. 5A(5) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 3** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F23 Art. 5A(7) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 3** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Register

6.—(1) The register shall be divided into such parts as the Privy Council may by order determine, on a proposal by the Council or otherwise, and in this Order, references to parts of the register are to the parts so determined.

(2) Each part shall have a designated title indicative of different qualifications and different kinds of education or training and a registrant is entitled to use the title corresponding to the part of the register in which he is registered.

(3) Subject to article 7, the Privy Council may by order, on a proposal by the Council or otherwise, make such other provision in connection with the register as it considers appropriate and in particular may provide for—

- (a) the register to include entries indicating the possession of qualifications (whether or not they are approved qualifications) or competence in a particular field or at a particular level of practice, or for the use of a particular category of entry to be discontinued;

^{F24}(aa)

- (b) persons to be registered in one or more parts of the register by virtue of having been included in the register maintained under the 1997 Act;
- (c) the recording of additional entries by virtue of their having been in the register maintained under the 1997 Act;
- (d) a specified part of the register to be closed, as from a date specified in the order, so that on or after that date no further person may become registered in that part;
- (e) a specified part of the register to be sub-divided into two or more parts, or for two or more parts to be combined into one;

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- (f) persons to be registered in one or more parts of the register by virtue of having been registered in a part or parts of the register which have been closed, sub-divided or combined;
 - (g) the register to include a part or parts for specialists in community and public health;
 - (h) the recording in Welsh of titles, qualifications and other entries referred to in this paragraph in respect of those members of the professions regulated by this Order whose registered address is in Wales.
- (4) The Privy Council, except where acting in accordance with a proposal made by the Council, shall consult the Council before making, varying or revoking any order under this article.
- (5) Before making any proposal referred to in paragraph (1) or (3), the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed order.

F24 Art. 6(3)(aa) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), [Sch. 4 para. 4](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I17** Art. 6 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I18** Art. 6 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

[^{F25}**Temporary annotations with regard to emergencies involving loss of human life or human illness etc.**

6A.—[

^{F26}(A1) The Registrar may not exercise the powers conferred by this article in relation to a registrant who is entered in the nursing associates' part of the register.]

(1) If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this article, the Registrar may make—

- (a) an annotation in the register against the name of a registrant to indicate that the registrant is qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that the registrant is not so qualified, if the Registrar considers that the registrant is a fit, proper and suitably experienced person to order drugs, medicines and appliances in that capacity with regard to the emergency;
- (b) annotations in the register against the names of registrants comprising a specified group of registrants to indicate that they are qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that they are not so qualified, if the Registrar considers that the group is comprised of registrants who are of a type who may reasonably be considered fit, proper and suitably experienced persons to order drugs, medicines and appliances in that capacity with regard to the emergency.

(2) The Registrar may make the annotation in such a way so as to distinguish registrants against whose names in the register annotations are made by virtue of paragraph (1) from registrants in respect of whom the annotation is made otherwise than by virtue of paragraph (1).

(3) Annotations made by virtue of paragraph (1)—

- (a) must be removed by the Registrar if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to advise the Registrar as mentioned in paragraph (1) no longer exist;

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(b) may be removed by the Registrar at any time, including where the Registrar has grounds for suspecting that the registrant's fitness to order drugs, medicines or appliances may be impaired.

(4) A registrant against whose name in the register an annotation is made by virtue of paragraph (1)(b) as one of a specified group may have that annotation removed without the Registrar removing the equivalent annotations against the names of the other members of the group or by virtue of a decision to remove the annotations made by virtue of paragraph (1)(b) against the names of all the members of the group.

(5) For the purposes of this article, "emergency" means an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004 (meaning of "emergency"), read with [F27 subsection (2)(a) and (b)] of that section.]

- F25** Art. 6A inserted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), **Sch. 1 para. 2**
- F26** Art. 6A(A1) inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 6**
- F27** Words in art. 6A(5) substituted (14.5.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(b)**

The register: supplemental provisions

7.—(1) The Council shall make rules in connection with registration and the register, and as to the payment of fees.

(2) The rules shall, in particular, make provision as to—

- (a) the form and keeping of the register;
- (b) the procedure for the making, alteration and deletion of entries in the register;
- (c) the form and manner in which applications are to be made and the fee to be charged—
 - (i) for registration, renewal of registration and readmission to the register,
 - (ii) for the making of any additional entry in the register, and
 - (iii) for registration to lapse;
- (d) the documentary and other evidence which is to accompany applications of the kind mentioned in sub-paragraph (c).

(3) Before determining or varying any fees mentioned in paragraph (2)(c) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.

^{F28}(4)

[^{F29}(5) Rules may not be made under this article in connection with annotations made under article 6A.]

- F28** Art. 7(4) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 5** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Art. 7(5) inserted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), **Sch. 1 para. 3**

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Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I19 [Art. 7](#) in force at 5.3.2004 as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

Access to register etc.

8.—(1) The Council shall make the register available for inspection by members of the public at all reasonable times.

(2) The Council shall publish the register maintained by it in such manner, and at such times, as it considers appropriate.

(3) Any copy of, or extract from, the published register shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

(4) A certificate purporting to be signed by the Registrar, certifying that a person—

- (a) is registered in a specified category;
- (b) is not registered;
- (c) was registered in a specified category at a specified date or during a specified period;
- (d) was not registered in a specified category, or in any category, at a specified date or during a specified period; or
- (e) has never been registered,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

^{F30}(5)

F30 [Art. 8\(5\)](#) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), [Sch. 4 para. 6](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I20 [Art. 8](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Registration

9.—(1) [^{F31}[^{F32}A] person] seeking admission to a part of the register must apply to the Council and, subject to the provisions of this Order, if he satisfies the conditions mentioned in paragraph (2) he shall be entitled to be registered in that part.

(2) Subject to paragraph (3), the conditions are that the application is made in the prescribed form and manner and that the applicant—

- (a) satisfies the Registrar that he holds an approved qualification awarded—
 - (i) within such period, not exceeding five years ending with the date of the application, as may be prescribed, or
 - (ii) before the prescribed period mentioned in head (i), and he has met such requirements as to additional education, training and experience as the Council may specify under article 19(3) and which apply to him;

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[^{F33}(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) satisfies the Registrar in accordance with the Council's requirements mentioned in article 5(2) that he is capable of safe and effective practice [^{F34}as a nurse, midwife or nursing associate];

[^{F35}(ba) satisfies the Registrar that he has the necessary knowledge of English; and]

(c) has paid the prescribed fee.

(3) Where the applicant is already registered in the register and wishes to be registered in an additional part of the register or to have additional entries recorded, paragraph (2)(a) shall apply only to the qualifications on which his application is based.

^{F36}(3A)

^{F36}(3B)

^{F36}(3C)

[^{F37}(4) Where a person makes an application under paragraph (1), the Registrar must, as soon as reasonably practicable and in any event within the specified period, notify the applicant in writing—

(a) of the result of the application; and

(b) if the Registrar refuses the application, of the reasons for the decision, and of the applicant's right of appeal.

(5) [^{F38}Subject to paragraph (5ZA),] in paragraphs (4) and (6) [^{F39}“the specified period” means the period of three months beginning with the relevant date.]

[^{F40}(5ZA) In calculating any period of time for the purposes of paragraph (5), the following are to be disregarded—

(a) any period which begins on the date on which the Registrar makes a request under article 5A(4) and ends on the date on which the applicant complies with the request; and

(b) any period which begins on the date on which the Registrar requires the applicant to undergo an examination or other assessment under article 5A(6)(a) and ends on the date on which the applicant complies with the requirement under article 5A(6)(b).]

(5A) The “relevant date”, in relation to an application, is—

(a) the date when the Registrar receives the application; or

(b) if any document required for the purposes of the application is missing when the Registrar receives the application, the date on which the Registrar first has all the documents required for those purposes.]

[^{F41}(5B) A document that is requested or required under article 5A(4) or (6)(b) is not to be treated as missing for the purposes of this article.]

(6) Failure to notify the applicant of the Registrar's decision ^{F42}... within [^{F43}the specified period] shall be treated as a decision from which the applicant may appeal under article 37.

^{F44}(7)

F31 Words in art. 9(1) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), reg. 1(2), **159(a)**

F32 Word in art. 9(1) substituted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 4 para.**

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- 7(a)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Art. 9(2)(aa) inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 24**
- F34** Words in art. 9(2)(b) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 8(a)**
- F35** Art. 9(2)(ba) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **34(2)(b)**; S.I. 2015/1451, art. 4
- F36** Art. 9(3A)-(3C) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 7(b)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Art. 9(4)-(5A) substituted for art. 9(4) (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(c)**
- F38** Words in art. 9(5) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **34(4)**; S.I. 2015/1451, art. 4
- F39** Words in art. 9(5) substituted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 7(c)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F40** Art. 9(5ZA) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **34(5)**; S.I. 2015/1451, art. 4
- F41** Art. 9(5B) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **34(6)**; S.I. 2015/1451, art. 4
- F42** Words in art. 9(6) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 7(d)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F43** Words in art. 9(6) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(d)**
- F44** Art. 9(7) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 7(e)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I21** Art. 9(2)(a)(i) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I22** Art. 9 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

^{F45} Temporary registration in emergencies involving loss of human life or human illness etc

9A.—(1) The Registrar may register a person as a registered nurse, midwife or nursing associate, or the persons comprising a specified group of persons as registered nurses, midwives or nursing associates, if—

- (a) the Secretary of State has advised the Registrar that an emergency has occurred, is occurring or is about to occur and that the Registrar should consider acting under this article, and
- (b) the Registrar considers that the emergency registration requirement is met in relation to the person or group of persons.

- (2) For the purposes of paragraph (1)(b) the emergency registration requirement is met—
- (a) in relation to a person, if the Registrar considers that the person is a fit, proper and suitably experienced person to be registered as a nurse, midwife or nursing associate with regard to the emergency;
 - (b) in relation to a group of persons, if the Registrar considers that the group is comprised of persons who are of a type who may reasonably be considered fit, proper and suitably experienced persons to be registered as nurses, midwives or nursing associates with regard to the emergency.
- (3) The Registrar may register all of the persons comprising a specified group of persons without first identifying each person in the group.
- (4) The Registrar may include an annotation in the register denoting that a person has been registered under this regulation.
- (5) The registration of a person under this article has effect subject to any conditions imposed by the Registrar; and the Registrar may at any time vary or revoke such a condition or add new conditions.
- (6) Where a person is registered under this article as a member of a specified group, the person's registration may (but need not) be subject to the same conditions as the registration of other members of the group.
- (7) A person's registration under this article ceases to have effect if revoked by the Registrar; and the Registrar—
- (a) must revoke the registration if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to give the advice referred to in paragraph (1) (a) no longer exist;
 - (b) may at any time revoke the registration for any other reason, including where the Registrar suspects that the person's fitness to practise may be impaired.
- (8) A person's registration as a member of a specified group may be revoked—
- (a) without the registration of the other members of the group being revoked, or
 - (b) as a result of a decision to revoke the registration of all the members of the group.
- (9) Rules under article 7 may not provide for fees to be charged in respect of a person's registration under this article.
- (10) The following provisions of this Order do not apply to persons registered under this article—
- articles 5A, 9, 10, 12 and 13 (provisions relating to registration);
 - articles 15 to 19 (provisions relating to education and training);
 - Part 5 (fitness to practise), other than articles 21, 22(10) and 25(1) and (3) to (6).
- (11) If a person breaches a condition to which the person's registration under this article is subject, anything done by the person in breach of the condition is to be treated as not done by a registered nurse, midwife or nursing associate (as the case may be).
- (12) In this article “emergency” means an emergency of the kind described in section 19(1)(a) of the Civil Contingencies Act 2004, read with subsection (2)(a) and (b) of that section.]

F45 Art. 9A inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 1 para. 1\(2\)](#) (with ss. 89, 90) (subject to expiry in accordance with s. 89(1)(2)(b) of the modifying Act)

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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Renewal of registration and readmission

10.—(1) [^{F46}[^{F47}Where] a person] is registered and wishes to renew his registration at the end of a prescribed period, he shall make an application for renewal to the Registrar in accordance with rules made by the Council.

(2) The Registrar shall grant the application for renewal if the applicant—

(a) meets the conditions set out in article 9(2)(b) and (c);

[^{F48}(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;]

[^{F49}(ab) in such circumstances as may be prescribed, meets the condition in article 9(2)(ba);]

(b) satisfies the Registrar that he has met any prescribed requirements for continuing professional development within the prescribed time; and

(c) where he has not practised, or has practised for less than the prescribed period, since his first registration or, as the case may be, his latest renewal, has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

[^{F50}(2A) If the Council makes rules pursuant to paragraph (2)(ab)—

(a) paragraph (3) applies to an applicant who is required to meet the condition in article 9(2)(ba) as if “(ab),” were inserted after “paragraph (2)”; and

(b) article 5A applies as if in paragraph (9) of that article “or renewal of registration,” was inserted after “registration”.]

(3) Where an applicant does not satisfy the Registrar that he has met the requirements mentioned in paragraph (2)(b) or (c), the Registrar may renew the applicant’s registration on condition that he satisfy those requirements within a specified time and if the person fails to comply with the condition, subject to articles 12(3) and 37(3), his registration shall lapse and, in accordance with prescribed procedure, his name shall be removed from the register.

(4) Where a person’s registration has lapsed, he may apply to the Registrar to be readmitted and the Registrar shall grant the application if—

(a) the applicant meets the conditions set out in article 9(2)(b) [^{F51}, (ba)] and (c); and

(aa) [^{F52}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;]

(b) he satisfies the Registrar that he has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

(5) Article 9(4) to (6) shall apply to applications made under this article.

^{F53}(6)

F46 Words in [art. 10\(1\)](#) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **160(a)**

F47 Word in [art. 10\(1\)](#) substituted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 4 para. 8(a)** (with [reg. 12A, Sch. 4 Pt. 2](#)) (as amended by [S.I. 2020/1394](#), regs. 4, 12(3)-(10)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F48 [Art. 10\(2\)\(aa\)](#) inserted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 25(a)**

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- F49** Art. 10(2)(ab) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **35(2)**; S.I. 2015/1451, art. 4
- F50** Art. 10(2A) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **35(3)**; S.I. 2015/1451, art. 4
- F51** Word in art. 10(4)(a) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **35(4)**; S.I. 2015/1451, art. 4
- F52** Art. 10(4)(aa) inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 25(b)**
- F53** Art. 10(6) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 8(b)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I23** Art. 10(1)(2)(b)(c)(3) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I24** Art. 10 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

Deemed registration of visiting EEA nurses and midwives

^{F54}**11.**

- F54** Art. 11 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **161**

Lapse of registration

12.—(1) The Council may make rules providing for the procedure by which and the circumstances in which a registrant's name may be removed from the register on his own application or after the expiry of a specified period.

(2) Where a person's name is removed in accordance with this article or article 10(3), his registration shall be referred to as lapsed.

(3) Any rules made under paragraph (1) shall provide that a person's registration shall not lapse under this article or under article 10(3)—

- (a) where the person concerned is the subject of an allegation, or is treated under article 22(6) as if he were the subject of an allegation, or is the subject of any investigations or proceedings under Part V or VI of this Order, on the grounds only that he has not paid the prescribed fee or has failed to apply for renewal in the prescribed form or within the prescribed time; or
- (b) if the person concerned is the subject of a suspension order, a conditions of practice order, an interim suspension order or an interim conditions of practice order.

Commencement Information

- I25** Art. 12 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I26** Art. 12 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

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^{F55}**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 [^{F56}registered nurse, midwife or nursing associate], means cover against liabilities that may be incurred in 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.

^{F57}(7A) For the purposes of verifying that information, the Registrar may disclose to any person information relating to a person's indemnity arrangement which is provided to the Council by virtue of rules made under paragraph (4) or (7).]

(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).

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(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) .

^{F58}(11)]

- F55** Art. 12A inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 26**
- F56** Words in art. 12A(3) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 10(a)**
- F57** Art. 12A(7A) inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **3**
- F58** Art. 12A(11) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 9** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Approved qualifications

13.—(1) For the purposes of this Order a person is to be regarded as having an approved qualification if—

- ^{F59}(a) he has a nursing or midwifery qualification awarded in the United Kingdom or a nursing associate qualification awarded in England which has been approved by the Council as attesting to the standard of proficiency it requires for admission to the part of the register in respect of which he is applying; ^{F60}or]]

^{F61}^{F62}(b)

^{F63}(c)

- (d) ^{F64}... he has, elsewhere than in the United Kingdom, undergone training in nursing or midwifery ^{F65}or training comparable to that of a nursing associate], and either—

- (i) ^{F66}his qualification has been approved by the Council in accordance with article 15(7) as demonstrating the requisite standard of proficiency for admission to the part of the register for which he is applying,
- (ii) his qualification has been recognised by the Council as being of a comparable standard to a qualification mentioned in paragraph (1)(a), or
- (iii) the Council is satisfied that, following any test of competence that it may require the applicant to take, he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying;]

^{F67}...; ^{F68}or]

- ^{F69}(dd) he has, in Northern Ireland, Scotland or Wales undergone training comparable to that of a nursing associate, and either—

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- (i) the Council is satisfied that his qualification attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a) required for admission to the nursing associates' part of the register, or
- (ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the nursing associates' part of the register;]

^{F70}(e)

^{F71}(f)]

^{F72}(1A)

^{F73}(1B)

(2) The Council [^{F74}may] determine procedures to—

- (a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to a qualification mentioned in paragraph (1)(a) and it shall, where it sees fit, keep a list of qualifications which are of a comparable standard which it shall publish and keep under review; and
- (b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard of proficiency required for admission to any part of the register.

[^{F75}(3) A relevant European qualification is to be treated as a qualification as to which the Council is satisfied as mentioned in paragraph [^{F76}(1)(d)(i)] (and accordingly included in any list kept under paragraph (2)(a)).

(4) In this article “relevant European qualification” means a qualification that falls within article 13AA and has not been designated by the Council for the purposes of this paragraph.

(5) The Council—

- (a) may designate a qualification for the purposes of paragraph (4) only with the approval of the Privy Council;
- (b) must maintain and publish a list of the qualifications that are so designated.]

[^{F77}(6) In relation to a person holding a relevant European qualification who makes an application under article 9(1), article 9(2)(a) is to be read as if the words after “holds an approved qualification” to the end were omitted.]

F59 Art. 13(1)(a) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 11(a)**

F60 Word in art. 13(1)(a) inserted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(i)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F61 Art. 13(1)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(ii)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F62 Arts. 13(b)-(f) substituted for art. 13(b)(c) (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **162(a)**

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F63** Art. 13(1)(c) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(ii)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F64** Words in art. 13(1)(d) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(iii)(aa)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F65** Words in art. 13(1)(d) inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 11(b)**
- F66** Art. 13(1)(d)(i)-(iii) substituted for art. 13(1)(d)(i)(ii) (8.3.2023) by The Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2023 (S.I. 2023/162), art. 1(2), **Sch. 2 para. 2(a)**
- F67** Words in art. 13(1)(d) omitted (18.1.2016) by virtue of The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **36**; S.I. 2015/1451, art. 4
- F68** Word in art. 13(1)(d) inserted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(iii)(bb)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F69** Art. 13(1)(dd) inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 11(c)**
- F70** Art. 13(1)(e) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(iv)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F71** Art. 13(1)(f) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(a)(iv)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F72** Art. 13(1A) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(b)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F73** Art. 13(1B) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(b)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F74** Word in art. 13(2) substituted (8.3.2023) by The Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2023 (S.I. 2023/162), art. 1(2), **Sch. 2 para. 3**
- F75** Art. 13(3)-(6) inserted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 10(c)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 1(2), **4**, 12(2)-(10)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F76** Word in art. 13(3) substituted (8.3.2023) by The Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2023 (S.I. 2023/162), art. 1(2), **Sch. 2 para. 4**
- F77** Art. 13(6) substituted (20.5.2021) by The Nursing and Midwifery (European Qualifications) (Amendment) Regulations 2021 (S.I. 2021/531), regs. 1(1), **2**

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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Commencement Information

I27 [Art. 13](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

[^{F78} Transitional provisions relating to admission to the register

13A.—(1) This article applies to a person who, on or before 26th July 2019—

- (a) has been awarded a specified qualification; or
- (b) has commenced a course of education or training leading to a specified qualification.

(2) A person referred to in paragraph (1) who applies for admission to the nursing associates' part of the register under article 9(1) ("the applicant") and who satisfies the conditions in paragraph (3) of this article, shall be treated as holding an approved qualification for the purposes of article 9(2)(a).

(3) The conditions referred to in paragraph (2) are that—

- (a) the applicant provides evidence of the award of the specified qualification and the Council is satisfied, on the basis of that evidence, that the applicant has been awarded that qualification; and
- (b) the Council is satisfied that the qualification attests to a standard of proficiency comparable to the requisite standard of proficiency for admission to the nursing associates' part of the register; or
- (c) the Council is not so satisfied but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require the applicant to take, that the applicant has the requisite standard of proficiency for admission to the nursing associates' part of the register.

(4) For the purposes of this article—

- (a) "a specified qualification" means a qualification as a nursing associate awarded—
 - (i) on the satisfactory completion of a course of education or training which has been approved by Health Education England in accordance with sections 97, 98, 99, 100 and 101 of the Care Act 2014, or
 - (ii) as part of an approved English apprenticeship for nursing associates under an approved English apprenticeship agreement;
- (b) "an approved English apprenticeship" and "an approved English apprenticeship agreement" have the meanings given in section A1(2) and (3) respectively of the Apprenticeship, Skills, Children and Learning Act 2009.]

F78 [Art. 13A](#) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 12](#)

[^{F79} European qualifications

13AA.—(1) Subject to the following provisions of this article, a qualification falls within this article if it was awarded in a relevant European State and—

- (a) in relation to registration as a nurse in sub-Part 1 of the Nurses' Part of the register, it is listed in Annex V, point 5.2.2 of the Directive;
- (b) in relation to registration in the Midwives' Part of the register, it is listed in Annex V, point 5.5.2 of the Directive.

(2) A qualification within paragraph (1)(b) falls within this article only if—

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- (a) it attests to training that satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive, and
- (b) in the case mentioned in paragraph (1)(c) of that article, it is accompanied by a certificate of the sort described in paragraph (2) of that article.
- (3) A qualification does not fall within this article if it was awarded before the reference date, or on or after that date in respect of a course of training begun before that date.
- (4) In paragraph (3), “reference date” means—
 - (a) in the case of a qualification within paragraph (1)(a), the date listed in relation to the State in which the qualification was awarded in the column entitled “Reference date” in Annex V, point 5.2.2 of the Directive;
 - (b) in the case of a qualification within paragraph (1)(b), the date listed in relation to the State in which the qualification was awarded in the column entitled “Reference date” in Annex V, point 5.5.2 of the Directive.]

F79 Art. 13AA inserted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 11** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

EEA qualifications

F80 14.

F80 Art. 14 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 12** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

PART IV

EDUCATION AND TRAINING

Education and training

15.—(1) The Council shall from time to time establish—

- (a) the standards of education and training necessary to achieve the standards of proficiency it has established under article 5(2); and
- (b) the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character.

F81 (2)

(3) The standards mentioned in paragraph (1)(a) shall include such matters as the outcomes to be achieved by that education and training.

(4) Before establishing the requirements referred to in paragraph (1) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.

(5) The Council shall—

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(a) ensure that universities and other bodies in the United Kingdom concerned with such education and training are notified of the standards and requirements established under paragraph (1); and

(b) take appropriate steps to satisfy itself that those standards and requirements are met.

[^{F82}(5A) The Council's duties in paragraph (5), where these relate to nursing associates, are exercisable in relation to universities and other bodies in England only.]

(6) In performing the function mentioned in paragraph (5)(b) the Council may in particular, approve, or arrange with others to approve—

(a) a course of education or training which the Council is satisfied confers or would confer on persons completing it successfully the standards of proficiency mentioned in paragraph (1);

(b) qualifications which are granted following success in an examination, or some other appropriate assessment, taken as part of an approved course of education or training;

(c) institutions which the Council considers to be properly organised and equipped for conducting the whole or part of an approved course of education or training;

(d) such tests of competence or knowledge of English as it may require.

(7) In connection with paragraph (6), the Council may approve or arrange with others to approve a course of education or training run outside the United Kingdom by an institution to which paragraph (6)(c) applies.

(8) The Council shall from time to time publish a statement of the criteria which will be taken into account in deciding whether to give approval under paragraph (6).

(9) The Council shall maintain and publish a list of the courses of education or training, qualifications and institutions—

(a) which are for the time being approved under this Order; or

(b) which have been approved under this Order but which are no longer so approved, together with a record of the periods in respect of which they were approved.

(10) In this article a reference to education or training includes any course of education or training or test referred to in paragraph (6).

F81 Art. 15(2) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 13** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F82 Art. 15(5A) inserted (12.7.2018) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(2)(b), **Sch. 1 para. 13**

Commencement Information

I28 Art. 15(2)(4) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I29 Art. 15 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Visitors

16.—(1) The Council may appoint persons (“visitors”) to visit any place at which or institution by which or under whose direction—

(a) any relevant course of education or training is, or is proposed to be, given;

- (b) any examination or other assessment is, or is proposed to be, held in connection with any such course;
 - (c) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purposes connected with this Order.
- (2) For the purposes of this article and article 18, the words “any test of competence” includes an assessment to establish the level of a person’s knowledge of written or spoken English.
- (3) In this article, “relevant course of education or training” means any course of education or training which forms, or is intended to form, part of an approved course of education or training or any course which a registrant may be required to undergo after registration in accordance with rules made by the Council.
- (4) No visitor may exercise his functions under this Order in relation to—
- (a) any place at which he regularly gives instruction in any subject; or
 - (b) any institution with which he has a significant connection.
- ^[F83](5) A person is not to be prevented from being a visitor merely because he is a member of the Council, or any of its committees, but he may not be a visitor if he is employed by the Council.
- (6) Visitors are to be selected with due regard to the profession with which the education and training they are to report on is concerned and subject to paragraph (6A), at least one of the visitors must be registered in that part of the register which relates to that profession.
- (6A) At least one of the visitors who are to report on the education and training of nursing associates shall be registered in the nurses’ or the nursing associates’ parts of the register.]
- (7) Where a visitor visits any place or institution in the exercise of his functions under this article, he shall report to the Council—
- (a) on the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at that place or by that institution; and
 - (b) on such other matters (if any) as it requires.
- (8) Requirements of the kind mentioned in paragraph (7)(b) may be imposed by the Council—
- (a) generally in relation to all visits made to a specified kind of place or institution or in respect of a specified type of course; or
 - (b) specifically in relation to a particular visit.
- (9) Where a visitor reports to the Council in accordance with paragraph (7), the Council shall on receipt of the report—
- (a) send a copy of it to the institution concerned; and
 - (b) notify that institution of the period within which it may make observations on the report.
- (10) The period specified by the Council in a notice given under sub-paragraph (b) of paragraph (9) shall be not less than one month beginning with the date on which a copy of the report is sent to the institution concerned under sub-paragraph (a) of paragraph (9).
- (11) The Council shall not take any steps in the light of any report made under paragraph (7) before the end of the specified period mentioned in paragraph (10).
- (12) The Council shall publish such reports together with, on the request of the institution concerned, the response of that institution to the report.
- (13) The Council may make such provision in respect of visitors as it may determine—
- (a) for the payment of fees and allowances, including the payment of allowances to employers of visitors for the purposes of enabling visitors to perform functions under this article;
 - (b) for the reimbursement of such expenses as visitors may reasonably have incurred in the course of carrying out their functions under this article.

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F83 [Art. 16\(5\)-\(6A\)](#) substituted for [art. 16\(5\)\(6\)](#) (12.7.2018) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 14](#)

Commencement Information

I30 [Art. 16](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Information to be given by institutions

17.—(1) This article applies to any institution in the United Kingdom by which, or under whose direction, whether inside or outside the United Kingdom—

- (a) any relevant course of education or training is, or is proposed to be, given; or
- (b) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purpose connected with this Order.

(2) In paragraph (1) “relevant course of education or training” has the same meaning as in article 16(3).

(3) Whenever required to do so by the Council, any such institution shall give to the Council such information and assistance as the Council may reasonably require in connection with the exercise of its functions under this Order.

(4) Where an institution refuses any reasonable request for information made by the Council under this article, the Council may in accordance with article 18 refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which the information relates.

(5) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).

Commencement Information

I31 [Art. 17](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Refusal or withdrawal of approval of courses, qualifications and institutions

18.—(1) Where as a result of any visitor’s report or other information acquired by the Council and taking account of the observations received from the institution under article 16(9), the Council is of the opinion that the standards established under article 15(1) are not, or will not be, met by particular education or training or that an institution is not observing the requirements referred to in article 15(1) it may refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which that opinion relates.

(2) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).

(3) In making any decision under paragraph (1) to refuse or to withdraw approval the Council shall act in accordance with this article.

(4) The Council shall—

- (a) notify the institution concerned, setting out its reasons; and

- (b) inform the institution of the period within which it may make observations on the matters raised, which shall be not less than one month beginning with the date on which the reasons are sent to the institution under sub-paragraph (a).

(5) The Council shall take no further steps before the period specified in sub-paragraph (b) of paragraph (4) has expired.

(6) If, taking account of the matters referred to in paragraph (1) and any observations submitted by the institution under paragraph (4), the Council decides that it is appropriate to refuse or withdraw approval under paragraph (1) it shall notify the institution accordingly.

(7) A decision under paragraph (6) shall have effect from the date of the decision or from such later date as may be specified in the decision.

(8) Where approval is withdrawn under this article, the Council shall use its best endeavours to secure that any person who is undertaking the education or training concerned or is studying for the qualification concerned or is studying at the institution concerned at the time when recognition is withdrawn is given the opportunity to follow approved education or training or to study for an approved qualification or at an approved institution.

(9) The withdrawal under this article of approval from any education or training, qualification or institution shall not affect the entitlement of any person to be registered on the basis of an award to him, before the date on which the decision withdrawing approval had effect, of—

(a) the qualification concerned; or

(b) any qualification awarded—

(i) in connection with any education or training, or

(ii) by an institution

from which approval has been withdrawn.

Commencement Information

I32 [Art. 18](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Post-registration training

19.—(1) The Council may make rules requiring registrants to undertake such continuing professional development as it shall specify in standards.

(2) The rules may, in particular, make provision with respect to registrants who fail to comply with any requirements of the rules, including making provision for their registration to cease to have effect.

^{F84}(2A)

^{F84}(2B)

^{F84}(2C)

^{F84}(2D)

(3) The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.

(4) If the Council makes rules under paragraph (1) or (3), it shall establish the standards to be met in relation to—

(a) continuing professional development;

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(b) the education or training mentioned in paragraph (3),
and article 15(3) to (9) and articles 16 to 18 of this Order shall apply in respect of those standards as if they were standards established under article 15(1)(a).

(5) In the articles mentioned in paragraph (4), references to “education and training” shall, for the purposes of that paragraph, be treated as being to education, training or experience.

(6) In respect of additional qualifications which may be recorded on the register the Council may establish standards of education and training and article 15(3) to (9) and articles 16 to 18 shall apply in respect of those standards as if they were standards established under article 15(1)(a).

F84 [Art. 19\(2A\)-\(2D\)](#) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), [Sch. 4 para. 14](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I33 [Art. 19\(1\)\(2\)\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I34 [Art. 19](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Wales

20. The National Assembly for Wales may create or designate a body with which the Council may enter into any such arrangements as are referred to in article 15(6) of this Order in order to perform its function under article 15(5)(b) in respect of the standards established under article 15(1) or 19(4) or (6).

Commencement Information

I35 [Art. 20](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

PART V

FITNESS TO PRACTISE

Modifications etc. (not altering text)

C1 [Pt. V](#) applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001](#) (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), [7\(4\)\(b\)](#)

C2 [Pt. V](#) applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001](#) (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), [6\(b\)](#)

Council’s functions in respect of fitness to practise, ethics and other matters

21.—(1) The Council shall—

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- (a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants and give them such guidance on these matters as it sees fit; and
- (b) establish and keep under review effective arrangements to protect the public from persons whose fitness to practise is impaired.

(2) The Council may also from time to time give guidance to registrants, employers and such other persons as it thinks appropriate in respect of standards for the education and training, supervision and performance of persons who provide services in connection with those provided by registrants.

(3) Before establishing any ^{F85}... arrangements mentioned in paragraph (1), the Council shall consult ^{F85}... the persons mentioned in article 3(14).

F85 Words in art. 21(3) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(c\)](#)

Commencement Information

- I36** [Art. 21\(3\)](#) in force at 7.7.2003 for specified purposes as notified in the London Gazette (Issue 56984, published 27.6.2003), see [art. 1\(2\)\(3\)](#)
- I37** [Art. 21](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Allegations

22.—(1) This article applies where any allegation is made against a registrant to the effect that—

- (a) his fitness to practise is impaired by reason of—
 - (i) misconduct,
 - (ii) lack of competence,
 - (iii) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence,
 - (iv) his physical or mental health, or
 - ^{F86}(iva) not having the necessary knowledge of English,
 - (v) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect;
- (b) an entry in the register relating to him has been fraudulently procured or incorrectly made.

(2) For the purposes of this article references to a conviction include a conviction by a Court Martial.

(3) This article is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the person against whom the allegation is made was not registered.

(4) Rules may provide that where ^{F87}the Fitness to Practise Committee finds that a person has failed to comply with the standards mentioned in article 21(1), such failure shall not be taken of itself to establish that his fitness to practise is impaired, but may be taken into account in any proceedings under this Order.

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) When an allegation is made to the Council or any of its committees, as soon as reasonably practicable after receipt of the allegation in the form required by the Council, the Council shall refer it—

(a) where it is an allegation of the kind mentioned in paragraph (1)(b), to the Investigating Committee; and

[^{F88}(b) in any other case, to a Practice Committee.]

(6) If an allegation is not made under paragraph (1) but it appears to the Council that there should be an investigation into the fitness to practise of a registrant or into his entry in the register it may refer the matter in accordance with paragraph (5) and this Order shall apply as if it were an allegation made under paragraph (1).

[^{F89}(7)

(8) While the registration of a registrant is suspended by virtue of a suspension order or an interim suspension order he shall be treated as not being registered notwithstanding that his name still appears in the register but this does not prevent action being taken in respect of such a person as appropriate under articles 22 to 32 of this Order.

(9) The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article [^{F90}26(5A), (7) or (12)], 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 [^{F91}and of any warning issued under article 26(7A)(a)] and of its reasons for them and of any decision given on appeal.

(10) The Council may disclose to any person any information relating to a person's fitness to practise which it considers it to be in the public interest to disclose.

(11) In this Part “the person concerned” means the person against whom an allegation has been made.

[^{F92}(12) The Council may withhold from publication under paragraph (9), information concerning the physical or mental health of a person which the Council considers to be confidential.]

F86 Art. 22(1)(a)(iva) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **37**; S.I. 2015/1451, art. 4

F87 Words in art. 22(4) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(a)** (with art. 3)

F88 Art. 22(5)(b) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 16**

F89 Art. 22(7) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 2(b)** (with art. 3)

F90 Words in art. 22(9) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(c)(i)** (with art. 3)

F91 Words in art. 22(9) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(c)(ii)** (with art. 3)

F92 Art. 22(12) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(d)** (with art. 3)

Commencement Information

I38 Art. 22(4) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**

I39 Art. 22 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

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Screeners

^{F93}23.

F93 Art. 23 omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 17](#)

Screeners: supplementary provisions

^{F94}24.

F94 Art. 24 omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 17](#)

Council's power to require disclosure of information

25.—(1) For the purpose of assisting [^{F95}the Council [^{F96}, any of its Practice Committees, the Registrar or any other officer of the Council] in] carrying out functions in respect of fitness to practise, a person authorised by [^{F95}the Council] may require any person (other than the person concerned) who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after a decision has been made under article 22(5) or (6) to refer an allegation or other matter to a Practice Committee, the Council shall require, from the person concerned, details of—

(a) any person—

(i) by whom he is employed to provide services in, or in relation to, nursing or midwifery [^{F97}, or as a nursing associate]; or

(ii) with whom he has an arrangement to provide such services; and

(b) any body by which he is authorised to practise, in the United Kingdom or elsewhere, a health or social care profession which is regulated under any enactment.

(3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment [^{F98}or the [^{F99}UK GDPR]].

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.

(5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision of [^{F100}a Practice Committee with regard to the person concerned].

(6) For the purposes of [^{F101}paragraph (3)—]

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

^{F102} ...

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- F95** Words in art. 25(1) substituted (14.5.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(d)(i)**
- F96** Words in art. 25(1) substituted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, 4
- F97** Words in art. 25(2)(a)(i) inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 18**
- F98** Words in art. 25(3) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 281(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F99** Words in art. 25(3) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 3 para. 40(2)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F100** Words in art. 25(5) substituted (14.5.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(d)(ii)**
- F101** Words in art. 25(6) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 281(3)(a)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F102** Words in art. 25(6) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 3 para. 40(3)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C3** Art. 25(1) modified (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 1 para. 1(3)** (with ss. 89, 90) (subject to expiry in accordance with s. 89(1)(2)(b) of the modifying Act)

Commencement Information

- I40** Art. 25 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

The Investigating Committee

26.—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22^{F103}....

(2) Where an allegation is referred to the Investigating Committee^{F104}...—

- [^{F105}(a) the Council shall without delay notify the person concerned of the allegation and invite him to submit written representations to the [^{F106}Investigating] Committee within a prescribed period;]
- (b) [^{F107}the [^{F108}Investigating] Committee shall] where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the [^{F108}Investigating] Committee in respect of those representations;
- (c) [^{F109}the [^{F110}Investigating] Committee shall] take such other steps as are reasonably practicable to obtain as much information as possible about the case;
- (d) [^{F111}the [^{F112}Investigating] Committee shall] consider, in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b), whether in its opinion—
- (i) in respect of an allegation of the kind mentioned in article 22(1)(a), there is a case to answer, and

(ii) in respect of an allegation of the kind mentioned in article 22(1)(b), whether the entry concerned has been fraudulently procured or incorrectly made.

(3) The Council shall by rules make provision as to the procedure to be followed by the Investigating Committee in any investigation carried out by it under this article.

(4) In the case of an allegation of the kind mentioned in article 22(1)(b) the rules shall, in particular, make similar provision to that made by virtue of article 32(2)(b), (f), (g), (h), (i), (j), (m), (n), (o) and (p) and may provide for the Registrar to be made a party to the proceedings.

(5) When the Investigating Committee reaches a decision under paragraph (2) as to whether—

(a) there is a case to answer; or

(b) an entry in the register has been fraudulently procured or incorrectly made,

it shall notify in writing both the person concerned and the person making the allegation, if any, of its decision, giving its reasons.

[^{F113}(5A) Where the Investigating Committee has concluded under paragraph (2)(d)(i) that there is a case to answer, it may, at any time until the allegation is considered by the Fitness to Practise Committee, agree with the person concerned that that person is to comply with such undertakings as the Investigating Committee considers appropriate.

(5B) Rules may make provision in connection with undertakings agreed under paragraph (5A) (including provision as to the actions which may be taken as a consequence of an undertaking being breached).]

[^{F114}(6) Where the Investigating Committee concludes under paragraph (2)(d)(i) that there is a case to answer but it does not agree undertakings under paragraph (5A), it must—

(a) undertake mediation; or

(b) [^{F115}refer the case to the Fitness to Practise Committee.]]

[^{F116}(6A) In deciding whether to act under [^{F117}paragraphs (5A) or (6)(a)] the Investigating Committee (or any panel by which a function under that paragraph is exercisable as mentioned in paragraph 17(1A) of Schedule 1) must have regard to the over-arching objective of the Council under article 3(4) (read with article 3(4A)).]

(7) In the case of an allegation of a kind mentioned in article 22(1)(b), if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.

[^{F118}(7A) If the Investigating Committee concludes under paragraph (2)(d)(i) that there is no case to answer, it may—

(a) issue a warning to the person concerned; or

(b) give advice to that person in connection with any matter arising during the investigation of the allegation.

(7B) If the Investigating Committee issues a warning or gives advice under paragraph (7A), it must include in the notification referred to in paragraph (5)—

(a) details of that warning or advice;

(b) its reasons for issuing the warning or giving the advice;

(c) the period for which any warning will be published by the Council under article 22(9).]

(8) If the Investigating Committee concludes that there is no case to answer or that the relevant entry was not fraudulently procured or incorrectly made—

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- (a) where requested to do so by the person concerned, it shall make a declaration to that effect, giving its reasons; and
 - (b) in any other case and with the consent of the person concerned, may make such a declaration.
- (9) For the purposes of paragraph (8), the publication of the decision mentioned in paragraph (5) together with the reasons for it may constitute such a declaration.
- (10) No order made under paragraph (7) shall have effect—
- (a) before the expiry of the period within which an appeal against the order may be made; or
 - (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
- (11) The Investigating Committee may make an interim order in accordance with article 31 at the same time as making an order under paragraph (7) or at any time before [^{F119}or after] referring a case to the [^{F120}Fitness to Practise Committee] under paragraph (6) [^{F121}: but the Investigating Committee may only make an interim order after it has referred a case if the [^{F120}Fitness to Practise Committee] has not begun its consideration of the case].
- (12) The Investigating Committee may review an order made under paragraph (7) if new evidence relevant to the order becomes available after the order has been made and may revoke that order if it considers that it should not have been made.
- (13) Where the Investigating Committee makes an order under paragraph (7) or decides not to review such an order under paragraph (12) the person concerned may appeal to the appropriate Court and the provisions of article 38 shall apply to the appeal.
- (14) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.
- (15) On an appeal under this article, the Council shall be the respondent.
- (16) An entry which has been restored to the register on an application for readmission or restoration being granted may be treated for the purposes of this article as having been fraudulently procured or incorrectly made if any previous entry from which the restored entry is derived was fraudulently procured or incorrectly made.

- F103** Words in art. 26(1) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 19\(a\)](#)
- F104** Words in art. 26(2) omitted (11.12.2014) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(i\)](#)
- F105** Art. 26(2)(a) substituted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(ii\)](#)
- F106** Word in art. 26(2)(a) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F107** Words in art. 26(2)(b) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F108** Word in art. 26(2)(b) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F109** Words in art. 26(2)(c) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F110** Word in art. 26(2)(c) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F111** Words in art. 26(2)(d) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F112** Word in art. 26(2)(d) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)

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- F113** Art. 26(5A)(5B) inserted (31.3.2017 for specified purposes, 28.7.2017 in so far as not already in force) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(3), **Sch. 1 para. 4(b)** (with art. 3)
- F114** Art. 26(6) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 4(c)** (with art. 3)
- F115** Art. 26(6)(b) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 19(b)**
- F116** Art. 26(6A) inserted (26.9.2016) by Health and Social Care (Safety and Quality) Act 2015 (c. 28), s. 6(4), **Sch. para. 5(3)**; S.I. 2016/906, reg. 2(b)
- F117** Words in art. 26(6A) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 19(c)**
- F118** Art. 26(7A)(7B) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 4(e)** (with art. 3)
- F119** Words in art. 26(11) inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **5(b)(i)**
- F120** Words in art. 26(11) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 4(f)** (with art. 3)
- F121** Words in art. 26(11) inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **5(b)(ii)**

Commencement Information

- I41** Art. 26(2)(a)(3)(4) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I42** Art. 26 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

[^{F122}Exercise of Investigating Committee functions by the Registrar or officers of the Council

26A.—(1) The Council may by rules make provision for—

- (a) the Registrar; or
- (b) any other officer of the Council,

to exercise the functions of the Investigating Committee under [^{F123}paragraphs (1), (2)(b) to (d), (5), (5A), (6), (7A) and (8)] of article 26, whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Investigating Committee under paragraph (6)(b)(ii) ^{F124}... of article 26, the referral of a case to the [^{F125}Fitness to Practise Committee] shall be deemed to have been made by the Investigating Committee.

- F122** Arts. 26A-26C inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **6**
- F123** Words in art. 26A(1) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 5(a)** (with art. 3)
- F124** Words in art. 26A(2) omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 5(b)(i)** (with art. 3)
- F125** Words in art. 26A(2) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 5(b)(ii)** (with art. 3)

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Review of decisions by the Council

[^{F126}**26B.**—(1) The Council may review a decision—

- (a) that there is no case to answer made by the Investigating Committee under article 26(2)(d)(i);
- (b) that there is no case to answer made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (c) to agree undertakings with the person concerned made by the Investigating Committee under article 26(5A);
- (d) to agree undertakings with the person concerned made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (e) made pursuant to rules made under article 26(5B) that undertakings no longer apply and that the allegation must not be considered further.

(2) The Council may make rules in connection with carrying out reviews under paragraph (1).]

F122 Arts. 26A-26C inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, 6

F126 Art. 26B substituted (31.3.2017 for specified purposes, 28.7.2017 in so far as not already in force) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(3), [Sch. 1 para. 6](#) (with art. 3)

Exercise of Council functions by the Registrar or officers of the Council

26C.—(1) The Council may make rules providing for—

- (a) the Registrar; or
- (b) any other officer of the Council,

to exercise the functions of the Council under articles 22, 26(2)(a) and [^{F127}26B(1)] whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Council under article 22(5), the referral of a case to the [^{F128}Fitness to Practise Committee] shall be deemed to have been made by the Council.]

F122 Arts. 26A-26C inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, 6

F127 Word in art. 26C(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 7\(a\)](#) (with art. 3)

F128 Words in art. 26C(2) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 7\(b\)](#) (with art. 3)

[^{F129}The Fitness to Practise Committee

26D. The Fitness to Practise Committee must consider—

- (a) an allegation referred to it by the Council ^{F130}... or the Investigating Committee; and
- (b) an application for restoration referred to it by the Registrar.]

F129 Art. 26D inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 8](#) (with art. 3)

F130 Word in art. 26D(a) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 20](#)

The Conduct and Competence Committee

^{F131}**27.**

F131 Art. 27 omitted (28.7.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 9](#) (with art. 3)

The Health Committee

^{F132}**28.**

F132 Art. 28 omitted (28.7.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 9](#) (with art. 3)

[^{F133}Assessment of necessary knowledge of English

28A.—(1) The Council may make rules authorising the giving of directions by—

- (a) any of the Practice Committees;
- (b) any other persons specified in the rules,

requiring the person concerned to undertake an examination or other assessment of that person's knowledge of English.

(2) An examination or other assessment under paragraph (1) must be made in accordance with rules.

(3) The rules must, in particular, provide for—

- (a) the procedures to be followed by such persons when directing the person concerned to undertake such an examination or other assessment;
- (b) the person concerned who is required to undertake such an examination or other assessment to provide information in respect of that examination or assessment to such persons as may be prescribed under the rules;
- (c) the information provided by virtue of sub-paragraph (b) to be disclosed to such persons as may be prescribed under the rules.

(4) Rules under this article may make provision for the [^{F134}Fitness to Practise Committee] to draw such inferences as seem appropriate to it if a person fails—

- (a) to undergo an examination or other assessment by virtue of rules under paragraph (1); or
- (b) to provide the information required by virtue of rules made under paragraph (3)(b).]

F133 Art. 28A inserted (19.10.2015) by [The Health Care and Associated Professions \(Knowledge of English\) Order 2015 \(S.I. 2015/806\)](#), arts. 1(3), **38**; [S.I. 2015/1451](#), art. 2(c)

F134 Words in art. 28A(4) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 10](#) (with art. 3)

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[^{F135}Orders of the Fitness to Practise Committee]

29.—(1) If, having considered an allegation, [^{F136}the Fitness to Practise Committee], as the case may be, concludes that it is not well founded—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(2) For the purposes of paragraph (1) the publication of the decision mentioned in article 32(2) (k) and the reasons for it may constitute such a declaration.

(3) If, having considered an allegation, [^{F137}the Fitness to Practise Committee], as the case may be, concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.

[^{F138}(4) The Committee may undertake mediation of the matter, or decide that it is not appropriate to take any further action.]

(5) Where a case does not fall within paragraph (4), the Committee shall—

- (a) make an order directing the Registrar to strike the person concerned off the register (a “striking-off order”);
- (b) make an order directing the Registrar to suspend the registration of the person concerned for a specified period which shall not exceed one year (a “suspension order”);
- (c) make an order imposing conditions with which the person concerned must comply for a specified period which shall not exceed three years (a “conditions of practice order”); or
- (d) caution the person concerned and make an order directing the Registrar to annotate the register accordingly for a specified period which shall be not less than one year and not more than five years (a “caution order”).

(6) A striking-off order may not be made in respect of an allegation of the kind mentioned in article 22(1)(a) [^{F139}(ii), (iv) or (iva)] unless the person concerned has been continuously suspended, or subject to a conditions of practice order, for a period of no less than two years immediately preceding the date of the decision of the Committee to make such an order.

(7) The Committee may specify in an order made under paragraph (5) a period within which an application to vary, replace or revoke the order may not be made, which—

- (a) in the case of a striking-off order, except where new evidence relevant to the order becomes available, shall be expressed in terms of article 33(2);
- (b) in the case of a suspension order shall not exceed 10 months; and
- (c) in the case of a conditions of practice order shall not exceed two years.

(8) The Committee shall, when it makes, varies, replaces or revokes an order under this article or article 30 or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order;

[^{F140}(8A) If, at the time of making an order under paragraph (5)(b) or (c), the Fitness to Practise Committee is satisfied that, with effect from the date of the expiry of that order, it will not be necessary to—

- (a) extend the period of the order;
- (b) vary the order; or
- (c) make any other order falling within article 29(5),

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the Committee may decide that article 30(1) does not apply to that order.]

(9) The person concerned may appeal to the appropriate court against an order made under paragraph (5) and article 38 shall apply to the appeal.

(10) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(11) No order mentioned in paragraph (9) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

F135 Art. 29 heading substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(a)** (with art. 3)

F136 Words in art. 29(1) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)

F137 Words in art. 29(3) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)

F138 Art. 29(4) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 21**

F139 Words in art. 29(6) substituted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **39**; S.I. 2015/1451, art. 4

F140 Art. 29(8A) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(c)** (with art. 3)

Modifications etc. (not altering text)

C4 Art. 29 applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **9(5)**, 11(3)(b)

C5 Art. 29(4)(5) applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **6(b)**

C6 Art. 29(4)(5) applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **7(4)(b)**

Commencement Information

I43 Art. 29 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

[^{F141}Review of orders by the Fitness to Practise Committee]

30.—(1) [^{F142}Except where article 29(8A) applies,] before the expiry of an order made under article 29(5)(b) or (c) [^{F143}, the Fitness to Practise Committee] shall review the order and may, subject to paragraph (5)—

- (a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;

[^{F144}(b) with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);]

- (c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

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[^{F145}(2) On the application of the person concerned or otherwise, at any time an order made by the Fitness to Practise Committee under article 29(5)(b) to (d) is in force, the Fitness to Practise Committee may review the order and may take any of the steps referred to in paragraph (4).]

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to—

- (a) confirm the order;
- (b) extend, or further extend, the period for which the order has effect;
- (c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);

[^{F146}(d) subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the term of the order it replaces;]

- (e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;
- (f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has established under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the [^{F147}Fitness to Practise Committee] may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the [^{F148}Fitness to Practise Committee] and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8) [^{F149}the Fitness to Practise Committee] shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(12) On an appeal under this article the Council shall be the respondent.

F141 Art. 30 heading substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(a\)](#) (with art. 3)

F142 Words in art. 30(1) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(b\)\(i\)](#) (with art. 3)

F143 Words in art. 30(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(b\)\(ii\)](#) (with art. 3)

F144 Art. 30(1)(b) substituted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [7\(a\)](#)

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- F145** Art. 30(2) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(c)** (with art. 3)
- F146** Art. 30(4)(d) substituted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014](#) (S.I. 2014/3272), arts. 1, **7(b)**
- F147** Words in art. 30(7) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(d)** (with art. 3)
- F148** Words in art. 30(8) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(e)** (with art. 3)
- F149** Words in art. 30(9) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(f)** (with art. 3)

Modifications etc. (not altering text)

- C7** Art. 30 applied (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004](#) (S.I. 2004/1762), arts. 1(1), **9(5)**, 10(2), 11(3)(b)

Commencement Information

- I44** Art. 30(9) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I45** Art. 30 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Interim Orders by a Practice Committee

31.—(1) This article applies where—

- (a) an allegation against a registered professional has been referred to [^{F150}a Practice Committee] but—
 - (i) that Committee has not reached a decision on the matter; or
 - (ii) in a case to which article 26(6) applies, where the Investigating Committee refers the matter to [^{F151}the Fitness to Practise Committee];
- (b) the Investigating Committee makes an order under article 26(7), or
- (c) the [^{F152}Fitness to Practise Committee] makes an order under article 29(5)(a) to (c).

(2) ^{F153}... If the [^{F154}Practice] Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the registration of that person to be suspended or to be made subject to conditions, it may—

- (a) make an order directing the Registrar to suspend the person’s registration (an “interim suspension order”), or
- (b) make an order imposing conditions with which the person must comply (an “interim conditions of practice order”),

during such period not exceeding eighteen months as may be specified in the order.

(3) In a case coming within paragraph (1)(b) or (c), such an order may be made at the same time as an order made under article 26(7) or 29(5)(a) to (c).

^{F155}(4)

(5) Subject to paragraphs (6), (7), (9) and (12) the order mentioned in paragraph (2) shall cease to have effect—

[^{F156}(a) in a case falling within paragraph (1)(a)—

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- (i) when the Investigating Committee reaches a decision under article 26(2)(d)(i) that there is no case to answer,
- (ii) when the Investigating Committee agrees undertakings with the person concerned under article 26(5A),
- (iii) where in respect of an allegation mentioned in article 22(1)(b), the Investigating Committee reaches a decision in respect of the allegation,
- (iv) when the Fitness to Practise Committee reaches a decision in respect of the allegation in question;]
- (b) in a case falling within paragraph (1)(b) or (c)—
 - (i) if there is no appeal against the order mentioned in that paragraph, when the period for appealing expires, or
 - (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of.

[^{F157}(6) In a case falling within paragraph (1)(a), an order made under paragraph (2) must be reviewed by either the Committee which made the order or [^{F158}where the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), by the Fitness to Practise Committee]—

- (a) within the period of six months beginning on the date on which the order was made, and that Committee must thereafter, for so long as the order continues in force, further review it before the end of the period of [^{F159}six months] beginning on the date of the decision of the immediately preceding review;
- (b) where new evidence relevant to the order has become available after the making of the order.]

(7) Where an interim suspension order or an interim conditions of practice order has been made under this article (including this paragraph) [^{F160}then either] the Practice Committee which made the order [^{F161}or, if the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), the Fitness to Practise Committee], ^{F162}... may, subject to paragraph (15)—

- (a) revoke the order or revoke any condition imposed by the order;
- (b) confirm the order;
- (c) vary any condition imposed by the order;
- (d) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the former;
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an interim conditions of practice order, replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the former.

(8) The Council may apply to the court for an order made by a Practice Committee under paragraph (2) or (7) to be extended, and may apply again for further extensions.

[^{F163}(9) On such an application the court may—

- (a) extend (or further extend) for up to 12 months the period for which the order has effect;
- (b) replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the order as extended;

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- (c) replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the order as extended.]
- (10) In this article, references to an interim suspension order or interim conditions of practice order include such an order as so extended.
- [^{F164}(11) For the purposes of paragraph (6), the first review—
- (a) after the extension of an order by the court pursuant to paragraph (9)(a) or after the replacement of an order by the court pursuant to paragraph (9)(b) or (c), must take place within the period of 6 months beginning with the date on which the court extended that order or replaced the order, as the case may be;
 - (b) after the replacement of an interim conditions of practice order or an interim suspension order by a Practice Committee pursuant to paragraph (7)(d) or, as the case may be, paragraph (7)(e), must take place within the period of 6 months beginning with the date on which the replacement order was made.]
- [^{F165}(12) Where an order has effect under paragraph (2), (7) or (9), the court may, on an application being made by the person concerned—
- (a) in the case of an interim suspension order—
 - (i) terminate the suspension,
 - (ii) replace the interim suspension order with an interim conditions of practice order;
 - (b) in the case of an interim conditions of practice order—
 - (i) revoke or vary any condition imposed by the order,
 - (ii) replace the interim conditions of practice order with an interim suspension order;
 - (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),
- and the decision of the court under any application under this paragraph shall be final.]
- (13) In this article “the court” has the same meaning as “the appropriate court” in article 38.
- (14) The [^{F166}Practice] Committee shall notify the person concerned giving its reasons where it makes an order under paragraph (2) or any decision under paragraph (7) and shall notify him of his right to apply to the court.
- (15) No order under paragraph (2) or (7)(c) to (e), or, in a case where paragraph (5)(b) applies, under paragraph (7)(b), shall be made by [^{F167}a Practice Committee] in respect of any person unless he has been afforded an opportunity of appearing before the Committee and being heard on the question whether such an order should be made in his case.
- (16) At any such hearing, the person concerned shall be entitled to be represented whether by a legally qualified person or otherwise.
- (17) The [^{F168}Practice] Committee shall when it makes, varies, replaces or revokes an order under this article or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

F150 Words in art. 31(1)(a) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 13\(a\)\(i\)](#) (with art. 3)

F151 Words in art. 31(1)(a)(ii) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 13\(a\)\(ii\)](#) (with art. 3)

F152 Words in art. 31(1)(c) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 13\(a\)\(iii\)](#) (with art. 3)

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- F153** Words in art. 31(2) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(a)**
- F154** Word in art. 31(2) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(b)** (with art. 3)
- F155** Art. 31(4) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(b)**
- F156** Art. 31(5)(a) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(c)** (with art. 3)
- F157** Art. 31(6) substituted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(d)**
- F158** Words in art. 31(6) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(d)(i)** (with art. 3)
- F159** Words in art. 31(6)(a) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(d)(ii)** (with art. 3)
- F160** Words in art. 31(7) inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(e)(i)**
- F161** Words in art. 31(7) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(e)** (with art. 3)
- F162** Words in art. 31(7) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(e)(iii)**
- F163** Art. 31(9) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(f)** (with art. 3)
- F164** Art. 31(11) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(g)** (with art. 3)
- F165** Art. 31(12) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(h)** (with art. 3)
- F166** Word in art. 31(14) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(i)** (with art. 3)
- F167** Words in art. 31(15) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(j)** (with art. 3)
- F168** Word in art. 31(17) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(i)** (with art. 3)

Commencement Information

- I46** Art. 31 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

Investigation of allegations: procedural rules

32.—(1) The Council shall make rules as to the procedure to be followed by the [^{F169}Fitness to Practise Committee] in considering any allegation and before making an order under article 29(5).

(2) The rules shall, in particular, make provision—

- ^{F170}(a)
- (b) empowering [^{F171}the Fitness to Practise Committee], before it holds any hearing to which sub-paragraph (f) applies, where it considers that it would assist it in performing its functions, to hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;
- (c) requiring the person concerned to be given notice of the allegation without delay;
- (d) giving the person concerned an opportunity to submit written representations within a prescribed period;

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- (e) for the Committee, where it sees fit, to notify the person making the allegation of the representations provided under sub-paragraph (d) and to invite him to deal within a prescribed period with any points raised by the Committee in respect of those representations;
 - (f) giving the person concerned an opportunity to put his case at a hearing if—
 - (i) before the end of the prescribed period, he asks for a hearing; or
 - (ii) the Committee considers that a hearing is desirable;
 - (g) entitling the person concerned to be represented whether by a legally qualified person or otherwise at any such hearing;
 - [^{F172}(h) where an allegation is referred by the Council ^{F173}... or the Investigating Committee to the Fitness to Practise Committee, for the Council to give notice of that referral to, where they are known, any person referred to in article 25(2);]
 - (i) giving any person, other than the person concerned, who, in the opinion of the relevant Committee, taking account of any criteria included in the rules, has an interest in proceedings before it, the opportunity to submit written representations;
 - (j) requiring a hearing before [^{F174}the Fitness to Practise Committee] to be held in public except in so far as may be provided by the rules;
 - (k) requiring the Committee to notify the person concerned of its decision, its reasons for reaching that decision and of his right of appeal;
 - (l) requiring the person by whom the allegation was made to be notified by the Committee of its decision and of its reasons for reaching that decision;
 - (m) empowering the Committee to require persons (other than the person concerned) to attend and give evidence or to produce documents;
 - (n) about the admissibility of evidence;
 - (o) enabling the Committee to administer oaths;
 - (p) where the person concerned has been convicted of a criminal offence, for the conviction to be proved by the production of a certified copy of the certificate of conviction, or, in Scotland, an extract conviction, relating to the offence and for the findings of fact upon which the conviction is based to be admissible as proof of those facts.
- (3) Each stage in proceedings under Part V and article 37 shall be dealt with expeditiously and the [^{F175}Fitness to Practise Committee] may give directions as to the conduct of the case and for the consequences of failure to comply with such directions (which may include the making of an order or refusal of an application if the failure to comply was without reasonable excuse).
- (4) The Council may provide in the rules for the [^{F176}chair] of the [^{F177}Fitness to Practise] Committee to hold the meeting referred to in paragraph (2)(b) or to give the directions mentioned in paragraph (3) and, subject to the agreement of the parties to his acting on behalf of the Committee, to take such action as the Committee would be competent to take at such a meeting.
- (5) In this article “parties” means the Council and the person concerned.

F169 Words in art. 32(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), [Sch. 1 para. 14\(a\)](#) (with art. 3)

F170 Art. 32(2)(a) omitted (28.7.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), [Sch. 1 para. 14\(b\)\(i\)](#) (with art. 3)

F171 Words in art. 32(2)(b) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), [Sch. 1 para. 14\(b\)\(ii\)](#) (with art. 3)

F172 Art. 32(2)(h) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), [Sch. 1 para. 14\(b\)\(iii\)](#) (with art. 3)

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- F173** Word in art. 32(2)(h) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), **Sch. 1 para. 22**
- F174** Words in art. 32(2)(j) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 14(b)(iv)** (with art. 3)
- F175** Words in art. 32(3) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 14(c)** (with art. 3)
- F176** Word in art. 32(4) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 5**
- F177** Words in art. 32(4) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 14(d)** (with art. 3)

Commencement Information

- I47** [Art. 32](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I48** [Art. 32](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Restoration to the register of persons who have been struck off

33.—^[F178](1) Where a person has been struck off the register by virtue of an order made under article 29(5)(a), 30(1)(b) or 38(3)(c) and the person wishes to be restored to the register, that person must make an application for restoration to the Registrar.]

(2) Subject to article 30(7), no such application may be made—

- (a) before the end of the period of five years beginning with the date on which the order under ^[F179]article 29(5)(a), 30(1)(b) or 38(3)(c)] took effect; or
- (b) in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off.

^[F180](3) An application for restoration must be referred by the Registrar to the Fitness to Practise Committee for determination.]

(4) Before making any decision on the application the Committee shall give the applicant an opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2)(a) ^[F181], (b) and (ba)] but, having regard in particular to the circumstances which led to the making of the order under article 29, 30 or 38, is also a fit and proper person to practise the relevant profession.

(6) The Committee may make the granting of an application subject to the applicant satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

(7) On granting an application for restoration, the Committee—

- (a) shall direct the Registrar to register the applicant in the relevant part of the register ^[F182]on his satisfying the Registrar as mentioned in article 10(4)(aa),] on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and
- (b) may make a conditions of practice order with respect to him.

(8) The provisions of article 29 shall have effect in relation to a conditions of practice order made under paragraph (7) as they have effect in relation to a conditions of practice order made under that article and article 30 shall apply as if the order made under paragraph (7) were an order made under article 29.

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(9) If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the [^{F183}Fitness to Practise Committee] may direct that that person's right to make any further such applications shall be suspended indefinitely.

(10) A person in respect of whom a direction is made under paragraph (9) may, after the expiration of three years from the date on which the direction was made, apply to the Registrar for that direction to be reviewed and, thereafter, may make further applications for review but no such application may be made before the expiration of three years from the date of the most recent review decision.

(11) The Registrar shall refer an application made under paragraph (10) to the [^{F184}Fitness to Practise Committee for determination].

(12) A person whose application under paragraph (10) or whose application for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.

(13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, or granting it but imposing conditions under paragraph (6), is served on the applicant.

- F178** Art. 33(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 15(a)** (with art. 3)
- F179** Words in art. 33(2)(a) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 15(b)** (with art. 3)
- F180** Art. 33(3) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 15(c)** (with art. 3)
- F181** Words in art. 33(5) substituted (18.1.2016) by [The Health Care and Associated Professions \(Knowledge of English\) Order 2015](#) (S.I. 2015/806), arts. 1(3), **40**; S.I. 2015/1451, art. 4
- F182** Words in art. 33(7)(a) inserted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014](#) (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 27**
- F183** Words in art. 33(9) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 15(d)** (with art. 3)
- F184** Words in art. 33(11) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(4), **Sch. 1 para. 15(e)** (with art. 3)

Modifications etc. (not altering text)

- C8** Art. 33 applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004](#) (S.I. 2004/1762), arts. 1(1), **8(2)(c)(3)**
- C9** Art. 33(9)-(11) applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004](#) (S.I. 2004/1762), arts. 1(1), **9(6)**

Commencement Information

- I49** Art. 33(4)(7)(a) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I50** Art. 33 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Legal assessors

34.—(1) The Council shall appoint legal assessors.

(2) Legal assessors shall have the general function of giving advice to—

^{F185}(a)

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- (b) the Practice Committees;
- (c) the Registrar; or
- (d) the Council,

on questions of law arising in connection with any matter which any of those persons is considering under article 9 or 10, Part V or VI.

(3) They may at the request of the person mentioned in paragraph (2) assist in the drafting of any decision required by this Order to be issued under any of the provisions mentioned in that paragraph.

(4) They shall have such other functions as may be conferred on them by rules made by the Council.

(5) To be qualified for appointment as a legal assessor, a person must—

- (a) have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
- (b) be an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) be a member of the Bar of Northern Ireland of at least 10 years' standing.

(6) No person shall be a legal assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a ^{F186}... visitor or medical or registrant assessor; or
- (d) employed by the Council.

(7) The Council may make such provision in respect of legal assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of legal assessors for the purposes of enabling legal assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the legal assessors may reasonably have incurred in the course of carrying out their functions under this Order.

F185 Art. 34(2)(a) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 23\(a\)](#)

F186 Word in art. 34(6)(c) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 23\(b\)](#)

Commencement Information

I51 [Art. 34\(4\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I52 [Art. 34](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Medical assessors

35.—(1) The Council may appoint registered medical practitioners to be medical assessors.

(2) They shall have the general function of giving advice to—

- ^{F187}(a)
- (b) the Practice Committees;
- (c) the Registrar; or
- (d) the Council,

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on matters within their professional competence in connection with any matter which any of those persons is considering.

(3) They shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a medical assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a ^{F188} ... visitor or legal or registrant assessor; or
- (d) employed by the Council.

(5) The Council may make such provision in respect of medical assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of medical assessors for the purposes of enabling medical assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the medical assessors may reasonably have incurred in the course of carrying out their functions under this Order.

F187 Art. 35(2)(a) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 24\(a\)](#)

F188 Word in art. 35(4)(c) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 24\(b\)](#)

Commencement Information

I53 [Art. 35\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I54 [Art. 35](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Registrant assessors

36.—(1) The Council may appoint registered professionals as registrant assessors.

(2) They shall have the general function of giving advice to—

- (a) the Council;
- (b) the committees of the Council; [^{F189}or]
- ^{F190}(c)
- (d) the Registrar,

on matters of professional practice arising in connection with any matter which any of those persons is considering.

(3) The assessors shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a registrant assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a ^{F191} ... visitor or legal or medical assessor; or
- (d) employed by the Council.

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- (5) The Council may make such provision in respect of registrant assessors as it may determine—
- (a) for the payment of fees and allowances, including the payment of allowances to employers of registrant assessors for the purposes of enabling registrant assessors to perform functions under this article;
 - (b) for the reimbursement of such expenses as the registrant assessors may reasonably have incurred in the course of carrying out their functions under this Order.

F189 Word in [art. 36\(2\)\(b\)](#) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(3\)](#), [Sch. 1 para. 25\(a\)](#)

F190 [Art. 36\(2\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(3\)](#), [Sch. 1 para. 25\(a\)](#)

F191 Word in [art. 36\(4\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(3\)](#), [Sch. 1 para. 25\(b\)](#)

Commencement Information

I55 [Art. 36\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I56 [Art. 36](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

PART VI APPEALS

Appeals against Registrar's decisions

37.—(1) Where the Registrar [^{F192}or the Council]^{F193}...—

[^{F194}(za) requires a person to undergo an examination or other assessment under article 5A(6)(a) because the Registrar is not satisfied that the person has the necessary knowledge of English;

^{F195}(zb)]

(a) refuses an application for registration, readmission or renewal or for the inclusion of an additional entry;

^{F196}(aa)

[^{F197}(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) in determining an application under article 9 or 10, imposes additional conditions which must be satisfied before the applicant may be admitted to, readmitted to or retained on the register;

(c) removes the name of a registrant from the register on the ground that he has breached a condition in respect of continuing professional development or such additional education, training or experience as is mentioned in article 19(3) subject to which his registration has effect; ^{F198}...

(d) fails, within the terms of article 9(6), to issue a decision,

^{F199}(e)

F199(f)

F199(g)

F199(h)

the person aggrieved may appeal to the Council within the prescribed period.

[^{F200}(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).]

(2) No appeal lies to the Council where the person aggrieved has been refused registration solely because he has failed to pay the prescribed fee for registration or has failed to apply in the prescribed form and manner in accordance with article 9 or 10.

[^{F201}(2A) No appeal lies to the Council where the Registrar has refused to make, or has removed, an annotation under article 6A.]

[^{F202}(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.]

[^{F203}(2C) No appeal lies to the Council where the Registrar—

(a) has refused to register a person under article 9A, or

(b) has revoked a person's registration under that article.]

(3) No decision removing a registrant from the register against which an appeal to the Council may be made under paragraph (1) shall have effect before—

(a) the expiry of the period within which such an appeal may be made; or

(b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

(4) Any appeal shall be subject to such rules as the Council shall make for the purpose of regulating appeals under this article.

(5) The rules shall in particular provide—

(a) for the quorum of the Council considering such an appeal;

(b) that the members considering the appeal are to include registrants and lay members and that the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one;

[^{F204}(c) for a panel considering an appeal to consist of no fewer than three members who are to be selected with due regard to the matter under consideration and to include—

(i) one registrant registered in the same part of the register as the one in which the person concerned is, or is applying to be, registered except in relation to appeals concerning nursing associates, where the panel must include one registrant registered in the nurses' or the nursing associates' part of the register, and

(ii) a person who—

(aa) is not and never has been a registered nurse, midwife or nursing associate,

(bb) is not and never has been a registered medical practitioner, and

(cc) does not hold qualifications which would entitle them to apply for registration as a registered nurse, midwife, nursing associate or a registered medical practitioner;]

F205(d)

(e) that no one who has been involved in any other capacity in the case to be considered is to be a member of the panel;

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- (f) for the decision to be made by a majority vote of the persons present;
 - (g) in the event of a tie, for the ^{F206}chair] to have an additional casting vote which he shall exercise in the favour of the person concerned;
 - (h) for the Registrar to be made a party to the proceedings;
 - (i) for similar provision to be made to that in article 32(2)(b), (f), (g), (i), (j), (k), (m), (n) and (o).
- (6) Article 32(3) shall apply to appeals under this article as if a reference to ^{F207}the Fitness to Practise Committee] were to the Council.
- (7) Article 25, with the exception of paragraph (2), shall apply to appeals under this article as if a reference to a Practice Committee were to the Council.
- ^{F208}(8)
- (9) Having considered the appeal under this article, the Council may—
- (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against ^{F209}...;
 - (c) substitute for the decision appealed against any other decision that the Registrar could have made; ^{F210}or]
- ^{F211}(ca)
- (d) remit the case to the Registrar to be disposed of in accordance with its directions.
- (10) The person concerned may appeal to a county court or, in Scotland, a sheriff against an unfavourable decision made under paragraph (9)(a), (c) or (d) and article 38 shall apply to that appeal.
- (11) Subject to paragraph 12, the Council shall publish as soon as reasonably practicable a decision of the Council made under this article together with the reasons for it.
- (12) If the decision is favourable to the person concerned, the Council is not required to publish it unless the person concerned so requests but it may do so with the consent of the person concerned.

- F192** Words in art. 37(1) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **63(2)(a)** (with reg. 155)
- F193** Words in art. 37(1) omitted (18.11.2016) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **63(2)(b)** (with reg. 155)
- F194** Art. 37(1)(za)(zb) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **41**; S.I. 2015/1451, art. 4
- F195** Art. 37(1)(zb) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(a)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F196** Art. 37(1)(aa) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(a)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F197** Art. 37(1)(ab) inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 28(a)**
- F198** Word in art. 37(1)(c) omitted (18.11.2016) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **63(2)(c)** (with reg. 155)
- F199** Art. 37(1)(e)-(h) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(a)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

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- F200** Art. 37(1A) inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 28(b)**
- F201** Art. 37(2A) inserted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), **Sch. 1 para. 6(a)**
- F202** Art. 37(2B) inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 28(c)**
- F203** Art. 37(2C) inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 1 para. 1(4)** (with ss. 89, 90) (subject to expiry in accordance with s. 89(1)(2)(b) of the modifying Act)
- F204** Art. 37(5)(c) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 26(d)**
- F205** Art. 37(5)(d) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **9(c)**
- F206** Word in art. 37(5)(g) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 6(b)**
- F207** Words in art. 37(6) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 16(a)** (with art. 3)
- F208** Art. 37(8) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 16(b)** (with art. 3)
- F209** Words in art. 37(9)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(b)(i)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F210** Word in art. 37(9)(c) inserted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(b)(ii)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F211** Art. 37(9)(ca) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 15(b)(iii)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I57** Art. 37(1)(4)(5) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I58** Art. 37 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

Appeals

38.—(1) An appeal from—

- (a) any order or decision of the [^{F212}Fitness to Practise Committee] other than an interim order made under article 31, shall lie to the appropriate court; and
- (b) [^{F213}a decision of the Council mentioned in paragraph (1A)] or of the Investigating Committee under article 26(7) or (12) shall lie to a county court or, in Scotland, to a sheriff.

[^{F214}(1ZA) An appeal from a decision referred to in paragraph (1)(b) relating to a nursing associate or a person seeking registration in the nursing associates' part of the register lies only to the county court.]

[^{F215}(1A) The decisions referred to in paragraph (1)(b) are—

- (a) any decision of the Council under article 37;

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^{F216}(b)]

(2) In any appeal under this article the Council shall be the respondent.

(3) The Court or sheriff may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against ^{F217}...;

(c) substitute for the decision appealed against any other decision the [^{F218}Fitness to Practise Committee] or the Council, as the case may be, could have made; [^{F219}or]

^{F220}(ca)

(d) remit the case to the [^{F221}Fitness to Practise Committee] or Council, as the case may be, to be disposed of in accordance with the directions of the court or sheriff,

and may make such order as to costs (or, in Scotland, expenses) as it, or he, as the case may be, thinks fit.

(4) [^{F222}Subject to paragraph (5), in this article] “the appropriate court” means—

(a) in the case of a person whose registered address is (or, if he were registered, would be) in Scotland, the Court of Session;

(b) in the case of a person whose registered address is (or, if he were registered, would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and

(c) ^{F223}... in any other case, the High Court of Justice in England and Wales.

[^{F224}(5) Where the appeal mentioned in paragraph (1)(a) concerns a nursing associate, “the appropriate court” means the High Court of Justice in England and Wales.]

F212 Words in art. 38(1)(a) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 17\(a\)](#) (with art. 3)

F213 Words in art. 38(1)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), [167\(a\)](#)

F214 Art. 38(1ZA) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 27\(a\)](#)

F215 Art. 38(1A) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), [167\(b\)](#)

F216 Art. 38(1A)(b) omitted (18.11.2016) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, [64\(2\)](#) (with reg. 155)

F217 Words in art. 38(3)(b) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), [Sch. 4 para. 16\(a\)](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F218 Words in art. 38(3)(c) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 17\(b\)](#) (with art. 3)

F219 Word in art. 38(3)(c) inserted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), [Sch. 4 para. 16\(b\)](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F220 Art. 38(3)(ca) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), [Sch. 4 para. 16\(c\)](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F221 Words in art. 38(3)(d) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 17\(b\)](#) (with art. 3)

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- F222** Words in art. 38(4) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 27(b)**
- F223** Words in art. 38(4)(c) omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **167(c)**
- F224** Art. 38(5) inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 27(c)**

Modifications etc. (not altering text)

- C10** Art. 38 applied (with modifications) (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **7(4)(b)**
- C11** Art. 38 applied (with modifications) (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **6(b)**

Commencement Information

- I59** Art. 38 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

PART VII

EEA PROVISIONS

Visiting midwives, and certain visiting nurses, from relevant European States

^{F225}**39.**

- F225** Arts. 39-40 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 17** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2019/419, **Sch. 3 para. 41**; S.I. 2020/1394, regs. 4, **12(3)-(10)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Visiting general systems nurses from relevant European States

^{F225}**39A.**

- F225** Arts. 39-40 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 17** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2019/419, **Sch. 3 para. 41**; S.I. 2020/1394, regs. 4, **12(3)-(10)**); 2020 c. 1, **Sch. 5 para. 1(1)**

European professional card

^{F225}**39B.**

- F225** Arts. 39-40 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 17** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2019/419, **Sch. 3 para. 41**; S.I. 2020/1394, regs. 4, **12(3)-(10)**); 2020 c. 1, **Sch. 5 para. 1(1)**

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Visiting general systems nursing associates from relevant European States

^{F225}**39C.**

F225 Arts. 39-40 omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 17** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2019/419, **Sch. 3 para. 41**; S.I. 2020/1394, regs. 4, **12(3)-(10)**); 2020 c. 1, **Sch. 5 para. 1(1)**

The Directive: designation of competent authority etc.

^{F225}**40.**

F225 Arts. 39-40 omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 17** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2019/419, **Sch. 3 para. 41**; S.I. 2020/1394, regs. 4, **12(3)-(10)**); 2020 c. 1, **Sch. 5 para. 1(1)**

^{F226}**PART VIII** **MIDWIFERY**

F226 Pt. 8 omitted (31.3.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017](#) (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 18** (with art. 3)

The Midwifery Committee

41.

Rules as to midwifery practice

42.

Local supervision of midwives

43.

PART IX **OFFENCES**

Offences

44.—(1) [^{F227}Subject to paragraph (1A), a person commits an offence] if with intent to deceive (whether expressly or by implication)—

- (a) he falsely represents himself to be registered in the register, or a particular part of it or to be the subject of any entry in the register;
- (b) he uses a title referred to in article 6(2) to which he is not entitled;

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- (c) he falsely represents himself to possess qualifications in nursing or midwifery [^{F228}or a qualification as a nursing associate].

[^{F229}(1A) Where the representations referred to in paragraph (1) relate to the nursing associates' part of the register or a nursing associate qualification, or where a person uses the title of nursing associate when not entitled to, the offence referred to in that paragraph is committed only when those representations are made, or the title is used, in England.]

- (2) [^{F230}Subject to paragraph (2A), a person commits an offence] if—

- (a) with intent that any person shall be deceived (whether expressly or by implication) he causes or permits another person to make any representation about himself which, if made by himself with intent to deceive, would be an offence under paragraph (1); or
- (b) with intent to deceive, he makes with regard to another person any representation which—
- (i) is false to his own knowledge, and
- (ii) if made by the other person with that intent would be an offence by him under paragraph (1).

[^{F231}(2A) Where the representations referred to in paragraph (2) relate to the nursing associates' part of the register or a nursing associate qualification, the offence referred to in that paragraph is committed only when those representations are made in England.]

- (3) [^{F232}Subject to paragraph (3A), a person who fraudulently procures], or tries to procure, the making, amendment, removal or restoration of an entry in the register, is guilty of an offence.

[^{F233}(3A) Where under paragraph (3), a person fraudulently procures, or tries to procure, the making, amendment, removal or restoration of an entry in the nursing associates' part of the register, the offence referred to in that paragraph is committed only if the fraudulent procurement, or attempted procurement, occurs in England.]

- (4) A person who, without reasonable excuse, fails to comply with any requirement imposed by—

- (a) the Council, or
- (b) a Practice Committee

under article 25(1) or (2) or rules made by virtue of article 32(2)(m) or under any corresponding rule made by virtue of article 26, 33 or 37 is guilty of an offence.

- (5) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

F227 Words in art. 44(1) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(a\)](#)

F228 Words in art. 44(1)(c) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(b\)](#)

F229 Art. 44(1A) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(c\)](#)

F230 Words in art. 44(2) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(d\)](#)

F231 Art. 44(2A) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(e\)](#)

F232 Words in art. 44(3) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(f\)](#)

F233 Art. 44(3A) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), art. 1(3), [Sch. 1 para. 30\(g\)](#)

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Commencement Information

I60 [Art. 44](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Attendance by unqualified persons at childbirth

45.—(1) A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.

(2) Paragraph (1) does not apply—

- (a) where the attention is given in a case of sudden or urgent necessity; or
- (b) in the case of a person who, while undergoing training with a view to becoming a medical practitioner or to becoming a midwife, attends a woman in childbirth as part of a course of practical instruction in midwifery recognised by the Council or by the General Medical Council.

(3) A person who contravenes paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I61 [Art. 45](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

PART X

MISCELLANEOUS

Further provisions

46.—(1) The Privy Council may make provision by order with regard to the functions of legal assessors and in particular provision may be made—

- (a) requiring legal assessors, when advising the Council or any of its committees, to do so in the presence of the parties or their representatives or, where advice is given in private, requiring the parties to be notified of the advice tendered by the legal assessors;
- (b) requiring the parties to be notified in any case where the legal assessor's advice is not accepted.

(2) Paragraph (1)(a) and (b) shall not apply to advice given by a legal assessor in respect of the drafting of a decision mentioned in article 34(3).

Commencement Information

I62 [Art. 46\(1\)](#) in force at 5.3.2004 as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

Rules and orders

47.—(1) No rules made under this Order shall come into force until approved by order of the Privy Council.

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(2) Any rules made by the Council and any order of the Privy Council made under this Order may make different provision with respect to different cases or classes of case.

(3) Before making any rules under this Order, the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed rules and these may include such persons as appear to it to be representative of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; or
- (d) persons providing, assessing or funding education and training for registrants and prospective registrants.

Commencement Information

I63 [Art. 47](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Exercise of powers by the Privy Council

48.—(1) Where the approval of the Privy Council is required by this Order in respect of the making of any rules by the Council, it shall be given by an order made by the Privy Council.

(2) Any power of the Privy Council under this Order to make an order shall be exercisable by statutory instrument.

[^{F234}(2A) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), paragraph (2) shall have effect as if contained in an Act of Parliament.]

(3) Any order under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament but this does not apply to an order made under article 54(2) or Schedule 2, paragraph 19, 20, 21 or 25.

(4) For the purpose of exercising any powers conferred by this Order the quorum of the Privy Council shall be two.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Any document purporting to be—

- (a) an instrument made by the Privy Council under this Order, and
- (b) signed by the Clerk of the Privy Council, shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.

F234 [Art. 48\(2A\)](#) inserted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 7](#)

Commencement Information

I64 [Art. 48](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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Default powers of the Privy Council

49.—(1) If it appears to the Privy Council that the Council has failed to perform any functions which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Council of its opinion and require the Council to make representations to it.

(2) The Privy Council may, having considered the representations of the Council, give such directions (if any) to the Council as it considers appropriate.

(3) If the Council fails to comply with any directions given under this article, the Privy Council may give effect to the direction.

(4) Subject to paragraph (5), for the purpose of giving effect to a direction under paragraph (3), the Privy Council may—

- (a) exercise any power of the Council or do any act or other thing authorised to be done by the Council; and
- (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Council.

(5) The Privy Council shall not exercise the power in paragraph (4) to make, amend, remove or restore an entry in the register in respect of an individual, nor to refuse to do so.

(6) The powers under paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

Commencement Information

I65 [Art. 49](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

[^{F235} Annual reports, statistical reports and strategic plans

50.—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of its functions which includes a description of the arrangements that the Council has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1) (b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament.]

F235 [Art. 50](#) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 8](#)

Commencement Information

I66 [Art. 50](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Finances of the Council

51.—(1) The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.

(2) Subject to this article, the expenses of the Council are to be met out of fees received by the Council and other sums paid to it in connection with the exercise of its functions.

(3) The Secretary of State or an appropriate authority may make grants or loans to the Council towards expenses incurred, or to be incurred by it—

- (a) in connection with the process of the implementation of this Order, or
- (b) for such other purposes in connection with the professions regulated by this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Council.

(4) In this paragraph, “appropriate authority” means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

Commencement Information

I67 [Art. 51](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Accounts of the Council

52.—(1) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
- (b) prepare annual accounts in respect of each financial year, in such form as the Privy Council may determine.

(2) The annual accounts shall be audited by persons the Council appoints.

[^{F236}(3) The Council shall ensure that the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006 (statutory auditors).]

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors; and
- (b) send a copy of the annual accounts and of any such report to the Privy Council and to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and any records relating to them.

(7) The Privy Council shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(8) In this article, “financial year” means—

- (a) the period beginning with the date on which the Council is established and ending with the next 31st March following that date, and
- (b) each successive period of 12 months ending with 31st March.

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F236 Art. 52(3) substituted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), [Sch. 1 para. 9](#)

Commencement Information

I68 Art. 52 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Inquiry by the Privy Council

53.—(1) The Privy Council may cause an inquiry to be held into any matter connected with the exercise by the Council of its functions.

(2) Before an inquiry is begun, the Privy Council may direct that it shall be held in public.

(3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.

(4) For the purpose of any such inquiry (but subject to paragraph (5)) the person appointed to hold the inquiry—

(a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

(b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.

(5) Nothing in this article requires a person, in obedience to a summons under the article, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him.

(6) Any person who refuses or deliberately fails to attend in obedience to a summons under this article, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this article, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Where the Privy Council causes an inquiry to be held under this article—

(a) the costs incurred by it in relation to the inquiry (including such reasonable sum as it may determine for the services of any officer engaged in the inquiry) shall be paid by such party to the inquiry as it may direct; and

(b) it may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any person shall be recoverable from that person by the Privy Council summarily as a civil debt.

(8) Where the Privy Council causes an inquiry to be held under this article it may make orders—

(a) as to the costs of the parties at the inquiry; and

(b) as to the parties by whom costs are to be paid,

and every such order may be made a rule of the appropriate court on the application of any party named in the order.

(9) “Appropriate court” has the same meaning as in article 38(5).

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Commencement Information

I69 [Art. 53](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Supplementary and transitional provisions and extent

54.—(1) The transitional provisions contained in Schedule 2 to this Order shall apply.

(2) The Privy Council may by order make such further transitional provisions as it considers appropriate.

(3) The consequential amendments contained in Schedule 5 to this Order shall apply.

(4) This Order extends to the whole of the United Kingdom.

Commencement Information

I70 [Art. 54\(4\)](#) in force at made date, see [art. 1\(2\)\(3\)](#)

I71 [Art. 54\(1\)\(2\)](#) in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I72 [Art. 54\(1\)\(3\)](#) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I73 [Art. 54\(2\)](#) in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I74 [Art. 54\(3\)](#) in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

I75 [Art. 54\(1\)](#) in force at 31.7.2006 for specified purposes as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

Review

^{F237}**55.**

F237 [Art. 55](#) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), [Sch. 4 para. 18](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

A. K. Galloway
Clerk of the Privy Council

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SCHEDULE 1

Article 3

THE NURSING AND MIDWIFERY COUNCIL AND COMMITTEES

Modifications etc. (not altering text)

C12 Sch. 1 modified (temp.) (1.4.2002) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order 2002 \(S.I. 2002/1125\)](#), arts. 1(1)(c), **2(1)(b)**

PART I

THE NURSING AND MIDWIFERY COUNCIL

Membership

^{F238}**1.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

^{F238}**Membership: general**

1A.—(1) The Council shall consist of—

- (a) registrant members, that is members who are registrants; and
- (b) lay members, that is members who—
 - (i) are not and never have been ^{F239}registered nurses, midwives or nursing associates] (and article 5(5) does not apply for these purposes), and
 - (ii) do not hold qualifications which would entitle them to apply for registration under this Order.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

^{F240}(4)

^{F240}(5)

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F239 Words in Sch. 1 para. 1A(1)(b)(i) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), **Sch. 1 para. 31**

F240 Sch. 1 para. 1A(4)(5) omitted (1.4.2013) by virtue of [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), **Sch. 2 para. 51(2)**

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Matters for the order of the Privy Council under article 3(7A)

1B.—(1) An order under article 3(7A) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;
- (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
- (d) the appointment of a chair of the Council and the chair's term of office ^{F241}, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment];
- (e) deputising arrangements in respect of the chair;
- (f) the quorum of the Council; and
- (g) the circumstances in which members cease to hold office or may be removed or suspended from office.

(2) But an order under article 3(7A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.

(3) An order under article 3(7A) may include provision with regard to—

- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
- (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
- (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—
 - (i) that education and training to be the responsibility of another body, and
 - (ii) those requirements to be set and varied by that body from time to time;
- (d) the attendance of members of the Council at meetings of the Council;
- (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member; and
- (f) enabling the Privy Council to appoint as the chair of the Council, for a specified period, the person who held office as President of the Council on the day before the first order under article 3(7A) comes into force.

(4) An order under article 3(7A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.]

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

F241 Words in [Sch. 1 para. 1B\(1\)\(d\)](#) inserted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(g\)\(i\)](#)

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F238 **3.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F238 **4.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F238 **5.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F238 **6.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

F238 **7.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

Tenure of members

F238 **8.**

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

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^{F238}9.

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

^{F238}10.

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

The President

^{F238}11.

F238 Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

Procedure etc. of Council and committees

^{F242}12.—(1) Subject to any provision made by this Order or under this Order (otherwise than by standing orders), the Council may by standing orders make provision in respect of—

- (a) its procedure;
- (b) the performance of its functions;
- (c) the constitution of its committees and sub-committees, other than the Practice Committees
^{F243}...;
- (d) the procedure of any of its committees or sub-committees;
- (e) the performance by any of its committees or sub-committees of their functions; and
- (f) the standards of education, training, attendance and performance expected of the members of its committees and sub-committees.

(2) Standing orders of the Council may make provision with regard to the provisional suspension of a member from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under article 3(7A).]

F242 [Sch. 1 para. 12](#) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(3\)](#)

F243 Words in [Sch. 1 para. 12\(1\)\(c\)](#) omitted (31.3.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(2)(c)(d), [Sch. 1 para. 19\(a\)](#) (with art. 3)

Commencement Information

I76 [Sch. 1 para. 12](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

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13.—(1) In appointing non-Council members to any committee set up under article 3(12) the Council shall have regard, where appropriate and subject to the other provisions of this Order, to the guidance issued by the Commissioner for Public Appointments.

(2) The Council shall ensure that such members of the committee who are not Council members shall have such qualifications, interests or experience as, in the opinion of the Council, are relevant to the field with which the committee is mainly concerned.

(3) The Council shall—

- (a) establish and maintain a system for the declaration and registration of private interests of its members and other members of its committees and sub-committees; and
- (b) publish entries recorded in the register of members' interests.

Commencement Information

I77 Sch. 1 para. 13 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

14.—(1) Decisions of the Council and committees shall be made by a majority vote of the members present and voting.

(2) In the event of a tie the [^{F244}chair] shall have an additional casting vote.

^{F245}(3)

(4) This paragraph does not apply to the [^{F246}Practice Committees] or to decisions of the Council under article 37.

F244 Word in Sch. 1 para. 14(2) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(4)(a)

F245 Sch. 1 para. 14(3) omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(b)

F246 Words in Sch. 1 para. 14(4) substituted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(c)

Commencement Information

I78 Sch. 1 para. 14 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

F242 Sch. 1 para. 12 substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(3)

F243 Words in Sch. 1 para. 12(1)(c) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 19(a) (with art. 3)

F244 Word in Sch. 1 para. 14(2) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(4)(a)

F245 Sch. 1 para. 14(3) omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(b)

F246 Words in Sch. 1 para. 14(4) substituted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(c)

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Commencement Information

- I76** Sch. 1 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)
- I77** Sch. 1 para. 13 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)
- I78** Sch. 1 para. 14 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

Powers of the Council

15.—(1) Subject to any provision made by or under this Order, the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.

(2) The Council shall, in particular, have power—

- (a) to borrow;
- (b) to appoint such staff as it may determine;
- (c) to pay its staff such salaries, allowances and expenses as it may determine;
- (d) to make such provision for the payment of such pensions, allowances or gratuities, or such contributions or payments towards provision for such pensions, allowances or gratuities, to or in respect of its staff as it may determine;
- (e) to make such provision in respect of its members and members of its committees and sub-committees as it may determine—
 - (i) for the payment of fees and allowances, including the payment of allowances to employers of such members for the purposes of enabling the members to perform functions under this Order;
 - (ii) for the reimbursement of such expenses as the members may reasonably have incurred in the course of carrying out their functions under this Order;
- (f) to establish such sub-committees of any of its committees as it may determine;
- ^{F247}(g)
- (h) to abolish any of its committees, other than a [^{F248}Practice Committee], or any sub-committee of any of its committees.

(3) The Council may not employ any member of the Council or its committees or sub-committees.

(4) If it appears to the Council that [^{F249}a Practice Committee] is failing to perform its functions adequately, the Council may give a direction as to the proper performance of those functions.

(5) Where the Council, having given a direction under sub-paragraph (4), is satisfied that the committee has failed to comply with the direction, it may exercise any power of that committee or do any act or other thing authorised to be done by that committee.

^{F250}(6)

^{F250}(7)

(8) No person who is a member of the Council or any of its committees or sub-committees by virtue of his membership of any profession, may take part in any proceedings of the Council in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

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- F247** Sch. 1 para. 15(2)(g) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(5\)\(a\)](#)
- F248** Words in Sch. 1 para. 15(2)(h) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 19\(b\)\(i\)](#) (with art. 3)
- F249** Words in Sch. 1 para. 15(4) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 19\(b\)\(ii\)](#) (with art. 3)
- F250** Sch. 1 para. 15(6)(7) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(5\)\(b\)](#)

Commencement Information

- I79** Sch. 1 para. 15 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Privy Council functions

- F251** **15A**

- F251** Sch. 1 para. 15A revoked (1.10.2006) by [Health Act 2006 \(c. 28\)](#), s. 83(7), Sch. 8 para. 47, [Sch. 9](#); [S.I. 2006/2603](#), art. 4(5)(c)(iii)(e), Sch.

PART II

[^{F2}The Practice Committees]

Midwifery Committee

- F252** **16.**

- F252** Sch. 1 para. 16 omitted (31.3.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(2)(c)(d), [Sch. 1 para. 19\(d\)](#) (with art. 3)

Practice Committees

[^{F253}**17.**—(1) The Council shall by rules make provision with regard to the constitution of each Practice Committee, and those rules shall include provision with regard to—

- (a) its ^{F254}... membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

[^{F255}(1A) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.]

(2) The rules may make provision for a body (including a committee of the Council which is not one of the Practice Committees) to assist the Council in connection with the exercise of any function

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relating to the appointment of members or particular members of a Practice Committee, including any function relating to tenure of office or suspension or removal from office.

(3) Subject to any provision made by this Order or under this Order, including provision made by standing orders of the Council under paragraph 12(1)(d), each Practice Committee may regulate its own procedure.]

F253 Sch. 1 para. 17 substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(7)**

F254 Words in Sch. 1 para. 17(1)(a) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 19(e)** (with art. 3)

F255 Sch. 1 para. 17(1A) inserted (14.5.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(ii)**

Commencement Information

I80 Sch. 1 para. 17 in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**

18.—^{F256}(1)

^{F256}(2)

^{F256}(3)

^{F257}(4)

(5) The Council shall, subject to other provisions in this Order, have regard when selecting non-Council members for a Practice Committee, to the guidance issued by the Commissioner for Public Appointments.

^{F258}(6)

(7) Decisions of a Practice Committee shall be made by a majority vote of the members present and voting.

(8) In the event of a tie, the [^{F259}chair] shall have an additional casting vote and in respect of a decision under Part V shall exercise his casting vote in favour of the person concerned.

^{F260}(9)

(10) Apart from proceedings under Part V, no proceedings of a Practice Committee shall be invalidated by any defect in the appointment of a member.

[^{F261}^{F262}(10A) In exercising a function under article 26D, 29, 30 or 33, the Fitness to Practise Committee (or any panel by which the function is exercisable as mentioned in paragraph 17(1A) of this Schedule) must have regard to the over-arching objective.]

^{F263}(10B)

(10C) References in [^{F264}sub-paragraph (10A) to the over-arching objective is] to the over-arching objective of the Council under article 3(4) (read with article 3(4A)).]

^{F265}(11)

F256 Sch. 1 para. 18(1)-(3) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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- F257** Sch. 1 para. 18(4) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F258** Sch. 1 para. 18(6) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**
- F259** Word in Sch. 1 para. 18(8) substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(b)**
- F260** Sch. 1 para. 18(9) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F261** Sch. 1 para. 18(10A)-(10C) inserted (26.9.2016) by Health and Social Care (Safety and Quality) Act 2015 (c. 28), s. 6(4), **Sch. para. 5(4)**; S.I. 2016/906, reg. 2(b)
- F262** Sch. 1 para. 18(10A) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(i)** (with art. 3)
- F263** Sch. 1 para. 18(10B) omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(ii)** (with art. 3)
- F264** Words in Sch. 1 para. 18(10C) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(iii)** (with art. 3)
- F265** Sch. 1 para. 18(11) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**

Commencement Information

- I81** Sch. 1 para. 18(1)-(5), (7)-(11) in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I82** Sch. 1 para. 18 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

- F253** Sch. 1 para. 17 substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(7)**
- F254** Words in Sch. 1 para. 17(1)(a) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 19(e)** (with art. 3)
- F255** Sch. 1 para. 17(1A) inserted (14.5.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(ii)**
- F256** Sch. 1 para. 18(1)-(3) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**
- F257** Sch. 1 para. 18(4) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F258** Sch. 1 para. 18(6) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**
- F259** Word in Sch. 1 para. 18(8) substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(b)**

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- F260** Sch. 1 para. 18(9) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F261** Sch. 1 para. 18(10A)-(10C) inserted (26.9.2016) by Health and Social Care (Safety and Quality) Act 2015 (c. 28), s. 6(4), **Sch. para. 5(4)**; S.I. 2016/906, reg. 2(b)
- F262** Sch. 1 para. 18(10A) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(i)** (with art. 3)
- F263** Sch. 1 para. 18(10B) omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(ii)** (with art. 3)
- F264** Words in Sch. 1 para. 18(10C) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 19(f)(iii)** (with art. 3)
- F265** Sch. 1 para. 18(11) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**

Commencement Information

- I80** Sch. 1 para. 17 in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I81** Sch. 1 para. 18(1)-(5), (7)-(11) in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I82** Sch. 1 para. 18 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

SCHEDULE 2

Article 54

TRANSITIONAL PROVISIONS

Modifications etc. (not altering text)

- C13** Sch. 2 modified (31.12.2003) by The European Qualifications (Health Care Professions) Regulations 2003 (S.I. 2003/3148), regs. 1(1)(c), **3(1)**

The initial membership of the Council

1. When first constituted, the membership of the Council shall be determined in accordance with the provisions of this Schedule.

Commencement Information

- I83** Sch. 2 para. 1 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**
- I84** Sch. 2 para. 1 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

The transitional periods

2. In this Schedule—

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“the first transitional period” means the period beginning with the coming into force of article 3 and ending on the date of coming into force of the first order made by the Privy Council under article 6(1);

“the second transitional period” means the period beginning with the day after the coming into force of the first order made by the Privy Council under article 6(1) and ending on the second anniversary of that date, unless ended earlier by the Privy Council on a proposal received by it from the Council.

Commencement Information

I85 Sch. 2 para. 2 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

The Members

3.—(1) During the transitional periods, the Council shall consist of—

- (a) 12 members appointed by the Privy Council (referred to in this Order as “practitioner members”);
- (b) 11 members who are appointed by the Privy Council (referred to in this Order as “lay members”); and
- (c) 12 members appointed by the Privy Council (referred to in this Order as “alternate members”).

(2) The Privy Council shall appoint an alternate member for each practitioner member.

(3) An alternate member shall have the same functions as a practitioner member but he may attend a Council meeting in his capacity as an alternate member and vote only if his corresponding practitioner member is unable to do so.

(4) Following consultation of persons who appear to it to be representative of the professions to which this Order relates, the Privy Council shall appoint practitioner and alternate members from among persons who are registered under the 1997 Act, or, if section 7 has been repealed, who were so registered immediately before that provision was repealed.

(5) It shall select four practitioner members from each of the following categories—

- (a) persons registered in Part 10 of the register maintained under section 7 of the 1997 Act;
- (b) persons registered in Part 11 of the register maintained under section 7 of the 1997 Act;
- (c) persons registered in any other Part of that register of whom the members may all be selected from the same Part or from different Parts.

(6) No person may be appointed as a practitioner member while he is the subject of fitness to practise investigations or proceedings whether under this Order or under the 1997 Act.

(7) Having consulted such persons as it considers appropriate, the Privy Council shall appoint lay members from among persons who are not and never have been on the register or the register kept under the 1997 Act and who have such qualifications, interests and experience as, in the opinion of the Privy Council, will be of value to the Council in the performance of its functions.

(8) The members shall live or work wholly or mainly in the United Kingdom.

(9) There shall be at least one practitioner member and one alternate member from each part of the register, and the number of practitioner and alternate members from each part shall be equal.

(10) The practitioner and alternate members appointed in respect of each part of the register shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.

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(11) The members who are not registered professionals shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.

Commencement Information

- I86** Sch. 2 para. 3 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I87** Sch. 2 para. 3 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Tenure of members

4. Unless he resigns or is removed in such circumstances as are set out in paragraph 8(2) of Schedule 1, each member shall hold office until the end of the second transitional period.

Commencement Information

- I88** Sch. 2 para. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I89** Sch. 2 para. 4 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

5. Where a member ceases to be a member, the Privy Council may replace him and the successor's term of office shall begin with the day after that on which the member ceases to be a member and end at the end of the second transitional period.

Commencement Information

- I90** Sch. 2 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

^{F266}6.

F266 Sch. 2 para. 6 omitted (12.6.2008) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008](#) (S.I. 2008/1485), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 12\(2\)](#)

F266 Sch. 2 para. 6 omitted (12.6.2008) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008](#) (S.I. 2008/1485), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 12\(2\)](#)

Commencement Information

- I88** Sch. 2 para. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I89** Sch. 2 para. 4 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I90** Sch. 2 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

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Election Scheme

7. The Council shall provide in rules for an election scheme in accordance with the provisions of paragraph 2 of Part I of Schedule 1 to this Order no later than six months before the end of the second transitional period.

Commencement Information

I91 [Sch. 2 para. 7](#) in force at 31.7.2006 as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

Appointment of first President

8. The first President of the Council shall be appointed by the Privy Council from among the members of the Council.

Commencement Information

I92 [Sch. 2 para. 8](#) in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I93 [Sch. 2 para. 8](#) in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

The register

9. During the first transitional period, the Council shall make—

- (a) proposals to the Privy Council for an order to be made under article 6(1);
- (b) rules under articles 5 and 7 and such other rules as are necessary for the proper operation of the register.

Commencement Information

I94 [Sch. 2 para. 9](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

10. Until such date as the first order under article 6(1) is and the rules mentioned in paragraph 9 are in force (“the appointed day”) the Council shall—

- (a) perform the functions of maintaining the register under section 7 of the 1997 Act, and
- (b) determine applications under section 8 of the 1997 Act,

and if those provisions have been repealed, shall act under sub-paragraphs (a) and (b) as if they remained in force and as if references in that Act and subordinate legislation made under it to the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) or to a National Board for Nursing, Midwifery and Health Visiting (a “National Board”) were to the Council.

Commencement Information

I95 [Sch. 2 para. 10](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

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11. Where on the appointed day there are outstanding applications for—

- (a) registration;
- (b) renewal of registration;
- (c) the recording of additional qualifications;
- (d) any entry in the register to be made, altered or restored,

the Council shall dispose of the application in accordance with the provisions of the 1997 Act, as if those provisions were still in force, or in such other manner as it considers just.

Commencement Information

I96 Sch. 2 para. 11 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

12. The entries in the register kept under the 1997 Act may be transferred to the register in accordance with articles 5 and 6 but, where the home address of a person registered under the 1997 Act appears in the register kept under that Act and the entry for that person is transferred to the register, his home address shall not be published in the register without the consent of that person.

Commencement Information

I97 Sch. 2 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

Commencement Information

I94 Sch. 2 para. 9 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

I95 Sch. 2 para. 10 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

I96 Sch. 2 para. 11 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

I97 Sch. 2 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

PROSPECTIVE

The Registrar

13. The first Registrar may be appointed by the Secretary of State, and shall otherwise be appointed by the Council, on such terms and conditions as the body appointing him sees fit.

Commencement Information

I98 Sch. 2 para. 13 not in force at made date, see art. 1(2)(3)

14. If the first Registrar ceases to hold office before a Registrar is appointed under article 4, the Secretary of State or the Council, as the case may be, may appoint a replacement.

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Commencement Information

I99 Sch. 2 para. 14 not in force at made date, see [art. 1\(2\)\(3\)](#)

Commencement Information

I98 Sch. 2 para. 13 not in force at made date, see [art. 1\(2\)\(3\)](#)

I99 Sch. 2 para. 14 not in force at made date, see [art. 1\(2\)\(3\)](#)

Functions of the Council during the transitional period

15.—(1) During the transitional periods, and subject to any contrary provision in this Order, the Council shall, until the relevant provisions of this Order and subordinate legislation made under it come into force, exercise the functions of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) and of the National Boards for Nursing, Midwifery and Health Visiting (“the National Boards”) under sections 2, 3, 4, 5, 6, 14, 15, 20 and 21 of the 1997 Act and subordinate legislation made under that Act with such modifications as necessary and as if references to the UKCC and National Boards were to the Council.

(2) If the relevant provision has been repealed, it shall be treated for the purposes of subparagraph (1) as if it remained in force.

Commencement Information

I100 [Sch. 2 para. 15](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Fitness to practise proceedings

16.—(1) Until relevant rules under Part V come into force—

(a) where disciplinary proceedings—

(i) are pending before the UKCC or any of its committees; or

(ii) have begun but the body or committee dealing with the case has not communicated its decision to the person who is the subject of the proceedings,

that body or committee shall refer the proceedings to the Council and the Council shall dispose of the matter in accordance with the 1997 Act or, if the relevant provisions have been repealed, as if those provisions remained in force;

(b) where an allegation is received by the Council it shall dispose of the matter as if the 1997 Act remained in force; and in both cases

(c) references in the 1997 Act to the UKCC are to be treated as references to the Council.

Commencement Information

I101 [Sch. 2 para. 16](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

17. An appeal—

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- (a) under section 12 of the 1997 Act which is pending or proceeding before any court on the date on which that section is repealed; or
- (b) which is received by the Council before the relevant appeal provisions in the rules referred to in paragraph 16 are in force,

shall be dealt with as if section 12 remained in force.

Commencement Information

I102 Sch. 2 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

Commencement Information

I101 Sch. 2 para. 16 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

I102 Sch. 2 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

Transitional provisions for local supervising authorities

^{F267} 18.

F267 Sch. 2 para. 18 omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), Sch. 1 para. 20 (with art. 3)

Transfer of staff and property

19. The Privy Council may by order make provision—

- (a) enabling persons who, when paragraph 3(1) of this Order (creation of Council) comes into force, hold office as members or staff of the UKCC and the National Boards to continue to hold office until those bodies are dissolved;
- (b) authorising the UKCC to make grants or loans to any person in connection with the implementation or preparations for the implementation of the Order.

Commencement Information

I103 Sch. 2 para. 19 not in force at made date, see art. 1(2)(3)

20.—(1) The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
- (b) property, rights and liabilities.

(2) In this paragraph—

- (a) “the new employer” means the Council; and
- (b) “the old employer” means the UKCC.

(3) In this paragraph and in paragraph 21—

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“an eligible employee” means a person who is employed under a contract of employment with the old employer; and

“property” includes rights and interests of any description.

Commencement Information

I104 Sch. 2 para. 20 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I105 Sch. 2 para. 20 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

21.—(1) The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
- (b) property, rights and liabilities.

(2) In this paragraph and in paragraph 25—

(a) “the new employer” means, in relation to—

- (i) England, the Secretary of State,
- (ii) Wales, the National Assembly for Wales,
- (iii) Scotland, the Scottish Ministers, and
- (iv) Northern Ireland, the Northern Ireland Department of Health, Social Services and Public Safety,

or any person or body established or authorised by any of them; and

(b) “the old employer” means a National Board.

Commencement Information

I106 Sch. 2 para. 21 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I107 Sch. 2 para. 21 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

22. An order made under paragraph 20(1)(a) or 21(1)(a) may be made by the Privy Council only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

Commencement Information

I108 Sch. 2 para. 22 not in force at made date, see [art. 1\(2\)\(3\)](#)

23. An order made under paragraph 20(1)(a) or 21(1)(a) may apply to all, or any description of, employees or to any individual employee.

Commencement Information

I109 Sch. 2 para. 23 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

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I110 Sch. 2 para. 23 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

24.—(1) The contract of employment of an employee transferred under an order made under paragraph 20(1)(a) or 21(1)(a)—

- (a) is not terminated by the transfer; and
- (b) has effect from the date of the transfer as if originally made between the employee and the transferee.

(2) Without prejudice to the generality of sub-paragraph (1), where an employee is transferred under an order mentioned in that sub-paragraph—

- (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are, by virtue of this paragraph, transferred to the transferee on the date of the transfer; and
- (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

(3) Sub-paragraphs (2)(a) and (b) do not transfer an employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old employer or the transferee that he objects to the transfer.

(4) Where an employee objects as mentioned in sub-paragraph (3), his contract of employment with the old employer is terminated immediately before the date of the transfer, but he is not to be treated for any purpose as having been dismissed by that employer.

(5) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this paragraph—

“the date of the transfer” means the date of the transfer determined under an order made under paragraph 20(1)(a) or 21(1)(a) in relation to the employee; and

“the transferee” means the new employer to whom the employee is or would be transferred under that order.

Commencement Information

I111 Sch. 2 para. 24 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

25.—(1) An order made under paragraph 20(1)(b) or 21(1)(b) may provide for the new employer to—

- (a) prepare a statement of accounts in respect of the financial year to 31st March 2002;
- (b) submit a report on the performance of the old employer for the period since the last report under section 18(6) of the 1997 Act to 31st March 2002; or
- (c) carry out any other functions necessary or expedient consequent on the dissolution of the old employer.

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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(2) Section 18(3), (4), (5) and (7) of the 1997 Act shall apply as if they remained in force except that they shall apply as if the accounts or report, as the case may be, mentioned in paragraph (1) had been prepared by the old employer.

Commencement Information

I112 Sch. 2 para. 25 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I113 Sch. 2 para. 25 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Commencement Information

I103 Sch. 2 para. 19 not in force at made date, see [art. 1\(2\)\(3\)](#)

I104 Sch. 2 para. 20 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I105 Sch. 2 para. 20 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I106 Sch. 2 para. 21 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I107 Sch. 2 para. 21 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I108 Sch. 2 para. 22 not in force at made date, see [art. 1\(2\)\(3\)](#)

I109 Sch. 2 para. 23 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I110 Sch. 2 para. 23 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I111 Sch. 2 para. 24 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

I112 Sch. 2 para. 25 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

I113 Sch. 2 para. 25 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

F268 SCHEDULE 2A

Article 39

F268 Sch. 2A omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), [Sch. 4 para. 19](#) (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F269 SCHEDULE 2B

Article 39B

Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

Changes to legislation: The Nursing and Midwifery Order 2001 is up to date with all changes known to be in force on or before 12 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F269 Sch. 2B omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 20** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

F270 SCHEDULE 3

Article 40

DIRECTIVE 2005/36: FUNCTIONS OF THE COUNCIL UNDER ARTICLE 40(2)

F270 Sch. 3 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 21** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)

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SCHEDULE 4

Article 2

INTERPRETATION

Commencement Information

- I114** Sch. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**
- I115** Sch. 4 in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**
- I116** Sch. 4 in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I117** Sch. 4 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I118** Sch. 4 in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**
- I119** Sch. 4 in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see **art. 1(2)(3)**

In this Order, unless the context otherwise requires—

“the 1997 Act” means the Nurses, Midwives and Health Visitors Act 1997(3);

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Status: Point in time view as at 08/03/2023. This version of this Instrument contains provisions that are prospective.

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“application for restoration” has the meaning given to it in article 33;

[^{F276}“appropriate cover” is to be construed in accordance with article 12A(3);]

“approved course of education or training” means a course approved under article 15(6)(a);

“approved qualification” has the meaning given to it in articles 13 and 15;

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“the Council” means the Nursing and Midwifery Council established under article 3;

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[^{F280}“the Directive” means Directive [2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), and any reference in this Order to the Directive or to any provision of the Directive is a reference to the Directive, or to that provision, as it had effect immediately before IP completion day;]

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[^{F276}“indemnity arrangement” is to be construed in accordance with article 12A(2);]

[^{F284}“lay member” shall be construed in accordance with paragraph 1A(1)(b) of Schedule 1;]

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“licensing body” means a regulatory body which has the function of authorising persons to practise a health or social care profession;

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[^{F288}“the necessary knowledge of English”—

- (a) in relation to a person registered, or applying to be registered, as a nurse means a knowledge of English which is necessary for the safe and effective practice of nursing in the United Kingdom;

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- (b) in relation to a person registered, or applying to be registered, as a midwife means a knowledge of English which is necessary for the safe and effective practice of midwifery in the United Kingdom;
- (c) [^{F289}in relation to a person registered, or applying to be registered, as a nursing associate means knowledge of English which is necessary for the safe and effective practice as a nursing associate in England;]]

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“parties”, except in respect of article 53, means the Council and the person concerned except in respect of article 37 when it includes the Registrar;

[^{F291}“Practice Committees” has the meaning given to it in article 3(10);]

[^{F292}“practising” means working as a registered nurse or a midwife or working as a nursing associate in England;]

“prescribed” means prescribed in rules made by the Council;

[^{F293}“the professions regulated under this Order” means the professions of nurse, midwife and nursing associate;]

“register” means the register established and maintained under article 5;

[^{F294}“registrant” means a nurse, midwife or nursing associate who has been admitted to the register maintained under article 5;]

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“Registrar” means the person appointed under article 4;

[^{F295}“relevant European State” means an EEA State or Switzerland;]

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“standards of proficiency” means the standards established by the Council under article 5(2);

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[^{F301}“the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act);]

“United Kingdom country” means England, Scotland, Wales or Northern Ireland.

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“visitors” means persons appointed under article 16.

F271 Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(a)**

F272 Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(b)**

F273 Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(c)**

F274 Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(d)**

F275 Words in Sch. 4 omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 11(a)**

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- F276** Words in Sch. 4 inserted (17.7.2014) by The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 (S.I. 2014/1887), art. 1(2), **Sch. 1 para. 29**
- F277** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(e)**
- F278** Words in Sch. 4 omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 22(b)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F279** Words in Sch. 4 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 286** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F280** Words in Sch. 4 substituted (31.12.2020) by The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 4 para. 22(a)** (with reg. 12A, Sch. 4 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 12(3)-(10)); 2020 c. 1, Sch. 5 para. 1(1)
- F281** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(h)**
- F282** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(i)**
- F283** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(j)**
- F284** Words in Sch. 4 substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 11(b)**
- F285** Words in Sch. 4 omitted (28.1.2019) by virtue of The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(c)**
- F286** Words in Sch. 4 omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 21(b)** (with art. 3)
- F287** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(m)**
- F288** Words in Sch. 4 inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **43**; S.I. 2015/1451, art. 2(d)
- F289** Words in Sch. 4 inserted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(d)**
- F290** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(o)**
- F291** Words in Sch. 4 substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 21(c)** (with art. 3)
- F292** Words in Sch. 4 substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(e)**
- F293** Words in Sch. 4 substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(f)**
- F294** Words in Sch. 4 substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(g)**
- F295** Words in Sch. 4 inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(p)**
- F296** Words in Sch. 4 omitted (28.1.2019) by virtue of The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 32(i)**
- F297** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(q)**
- F298** Words in Sch. 4 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(r)**
- F299** Words in Sch. 4 omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 21(d)** (with art. 3)

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F300 Words in [Sch. 4](#) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(s)**

F301 Words in [Sch. 4](#) inserted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 42](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

SCHEDULE 5

Article 54

CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

The Parliamentary Commissioner Act 1967 (c. 13)

1. In Schedule 2 to the Parliamentary Commissioner Act 1967 (Departments etc. subject to investigation), the entry relating to the English National Board for Nursing, Midwifery and Health Visiting shall be omitted.

Commencement Information

I120 [Sch. 5 para. 1](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

Medicines Act 1968 (c. 67)

2. In section 58 of the Medicines Act 1968 (medicinal products on prescription only)—

(a) for subsection (1)(d) there shall be substituted—

“(d) registered nurses or midwives who are of such a description and comply with such conditions as may be specified in the order”;

(b) in subsection (4)(a), for the words “a registered nurse, midwife or health visitor,”, there shall be substituted “a registered nurse or midwife.”

Commencement Information

I121 [Sch. 5 para. 2](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

The Fair Trading Act 1973 (c. 41)

^{F302}3.

F302 [Sch. 5 para. 3](#) revoked (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, [Sch. para. 44](#)

The House of Commons Disqualification Act 1975 (c. 24)

4. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of any of the National Boards for Nursing,

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Midwifery and Health Visiting mentioned in section 5 of the Nurses, Midwives and Health Visitors Act 1997 or any member of those Boards appointed at a salary, shall be omitted.

Commencement Information

I122 Sch. 5 para. 4 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

5. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland or member of that Board appointed at a salary, shall be omitted.

Commencement Information

I123 Sch. 5 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

PROSPECTIVE

National Health Service Act 1977 (c. 49)

F303 6.

F303 Sch. 5 para. 6 revoked (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4

The Interpretation Act 1978

7. In Schedule 1 to the Interpretation Act 1978 (words and expressions defined), for the definition of “Registered” in relation to nurses, midwives and health visitors there shall be substituted—

““Registered” in relation to nurses and midwives, means registered in the register maintained under article 5 of the Nurses and Midwives Order 2001 by virtue of qualifications in nursing or midwifery, as the case may be.”.

Commencement Information

I124 Sch. 5 para. 7 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

The Registered Homes Act 1984 (c. 23)

8. In section 42 of the Registered Homes Act 1984 (tribunal for appeals relating to nursing homes (including maternity homes) and mental nursing homes) in subsection (4)(a), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001.”.

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Commencement Information

I125 Sch. 5 para. 8 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

The Video Recordings Act 1984 (c. 39)

9. In section 3 of the Video Recordings Act 1984 (exempted supplies), in subsection (11), for “the Nurses, Midwives and Health Visitors Act 1997”, there shall be substituted “the Nursing and Midwifery Order 2001”.

Commencement Information

I126 Sch. 5 para. 9 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

Children Act 1989 (c. 41)

10. In the Children Act 1989—

- (a) in section 45 (duration of emergency protection orders and other supplemental provisions), in subsection (12), for the words “registered health visitor” there shall be substituted “registered midwife”;
- (b) in section 48 (powers to assist in discovery of children who may be in need of emergency protection), in subsection (11), for the words “registered health visitor”, there shall be substituted “registered midwife”; and
- (c) in section 102 (power of constable to assist in exercise of certain powers to search for children or inspect premises) in subsection (3), for the words “registered health visitor”, there shall be substituted “registered midwife”.

Commencement Information

I127 Sch. 5 para. 10 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

The Registered Homes (Northern Ireland) Order 1992 (S.I.1992/3204 (NI 20))

11. In Article 32 of the Registered Homes (Northern Ireland) Order 1992, paragraph (2)(b), for “section 7 of the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “article 5 of the Nursing and Midwifery Order 2001”.

Commencement Information

I128 Sch. 5 para. 11 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

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The Value Added Tax Act 1994 (c. 23)

12. In Part II of Schedule 9 to the Value Added Tax Act 1994 (exempt supplies of goods and services), for item 1(d) in Group 7 (health and welfare), there shall be substituted “the register of qualified nurses and midwives maintained under article 5 of the Nursing and Midwifery Order 2001”.

Commencement Information

I129 [Sch. 5 para. 12](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Employment Rights Act 1996 (c. 18)

13. In section 55 of the Employment Rights Act 1996 (right to time off for ante-natal care), in each of subsections (1)(b) and (2)(a) for “registered health visitor”, there shall be substituted “registered nurse”.

Commencement Information

I130 [Sch. 5 para. 13](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Data Protection Act 1998 (c. 29)

14. In section 69 of the Data Protection Act (meaning of “health professional”), in section (1), for subsection (e), there shall be substituted—

“(e) a registered nurse or midwife”.

Commencement Information

I131 [Sch. 5 para. 14](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Government of Wales Act 1998 (c. 38)

15. In Part III of Schedule 4 to the Government of Wales Act 1998 (public bodies subject to reform by the Assembly which may only gain functions), paragraph 17 shall be omitted.

Commencement Information

I132 [Sch. 5 para. 15](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

The Health Act 1999 (c. 8)

16. In the Health Act 1999—

- (a) in section 60 (regulation of health care and associated professions), in subsection (2), in paragraph (b), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001”; and

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- (b) in Schedule 3 (regulation of health care and associated professions), in paragraph 8 (certain functions not to be transferred from regulatory body), in sub-paragraph (3) “or the Nurses, Midwives and Health Visitors Act 1997” shall be omitted.

Commencement Information

I133 Sch. 5 para. 16 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

Freedom of Information Act 2000 (c. 36)

17. In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part VI (other public bodies and offices: general)—

- (a) the entries for the English National Board for Nursing, Midwifery and Health Visiting and the Welsh National Board for Nursing, Midwifery and Health Visiting shall be omitted; and
- (b) the entry for the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, shall be omitted and “The Nursing and Midwifery Council.” shall be inserted in the appropriate place.

Commencement Information

I134 Sch. 5 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the regulation of nurses and midwives and creates a regulatory body, the Nursing and Midwifery Council, which is required to set standards of education, training, conduct and performance and to put in place arrangements to ensure that they are met (article 3). It provides for the Council to keep a register of qualified nurses and midwives and creates four statutory committees: the Investigating Committee, Conduct and Competence Committee, Health Committee and Midwifery Committee (article 3(9)). The Order replaces the regulatory system provided for by the Nurses, Midwives and Health Visitors Act 1997.

The Order provides for the Council to set standards and requirements to be satisfied before a person may be admitted to the register (article 5) and to deal with applications for registration, renewal of registration or readmittance in accordance with Part III and rules made under it. Articles 13 and 14 indicate the qualifications on which registration may be based. The register is to be published (article 8).

The Order provides in Part IV for the Council to establish standards of education and training necessary for admission to the register; to make arrangements to ensure that those standards are met; and to approve qualifications, courses and institutions which meet its standards (articles 15 to 18).

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The Council may also provide for post-registration training and require a nurse or midwife who has not practised for some time to undertake additional training (article 19). The Order provides for the Council to liaise with educational institutions (article 3 and Part IV).

Part V provides for the Council to establish and keep under review standards of conduct, performance and ethics expected of registrants and prospective registrants; to issue guidance on these matters and to make arrangements to ensure that action is taken when the fitness to practise of a nurse or midwife is impaired by reason of misconduct, lack of competence or ill-health (articles 21 and 22). Part V sets out the procedure to be followed in investigating whether the fitness to practise of a registrant is impaired. Preliminary consideration may be given by Screeners and the Investigating Committee (articles 22 to 24 and 26) and if it appears that there is a case to answer the matter will be considered by the Conduct and Competence Committee or the Health Committee (article 29). There is also provision to investigate whether an entry on the register has been fraudulently procured or incorrectly made and for the Investigating Committee to take action if it has (article 26(7)). Orders and decisions of the Practice Committees may be reviewed (articles 26(12) and 30). The Committees may, where they consider it to be in the public interest or in the interest of the registrant concerned, make interim orders to take effect before a final decision is given in a case or pending an appeal (article 31). Rules are to be made for the procedure to be followed by the Committees and the Council in considering cases referred to them (article 32(2), relevant parts of which are applied to the Investigating Committee and the Council by articles 26 and 37 respectively). A person who has been struck off the register may apply to be restored to it and article 33 sets out the procedure to be followed and the circumstances in which the application may be granted. The Council shall appoint legal assessors (article 34) and may appoint medical and registrant assessors (articles 35 and 36) to assist those considering, amongst others, registration and fitness to practise issues.

Part VI relates to appeals. A person may appeal to the Council from a decision of the Registrar concerning registration and article 37 sets out the procedure to be followed. Article 38 provides that appeals from decisions of the Health Committee or Conduct and Competence Committee are to the High Court (or, in Scotland, the Court of Session), and, from the Investigating Committee or Council, to the county court (or, in Scotland, the sheriff).

Part VII and Schedule 3 apply to qualifications to be recognised under EC law as it applies in the States which are party to the agreement on the European Economic Area (the “EEA”) and the Order implements the Directives on nursing and midwifery (Directives 77/452 and 77/453—nurses—and 80/154 and 80/155—midwives—as amended).

Part VIII relates to the Midwifery Committee whose role is to advise the Council on matters which affect midwifery. It provides for rules to be made regulating midwifery practice and for supervision of midwives by local supervising authorities.

Part IX provides for certain actions to be offences. These are, principally, where a person falsely represents himself as being registered or having professional qualifications or uses a title to which he is not entitled; or, although not falling within the specified categories, attends a woman in childbirth.

Part X contains provisions on miscellaneous matters such as consultation by the Council before it makes rules (article 47); approval by the Privy Council of rules and the procedure which applies (articles 47 and 48); the powers of the Privy Council to take action if it considers that the Council has failed to perform its functions (article 49) and to hold an inquiry into any matter connected with the exercise by the Council of its functions (article 53). The Council is required to publish annual reports (article 50) and to keep proper accounts (article 52).

Schedule 1 provides for the constitution of the elected Council; provisions relating to the election scheme and the procedure of the Council and statutory committees.

Article 54 and Schedule 2 relate to transitional provisions including the conduct of business before an elected Council comes into being. Schedule 4 relates to interpretation. Consequential amendments to primary legislation are set out in Schedule 5.

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