
STATUTORY INSTRUMENTS

2002 No. 253

The Nursing and Midwifery Order 2001

PART V

FITNESS TO PRACTISE

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

[^{F1}(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 [^{F2}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.

(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

[^{F3}(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).

^{F4}(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 [^{F5}26(5A), (7) or (12)], 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 [^{F6}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.

[^{F7}(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.]

Textual Amendments

- F1** 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
- F2** 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)
- F3** 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**
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)

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)**

Commencement Information

- I1** 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)**
- I2** 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)**

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Nursing and Midwifery Order 2001. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- art. 22(1)(a)(v) words inserted by [2008 c. 14 Sch. 10 para. 14](#) (This amendment not applied to legislation.gov.uk. Sch. 10 para. 14 omitted (1.7.2012) without ever being in force by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 15 para. 75(4); S.I. 2012/1319, art. 2(3))
- art. 22(1)(a)(iv) word omitted by [S.I. 2008/1485 Sch. 1 para. 4](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 5A(6A) inserted by [S.I. 2023/1286 Sch. 3 para. 61](#)
- art. 7(2A)-(2D) inserted by [S.I. 2023/1286 Sch. 3 para. 62](#)
- art. 9(4A) inserted by [S.I. 2023/1286 Sch. 3 para. 63\(a\)](#)
- art. 13(5A)-(5D) inserted by [S.I. 2023/1286 Sch. 3 para. 64\(b\)](#)
- art. 13ZA inserted by [S.I. 2023/1286 Sch. 3 para. 65](#)
- art. 21A inserted by [S.I. 2023/1286 Sch. 3 para. 66](#)
- art. 22(1)(a)(vi)(vii) inserted by [S.I. 2008/1485 Sch. 1 para. 4](#)