
STATUTORY INSTRUMENTS

2002 No. 253

The Nursing and Midwifery Order 2001

PART VII

EEA PROVISIONS

Visiting EEA nurses and midwives

39.—(1) In this Order “visiting EEA nurse” and “visiting EEA midwife” means a person who—

- (a) is a national of any EEA State;
- (b) is lawfully practising in an EEA State other than the United Kingdom as a nurse responsible for general care or, as the case may be, as a midwife;
- (c) holds the appropriate diploma;
- (d) is temporarily in the United Kingdom as a visitor; and
- (e) provides the Council with the relevant documents.

(2) Any person who—

- (a) is not a national of an EEA State, but
- (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68⁽¹⁾ or any other enforceable Community right, entitled to be treated, for the purposes of access to the nursing profession, or the profession of midwifery, no less favourably than a national of such a State,

shall be treated for the purposes of paragraph (1) as if he were such a national.

(3) Without prejudice to article 43, a visiting EEA nurse or midwife shall—

- (a) provide the Council with the relevant documents; and
- (b) where he is not required to provide evidence of good character and good health before being authorised to practise by the State referred to in paragraph (1)(b), satisfy the Registrar as to his good character and good health,

before he provides any services as a nurse or midwife in the United Kingdom except that, in a case of sudden or urgent necessity, a nurse may provide the documents as soon as possible after he has provided his services as a nurse.

(4) For the purposes of this Order “the appropriate diploma” means a diploma, certificate or other evidence of formal qualifications which EEA States are required to recognise in the case of a nurse, by the Nursing Directive or, in the case of a midwife, by the Midwifery Directive.

(5) For the purposes of this article and article 11 “relevant documents”, in relation to any person means—

- (a) a written declaration stating—

⁽¹⁾ OJ No L257, 19.10.68, p.1 (amended by Council Regulation (EEC) No 312/76 OJ No L39, 14.2.76, p.2).

- (i) that he is intending to practise in the United Kingdom as a nurse responsible for general care or, as the case may be, as a midwife; and
 - (ii) the address of the place where and the period during which he intends so to practise; and
- (b) a certificate or certificates issued, not more than 12 months before the date on which the Council is provided with the relevant documents, by the competent authority of the EEA State in which he is practising as mentioned in sub-paragraph (1)(b) certifying—
- (i) that he is lawfully practising as a nurse responsible for general care or, as the case may be, as a midwife in that State; and
 - (ii) that he holds an appropriate diploma.

(6) The Council may refer for determination to whichever Practice Committee it thinks fit taking account of article 22, the question whether the provisions of this Order relating to visiting EEA nurses or midwives (other than this paragraph and paragraph (8)) should cease to apply to a particular visiting nurse or midwife because his fitness to practise is impaired by reason of misconduct or some other matter referred to in article 22(1)(a) or because authorisation to practise has been fraudulently procured or granted in error.

(7) The provisions of Part V and rules made under it shall apply, with any necessary modifications, in relation to any proceedings under paragraph (6) as they apply in relation to proceedings in respect of an allegation referred to a Screener or Practice Committee under article 22.

(8) Where it is determined that the provisions mentioned in paragraph (6) should cease to apply to any person he shall—

- (a) cease to be a visiting EEA nurse or, as the case may be, a visiting EEA midwife for the purposes of this Order;
- (b) cease to be deemed to be registered; and
- (c) not be entitled to be treated as a visiting EEA nurse or midwife before the expiry of such period (if any) as may be specified in the determination, or if no such period is specified, without the written consent of the Council.

(9) A person in respect of whom a determination is made under paragraph (6) may appeal to the appropriate court and article 38 shall apply to that appeal.