
STATUTORY INSTRUMENTS

2003 No. 3148

**The European Qualifications (Health
Care Professions) Regulations 2003**

NURSES

Amendment of Nurses, Midwives and Health Visitors Act

2.—(1) Until its repeal by virtue of section 60(3) of the Health Act 1999, section 21 of the Nurses, Midwives and Health Visitors Act (visiting EEA nurses and midwives) is to have effect as if it were amended in accordance with this regulation.

(2) In subsection (6)—

(a) in the definition of—

- (i) “Nursing Directive”, for “and the Accession of Austria, Finland and Sweden Act”, substitute “, the Accession of Austria, Finland and Sweden Act, Directive [2001/19/EC](#) and the Swiss Agreement”;
- (ii) “Midwifery Directive”, for “and the Accession of Austria, Finland and Sweden Act”, substitute “, the Accession of Austria, Finland and Sweden Act, Directive [2001/19/EC](#) and the Swiss Agreement”;

(b) after the definition of “Midwifery Directive”, insert the following definitions—

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 and as amended, so far as relevant to this Act, by Decision of the EEA Joint Committee No. 84/2002 of 25th June 2002;”;

““EEA State” means a Contracting Party to the EEA Agreement or Switzerland;”;

““national”, in relation to an EEA State, means the same as it does for the purposes of the Community Treaties but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.”; and

(c) omit the words “and ‘EEA Agreement’, “EEA State” and “national” shall be construed in accordance with section 8(8)”.

(3) In subsection (7), after the definition of “the Accession of Austria, Finland and Sweden Act”, add the following definition—

““the Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21 June 1999.”.

Performance of functions under the Nursing and Midwifery Order and subordinate legislation

3.—(1) The Nursing and Midwifery Council shall in performing its functions under Schedule 2 to the Nursing and Midwifery Order (transitional provisions), apply the provisions of the Nurses, Midwives and Health Visitors Act as if they had effect as modified by virtue of regulation 2.

(2) The Council shall perform its functions under the Schedule to the Nurses, Midwives and Health Visitors Approval Order 1983(1) (Nurses, Midwives and Health Visitors Rules 1983) as if—

- (a) in rules 7(1) and (2)(a), 8(5)(a) and (b), and 44(1)(c), references to “EEA State” included Switzerland;
- (b) in rule 7 (admission to part or parts of the register following professional qualification in an EEA State other than the United Kingdom), after paragraph (1), there were inserted—
 - “(1A) If the Council refuses to admit a person who makes an application mentioned in paragraph (1)(a) to the relevant Part or Parts of the register, it shall within the period referred to in section 8(7) of the Act, give the applicant notice of that decision and the reasons for it.”;
- (c) in rule 8 (admission to part or parts of the register following successful completion of training, as a nurse, a midwife or a health visitor, and original registration outside the United Kingdom), after paragraph (3B), there were inserted—
 - “(3C) In the case of an applicant who is as described in sub-paragraph (a) or (b) of paragraph (5), the Council shall, within the specified period, give her—
 - (a) notice of the action to be taken under paragraph (3)(a) or (aa); or
 - (b) the information mentioned in paragraph (3)(b) or (c); and
 - (c) the reasons for—
 - (i) her admittance being made subject to conditions as mentioned in paragraph (3)(aa),
 - (ii) the requirement that she obtain training or experience as mentioned in paragraph (3)(b), or
 - (iii) the rejection of her application.
 - (3D) In paragraph (3C), “the specified period” means the period of three months beginning with the date on which the Council receives the application together with full supporting documentation.”;
- (d) in rules 14A(13) and 18(4), after “89/595/EEC”, there were added “and Directive [2001/19/EC](#)”;
- (e) in rule 14B(11)(a)—
 - (i) “as amended by 89/595/EEC” were omitted, and
 - (ii) after “for general care”, there were added “as amended by Council Directive [89/595/EEC](#) and Directive [2001/19/EC](#)”; and
- (f) in rule 27, in the definition of “Midwives Directive”, after “[89/594/EEC](#)”, there were added “and Directive [2001/19/EC](#)”.

Amendment of the Nursing and Midwifery Order

4.—(1) The Nursing and Midwifery Order is amended in accordance with this regulation.

(1) S.I.1983/873 as amended by S.I. 1986/786, 1989/1456, 1996/3103, 1997/1723 and 2000/2554.

(2) O.J. L206, 31.7.2001, p.1.

- (2) In Schedule 4 to the Nursing and Midwifery Order (interpretation)—
- (a) for the definition of “EEA Agreement”, substitute—
- ““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992⁽³⁾ as adjusted by the Protocol signed at Brussels on 17 March 1993⁽⁴⁾ and as amended by Decision of the EEA Joint Committee No. 84/2002 of 25 June 2002⁽⁵⁾”;
- (b) in the definition of—
- (i) “EEA State”, after “Agreement”, add “or Switzerland”,
- (ii) “Midwifery Directive”, for “and the Accession of Austria, Finland and Sweden Act”, substitute “, the Accession of Austria, Finland and Sweden Act and the Swiss Agreement”,
- (iii) “national” after “Treaties”, add “but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.”,
- (iv) “Nursing Directive”, for “and the Accession of Austria, Finland and Sweden Act”, substitute “, the Accession of Austria, Finland and Sweden Act and the Swiss Agreement”; and
- (c) insert the following definition at the appropriate place—
- ““the Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21 June 1999⁽⁶⁾”.

Amendment of the European Nursing and Midwifery Qualifications Designation Order 1996

- 5.—(1) In the European Nursing and Midwifery Qualifications Designation Order 1996⁽⁷⁾—
- (a) in paragraph (1) of article 2 (interpretation)—
- (i) in the definition of “the First Nursing Directive” and the definition of “the First Midwifery Directive”, for “and the accession of Austria, Finland and Sweden Act”, substitute, “, the Accession of Austria, Finland and Sweden Act, Directive [2001/19/EC](#) and the Swiss Agreement”,
- (ii) in the definition of “the Second Nursing Directive”, after “[89/595/EEC](#)”, add “and Directive [2001/19/EC](#)”,
- (iii) in the definition of “the Second Midwifery Directive”, after “[89/594/EEC](#)”, add “and Directive [2001/19/EC](#)”, and
- (iv) insert the following definition at the appropriate place—
- ““the Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons signed at Luxembourg on 21st June 1999”.
- (b) in article 6 (qualifications in respect of which a diploma not specified in Schedule 2 is awarded in respect of training which complies with Directive requirements), in paragraph (2)(b)(ii), for “Article 3 of” in both places, substitute “the Annex to”;

(3) Cm. 2073 and O.J. No. L 1, 3.1.1994, p.3.

(4) Cm.2183 and O.J. No. L 1, 3.1.1994, p.572.

(5) O.J. No. L 266, 3.10.2002, p.36. The Agreement has been amended by other Decisions not relevant to this Order.

(6) O.J. No. L 114, 30.04.2002, p.6.

(7) S.I. [1996/3102](#).

(c) in Schedule 1 (table showing implementation dates etc.), after the entry for Sweden, insert—

“Switzerland	1st June 2002	1st June 2002	1st June 2002”
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(d) for Schedule 2 (diplomas listed in the First Nursing Directive, article 3, and the First Midwifery Directive, article 3), substitute the Schedule 2 set out in Schedule 1, to these Regulations.