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STATUTORY INSTRUMENTS

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**2004 No. 1764**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS  
NURSES AND MIDWIVES**

The Nursing and Midwifery Council  
(Midwives) Rules Order of Council 2004

<i>Made</i>	- - - -	<i>7th July 2004</i>
<i>Laid before Parliament</i>		<i>9th July 2004</i>
<i>Coming into force</i>	- -	<i>1st August 2004</i>

At the Court Council Chamber, Whitehall, the 7th day of July 2004  
By the Lords of Her Majesty's Most Honourable Privy Council

Whereas in exercise of the powers conferred on it by articles 42, 43 and 47(2) of, and Schedule 4 to, the Nursing and Midwifery Order 2001<sup>(1)</sup>, and of all other powers enabling it in that behalf, the Nursing and Midwifery Council has made the Nursing and Midwifery (Midwives) Rules 2004 as set out in the Schedule to this Order:

And whereas by articles 47(1) and 48 of the Nursing and Midwifery Order 2001 such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the Rules into consideration, are pleased to, and do hereby, approve them.

This Order may be cited as the Nursing and Midwifery (Midwives) Rules 2004 Order of Council 2004 and shall come into force on 1st August 2004.

*A.K. Galloway*  
Clerk of the Council

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THE NURSING AND  
MIDWIFERY COUNCIL  
(MIDWIVES) RULES 2004

(AA) ARRANGEMENT OF RULES

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Explanatory Note

The Nursing and Midwifery Council, in exercise of its powers under articles 42, 43 and 47(2) of, and Schedule 4 to, the Nursing and Midwifery Order 2001<sup>(2)</sup> and of all other powers enabling it in that behalf and following consultation in accordance with articles 15(4), 41(2) and 47(3) of that Order hereby makes the following rules:

*(bb) CITATION AND COMMENCEMENT*

1. These Rules may be cited as the Nursing and Midwifery Council (Midwives) Rules 2004 and shall come into force on 1st August 2004.

*(cc) INTERPRETATION*

2. In these rules—

“attendance upon” means providing care or advice to a woman or care to a baby whether or not the midwife is physically present;

“approved educational institution” means an institution or part of an institution or a combination of institutions approved by the Council under article 15(6) of the Order for conducting the whole or part of a midwifery programme of education;

*(dd)*

“childbirth” includes the antenatal, intranatal and postnatal periods;

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(2) S.I. 2002/253; Schedule 4 is cited because of the definition of “prescribed”.

“education” includes training;

“emergency” means a sudden, unexpected, event relating to the health or condition of a woman or baby which requires immediate attention;

“local supervising authority midwifery officer” means the midwifery officer appointed by a local supervising authority in accordance with rule 13(1);

“main area of practice” means the geographical location where the midwife has, or will be, practising most often in the 12 month period related to the most recent notification of intention to practise;

“midwifery programme of education” means an integrated theoretical and clinical practice programme that meets the standards established by the Council under article 15(1)(a) of the Order;

“the Order” means the Nursing and Midwifery Order 2001;

“postnatal period” means the period after the end of labour during which the attendance of a midwife upon a woman and baby is required, being not less than 10 days and for such longer period as the midwife considers necessary;

“practising midwife” means a registered midwife who notifies her intention to practise to a local supervising authority and who has updated her practice in accordance with the standards published by the Council, and who—

- (a) is in attendance upon a woman and baby during the antenatal, intranatal or postnatal period; or
- (b) holds a post for which a midwifery qualification is required;

“supervisor of midwives” means a person appointed by a local supervising authority to exercise supervision over midwives practising in its area in accordance with rule 11(1); and

“woman and baby” means any woman, regardless of her age, and where reference is made to “baby” in conjunction with “woman”, it shall be taken as including reference to the woman’s unborn baby during the antenatal and intranatal periods.

### **Notification of intention to practise**

3.—(1) If a midwife intends either to be in attendance upon a woman or baby during the antenatal, intranatal or postnatal period or to hold a post for which a midwifery qualification is required she shall give notice in accordance with paragraph (2).

(2) A midwife shall give notice under paragraph (1) to each local supervising authority in whose area she intends to practise or continue to practise 3/4

- (a) before commencing to practise there; and thereafter
- (b) in respect of each period of 12 months beginning on a date which the Council shall specify from time to time.

(3) Notwithstanding the provisions of paragraph (2), the notice to be given under paragraph (1) may, in an emergency, be given after the time when she commences to practise provided that it is given within 48 hours of that time.

(4) A notice to be given under this rule shall contain such particulars and be in such form as the Council may from time to time specify.

### **Notifications by local supervising authority**

4.—(1) A local supervising authority shall publish—

- (a) the name and address of its midwifery officer for the submission of a notice under rule 3(1);

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- (b) the date by which a midwife must give notice under rule 3(1) in accordance with rule 3(2)(b).

(2) Each local supervising authority shall inform the Council, in such form and at such frequency as requested by the Council, of any notice given to it under rule 3.

*(ee) SUSPENSION FROM PRACTICE BY A LOCAL SUPERVISING AUTHORITY*

5.—(1) Subject to the provisions of this rule a local supervising authority may, following an appropriate investigation (which is to include, where appropriate, seeking the views of the midwife concerned), suspend from practice<sup>3/4</sup>

- (a) a midwife against whom it has reported a case for investigation to the Council, pending the outcome of the Council's investigation; or
- (b) a midwife who has been referred to a Practice Committee of the Council, pending the outcome of that referral.

(2) Where it exercises its power to suspend a midwife from practice, a local supervising authority shall—

- (a) immediately notify the midwife concerned in writing of the decision to suspend her and the reason for the suspension, and supply her with a copy of the documentation which it intends to submit to the Council in accordance with sub-paragraph (b); and thereafter
- (b) immediately report to the Council in writing any such suspension, the reason for that suspension and details of the investigation carried out by the local supervising authority that led to that suspension.

(3) The Practice Committee to which the midwife concerned is referred by the Council must consider whether or not to make an interim suspension order or interim conditions of practice order in respect of the midwife concerned.

(4) Unless that Practice Committee makes an interim suspension order the local supervising authority must revoke the suspension once the Committee has determined whether or not to make an interim suspension order.

(5) If the Practice Committee does make an interim suspension order but that order is subsequently revoked, the local supervising authority must revoke their suspension.

**Responsibility and sphere of practice**

6.—(1) A practising midwife is responsible for providing midwifery care, in accordance with such standards as the Council may specify from time to time, to a woman and baby during the antenatal, intranatal and postnatal periods.

(2) Except in an emergency, a practising midwife shall not provide any care, or undertake any treatment, which she has not been trained to give.

(3) In an emergency, or where a deviation from the norm which is outside her current sphere of practice becomes apparent in a woman or baby during the antenatal, intranatal or postnatal periods, a practising midwife shall call such qualified health professional as may reasonably be expected to have the necessary skills and experience to assist her in the provision of care.

**Administration of medicines**

7. A practising midwife shall only supply and administer those medicines, including analgesics, in respect of which she has received the appropriate training as to use, dosage and methods of administration.

## Clinical trials

8.—(1) A practising midwife may only participate in clinical trials if there is a protocol approved by a relevant ethics committee.

(2) For the purposes of this rule—

“ethics committee” means an ethics committee established or recognised by the United Kingdom Ethics Committees Authority or established or recognised for the purposes of advising on the ethics of research investigations on human beings prior to 1st May 2004 by the Secretary of State, the Scottish Ministers, the National Assembly for Wales, the Department of Health, Social Services and Public Safety, a Strategic Health Authority, a Health Board, or a Health and Social Services Board.

(ff)

## (gg) Records

9.—(1) A practising midwife shall keep, as contemporaneously as is reasonable, continuous and detailed records of observations made, care given and medicine and any form of pain relief administered by her to a woman or baby.

(2) The records referred to in paragraph (1) shall be kept—

- (a) in the case of a midwife employed by an NHS authority, in accordance with any directions given by her employer;
- (b) in any other case, in a form approved by the local supervising authority covering her main area of practice.

(3) A midwife must not destroy or permit the destruction of records which have been made whilst she is in attendance upon a woman or baby.

(4) Immediately before ceasing to practise or if she finds it impossible or inconvenient to preserve her records safely, a midwife shall transfer them—

- (a) if she is employed by an NHS authority, to that authority;
- (b) if she is employed by a private sector employer, to that employer;
- (c) if she is not covered by paragraph (a) or (b), to the local supervising authority in whose area the care took place.

(5) Any transfer under paragraph (4) must be duly recorded by each party to the transfer.

(6) For the purposes of this rule—

“NHS authority” means:

- (a) in relation to England and Wales, any body established under the National Health Service Act 1977 or the National Health Service & Community Care Act 1990 which employs midwives;
- (b) in relation to Scotland, any body constituted under the National Health Service (Scotland) Act 1978 which employs midwives;
- (c) in relation to Northern Ireland, any body established under the Health & Personal Social Services (Northern Ireland) Order 1972 which employs midwives;

“private sector employer” means an organisation other than an NHS authority or a limited company or partnership in which the midwife or any member of her family has or has had a substantial interest.

### **Inspection of premises and equipment**

**10.—**(1) A practising midwife shall give to a supervisor of midwives, a local supervising authority and the Council, every reasonable facility to monitor her standards and methods of practice and to inspect her records, her equipment and any premises that she is entitled to permit them to enter, which may include such part of the midwife's residence as may be used for professional purposes.

(2) A practising midwife shall use her best endeavours to permit inspection from time to time of all places of work in which she practises, other than the private residence of a woman and baby she is attending, by persons nominated by the Council for this purpose, one of whom shall be a practising midwife.

### **Eligibility for appointment as a supervisor of midwives**

**11.—**(1) A local supervising authority shall appoint an adequate number of supervisors of midwives to exercise supervision over practising midwives in its area.

(2) To be appointed for the first time as a supervisor of midwives, in accordance with article 43(2) of the Order, a person shall—

- (a) be a practising midwife;
- (b) have three years' experience as a practising midwife of which at least one shall have been in the two year period immediately preceding the appointment; and
- (c) have successfully completed a programme of a type mentioned in paragraph (5) within the three year period prior to her first appointment as a supervisor of midwives.

(3) For any subsequent appointment as a supervisor of midwives, a person must have practised in such a role for three years within the five year period prior to the new appointment.

(4) In the case of a national of an EEA state (or other person entitled to be treated for the purpose of appointment as a supervisor of midwives, no less favourably than a national of such a state by virtue of an enforceable community law right or any enactment giving effect to a community obligation) the conditions in paragraph (2) or (3) shall be satisfied if, in the opinion of the Council, a person has had comparable training or experience within or outside the EEA.

(5) The provider, content and duration of a programme referred to in paragraph (2)(c) shall be such as the Council shall from time to time specify for the purposes of this rule.

(6) Following her appointment, a supervisor of midwives shall complete such periods of study relating to the supervision of midwives as the Council shall from time to time require.

### **The supervision of midwives**

**12.—**(1) Each practising midwife shall have a named supervisor of midwives from among the supervisors of midwives appointed by the local supervising authority covering her main area of practice.

(2) A local supervising authority shall ensure that—

- (a) each practising midwife within its area has a named supervisor of midwives;
- (b) at least once a year, a supervisor of midwives meets each midwife for whom she is the named supervisor of midwives to review the midwife's practice and to identify her training needs;
- (c) all supervisors of midwives within its area maintain records of their supervisory activities, including any meeting with a midwife; and
- (d) all practising midwives within its area have 24-hour access to a supervisor of midwives.

### **The local supervising authority midwifery officer**

**13.**—(1) Each local supervising authority shall appoint a local supervising authority midwifery officer who shall be responsible for exercising its functions in relation to the supervision of midwives including in relation to the appointment of supervisors of midwives under rule 11(1).

(2) A local supervising authority shall not appoint a person to the post of local supervising authority midwifery officer unless—

- (a) she is a practising midwife; and
- (b) she meets the standards of experience and education set by the Council from time to time.

### **Exercise by a local supervising authority of its functions**

**14.** Where a local supervising authority (in relation to the exercise of its functions as to the supervision of midwives) has concerns about whether a local supervising authority midwifery officer or a supervisor of midwives meets the Council's standards, it shall discuss those concerns with the Council.

#### *(hh) PUBLICATION OF LOCAL SUPERVISING AUTHORITY PROCEDURES*

**15.** Each local supervising authority shall publish—

- (a) the name and address of its midwifery officer, together with the procedure for reporting all adverse incidents relating to midwifery practice or allegations of impaired fitness to practise of practising midwives within its area and the procedure by which it will investigate any such reports;
- (b) the procedure by which it will deal with complaints or allegations against its midwifery officer or supervisors of midwives within its area.

### **Annual report**

**16.** Each year every local supervising authority shall submit a written report to the Council by such date and containing such information as the Council may specify.

Given under the official seal of the Nursing and Midwifery Council on 18th June 2004.

*Jonathan Asbridge*  
President

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Sarah Thewlis  
Chief Executive and Registrar

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which is made under the Nursing and Midwifery Order 2001, approves Rules made by the Nursing and Midwifery Council which relate to the practice of midwives and their supervision by the Local Supervising Authorities (“LSAs”) which are: in England, Strategic Health Authorities; in Wales, Health Authorities; in Scotland, Health Boards; and in Northern Ireland, Health and Social Services Boards.

Rule 2 contains definitions used in the Rules.

Rule 3 requires a midwife to give notice to each LSA in whose area she intends to practise. (In an emergency a midwife may give notice after she begins practising in an LSA’s area provided she does so within 48 hours). She must subsequently give notice every twelve months by a date specified under rule 4.

Rule 4 requires an LSA to publish the name and address to which notice must be sent under rule 3. The LSA must inform the Nursing and Midwifery Council (in the form and at such frequency as it requires) of notices the LSA receives.

Rule 5 provides that an LSA may, following an appropriate investigation, suspend a midwife from practice where she has been reported to the Council. The LSA must notify both the midwife concerned and the Nursing and Midwifery Council of the suspension. The Practice Committee to which the fitness to practise of the midwife concerned has been referred must consider whether to make an interim suspension order or interim conditions of practice order. An LSA must revoke its suspension of a midwife if an interim suspension order is not made or if such an order is made but subsequently revoked.

Rule 6 sets out the responsibility of a midwife to provide care but, except in an emergency, she may provide only care and treatment which she has been trained to give and must call another appropriate health professional in an emergency or deviation from normal childbirth.

Rule 7 provides that a midwife shall supply or administer only those medicines in respect of which she has received the appropriate training.

Rule 8 provides that a midwife may take part in clinical trials only if there is a protocol approved by a relevant ethics committee.

Rule 9 requires a midwife to keep and preserve records and contains provision as to the form in which they are to be kept. The rule requires a midwife, before she ceases to practise or if she is unable to preserve the records safely, to transfer her records to her employer or an LSA as specified in the rule.

Rule 10 contains requirements a midwife must meet in respect of the monitoring of her standards and inspection of her records, equipment and premises.

Rule 11 requires an LSA to appoint an adequate number of supervisors of midwives and sets out the requirements to be met for appointment as a supervisor. The rule requires a supervisor of midwives to undertake such further study following her appointment as the Nursing and Midwifery Council shall require.



Rule 12 provides that each practising midwife shall have a named supervisor and that they should meet at least once a year to review the midwife's practice and to identify her training needs. Supervisors are required to keep records of their activities. An LSA shall ensure that every practising midwife in its area has 24 hour access to a supervisor.

Rule 13 requires an LSA to appoint a local supervising authority midwifery officer who will be responsible for exercising its functions in relation to supervision of midwives, including the appointment of supervisors of midwives. A person appointed a local supervising authority midwifery officer must be a practising midwife and meet standards of experience and education set by the Nursing and Midwifery Council.

Rule 14 provides that, where a local supervising authority has concerns about whether a local supervising authority midwifery officer or a supervisor of midwives meets the standards of the Nursing and Midwifery Council, it shall discuss its concerns with the Council.

Rule 15 requires an LSA to publish the name and address of the midwifery officer; the procedure for reporting adverse events relating to midwifery practice or allegations of impaired practice; and the procedure by which it deals with complaints against midwifery officers or supervisors of midwives.

Rule 16 requires an LSA to submit an annual report to the Nursing and Midwifery Council containing the information required by the Council.