
STATUTORY INSTRUMENTS

2007 No. 3101

**The European Qualifications (Health and
Social Care Professions) Regulations 2007**

PART 11

NURSES AND MIDWIVES: OTHER LEGISLATION

**The Nursing and Midwifery Council (Education, Registration and Registration Appeals)
Rules 2004**

177.—(1) The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 ^{M1} are amended as follows.

(2) In rule 2 (interpretation)—

- (a) the existing provision containing a table of definitions shall be numbered as paragraph (1); and
- (b) after paragraph (1) add—

“(2) In these Rules, a reference to any provision of the Directive ^{M2} is a reference to that provision of the Directive as amended from time to time.”.

(3) After rule 2 insert—

“Application to visiting nurses and midwives from relevant European States

2A. In these Rules—

- (a) Part 2 shall not apply to visiting nurses and midwives from relevant European States ^{M3}, or in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rule 3(3);
- (b) Part 3 shall not apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rules 4 (the register), 14 (lapse of registration) and 16 (amendments to the register);
- (c) Part 4 shall apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order.”.

(4) In rule 3 (education leading to registration and re-registration)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (1B), where an approved programme of education leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.2.2 of the Directive (evidence of formal qualifications as a nurse responsible for general care), that programme must comply with the training requirements laid down in article 31 of the Directive (training of nurses responsible for general care).

(1A) Subject to paragraph (1B), where an approved programme of education leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.5.2

of the Directive (evidence of formal qualifications as a midwife), that programme must comply with the training requirements laid down in article 40 of the Directive (training of midwives).

(1B) Notwithstanding the requirements of article 31 or 40 of the Directive, an approved programme of education may consist of part-time training, provided that such training complies with the requirements laid down in article 22(a) of the Directive (common provisions on training: part-time training).”; and

(b) for paragraph (2) substitute—

“(2) The requirements for entry to an approved programme of education which leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.2.2 or point 5.5.2 of the Directive, shall include the requirements of article 31(1) or article 40(2) of the Directive (as the case may be).”.

(5) In rule 5 (application for admission to a part of the register)—

(a) in paragraph (2)—

(i) in sub-paragraph (a)(ii)—

(aa) for “EEA State” substitute “European State ”, and

(bb) for “been met, or” substitute “ been met, ”,

(ii) in sub-paragraph (a)(iii)—

(aa) for “article 13(1)(c)” substitute “ article 13(1)(c) or (d) ”, and

(bb) for “applying; and” substitute “ applying, or ”, and

(iii) after sub-paragraph (a)(iii) insert—

“(iv) where the applicant is relying on article 13(1)(e) or (f) of the Order, evidence of her qualification and details as to her training; and”;

(b) after paragraph (2) add—

“(3) If the applicant (“A”)—

(a) is relying on article 13(1)(b) of the Order,

(b) holds a diploma listed in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be), and

(c) has successfully completed training as a nurse or midwife that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 31 or 40 of the Directive (as the case may be),

A must also provide a certificate as mentioned in paragraph (4).

(4) The certificate—

(a) must be a certificate issued by a competent authority in A's attesting State (as defined by rule 6(1F)); and

(b) must certify that the document provided by A under paragraph (2)(a)(ii) is a diploma listed in relation to that State in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be).”.

(6) In rule 6 (requirements for declarations of good health and good character)—

(a) in paragraph (1)—

(i) omit sub-paragraph (d), and

(ii) in sub-paragraph (e), for “article 13(1)(c)” substitute “ article 13(1)(c) or (d) ”;

(b) after paragraph (1) insert—

“(1A) In the case of an applicant (“A”) who is relying on article 13(1)(b), (e) or (f) of the Order, the declaration by A as to her good health and good character, provided under rule 5(1)(a), shall be supported by—

- (a) a certificate as to good character—
 - (i) to which either paragraph (1B) or (1C) applies, and
 - (ii) issued within the three months preceding the date of A's application, and
- (b) a certificate as to good health—
 - (i) to which either paragraph (1D) or (1E) applies, and
 - (ii) issued within the three months preceding the date of A's application,

and for the purposes of paragraphs (5) and (6), any such certificate shall be considered to be a supporting declaration.

(1B) This paragraph applies to a certificate which—

- (a) attests to A's good character or good repute; and
- (b) is issued by a competent authority in A's attesting State.

(1C) If no such certificate is issued by a competent authority in A's attesting State, this paragraph applies to a certificate—

- (a) attesting to the authenticity of a declaration on oath made by A—
 - (i) before a competent judicial or administrative authority, notary or qualified professional body of A's attesting State, and
 - (ii) attesting to A's good character; and
- (b) issued by the authority, notary or body referred to in sub-paragraph (a)(i).

In this paragraph, “declaration on oath” includes a solemn declaration.

(1D) This paragraph applies to a certificate which—

- (a) attests to A's good physical and mental health; and
- (b) is required of a person who wishes to practise as a nurse or midwife in A's attesting State.

(1E) If no such certificate is required of persons who wish to practise as a nurse or midwife in A's attesting State, this paragraph applies to a certificate which—

- (a) attests to A's good physical and mental health; and
- (b) is issued by a competent authority in A's attesting State.

(1F) In paragraphs (1B) to (1E) the “attesting State”, in relation to A, is—

- (a) the relevant European State in which A obtained her qualification in nursing or midwifery; or
- (b) (if different) the relevant European State from which A comes to the United Kingdom.”;

(c) in paragraph (5)(b), for “(1)(a), (b), (c), (d)(i), (e), (2) or (3)” substitute “ (1)(a), (b), (c) or (e) or paragraph (1D), (1E), (2) or (3) ”;

(d) in paragraph (6)(b), for “(1)(a), (b), (c), (d)(ii), (e), (2) or (3)” substitute “ (1)(a), (b), (c) or (e) or paragraph (1B), (1C), (2) or (3) ”; and

(e) in paragraph (7), omit the definition of “Member State of origin”.

(7) In rule 8 (overseas applications for registration which are unsuccessful), for “article 13(1)(c)” substitute “ article 13(1)(d) ”.

- (8) In rule 9 (knowledge of English), for “an EEA national exercising an enforceable Community right, or an exempt person,” substitute “an exempt person^{M4}”.
- (9) In rule 15 (readmission to the register), in paragraph (2), after “6(1)” insert “to (1E)&”.
- (10) In rule 20 (period during which an appeal may be made)—
- (a) in paragraph (a), for “sub-paragraph (a)” substitute “sub-paragraph (a), (aa)”;
 - (b) in paragraph (b), for “article 9(4)” substitute “article 9(5)”.
- (11) In rule 21 (notice of appeal), in paragraph (2)(a)(iii), after “37(1)(a),” insert “(aa),”.
- (12) Omit Schedule 1 (extract from the Second Nursing Directive).
- (13) Omit Schedule 2 (extract from the Second Midwifery Directive).
- (14) In Schedule 3 (application for admission to a part of the register), after paragraph (b) insert—
- “(ba) if the applicant is relying on article 13(1)(b), (c), (e) or (f) of the Order and is a national of a relevant European State, proof of her nationality;
 - (bb) if the applicant is relying on article 13(1)(b), (c), (e) or (f) of the Order and is not a national of a relevant European State, proof of the Community right by virtue of which she is an exempt person;”.

Marginal Citations

- M1** Scheduled to [S.I. 2004/1767](#); there are no relevant amending instruments.
- M2** “The Directive” is defined in Schedule 4 to the Order as Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005.
- M3** “Visiting nurse or midwife from a relevant European State” is defined in Schedule 4 to the Order as a nurse or midwife registered in exercise of entitlement under article 39A of or Schedule 2A to the Order.
- M4** “Exempt person” is defined in Schedule 4 to the Order.

Changes to legislation:

There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, Section 177.