

SCHEDULES

SCHEDULE 4

Regulation 5

Nurses, midwives and nursing associates

PART 1

Amendments to legislation

Interpretation

1. In this Schedule, “the 2001 Order” means the Nursing and Midwifery Order 2001(1).

Nursing and Midwifery Order 2001

2. The 2001 Order is amended as follows.
3. In article 5A (knowledge of English)(2), omit paragraphs (5) and (7).
4. In article 6 (register of nurses, midwives and nursing associates)(3), omit paragraph (3)(aa).
5. In article 7 (register: supplemental provision)(4), omit paragraph (4).
6. In article 8 (access to register)(5), omit paragraph (5).
7. In article 9 (registration)(6)—
 - (a) in paragraph (1), for “Subject to paragraph (7), a” substitute “A”;
 - (b) omit paragraphs (3A) to (3C);
 - (c) in paragraph (5), for the words from ““the specified period”” to the end substitute ““the specified period” means the period of three months beginning with the relevant date.”;
 - (d) in paragraph (6), omit the words from “, including” to “13(1A).”;
 - (e) omit paragraph (7).
8. In article 10 (renewal and readmission)(7)—
 - (a) in paragraph (1), for “Subject to paragraph (6), where” substitute “Where”;
 - (b) omit paragraph (6).
9. In article 12A (indemnity arrangements)(8), omit paragraph (11).

(1) [S.I. 2002/253](#).

(2) Article 5A was inserted by [S.I. 2015/806](#).

(3) Paragraph (3)(aa) was inserted by [S.I. 2007/3101](#). Relevant amending instrument is [S.I. 2018/838](#).

(4) Paragraph (4) was inserted by [S.I. 2007/3101](#) and substituted by [S.I. 2018/838](#).

(5) Relevant amending instrument is [S.I. 2007/3101](#).

(6) Paragraphs (3A) and (7) were inserted by [S.I. 2007/3101](#), paragraphs (3B) and (3C) were inserted by [S.I. 2015/806](#). Paragraph (5) was substituted by [S.I. 2007/3101](#) and paragraph (7) was substituted by [S.I. 2018/838](#). Relevant amending instruments are [S.I. 2007/3101](#), [2015/806](#), [2018/838](#).

(7) Paragraph (1) was amended by and paragraph (6) was inserted by [S.I. 2007/3101](#).

(8) Article 12A was inserted by [S.I. 2014/1887](#) and paragraph (11) was substituted by [S.I. 2018/838](#).

10. In article 13 (approved qualifications)(9)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (a), insert “or”;

(ii) omit sub-paragraphs (b) and (c);

(iii) in sub-paragraph (d)—

(aa) omit “he is not an exempt person and”;

(bb) at the end insert “or”;

(iv) omit sub-paragraphs (e) and (f);

(b) omit paragraphs (1A) and (1B);

(c) after paragraph (2) insert—

“(3) A relevant European qualification is to be treated as a qualification as to which the Council is satisfied as mentioned in paragraph (1)(d)(i) (and accordingly included in any list kept under paragraph (2)(a)).

(4) In this article “relevant European qualification” means a qualification that falls within article 13AA and has not been designated by the Council for the purposes of this paragraph.

(5) The Council—

(a) may designate a qualification for the purposes of paragraph (4) only with the approval of the Privy Council;

(b) must maintain and publish a list of the qualifications that are so designated.”.

11. After article 13 insert—**“European qualifications**

13AA.—(1) Subject to the following provisions of this article, a qualification falls within this article if it was awarded in a relevant European State and—

(a) in relation to registration as a nurse in sub-Part 1 of the Nurses’ Part of the register, it is listed in Annex V, point 5.2.2 of the Directive;

(b) in relation to registration in the Midwives’ Part of the register, it is listed in Annex V, point 5.5.2 of the Directive.

(2) A qualification within paragraph (1)(b) falls within this article only if—

(a) it attests to training that satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive, and

(b) in the case mentioned in paragraph (1)(c) of that article, it is accompanied by a certificate of the sort described in paragraph (2) of that article.

(3) A qualification does not fall within this article if it was awarded before the reference date, or on or after that date in respect of a course of training begun before that date.

(4) In paragraph (3), “reference date” means—

(a) in the case of a qualification within paragraph (1)(a), the date listed in relation to the State in which the qualification was awarded in the column entitled “Reference date” in Annex V, point 5.2.2 of the Directive;

(9) Paragraphs (1)(b)-(f) were substituted, by and paragraphs (1A) and (1B) were inserted by, [S.I. 2007/3101](#). Relevant amending instruments are [S.I. 2015/806](#), [2016/1030](#), [2018/838](#).

- (b) in the case of a qualification within paragraph (1)(b), the date listed in relation to the State in which the qualification was awarded in the column entitled “Reference date” in Annex V, point 5.5.2 of the Directive.”.
12. Omit article 14 (EEA qualifications)(10).
 13. In article 15 (education and training)(11), omit paragraph (2).
 14. In article 19 (post-registration training)(12), omit paragraphs (2A) to (2D).
 15. In article 37 (appeals against decisions of the Registrar)(13)—
 - (a) in paragraph (1), omit sub-paragraphs (zb), (aa), and (e) to (h);
 - (b) in paragraph (9)—
 - (i) in sub-paragraph (b), omit the words from “or, in” to the end;
 - (ii) at the end of paragraph (c), insert “or”;
 - (iii) omit sub-paragraph (ca) (including the final “or”).
 16. In article 38 (other appeals)(14), in paragraph (3)—
 - (a) in sub-paragraph (b), omit the words from “or, in” to the end;
 - (b) at the end of paragraph (c), insert “or”;
 - (c) omit sub-paragraph (ca) (including the final “or”).
 17. Omit articles 39 to 40 (EEA provisions)(15).
 18. Omit article 55 (review)(16).
 19. Omit Schedule 2A (visiting European practitioners)(17).
 20. Omit Schedule 2B (European Professional Card)(18).
 21. Omit Schedule 3 (competent authority functions)(19).
 22. In Schedule 4 (interpretation)(20)—
 - (a) for the definition of “the Directive” substitute—

““the Directive” means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), and any reference in this Order to the Directive or to any provision of the Directive is a reference to the Directive, or to that provision, as it had effect immediately before exit day;”;
 - (b) omit the definitions of “competent authority”, “[Directive 2002/58/EC](#)”, “European professional card”, “exempt person”, “General Systems Regulations”, “IMI”, “IMI file”,

(10) Relevant amending instrument is [S.I. 2007/3101](#).

(11) Relevant amending instrument is [S.I. 2007/3101](#).

(12) Paragraphs (2A) to (2D) were inserted by [S.I. 2007/3101](#). Relevant amending instrument is [S.I. 2018/838](#).

(13) Paragraph (1)(zb) was inserted by [S.I. 2015/806](#). Paragraph (1)(aa) was inserted by [S.I. 2007/3101](#). Paragraphs (1)(e)-(h) and (9)(ca) were inserted by, and paragraph (9)(b) was amended by, [S.I. 2016/1030](#). Relevant amending instruments are [S.I. 2016/1030](#), [2018/838](#).

(14) Paragraph (3)(ca) was inserted by [S.I. 2016/1030](#). Relevant amending instruments are [S.I. 2016/1030](#), [2017/231](#).

(15) Articles 39 and 40 were substituted by, and article 39A was inserted by, [S.I. 2007/3101](#). Article 39B was inserted by [S.I. 2016/1030](#). Article 39C was inserted by [S.I. 2018/838](#). Relevant amendments made by Schedule 19 to the Data Protection Act 2018. Relevant amending instruments are [S.I. 2016/1030](#), [2018/838](#).

(16) Article 55 was inserted by [S.I. 2016/1030](#).

(17) Schedule 2A was inserted by [S.I. 2007/3101](#). Relevant amending instruments are [S.I. 2011/1043](#), [2016/1030](#).

(18) Schedule 2B was inserted by [2016/1030](#), and amended by Schedule 19(2) Data Protection Act 2018.

(19) Schedule 3 was substituted by [2007/3101](#), and amended by Schedule 19(2) Data Protection Act 2018. Relevant amending instruments are [S.I. 2015/806](#), [2016/1030](#).

(20) Relevant amending instruments are Data Protection Act 2018, [S.I. 2003/3148](#), [2007/3101](#), [2011/1043](#), [2016/1030](#), [2018/838](#).

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“national”, and “visiting nurse, midwife or nursing associate from a relevant European State”.

Nursing and Midwifery Council (Fees) Rules 2004

23. In the Nursing and Midwifery Council (Fees) Rules 2004(**21**), in rule 3 (prescribed fees), in the table—

- (a) omit entry (d);
- (b) in Column (2)—
 - (i) in entry (a), for “, (b), (c), (dd), (e) or (f)” substitute “or (dd)”;
 - (ii) in entry (c), omit “(c),”.

Nursing and Midwifery Council (Parts of and Entries in the Register) Order of Council 2004

24. In the Nursing and Midwifery Council (Parts of and Entries in the Register) Order of Council 2004(**22**), omit article 8.

European Nursing and Midwifery Qualifications Designation Order of Council 2004

25. The European Nursing and Midwifery Qualifications Designation Order of Council 2004(**23**) is revoked.

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

26. The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(**24**) are amended as follows.

- (1) In rule 2 (interpretation)(**25**), omit paragraph (2).
- (2) Omit rule 2A (visiting European practitioners)(**26**).
- (3) In rule 3 (education)(**27**), omit paragraphs (1) to (2).
- (4) In rule 5 (applications for registration)(**28**)—
 - (a) in paragraph (2)(a)—
 - (i) at the end of paragraph (i), insert “or”;
 - (ii) omit paragraph (ii);
 - (iii) in paragraph (iii), omit “(c),”;
 - (iv) omit paragraph (iv) (and the “or” before it);
 - (b) omit paragraphs (3) to (4A).
- (5) In rule 6 (declarations of good health and character)(**29**)—

(21) As set out in the Schedule to the Nursing and Midwifery Council (Fees) Rules Order of Council 2004 (S.I. 2004/1654).

(22) S.I. 2004/1765. Relevant amending instruments are S.I. 2007/3101, 2018/838.

(23) S.I. 2004/1766.

(24) As set out in the Schedule to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004 (S.I. 2004/1767).

(25) Paragraph (2) was inserted by S.I. 2007/3101.

(26) Rule 2A was inserted by S.I. 2007/3101 and substituted by pending amending instrument S.I. 2018/838.

(27) Paragraphs (1) and (2) were substituted by S.I. 2007/3101.

(28) Paragraphs (3) and (4) were inserted by S.I. 2007/3101. Paragraph (4A) was inserted by S.I. 2016/1030. Relevant amending instruments are S.I. 2007/3101, 2016/1030, 2018/838.

(29) Paragraphs (1A) to (1F) were inserted by S.I. 2007/3101, except paragraph (1ZA) which was inserted by S.I. 2018/838. Relevant amending instruments are S.I. 2007/3101, 2018/838.

- (a) in paragraph (1)(e), omit “(c) or”;
 - (b) omit paragraphs (1A) to (1F);
 - (c) in paragraph (5)(b), omit “or paragraph (1D), (1E),”;
 - (d) in paragraph (6)(b), omit “or paragraph (1B), (1C),”.
- (6) In rule 8 (unsuccessful applications)(**30**)—
- (a) for “13(1)(b), (c), (d), (dd), (e) or (f)” substitute “13(1)(d) or (dd)”;
 - (b) in paragraphs (b) and (c), omit “or (d)”.
- (7) In rule 15 (readmission)(**31**), in paragraph (2), omit “to (1E)”.
- (8) In rule 20 (periods for appeals)(**32**)—
- (a) in paragraph (a)—
 - (i) for “(za), (zb), (a), (aa), (b), (c) or (e) to (h)” substitute “(za), (a), (b) or (c)”;
 - (ii) at the end insert “or”;
 - (b) omit paragraph (c) (and the “or” before it).
- (9) In rule 21 (notice of appeal)(**33**), in paragraph (2)—
- (a) in sub-paragraph (iii), for “(za), (zb), (a), (aa), (b), (c) or (e) to (g)” substitute “(za), (a), (b) or (c)”;
 - (b) in sub-paragraph (iv), omit “or (h)”.
- (10) In Schedule 3 (applications for registration)(**34**), omit paragraphs (ba) and (bb).

PART 2

Savings and transitional provision

Pending applications

27.—(1) Where a relevant application is received before exit day, any provision made by or under the 2001 Order (except for provision contained in Schedule 2B to the Order) continues to apply in relation to the application (including any appeal arising from it) without the amendments made by Part 1 of this Schedule.

- (2) In sub-paragraph (1) “relevant application” means an application for—
- (a) admission to a part of the register of qualified nurses, midwives and nursing associates,
 - (b) renewal of registration in that register,
 - (c) readmission to that register following lapse of registration, or
 - (d) restoration to that register following striking-off.

Visiting nurses, midwives and nursing associates: saving of old law for up to one year

28.—(1) Where, immediately before exit day—

(30) Rule 8 was substituted by [2011/2297](#). Relevant amending instrument is [S.I. 2018/838](#).

(31) Relevant amending instruments are [S.I. 2007/3101](#), [2014/1887](#), [2015/1923](#). There are other amending instruments but none is relevant.

(32) Relevant amending instruments are [S.I. 2015/1923](#), [2016/1030](#).

(33) Relevant amending instruments are [S.I. 2015/1923](#), [2016/1030](#).

(34) Relevant amending instrument is [S.I. 2007/3101](#).

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- (a) a visiting nurse or midwife was entitled under paragraph 4 or 7 of Schedule 2A to the 2001 Order to provide occasional services, or
- (b) the Registrar was in receipt of the required documents (within the meaning of paragraph 5 of that Schedule) from a nurse or midwife seeking to acquire that entitlement,

any provision made by or under the Order continues to apply in relation to the nurse or midwife without the amendments that the Part 1 of this Schedule makes to the provisions relating to visiting midwives and certain visiting nurses from relevant European states.

(2) But a visiting nurse or midwife’s entitlement does not continue (or further continue) under paragraph 7 of Schedule 2A to the 2001 Order on or after exit day (and, accordingly, the entitlement lapses at the end of the period mentioned in paragraph 8(1) or (2) of that Schedule).

(3) The reference in sub-paragraph (1) to “the provisions relating to visiting midwives and certain visiting nurses from relevant European states” is to the provisions listed in the following table.

<i>Act or instrument</i>	<i>Provision relating to visiting practitioners</i>
The 2001 Order	article 6(3)(aa)
	article 7(4)
	article 9(1) and (7)
	article 10(1) and (6)
	article 12A(11)
	article 19(2A) to (2D)
	article 37(1)(aa)
	article 39
	Schedule 2A
	in Schedule 4, the definitions of “competent authority”, “the Directive”, “exempt person”, “General Systems Regulations”, “national”, “relevant European State” and “visiting nurse or midwife from a relevant European State”
Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004	article 8
Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004	rule 2A
	rule 20(a) (so far as it relates to article 37(1)(aa) of the 2001 Order)
	rule 21(2)(a)(iii) (so far as it relates to article 37(1)(aa) of the 2001 Order)

29.—(1) Where—

- (a) a person had, immediately before exit day, the benefit of regulation 12 of the European Union (Recognition of Professional Qualifications) Regulations 2015 in respect of the provision by that person of services as a nurse or nursing associate (and article 39A(3) or 39C(3) of the 2001 Order accordingly applied to the person), and
- (b) the person continues to have that benefit on or after exit day,

any provision made by or under the 2001 Order continues to apply in relation to the provision of those services by that person without the amendments that Part 1 of this Schedule makes to the provisions relating to visiting general systems nurses and nursing associates from relevant European states.

(2) Sub-paragraph (1) ceases to apply in relation to a visiting nurse or nursing associate—

- (a) in respect of a part of the register in which the person is registered as required by article 39A(3) or 39C(3) of the 2001 Order, when the person's name is removed under article 39A(6) or 39C(6) of the Order;
- (b) in respect of any other part of the register, when the person's entitlement ceases by reason of the operation of article 39A(5) or 39C(5) of the 2001 Order.

(3) The reference in sub-paragraph (1) to “the provisions relating to visiting general systems nurses and nursing associates from relevant European states” is to the provisions listed in the table in paragraph 28(3), but as if—

- (a) the references to article 39 of, and Schedule 2A to, the 2001 Order were omitted, and
- (b) there were inserted at the appropriate place a reference to articles 39A and 39C of the 2001 Order.

European Professional Card

30.—(1) Sub-paragraph (2) applies where, immediately before exit day—

- (a) a person held a valid European professional card for establishment as a nurse in the United Kingdom, or
- (b) the Nursing and Midwifery Council was in receipt of a person's application for such a card, the application having been transmitted to it under Article 4d(1) of the Directive.

(2) For the purposes of registration in the register of qualified nurses, midwives and nursing associates, the person is not required to resubmit any document or evidence held by the Council which is derived from the person's IMI file and which does not appear to the Council to have become invalid.

(3) In this paragraph—

- (a) “the Directive” means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), as it had effect immediately before exit day;
- (b) “IMI file” has the meaning given by Schedule 4 to the 2001 Order as it had effect immediately before exit day.

31.—(1) Where, immediately before exit day, a person was entitled as mentioned in paragraph 15(2) of Schedule 2B to the 2001 Order, any provision made by or under that Order continues to apply in relation to the person without the amendments made by Part 1 of this Schedule to the provisions relating to the provision of occasional nursing services by holders of a European professional card.

(2) For the purposes of paragraph 15(4)(a) of Schedule 2B to the 2001 Order as it continues to apply by virtue of sub-paragraph (1)—

- (a) a European professional card that was transmitted as mentioned in paragraph 15(1)(a) of that Schedule is to be treated as becoming invalid on the expiry of the period of 18 months beginning with the day on which it was transmitted;
- (b) a European professional card that was issued as mentioned in paragraph 15(1)(b) of that Schedule is to be treated as becoming invalid on the expiry of the period of 12 months beginning with the day on which it was issued.

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(3) The reference in sub-paragraph (1) to “the provisions relating to the provision of occasional nursing services by holders of a European professional card” is to the provisions listed in the following table.

<i>Act or instrument</i>	<i>Provision relating to visiting practitioners</i>
The 2001 Order	article 6(3)(aa)
	article 7(4)
	article 10(1) and (6)
	article 19(2A) to (2D)
	article 39
	article 39B
	in Schedule 2B, paragraphs 2 (except the definitions of “automatically recognised nurse”, “EPC holder” and “missing document”), 15 and 16
	in Schedule 4, the definitions of “competent authority”, “the Directive”, “European professional card”, “General Systems Regulations”, “IMI”, and “relevant European State”
Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004	article 8

32.—(1) A decision within article 37(1)(g) of the 2001 Order taken before exit day, or a failure within article 37(1)(h) of that Order arising before exit day, continues to be appealable for the purposes of article 37 of that Order (subject to the provisions of the Order) despite the revocation of article 37(1)(h) and (g).

(2) In disposing of such an appeal (or a further appeal under article 38 of the 2001 Order), the powers of the Council (or the court or sheriff) are, instead of those set out in article 37(9) (or 38(3)) of the 2001 Order, to—

- (a) dismiss the appeal, or
- (b) allow the appeal and—
 - (i) direct that such steps be taken as the Council (or the court or sheriff) thinks fit to draw the findings of the Council (or the court or sheriff) to the attention of the European Commission;
 - (ii) direct that the person in respect of whom the decision was taken (or the failure arose) is to be treated, for the purposes of paragraph 29(1)(a), as a person who held a valid European professional card for establishment as a nurse in the United Kingdom immediately before exit day,

and, in the case of an appeal under article 38, to make such order as to costs (or, in Scotland, expenses) as the court or sheriff thinks fit.

IMI alerts

33.—(1) Where an alert has been sent by the Nursing and Midwifery Council before exit day under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015, the decision to send the alert continues to be appealable for the purposes of article 37 of the 2001 Order despite the revocation of article 37(1)(f).

(2) In disposing of such an appeal (or a further appeal under article 38 of the 2001 Order), the powers of the Council (or the court or sheriff) are, instead of those set out in article 37(9) (or 38(3)) of the 2001 Order, to—

- (a) dismiss the appeal, or
- (b) allow the appeal and direct that such steps be taken as the Council (or the court or sheriff) thinks fit to draw the findings of the Council (or the court or sheriff) to the attention of the European Commission,

and, in the case of an appeal under article 38, to make such order as to costs (or, in Scotland, expenses) as the court or sheriff thinks fit.

Interpretation of saved provisions

34. Where a provision continues to apply by virtue of this Part, it is to be read as if—

(a) in Schedule 4 to the 2001 Order—

(i) there were substituted for the definition of “the Directive”—

““the Directive” means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), and any reference in this Order to the Directive or to any provision of the Directive is a reference to the Directive, or to that provision, as it had effect immediately before exit day;”;

(ii) there were inserted at the appropriate place—

““enforceable EU right” means a right recognised and available in domestic law, immediately before exit day, by virtue of section 2(1) of the European Communities Act 1972;”;

(iii) in the definition of “exempt person”, for paragraphs (a) to (c) there were substituted—

“(a) a person who, immediately before exit day, was a national of a relevant European State,

(b) a person who, immediately before exit day, was a national of the United Kingdom and, at that time, was seeking access to, or pursuing, the medical profession by virtue of an enforceable EU right, or

(c) a person who, immediately before exit day, was not a national of a relevant European State, but at that time was, by virtue of an enforceable EU right, entitled to be treated, for the purposes of access to and pursuit of the profession, no less favourably than a national of a relevant European State;”;

(iv) in the definition of “General Systems Regulations”, at the end there were inserted—

“—

(a) in relation to anything done before exit day, as they had effect at that time;

(b) otherwise, as (and only to the extent that) they have effect, on or after exit day, in relation to an entitlement which arose before exit day or arises as a result of something done before exit day;”;

(v) in the definition of “national”, for “is not” there were substituted “was not, immediately before exit day”;

(b) in any reference to a relevant European State other than the United Kingdom, the words “other than the United Kingdom” were omitted.

Status: *This is the original version (as it was originally made).*