

SCHEDULE 1

Article 2(1)

Amendments to the Nursing and Midwifery Order 2001

Amendments to article 3

- 1.—(1) In article 3 (the Nursing and Midwifery Council and its Committees)(1)—
- (a) for paragraph (9) substitute—

“(9) There shall be two committees of the Council, to be known as—

 - (a) the Investigating Committee; and
 - (b) the Fitness to Practise Committee.”.
 - (b) for paragraph (10) substitute—

“(10) The two committees mentioned in paragraph (9) are referred to in this Order as “the Practice Committees”.”;
 - (c) in paragraphs (11) and (17) for “statutory committees” substitute “Practice Committees”.

(2) Before 28th July 2017 paragraphs (9) and (10) of article 3 are to have effect without the amendments made by paragraph 1(1) and—

 - (a) in paragraph (9) as if the reference to—
 - (i) “four committees” was to “three committees”,
 - (ii) “the Midwifery Committee” was omitted; and
 - (b) in paragraph (10), as if the reference to “four committees” was to “three committees”.

Amendments to article 22

2. In article 22 (allegations)(2)—
- (a) in paragraph (4) for “a Practice Committee” substitute “the Fitness to Practise Committee”;
 - (b) omit paragraph (7);
 - (c) in paragraph (9)—
 - (i) for “26(7) or (11)” substitute “26(5A), (7) or (12)”,
 - (ii) after “33” insert “and of any warning issued under article 26(7A)(a)”;
 - (d) after paragraph (11) insert—

“(12) The Council may withhold from publication under paragraph (9), information concerning the physical or mental health of a person which the Council considers to be confidential.”.

Amendments to article 24

3. In article 24 (Screeners: supplementary provisions) in paragraph (3)(d)—
- (a) for “any Practice Committee” substitute “a Practice Committee”;
 - (b) for “Health Committee or Conduct and Competence Committee, as the case may be,” substitute “Fitness to Practise Committee”.

(1) Article 3 was amended by [S.I. 2008/1485](#), article 2(1), Schedule 1, paragraph 1.

(2) Article 22 was amended by [S.I. 2015/806](#), articles 32 and 37.

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Amendments to article 26

4. In article 26 (the Investigating Committee)(3)—

(a) in paragraph (2)(a), (b), (c) and (d) before “Committee”, wherever it appears, insert “Investigating”;

(b) after paragraph (5) insert—

“(5A) Where the Investigating Committee has concluded under paragraph (2)(d)(i) that there is a case to answer, it may, at any time until the allegation is considered by the Fitness to Practise Committee, agree with the person concerned that that person is to comply with such undertakings as the Investigating Committee considers appropriate.

(5B) Rules may make provision in connection with undertakings agreed under paragraph (5A) (including provision as to the actions which may be taken as a consequence of an undertaking being breached).”;

(c) for paragraph (6) substitute—

“(6) Where the Investigating Committee concludes under paragraph (2)(d)(i) that there is a case to answer but it does not agree undertakings under paragraph (5A), it must—

(a) undertake mediation; or

(b) refer the case—

(i) to Screeners for them to undertake mediation, or

(ii) to the Fitness to Practise Committee.”;

(d) in paragraph (6A) for “paragraph (6)(a) or (b)(i)” substitute “paragraph (5A), (6)(a) or (b)(i)”;

(e) after paragraph (7) insert—

“(7A) If the Investigating Committee concludes under paragraph (2)(d)(i) that there is no case to answer, it may—

(a) issue a warning to the person concerned; or

(b) give advice to that person in connection with any matter arising during the investigation of the allegation.

(7B) If the Investigating Committee issues a warning or gives advice under paragraph (7A), it must include in the notification referred to in paragraph (5)—

(a) details of that warning or advice;

(b) its reasons for issuing the warning or giving the advice;

(c) the period for which any warning will be published by the Council under article 22(9).”;

(f) in paragraph (11) for “Health Committee or Conduct and Competence Committee”, wherever it appears, substitute “Fitness to Practise Committee”.

Amendments to article 26A

5. In article 26A (exercise of Investigating Committee functions by the Registrar or officers of the Council)(4)—

(a) in paragraph (1) for “paragraphs (1), (2)(b) to (d), (5), (6) and (8)” substitute “paragraphs (1), (2)(b) to (d), (5), (5A), (6), (7A) and (8)”;

(3) Article 26 was amended by [S.I. 2014/3272](#), articles 2 and 5.

(4) Article 26A was inserted by [S.I. 2014/3272](#), articles 2 and 6.

- (b) in paragraph (2)—
 - (i) omit “or (iii)”,
 - (ii) for “Health Committee or to the Conduct and Competence Committee” substitute “Fitness to Practise Committee”.

Substitution of article 26B

6. For article 26B (review of decisions by the Council)(5) substitute—

“**26B.**—(1) The Council may review a decision—

- (a) that there is no case to answer made by the Investigating Committee under article 26(2)(d)(i);
- (b) that there is no case to answer made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (c) to agree undertakings with the person concerned made by the Investigating Committee under article 26(5A);
- (d) to agree undertakings with the person concerned made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (e) made pursuant to rules made under article 26(5B) that undertakings no longer apply and that the allegation must not be considered further.

(2) The Council may make rules in connection with carrying out reviews under paragraph (1).”.

Amendments to article 26C

7. In article 26C (exercise of Council functions by the Registrar or officers of the Council)(6)—
- (a) in paragraph (1) for “26B(a)” substitute “26B(1)”;
 - (b) in paragraph (2) for “Conduct and Competence Committee or to the Health Committee” substitute “Fitness to Practise Committee”.

Insertion of new article 26D

8. After article 26C (exercise of Council functions by the Registrar or officers of the Council) insert—

“**The Fitness to Practise Committee**

26D. The Fitness to Practise Committee must consider—

- (a) an allegation referred to it by the Council, Screeners or the Investigating Committee; and
- (b) an application for restoration referred to it by the Registrar.”.

Revocation of articles 27 and 28

9. Omit article 27 (the Conduct and Competence Committee)(7) and article 28 (the Health Committee).

(5) Article 26B was inserted by [S.I. 2014/3272](#), articles 2 and 6.

(6) Article 26C was inserted by [S.I. 2014/3272](#), articles 2 and 6.

(7) Article 27 was amended by [S.I. 2009/1182](#), article 4(1), Schedule 4, Part 6, paragraph 38(e).

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Amendment to article 28A

10. In paragraph (4) of article 28A (assessment of necessary knowledge of English)(**8**), for “Conduct and Competence Committee or the Health Committee” substitute “Fitness to Practise Committee”.

Amendments to article 29

11. In article 29 (orders of the Health Committee and the Conduct and Competence Committee)(**9**)—

- (a) for the heading substitute “Orders of the Fitness to Practise Committee”;
- (b) in paragraphs (1) and (3) for “Health Committee or the Conduct and Competence Committee, as the case may be,” substitute “the Fitness to Practise Committee”;
- (c) after paragraph (8) insert—
 - “(8A) If, at the time of making an order under paragraph (5)(b) or (c), the Fitness to Practise Committee is satisfied that, with effect from the date of the expiry of that order, it will not be necessary to—
 - (a) extend the period of the order;
 - (b) vary the order; or
 - (c) make any other order falling within article 29(5),the Committee may decide that article 30(1) does not apply to that order.”.

Amendments to article 30

12. In article 30 (review of orders by the Health Committee and the Conduct and Competence Committee)(**10**)—

- (a) for the heading substitute “Review of orders by the Fitness to Practise Committee”;
- (b) in paragraph (1)—
 - (i) at the beginning insert “Except where article 29(8A) applies,”;
 - (ii) for “by the Conduct and Competence Committee or the Health Committee, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee,” substitute “, the Fitness to Practise Committee”;
- (c) for paragraph (2) substitute—
 - “(2) On the application of the person concerned or otherwise, at any time an order made by the Fitness to Practise Committee under article 29(5)(b) to (d) is in force, the Fitness to Practise Committee may review the order and may take any of the steps referred to in paragraph (4).”;
- (d) in paragraph (7) for “Committee which made the order or, where appropriate, the Committee mentioned in article 33(3)(b)” substitute “Fitness to Practise Committee”;
- (e) in paragraph (8) for “Committee which made the order appealed from” substitute “Fitness to Practise Committee”;
- (f) in paragraph (9) for “a Practice Committee” substitute “the Fitness to Practise Committee”.

(8) Article 28A was inserted by [S.I. 2015/806](#), articles 32 and 38.

(9) Article 29 was amended by [S.I. 2015/806](#), articles 32 and 39.

(10) Article 30 was amended by [S.I. 2014/3272](#), articles 2 and 7.

Amendments to article 31

13. In article 31 (interim orders by a Practice Committee)(11)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) for “the Investigating Committee, Conduct and Competence Committee or to the Health Committee” substitute “a Practice Committee”,
 - (ii) in sub-paragraph (a)(ii) for “another Practice Committee” substitute “the Fitness to Practise Committee”,
 - (iii) in sub-paragraph (c) for “Conduct and Competence Committee or the Health Committee” substitute “Fitness to Practise Committee”;
- (b) in paragraph (2) before “Committee” insert “Practice”;
- (c) for paragraph (5)(a) substitute—
 - “(a) in a case falling within paragraph (1)(a)—
 - (i) when the Investigating Committee reaches a decision under article 26(2)(d)
 - (i) that there is no case to answer,
 - (ii) when the Investigating Committee agrees undertakings with the person concerned under article 26(5A),
 - (iii) where in respect of an allegation mentioned in article 22(1)(b), the Investigating Committee reaches a decision in respect of the allegation,
 - (iv) when the Fitness to Practise Committee reaches a decision in respect of the allegation in question;”;
- (d) in paragraph (6)—
 - (i) for “any Practice Committee to which the matter has been referred” substitute “where the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), by the Fitness to Practise Committee”,
 - (ii) in sub-paragraph (a) for “three months” substitute “six months”;
- (e) in paragraph (7) for “or any Practice Committee to which the matter has been referred” substitute “or, if the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), the Fitness to Practise Committee”;
- (f) for paragraph (9) substitute—
 - “(9) On such an application the court may—
 - (a) extend (or further extend) for up to 12 months the period for which the order has effect;
 - (b) replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the order as extended;
 - (c) replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the order as extended.”;
- (g) for paragraph (11) substitute—
 - “(11) For the purposes of paragraph (6), the first review—
 - (a) after the extension of an order by the court pursuant to paragraph (9)(a) or after the replacement of an order by the court pursuant to paragraph (9)(b) or (c), must take place within the period of 6 months beginning with the date on which the court extended that order or replaced the order, as the case may be;

(11) Article 31 was amended by [S.I. 2014/3272](#), articles 2 and 8.

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- (b) after the replacement of an interim conditions of practice order or an interim suspension order by a Practice Committee pursuant to paragraph (7)(d) or, as the case may be, paragraph (7)(e), must take place within the period of 6 months beginning with the date on which the replacement order was made.”;
- (h) for paragraph (12) substitute—
 - “(12) Where an order has effect under paragraph (2), (7) or (9), the court may, on an application being made by the person concerned—
 - (a) in the case of an interim suspension order—
 - (i) terminate the suspension,
 - (ii) replace the interim suspension order with an interim conditions of practice order;
 - (b) in the case of an interim conditions of practice order—
 - (i) revoke or vary any condition imposed by the order,
 - (ii) replace the interim conditions of practice order with an interim suspension order;
 - (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),and the decision of the court under any application under this paragraph shall be final.”.
- (i) in paragraphs (14) and (17) insert “Practice” before “Committee”;
- (j) in paragraph (15) for “any Practice Committee” substitute “a Practice Committee”.

Amendments to article 32

- 14.** In article 32 (investigation of allegations: procedural rules)(12)—
 - (a) in paragraph (1) for “Health Committee and the Conduct and Competence Committee” substitute “Fitness to Practise Committee”;
 - (b) in paragraph (2)—
 - (i) omit sub-paragraph (a),
 - (ii) in sub-paragraph (b) for “each Committee” substitute “the Fitness to Practise Committee”;
 - (iii) for sub-paragraph (h) substitute—
 - “(h) where an allegation is referred by the Council, Screeners or the Investigating Committee to the Fitness to Practise Committee, for the Council to give notice of that referral to, where they are known, any person referred to in article 25(2);”;
 - (iv) in sub-paragraph (j) for “a Committee” substitute “the Fitness to Practise Committee”;
 - (c) in paragraph (3) for “Committee concerned” substitute “Fitness to Practise Committee”;
 - (d) in paragraph (4) before “Committee” where it first appears insert “Fitness to Practise”.

(12) Article 32 was amended by [S.I. 2008/1485](#), articles 2(1), Schedule 1, paragraph 5.

Amendments to article 33

- 15.** In article 33 (restoration to the register of persons who have been struck off)(**13**)—
- (a) for paragraph (1) substitute—

“(1) Where a person has been struck off the register by virtue of an order made under article 29(5)(a), 30(1)(b) or 38(3)(c) and the person wishes to be restored to the register, that person must make an application for restoration to the Registrar.”;
 - (b) in paragraph (2)(a) for “article 29, 30 or 38” substitute “article 29(5)(a), 30(1)(b) or 38(3)(c);
 - (c) for paragraph (3) substitute—

“(3) An application for restoration must be referred by the Registrar to the Fitness to Practise Committee for determination.”;
 - (d) in paragraph (9) for “Committee which determined that application” substitute “Fitness to Practise Committee”;
 - (e) in paragraph (11) for “Committee which made the direction under paragraph (9)” substitute “Fitness to Practise Committee for determination”.

Amendment to article 37

- 16.** In article 37 (appeals against Registrar’s decisions)(**14**)—
- (a) in paragraph (6) for “the Committee concerned” substitute “the Fitness to Practise Committee”;
 - (b) omit paragraph (8).

Amendment to article 38

- 17.** In article 38 (appeals)(**15**)—
- (a) in paragraph (1)(a) for “Health Committee or the Conduct and Competence Committee” substitute “Fitness to Practise Committee”;
 - (b) in sub-paragraphs (c) and (d) of paragraph (3) for “Practice Committee concerned” substitute “Fitness to Practise Committee”.

Revocation of Part 8

- 18.** Omit Part 8 (Midwifery).

Amendments to Schedule 1

- 19.** In Schedule 1 (the Nursing and Midwifery Council and Committees)(**16**)—
- (a) in paragraph 12(1)(c) omit “and the Midwifery Committee”;

(13) Article 33 was amended by [S.I. 2014/1887](#), article 2(1), Schedule 1, Part 7, paragraphs 23 and 27 and by [S.I. 2015/806](#), articles 32 and 40.

(14) Article 37 was amended by [S.I. 2007/3101](#), regulations 155 and 166, [S.I. 2008/1485](#), article 2(1), Schedule 1, paragraph 6, [S.I. 2009/1182](#), article 4(1), Schedule 4, Part 6, paragraph 38(f), [S.I. 2014/1887](#), article 2(1), Schedule 1, Part 7, paragraphs 23 and 28, [S.I. 2014/3272](#), articles 2 and 9 and by [S.I. 2015/806](#), articles 32 and 41.

(15) Article 38 was amended by [S.I. 2007/3101](#), regulations 155 and 167.

(16) Schedule 1 was amended by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), section 187(8), Schedule 12, paragraph 7, by the Health Act 2006 (c.28), section 80(1) and (2), Schedule 8, paragraph 47 and Schedule 9 and by the Health and Social Care (Safety and Quality) Act 2015 (c. 28), section 5(2), Schedule, paragraph (5). It was also amended by [S.I. 2008/1485](#), article 2(1), Schedule 1, paragraph 10; [S.I. 2009/1182](#), article 4(1), Schedule 4, Part 6, paragraph 38(g) and by [S.I. 2013/235](#), article 11, Schedule 2, Part 1, paragraph 51(1) and (2).

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- (b) in paragraph 15—
 - (i) in sub-paragraph (2)(h) for “statutory committee” substitute “Practice Committee”,
 - (ii) in sub-paragraph (4) for “any statutory committee” substitute “a Practice Committee”;
- (c) for the heading of Part II substitute “The Practice Committees”;
- (d) omit paragraph 16;
- (e) in paragraph 17(1)(a) omit “size and”;
- (f) in paragraph 18—
 - (i) for sub-paragraph (10A) substitute—

“(10A) In exercising a function under article 26D, 29, 30 or 33, the Fitness to Practise Committee (or any panel by which the function is exercisable as mentioned in paragraph 17(1A) of this Schedule) must have regard to the over-arching objective.”;
 - (ii) omit sub-paragraph (10B),
 - (iii) in sub-paragraph (10C) for “sub-paragraphs (10A) and (10B) to the over-arching objective are” substitute “sub-paragraph (10A) to the over-arching objective is”.

Amendment to Schedule 2

- 20.** In Schedule 2 (transitional provisions)(17) omit paragraph 18.

Amendments to Schedule 4

- 21.** In Schedule 4 (interpretation)—
- (a) in the definition of “lay member” for “statutory committee” substitute “Practice Committee”;
 - (b) omit the definition of “local supervising authority”;
 - (c) for the definition of “Practice Committees” substitute—

““Practice Committees” has the meaning given to it in article 3(10);”;
 - (d) omit the definition of “statutory committees”.

(17) Schedule 2 was amended by [S.I. 2002/2469](#), regulation 4, Schedule 1, Part 2, paragraph 100 and by [S.I. 2008/1485](#), article 2(1), Schedule 1, paragraph 12(2).