
STATUTORY INSTRUMENTS

1996 No. 3101

NURSES, MIDWIVES AND HEALTH VISITORS

The Nurses, Midwives and Health Visitors
Act 1979 (Amendment) Regulations 1996

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| <i>Made</i> | - - - - | <i>10th December 1996</i> |
| <i>Laid before Parliament</i> | | <i>10th December 1996</i> |
| <i>Coming into force</i> | - - | <i>31st December 1996</i> |

The Secretary of State, being designated for the purposes of, and in exercise of the powers conferred by, section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Nurses, Midwives and Health Visitors Act 1979 (Amendment) Regulations 1996 and shall come into force on 1996.

(2) In these Regulations “the Act” means the Nurses, Midwives and Health Visitors Act 1979⁽²⁾.

Admission to register of persons qualified in other EEA States

2.—(1) In subsection (3)(b) of section 11 of the Act (admission to register), for the words “any member State of the European Communities” and “a member State” there are substituted the words “any EEA State” and “an EEA State” respectively.

(2) After subsection (3A) of that section⁽³⁾ there is inserted the following subsection—

“(3B) Any person who—

(a) is not a national of an EEA State, but

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- (1) 1972 c. 68. See S.I. 1995/3207, article 2 and the Schedule, which designates the Secretary of State for the purposes of section 2(2) in respect of measures relating to the access to, the training for, the pursuit of, and the award of qualifications in the professions of dentistry, medicine, midwifery, nursing and pharmacy and their specialities. By virtue of the amendment of section 1(2) of the European Communities Act made by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area.
- (2) 1979 c. 36; relevant amendments have been made by the Nurses, Midwives and Health Visitors Act 1992 (c. 16), and S.I. 1983/884 and 1984/1975.
- (3) Subsection (3A) was inserted by S.I. 1983/884, article 3, and amended by S.I. 1984/1975, article 2.

(b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68⁽⁴⁾ or any other enforceable Community right, entitled to be treated, for the purposes of access to the nursing profession, or the profession of midwifery, no less favourably than a national of such a State,

shall be treated for the purposes of subsection (3)(b) above as if he were such a national.”

(3) At the end of subsection (4A) of that section⁽⁵⁾ there are inserted the words “or such longer period as may be permitted in his case by Article 10 of the Nursing Directive or Article 11 of the Midwifery Directive”.

(4) For subsection (5) of that section there is substituted the following subsection—

“(5) In this Act—

“the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁶⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁷⁾;

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

“national”, in relation to an EEA State, means the same as it does for the purposes of the Community Treaties.”

Visiting EEA nurses and midwives

3.—(1) In subsection (1) of section 22B of the Act (visiting EEA nurses and midwives)⁽⁸⁾ —

(a) for the words “EEC nurse” and “EEC midwife” there are substituted the words “EEA nurse” and “EEA midwife” respectively; and

(b) for the words “any member State” and “a member State” there are substituted the words “any EEA State” and “an EEA State” respectively.

(2) After that subsection there is inserted the following subsection—

“(1A) Any person who—

(a) is not a national of an EEA State, but

(b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated, for the purposes of access to the nursing profession, or the profession of midwifery, no less favourably than a national of such a State,

shall be treated for the purposes of subsection (1) above as if he were such a national.”

(3) In subsection (2) of that section, for the words “EEC nurse” and “EEC midwife” there are substituted the words “EEA nurse” and “EEA midwife” respectively.

(4) In subsections (3) and (4) of that section, for the words “member States” and “member State” there are substituted the words “EEA States” and “EEA State” respectively.

(5) For subsection (5) of that section there are substituted the following subsections—

“(5) For the purposes of this Act—

‘competent authority’, in relation to an EEA State, means the authority or body designated by that State as competent for the purposes of the Nursing Directive or, as the case may be, the Midwifery Directive;

(4) O.J. No. L257, 19.10.68, p. 1 (amended by Council Regulation (EEC) No. 312/76 O.J. No. L39, 14.2.76, p. 2).

(5) Subsection (4A) was inserted by S.I. 1983/884, article 3.

(6) Cm 2073 and O.J. No. L1, 3.1.1994, p. 3.

(7) Cm 2183 and O.J. No. L1, 3.1.1994, p. 572.

(8) Section 22B was inserted by S.I. 1983/884, article 6.

‘Nursing Directive’ means Council Directive No. [77/452/EEC](#), concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of nurses responsible for general care, as adapted, amended or extended by the Accession of Greece Act, Council Directive No. [81/1057/EEC](#)(**9**), the Accession of Spain and Portugal Act, Council Directives Nos. [89/594/EEC](#)(**10**), [89/595/EEC](#)(**11**) and [90/658/EEC](#)(**12**), the EEA Agreement and the Accession of Austria, Finland and Sweden Act; ‘Midwifery Directive’ means Council Directive No. [80/154/EEC](#), concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications in midwifery, as adapted, amended or extended by Council Directive No. [80/1273/EEC](#)(**13**), the Accession of Spain and Portugal Act, Council Directives Nos. [89/594/EEC](#) and [90/658/EEC](#), the EEA Agreement and the Accession of Austria, Finland and Sweden Act; and ‘EEA Agreement’, ‘EEA State’ and ‘national’ shall be construed in accordance with section 11(5).

(6) For the purposes of this section—

‘the Accession of Greece Act’ means the Act annexed to the Treaty relating to the accession of the Hellenic Republic to the European Community signed at Athens on 28th May 1979(**14**);

‘the Accession of Spain and Portugal Act’ means the Act annexed to the Treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Community signed at Madrid and Lisbon on 12th June 1985(**15**);

‘the Accession of Austria, Finland and Sweden Act’ means the Act annexed to the Treaty relating to the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, signed at Corfu on 24th June 1994(**16**), as adjusted by the Decision of the Council of the European Union of 1st January 1995 adjusting the instruments concerning the accession of new member States to the European Union(**17**).”

Minor and consequential amendments

4.—(1) In section 11A of the Act (deemed registration of visiting EEC nurses and midwives)(**18**), for the words “EEC nurse” and “EEC midwife” there are substituted the words “EEA nurse” and “EEA midwife” respectively.

(2) In section 12 of the Act (removal from, and restoration to, register)(**19**), for the words “EEC nurse”, “EEC nurses” and “EEC midwife” there are substituted the words “EEA nurse”, “EEA nurses” and “EEA midwife” respectively.

(3) In paragraph (a) of section 22A of the Act (Community documents)(**20**), for the words “member State” there are substituted the words “EEA State”.

(9) O.J. No. L385, 31.12.1981, p. 25.

(10) O.J. No. L341, 23.11.1989, p. 19.

(11) O.J. No. L341, 23.11.1989, p. 30.

(12) O.J. No. L353, 17.12.1990, p. 73.

(13) O.J. No. L375, 31.12.1980, p. 74.

(14) O.J. No. L291, 19.11.1979, p. 91.

(15) O.J. No. L302, 15.11.1985, p. 160.

(16) O.J. No. C241, 29.8.1994, p. 21. Norway did not ratify the Treaty.

(17) O.J. No. L1, 1.1.1995, p. 1. See the Annex (XI) (D) (III) (2) and (5).

(18) Section 11A was inserted by S.I. [1983/884](#), article 4.

(19) Section 12 has been amended by sections 7 and 8 of the Nurses, Midwives and Health Visitors Act [1992](#) (c. 16) and section 12A was inserted by section 9 of the 1992 Act; subsections (2A) and (2B) were inserted by S.I. [1983/884](#), article 5(1).

(20) Section 22A was inserted by S.I. [1983/884](#), article 6.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Department of Health
10th December 1996

Stephen Dorrell
One of Her Majesty's Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend sections 11 and 22B of the Nurses, Midwives and Health Visitors Act 1979 (“the Act”) so as to ensure that a nurse responsible for general care or a midwife who is not an EEA national but who holds a qualification which the United Kingdom is required by Directive [77/452/EEC](#) or [80/154/EEC](#) to recognise where it is held by an EEA national, is treated, for the purposes of section 11 (registration) or section 22B(1) (visiting EEA nurses and midwives), as if he were an EEA national (articles 48 and 52 of the Treaty of Rome and article 11 of Council Regulation [\(EEC\) No. 1612/68](#) (O.J. No. L257, 19.10.68, p. 1)).

In order to avoid apparent inconsistencies with new provisions, it also changes existing references in the Act to member States of the European Communities to references to EEA States (i.e. those who are Contracting Parties to the Agreement on the European Economic Area). Related expressions are also amended accordingly. The Agreement on the European Economic Area came into force on the 1st January 1994 (1st May 1995 for Liechtenstein) the Contracting Parties to which are the EU member States and Norway, Iceland and Liechtenstein. (Austria, Sweden and Finland are Contracting Parties having signed before acceding to the European Union of which they have been member States since the 1st January 1995). In accordance with the European Economic Area Act [1993 \(c. 51\)](#) provisions in the 1979 Act relating to the European Communities have, where appropriate, had effect in relation to the European Economic Area since the date the Agreement came into force.