
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, as respects proceedings in Great Britain, approves the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1993, which are set out in the Schedule. The Order comes into force on 1st April 1993 and, in pursuance of section 22(4) of the Nurses, Midwives and Health Visitors Act 1979, the Rules come into force as respects Great Britain on that date; a further Order, made by the Lord Chief Justice of Northern Ireland, is required to bring them into force as respects Northern Ireland.

The Rules revoke and replace, with amendments, the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987. Most of the amendments arise as a consequence of the Nurses, Midwives and Health Visitors Act 1992 which, among other matters, transferred from the National Boards to the Council the obligation to investigate allegations of misconduct; gave to the Council power to caution practitioners as to their future conduct and power to suspend practitioners' registration. Rule 7 constitutes a Preliminary Proceedings Committee ("PPC") which will investigate and give initial consideration to allegations of misconduct; a caution may be issued by this Committee after admission by a practitioner of the facts alleged and that they amount to misconduct (rule 9). The PPC will refer to the Professional Conduct Committee ("PCC") those cases which appear to justify removal from the register. The PPC may refer cases to the professional screeners for assessment of a practitioner's fitness to practise (rule 9). The power to caution is also given to the PCC (rule 12) though not to the Health Committee. The Health Committee may suspend a practitioner's registration (rule 46) though it retains the alternative power to remove the practitioner from the register (rule 29). All three Committees are granted a new power to direct the interim suspension of a practitioner's registration (rule 58) in circumstances in which it is thought necessary for the protection of the public or in the interests of the practitioner.

The PPC, the President and the PCC may refer cases of alleged misconduct to the professional screeners (rules 8, 14 and 24). The professional screeners are given a new discretion to assess the suitability of cases for consideration by the Health Committee and to return those which they deem unsuitable to the referring Committee (rule 34). The procedure to be followed where a practitioner is required to answer allegations of misconduct and matters evidenced by conviction has changed so that the PCC will first consider all other matters before addressing a conviction (rule 19). Rule 28 provides that the Council will keep for a period of five years a record of any caution issued. All practitioners the subject of consideration by the PPC will be informed, if not before the Committee's consideration, then afterwards, of the outcome (rule 9). The complainant no longer has a right to prosecute allegations before the PCC (rule 13). Where a practitioner admits misconduct the Committee considering the case will, nevertheless, be required to make a determination as to whether, in its view, the practitioner is guilty of misconduct (rule 9 and rule 18). The transitional provision (rule 61) provides that the Rules will apply to all allegations already the subject of consideration on the date the Rules become effective; all new powers given in the Rules may be exercised in relation to all such cases.