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STATUTORY INSTRUMENTS

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**2002 No. 253**

**NURSES AND MIDWIVES**

**The Nursing and Midwifery Order 2001**

*Made* - - - - *12th February 2002*

*Coming into force*

*articles 1 and 54(4)* *12th February 2002*  
*remainder in accordance*  
*with article 1(2)*

At the Court at Buckingham Palace, the 12th day of February 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by a resolution of each House of Parliament in accordance with section 62(9) of the Health Act 1999<sup>(1)</sup>;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4)<sup>(2)</sup> of that Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**PART I**

**GENERAL**

**Citation and commencement**

1.—(1) This Order may be cited as the Nursing and Midwifery Order 2001.

(2) This article and article 54(4) come into force on the day on which this Order is made and the other provisions of this Order shall come into force on such day as the Secretary of State may specify.

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(1) 1999 c. 8. An earlier draft of this Order was published for consultation in accordance with paragraph 9(1) of Schedule 3 to the Health Act.

(2) Section 62(4) applies section 126 of the National Health Service Act 1977, relevant amendments to which are made by the Health Act 1999.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

#### Commencement Information

**I1** Art. 1 in force at made date, see [art. 1\(2\)\(3\)](#)

#### Interpretation

2. This Order is to be interpreted in accordance with Schedule 4.

#### Commencement Information

- I2** [Art. 2](#) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I3** [Art. 2](#) in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see [art. 1\(2\)\(3\)](#)
- I4** [Art. 2](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I5** [Art. 2](#) in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)
- I6** [Art. 2](#) in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

## PART II

### THE COUNCIL AND ITS COMMITTEES

#### The Nursing and Midwifery Council and its Committees

3.—(1) There shall be a body corporate known as the Nursing and Midwifery Council (referred to in this Order as “the Council”).

(2) The principal functions of the Council shall be to establish from time to time standards of education, training, conduct and performance for nurses and midwives and to ensure the maintenance of those standards.

(3) The Council shall have such other functions as are conferred on it by this Order or as may be provided by the Privy Council by order.

(4) The main objective of the Council in exercising its functions shall be to safeguard the health and well-being of persons using or needing the services of registrants.

[<sup>F1</sup>(5) In exercising its functions, the Council shall—

- (a) have proper regard for—
  - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and
  - (ii) any differing interests of different categories of registrants;
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—

- (i) the employment (whether or not under a contract of service) of registrants,
- (ii) the education or training of nurses, midwives or other health care professionals,
- (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
- (iv) the regulation of health services, and
- (v) the provision, supervision or management of health services.

(5A) In carrying out its duty to co-operate under paragraph (5)(b), the Council shall have regard to any differing considerations relating to practising as a nurse or midwife which apply in England, Scotland, Wales or Northern Ireland.

(5B) In paragraph (5), “health care professionals” means persons regulated by a body, other than the Council, mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (which relates to the Council for the Regulation of Health Care Professionals).]

(6) Before making any order under paragraph (3), the Privy Council shall consult the Council.

<sup>F2</sup>(7) .....

[<sup>F3</sup>(7A) The Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of Schedule 1.]

(8) Part I of Schedule 1 shall have effect with respect to the constitution of the Council [<sup>F4</sup>and orders of the Privy Council under paragraph (7A)].

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

- (a) the Investigating Committee;
- (b) the Conduct and Competence Committee;
- (c) the Health Committee; and
- (d) the Midwifery Committee.

(10) The four committees are referred to in this Order as “the statutory committees”.

(11) Each of the statutory committees shall have the functions conferred on it by this Order.

(12) The Council may establish such other committees as it considers appropriate in connection with the discharge of its functions and delegate any of its functions to them, other than any power to make rules.

(13) The Council shall inform and educate registrants, and shall inform the public, about its work.

(14) Before establishing any standards or giving any guidance under this Order the Council shall consult representatives of any group of persons it considers appropriate including, as it sees fit, representatives of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; and
- (d) persons providing, assessing or funding education or training for registrants or prospective registrants.

(15) The Council shall publish any standards it establishes and any guidance it gives.

(16) Paragraphs (14) and (15) do not apply to guidance given to an individual which is particular to him.

(17) Part II of Schedule 1 shall have effect with respect to the statutory committees.

(18) Nothing in this Order shall require or permit any disclosure of information which is prohibited by or under any other enactment.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

### Textual Amendments

- F1** Art. 3(5)-(5B) substituted for art. 3(5) (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), **Sch. 1 para. 1(a)**
- F2** Art. 3(7) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 1(b)**
- F3** Art. 3(7A) inserted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 1(c)**
- F4** Words in art. 3(8) inserted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 1(d)**

### Commencement Information

- I7** Art. 3(1)-(7), (9)(d), (12)-(16), (18) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**
- I8** Art. 3(8)(10)(11)(17) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**
- I9** Art. 3(8)(11)(17) in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I10** Art. 3(9)(10) in force at 22.1.2003 in so far as not already in force as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I11** Art. 3(11)(17) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**
- I12** Art. 3(8) in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see **art. 1(2)(3)**

## PART III REGISTRATION

### Registrar

4.—(1) The Council shall appoint a Registrar who shall hold office for such period and on such terms as the Council may determine.

(2) The Registrar shall have such functions as the Council may direct.

(3) The terms on which the Registrar holds office may, in addition to providing for his remuneration, include provision for the payment of such pensions, allowances or gratuities to or in respect of him, or such contributions or payments towards provision for such pensions, allowances or gratuities, as may be determined by the Council.

(4) Where the terms on which the Registrar holds office include provision for the payment to him of any allowances or expenses, the rate at which those allowances or expenses are paid shall be determined by the Council.

(5) If the Council appoints a deputy or assistant Registrar and that deputy or assistant Registrar is authorised by the Registrar to act for him in any matter, any reference in this Order to “the Registrar” shall include a reference to that deputy or assistant Registrar.

### Commencement Information

- I13** [Art. 4](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### Establishment and maintenance of register

**5.—(1)** In accordance with the provisions of this Order the Council shall establish and maintain a register of qualified nurses and midwives.

(2) The Council shall from time to time—

- (a) establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register; and
- (b) prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Registrar that an applicant is capable of safe and effective practice as a nurse or midwife.

(3) The Council shall—

- (a) before prescribing the requirements mentioned in paragraph (2)(b), consult <sup>F5</sup>... the persons referred to in article 3(14); and
- (b) publish those requirements.

(4) The register shall show, in relation to each registrant, such address and other details as the Council may prescribe.

(5) In any enactment or instrument (past or future and including this Order), except where the context otherwise provides, “registered” in relation to nurses and midwives means registered in the register maintained under this article by virtue of qualifications in nursing or midwifery, as the case may be.

### Textual Amendments

- F5** Words in [art. 5\(3\)\(a\)](#) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), [art. 1\(2\)\(e\)](#), [Sch. 4 para. 38\(a\)](#)

### Commencement Information

- I14** [Art. 5\(2\)\(b\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I15** [Art. 5\(3\)\(a\)](#) in force at 7.7.2003 for specified purposes as notified in the London Gazette (Issue 56984, published 27.6.2003), see [art. 1\(2\)\(3\)](#)
- I16** [Art. 5](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

### Register

**6.—(1)** The register shall be divided into such parts as the Privy Council may by order determine, on a proposal by the Council or otherwise, and in this Order, references to parts of the register are to the parts so determined.

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(2) Each part shall have a designated title indicative of different qualifications and different kinds of education or training and a registrant is entitled to use the title corresponding to the part of the register in which he is registered.

(3) Subject to article 7, the Privy Council may by order, on a proposal by the Council or otherwise, make such other provision in connection with the register as it considers appropriate and in particular may provide for—

- (a) the register to include entries indicating the possession of qualifications (whether or not they are approved qualifications) or competence in a particular field or at a particular level of practice, or for the use of a particular category of entry to be discontinued;
- [<sup>F6</sup>(aa) the register to include an annotation denoting that a registrant is a visiting nurse or midwife from a relevant European State;]
- (b) persons to be registered in one or more parts of the register by virtue of having been included in the register maintained under the 1997 Act;
- (c) the recording of additional entries by virtue of their having been in the register maintained under the 1997 Act;
- (d) a specified part of the register to be closed, as from a date specified in the order, so that on or after that date no further person may become registered in that part;
- (e) a specified part of the register to be sub-divided into two or more parts, or for two or more parts to be combined into one;
- (f) persons to be registered in one or more parts of the register by virtue of having been registered in a part or parts of the register which have been closed, sub-divided or combined;
- (g) the register to include a part or parts for specialists in community and public health;
- (h) the recording in Welsh of titles, qualifications and other entries referred to in this paragraph in respect of those members of the professions regulated by this Order whose registered address is in Wales.

(4) The Privy Council, except where acting in accordance with a proposal made by the Council, shall consult the Council before making, varying or revoking any order under this article.

(5) Before making any proposal referred to in paragraph (1) or (3), the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed order.

#### Textual Amendments

**F6** [Art. 6\(3\)\(aa\)](#) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **156**

#### Commencement Information

**I17** [Art. 6](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I18** [Art. 6](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### [<sup>F7</sup>Temporary annotations with regard to emergencies involving loss of human life or human illness etc.

**6A.—(1)** If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this article, the Registrar may make—

- (a) an annotation in the register against the name of a registrant to indicate that the registrant is qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that the registrant is not so qualified, if the Registrar considers that the registrant is a fit, proper and suitably experienced person to order drugs, medicines and appliances in that capacity with regard to the emergency;
  - (b) annotations in the register against the names of registrants comprising a specified group of registrants to indicate that they are qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that they are not so qualified, if the Registrar considers that the group is comprised of registrants who are of a type who may reasonably be considered fit, proper and suitably experienced persons to order drugs, medicines and appliances in that capacity with regard to the emergency.
- (2) The Registrar may make the annotation in such a way so as to distinguish registrants against whose names in the register annotations are made by virtue of paragraph (1) from registrants in respect of whom the annotation is made otherwise than by virtue of paragraph (1).
- (3) Annotations made by virtue of paragraph (1)—
- (a) must be removed by the Registrar if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to advise the Registrar as mentioned in paragraph (1) no longer exist;
  - (b) may be removed by the Registrar at any time, including where the Registrar has grounds for suspecting that the registrant’s fitness to order drugs, medicines or appliances may be impaired.
- (4) A registrant against whose name in the register an annotation is made by virtue of paragraph (1)(b) as one of a specified group may have that annotation removed without the Registrar removing the equivalent annotations against the names of the other members of the group or by virtue of a decision to remove the annotations made by virtue of paragraph (1)(b) against the names of all the members of the group.
- (5) For the purposes of this article, “emergency” means an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004 (meaning of “emergency”), read with [F<sup>8</sup>subsection (2)(a) and (b)] of that section.]

#### Textual Amendments

- F7** Art. 6A inserted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), [Sch. 1 para. 2](#)
- F8** Words in art. 6A(5) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(b\)](#)

#### The register: supplemental provisions

- 7.—(1) The Council shall make rules in connection with registration and the register, and as to the payment of fees.
- (2) The rules shall, in particular, make provision as to—
- (a) the form and keeping of the register;
  - (b) the procedure for the making, alteration and deletion of entries in the register;
  - (c) the form and manner in which applications are to be made and the fee to be charged—
    - (i) for registration, renewal of registration and readmission to the register,
    - (ii) for the making of any additional entry in the register, and

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(iii) for registration to lapse;

(d) the documentary and other evidence which is to accompany applications of the kind mentioned in sub-paragraph (c).

(3) Before determining or varying any fees mentioned in paragraph (2)(c) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.

[<sup>F9</sup>(4) Rules under this article shall not provide for fees to be charged in respect of a person's registration in exercise of entitlement under article 39A or Schedule 2A (visiting nurses and midwives from relevant European States).]

[<sup>F10</sup>(5) Rules may not be made under this article in connection with annotations made under article 6A.]

#### Textual Amendments

**F9** Art. 7(4) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **157**

**F10** Art. 7(5) inserted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), **Sch. 1 para. 3**

#### Commencement Information

**I19** Art. 7 in force at 5.3.2004 as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

#### Access to register etc.

8.—(1) The Council shall make the register available for inspection by members of the public at all reasonable times.

(2) The Council shall publish the register maintained by it in such manner, and at such times, as it considers appropriate.

(3) Any copy of, or extract from, the published register shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

(4) A certificate purporting to be signed by the Registrar, certifying that a person—

(a) is registered in a specified category;

(b) is not registered;

(c) was registered in a specified category at a specified date or during a specified period;

(d) was not registered in a specified category, or in any category, at a specified date or during a specified period; or

(e) has never been registered,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

(5) On application by a registrant who wishes to practise in another [<sup>F11</sup>relevant European State], the Council shall provide him with such documentary evidence as is required by [<sup>F12</sup>the relevant provisions of the Directive].

#### Textual Amendments

**F11** Words in [art. 8\(5\)](#) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **158(a)**

**F12** Words in art. 8(5) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **158(b)**

#### **Commencement Information**

**I20** Art. 8 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

### **Registration**

9.—(1) [<sup>F13</sup>Subject to paragraph (7), a person] seeking admission to a part of the register must apply to the Council and, subject to the provisions of this Order, if he satisfies the conditions mentioned in paragraph (2) he shall be entitled to be registered in that part.

(2) Subject to paragraph (3), the conditions are that the application is made in the prescribed form and manner and that the applicant—

- (a) satisfies the Registrar that he holds an approved qualification awarded—
  - (i) within such period, not exceeding five years ending with the date of the application, as may be prescribed, or
  - (ii) before the prescribed period mentioned in head (i), and he has met such requirements as to additional education, training and experience as the Council may specify under article 19(3) and which apply to him;
- (b) satisfies the Registrar in accordance with the Council's requirements mentioned in article 5(2) that he is capable of safe and effective practice as a nurse or midwife; and
- (c) has paid the prescribed fee.

(3) Where the applicant is already registered in the register and wishes to be registered in an additional part of the register or to have additional entries recorded, paragraph (2)(a) shall apply only to the qualifications on which his application is based.

[<sup>F14</sup>(3A) Where an exempt person makes an application under paragraph (1), the Registrar, within the period of one month beginning with the date of receipt of the application, must—

- (a) acknowledge receipt of the application; and
- (b) inform the applicant of any missing document required for the purposes of the application.]

[<sup>F15</sup>(4) Where a person makes an application under paragraph (1), the Registrar must, as soon as reasonably practicable and in any event within the specified period, notify the applicant in writing—

- (a) of the result of the application; and
- (b) if the Registrar refuses the application, of the reasons for the decision, and of the applicant's right of appeal.

(5) In paragraphs (4) and (6) “the specified period”—

- (a) except in a case specified in sub-paragraph (b), means the period of three months beginning with the relevant date;
- (b) in the case of an application by a person seeking registration in the register on the basis that he is to be regarded as having an approved qualification by virtue of falling within article 13(1)(e) or (f), means the period of four months beginning with the relevant date.

(5A) The “relevant date”, in relation to an application, is—

- (a) the date when the Registrar receives the application; or
- (b) if any document required for the purposes of the application is missing when the Registrar receives the application, the date on which the Registrar first has all the documents required for those purposes.]

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(6) Failure to notify the applicant of the Registrar's decision within [<sup>F16</sup>the specified period] shall be treated as a decision from which the applicant may appeal under article 37.

[<sup>F17</sup>(7) This article does not apply to a person who seeks registration in exercise of entitlement under article 39A or Schedule 2A (visiting nurses and midwives from relevant European States).]

#### Textual Amendments

- F13** Words in art. 9(1) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(a)**
- F14** Art. 9(3A) inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(b)**
- F15** Art. 9(4)-(5A) substituted for art. 9(4) (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(c)**
- F16** Words in art. 9(6) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(d)**
- F17** Art. 9(7) inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **159(e)**

#### Commencement Information

- I21** Art. 9(2)(a)(i) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I22** Art. 9 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

### Renewal of registration and readmission

**10.**—(1) [<sup>F18</sup>Subject to paragraph (6), where a person] is registered and wishes to renew his registration at the end of a prescribed period, he shall make an application for renewal to the Registrar in accordance with rules made by the Council.

(2) The Registrar shall grant the application for renewal if the applicant—

- (a) meets the conditions set out in article 9(2)(b) and (c);
- (b) satisfies the Registrar that he has met any prescribed requirements for continuing professional development within the prescribed time; and
- (c) where he has not practised, or has practised for less than the prescribed period, since his first registration or, as the case may be, his latest renewal, has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

(3) Where an applicant does not satisfy the Registrar that he has met the requirements mentioned in paragraph (2)(b) or (c), the Registrar may renew the applicant's registration on condition that he satisfy those requirements within a specified time and if the person fails to comply with the condition, subject to articles 12(3) and 37(3), his registration shall lapse and, in accordance with prescribed procedure, his name shall be removed from the register.

(4) Where a person's registration has lapsed, he may apply to the Registrar to be readmitted and the Registrar shall grant the application if—

- (a) the applicant meets the conditions set out in article 9(2)(b) and (c); and
- (b) he satisfies the Registrar that he has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

(5) Article 9(4) to (6) shall apply to applications made under this article.

[<sup>F19</sup>(6) This article does not apply to a visiting nurse or midwife from a relevant European State.]

**Textual Amendments**

**F18** Words in [art. 10\(1\)](#) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **160(a)**

**F19** [Art. 10\(6\)](#) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **160(b)**

**Commencement Information**

**I23** [Art. 10\(1\)\(2\)\(b\)\(c\)\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I24** [Art. 10](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**Deemed registration of visiting EEA nurses and midwives**

<sup>F20</sup>**11.** . . . . .

**Textual Amendments**

**F20** [Art. 11](#) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **161**

**Lapse of registration**

**12.—(1)** The Council may make rules providing for the procedure by which and the circumstances in which a registrant’s name may be removed from the register on his own application or after the expiry of a specified period.

(2) Where a person’s name is removed in accordance with this article or article 10(3), his registration shall be referred to as lapsed.

(3) Any rules made under paragraph (1) shall provide that a person’s registration shall not lapse under this article or under article 10(3)—

- (a) where the person concerned is the subject of an allegation, or is treated under article 22(6) as if he were the subject of an allegation, or is the subject of any investigations or proceedings under Part V or VI of this Order, on the grounds only that he has not paid the prescribed fee or has failed to apply for renewal in the prescribed form or within the prescribed time; or
- (b) if the person concerned is the subject of a suspension order, a conditions of practice order, an interim suspension order or an interim conditions of practice order.

**Commencement Information**

**I25** [Art. 12](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I26** [Art. 12](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**Approved qualifications**

13.—(1) For the purposes of this Order a person is to be regarded as having an approved qualification if—

(a) he has a qualification awarded in the United Kingdom which has been approved by the Council as attesting to the standard of proficiency it requires for admission to the part of the register in respect of which he is applying;

[<sup>F21</sup>(b) he is an exempt person who has a qualification of the kind mentioned in article 14;

(c) subject to paragraph (1A), he is an exempt person (other than a person to whom sub-paragraph (b), (e) or (f) applies) who has a qualification awarded outside the United Kingdom, and either—

(i) the Council is satisfied that his qualification attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a), or

(ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying;

(d) he is not an exempt person and he has, elsewhere than in the United Kingdom, undergone training in nursing or midwifery, and either—

(i) the Council is satisfied that his qualification attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a), or

(ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying,

and, in either case, he satisfies prescribed requirements as to knowledge of English;

(e) he is an exempt person—

(i) whose case falls within regulation 3(9)(a), (c), (d) or (e) of the General Systems Regulations,

(ii) to whom regulations 20 to 26 of those Regulations apply by reason of the operation of regulation 3(4) of those Regulations, and

(iii) who is permitted to pursue the profession of nursing or midwifery in the United Kingdom by virtue of Part 3 of those Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to undertake pursuant to that Part of those Regulations); or

(f) he is an exempt person (other than a person to whom sub-paragraph (e) applies) who is permitted to practise as a nurse in the United Kingdom by virtue of Part 3 of the General Systems Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to complete pursuant to that Part of those Regulations).]

[<sup>F22</sup>(1A) In the case of an exempt person to whom paragraph (1)(c) applies, who holds a qualification in nursing or midwifery which was granted otherwise than in a relevant European State, and has not previously been accepted by a relevant European State as qualifying him to practise as a nurse or midwife in that State, that qualification shall not be regarded as an approved qualification unless the qualification—

- (a) is evidence of nursing training that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 31 of the Directive (training of nurses responsible for general care), or
  - (b) is evidence of training in midwifery that meets, or under article 22(a) of the Directive is to be treated as meeting, the requirements of article 40 of the Directive (training of midwives),
- as the case may be.

(1B) In considering whether an exempt person to whom paragraph (1)(c) applies is to be regarded as having an approved qualification, the Council shall take into account—

- (a) if the person holds a qualification in nursing or midwifery which—
    - (i) was granted otherwise than in a relevant European State, but
    - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying him to practise as a nurse or midwife in that State (as the case may be), the acceptance of that qualification; and
  - (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of the application.]
- (2) The Council shall determine procedures to—
- (a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to a qualification mentioned in paragraph (1)(a) and it shall, where it sees fit, keep a list of qualifications which are of a comparable standard which it shall publish and keep under review; and
  - (b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard of proficiency required for admission to any part of the register.

#### Textual Amendments

- F21** Arts. 13(b)-(f) substituted for art. 13(b)(c) (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **162(a)**
- F22** Art. 13(1A)(1B) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **162(b)**

#### Commencement Information

- I27** Art. 13 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

### EEA qualifications

14.—(1) For the purposes of article 13(1)(b) a qualification is one obtained [<sup>F23</sup>in a relevant European State other than the United Kingdom], to which [<sup>F24</sup>the Directive] applies and which the Privy Council has by order designated as being an approved qualification for the purposes of registration in the relevant part of the register.

- (2) An order under paragraph (1) may provide—
  - (a) that a qualification is designated for the purposes of registration in a particular part of the register only if prescribed conditions required by [<sup>F25</sup>the relevant provisions of the

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*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

Directive] are fulfilled, and different conditions may be prescribed with respect to the same qualification for different [<sup>F26</sup>circumstances.]

<sup>F27</sup>(b) .....

<sup>F28</sup>(3) .....

**Textual Amendments**

- F23** Words in art. 14(1) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(a)(i)**
- F24** Words in art. 14(1) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(a)(ii)**
- F25** Words in art. 14(2)(a) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(b)(i)**
- F26** Word in art. 14(2)(a) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(b)(ii)**
- F27** Art. 14(2)(b) omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(c)**
- F28** Art. 14(3) omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **163(c)**

**Commencement Information**

- I28** Art. 14 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I29** Art. 14 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

**PART IV**

**EDUCATION AND TRAINING**

**Education and training**

15.—(1) The Council shall from time to time establish—

- (a) the standards of education and training necessary to achieve the standards of proficiency it has established under article 5(2); and
- (b) the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character.

(2) So far as is necessary to implement the requirements [<sup>F29</sup>of article 31 (training of nurses responsible for general care) and article 40 (training of midwives) of the Directive], the standards and requirements established under paragraph (1) shall be set out in rules made by the Council.

(3) The standards mentioned in paragraph (1)(a) shall include such matters as the outcomes to be achieved by that education and training.

(4) Before establishing the requirements referred to in paragraph (1) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.

(5) The Council shall—

- (a) ensure that universities and other bodies in the United Kingdom concerned with such education and training are notified of the standards and requirements established under paragraph (1); and
  - (b) take appropriate steps to satisfy itself that those standards and requirements are met.
- (6) In performing the function mentioned in paragraph (5)(b) the Council may in particular, approve, or arrange with others to approve—
- (a) a course of education or training which the Council is satisfied confers or would confer on persons completing it successfully the standards of proficiency mentioned in paragraph (1);
  - (b) qualifications which are granted following success in an examination, or some other appropriate assessment, taken as part of an approved course of education or training;
  - (c) institutions which the Council considers to be properly organised and equipped for conducting the whole or part of an approved course of education or training;
  - (d) such tests of competence or knowledge of English as it may require.
- (7) In connection with paragraph (6), the Council may approve or arrange with others to approve a course of education or training run outside the United Kingdom by an institution to which paragraph (6)(c) applies.
- (8) The Council shall from time to time publish a statement of the criteria which will be taken into account in deciding whether to give approval under paragraph (6).
- (9) The Council shall maintain and publish a list of the courses of education or training, qualifications and institutions—
- (a) which are for the time being approved under this Order; or
  - (b) which have been approved under this Order but which are no longer so approved, together with a record of the periods in respect of which they were approved.
- (10) In this article a reference to education or training includes any course of education or training or test referred to in paragraph (6).

#### **Textual Amendments**

**F29** Words in [art. 15\(2\)](#) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **164**

#### **Commencement Information**

**I30** Art. 15(2)(4) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I31** [Art. 15](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

### **Visitors**

**16.—(1)** The Council may appoint persons (“visitors”) to visit any place at which or institution by which or under whose direction—

- (a) any relevant course of education or training is, or is proposed to be, given;
- (b) any examination or other assessment is, or is proposed to be, held in connection with any such course;
- (c) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purposes connected with this Order.

(2) For the purposes of this article and article 18, the words “any test of competence” includes an assessment to establish the level of a person’s knowledge of written or spoken English.

(3) In this article, “relevant course of education or training” means any course of education or training which forms, or is intended to form, part of an approved course of education or training or any course which a registrant may be required to undergo after registration in accordance with rules made by the Council.

(4) No visitor may exercise his functions under this Order in relation to—

- (a) any place at which he regularly gives instruction in any subject; or
- (b) any institution with which he has a significant connection.

(5) A person shall not be prevented from being a visitor merely because he is—

- (a) a member of the Council or any of its committees; or
- (b) a Screener,

but no person may be a visitor if he is employed by the Council.

(6) Visitors shall be selected with due regard to the profession with which the education and training they are to report on is concerned and at least one of the visitors shall be registered in that part of the register which relates to that profession.

(7) Where a visitor visits any place or institution in the exercise of his functions under this article, he shall report to the Council—

- (a) on the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at that place or by that institution; and
- (b) on such other matters (if any) as it requires.

(8) Requirements of the kind mentioned in paragraph (7)(b) may be imposed by the Council—

- (a) generally in relation to all visits made to a specified kind of place or institution or in respect of a specified type of course; or
- (b) specifically in relation to a particular visit.

(9) Where a visitor reports to the Council in accordance with paragraph (7), the Council shall on receipt of the report—

- (a) send a copy of it to the institution concerned; and
- (b) notify that institution of the period within which it may make observations on the report.

(10) The period specified by the Council in a notice given under sub-paragraph (b) of paragraph (9) shall be not less than one month beginning with the date on which a copy of the report is sent to the institution concerned under sub-paragraph (a) of paragraph (9).

(11) The Council shall not take any steps in the light of any report made under paragraph (7) before the end of the specified period mentioned in paragraph (10).

(12) The Council shall publish such reports together with, on the request of the institution concerned, the response of that institution to the report.

(13) The Council may make such provision in respect of visitors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of visitors for the purposes of enabling visitors to perform functions under this article;
- (b) for the reimbursement of such expenses as visitors may reasonably have incurred in the course of carrying out their functions under this article.

#### **Commencement Information**

**I32** [Art. 16](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Information to be given by institutions**

**17.**—(1) This article applies to any institution in the United Kingdom by which, or under whose direction, whether inside or outside the United Kingdom—

- (a) any relevant course of education or training is, or is proposed to be, given; or
- (b) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purpose connected with this Order.

(2) In paragraph (1) “relevant course of education or training” has the same meaning as in article 16(3).

(3) Whenever required to do so by the Council, any such institution shall give to the Council such information and assistance as the Council may reasonably require in connection with the exercise of its functions under this Order.

(4) Where an institution refuses any reasonable request for information made by the Council under this article, the Council may in accordance with article 18 refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which the information relates.

(5) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).

#### **Commencement Information**

**I33** [Art. 17](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Refusal or withdrawal of approval of courses, qualifications and institutions**

**18.**—(1) Where as a result of any visitor’s report or other information acquired by the Council and taking account of the observations received from the institution under article 16(9), the Council is of the opinion that the standards established under article 15(1) are not, or will not be, met by particular education or training or that an institution is not observing the requirements referred to in article 15(1) it may refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which that opinion relates.

(2) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).

(3) In making any decision under paragraph (1) to refuse or to withdraw approval the Council shall act in accordance with this article.

(4) The Council shall—

- (a) notify the institution concerned, setting out its reasons; and
- (b) inform the institution of the period within which it may make observations on the matters raised, which shall be not less than one month beginning with the date on which the reasons are sent to the institution under sub-paragraph (a).

(5) The Council shall take no further steps before the period specified in sub-paragraph (b) of paragraph (4) has expired.

(6) If, taking account of the matters referred to in paragraph (1) and any observations submitted by the institution under paragraph (4), the Council decides that it is appropriate to refuse or withdraw approval under paragraph (1) it shall notify the institution accordingly.

(7) A decision under paragraph (6) shall have effect from the date of the decision or from such later date as may be specified in the decision.

(8) Where approval is withdrawn under this article, the Council shall use its best endeavours to secure that any person who is undertaking the education or training concerned or is studying for the qualification concerned or is studying at the institution concerned at the time when recognition is withdrawn is given the opportunity to follow approved education or training or to study for an approved qualification or at an approved institution.

(9) The withdrawal under this article of approval from any education or training, qualification or institution shall not affect the entitlement of any person to be registered on the basis of an award to him, before the date on which the decision withdrawing approval had effect, of—

- (a) the qualification concerned; or
- (b) any qualification awarded—
  - (i) in connection with any education or training, or
  - (ii) by an institution

from which approval has been withdrawn.

#### **Commencement Information**

**I34** [Art. 18](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Post-registration training**

**19.**—(1) The Council may make rules requiring registrants to undertake such continuing professional development as it shall specify in standards.

(2) The rules may, in particular, make provision with respect to registrants who fail to comply with any requirements of the rules, including making provision for their registration to cease to have effect.

[<sup>F30</sup>(2A) Paragraphs (1) and (2), so far as relating to a person (“P”) who is a registrant only as a result of being a visiting nurse or midwife from a relevant European State, have effect subject to, respectively, paragraphs (2B) and (2C).

(2B) Rules made under paragraph (1)—

- (a) may not impose requirements on P if P is required to undertake, in P's home State, continuing professional development in relation to the profession of nursing or midwifery (as the case may be); and
- (b) where they impose requirements on P—
  - (i) shall take account of the fact that P is fully qualified to pursue that profession in P's home State, and
  - (ii) shall specify that continuing professional development which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(2C) Where rules make provision such as is mentioned in paragraph (2), the rules must secure that any sanction imposed in relation to P by or under that provision is appropriate and proportionate in view of P's continued lawful establishment in P's home State as a nurse or midwife (as the case may be).

(2D) In paragraphs (2B) and (2C) "home State", in relation to P, means the relevant European State in which P is lawfully established as a nurse or midwife (as the case may be).]

(3) The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.

(4) If the Council makes rules under paragraph (1) or (3), it shall establish the standards to be met in relation to—

- (a) continuing professional development;
- (b) the education or training mentioned in paragraph (3),

and article 15(3) to (9) and articles 16 to 18 of this Order shall apply in respect of those standards as if they were standards established under article 15(1)(a).

(5) In the articles mentioned in paragraph (4), references to "education and training" shall, for the purposes of that paragraph, be treated as being to education, training or experience.

(6) In respect of additional qualifications which may be recorded on the register the Council may establish standards of education and training and article 15(3) to (9) and articles 16 to 18 shall apply in respect of those standards as if they were standards established under article 15(1)(a).

#### Textual Amendments

**F30** [Art. 19\(2A\)-\(2D\)](#) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **165**

#### Commencement Information

**I35** [Art. 19\(1\)\(2\)\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I36** [Art. 19](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## Wales

**20.** The National Assembly for Wales may create or designate a body with which the Council may enter into any such arrangements as are referred to in article 15(6) of this Order in order to perform its function under article 15(5)(b) in respect of the standards established under article 15(1) or 19(4) or (6).

#### Commencement Information

**I37** [Art. 20](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## PART V

### FITNESS TO PRACTISE

#### Modifications etc. (not altering text)

- C1** Pt. V applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **7(4)(b)**
- C2** Pt. V applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **6(b)**

#### Council's functions in respect of fitness to practise, ethics and other matters

21.—(1) The Council shall—

- (a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants and give them such guidance on these matters as it sees fit; and
- (b) establish and keep under review effective arrangements to protect the public from persons whose fitness to practise is impaired.

(2) The Council may also from time to time give guidance to registrants, employers and such other persons as it thinks appropriate in respect of standards for the education and training, supervision and performance of persons who provide services in connection with those provided by registrants.

(3) Before establishing any <sup>F31</sup>... arrangements mentioned in paragraph (1), the Council shall consult <sup>F31</sup>... the persons mentioned in article 3(14).

#### Textual Amendments

- F31** Words in [art. 21\(3\)](#) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(c\)](#)

#### Commencement Information

- I38** [Art. 21\(3\)](#) in force at 7.7.2003 for specified purposes as notified in the London Gazette (Issue 56984, published 27.6.2003), see [art. 1\(2\)\(3\)](#)
- I39** [Art. 21](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### Allegations

22.—(1) This article applies where any allegation is made against a registrant to the effect that—

- (a) his fitness to practise is impaired by reason of—
  - (i) misconduct,
  - (ii) lack of competence,
  - (iii) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence,
  - (iv) his physical or mental health, or

- (v) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect;
  - (b) an entry in the register relating to him has been fraudulently procured or incorrectly made.
- (2) For the purposes of this article references to a conviction include a conviction by a Court Martial.
- (3) This article is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the person against whom the allegation is made was not registered.
- (4) Rules may provide that where a Practice Committee finds that a person has failed to comply with the standards mentioned in article 21(1), such failure shall not be taken of itself to establish that his fitness to practise is impaired, but may be taken into account in any proceedings under this Order.
- (5) When an allegation is made to the Council or any of its committees, as soon as reasonably practicable after receipt of the allegation in the form required by the Council, the Council shall refer it—
- (a) where it is an allegation of the kind mentioned in paragraph (1)(b), to the Investigating Committee; and
  - (b) in any other case—
    - (i) to persons appointed by the Council in accordance with any rules made under article 23, or
    - (ii) to a Practice Committee.
- (6) If an allegation is not made under paragraph (1) but it appears to the Council that there should be an investigation into the fitness to practise of a registrant or into his entry in the register it may refer the matter in accordance with paragraph (5) and this Order shall apply as if it were an allegation made under paragraph (1).
- (7) Hearings and preliminary meetings of Practice Committees at which the person concerned is entitled to be present or to be represented are to be held in—
- (a) the United Kingdom country in which the registered address of the person concerned is situated; or
  - (b) if he is not registered and resides in the United Kingdom, in the country in which he resides; and
  - (c) in any other case, in England.
- (8) While the registration of a registrant is suspended by virtue of a suspension order or an interim suspension order he shall be treated as not being registered notwithstanding that his name still appears in the register but this does not prevent action being taken in respect of such a person as appropriate under articles 22 to 32 of this Order.
- (9) The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article 26(7) or (11), 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 and of its reasons for them and of any decision given on appeal.
- (10) The Council may disclose to any person any information relating to a person's fitness to practise which it considers it to be in the public interest to disclose.
- (11) In this Part "the person concerned" means the person against whom an allegation has been made.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

#### Commencement Information

- I40** Art. 22(4) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I41** Art. 22 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

#### Screeners

**23.—**(1) The Council may by rules provide for the appointment of persons, to be known as Screeners, to whom allegations may be referred in accordance with this Order or rules made under it.

- (2) A person shall not be prevented from being a Screener merely because he is—
- (a) a member of the Council or any of its committees, other than a Practice Committee; or
  - (b) a visitor.
- (3) No person may be a Screener if he is—
- (a) a member of a Practice Committee;
  - (b) a legal, medical or registrant assessor; or
  - (c) employed by the Council.

(4) No person may act as a Screener in respect of a particular case if he has been involved in that case in any other capacity.

#### Commencement Information

- I42** Art. 23(1) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I43** Art. 23 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

#### Screeners: supplementary provisions

**24.—**(1) Any rules made under article 23 shall contain the provisions mentioned in paragraphs (2) and (3).

- (2) The rules made under article 23(1) shall provide that—
- (a) any matter referred to the Screeners shall be considered by a panel of at least two Screeners;
  - (b) the panel shall include at least one lay person and one registrant selected with due regard to the professional field of the person concerned and to the matter under consideration;
  - (c) the number of registrants on any panel may not exceed the number of lay persons.
- (3) Any such rules shall give Screeners the functions—
- (a) of considering the allegation and establishing whether, in their opinion, power is given by this Order to deal with it if it proves to be well founded;
  - (b) if in their opinion such power is given, of referring the matter together with a report of the result of their consideration to such Practice Committee as they see fit;
  - (c) if in their opinion such power is not given, of closing the case, provided that—
    - (i) if there are two Screeners, the lay person agrees, or
    - (ii) if there are more than two Screeners, it is the decision of the majority,

- and if head (i) or (ii), as the case may be, is not satisfied, of referring the matter in accordance with sub-paragraph (b);
- (d) where requested to do so by any Practice Committee, of mediating in any case with the aim of dealing with the allegation without it being necessary for the case to reach the stage at which the Health Committee or Conduct and Competence Committee, as the case may be, would arrange a hearing in accordance with article 32(2)(f);
- (e) in the event that mediation fails, of referring the matter back to the Practice Committee which referred it to the Screeners.
- (4) The Council may make such provision in respect of Screeners as it may determine—
- (a) for the payment of fees and allowances, including the payment of allowances to employers of Screeners for the purpose of enabling Screeners to perform their functions under this Order; and
- (b) for the reimbursement of such expenses as the Screeners may reasonably have incurred in the course of carrying out their functions under this Order.
- (5) If the Screeners decide that power is not given by this Order to deal with the allegation the Registrar shall inform the person making the allegation giving reasons.

#### **Commencement Information**

- I44** Art. 24(1)(3) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I45** Art. 24 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

#### **Council's power to require disclosure of information**

**25.**—(1) For the purpose of assisting [<sup>F32</sup>the Council or any of its Practice Committees in] carrying out functions in respect of fitness to practise, a person authorised by [<sup>F32</sup>the Council] may require any person (other than the person concerned) who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after a decision has been made under article 22(5) or (6) to refer an allegation or other matter to a Practice Committee, the Council shall require, from the person concerned, details of—

- (a) any person—
- (i) by whom he is employed to provide services in, or in relation to, nursing or midwifery; or
- (ii) with whom he has an arrangement to provide such services; and
- (b) any body by which he is authorised to practise, in the United Kingdom or elsewhere, a health or social care profession which is regulated under any enactment.

(3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.

(5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision of [<sup>F33</sup>a Practice Committee with regard to the person concerned].

(6) For the purposes of paragraph (5), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

#### Textual Amendments

**F32** Words in [art. 25\(1\)](#) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), [art. 1\(2\)\(e\)](#), [Sch. 4 para. 38\(d\)\(i\)](#)

**F33** Words in [art. 25\(5\)](#) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), [art. 1\(2\)\(e\)](#), [Sch. 4 para. 38\(d\)\(ii\)](#)

#### Commencement Information

**I46** [Art. 25](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

### The Investigating Committee

**26.**—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22 or 24.

(2) Where an allegation is referred to the Investigating Committee, it shall—

- (a) notify without delay the person concerned of the allegation and invite him to submit written representations within a prescribed period;
- (b) where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the Committee in respect of those representations;
- (c) take such other steps as are reasonably practicable to obtain as much information as possible about the case;
- (d) consider, in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b), whether in its opinion—
  - (i) in respect of an allegation of the kind mentioned in article 22(1)(a), there is a case to answer, and
  - (ii) in respect of an allegation of the kind mentioned in article 22(1)(b), whether the entry concerned has been fraudulently procured or incorrectly made.

(3) The Council shall by rules make provision as to the procedure to be followed by the Investigating Committee in any investigation carried out by it under this article.

(4) In the case of an allegation of the kind mentioned in article 22(1)(b) the rules shall, in particular, make similar provision to that made by virtue of article 32(2)(b), (f), (g), (h), (i), (j), (m), (n), (o) and (p) and may provide for the Registrar to be made a party to the proceedings.

(5) When the Investigating Committee reaches a decision under paragraph (2) as to whether—

- (a) there is a case to answer; or
- (b) an entry in the register has been fraudulently procured or incorrectly made,

it shall notify in writing both the person concerned and the person making the allegation, if any, of its decision, giving its reasons.

(6) Where the Investigating Committee concludes that there is a case to answer under paragraph (2)(d)(i), it shall—

- (a) undertake mediation; or
- (b) refer the case—
  - (i) to Screeners for them to undertake mediation,
  - (ii) to the Health Committee in the case of an allegation of a kind mentioned in article 22(1)(a)(iv), or
  - (iii) to the Conduct and Competence Committee, in the case of any other allegation.

(7) In the case of an allegation of a kind mentioned in article 22(1)(b), if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.

(8) If the Investigating Committee concludes that there is no case to answer or that the relevant entry was not fraudulently procured or incorrectly made—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect, giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(9) For the purposes of paragraph (8), the publication of the decision mentioned in paragraph (5) together with the reasons for it may constitute such a declaration.

(10) No order made under paragraph (7) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

(11) The Investigating Committee may make an interim order in accordance with article 31 at the same time as making an order under paragraph (7) or at any time before referring a case to the Health Committee or Conduct and Competence Committee under paragraph (6).

(12) The Investigating Committee may review an order made under paragraph (7) if new evidence relevant to the order becomes available after the order has been made and may revoke that order if it considers that it should not have been made.

(13) Where the Investigating Committee makes an order under paragraph (7) or decides not to review such an order under paragraph (12) the person concerned may appeal to the appropriate Court and the provisions of article 38 shall apply to the appeal.

(14) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(15) On an appeal under this article, the Council shall be the respondent.

(16) An entry which has been restored to the register on an application for readmission or restoration being granted may be treated for the purposes of this article as having been fraudulently procured or incorrectly made if any previous entry from which the restored entry is derived was fraudulently procured or incorrectly made.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

**Commencement Information**

- I47** [Art. 26\(2\)\(a\)\(3\)\(4\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I48** [Art. 26](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**The Conduct and Competence Committee**

**27.** The Conduct and Competence Committee shall—

- <sup>F34</sup>(a) .....
- (b) consider—
  - (i) any allegation referred to it by the Council, Screeners, the Investigating Committee or the Health Committee, and
  - (ii) any application for restoration referred to it by the Registrar.

**Textual Amendments**

- F34** [Art. 27\(a\)](#) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), [art. 1\(2\)\(e\)](#), [Sch. 4 para. 38\(e\)](#)

**Commencement Information**

- I49** [Art. 27](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**The Health Committee**

**28.** The Health Committee shall consider—

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

**Commencement Information**

- I50** [Art. 28](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**Orders of the Health Committee and the Conduct and Competence Committee**

**29.—(1)** If, having considered an allegation, the Health Committee or the Conduct and Competence Committee, as the case may be, concludes that it is not well founded—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(2) For the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.

(3) If, having considered an allegation, the Health Committee or the Conduct and Competence Committee, as the case may be, concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.

(4) The Committee may—

- (a) refer the matter to Screeners for mediation or itself undertake mediation, or
- (b) decide that it is not appropriate to take any further action.

(5) Where a case does not fall within paragraph (4), the Committee shall—

- (a) make an order directing the Registrar to strike the person concerned off the register (a “striking-off order”);
- (b) make an order directing the Registrar to suspend the registration of the person concerned for a specified period which shall not exceed one year (a “suspension order”);
- (c) make an order imposing conditions with which the person concerned must comply for a specified period which shall not exceed three years (a “conditions of practice order”); or
- (d) caution the person concerned and make an order directing the Registrar to annotate the register accordingly for a specified period which shall be not less than one year and not more than five years (a “caution order”).

(6) A striking-off order may not be made in respect of an allegation of the kind mentioned in article 22(1)(a)(ii) or (iv) unless the person concerned has been continuously suspended, or subject to a conditions of practice order, for a period of no less than two years immediately preceding the date of the decision of the Committee to make such an order.

(7) The Committee may specify in an order made under paragraph (5) a period within which an application to vary, replace or revoke the order may not be made, which—

- (a) in the case of a striking-off order, except where new evidence relevant to the order becomes available, shall be expressed in terms of article 33(2);
- (b) in the case of a suspension order shall not exceed 10 months; and
- (c) in the case of a conditions of practice order shall not exceed two years.

(8) The Committee shall, when it makes, varies, replaces or revokes an order under this article or article 30 or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order;

(9) The person concerned may appeal to the appropriate court against an order made under paragraph (5) and article 38 shall apply to the appeal.

(10) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(11) No order mentioned in paragraph (9) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

**Modifications etc. (not altering text)**

- C3** Art. 29 applied (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **9(5)**, 11(3)(b)

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

- C4** Art. 29(4)(5) applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **6(b)**
- C5** Art. 29(4)(5) applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **7(4)(b)**

#### **Commencement Information**

- I51** Art. 29 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

### **Review of orders by the Health Committee and the Conduct and Competence Committee**

**30.**—(1) Before the expiry of an order made under article 29(5)(b) or (c) 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, shall review the order and may, subject to paragraph (5)—

- (a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;
- (b) with effect from the expiry of the order, make an order which it could have made at the time it made the order being reviewed;
- (c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

(2) Subject to paragraph (1), on the application of the person concerned or otherwise, at any time an order made by the Conduct and Competence Committee or the Health Committee under article 29(5)(b) to (d) is in force, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee, may review the order and may take any of the steps referred to in paragraph (4).

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to—

- (a) confirm the order;
- (b) extend, or further extend, the period for which the order has effect;
- (c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);
- (d) replace the order with any order which it could have made at the time it made the order being reviewed and the replacement order shall have effect for the remainder of the term of the order it replaces;
- (e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;
- (f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has established under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the Committee which made the order or, where appropriate, the Committee mentioned

in article 33(3)(b) may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the Committee which made the order appealed from and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8) a Practice Committee shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(12) On an appeal under this article the Council shall be the respondent.

#### **Modifications etc. (not altering text)**

**C6** [Art. 30](#) applied (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **9(5)**, 10(2), 11(3)(b)

#### **Commencement Information**

**I52** [Art. 30\(9\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

**I53** [Art. 30](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

### **Interim Orders by a Practice Committee**

**31.**—(1) This article applies where—

- (a) an allegation against a registered professional has been referred to the Investigating Committee, Conduct and Competence Committee or to the Health Committee but—
  - (i) that Committee has not reached a decision on the matter; or
  - (ii) in a case to which article 26(6) applies, where the Investigating Committee refers the matter to another Practice Committee;
- (b) the Investigating Committee makes an order under article 26(7), or
- (c) the Conduct and Competence Committee or the Health Committee makes an order under article 29(5)(a) to (c).

(2) Subject to paragraph (4), if the Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the registration of that person to be suspended or to be made subject to conditions, it may—

- (a) make an order directing the Registrar to suspend the person's registration (an "interim suspension order"), or
- (b) make an order imposing conditions with which the person must comply (an "interim conditions of practice order"),

during such period not exceeding eighteen months as may be specified in the order.

(3) In a case coming within paragraph (1)(b) or (c), such an order may be made at the same time as an order made under article 26(7) or 29(5)(a) to (c).

(4) The Investigating Committee shall not make an order in any case after it has referred the allegation in question to another Practice Committee.

(5) Subject to paragraphs (6), (7), (9) and (12) the order mentioned in paragraph (2) shall cease to have effect—

- (a) in a case falling within paragraph (1)(a) when the Committee reaches a decision in respect of the allegation in question; and
- (b) in a case falling within paragraph (1)(b) or (c)—
  - (i) if there is no appeal against the order mentioned in that paragraph, when the period for appealing expires, or
  - (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of.

(6) The Committee which made the order or, if the matter has been referred to another Practice Committee, that Committee, shall, in a case coming within paragraph (1)(a), review an order made under paragraph (2)—

- (a) within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it before the end of the period of three months beginning on the date of the decision of the immediately preceding review;
- (b) where new evidence relevant to the order has become available after the making of the order.

(7) Where an interim suspension order or an interim conditions of practice order has been made under this article (including this paragraph) the Practice Committee which made the order or, where the case has been referred to another Practice Committee, that Committee, may, subject to paragraph (15)—

- (a) revoke the order or revoke any condition imposed by the order;
- (b) confirm the order;
- (c) vary any condition imposed by the order;
- (d) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the former;
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an interim conditions of practice order, replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the former.

(8) The Council may apply to the court for an order made by a Practice Committee under paragraph (2) or (7) to be extended, and may apply again for further extensions.

(9) On such an application the court may extend (or further extend) for up to 12 months the period for which the order has effect.

(10) In this article, references to an interim suspension order or interim conditions of practice order include such an order as so extended.

(11) For the purposes of paragraph (6) the first review after the court's extension of an order made by a Practice Committee or after a replacement order made by a Practice Committee under paragraph (7)(d) or (e) shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under paragraph (6), within the period of six months beginning on the date on which the court ordered the extension or on which a replacement order under paragraph (7)(d) or (e) was made; and
- (b) if it had been reviewed under the provision, within the period of three months beginning on that date.

(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, terminate the suspension;
- (b) in the case of an interim conditions of practice order, revoke or vary any condition imposed by the 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.

(13) In this article “the court” has the same meaning as “the appropriate court” in article 38.

(14) The Committee shall notify the person concerned giving its reasons where it makes an order under paragraph (2) or any decision under paragraph (7) and shall notify him of his right to apply to the court.

(15) No order under paragraph (2) or (7)(c) to (e), or, in a case where paragraph (5)(b) applies, under paragraph (7)(b), shall be made by any Practice Committee in respect of any person unless he has been afforded an opportunity of appearing before the Committee and being heard on the question whether such an order should be made in his case.

(16) At any such hearing, the person concerned shall be entitled to be represented whether by a legally qualified person or otherwise.

(17) The Committee shall when it makes, varies, replaces or revokes an order under this article or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

#### **Commencement Information**

**I54** [Art. 31](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Investigation of allegations: procedural rules**

**32.**—(1) The Council shall make rules as to the procedure to be followed by the Health Committee and the Conduct and Competence Committee in considering any allegation and before making an order under article 29(5).

(2) The rules shall, in particular, make provision—

- (a) empowering each Committee to refer to the other any allegation which it considers would be better dealt with by that other Committee;
- (b) empowering each Committee, before it holds any hearing to which sub-paragraph (f) applies, where it considers that it would assist it in performing its functions, to hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;

- (c) requiring the person concerned to be given notice of the allegation without delay;
- (d) giving the person concerned an opportunity to submit written representations within a prescribed period;
- (e) for the Committee, where it sees fit, to notify the person making the allegation of the representations provided under sub-paragraph (d) and to invite him to deal within a prescribed period with any points raised by the Committee in respect of those representations;
- (f) giving the person concerned an opportunity to put his case at a hearing if—
  - (i) before the end of the prescribed period, he asks for a hearing; or
  - (ii) the Committee considers that a hearing is desirable;
- (g) entitling the person concerned to be represented whether by a legally qualified person or otherwise at any such hearing;
- (h) where an allegation is referred by the Council, Screeners or the Investigating Committee to the Health Committee or the Conduct and Competence Committee, for the Council to give notice of that referral to specified persons who shall include the Secretary of State, the Scottish Ministers, the National Assembly for Wales and the Department of Health, Social Services and Public Safety in Northern Ireland, and, where they are known, to any person referred to in article 25 paragraph (2)(a) or (b);
- (i) giving any person, other than the person concerned, who, in the opinion of the relevant Committee, taking account of any criteria included in the rules, has an interest in proceedings before it, the opportunity to submit written representations;
- (j) requiring a hearing before a Committee to be held in public except in so far as may be provided by the rules;
- (k) requiring the Committee to notify the person concerned of its decision, its reasons for reaching that decision and of his right of appeal;
- (l) requiring the person by whom the allegation was made to be notified by the Committee of its decision and of its reasons for reaching that decision;
- (m) empowering the Committee to require persons (other than the person concerned) to attend and give evidence or to produce documents;
- (n) about the admissibility of evidence;
- (o) enabling the Committee to administer oaths;
- (p) where the person concerned has been convicted of a criminal offence, for the conviction to be proved by the production of a certified copy of the certificate of conviction, or, in Scotland, an extract conviction, relating to the offence and for the findings of fact upon which the conviction is based to be admissible as proof of those facts.

(3) Each stage in proceedings under Part V and article 37 shall be dealt with expeditiously and the Committee concerned may give directions as to the conduct of the case and for the consequences of failure to comply with such directions (which may include the making of an order or refusal of an application if the failure to comply was without reasonable excuse).

(4) The Council may provide in the rules for the [F35 chair] of the Committee to hold the meeting referred to in paragraph (2)(b) or to give the directions mentioned in paragraph (3) and, subject to the agreement of the parties to his acting on behalf of the Committee, to take such action as the Committee would be competent to take at such a meeting.

(5) In this article “parties” means the Council and the person concerned.

### Textual Amendments

- F35** Word in [art. 32\(4\)](#) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 5](#)

### Commencement Information

- I55** [Art. 32](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I56** [Art. 32](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## Restoration to the register of persons who have been struck off

**33.**—(1) Where a person who has been struck off the register by virtue of an order made by a Practice Committee or the court wishes to be restored to the register, he shall make an application for restoration to the Registrar.

- (2) Subject to article 30(7), no such application may be made—
- (a) before the end of the period of five years beginning with the date on which the order under article 29, 30 or 38 took effect; or
  - (b) in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off.
- (3) Any application for restoration shall be referred by the Registrar for determination to—
- (a) the Committee which made the striking-off order; or
  - (b) where any previous applications have been made in connection with the same striking-off order, the Committee which last gave a decision on such an application.

(4) Before making any decision on the application the Committee shall give the applicant an opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2)(a) and (b) but, having regard in particular to the circumstances which led to the making of the order under article 29, 30 or 38, is also a fit and proper person to practise the relevant profession.

(6) The Committee may make the granting of an application subject to the applicant satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

- (7) On granting an application for restoration, the Committee—
- (a) shall direct the Registrar to register the applicant in the relevant part of the register on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and
  - (b) may make a conditions of practice order with respect to him.

(8) The provisions of article 29 shall have effect in relation to a conditions of practice order made under paragraph (7) as they have effect in relation to a conditions of practice order made under that article and article 30 shall apply as if the order made under paragraph (7) were an order made under article 29.

(9) If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the Committee which

determined that application may direct that that person's right to make any further such applications shall be suspended indefinitely.

(10) A person in respect of whom a direction is made under paragraph (9) may, after the expiration of three years from the date on which the direction was made, apply to the Registrar for that direction to be reviewed and, thereafter, may make further applications for review but no such application may be made before the expiration of three years from the date of the most recent review decision.

(11) The Registrar shall refer an application made under paragraph (10) to the Committee which made the direction under paragraph (9).

(12) A person whose application under paragraph (10) or whose application for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.

(13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, or granting it but imposing conditions under paragraph (6), is served on the applicant.

#### **Modifications etc. (not altering text)**

- C7** [Art. 33](#) applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **8(2)(c)(3)**
- C8** [Art. 33\(9\)-\(11\)](#) applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **9(6)**

#### **Commencement Information**

- I57** [Art. 33\(4\)\(7\)\(a\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I58** [Art. 33](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Legal assessors**

**34.—**(1) The Council shall appoint legal assessors.

(2) Legal assessors shall have the general function of giving advice to—

- (a) Screeners;
- (b) the Practice Committees;
- (c) the Registrar; or
- (d) the Council,

on questions of law arising in connection with any matter which any of those persons is considering under article 9 or 10, Part V or VI.

(3) They may at the request of the person mentioned in paragraph (2) assist in the drafting of any decision required by this Order to be issued under any of the provisions mentioned in that paragraph.

(4) They shall have such other functions as may be conferred on them by rules made by the Council.

(5) To be qualified for appointment as a legal assessor, a person must—

- (a) have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
- (b) be an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) be a member of the Bar of Northern Ireland of at least 10 years' standing.

- (6) No person shall be a legal assessor if he is—
  - (a) a member of the Council;
  - (b) a member of a Practice Committee;
  - (c) a Screener, visitor or medical or registrant assessor; or
  - (d) employed by the Council.
- (7) The Council may make such provision in respect of legal assessors as it may determine—
  - (a) for the payment of fees and allowances, including the payment of allowances to employers of legal assessors for the purposes of enabling legal assessors to perform functions under this article;
  - (b) for the reimbursement of such expenses as the legal assessors may reasonably have incurred in the course of carrying out their functions under this Order.

#### **Commencement Information**

- I59** [Art. 34\(4\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I60** [Art. 34](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **Medical assessors**

- 35.**—(1) The Council may appoint registered medical practitioners to be medical assessors.
- (2) They shall have the general function of giving advice to—
  - (a) Screeners;
  - (b) the Practice Committees;
  - (c) the Registrar; or
  - (d) the Council,

on matters within their professional competence in connection with any matter which any of those persons is considering.

(3) They shall also have such other functions as may be conferred on them by rules made by the Council.

- (4) No person shall be a medical assessor if he is—
  - (a) a member of the Council;
  - (b) a member of a Practice Committee;
  - (c) a Screener, visitor or legal or registrant assessor; or
  - (d) employed by the Council.
- (5) The Council may make such provision in respect of medical assessors as it may determine—
  - (a) for the payment of fees and allowances, including the payment of allowances to employers of medical assessors for the purposes of enabling medical assessors to perform functions under this article;
  - (b) for the reimbursement of such expenses as the medical assessors may reasonably have incurred in the course of carrying out their functions under this Order.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

#### Commencement Information

- I61** [Art. 35\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I62** [Art. 35](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### Registrant assessors

**36.**—(1) The Council may appoint registered professionals as registrant assessors.

(2) They shall have the general function of giving advice to—

- (a) the Council;
- (b) the committees of the Council;
- (c) Screeners; or
- (d) the Registrar,

on matters of professional practice arising in connection with any matter which any of those persons is considering.

(3) The assessors shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a registrant assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a Screener, visitor or legal or medical assessor; or
- (d) employed by the Council.

(5) The Council may make such provision in respect of registrant assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of registrant assessors for the purposes of enabling registrant assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the registrant assessors may reasonably have incurred in the course of carrying out their functions under this Order.

#### Commencement Information

- I63** [Art. 36\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I64** [Art. 36](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## PART VI

### APPEALS

#### Appeals against Registrar's decisions

**37.**—(1) Where the Registrar under this Order—

- (a) refuses an application for registration, readmission or renewal or for the inclusion of an additional entry;
  - [<sup>F36</sup>(aa) refuses to register a person under article 39A (visiting general systems nurses from relevant European States) or Schedule 2A (visiting midwives, and certain visiting nurses, from relevant European States);]
  - (b) in determining an application under article 9 or 10, imposes additional conditions which must be satisfied before the applicant may be admitted to, readmitted to or retained on the register;
  - (c) removes the name of a registrant from the register on the ground that he has breached a condition in respect of continuing professional development or such additional education, training or experience as is mentioned in article 19(3) subject to which his registration has effect; or
  - (d) fails, within the terms of article 9(6), to issue a decision,
- the person aggrieved may appeal to the Council within the prescribed period.

(2) No appeal lies to the Council where the person aggrieved has been refused registration solely because he has failed to pay the prescribed fee for registration or has failed to apply in the prescribed form and manner in accordance with article 9 or 10.

[<sup>F37</sup>(2A) No appeal lies to the Council where the Registrar has refused to make, or has removed, an annotation under article 6A.]

(3) No decision removing a registrant from the register against which an appeal to the Council may be made under paragraph (1) shall have effect before—

- (a) the expiry of the period within which such an appeal may be made; or
- (b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

(4) Any appeal shall be subject to such rules as the Council shall make for the purpose of regulating appeals under this article.

(5) The rules shall in particular provide—

- (a) for the quorum of the Council considering such an appeal;
- (b) that the members considering the appeal are to include registrants and lay members and that the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one;
- (c) for a panel considering an appeal to consist of no fewer than three members who are to be selected with due regard to the matter under consideration and to include—
  - (i) one registrant registered in the same part of the register as the one in which the person concerned is, or is applying to be, registered;

[<sup>F38</sup>(ii) a person who—

- (aa) is not and never has been a registered nurse or midwife (and article 5(5) does not apply for these purposes),
- (bb) is not and never has been a registered medical practitioner, and
- (cc) does not hold qualifications which would entitle them to apply for registration as a registered nurse, a registered midwife or a registered medical practitioner; and]

(iii) where the health of the person concerned is in issue, one registered medical practitioner;

- (d) for the person presiding to be a Council member;

- (e) that no one who has been involved in any other capacity in the case to be considered is to be a member of the panel;
  - (f) for the decision to be made by a majority vote of the persons present;
  - (g) in the event of a tie, for the [<sup>F39</sup>chair] to have an additional casting vote which he shall exercise in the favour of the person concerned;
  - (h) for the Registrar to be made a party to the proceedings;
  - (i) for similar provision to be made to that in article 32(2)(b), (f), (g), (i), (j), (k), (m), (n) and (o).
- (6) Article 32(3) shall apply to appeals under this article as if a reference to the Committee concerned were to the Council.
- (7) Article 25, with the exception of paragraph (2), shall apply to appeals under this article as if a reference to a Practice Committee were to the Council.
- (8) A hearing provided for by the rules made under paragraph (4) is to be held—
- (a) in the United Kingdom country in which the registered address of the person concerned is situated;
  - (b) if he is not registered and resides in the United Kingdom, in the country in which he resides; or
  - (c) in any other case, in England.
- (9) Having considered the appeal under this article, the Council may—
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against;
  - (c) substitute for the decision appealed against any other decision that the Registrar could have made; or
  - (d) remit the case to the Registrar to be disposed of in accordance with its directions.
- (10) The person concerned may appeal to a county court or, in Scotland, a sheriff against an unfavourable decision made under paragraph (9)(a), (c) or (d) and article 38 shall apply to that appeal.
- (11) Subject to paragraph 12, the Council shall publish as soon as reasonably practicable a decision of the Council made under this article together with the reasons for it.
- (12) If the decision is favourable to the person concerned, the Council is not required to publish it unless the person concerned so requests but it may do so with the consent of the person concerned.

#### Textual Amendments

- F36** Art. 37(1)(aa) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **166**
- F37** Art. 37(2A) inserted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), **Sch. 1 para. 6(a)**
- F38** Art. 37(5)(c)(ii) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(f)**
- F39** Word in art. 37(5)(g) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 6(b)**

### Commencement Information

**I65** Art. 37(1)(4)(5) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see art. 1(2)(3)

**I66** Art. 37 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

### Appeals

**38.**—(1) An appeal from—

- (a) any order or decision of the Health Committee or the Conduct and Competence Committee other than an interim order made under article 31, shall lie to the appropriate court; and
- (b) [<sup>F40</sup>a decision of the Council mentioned in paragraph (1A)] or of the Investigating Committee under article 26(7) or (12) shall lie to a county court or, in Scotland, to a sheriff.

[<sup>F41</sup>(1A) The decisions referred to in paragraph (1)(b) are—

- (a) any decision of the Council under article 37;
- (b) a decision of the Council under Part 3 of the General Systems Regulations requiring an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to have access to, and to pursue, the profession of nurse or midwife in the United Kingdom.]

(2) In any appeal under this article the Council shall be the respondent.

(3) The Court or sheriff may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision the Practice Committee concerned or the Council, as the case may be, could have made; or
- (d) remit the case to the Practice Committee concerned or Council, as the case may be, to be disposed of in accordance with the directions of the court or sheriff,

and may make such order as to costs (or, in Scotland, expenses) as it, or he, as the case may be, thinks fit.

(4) In this article “the appropriate court” means—

- (a) in the case of a person whose registered address is (or, if he were registered, would be) in Scotland, the Court of Session;
- (b) in the case of a person whose registered address is (or, if he were registered, would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and
- (c) <sup>F42</sup>... in any other case, the High Court of Justice in England and Wales.

### Textual Amendments

**F40** Words in art. 38(1)(b) substituted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), 167(a)

**F41** Art. 38(1A) inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), 167(b)

**F42** Words in art. 38(4)(c) omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), 167(c)

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

#### **Modifications etc. (not altering text)**

- C9** Art. 38 applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **7(4)(b)**
- C10** Art. 38 applied (with modifications) (1.8.2004) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order of Council 2004 \(S.I. 2004/1762\)](#), arts. 1(1), **6(b)**

#### **Commencement Information**

- I67** Art. 38 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## **PART VII**

### **EEA PROVISIONS**

#### **[<sup>F43</sup>Visiting midwives, and certain visiting nurses, from relevant European States**

**39.** Schedule 2A (visiting midwives, and certain visiting nurses, from relevant European States) shall have effect.]

#### **Textual Amendments**

- F43** Art. 39 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **168**

#### **Commencement Information**

- I68** Art. 39 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### **[<sup>F44</sup>Visiting general systems nurses from relevant European States**

**39A.**—(1) This article applies to an exempt person (“V”)—

- (a) who is lawfully established as a nurse in a relevant European State other than the United Kingdom (“State A”); and
- (b) who seeks to provide, or is providing, nursing services in the United Kingdom of a kind which are provided, in the United Kingdom, by nurses admitted to—
  - (i) sub-part 1 of the nurses' part of the register whose field of practice is mental health nursing, learning disabilities nursing or children's nursing, or
  - (ii) sub-part 2 of the nurses' part of the register.

(2) Paragraph (3) applies if V has the benefit of regulation 8 of the General Systems Regulations in connection with the provision by V of nursing services in the United Kingdom on a temporary and occasional basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of nursing services).

(3) V is entitled to be registered in the appropriate part of the register; and the Registrar shall give effect to the entitlement.

(4) If V is entitled under paragraph (3) to be registered, but is not registered in the appropriate part of the register, V shall be treated as being registered in that part.

(5) V's entitlement under paragraph (3) ceases if V ceases, whether as a result of the operation of regulation 17 of the General Systems Regulations or otherwise, to have the benefit of regulation 8 of those Regulations in connection with the provision by V of nursing services in the United Kingdom on a temporary and occasional basis.

(6) If—

- (a) V's entitlement under paragraph (3) ceases by reason of the operation of paragraph (5), and
- (b) V is registered,

the Registrar may remove V's name from the register.

(7) Paragraph (8) applies if—

- (a) V's establishment in State A is subject to a condition relating to V's practice as a nurse,
- (b) V's name is registered in the appropriate part of the register, and
- (c) for any of the purposes of this Order it falls to be decided whether V's fitness to practise is or may be impaired on the ground of misconduct.

(8) The matters that may be counted as misconduct include (in particular) any act or omission by V during the course of the provision by V of nursing services in the United Kingdom on a temporary and occasional basis that is, or would be if the condition applied in relation to practice as a nurse outside State A, a breach of the condition.

(9) In paragraphs (7) and (8) “condition” includes limitation.

(10) Paragraphs (1) to (6) are not to be taken to prejudice the application, in relation to registrants, of any other provision of this Order under which a registered nurse's name may be removed from the register or under which a registered nurse's registration may be suspended.]

#### Textual Amendments

**F44** Art. 39A inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), 169

#### [<sup>F45</sup>The Directive: designation of competent authority etc.

**40.**—(1) The Council is designated as the competent authority in the United Kingdom for the purposes of the Directive so far as relating to the professions of nurse responsible for general care and midwife.

(2) Accordingly, the Council shall in the United Kingdom carry out (in particular) the functions specified in Schedule 3.

(3) The Council is designated as the competent authority in the United Kingdom for the award of—

- (a) evidence of formal qualifications of nurses responsible for general care listed in relation to the United Kingdom in Annex V, point 5.2.2 of the Directive; and
- (b) evidence of formal qualifications of midwives listed in relation to the United Kingdom in Annex V, point 5.5.2 of the Directive.

(4) Subject to paragraph (5), the Secretary of State may give directions to the Council in connection with its functions specified in Schedule 3, and it shall be the duty of the Council to comply with any such directions.

(5) Directions given under paragraph (4) may be as to matters of administration only.

(6) In Schedule 3—

“non-UK nursing qualification” means a nursing qualification that—

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

- (a) attests to satisfaction of the training conditions specified in article 31 of the Directive (training of nurses responsible for general care), and
- (b) is awarded to a person by a competent authority of a relevant European State other than the United Kingdom;

“non-UK midwifery qualification” means a midwifery qualification that is awarded to a person by a competent authority of a relevant European State other than the United Kingdom;

“UK nursing qualification” means a nursing qualification that—

- (a) attests to satisfaction of the training conditions specified in article 31 of the Directive, and
- (b) is awarded to a person by a competent authority in the United Kingdom;

“UK midwifery qualification” means a qualification that is awarded to a person by a competent authority in the United Kingdom.]

#### Textual Amendments

**F45** Art. 40 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **170**

#### Commencement Information

**I69** Art. 40 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## PART VIII MIDWIFERY

### The Midwifery Committee

**41.**—(1) The role of the Midwifery Committee shall be to advise the Council, at the Council’s request or otherwise, on any matters affecting midwifery.

(2) The Council shall consult the Midwifery Committee on the exercise of its functions in so far as it affects midwifery including any proposal to make rules under article 42.

#### Commencement Information

**I70** Art. 41 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### Rules as to midwifery practice

**42.**—(1) In addition to its functions under other provisions in this Order, the Council shall by rules regulate the practice of midwifery and the rules may in particular—

- (a) determine the circumstances in which and the procedure by means of which a midwife may be suspended from practice;
- (b) require midwives to give notice of their intention to practise to the local supervising authority (referred to in this Part as “the LSA”) for the area in which they intend to practise;
- (c) require midwives to attend courses of instruction in accordance with the rules.

(2) If rules are made requiring midwives to give the notice referred to in paragraph (1)(b), the LSA shall inform the Council of any notice given to it under those rules.

#### **Commencement Information**

- I71** Art. 42 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I72** Art. 42 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

### **Local supervision of midwives**

**43.**—(1) Each LSA shall—

- (a) exercise general supervision in accordance with the rules made under article 42 over all midwives practising in its area;
- (b) where it appears to it that the fitness to practise of a midwife in its area is impaired, report it to the Council; and
- (c) have power in accordance with the rules made under article 42 to suspend a midwife from practice.

(2) The Council may prescribe the qualifications of persons who may be appointed by the LSA to exercise supervision over midwives in its area, and no one shall be so appointed who is not so qualified.

(3) The Council shall by rules from time to time establish standards for the exercise by LSAs of their functions and may give guidance to LSAs on these matters.

#### **Commencement Information**

- I73** Art. 43 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**
- I74** Art. 43 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

## **PART IX OFFENCES**

### **Offences**

**44.**—(1) A person commits an offence if with intent to deceive (whether expressly or by implication)—

- (a) he falsely represents himself to be registered in the register, or a particular part of it or to be the subject of any entry in the register;
- (b) he uses a title referred to in article 6(2) to which he is not entitled;
- (c) he falsely represents himself to possess qualifications in nursing or midwifery.

(2) A person commits an offence if—

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

- (a) with intent that any person shall be deceived (whether expressly or by implication) he causes or permits another person to make any representation about himself which, if made by himself with intent to deceive, would be an offence under paragraph (1); or
  - (b) with intent to deceive, he makes with regard to another person any representation which—
    - (i) is false to his own knowledge, and
    - (ii) if made by the other person with that intent would be an offence by him under paragraph (1).
- (3) A person who fraudulently procures, or tries to procure, the making, amendment, removal or restoration of an entry in the register, is guilty of an offence.
- (4) A person who, without reasonable excuse, fails to comply with any requirement imposed by—
- (a) the Council, or
  - (b) a Practice Committee
- under article 25(1) or (2) or rules made by virtue of article 32(2)(m) or under any corresponding rule made by virtue of article 26, 33 or 37 is guilty of an offence.
- (5) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I75** [Art. 44](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

#### Attendance by unqualified persons at childbirth

- 45.**—(1) A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.
- (2) Paragraph (1) does not apply—
- (a) where the attention is given in a case of sudden or urgent necessity; or
  - (b) in the case of a person who, while undergoing training with a view to becoming a medical practitioner or to becoming a midwife, attends a woman in childbirth as part of a course of practical instruction in midwifery recognised by the Council or by the General Medical Council.
- (3) A person who contravenes paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I76** [Art. 45](#) in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

## PART X

### MISCELLANEOUS

#### Further provisions

**46.**—(1) The Privy Council may make provision by order with regard to the functions of legal assessors and in particular provision may be made—

- (a) requiring legal assessors, when advising the Council or any of its committees, to do so in the presence of the parties or their representatives or, where advice is given in private, requiring the parties to be notified of the advice tendered by the legal assessors;
- (b) requiring the parties to be notified in any case where the legal assessor's advice is not accepted.

(2) Paragraph (1)(a) and (b) shall not apply to advice given by a legal assessor in respect of the drafting of a decision mentioned in article 34(3).

#### Commencement Information

**I77** [Art. 46\(1\)](#) in force at 5.3.2004 as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

#### Rules and orders

**47.**—(1) No rules made under this Order shall come into force until approved by order of the Privy Council.

(2) Any rules made by the Council and any order of the Privy Council made under this Order may make different provision with respect to different cases or classes of case.

(3) Before making any rules under this Order, the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed rules and these may include such persons as appear to it to be representative of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; or
- (d) persons providing, assessing or funding education and training for registrants and prospective registrants.

#### Commencement Information

**I78** [Art. 47](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

#### Exercise of powers by the Privy Council

**48.**—(1) Where the approval of the Privy Council is required by this Order in respect of the making of any rules by the Council, it shall be given by an order made by the Privy Council.

(2) Any power of the Privy Council under this Order to make an order shall be exercisable by statutory instrument.

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[<sup>F46</sup>(2A) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), paragraph (2) shall have effect as if contained in an Act of Parliament.]

(3) Any order under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament but this does not apply to an order made under article 54(2) or Schedule 2, paragraph 19, 20, 21 or 25.

(4) For the purpose of exercising any powers conferred by this Order the quorum of the Privy Council shall be two.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Any document purporting to be—

- (a) an instrument made by the Privy Council under this Order, and
- (b) signed by the Clerk of the Privy Council, shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.

#### Textual Amendments

**F46** [Art. 48\(2A\)](#) inserted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [art. 1\(2\)\(b\)](#), [Sch. 1 para. 7](#)

#### Commencement Information

**I79** [Art. 48](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### Default powers of the Privy Council

**49.**—(1) If it appears to the Privy Council that the Council has failed to perform any functions which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Council of its opinion and require the Council to make representations to it.

(2) The Privy Council may, having considered the representations of the Council, give such directions (if any) to the Council as it considers appropriate.

(3) If the Council fails to comply with any directions given under this article, the Privy Council may give effect to the direction.

(4) Subject to paragraph (5), for the purpose of giving effect to a direction under paragraph (3), the Privy Council may—

- (a) exercise any power of the Council or do any act or other thing authorised to be done by the Council; and
- (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Council.

(5) The Privy Council shall not exercise the power in paragraph (4) to make, amend, remove or restore an entry in the register in respect of an individual, nor to refuse to do so.

(6) The powers under paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

#### Commencement Information

**I80** [Art. 49](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

#### [<sup>F47</sup>Annual reports, statistical reports and strategic plans

**50.**—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of its functions which includes a description of the arrangements that the Council has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1) (b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament.]

#### Textual Amendments

**F47** [Art. 50](#) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 8](#)

#### Commencement Information

**I81** [Art. 50](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

#### Finances of the Council

**51.**—(1) The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.

(2) Subject to this article, the expenses of the Council are to be met out of fees received by the Council and other sums paid to it in connection with the exercise of its functions.

(3) The Secretary of State or an appropriate authority may make grants or loans to the Council towards expenses incurred, or to be incurred by it—

- (a) in connection with the process of the implementation of this Order, or
- (b) for such other purposes in connection with the professions regulated by this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Council.

(4) In this paragraph, “appropriate authority” means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

#### Commencement Information

**I82** [Art. 51](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

## Accounts of the Council

52.—(1) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
- (b) prepare annual accounts in respect of each financial year, in such form as the Privy Council may determine.

(2) The annual accounts shall be audited by persons the Council appoints.

[<sup>F48</sup>(3) The Council shall ensure that the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006 (statutory auditors).]

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors; and
- (b) send a copy of the annual accounts and of any such report to the Privy Council and to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and any records relating to them.

(7) The Privy Council shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(8) In this article, “financial year” means—

- (a) the period beginning with the date on which the Council is established and ending with the next 31st March following that date, and
- (b) each successive period of 12 months ending with 31st March.

### Textual Amendments

**F48** Art. 52(3) substituted (12.6.2008) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), art. 1(2)(b), [Sch. 1 para. 9](#)

### Commencement Information

**I83** Art. 52 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

## Inquiry by the Privy Council

53.—(1) The Privy Council may cause an inquiry to be held into any matter connected with the exercise by the Council of its functions.

(2) Before an inquiry is begun, the Privy Council may direct that it shall be held in public.

(3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.

(4) For the purpose of any such inquiry (but subject to paragraph (5)) the person appointed to hold the inquiry—

- (a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

- (b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.
- (5) Nothing in this article requires a person, in obedience to a summons under the article, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him.
- (6) Any person who refuses or deliberately fails to attend in obedience to a summons under this article, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this article, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Where the Privy Council causes an inquiry to be held under this article—
- (a) the costs incurred by it in relation to the inquiry (including such reasonable sum as it may determine for the services of any officer engaged in the inquiry) shall be paid by such party to the inquiry as it may direct; and
- (b) it may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any person shall be recoverable from that person by the Privy Council summarily as a civil debt.
- (8) Where the Privy Council causes an inquiry to be held under this article it may make orders—
- (a) as to the costs of the parties at the inquiry; and
- (b) as to the parties by whom costs are to be paid,
- and every such order may be made a rule of the appropriate court on the application of any party named in the order.
- (9) “Appropriate court” has the same meaning as in article 38(5).

#### Commencement Information

**184** [Art. 53](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

#### Supplementary and transitional provisions and extent

- 54.**—(1) The transitional provisions contained in Schedule 2 to this Order shall apply.
- (2) The Privy Council may by order make such further transitional provisions as it considers appropriate.
- (3) The consequential amendments contained in Schedule 5 to this Order shall apply.
- (4) This Order extends to the whole of the United Kingdom.

#### Commencement Information

**185** [Art. 54\(4\)](#) in force at made date, see [art. 1\(2\)\(3\)](#)

**186** [Art. 54\(1\)\(2\)](#) in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

**187** [Art. 54\(1\)\(3\)](#) in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

**188** [Art. 54\(2\)](#) in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

**189** [Art. 54\(3\)](#) in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

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**190** [Art. 54\(1\)](#) in force at 31.7.2006 for specified purposes as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 3

### THE NURSING AND MIDWIFERY COUNCIL AND COMMITTEES

#### Modifications etc. (not altering text)

- C11** Sch. 1 modified (temp.) (1.4.2002) by [The Nursing and Midwifery Order 2001 \(Transitional Provisions\) Order 2002 \(S.I. 2002/1125\)](#), arts. 1(1)(c), **2(1)(b)**

## PART I

### THE NURSING AND MIDWIFERY COUNCIL

#### Membership

<sup>F49</sup>**1.** .....

#### Textual Amendments

- F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

#### [<sup>F49</sup>**Membership: general**

**1A.—(1)** The Council shall consist of—

- (a) registrant members, that is members who are registrants; and
- (b) lay members, that is members who—
  - (i) are not and never have been registered nurses or registered midwives (and article 5(5) does not apply for these purposes), and
  - (ii) do not hold qualifications which would entitle them to apply for registration under this Order.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4) Before the Privy Council directs the Appointments Commission under section 60 of the Health Act 2006 to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult the Council.

(5) The Privy Council may, by a direction under section 60 of the Health Act 2006 (Commission to exercise Privy Council's appointment functions), require the Appointments Commission to appoint the person who held office as President of the Council on the day before the first order under article 3(7A) comes into force as a member of the Council as constituted on the day the first order under article 3(7A) comes into force.

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*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

### Textual Amendments

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

### Matters for the order of the Privy Council under article 3(7A)

- 1B.**—(1) An order under article 3(7A) shall include provision with regard to—
- (a) the numbers of registrant members and lay members of the Council;
  - (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;
  - (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
  - (d) the appointment of a chair of the Council and the chair's term of office [<sup>F50</sup>, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment];
  - (e) deputising arrangements in respect of the chair;
  - (f) the quorum of the Council; and
  - (g) the circumstances in which members cease to hold office or may be removed or suspended from office.
- (2) But an order under article 3(7A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.
- (3) An order under article 3(7A) may include provision with regard to—
- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
  - (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
  - (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—
    - (i) that education and training to be the responsibility of another body, and
    - (ii) those requirements to be set and varied by that body from time to time;
  - (d) the attendance of members of the Council at meetings of the Council;
  - (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member; and
  - (f) enabling the Privy Council to appoint as the chair of the Council, for a specified period, the person who held office as President of the Council on the day before the first order under article 3(7A) comes into force.
- (4) An order under article 3(7A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.]

**Status:** Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

**F50** Words in Sch. 1 para. 1B(1)(d) inserted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(g\)\(i\)](#)

**F49** **2.** .....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

**F49** **3.** .....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

**F49** **4.** .....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

**F49** **5.** .....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

**F49** **6.** .....

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

**F49**7. ....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

*Tenure of members*

**F49**8. ....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

**F49**9. ....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

**F49**10. ....

**Textual Amendments**

**F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(2)**

*The President*

**F49**11. ....

### Textual Amendments

- F49** Sch. 1 paras. 1A, 1B substituted for Sch. 1 paras. 1-11 (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(2\)](#)

### *Procedure etc. of Council and committees*

<sup>[F51]</sup>**12.**—(1) Subject to any provision made by this Order or under this Order (otherwise than by standing orders), the Council may by standing orders make provision in respect of—

- (a) its procedure;
- (b) the performance of its functions;
- (c) the constitution of its committees and sub-committees, other than the Practice Committees and the Midwifery Committee;
- (d) the procedure of any of its committees or sub-committees;
- (e) the performance by any of its committees or sub-committees of their functions; and
- (f) the standards of education, training, attendance and performance expected of the members of its committees and sub-committees.

(2) Standing orders of the Council may make provision with regard to the provisional suspension of a member from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under article 3(7A).]

### Textual Amendments

- F51** Sch. 1 para. 12 substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(3\)](#)

### Commencement Information

- I91** Sch. 1 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

**13.**—(1) In appointing non-Council members to any committee set up under article 3(12) the Council shall have regard, where appropriate and subject to the other provisions of this Order, to the guidance issued by the Commissioner for Public Appointments.

(2) The Council shall ensure that such members of the committee who are not Council members shall have such qualifications, interests or experience as, in the opinion of the Council, are relevant to the field with which the committee is mainly concerned.

(3) The Council shall—

- (a) establish and maintain a system for the declaration and registration of private interests of its members and other members of its committees and sub-committees; and
- (b) publish entries recorded in the register of members' interests.

Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

**Commencement Information**

**I92** Sch. 1 para. 13 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

14.—(1) Decisions of the Council and committees shall be made by a majority vote of the members present and voting.

(2) In the event of a tie the [<sup>F52</sup>chair] shall have an additional casting vote.

<sup>F53</sup>(3) .....

(4) This paragraph does not apply to the [<sup>F54</sup>Practice Committees] or to decisions of the Council under article 37.

**Textual Amendments**

**F52** Word in Sch. 1 para. 14(2) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(4)(a)

**F53** Sch. 1 para. 14(3) omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(b)

**F54** Words in Sch. 1 para. 14(4) substituted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(c)

**Commencement Information**

**I93** Sch. 1 para. 14 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**Textual Amendments**

**F51** Sch. 1 para. 12 substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(3)

**F52** Word in Sch. 1 para. 14(2) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), Sch. 1 para. 10(4)(a)

**F53** Sch. 1 para. 14(3) omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(b)

**F54** Words in Sch. 1 para. 14(4) substituted (12.6.2008) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), Sch. 1 para. 10(4)(c)

**Commencement Information**

**I91** Sch. 1 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I92** Sch. 1 para. 13 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I93** Sch. 1 para. 14 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

### *Powers of the Council*

15.—(1) Subject to any provision made by or under this Order, the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.

(2) The Council shall, in particular, have power—

- (a) to borrow;
- (b) to appoint such staff as it may determine;
- (c) to pay its staff such salaries, allowances and expenses as it may determine;
- (d) to make such provision for the payment of such pensions, allowances or gratuities, or such contributions or payments towards provision for such pensions, allowances or gratuities, to or in respect of its staff as it may determine;
- (e) to make such provision in respect of its members and members of its committees and sub-committees as it may determine—
  - (i) for the payment of fees and allowances, including the payment of allowances to employers of such members for the purposes of enabling the members to perform functions under this Order;
  - (ii) for the reimbursement of such expenses as the members may reasonably have incurred in the course of carrying out their functions under this Order;
- (f) to establish such sub-committees of any of its committees as it may determine;

<sup>F55</sup>(g) . . . . .

(h) to abolish any of its committees, other than a statutory committee, or any sub-committee of any of its committees.

(3) The Council may not employ any member of the Council or its committees or sub-committees.

(4) If it appears to the Council that any statutory committee is failing to perform its functions adequately, the Council may give a direction as to the proper performance of those functions.

(5) Where the Council, having given a direction under sub-paragraph (4), is satisfied that the committee has failed to comply with the direction, it may exercise any power of that committee or do any act or other thing authorised to be done by that committee.

<sup>F56</sup>(6) . . . . .

<sup>F56</sup>(7) . . . . .

(8) No person who is a member of the Council or any of its committees or sub-committees by virtue of his membership of any profession, may take part in any proceedings of the Council in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

#### **Textual Amendments**

**F55** Sch. 1 para. 15(2)(g) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(5\)\(a\)](#)

**F56** Sch. 1 para. 15(6)(7) omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), [Sch. 1 para. 10\(5\)\(b\)](#)

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

**Commencement Information**

**I94** Sch. 1 para. 15 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**Privy Council functions**

<sup>F57</sup>**15A** .....

**Textual Amendments**

**F57** Sch. 1 para. 15A revoked (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 47, Sch. 9; S.I. 2006/2603, art. 4(5)(c)(iii)(e), Sch.

**PART II**

**THE STATUTORY COMMITTEES**

*Midwifery Committee*

**16.**—<sup>F58</sup>(1) The Council shall by rules make provision with regard to the constitution of the Midwifery Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

(2) The rules may make provision for a body (including a committee of the Council other than the Midwifery Committee) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of the Midwifery Committee, including any function relating to tenure of office or suspension or removal from office.

(2A) The Council shall have regard, when selecting non-Council members for the Midwifery Committee, to the guidance issued by the Commissioner for Public Appointments.

(2B) Subject to any provision made by this Order or under this Order, including provision made by standing orders of the Council under paragraph 12(1)(d), the Midwifery Committee may regulate its own procedure.]

(3) No person who is a member of the Council or Midwifery Committee by virtue of his membership of any profession may take part in any proceedings of the Committee in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

(4) The powers of the Midwifery Committee may be exercised even though there is a vacancy among its members.

(5) No proceedings of the Midwifery Committee shall be invalidated by any defect in the appointment of a member.

**Status:** Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

**Textual Amendments**

**F58** Sch. 1 para. 16(1)-(2B) substituted for Sch. 1 para. 16(1)(2) (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(6)**

**Commencement Information**

**I95** Sch. 1 para. 16 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

*Practice Committees*

<sup>F59</sup>17.—(1) The Council shall by rules make provision with regard to the constitution of each Practice Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

<sup>F60</sup>(1A) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.]

(2) The rules may make provision for a body (including a committee of the Council which is not one of the Practice Committees) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of a Practice Committee, including any function relating to tenure of office or suspension or removal from office.

(3) Subject to any provision made by this Order or under this Order, including provision made by standing orders of the Council under paragraph 12(1)(d), each Practice Committee may regulate its own procedure.]

**Textual Amendments**

**F59** Sch. 1 para. 17 substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(7)**

**F60** Sch. 1 para. 17(1A) inserted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(g)(ii)**

**Commencement Information**

**I96** Sch. 1 para. 17 in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**

- 18.—<sup>F61</sup>(1) .....
- <sup>F61</sup>(2) .....
- <sup>F61</sup>(3) .....
- <sup>F62</sup>(4) .....

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

(5) The Council shall, subject to other provisions in this Order, have regard when selecting non-Council members for a Practice Committee, to the guidance issued by the Commissioner for Public Appointments.

<sup>F63</sup>(6) .....

(7) Decisions of a Practice Committee shall be made by a majority vote of the members present and voting.

(8) In the event of a tie, the [<sup>F64</sup>chair] shall have an additional casting vote and in respect of a decision under Part V shall exercise his casting vote in favour of the person concerned.

<sup>F65</sup>(9) .....

(10) Apart from proceedings under Part V, no proceedings of a Practice Committee shall be invalidated by any defect in the appointment of a member.

<sup>F66</sup>(11) .....

**Textual Amendments**

- F61** Sch. 1 para. 18(1)-(3) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(8)(a)**
- F62** Sch. 1 para. 18(4) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F63** Sch. 1 para. 18(6) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(8)(a)**
- F64** Word in Sch. 1 para. 18(8) substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(8)(b)**
- F65** Sch. 1 para. 18(9) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F66** Sch. 1 para. 18(11) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**

**Commencement Information**

- I97** Sch. 1 para. 18(1)-(5), (7)-(11) in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I98** Sch. 1 para. 18 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

**Textual Amendments**

- F59** Sch. 1 para. 17 substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 10(7)**
- F60** Sch. 1 para. 17(1A) inserted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), **Sch. 4 para. 38(g)(ii)**

- F61** Sch. 1 para. 18(1)-(3) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**
- F62** Sch. 1 para. 18(4) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F63** Sch. 1 para. 18(6) omitted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(a)**
- F64** Word in Sch. 1 para. 18(8) substituted (5.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), **Sch. 1 para. 10(8)(b)**
- F65** Sch. 1 para. 18(9) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**
- F66** Sch. 1 para. 18(11) omitted (14.5.2009) by virtue of The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(2)(e), **Sch. 4 para. 38(g)(iii)**

#### Commencement Information

- I96** Sch. 1 para. 17 in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I97** Sch. 1 para. 18(1)-(5), (7)-(11) in force at 22.1.2003 as notified in the London Gazette (Issue 56816, published 10.1.2003), see **art. 1(2)(3)**
- I98** Sch. 1 para. 18 in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

## SCHEDULE 2

Article 54

### TRANSITIONAL PROVISIONS

#### Modifications etc. (not altering text)

- C12** Sch. 2 modified (31.12.2003) by The European Qualifications (Health Care Professions) Regulations 2003 (S.I. 2003/3148), regs. 1(1)(c), **3(1)**

#### The initial membership of the Council

1. When first constituted, the membership of the Council shall be determined in accordance with the provisions of this Schedule.

#### Commencement Information

- I99** Sch. 2 para. 1 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**
- I100** Sch. 2 para. 1 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

## The transitional periods

### 2. In this Schedule—

“the first transitional period” means the period beginning with the coming into force of article 3 and ending on the date of coming into force of the first order made by the Privy Council under article 6(1);

“the second transitional period” means the period beginning with the day after the coming into force of the first order made by the Privy Council under article 6(1) and ending on the second anniversary of that date, unless ended earlier by the Privy Council on a proposal received by it from the Council.

### Commencement Information

**I101** Sch. 2 para. 2 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

## The Members

### 3.—(1) During the transitional periods, the Council shall consist of—

- (a) 12 members appointed by the Privy Council (referred to in this Order as “practitioner members”);
- (b) 11 members who are appointed by the Privy Council (referred to in this Order as “lay members”); and
- (c) 12 members appointed by the Privy Council (referred to in this Order as “alternate members”).

(2) The Privy Council shall appoint an alternate member for each practitioner member.

(3) An alternate member shall have the same functions as a practitioner member but he may attend a Council meeting in his capacity as an alternate member and vote only if his corresponding practitioner member is unable to do so.

(4) Following consultation of persons who appear to it to be representative of the professions to which this Order relates, the Privy Council shall appoint practitioner and alternate members from among persons who are registered under the 1997 Act, or, if section 7 has been repealed, who were so registered immediately before that provision was repealed.

(5) It shall select four practitioner members from each of the following categories—

- (a) persons registered in Part 10 of the register maintained under section 7 of the 1997 Act;
- (b) persons registered in Part 11 of the register maintained under section 7 of the 1997 Act;
- (c) persons registered in any other Part of that register of whom the members may all be selected from the same Part or from different Parts.

(6) No person may be appointed as a practitioner member while he is the subject of fitness to practise investigations or proceedings whether under this Order or under the 1997 Act.

(7) Having consulted such persons as it considers appropriate, the Privy Council shall appoint lay members from among persons who are not and never have been on the register or the register kept under the 1997 Act and who have such qualifications, interests and experience as, in the opinion of the Privy Council, will be of value to the Council in the performance of its functions.

(8) The members shall live or work wholly or mainly in the United Kingdom.

(9) There shall be at least one practitioner member and one alternate member from each part of the register, and the number of practitioner and alternate members from each part shall be equal.

**Status:** Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

(10) The practitioner and alternate members appointed in respect of each part of the register shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.

(11) The members who are not registered professionals shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.

**Commencement Information**

**I102** Sch. 2 para. 3 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**

**I103** Sch. 2 para. 3 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

**Tenure of members**

4. Unless he resigns or is removed in such circumstances as are set out in paragraph 8(2) of Schedule 1, each member shall hold office until the end of the second transitional period.

**Commencement Information**

**I104** Sch. 2 para. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**

**I105** Sch. 2 para. 4 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

5. Where a member ceases to be a member, the Privy Council may replace him and the successor's term of office shall begin with the day after that on which the member ceases to be a member and end at the end of the second transitional period.

**Commencement Information**

**I106** Sch. 2 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

<sup>F67</sup>6. ....

**Textual Amendments**

**F67** Sch. 2 para. 6 omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), **Sch. 1 para. 12(2)**

**Textual Amendments**

**F67** Sch. 2 para. 6 omitted (12.6.2008) by virtue of The Nursing and Midwifery (Amendment) Order 2008 (S.I. 2008/1485), art. 1(2)(b), **Sch. 1 para. 12(2)**

**Commencement Information**

**I104** Sch. 2 para. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see **art. 1(2)(3)**

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

- I105** Sch. 2 para. 4 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I106** Sch. 2 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### Election Scheme

7. The Council shall provide in rules for an election scheme in accordance with the provisions of paragraph 2 of Part I of Schedule 1 to this Order no later than six months before the end of the second transitional period.

#### Commencement Information

- I107** Sch. 2 para. 7 in force at 31.7.2006 as notified in the London Gazette (Issue 58044, published 14.7.2006), see [art. 1\(2\)\(3\)](#)

### Appointment of first President

8. The first President of the Council shall be appointed by the Privy Council from among the members of the Council.

#### Commencement Information

- I108** Sch. 2 para. 8 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I109** Sch. 2 para. 8 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### The register

9. During the first transitional period, the Council shall make—
- (a) proposals to the Privy Council for an order to be made under article 6(1);
  - (b) rules under articles 5 and 7 and such other rules as are necessary for the proper operation of the register.

#### Commencement Information

- I110** Sch. 2 para. 9 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

10. Until such date as the first order under article 6(1) is and the rules mentioned in paragraph 9 are in force (“the appointed day”) the Council shall—

- (a) perform the functions of maintaining the register under section 7 of the 1997 Act, and
- (b) determine applications under section 8 of the 1997 Act,

and if those provisions have been repealed, shall act under sub-paragraphs (a) and (b) as if they remained in force and as if references in that Act and subordinate legislation made under it to the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) or to a National Board for Nursing, Midwifery and Health Visiting (a “National Board”) were to the Council.

**Commencement Information**

**I111** Sch. 2 para. 10 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

11. Where on the appointed day there are outstanding applications for—

- (a) registration;
- (b) renewal of registration;
- (c) the recording of additional qualifications;
- (d) any entry in the register to be made, altered or restored,

the Council shall dispose of the application in accordance with the provisions of the 1997 Act, as if those provisions were still in force, or in such other manner as it considers just.

**Commencement Information**

**I112** Sch. 2 para. 11 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

12. The entries in the register kept under the 1997 Act may be transferred to the register in accordance with articles 5 and 6 but, where the home address of a person registered under the 1997 Act appears in the register kept under that Act and the entry for that person is transferred to the register, his home address shall not be published in the register without the consent of that person.

**Commencement Information**

**I113** Sch. 2 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**Commencement Information**

**I110** Sch. 2 para. 9 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I111** Sch. 2 para. 10 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I112** Sch. 2 para. 11 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I113** Sch. 2 para. 12 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

PROSPECTIVE

**The Registrar**

13. The first Registrar may be appointed by the Secretary of State, and shall otherwise be appointed by the Council, on such terms and conditions as the body appointing him sees fit.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

**Commencement Information**

**I114** Sch. 2 para. 13 not in force at made date, see **art. 1(2)(3)**

**14.** If the first Registrar ceases to hold office before a Registrar is appointed under article 4, the Secretary of State or the Council, as the case may be, may appoint a replacement.

**Commencement Information**

**I115** Sch. 2 para. 14 not in force at made date, see **art. 1(2)(3)**

**Commencement Information**

**I114** Sch. 2 para. 13 not in force at made date, see **art. 1(2)(3)**

**I115** Sch. 2 para. 14 not in force at made date, see **art. 1(2)(3)**

**Functions of the Council during the transitional period**

**15.**—(1) During the transitional periods, and subject to any contrary provision in this Order, the Council shall, until the relevant provisions of this Order and subordinate legislation made under it come into force, exercise the functions of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) and of the National Boards for Nursing, Midwifery and Health Visiting (“the National Boards”) under sections 2, 3, 4, 5, 6, 14, 15, 20 and 21 of the 1997 Act and subordinate legislation made under that Act with such modifications as necessary and as if references to the UKCC and National Boards were to the Council.

(2) If the relevant provision has been repealed, it shall be treated for the purposes of subparagraph (1) as if it remained in force.

**Commencement Information**

**I116** Sch. 2 para. 15 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see **art. 1(2)(3)**

**Fitness to practise proceedings**

**16.**—(1) Until relevant rules under Part V come into force—

(a) where disciplinary proceedings—

(i) are pending before the UKCC or any of its committees; or

(ii) have begun but the body or committee dealing with the case has not communicated its decision to the person who is the subject of the proceedings,

that body or committee shall refer the proceedings to the Council and the Council shall dispose of the matter in accordance with the 1997 Act or, if the relevant provisions have been repealed, as if those provisions remained in force;

(b) where an allegation is received by the Council it shall dispose of the matter as if the 1997 Act remained in force; and in both cases

(c) references in the 1997 Act to the UKCC are to be treated as references to the Council.

**Commencement Information**

**I117** Sch. 2 para. 16 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**17.** An appeal—

- (a) under section 12 of the 1997 Act which is pending or proceeding before any court on the date on which that section is repealed; or
- (b) which is received by the Council before the relevant appeal provisions in the rules referred to in paragraph 16 are in force,

shall be dealt with as if section 12 remained in force.

**Commencement Information**

**I118** Sch. 2 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**Commencement Information**

**I117** Sch. 2 para. 16 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**I118** Sch. 2 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**Transitional provisions for local supervising authorities**

**18.**—(1) Until rules made under article 42 come into force Local Supervising Authorities (“LSAs”) shall exercise their functions under section 15 of the 1997 Act and subordinate legislation made under it and, if that section or that subordinate legislation have been repealed, shall exercise those functions as if those provisions were still in force and as if references in

[<sup>F68</sup>(a) that Act—

- (i) to the UKCC or to a National Board were to the Council, and
- (ii) to local supervising authorities were, in relation to England, to a Strategic Health Authority established under section 8 of the National Health Service Act 1977 and, in relation to Wales, to a Health Authority established under section 8 of that Act; and
- (b) that subordinate legislation to health authority were, in relation to England, to a Strategic Health Authority established under section 8 of the National Health Service Act 1977 and, in relation to Wales, to a Health Authority established under section 8 of that Act].

(2) If at the date such rules come into force,

(a) disciplinary proceedings—

- (i) are pending under the rules mentioned in section 15(2)(c) of the 1997 Act; or
- (ii) have begun but the decision has not been communicated to the person who is the subject of the proceedings,

the matter shall be disposed of in accordance with the rules mentioned in head (i) or, if the relevant provisions have been repealed, as if those provisions remained in force or in such other manner as appears to the LSA to be just.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

#### Textual Amendments

**F68** Words in Sch. 2 para. 18(1) substituted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 1, [Sch. 1 para. 100\(2\)](#)

#### Commencement Information

**I119** [Sch. 2 para. 18](#) in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

### Transfer of staff and property

**19.** The Privy Council may by order make provision—

- (a) enabling persons who, when paragraph 3(1) of this Order (creation of Council) comes into force, hold office as members or staff of the UKCC and the National Boards to continue to hold office until those bodies are dissolved;
- (b) authorising the UKCC to make grants or loans to any person in connection with the implementation or preparations for the implementation of the Order.

#### Commencement Information

**I120** Sch. 2 para. 19 not in force at made date, see [art. 1\(2\)\(3\)](#)

**20.—(1)** The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
  - (b) property, rights and liabilities.
- (2) In this paragraph—
- (a) “the new employer” means the Council; and
  - (b) “the old employer” means the UKCC.
- (3) In this paragraph and in paragraph 21—
- “an eligible employee” means a person who is employed under a contract of employment with the old employer; and
- “property” includes rights and interests of any description.

#### Commencement Information

**I121** [Sch. 2 para. 20](#) in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)

**I122** [Sch. 2 para. 20](#) in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

**21.—(1)** The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
- (b) property, rights and liabilities.

- (2) In this paragraph and in paragraph 25—
- (a) “the new employer” means, in relation to—
- (i) England, the Secretary of State,
  - (ii) Wales, the National Assembly for Wales,
  - (iii) Scotland, the Scottish Ministers, and
  - (iv) Northern Ireland, the Northern Ireland Department of Health, Social Services and Public Safety,
- or any person or body established or authorised by any of them; and
- (b) “the old employer” means a National Board.

**Commencement Information**

**I123** Sch. 2 para. 21 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see art. 1(2)(3)

**I124** Sch. 2 para. 21 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**22.** An order made under paragraph 20(1)(a) or 21(1)(a) may be made by the Privy Council only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

**Commencement Information**

**I125** Sch. 2 para. 22 not in force at made date, see art. 1(2)(3)

**23.** An order made under paragraph 20(1)(a) or 21(1)(a) may apply to all, or any description of, employees or to any individual employee.

**Commencement Information**

**I126** Sch. 2 para. 23 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see art. 1(2)(3)

**I127** Sch. 2 para. 23 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**24.—(1)** The contract of employment of an employee transferred under an order made under paragraph 20(1)(a) or 21(1)(a)—

- (a) is not terminated by the transfer; and
- (b) has effect from the date of the transfer as if originally made between the employee and the transferee.

(2) Without prejudice to the generality of sub-paragraph (1), where an employee is transferred under an order mentioned in that sub-paragraph—

- (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are, by virtue of this paragraph, transferred to the transferee on the date of the transfer; and

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

(b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

(3) Sub-paragraphs (2)(a) and (b) do not transfer an employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old employer or the transferee that he objects to the transfer.

(4) Where an employee objects as mentioned in sub-paragraph (3), his contract of employment with the old employer is terminated immediately before the date of the transfer, but he is not to be treated for any purpose as having been dismissed by that employer.

(5) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this paragraph—

“the date of the transfer” means the date of the transfer determined under an order made under paragraph 20(1)(a) or 21(1)(a) in relation to the employee; and

“the transferee” means the new employer to whom the employee is or would be transferred under that order.

#### Commencement Information

**I128** Sch. 2 para. 24 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

**25.**—(1) An order made under paragraph 20(1)(b) or 21(1)(b) may provide for the new employer to—

- (a) prepare a statement of accounts in respect of the financial year to 31st March 2002;
- (b) submit a report on the performance of the old employer for the period since the last report under section 18(6) of the 1997 Act to 31st March 2002; or
- (c) carry out any other functions necessary or expedient consequent on the dissolution of the old employer.

(2) Section 18(3), (4), (5) and (7) of the 1997 Act shall apply as if they remained in force except that they shall apply as if the accounts or report, as the case may be, mentioned in paragraph (1) had been prepared by the old employer.

#### Commencement Information

**I129** Sch. 2 para. 25 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see art. 1(2)(3)

**I130** Sch. 2 para. 25 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

#### Commencement Information

**I120** Sch. 2 para. 19 not in force at made date, see art. 1(2)(3)

- I121** Sch. 2 para. 20 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I122** Sch. 2 para. 20 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I123** Sch. 2 para. 21 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I124** Sch. 2 para. 21 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I125** Sch. 2 para. 22 not in force at made date, see [art. 1\(2\)\(3\)](#)
- I126** Sch. 2 para. 23 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I127** Sch. 2 para. 23 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I128** Sch. 2 para. 24 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I129** Sch. 2 para. 25 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I130** Sch. 2 para. 25 in force at 1.4.2002 in so far as not already in force as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)

## [<sup>F69</sup>SCHEDULE 2A

Article 39

### VISITING MIDWIVES, AND CERTAIN VISITING NURSES, FROM RELEVANT EUROPEAN STATES

#### Textual Amendments

- F69** Sch. 2A inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), [171](#)

#### Application and interpretation

1. This Schedule applies to an exempt person—
  - (a) who is lawfully established as a nurse in a relevant European State other than the United Kingdom; or
  - (b) who is lawfully established as a midwife in a relevant European State other than the United Kingdom.
2. In this Schedule—
  - (a) a “visiting practitioner” means an exempt person to whom this Schedule applies;
  - (b) the “home State”, in relation to a visiting practitioner, means the relevant European State in which the practitioner is lawfully established as a nurse or midwife;
  - (c) a reference to the provision of occasional nursing services is a reference to the provision, in the United Kingdom, of nursing services—
    - (i) of a kind which are provided, in the United Kingdom, by nurses whose training satisfies the requirements of article 31 of the Directive (training of nurses responsible for general care), and
    - (ii) on a temporary and occasional basis; and

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

- (d) a reference to the provision of occasional midwifery services is a reference to the provision of midwifery services in the United Kingdom on a temporary and occasional basis.

### **Registration in respect of provision of occasional nursing services or occasional midwifery services**

3.—(1) A visiting practitioner is entitled to be registered in the appropriate part of the register if the practitioner is entitled under paragraph 4 or 7 to provide occasional nursing services or occasional midwifery services; and the Registrar shall give effect to the entitlement.

(2) A visiting practitioner who is entitled under sub-paragraph (1) to be registered, but who is not registered in the appropriate part of the register, shall be treated as registered in that part.

(3) Sub-paragraph (4) applies where a person's entitlement under sub-paragraph (1) to be registered ceases because, by reason of the operation of paragraph 8(1), (2) or (5), the person ceases to be entitled under this Schedule to provide occasional nursing services or occasional midwifery services.

(4) If the person's name is registered, the Registrar may remove the person's name from the register.

(5) Sub-paragraphs (1) to (4) are not to be taken to prejudice the application, in relation to persons registered on the basis of entitlement under sub-paragraph (1), of any other provision of this Order under which the name of a registered nurse or midwife may be removed from the register or under which the registration of a registered nurse or midwife may be suspended.

### **Entitlement to provide occasional nursing services or occasional midwifery services: first year**

4. A visiting practitioner is entitled to provide occasional nursing services or occasional midwifery services if—

- (a) the practitioner has complied with the requirements of paragraph 5, and
- (b) where the practitioner's case falls within regulation 3(9)(a), (c), (d) or (e) of the General Systems Regulations, the provision by the practitioner of occasional nursing services or occasional midwifery services is in accordance with regulations 14 to 16 of those Regulations (the practitioner having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the practitioner may be required to undertake pursuant to Part 2 of those Regulations),

but paragraph 8 contains provision about the duration of entitlement under this paragraph.

### **First provision of services: required documents**

5.—(1) A visiting practitioner who proposes to provide occasional nursing services or occasional midwifery services for the first time must, before providing any such services, send or produce to the Registrar the required documents.

(2) The required documents are—

- (a) a written declaration that states the practitioner's wish to provide occasional nursing services or occasional midwifery services;
- (b) if the practitioner is a national of a relevant European State, proof of nationality;
- (c) if the practitioner is not a national of a relevant European State, proof of the Community right by virtue of which the practitioner is an exempt person;
- (d) evidence of qualifications in nursing or midwifery (see paragraph 6); and

- (e) a certificate (or certificates) issued by a competent authority in the practitioner's home State confirming—
  - (i) that the practitioner is lawfully established as a nurse or midwife in that State, and
  - (ii) that the practitioner is not prohibited (whether on a permanent or temporary basis) from practising as a nurse or midwife there.
- (3) A declaration under sub-paragraph (2)(a) may be supplied by any means.

6.—(1) Subject to sub-paragraph (3), the evidence referred to in paragraph 5(2)(d) is evidence of the European-recognised qualifications which entitle the visiting practitioner to provide, in the practitioner's home State, the nursing or midwifery services that the practitioner proposes to provide in the United Kingdom on a temporary and occasional basis.

(2) This sub-paragraph applies to a visiting practitioner whose case falls within regulation 3(9)(a), (c), (d) or (e) of the General Systems Regulations (with the result that the practitioner is not entitled to provide occasional nursing services or occasional midwifery services unless their provision by the practitioner is in accordance with regulations 14 to 16 of those Regulations).

(3) If sub-paragraph (2) applies to a visiting practitioner, the evidence referred to in paragraph 5(2)(d) of the practitioner's qualifications in nursing or midwifery is evidence of the qualifications which entitle the practitioner to practise as a nurse or midwife in his home State.

(4) In this paragraph, “European-recognised qualifications” means qualifications which relevant European States are required by the Directive to recognise.

#### **Entitlement to provide occasional nursing services or occasional midwifery services after first year: renewals**

7.—(1) Sub-paragraph (2) applies where the Registrar receives the required renewal documents from a visiting practitioner who is entitled under this Schedule to provide occasional nursing services or occasional midwifery services.

(2) The visiting practitioner is entitled to continue to provide occasional nursing services or occasional midwifery services, but paragraph 8 contains provision about the duration of entitlement continued under this sub-paragraph.

(3) Sub-paragraph (4) applies where the Registrar receives the required renewal documents from a visiting practitioner—

- (a) who is not entitled under this Schedule to provide occasional nursing services or occasional midwifery services;
- (b) who has been previously entitled under this Schedule to provide occasional nursing services or occasional midwifery services; and
- (c) whose registration in the register is not suspended.

(4) The visiting practitioner is once again entitled to provide occasional nursing services or occasional midwifery services but, in a case where the practitioner's name is not in the register as a result of removal otherwise than under paragraph 3(4), only if the Registrar decides, after having regard (in particular) to the fact of that removal and the reasons for it, that the entitlement should be renewed. Paragraph 8 contains provision about the duration of entitlement under this sub-paragraph.

(5) In relation to a visiting practitioner “the required renewal documents” are—

- (a) a renewal declaration; and
- (b) each evidence of change document (if any).

(6) In this paragraph “renewal declaration”, in relation to a visiting practitioner, means a written declaration that states the practitioner's wish to provide occasional nursing services or occasional midwifery services in a further year.

*Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)*

(7) Where a document—

- (a) is, in relation to a visiting practitioner, one of the required documents for the purposes of paragraph 5,
- (b) is not a declaration under paragraph 5(2)(a), and
- (c) substantiates a matter as respects which there has been a material change since the practitioner last (whether under paragraph 5 or this paragraph) supplied the then-current version of the document to the registrar,

the version of the document current when under this paragraph the practitioner supplies a renewal declaration to the registrar is an “evidence of change document” for the purposes of sub-paragraph (5)(b).

(8) A renewal declaration supplied under this paragraph may be supplied by any means.

### **Duration of entitlement to provide occasional nursing services or occasional midwifery services**

8.—(1) Unless an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement ceases at the end of the year that begins with the end of the day on which the Registrar received the documents whose receipt gave rise to the entitlement.

(2) Where an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement is extended so as to cease at the end of the year that begins with the end of the relevant day.

(3) For the purposes of sub-paragraph (2)—

- (a) if the day on which the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation) is an anniversary of the start day, “the relevant day” means the day on which the Registrar receives those documents;
- (b) otherwise, “the relevant day” means the anniversary of the start day that is the first such anniversary to occur after the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation).

(4) In sub-paragraph (3) “the start day”, in relation to an entitlement under paragraph 4 or 7(4), means the day on which the Registrar receives the documents whose receipt gives rise to the entitlement.

(5) An entitlement under this Schedule to provide occasional nursing services or occasional midwifery services ceases if—

- (a) the visiting practitioner concerned becomes established as a nurse or as a midwife in the United Kingdom; or
- (b) a disqualifying decision is made against the visiting practitioner concerned.

(6) In sub-paragraph (5) “disqualifying decision”, in relation to a visiting practitioner, means a decision made by a competent or judicial authority in the practitioner's home State that has the effect that the practitioner—

- (a) ceases in that State to be registered or otherwise officially recognised as a nurse or midwife; or
- (b) is prohibited (whether on a permanent or temporary basis) from practising as a nurse or midwife in that State.

(7) If in the case of a visiting practitioner—

- (a) the practitioner's registration in the register is suspended or the practitioner's name is removed from the register, and

(b) immediately before the time when the suspension or (as the case may be) removal takes effect, the practitioner is entitled under this Schedule to provide occasional nursing services or occasional midwifery services,  
that entitlement ceases at that time.

### Conditions

9.—(1) Paragraph (2) applies if—

- (a) the establishment of a visiting practitioner in the practitioner's home State is subject to a condition relating to the practitioner's practice as a nurse or midwife;
- (b) the practitioner's name is registered in the appropriate part of the register; and
- (c) for any of the purposes of this Order it falls to be decided whether the practitioner's fitness to practise is or may be impaired on the ground of misconduct.

(2) The matters that may be counted as misconduct include (in particular) any act or omission by the visiting practitioner during the course of the provision by the practitioner of occasional nursing services or occasional midwifery services that is, or would be if the condition applied in relation to practice as a nurse or midwife outside the practitioner's home State, a breach of the condition.

(3) In paragraphs (1) and (2) “condition” includes limitation.]

## [<sup>F70</sup>SCHEDULE 3

Article 40

### DIRECTIVE 2005/36: FUNCTIONS OF THE COUNCIL UNDER ARTICLE 40(2)

#### Textual Amendments

**F70** Sch. 3 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), 172

<i>Provision of Directive</i>	<i>Function of Council</i>
Article 7(2)(b)	Issuing certificates containing attestations in relation to persons established in the United Kingdom as nurses responsible for general care or midwives.
Article 8(1)	Receiving information from, or providing information to, other competent authorities in relation to— <ul style="list-style-type: none"><li>(a) the legality of a person's establishment as a nurse responsible for general care or midwife;</li><li>(b) the good conduct of such a person;</li><li>(c) the absence of any disciplinary or criminal sanctions of a professional nature against such a person.</li></ul>
Article 8(2)	Receiving information from, or providing information to, other competent authorities in connection with the investigation of complaints made against persons providing services as a nurse responsible for general care or as a midwife.

**Status:** Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

- Article 23(1) Issuing certificates of effective and lawful practice in the United Kingdom to—  
(a) nurses responsible for general care; and  
(b) midwives.
- Article 23(6) Issuing certificates stating—  
(a) that UK nursing qualifications, which do not correspond to the titles set out in respect of the United Kingdom at point 5.2.2 of Annex V to the Directive, certify successful completion of nursing training that is in accordance with article 31 of the Directive (training of nurses responsible for general care) or that under article 22(a) of the Directive (part-time training) is to be treated as in accordance with article 31 of the Directive;  
(b) that UK midwifery qualifications, which do not correspond to the titles set out in respect of the United Kingdom at point 5.5.2 of Annex V to the Directive, certify successful completion of training in midwifery that is in accordance with article 40 of the Directive (training of midwives) or that under article 22(a) of the Directive is to be treated as in accordance with article 40 of the Directive.
- Article 41 Issuing certificates of professional practice in the United Kingdom to midwives.
- Article 43(1) Issuing certificates of effective and lawful practice in the United Kingdom to midwives.
- Article 50(1) and paragraph 1(d) of Annex VII Issuing, in respect of practice as a nurse responsible for general care or as a midwife, the certificates of current professional status referred to in sub-paragraph (d) of paragraph 1 of Annex VII to the Directive within the time limits set by that sub-paragraph.
- Article 50(1) and paragraph 2 of Annex VII Issuing certificates stating that evidence of UK nursing qualifications or UK midwifery qualifications is that covered by the Directive.
- Article 50(2) In cases of justified doubts—  
(a) requiring confirmation of the authenticity of non-UK nursing qualifications or non-UK midwifery qualifications;  
(b) requiring confirmation that holders of non-UK nursing qualifications or non-UK midwifery qualifications satisfy the minimum training conditions set out in article 31 or 40 of the Directive (as the case may be) or under article 22(a) of the Directive are to be treated as satisfying those conditions;  
(c) providing confirmation to competent authorities of other relevant European States of the authenticity of any person's UK nursing qualifications or UK midwifery qualifications;

	(d) providing confirmation that holders of UK nursing qualifications or UK midwifery qualifications satisfy the minimum training conditions set out in article 31 or 40 of the Directive (as the case may be) or under article 22(a) of the Directive are to be treated as satisfying those conditions.
Article 50(3)	<p>In cases of justified doubts—</p> <p>(a) verifying information provided in connection with non-UK nursing qualifications or non-UK midwifery qualifications awarded following training in a relevant European State other than the State in which the qualification was awarded;</p> <p>(b) providing information in connection with a person's UK nursing qualifications or UK midwifery qualifications awarded following training in another relevant European State.</p>
Article 56(1)	Ensuring the confidentiality of information exchanged with other competent authorities.
Article 56(2)	<p>Receiving information from, or providing information to, other competent authorities regarding disciplinary action, criminal sanctions or other serious circumstances likely to have consequences for the practice of the professions of nurse responsible for general care or midwife.</p> <p>Where such information is received by the Council—</p> <p>(a) examining the veracity of the circumstances;</p> <p>(b) deciding the nature and scope of any investigations that need to be carried out;</p> <p>(c) informing other competent authorities of the Council's conclusions.]</p>

## SCHEDULE 4

Article 2

### INTERPRETATION

#### Commencement Information

- I131** Sch. 4 in force at 22.3.2002 for specified purposes as notified in the London Gazette (Issue 56510, published 15.3.2002), see [art. 1\(2\)\(3\)](#)
- I132** Sch. 4 in force at 1.4.2002 for specified purposes as notified in the London Gazette (Issue 56517, published 25.3.2002), see [art. 1\(2\)\(3\)](#)
- I133** Sch. 4 in force at 22.1.2003 for specified purposes as notified in the London Gazette (Issue 56816, published 10.1.2003), see [art. 1\(2\)\(3\)](#)
- I134** Sch. 4 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I135** Sch. 4 in force at 1.8.2004 for specified purposes as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

**Status:** Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

**I136** Sch. 4 in force at 31.7.2006 in so far as not already in force as notified in the London Gazette (Issue 58044, published 14.7.2006), see **art. 1(2)(3)**

In this Order, unless the context otherwise requires—

“the 1997 Act” means the Nurses, Midwives and Health Visitors Act 1997(3);

F71 ...

F72 ...

F73 ...

F74 ...

F75 ...

“application for restoration” has the meaning given to it in article 33;

“approved course of education or training” means a course approved under article 15(6)(a);

“approved qualification” has the meaning given to it in articles 13 and 15;

F76 ...

[<sup>F77</sup>“competent authority” means any authority or body of a relevant European State designated by that State for the purposes of the Directive as competent to—

(a) receive or issue evidence of qualifications or other information or documents, or

(b) receive applications and take the decisions referred to in the Directive,

in connection with the practice of nursing or midwifery;]

F75 ...

F75 ...

“the Council” means the Nursing and Midwifery Council established under article 3;

[<sup>F78</sup>“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, and references in this Order to the Directive or to any provision of the Directive are references to the Directive, or to that provision of the Directive, as amended from time to time;]

F79 ...

F80 ...

F81 ...

[<sup>F82</sup>“exempt person”, in relation to the profession of nursing or in relation to the profession of midwifery, means—

(a) a national of a relevant European State other than the United Kingdom;

(b) a national of the United Kingdom who is seeking access to, or is pursuing, the profession by virtue of an enforceable Community right; or

(c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community 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;]

[<sup>F83</sup>“General Systems Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007;]

[<sup>F84</sup>“lay member” shall be construed in accordance with paragraph 1A(1)(b) of Schedule 1;]

(3) 1997 c. 24.

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**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

“lay person” means, in relation to Screeners, a person who is not and never has been a member of a health or social care profession which is regulated under any enactment;

“licensing body” means a regulatory body which has the function of authorising persons to practise a health or social care profession;

“local supervising authority” means—

(a) [<sup>F85</sup>in England, Strategic Health Authorities established under section 8 of the National Health Service Act 1977;

(aa) in Wales, Health Authorities established under section 8 of that Act;]

(b) in Scotland, Health Boards; and

(c) in Northern Ireland, Health and Social Services Boards;

<sup>F86</sup> ...

“national”, in relation to [<sup>F87</sup>a relevant European State], means the same as it does for the purposes of the Community Treaties [<sup>F88</sup>but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.];

<sup>F75</sup> ...

<sup>F89</sup> ...

“parties”, except in respect of article 53, means the Council and the person concerned except in respect of article 37 when it includes the Registrar;

“Practice Committees” means the Investigating Committee, the Conduct and Competence Committee and the Health Committee;

“practising” means working as a registered nurse or midwife;

“prescribed” means prescribed in rules made by the Council;

“the professions regulated under this Order” means the professions of nursing and midwifery;

“register” means the register established and maintained under article 5;

“registrant” means a member of the profession of nursing or midwifery who has been admitted to the register maintained under article 5;

<sup>F75</sup> ...

“Registrar” means the person appointed under article 4;

[<sup>F90</sup>“relevant European State” means an EEA State or Switzerland;]

“Screeners” means persons appointed under article 23;

<sup>F91</sup> ...

<sup>F92</sup> ...

“standards of proficiency” means the standards established by the Council under article 5(2);

“statutory committees” has the meaning given to it in article 3(10);

<sup>F93</sup> ...

“United Kingdom country” means England, Scotland, Wales or Northern Ireland.

[<sup>F94</sup>“visiting nurse or midwife from a relevant European State” means a nurse or midwife registered in exercise of entitlement under article 39A (visiting general systems nurses from relevant European States) or Schedule 2A (visiting midwives, and certain visiting nurses, from relevant European States); and]

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“visitors” means persons appointed under article 16.

### Textual Amendments

- F71** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(a)**
- F72** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(b)**
- F73** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(c)**
- F74** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(d)**
- F75** Words in Sch. 4 omitted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 11(a)**
- F76** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(e)**
- F77** Words in Sch. 4 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(f)**
- F78** Words in Sch. 4 inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(g)**
- F79** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(h)**
- F80** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(i)**
- F81** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(j)**
- F82** Words in Sch. 4 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(k)**
- F83** Words in Sch. 4 inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(l)**
- F84** Words in Sch. 4 substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by [The Nursing and Midwifery \(Amendment\) Order 2008 \(S.I. 2008/1485\)](#), **Sch. 1 para. 11(b)**
- F85** Sch. 4: in definition of “local supervising authority” paras. (a)(aa) substituted for para. (a) (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 1, **Sch. 1 para. 100(3)**
- F86** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(m)**
- F87** Words in Sch. 4 substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(n)**
- F88** Words in Sch. 4 added (31.12.2003) by [The European Qualifications \(Health Care Professions\) Regulations 2003 \(S.I. 2003/3148\)](#), regs. 1(1)(c), **4(2)(b)(iii)**
- F89** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(o)**
- F90** Words in Sch. 4 inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(p)**
- F91** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(q)**
- F92** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(r)**
- F93** Words in Sch. 4 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **173(s)**

**F94** Words in Sch. 4 inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **173(t)**

## SCHEDULE 5

Article 54

### CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

#### *The Parliamentary Commissioner Act 1967 (c. 13)*

1. In Schedule 2 to the Parliamentary Commissioner Act 1967 (Departments etc. subject to investigation), the entry relating to the English National Board for Nursing, Midwifery and Health Visiting shall be omitted.

#### Commencement Information

**I137** Sch. 5 para. 1 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

#### *Medicines Act 1968 (c. 67)*

2. In section 58 of the Medicines Act 1968 (medicinal products on prescription only)—
- (a) for subsection (1)(d) there shall be substituted—
    - “(d) registered nurses or midwives who are of such a description and comply with such conditions as may be specified in the order”;
  - (b) in subsection (4)(a), for the words “a registered nurse, midwife or health visitor,” there shall be substituted “a registered nurse or midwife.”

#### Commencement Information

**I138** Sch. 5 para. 2 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

#### *The Fair Trading Act 1973 (c. 41)*

<sup>F95</sup>3. ....

#### Textual Amendments

**F95** Sch. 5 para. 3 revoked (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, Sch. para. 44

#### *The House of Commons Disqualification Act 1975 (c. 24)*

4. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of any of the National Boards for Nursing, Midwifery and Health Visiting mentioned in section 5 of the Nurses, Midwives and Health Visitors Act 1997 or any member of those Boards appointed at a salary, shall be omitted.

Status: Point in time view as at 14/05/2009. This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001. (See end of Document for details)

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**Commencement Information**

**I139** Sch. 5 para. 4 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

5. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland or member of that Board appointed at a salary, shall be omitted.

.....

**Commencement Information**

**I140** Sch. 5 para. 5 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

PROSPECTIVE

*National Health Service Act 1977 (c. 49)*

<sup>F96</sup>6. ....

.....

**Textual Amendments**

**F96** Sch. 5 para. 6 revoked (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4

*The Interpretation Act 1978*

7. In Schedule 1 to the Interpretation Act 1978 (words and expressions defined), for the definition of “Registered” in relation to nurses, midwives and health visitors there shall be substituted—  
““Registered” in relation to nurses and midwives, means registered in the register maintained under article 5 of the Nurses and Midwives Order 2001 by virtue of qualifications in nursing or midwifery, as the case may be.”.

.....

**Commencement Information**

**I141** Sch. 5 para. 7 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*The Registered Homes Act 1984 (c. 23)*

8. In section 42 of the Registered Homes Act 1984 (tribunal for appeals relating to nursing homes (including maternity homes) and mental nursing homes) in subsection (4)(a), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001.”.

**Commencement Information**

**I142** Sch. 5 para. 8 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

*The Video Recordings Act 1984 (c. 39)*

**9.** In section 3 of the Video Recordings Act 1984 (exempted supplies), in subsection (11), for “the Nurses, Midwives and Health Visitors Act 1997”, there shall be substituted “the Nursing and Midwifery Order 2001”.

**Commencement Information**

**I143** Sch. 5 para. 9 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*Children Act 1989 (c. 41)*

**10.** In the Children Act 1989—

- (a) in section 45 (duration of emergency protection orders and other supplemental provisions), in subsection (12), for the words “registered health visitor” there shall be substituted “registered midwife”;
- (b) in section 48 (powers to assist in discovery of children who may be in need of emergency protection), in subsection (11), for the words “registered health visitor”, there shall be substituted “registered midwife”; and
- (c) in section 102 (power of constable to assist in exercise of certain powers to search for children or inspect premises) in subsection (3), for the words “registered health visitor”, there shall be substituted “registered midwife”.

**Commencement Information**

**I144** Sch. 5 para. 10 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*The Registered Homes (Northern Ireland) Order 1992 (S.I.1992/3204 (NI 20))*

**11.** In Article 32 of the Registered Homes (Northern Ireland) Order 1992, paragraph (2)(b), for “section 7 of the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “article 5 of the Nursing and Midwifery Order 2001”.

**Commencement Information**

**I145** Sch. 5 para. 11 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

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*The Value Added Tax Act 1994 (c. 23)*

12. In Part II of Schedule 9 to the Value Added Tax Act 1994 (exempt supplies of goods and services), for item 1(d) in Group 7 (health and welfare), there shall be substituted “the register of qualified nurses and midwives maintained under article 5 of the Nursing and Midwifery Order 2001”.

**Commencement Information**

I146 Sch. 5 para. 12 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*Employment Rights Act 1996 (c. 18)*

13. In section 55 of the Employment Rights Act 1996 (right to time off for ante-natal care), in each of subsections (1)(b) and (2)(a) for “registered health visitor”, there shall be substituted “registered nurse”.

**Commencement Information**

I147 Sch. 5 para. 13 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*Data Protection Act 1998 (c. 29)*

14. In section 69 of the Data Protection Act (meaning of “health professional”), in section (1), for subsection (e), there shall be substituted—

“(e) a registered nurse or midwife”.

**Commencement Information**

I148 Sch. 5 para. 14 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*Government of Wales Act 1998 (c. 38)*

15. In Part III of Schedule 4 to the Government of Wales Act 1998 (public bodies subject to reform by the Assembly which may only gain functions), paragraph 17 shall be omitted.

**Commencement Information**

I149 Sch. 5 para. 15 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

*The Health Act 1999 (c. 8)*

16. In the Health Act 1999—

- (a) in section 60 (regulation of health care and associated professions), in subsection (2), in paragraph (b), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001”; and

- (b) in Schedule 3 (regulation of health care and associated professions), in paragraph 8 (certain functions not to be transferred from regulatory body), in sub-paragraph (3) “or the Nurses, Midwives and Health Visitors Act 1997” shall be omitted.

**Commencement Information**

**I150** Sch. 5 para. 16 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see art. 1(2)(3)

*Freedom of Information Act 2000 (c. 36)*

**17.** In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part VI (other public bodies and offices: general)—

- (a) the entries for the English National Board for Nursing, Midwifery and Health Visiting and the Welsh National Board for Nursing, Midwifery and Health Visiting shall be omitted; and
- (b) the entry for the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, shall be omitted and “The Nursing and Midwifery Council.” shall be inserted in the appropriate place.

**Commencement Information**

**I151** Sch. 5 para. 17 in force at 1.4.2002 as notified in the London Gazette (Issue 56517, published 25.3.2002), see art. 1(2)(3)

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the regulation of nurses and midwives and creates a regulatory body, the Nursing and Midwifery Council, which is required to set standards of education, training, conduct and performance and to put in place arrangements to ensure that they are met (article 3). It provides for the Council to keep a register of qualified nurses and midwives and creates four statutory committees: the Investigating Committee, Conduct and Competence Committee, Health Committee and Midwifery Committee (article 3(9)). The Order replaces the regulatory system provided for by the Nurses, Midwives and Health Visitors Act 1997.

The Order provides for the Council to set standards and requirements to be satisfied before a person may be admitted to the register (article 5) and to deal with applications for registration, renewal of registration or readmittance in accordance with Part III and rules made under it. Articles 13 and 14 indicate the qualifications on which registration may be based. The register is to be published (article 8).

The Order provides in Part IV for the Council to establish standards of education and training necessary for admission to the register; to make arrangements to ensure that those standards are met; and to approve qualifications, courses and institutions which meet its standards (articles 15 to 18).

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The Council may also provide for post-registration training and require a nurse or midwife who has not practised for some time to undertake additional training (article 19). The Order provides for the Council to liaise with educational institutions (article 3 and Part IV).

Part V provides for the Council to establish and keep under review standards of conduct, performance and ethics expected of registrants and prospective registrants; to issue guidance on these matters and to make arrangements to ensure that action is taken when the fitness to practise of a nurse or midwife is impaired by reason of misconduct, lack of competence or ill-health (articles 21 and 22). Part V sets out the procedure to be followed in investigating whether the fitness to practise of a registrant is impaired. Preliminary consideration may be given by Screeners and the Investigating Committee (articles 22 to 24 and 26) and if it appears that there is a case to answer the matter will be considered by the Conduct and Competence Committee or the Health Committee (article 29). There is also provision to investigate whether an entry on the register has been fraudulently procured or incorrectly made and for the Investigating Committee to take action if it has (article 26(7)). Orders and decisions of the Practice Committees may be reviewed (articles 26(12) and 30). The Committees may, where they consider it to be in the public interest or in the interest of the registrant concerned, make interim orders to take effect before a final decision is given in a case or pending an appeal (article 31). Rules are to be made for the procedure to be followed by the Committees and the Council in considering cases referred to them (article 32(2), relevant parts of which are applied to the Investigating Committee and the Council by articles 26 and 37 respectively). A person who has been struck off the register may apply to be restored to it and article 33 sets out the procedure to be followed and the circumstances in which the application may be granted. The Council shall appoint legal assessors (article 34) and may appoint medical and registrant assessors (articles 35 and 36) to assist those considering, amongst others, registration and fitness to practise issues.

Part VI relates to appeals. A person may appeal to the Council from a decision of the Registrar concerning registration and article 37 sets out the procedure to be followed. Article 38 provides that appeals from decisions of the Health Committee or Conduct and Competence Committee are to the High Court (or, in Scotland, the Court of Session), and, from the Investigating Committee or Council, to the county court (or, in Scotland, the sheriff).

Part VII and Schedule 3 apply to qualifications to be recognised under EC law as it applies in the States which are party to the agreement on the European Economic Area (the “EEA”) and the Order implements the Directives on nursing and midwifery (Directives 77/452 and 77/453—nurses—and 80/154 and 80/155—midwives—as amended).

Part VIII relates to the Midwifery Committee whose role is to advise the Council on matters which affect midwifery. It provides for rules to be made regulating midwifery practice and for supervision of midwives by local supervising authorities.

Part IX provides for certain actions to be offences. These are, principally, where a person falsely represents himself as being registered or having professional qualifications or uses a title to which he is not entitled; or, although not falling within the specified categories, attends a woman in childbirth.

Part X contains provisions on miscellaneous matters such as consultation by the Council before it makes rules (article 47); approval by the Privy Council of rules and the procedure which applies (articles 47 and 48); the powers of the Privy Council to take action if it considers that the Council has failed to perform its functions (article 49) and to hold an inquiry into any matter connected with the exercise by the Council of its functions (article 53). The Council is required to publish annual reports (article 50) and to keep proper accounts (article 52).

Schedule 1 provides for the constitution of the elected Council; provisions relating to the election scheme and the procedure of the Council and statutory committees.

Article 54 and Schedule 2 relate to transitional provisions including the conduct of business before an elected Council comes into being. Schedule 4 relates to interpretation. Consequential amendments to primary legislation are set out in Schedule 5.

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**Status:**

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**Changes to legislation:**

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