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STATUTORY INSTRUMENTS

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**2002 No. 253**

**The Nursing and Midwifery Order 2001**

**PART V**

**FITNESS TO PRACTISE**

**[<sup>F1</sup>Orders of the Fitness to Practise Committee]**

**29.**—(1) If, having considered an allegation, [<sup>F2</sup>the Fitness to Practise 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, [<sup>F3</sup>the Fitness to Practise Committee], as the case may be, concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.

[<sup>F4</sup>(4) The Committee may undertake mediation of the matter, or 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) [<sup>F5</sup>(ii), (iv) or (iva)] 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;

[<sup>F6</sup>(8A) If, at the time of making an order under paragraph (5)(b) or (c), the Fitness to Practise Committee is satisfied that, with effect from the date of the expiry of that order, it will not be necessary to—

- (a) extend the period of the order;
- (b) vary the order; or
- (c) make any other order falling within article 29(5),

the Committee may decide that article 30(1) does not apply to that order.]

(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.

#### Textual Amendments

- F1** Art. 29 heading substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(a)** (with art. 3)
- F2** Words in art. 29(1) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)
- F3** Words in art. 29(3) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)
- F4** Art. 29(4) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 21**
- F5** Words in art. 29(6) substituted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **39**; S.I. 2015/1451, art. 4
- F6** Art. 29(8A) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(c)** (with art. 3)

#### 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)**
- 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)
- 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)**

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**Changes to legislation:** *There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001, Section 29. (See end of Document for details)*

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**Commencement Information**

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001, Section 29.