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STATUTORY INSTRUMENTS

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**2002 No. 253**

**The Nursing and Midwifery Order 2001**

**PART V**

**FITNESS TO PRACTISE**

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

**33.**—<sup>[F1]</sup>(1) Where a person has been struck off the register by virtue of an order made under article 29(5)(a), 30(1)(b) or 38(3)(c) and the person wishes to be restored to the register, that person must make an application for restoration to the Registrar.]

(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 <sup>[F2]</sup>article 29(5)(a), 30(1)(b) or 38(3)(c)] 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.

<sup>[F3]</sup>(3) An application for restoration must be referred by the Registrar to the Fitness to Practise Committee for determination.]

(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) <sup>[F4]</sup>, (b) and (ba)] 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 <sup>[F5]</sup>on his satisfying the Registrar as mentioned in article 10(4)(aa),] 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 <sup>[F6]</sup>Fitness to

Practise Committee] 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 [<sup>F7</sup>Fitness to Practise Committee for determination].

(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.

#### Textual Amendments

- F1** Art. 33(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(a)** (with art. 3)
- F2** Words in art. 33(2)(a) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(b)** (with art. 3)
- F3** Art. 33(3) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(c)** (with art. 3)
- F4** Words in art. 33(5) substituted (18.1.2016) by [The Health Care and Associated Professions \(Knowledge of English\) Order 2015 \(S.I. 2015/806\)](#), arts. 1(3), **40**; S.I. 2015/1451, art. 4
- F5** Words in art. 33(7)(a) inserted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 27**
- F6** Words in art. 33(9) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(d)** (with art. 3)
- F7** Words in art. 33(11) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(e)** (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. 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)**
- C4** 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

- I1** 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\(2\)\(3\)](#)
- I2** 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\(2\)\(3\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001, Section 33.