

2002 No. 923

NURSES AND MIDWIVES

The Nursing and Midwifery (Transfer of Staff and Property etc.) Order 2002

Made - - - - - 22nd March 2002

Coming into force - - - 1st April 2002

At the Council Chambers, Whitehall, the 22nd day of March 2002

By the Lords of Her Majesty's Most Honourable Privy Council.

Their Lordships, in exercise of the powers conferred on them by article 54(2) of, and paragraphs 20, 21, 23 and 25(1) of Schedule 2 to, the Nursing and Midwifery Order 2001(a), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Nursing and Midwifery (Transfer of Staff and Property etc.) Order 2002 and shall come into force on 1st April 2002.

(2) In this Order—

“the Order” means the Nursing and Midwifery Order 2001;

“the Act” means the Nurses, Midwives and Health Visitors Act 1997(b);

“date of transfer” means 1st April 2002;

“the English National Board” means the English National Board for Nursing, Midwifery and Health Visiting(c);

“new employer” means the body specified in column (2) of the Schedule to this Order;

“old employer” means the body specified in column (1) of the Schedule to this Order;

“relevant new employer” means, in relation to any old employer specified in column (1) of the Schedule to this Order, the new employer which is specified in column (2) of the Schedule opposite the name of the old employer.

Transfer of staff

2.—(1) Subject to paragraph (2), an eligible employee(d)—

(a) who immediately before the date of transfer was employed by one of the old employers; and

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(a) S.I. 2002/253.

(b) 1997 c. 24.

(c) see section 5 of the Act.

(d) “eligible employee” is defined in paragraph 20 of Schedule 2 to the Order for the purposes of paragraphs 20 and 21 as a person who is employed under a contract of employment with the old employer.

(b) whose employment would have continued but for the dissolution of the old employer shall transfer on the date of transfer from that old employer to the relevant new employer.

(2) Paragraph (1) does not apply to an eligible employee who was employed by the English National Board immediately before the date of transfer.

#### Transfer of property, rights and liabilities

3.—(1) Subject to the other provisions of this article, on the date of transfer, all the property, rights and liabilities of the old employers shall transfer in each case from the old employer in question to the relevant new employer and vest in the relevant new employer.

(2) Paragraph (1) is to have effect notwithstanding any provision which would otherwise prevent, penalise or restrict the transfer of the property.

(3) A right of pre-emption, right of reverter or other similar right is not to operate or become exercisable as a result of any transfer of any property by virtue of paragraph (1).

(4) In the case of such a transfer, any such right is to have effect as if the relevant new employer were the same person in law as the old employer in question and as if no transfer of the property had taken place.

(5) Liabilities of any member of an old employer, which were incurred in pursuance of their duties as a member, shall, on the date of transfer, transfer to and vest in the relevant new employer.

#### Winding up of affairs of old employers

4.—(1) Subject to paragraph (2), the relevant new employer shall—

- (a) prepare a statement of accounts in respect of the old employer's 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; and
- (c) carry out any other functions as may be necessary or expedient consequent on the dissolution of the old employer.

(2) Where the old employer was the English National Board, the functions mentioned in paragraph (1)(a) and (b) shall be exercised by the persons who at the time of the dissolution of the English National Board hold the offices of Chief Executive Officer and Principal Finance Officer of the Board(a).

#### Provision for continuity in the exercise of functions

5. Anything done by or on behalf of or in relation to an old employer in the exercise of its functions shall be treated as from the date of transfer as having been done by or on behalf of or in relation to the new employer.

A.K. Galloway  
Clerk of the Privy Council

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(a) The Chief Executive Officer is appointed under section 5(7)(a) of the Act and the Principal Finance Officer is appointed under section 5(7)(b) of the Act and S.I. 1993/629 to which there are amendments which are not relevant to this Order.

**SCHEDULE 1**

Article 1

**OLD EMPLOYER AND RELEVANT NEW EMPLOYER**

<b>Column (1)</b>	<b>Column (2)</b>
<b>Name of old employer</b>	<b>Name of relevant new employer</b>
United Kingdom Central Council for Nursing, Midwifery and Health Visiting(a)	Nursing and Midwifery Council
English National Board for Nursing, Midwifery and Health Visiting(b)	Secretary of State
National Board for Nursing, Midwifery and Health Visiting for Scotland (b)	The Special Health Board known as NHS Education for Scotland(c)
Welsh National Board for Nursing, Midwifery and Health Visiting(b)	National Assembly for Wales
National Board for Nursing, Midwifery and Health Visiting for Northern Ireland(b)	Northern Ireland Central Services Agency for the Health and Social Services(d)

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(a) See section 1 of the Act.

(b) See section 5 of the Act.

(c) The NHS Education for Scotland Order 2002, S.S.I. 2002/103.

(d) Health and Personal Social Services (Northern Ireland) Order 1972, article 26(1) (S.I. 1972/1265 (N.I.14)).

## EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains provisions consequential on the abolition of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”), and the National Boards for Nursing, Midwifery and Health Visiting, and the establishment of the Nursing and Midwifery Council. It provides for the transfer of staff from the UKCC and the Welsh, Scottish and Northern Ireland National Boards (constituted in accordance with sections 1 and 5 respectively of the Nurses, Midwives and Health Visitors Act 1997) to new employers who are identified in the Schedule to the Order (article 2). It also provides for the transfer of property, rights and liabilities from those bodies and the English National Board to the relevant new employer (article 3), for the winding up of the affairs of the old employers (article 4) and for continuity in the exercise of functions between the old employers and the new employers (article 5).

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