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## STATUTORY INSTRUMENTS

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# 2004 No. 1767

## The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004

The Nursing and Midwifery Council in exercise of its powers under articles 5(2)(b), 5(4), 7(1), 7(2), 9(2), 10(1), 10(2), 10(3), 12(1), 13(1)(c)(iii), 15(2), 19(1), 19(2), 19(3), 37 and 47(2) of, and Schedule 4 to, the Nursing and Midwifery Order 2001<sup>M1</sup> and of all other powers enabling it in that behalf and following consultation in accordance with articles 5(3) and 47 of that Order hereby makes the following Rules:

### Marginal Citations

**M1** S.I. 2002/253; Schedule 4 is cited because of the definition of “prescribed”.

## PART 1

### *General*

#### Citation and commencement

1. These Rules may be cited as the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 and shall come into force on 1st August 2004.

#### Interpretation

2.—<sup>[F1(1)]</sup> In these Rules—

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“approved educational institution”	means an institution or part of an institution or a combination of institutions approved by the Council under article 15(6)(c) of the Order;
“approved programme of education”	means an integrated theoretical and clinical practice programme that has been approved by the Council under article 15(6)(a) of the Order;
“education”	includes training;
“old register”	means the register maintained by the Council pursuant to paragraph 10 of Schedule 2 to the Order;
“personal identification number”	means the unique number allocated to each applicant on first registration;
“personal reference number”	means the unique number allocated to each applicant prior to registration;

**Status:** Point in time view as at 19/01/2016.

**Changes to legislation:** There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)

“recordable qualification”	means a qualification which is not a registrable qualification and which— (a) meets the standards set by the Council; or (b) is obtained outside the United Kingdom and which the Council is satisfied is equivalent to a qualification of the type referred to in paragraph (a);
“registrable qualification”	means a qualification leading to admission to a part of the register;
“registration period”	shall be construed in accordance with rule 10;
“the Fees Rules”	means the Nursing and Midwifery Council (Fees) Rules 2004; and
“the Order”	means the Nursing and Midwifery Order 2001.

[<sup>F2</sup>(2) In these Rules, a reference to any provision of the Directive <sup>M2</sup> is a reference to that provision of the Directive as amended from time to time.]

#### Textual Amendments

- F1** Sch. rule 2 renumbered as Sch. rule 2(1) (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(2)(a)**
- F2** Sch. rule 2(2) added (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(2)(b)**

#### Marginal Citations

- M2** “The Directive” is defined in [Schedule 4](#) to the Order as Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005.

### [<sup>F3</sup>Application to visiting nurses and midwives from relevant European States

#### 2A. In these Rules—

- (a) Part 2 shall not apply to visiting nurses and midwives from relevant European States <sup>M3</sup>, or in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rule 3(3);
- (b) Part 3 shall not apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rules 4 (the register), 14 (lapse of registration) and 16 (amendments to the register);
- (c) Part 4 shall apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order.]

#### Textual Amendments

- F3** Sch. rule 2A inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(3)**

### Marginal Citations

- M3** “Visiting nurse or midwife from a relevant European State” is defined in [Schedule 4](#) to the Order as a nurse or midwife registered in exercise of entitlement under article 39A of or Schedule 2A to the Order.

## PART 2

### Education

#### Education leading to registration and re-registration

**3.**—<sup>[F4]</sup>(1) Subject to paragraph (1B), where an approved programme of education leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.2.2 of the Directive (evidence of formal qualifications as a nurse responsible for general care), that programme must comply with the training requirements laid down in article 31 of the Directive (training of nurses responsible for general care).

(1A) Subject to paragraph (1B), where an approved programme of education leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.5.2 of the Directive (evidence of formal qualifications as a midwife), that programme must comply with the training requirements laid down in article 40 of the Directive (training of midwives).

(1B) Notwithstanding the requirements of article 31 or 40 of the Directive, an approved programme of education may consist of part-time training, provided that such training complies with the requirements laid down in article 22(a) of the Directive (common provisions on training: part-time training).]

<sup>[F5]</sup>(2) The requirements for entry to an approved programme of education which leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.2.2 or point 5.5.2 of the Directive, shall include the requirements of article 31(1) or article 40(2) of the Directive (as the case may be).]

(3) A registrant must undertake such continuing professional development as the Council shall specify in standards in accordance with article 19(1) of the Order.

(4) A person applying for registration, renewal or readmission:

- (a) who first applies for registration more than five years after being awarded an approved qualification;
- (b) whose registration has lapsed and who applies for readmission to the register, unless in the five years before the date of her application for readmission to the register she has practised for at least 750 hours; or
- (c) who, subject to paragraph (5) has practised for less than 450 hours in the three years preceding the date of an application for renewal of registration,

shall undertake such education and training or gain such experience as the Council specifies in standards in accordance with article 19(3) of the Order.

(5) Until two years after the coming into force of these rules, a person may satisfy paragraph (4) (c) if she has practised for 750 hours or more in the five years preceding the date of her application.

### Textual Amendments

- F4** Sch. rule 3(1)-(1B) substituted for Sch. rule 3(1) (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(4)(a)**

*Status: Point in time view as at 19/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)*

**F5** Sch. rule 3(2) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(4)(b)**

## PART 3

### *Registration*

#### **The register**

- 4.—(1) The Registrar shall enter in the register against the full name of each registrant—
- (a) her personal identification number;
  - (b) her address for correspondence;
  - (c) any registrable qualification, including any mark which denotes her field of practice as it applies to that qualification;
  - (d) any recordable qualification.

(2) The home address of a registrant shall not be included in any published version of the register without her consent.

(3) The Registrar may enter on the register any other information which is material to a registrant's registration.

(4) The Registrar shall keep the register, electronically, in a form and manner which guards against falsification and shall take all reasonable steps to ensure that only she, and such persons as have been authorised by her in writing for the purpose, shall be able to amend the register.

Application for admission to a part of the register.

#### **Application for admission to a part of the register**

- 5.—(1) An application for admission to a part of the register shall be—
- (a) made in writing using the personalised documentation provided by the Council which shall include a declaration by the applicant as to her good health and good character and the other information listed in Schedule 3;
  - (b) signed by the applicant;
  - (c) sent or delivered to the Registrar;
  - (d) supported by payment of the appropriate fee prescribed in the Fees Rules;
  - (e) accompanied by evidence of her qualification as referred to in paragraph (2) and a supporting declaration as described in rule 6.
- (2) The applicant shall provide—
- (a) the following evidence of her qualification—
    - (i) where the applicant is relying on article 13(1)(a) of the Order, evidence that she has obtained an approved qualification of a type mentioned in the said article 13(1)(a),
    - (ii) where the applicant is relying on article 13(1)(b) of the Order, the certificate or other document issued by the competent authority of the relevant [<sup>F6</sup>European State] attesting to her qualification and, where appropriate, evidence that all the conditions imposed pursuant to article 14(2) of the Order have [<sup>F7</sup>been met,]
    - (iii) where the applicant is relying on [<sup>F8</sup>article 13(1)(c) or (d)] of the Order, evidence of her qualification and, where appropriate, such other evidence as the Council may

reasonably require (such as a document that details her training and references) in order to satisfy the Council that she has met the requisite standard of proficiency for admission to the part of the register in respect of which she is <sup>F9</sup>applying, or]

[<sup>F10</sup>(iv) where the applicant is relying on article 13(1)(e) or (f) of the Order, evidence of her qualification and details as to her training; <sup>F11</sup>...]

[<sup>F12</sup>(aa) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;]

[<sup>F13</sup>(ab) evidence that the applicant has the necessary knowledge of English for the purpose of complying with article 9(2)(ba) of the Order;]

(b) such other documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in and determining the application.

[<sup>F14</sup>(3) If the applicant (“A”)—

(a) is relying on article 13(1)(b) of the Order,

(b) holds a diploma listed in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be), and

(c) has successfully completed training as a nurse or midwife that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 31 or 40 of the Directive (as the case may be),

A must also provide a certificate as mentioned in paragraph (4).

(4) The certificate—

(a) must be a certificate issued by a competent authority in A's attesting State (as defined by rule 6(1F)); and

(b) must certify that the document provided by A under paragraph (2)(a)(ii) is a diploma listed in relation to that State in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be).]

### Textual Amendments

- F6** Words in Sch. rule 5(2)(a)(ii) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(a)(i)(aa)**
- F7** Words in Sch. rule 5(2)(a)(ii) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(a)(i)(bb)**
- F8** Words in Sch. rule 5(2)(a)(iii) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(a)(ii)(aa)**
- F9** Words in Sch. rule 5(2)(a)(iii) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(a)(ii)(bb)**
- F10** Sch. rule 5(2)(a)(iv) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(a)(iii)**
- F11** Word in Sch. rule 5(2) omitted (17.7.2014) by virtue of [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 31**
- F12** Sch. rule 5(2)(aa) 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. 31**
- F13** Sch. rule 5(2)(ab) inserted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **10**
- F14** Sch. rule 5(3)(4) added (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(5)(b)**

Status: Point in time view as at 19/01/2016.

Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)

**[<sup>F15</sup>Provision of information**

**5A.** The Registrar may request from any person such information as the Registrar may reasonably require for the purposes of determining whether, if the applicant’s application for admission to the register is accepted, there will be in force in relation to that applicant, an indemnity arrangement providing appropriate cover.]

**Textual Amendments**  
**F15** Sch. rule 5A inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, 15

**Requirements for declarations of good health and good character**

**6.—(1)** The declaration by the applicant as to her good health and good character, provided under rule 5(1)(a), shall be supported—

- (a) for an applicant applying for admission to the register on, or within six months of, completion of a pre-registration programme in accordance with rule 5(2)(a)(i), or for re-admission following a return to practice programme, by a declaration signed—
  - (i) by the registered nurse, whose name has been notified to the Council, who is responsible for directing the educational programme at the relevant approved educational institution, or her designated registered nurse substitute, or
  - (ii) by the lead midwife for education, whose name has been notified to the Council, who is responsible for midwifery education in the relevant approved educational institution, or her designated registered midwife substitute,
- (b) for an applicant who has not applied to join the register within six months of the award of her registrable qualification but who makes an application to join the register, in accordance with rule 5(2)(a)(i), within five years of completing a pre-registration programme—
  - (i) by a declaration signed in accordance with paragraph (1)(a)(i) or (ii), and
  - (ii) by a declaration signed by a registrant who is registered in the part or sub-part of the register in which the applicant is applying to be registered, who has known the applicant for at least one year and who has been in contact with her during the preceding six months and who is able to attest to the matters set out in the declaration;
- (c) for an applicant applying for readmission to the register who has not completed a return to practice programme, by a declaration signed by a registrant who is registered in the part or sub-part of the register in which the applicant is applying to be registered, who has known the applicant for at least one year and who has been in contact with her during the preceding six months and who is able to attest to the matters set out in the declaration;
- <sup>F16</sup>(d) .....
- (e) for an applicant applying to join the register who is relying on [<sup>F17</sup>article 13(1)(c) or (d)] of the Order, by a declaration signed—
  - (i) on behalf of the licensing body in the country in which the applicant is registered to practise,
  - (ii) by a member of the occupational health department of a body that has employed or engaged the applicant who, on the basis of a health assessment of the applicant undertaken by that department, is able to attest to the matters set out in the declaration, or

(iii) by a registered medical practitioner who has undertaken a health assessment of the applicant within the last six months.

[<sup>F18</sup>(1A) In the case of an applicant (“A”) who is relying on article 13(1)(b), (e) or (f) of the Order, the declaration by A as to her good health and good character, provided under rule 5(1)(a), shall be supported by—

- (a) a certificate as to good character—
  - (i) to which either paragraph (1B) or (1C) applies, and
  - (ii) issued within the three months preceding the date of A's application, and
- (b) a certificate as to good health—
  - (i) to which either paragraph (1D) or (1E) applies, and
  - (ii) issued within the three months preceding the date of A's application,

and for the purposes of paragraphs (5) and (6), any such certificate shall be considered to be a supporting declaration.

(1B) This paragraph applies to a certificate which—

- (a) attests to A's good character or good repute; and
- (b) is issued by a competent authority in A's attesting State.

(1C) If no such certificate is issued by a competent authority in A's attesting State, this paragraph applies to a certificate—

- (a) attesting to the authenticity of a declaration on oath made by A—
  - (i) before a competent judicial or administrative authority, notary or qualified professional body of A's attesting State, and
  - (ii) attesting to A's good character; and
- (b) issued by the authority, notary or body referred to in sub-paragraph (a)(i).

In this paragraph, “declaration on oath” includes a solemn declaration.

(1D) This paragraph applies to a certificate which—

- (a) attests to A's good physical and mental health; and
- (b) is required of a person who wishes to practise as a nurse or midwife in A's attesting State.

(1E) If no such certificate is required of persons who wish to practise as a nurse or midwife in A's attesting State, this paragraph applies to a certificate which—

- (a) attests to A's good physical and mental health; and
- (b) is issued by a competent authority in A's attesting State.

(1F) In paragraphs (1B) to (1E) the “attesting State”, in relation to A, is—

- (a) the relevant European State in which A obtained her qualification in nursing or midwifery; or
- (b) (if different) the relevant European State from which A comes to the United Kingdom.]

(2) In the case of an applicant who is a nurse to whom paragraph (1)(e) applies and who has successfully completed a period of supervised practice in the United Kingdom, the declaration by the applicant shall be supported by a declaration signed by the nurse registrant, whose name has been notified to the Council, responsible for supervising and assessing her during her period of supervised practice.

(3) In the case of an applicant who is a midwife to whom paragraph (1)(e) applies and who has successfully completed an adaptation programme in the United Kingdom, the declaration by the applicant shall be supported by a declaration signed by the lead midwife for education, whose



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name has been notified to the Council, who is responsible for midwifery education in the relevant approved educational institution or her designated registered midwife substitute.

(4) The person who makes the supporting declaration of good health and good character must not be a relative or employee of the applicant.

(5) For the purposes of satisfying herself as to the good health of the applicant, the Registrar shall have regard to—

- (a) the declaration provided by the applicant;
- (b) the supporting declaration provided under paragraph [<sup>F19</sup>(1)(a), (b), (c) or (e) or paragraph (1D), (1E), (2) or (3)]; and
- (c) such other matters as appear to her to be relevant,

and for this purpose the Registrar may seek information additional to that provided with the application for registration.

(6) For the purposes of satisfying herself as to the good character of the applicant, the Registrar shall have regard to—

- (a) the declaration provided by the applicant;
- (b) the supporting declaration provided under paragraph [<sup>F20</sup>(1)(a), (b), (c) or (e) or paragraph (1B), (1C), (2) or (3)];
- (c) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
- (d) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and
- (e) any other matters which, in the opinion of the Registrar, appear to be relevant,

and for this purpose the Registrar may seek information additional to that provided with the application for registration.

(7) For the purposes of this rule—

<sup>F21</sup>  
...

“relative” in relation to any person means—

- (a) her spouse [<sup>F22</sup>or civil partner];
- (b) her lineal ancestor, lineal descendent, brother, sister, aunt, uncle, nephew, niece or first cousin of hers or of her spouse [<sup>F22</sup>or civil partner]; or
- (c) the spouse [<sup>F22</sup>or civil partner] of any relative mentioned in paragraph (b),

and for the purposes of deducing any such relationship “spouse [<sup>F22</sup>or civil partner]” includes a former spouse [<sup>F22</sup>or civil partner], a partner to whom the person is not married, and a partner of the same sex.

#### Textual Amendments

**F16** Sch. rule 6(1)(d) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(a)(i)**

**F17** Words in Sch. rule 6(1)(e) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(a)(ii)**

**F18** Sch. rule 6(1A)-(1F) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(b)**



- F19** Words in Sch. rule 6(5)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(c)**
- F20** Words in Sch. rule 6(6)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(d)**
- F21** Words in Sch. rule 6(7) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(6)(e)**
- F22** Words in Sch. rule 6(7) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), art. 1, **Sch. 2 para. 4**

### **Prescribed period between the award of an approved qualification and registration**

7. The prescribed period between the award of an approved qualification and application for registration, for the purposes of article 9(2)(a)(i) of the Order, is five years.

### **[<sup>F23</sup>Applications for registration which are unsuccessful**

8. Where an application for admission to the register is made under article 13(1)(b), (c), (d), (e) or (f) of the Order and is refused—

- (a) the application will be retained until the time for making an appeal, set out in rule 20, has elapsed;
- (b) the applicant will not be entitled to any refund of the fee paid in accordance with rule 3(c) or (d) of the Fees Rules;
- (c) the applicant may make a new application for registration after the period for an appeal set out in rule 20 has elapsed, and any such application must be accompanied by the relevant fee, as set out in rule 3(c) or (d) of the Fees Rules.]

#### **Textual Amendments**

- F23** Sch. rule 8 substituted (7.11.2011) by [The Nursing and Midwifery Council \(Fees and Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2011 \(S.I. 2011/2297\)](#), art. 1, **Sch. rule 3**

### **Knowledge of English**

<sup>F24</sup>9. ....

#### **Textual Amendments**

- F24** Sch. rule 9 omitted (19.1.2016) by virtue of [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **11**

### **Registration period**

10.—(1) A person’s registration period (which is the period prescribed under article 10(1) of the Order) is to be determined in accordance with this rule.

(2) The first registration period of a person who, on the date of coming into force of the first order made by the Privy Council under article 6 of the Order, is transferred to the register from the old register will end on the date that her last renewal of registration on the old register would have expired.

*Status: Point in time view as at 19/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)*

- (3) Except as provided for in paragraph (2), a person's first registration period shall—
- (a) begin on the day on which she is first registered in the part of the register concerned; and
  - (b) end on the last day of the month of registration in the third calendar year after the year in which she was first registered.
- (4) Any subsequent registration in another part of the register will end on the same date as that determined under paragraph (3)(b).
- (5) In respect of any registrant, subject to paragraph (6) or (7), a registration period subsequent to the first registration period as determined in accordance with paragraph (2) or (3) shall begin on the day after the previous registration period ends and shall end on the third anniversary of the day the previous registration period ended.
- (6) If a person's registration lapses and she is thereafter readmitted to the register, her registration period shall begin on the day on which she is readmitted and shall end on the last day of the month of registration in the third calendar year after the year in which she was readmitted.
- (7) If a person has been struck off the register and she is thereafter eligible to be restored to the register under article 33(7) of the Order, her registration period shall begin on the day on which she is restored to the register and shall end on the last day of the month of registration in the third calendar year after the year in which she was restored.

#### **[<sup>F25</sup>Notice of retention of registration**

**10A.** Prior to the date on which the registrant is due to pay a retention of registration fee the Council shall send her the following documentation—

- (a) notice of the retention fee prescribed in rule 3(i) of the Fees Rules; and
- (b) a notice warning her that, subject to rule 14(4) to (6), unless the prescribed retention fee is received by the Council on or before the date specified in the notice, her registration shall lapse.]

#### **Textual Amendments**

**F25** Sch. rule 10A added (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(1)**

#### **Notice of renewal of registration**

**11.** Prior to the last day of a registrant's registration period the Council shall send her the following personalised documentation—

- (a) an application form for the renewal of her registration which will require her to provide the information listed in Schedule 4;
- (b) notice of the renewal fee prescribed in rule 3(e) of the Fees Rules; and
- (c) a notice warning her that<sup>F26</sup>, subject to rule 14(4) to (6),] unless the completed application form, accompanied by the prescribed renewal fee, is received by the Registrar on or before the date specified in the notice, her registration shall lapse.

#### Textual Amendments

- F26** Words in Sch. rule 11(c) inserted (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(2)**

#### Service of notices in relation to registration

**12.** Any form, warning or notice sent by the Council or the Registrar to a registrant may be sent by post to the last known address for correspondence and shall be presumed to have been sent on the date which appears on the form, warning or notice<sup>[F27]</sup>, unless the contrary is proved].

#### Textual Amendments

- F27** Words in Sch. rule 12 added (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(3)**

#### <sup>[F28]</sup>Retention of registration

**12A.—(1)** No later than the date specified in the notice to retain her registration issued in accordance with rule 10A(b), the Council must have received payment of the fee for retention of registration prescribed in rule 3(i) of the Fees Rules.

(2) Subject to rule 14(4) to (6), a registrant's registration in a part of the register shall lapse on the day on which the fee for retention of registration is due unless the fee has been paid.]

#### Textual Amendments

- F28** Sch. rule 12A added (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(4)**

#### Renewal of registration

**13.—(1)** No later than the date specified in the notice to renew her registration, issued in accordance with rule 11(c), the Registrar must have received

(a) an application on the personalised documentation provided by the Council which shall include a declaration by the applicant <sup>[F29]</sup>, with which the Registrar is satisfied,] as to her good health and good character;

<sup>[F30]</sup>(aa) evidence that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;]

(b) confirmation from the applicant that—

(i) she has undertaken continuing professional development in accordance with rule 3(3) and has recorded such learning activity in accordance with standards provided by the Council; and

(ii) she has, subject to rule 3(5), practised for no fewer than 450 hours in the three years preceding the date of her application for renewal of her registration;

(c) the fee for renewal prescribed in rule 3(e) of the Fees Rules;

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[<sup>F31</sup>(d) such other documents, information or evidence as the Registrar may have reasonably requested for the purpose of verifying the information in, and determining the application for renewal.]

(2) Subject to [<sup>F32</sup>rule 14(4) to (6) and article 10(3) of the Order,] a registrant's registration in a part of the register shall lapse at the end of the registration period unless it has been renewed in accordance with the provisions of this rule.

#### Textual Amendments

- F29** Words in Sch. rule 13(1)(a) inserted (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(5)(a)**
- F30** Sch. rule 13(1)(aa) 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. 32**
- F31** Sch. rule 13(1)(d) added (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **16**
- F32** Words in Sch. rule 13(2) substituted (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(5)(b)**

#### [<sup>F33</sup>Provision of information

**13A.** The Registrar may request from any person such information as the Registrar may reasonably require for the purposes of determining whether, if the registrant's registration is renewed, there will be in force in relation to that registrant, an indemnity arrangement providing appropriate cover.]

#### Textual Amendments

- F33** Sch. rule 13A inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **17**

#### Lapse of registration

**14.**—(1) Without prejudice to any other power of the Registrar to remove a registrant's name from the register because her registration has lapsed, and [<sup>F34</sup>subject to paragraphs (2A) and (4)], the Registrar may remove a registrant's name from the register upon written application made by or on behalf of that registrant.

[<sup>F35</sup>(2) An application referred to in paragraph (1) shall be accompanied by a declaration by the registrant confirming, as the case may be, that the registrant is—

- (a) not aware of any matter which could give, or has given, rise to an allegation under article 22 of the Order;
- (b) aware of any such matter: in such a case the registrant is to give full details of that matter.

(2A) Where, on the date the Registrar receives an application under this rule, an allegation against the registrant has been referred to a Practice Committee under article 22(5) of the Order and consideration of the allegation at a substantive meeting or hearing before a Practice Committee has

commenced, the Registrar is to seek the advice of that Committee and is to take that advice into account in determining the application.

(2B) Where matters have given rise to an allegation against the registrant under article 22 of the Order, and the Council's proceedings in relation to that allegation have not concluded—

- (a) the Registrar shall before determining the application provide the maker of the allegation (if any) with a reasonable opportunity to comment on the application;
- (b) the Registrar, in considering whether to remove the registrant's name from the register or, where paragraph (2A) applies, the Committee in considering its advice to the Registrar, shall amongst such other matters which the Registrar or, as the case may be, the Committee considers appropriate, have regard to—
  - (i) any comments received pursuant to sub-paragraph (a): such comments may also be considered by the Registrar or Committee in discharging any of their other functions;
  - (ii) the interests of the registrant; and
  - (iii) the public interest.]

(3) When a registrant's registration lapses under article 10(3) of the Order, the Registrar shall remove the registrant's name from the register notifying her accordingly and advising her of her right of appeal under article 37 of the Order except in cases where article 37(2) applies.

(4) A registrant's registration shall not lapse under this rule [<sup>F36</sup>or [<sup>F37</sup>rule 12A, 13 or 15A(4)]]

- (a) where the person concerned is the subject of an allegation under article 22(1) of the Order, or is treated under article 22(6) of the Order as if she were the subject of an allegation, or is the subject of any investigations or proceedings under Part V or VI of the Order, on the grounds only that she has not paid the prescribed fee in accordance with the Fees Rules 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.

[<sup>F38</sup>(5) Where there is a good reason for a registration not to lapse, the Registrar may decide, prior to the date on which the registration is due to lapse, to allow a further period not exceeding three months beginning with the date that a retention fee was due under rule 12A or that renewal was due under rule 13 for the registrant to—

- (a) pay the retention fee prescribed in rule 3(i) of the Fees Rules; or
- (b) satisfy the requirements of renewal specified in rule 13.

(6) Subject to paragraph (4) and article 10(3) of the Order, where the Registrar has allowed a further period under paragraph (5), the registrant's registration shall lapse at the end of that period unless it has been retained in accordance with rule 12A or renewed in accordance with rule 13.]

#### Textual Amendments

- F34** Words in Sch. rule 14(1) substituted (14.1.2013) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2012 \(S.I. 2012/2754\)](#), Sch. rules 1, **3(a)**
- F35** Sch. rule 14(2)-(2B) substituted for Sch. rule 14(2) (14.1.2013) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2012 \(S.I. 2012/2754\)](#), Sch. rules 1, **3(b)**
- F36** Words in Sch. rule 14(4) substituted (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(6)(a)**

*Status: Point in time view as at 19/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)*

- F37** Words in Sch. rule 14(4) substituted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **18**
- F38** Sch. rule 14(5)(6) added (1.1.2006) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(6)(b)**

## Readmission to the register

**15.**—(1) Where a registrant’s registration has lapsed she may, subject to paragraph (3) below and in compliance with the Council’s requirements specified in rule 3(4), apply to the Registrar to be readmitted to the register.

(2) Rules 5(1) [<sup>F39</sup>, (2)(aa)[<sup>F40</sup>, (ab)] and (b)] and 6(1) [<sup>F41</sup>to (1E)] shall apply to an application for readmission as they apply to an application for admission.

(3) To allow the Council to take up references, the Council may require of the applicant the names and addresses of at least three referees—

- (a) two of whom shall have known her for at least one out of the previous three years;
- (b) one of whom shall have worked with her during her most recent period of employment or self-employment, if any; and
- (c) one of whom will, for an applicant mentioned in rule 6(1)(a) or (c), be required to provide a supporting declaration in accordance with rule 6(1)(a) or (c). Amendments to the register

[<sup>F42</sup>(4) Where the Registrar receives an application for readmission in accordance with this rule and is or becomes aware of information (whether received before or after the applicant’s registration lapsed or before or after the readmission application was made) which raises concerns that the registrant’s fitness to practise may be impaired, the Registrar shall have regard to that information for the purposes of determining whether the applicant has satisfied the Registrar—

- (a) that the applicant is capable of safe and effective practice as a nurse or midwife in accordance with article 9(2)(b) of the Order;
- (b) of the applicant’s good health in accordance with rule 6(5); <sup>F43</sup>...
- (c) of the applicant’s good character in accordance with rule [<sup>F44</sup>6(6); and]]
- [<sup>F45</sup>(d) that the applicant has the necessary knowledge of English for the purposes of article 9(2) (ba) of the Order.]

## Textual Amendments

- F39** Words in Sch. rule 15(2) 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. 33**
- F40** Word in Sch. rule 15(2) inserted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **12(a)**
- F41** Words in Sch. rule 15(2) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(9)**
- F42** Sch. rule 15(4) inserted (14.1.2013) by [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2012 \(S.I. 2012/2754\)](#), Sch. rules 1, **4**
- F43** Word in Sch. rule 15(4)(b) omitted (19.1.2016) by virtue of [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **12(b)**



- F44** Words in Sch. rule 15(4)(c) substituted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **12(c)**
- F45** Sch. rule 15(4)(d) inserted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **12(d)**

#### [<sup>F46</sup>Payment of fees

**15A.—(1)** A person may, with the agreement of the Registrar, pay any prescribed fee for—

- (a) registration as provided in rule 5 or rule 8;
- (b) retention as provided in rule 12A;
- (c) renewal as provided in rule 13;
- (d) readmission as provided in rule 15; or
- (e) restoration as provided in article 33 of the Order,

in such instalments and by such means of payment as the Registrar may determine.

(2) For the purpose of paragraph (1) the Registrar may determine—

- (a) the amount of each instalment and the date on which each instalment is to be paid (with the final instalment due on a date no later than 11 months beginning with the date on which the prescribed fee was due); and
- (b) that payment will be made by direct debit or by such other means of payment.

(3) Where it has been agreed in accordance with paragraph (1) that any prescribed fee will be paid in instalments—

- (a) the Registrar may make, retain, renew, readmit or restore a register entry once the first such instalment has been so paid; and
- (b) references in these Rules to an application being accompanied by the relevant fee, supported by payment of the appropriate fee, or payment of such a fee having been received, shall be construed as if they were references to a direct debit mandate (or such other form of written payment authorisation as the Registrar may determine), being received in respect of those fees.

(4) Where—

- (a) in accordance with this rule any prescribed fee is to be paid in instalments; and
- (b) following the payment of the first instalment and the making, retention, renewal readmission or restoration of a register entry, any subsequent instalment is not paid by the date on which it is due,

the Registrar will send a notice to the registrant stating that, if payment is not received within 14 days (beginning with the day on which the Registrar sent the notice) the registrant's name may be removed from the register, and if no such payment is made, the Registrar may remove the registrant's name from the register.]

#### Textual Amendments

- F46** Sch. rule 15A inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **19**



*Status: Point in time view as at 19/01/2016.*

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**16.—(1)** A registrant shall notify the Registrar in writing within one month of any change in her name or address.

[<sup>F47</sup>(1A) A registrant must inform the Registrar—

- (a) if there is not, or will not be in force in relation to that registrant, appropriate cover under an indemnity arrangement; and
- (b) the date on which the appropriate cover under an indemnity arrangement ceased or will cease to be in force.]

(2) The Registrar shall amend the register, so far as may be necessary—

- (a) in consequence of any notification under paragraph (1) [<sup>F48</sup>or paragraph (1A)];
- (b) to give effect to any order made by a Practice Committee under Part V of the Order;
- (c) to give effect to any decision made on an appeal under article 37 or 38 of the Order;
- (d) to reflect any other information which comes to the attention of the Registrar and which in her opinion requires an amendment to be made to the register in order to maintain its accuracy.

(3) Before making any amendment under paragraph (2)(a) or (d) the Registrar may make such further enquiries or require such further evidence from the registrant concerned as appears to the Registrar to be appropriate.

#### **Textual Amendments**

**F47** Sch. rule 16(1A) inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **20(a)**

**F48** Words in Sch. rule 16(2)(a) inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **20(b)**

#### **[<sup>F49</sup>Evidence in connection with indemnity arrangements**

**16A.—(1)** The Registrar may, by notice to a registrant specifying a period within which the registrant must comply, request that the registrant provide—

- (a) evidence that there is, or will be in force in relation to the registrant, appropriate cover under an indemnity arrangement;
- (b) details of the nature and scope of the registrant’s practice; and
- (c) the name and address of—
  - (i) any person, body or organisation by whom the registrant is employed, or intends to be employed as a nurse or midwife,
  - (ii) any person, body or organisation with whom the registrant has an arrangement, or intends to have an arrangement to provide services as a nurse or midwife.

(2) The Registrar may request such other documents and information as the Registrar may reasonably require for the purposes of verifying the evidence provided in accordance with paragraph (1).]

**Textual Amendments**

**F49** Sch. rule 16A inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **21**

**Circumstances for refund of renewal of registration fee**

<sup>F50</sup>**17.** . . . . .

**Textual Amendments**

**F50** Sch. rule 17 omitted (1.1.2006) by virtue of [The Nursing and Midwifery Council \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2005 \(S.I. 2005/3354\)](#), Sch. rules 1, **3(7)**

**PART 4**

*Registration Appeals*

**Interpretation**

**18.** In these part of the Rules—

“appeal”	means an appeal which is made to the Council in accordance with article 37(1) of the Order;
“Appeal Panel”	means a panel appointed under rule 25 to consider an appeal;
“appellant”	means a person who has lodged an appeal against the Registrar’s decision;
“Chair”	means the chair of an Appeal Panel; and
“decision letter”	means a letter so headed notifying the applicant of the Registrar’s decision in respect of her application.

**Service of documents in relation to registration appeals**

**19.—(1)** In this part of the Rules a reference to the sending of a notice or other document to any person is a reference to it being sent

- (a) in the case of the Council, an Appeal Panel or the Registrar, to the offices of the Council;
- (b) in the case of the appellant, to the address identified in her notice of appeal; and
- (c) in all other cases, to the last known address of that person.

(2) All communications to be sent for the purposes of these Rules may be sent by post and any such communication shall be treated as having been sent on the date which appears on the letter or document.

*Status: Point in time view as at 19/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)*

## Period during which an appeal may be made

20. The period within which a person may appeal to the Council under article 37(1) of the Order is
- (a) where the appeal is against a decision referred to in [<sup>F51</sup>sub-paragraph (za), (zb), (a), (aa), (b) or (c)] of that article, before the end of the period of 28 days beginning with the date of the decision letter; or
  - (b) where the appeal is against a failure to issue a decision as referred to in sub-paragraph (d) of that article, before the end of the period of 28 days beginning with the day after the expiry of the period referred to in [<sup>F52</sup>article 9(5)] of the Order.

### Textual Amendments

- F51** Words in Sch. rule 20(a) substituted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **13**
- F52** Words in Sch. rule 20(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **177(10)(b)**

## Notice of appeal

21.—(1) An appeal shall be made by giving notice in writing in accordance with the following paragraphs.

- (2) The notice shall be addressed to the Registrar at the offices of the Council and shall
  - (a) include
    - (i) the name and address of the appellant,
    - (ii) her personal identification number or her personal reference number,
    - (iii) where the appeal is against a decision referred to in [<sup>F53</sup>article 37(1)(za), (zb), (a), (aa), (b) or (c)] of the Order, the date, nature and other relevant details of the decision against which the appeal is brought,
    - (iv) where the appeal is against a failure to issue a decision as referred to in article 37(1) (d) of the Order, the date, nature and other relevant details of the application in respect of which there has been a failure to issue a decision,
    - (v) a concise statement of the grounds of the appeal, and
    - (vi) the name and address of the appellant's representative (if any) and a statement as to whether the Council should correspond with that representative concerning the appeal instead of with the appellant;
  - (b) state that the notice is a notice of appeal; and
  - (c) be signed by or on behalf of the appellant.
- (3) The appellant shall attach to the notice of appeal a copy of any documents on which she proposes to rely for the purposes of her appeal.

### Textual Amendments

- F53** Words in Sch. rule 21(2)(a)(iii) substituted (19.1.2016) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment No. 2\) Rules Order of Council 2015 \(S.I. 2015/1923\)](#), Sch. rules 1, **14**

### **Acknowledgement by the Council**

**22.**—(1) Upon receiving a valid notice of appeal the Council shall send the appellant a notice acknowledging its receipt and informing the appellant that

- (a) she may, before the end of the period of 28 days beginning with the date on which the notice was sent, request that a hearing be held;
- (b) even if she does not request a hearing, the Council may hold one if it considers it to be desirable; and
- (c) she may be heard and be represented at such a hearing.

(2) The period within which the appellant may make a request that a hearing be held may be extended by the Council at its discretion.

### **Notice of hearing**

**23.**—(1) If the appellant has requested that a hearing be held, or the Council considers that it would be desirable to hold a hearing, the Council shall fix a date on which it is to hear the appeal and send notice to the parties of the day, time and venue for the hearing.

(2) The Council shall give the appellant at least 28 days notice of the date of such a hearing.

### **Parties, representation etc.**

**24.**—(1) Before the end of the period of 28 days beginning with the day on which the notice referred to in rule 23(1) is sent, the parties shall inform the Council whether they intend to attend the hearing, whether they will be represented at it and whether they intend to call any witnesses and, if so, they shall provide the names and addresses of their witnesses to the Council.

(2) An appellant who does not intend to attend or be represented at a hearing may, before the beginning of the period of seven days ending with the date on which the hearing is to be held, send to the Council additional written representations in support of her appeal.

(3) The Registrar shall be the respondent in any proceedings.

(4) The appellant may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(5) The Council may invite any person who, in its opinion, has an interest in the proceedings to make written representations and any such representations shall be sent to the Council within 14 days of the date on which the invitation is sent to that person.

### **Consideration by the Appeal Panel**

**25.**—(1) Except where the Council considers an appeal itself, an appeal shall be considered by an Appeal Panel appointed by the Council for that purpose.

(2) The quorum of the Council when considering an appeal is seven and shall consist of registrant members and lay members and the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one.

(3) An Appeal Panel shall comprise not fewer than three persons selected with due regard to the matter under consideration and shall include

- [<sup>F54</sup>(aa) a person who is appointed to act as a chair of a Practice Committee in accordance with rule 7 of the Nursing and Midwifery Council (Midwifery and Practice Committees) (Constitution) Rules 2008 to act as chair of the Appeal Panel;]

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- (a) a person who is registered in the same part of the register as that in which the appellant is, or is applying to be, registered;
- [<sup>F55</sup>(b) a person who—
  - (i) is not and never has been a registered nurse or midwife (and article 5(5) of the Order does not apply for these purposes),
  - (ii) is not and never has been a registered medical practitioner, and
  - (iii) 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]
- <sup>F56</sup>(c) .....
- <sup>F57</sup>(4) .....
- (5) A person who has been involved in any other capacity in a case which is to be considered by an Appeal Panel shall not be appointed as a member of that Panel.
- (6) Decisions by an Appeal Panel shall be made by a majority vote of those present and, in the event of a tie, the Chair shall have an additional casting vote which shall be cast in favour of the appellant.

**Textual Amendments**

**F54** Sch. rule 25(3)(aa) inserted (9.3.2015) by [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **22(a)**

**F55** Sch. rule 25(3)(b) 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. 41**

**F56** Sch. rule 25(3)(c) omitted (9.3.2015) by virtue of [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **22(b)**

**F57** Sch. rule 25(4) omitted (9.3.2015) by virtue of [The Nursing and Midwifery Council \(Fitness to Practise\) \(Education, Registration and Registration Appeals\) \(Amendment\) Rules Order of Council 2015 \(S.I. 2015/52\)](#), Sch. rules 1, **22(b)**

**Preliminary meetings**

- 26.—(1) The Appeal Panel or the Chair of the Appeal Panel may hold a preliminary meeting in private with the parties, their representatives and any other person it or she considers appropriate if such a meeting would, in their opinion, assist the Appeal Panel to perform its functions.
- (2) At any meeting the Chair conducts under paragraph (1) she may give directions under article 32(3) of the Order and take any action which the Appeal Panel would be competent to take at such a meeting.

**Powers to determine an appeal without a hearing**

- 27.—(1) The Appeal Panel may determine an appeal without an oral hearing on the basis of any documents provided by the appellant under rule 21 or 24(2) where—
  - (a) the Council does not receive a reply from the appellant within the time specified in rule 24(1) and the Appeal Panel is satisfied that all reasonable steps have been taken to give notice under rule 23(1), or the appellant replies under rule 24(1) to the effect that she does not wish to attend or be represented;

- (b) the Appeal Panel has notified the appellant and the Registrar of its intention to do so; and
- (c) the Appeal Panel considers it desirable to do so having taken into account any representations received in response to the notice referred to in paragraph (b).

(2) If the Appeal Panel decides under paragraph (1) to determine an appeal without an oral hearing, it shall take into account any written representations provided in accordance with rule 24(5) or written representations from the Registrar received by the Council before the beginning of the period of seven days ending with the date on which the Appeal Panel determines the appeal.

### **Postponement or adjournment of a hearing**

**28.**—(1) The Appeal Panel, either of its motion or at the request of a party to the hearing, may postpone a hearing at any time before it begins and may adjourn the proceedings from time to time as it thinks fit.

(2) Where a hearing is postponed the Registrar shall send the appellant notice of the date on which the Appeal Panel is to hold the postponed hearing.

(3) The date for a postponed hearing shall not be fixed for any date before the end of the period of 14 days beginning with the day on which the Registrar sends the notice referred to in paragraph (2) to the appellant.

### **Absence of the appellant**

**29.** Where—

- (a) the Council has fixed a date for a hearing; and
- (b) the appellant has informed the Council that she intends to attend or be represented; but
- (c) she does not attend and is not represented,

the Appeal Panel may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the appellant.

### **Conduct of the hearing**

**30.**—(1) The hearing shall be held in public unless the Appeal Panel is satisfied that, in the interests of justice or for the protection of the private life of the appellant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing.

(2) At the beginning of the hearing the Chair shall explain to the parties the order of proceedings which the Appeal Panel proposes to adopt.

(3) The Appeal Panel shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and the parties shall be heard in such order as the Appeal Panel shall determine having regard to the following—

- (a) the appellant may present her case in support of her appeal;
- (b) the appellant or any person called on her behalf may be cross-examined by the Registrar and, in the case of a person called on her behalf, re-examined by the appellant;
- (c) the Registrar may present her case in support of the decision appealed against or her failure to issue a decision;
- (d) the Registrar or any person called on her behalf may be cross-examined by the appellant and, in the case of a person called on the Registrar's behalf, re-examined by the Registrar;
- (e) the Registrar may address the Appeal Panel on her case in respect of the decision appealed against or her failure to issue a decision; and

*Status: Point in time view as at 19/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. (See end of Document for details)*

(f) the appellant may address the Appeal Panel on her case in respect of her appeal.

(4) The parties shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the Appeal Panel both on the evidence and generally on the subject matter of the appeal.

(5) Subject to paragraph (6) where the appellant or the Registrar are represented, references in paragraphs (3) and (4) to the appellant or the Registrar

- (a) presenting the case;
- (b) calling, or questioning witnesses;
- (c) cross-examining or re-examining witnesses;
- (d) or addressing the Panel,

shall be read as references to the representative of the appellant or the Registrar as the case may be.

(6) Except as provided in paragraph (5) references in paragraph (3) to the Registrar shall be references to the Registrar or any other person nominated by her to appear on her behalf.

### **Procedure at the hearing**

**31.**—(1) Subject to paragraph (3) the rules on admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply.

(2) In paragraph (1) the “appropriate court” means a county court or, in Scotland, a sheriff.

(3) The Appeal Panel may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public.

(4) The Appeal Panel may require any person (other than the appellant) to attend a hearing and give evidence or produce documents.

(5) At any hearing the Appeal Panel may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in the notice of appeal or to adduce any evidence not presented to the Registrar before she took the disputed decision.

(6) Where the appellant has been convicted of a criminal offence, a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be admissible as proof of that conviction and of the findings of fact upon which it was based.

(7) The Appeal Panel may require evidence to be given on oath or affirmation and for that purpose may administer oaths or affirmations in an appropriate form.

### **Disposal of cases**

**32.** The Appeal Panel shall notify the appellant of its decision and the reasons for reaching that decision and shall inform the appellant of her right to appeal to a county court or, in Scotland a sheriff, under article 37(10) of the Order.

### **Consideration of cases by the Council**

**33.** Where the Council considers an appeal, references in these Rules to an Appeal Panel, other than in the definition of “Appeal Panel”, rule 19(1)(a), 25(1) and 25(3), shall be construed as references to the Council.



Given under the official seal of the Nursing and Midwifery Council on 18th June 2004.

*Jonathan Asbridge*  
President

*Sarah Thewlis*  
Chief Executive and Registrar

**Status:**

Point in time view as at 19/01/2016.

**Changes to legislation:**

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