

2004 No. 1767

**HEALTH CARE AND ASSOCIATED PROFESSIONS
NURSES AND MIDWIVES**

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

Made - - - - - 7th July 2004

Laid before Parliament 9th July 2004

Coming into force - - 1st August 2004

At the Court Council Chamber, Whitehall, the 7th day of July 2004

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

Whereas in exercise of the powers conferred on it by articles 5(2)(b), 5(4), 7(1), 7(2), 9(2), 10(1) to (3), 12(1), 13(1)(c)(iii), 15(2), 19(1) to (3), 37 and 47(2) of the Nursing and Midwifery Order 2001^(a), and of all other powers enabling it in that behalf, the Nursing and Midwifery Council has made the Nursing and Midwifery (Education, Registration and Registration Appeals) Rules 2004 as set out in the Schedule to this Order:

And whereas by articles 47(1) and 48 of the Nursing and Midwifery Order 2001 such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the Rules into consideration, are pleased to, and do hereby, approve them.

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

A.K. Galloway
Clerk of the Council

(a) S.I. 2002/253.

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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(a) 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:

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. In these Rules—

“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;
“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);

(a) S.I. 2002/253; Schedule 4 is cited because of the definition of “prescribed”.

“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.

PART 2

Education

Education leading to registration and re-registration

3.—(1) Where an approved programme of education leads to the award of a qualification listed in the Annex to the Nursing Directive or Midwifery Directive, it shall comply with the training requirements in articles 1 and 2 of the second Nursing Directive or articles 1 and 3 of the second Midwifery Directive (the requirements of which are reproduced in paragraphs 1, 2(b), 3, 4, A and B of Schedule 1 and paragraphs 1, 2, 3, 4, A and B of Schedule 2).

(2) The requirements for entry to an approved programme of education shall include the requirements of article 1.2(a) of the second Nursing Directive or article 1.2 of the second Midwifery Directive, (the requirements of which are reproduced in paragraph 2(a) of Schedule 1 and paragraph 2 of Schedule 2).

(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.

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 EEA State attesting to her qualification and, where appropriate, evidence that all the conditions imposed pursuant to article 14(2) of the Order have been met, or
 - (iii) where the applicant is relying on article 13(1)(c) 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 applying; and
 - (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.

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;
- (d) for an applicant applying to join the register who is relying on article 13(1)(b) of the Order—
 - (i) by the document
 - (aa) required by the competent authority of her Member State of origin, attesting to her good health, issued within the three months preceding the date of her application, or
 - (bb) where such document is not required by the competent authority of her Member State of origin, by a document issued by a competent authority which attests to the applicant's good health, and
 - (ii) by the document
 - (aa) issued within the three months preceding the date of her application, required by the competent authority of her Member State of origin, attesting to her good character, and confirming she has not been suspended or prohibited from practising the profession to which the application relates because of professional misconduct or the commission of a criminal offence, or
 - (bb) where the competent authority of her Member State of origin, does not issue such documents, by a declaration on oath or solemn declaration to the same effect, made by the applicant before a competent judicial or administrative authority or (where appropriate) a notary or duly qualified professional body of the relevant state, provided in each case that such declaration is authenticated by a certificate issued by the authority, notary or body,

and for the purposes of paragraph (5) or (6), any such document as mentioned in paragraph (i) or (ii) is to be treated as a supporting declaration;
- (e) for an applicant applying to join the register who is relying on article 13(1)(c) 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.

(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 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 (1)(a), (b), (c), (d)(i), (e), (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 (1)(a), (b), (c), (d)(ii), (e), (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—

“Member State of origin” means—

the EEA State from which the applicant originated or comes, or from which the applicant obtained her registrable qualification, or in which she practised prior to making an application to join the register;

“relative” in relation to any person means—

- (a) her spouse;
- (b) her lineal ancestor, lineal descendent, brother, sister, aunt, uncle, nephew, niece or first cousin of hers or of her spouse; or
- (c) the spouse of any relative mentioned in paragraph (b),

and for the purposes of deducing any such relationship “spouse” includes a former spouse, a partner to whom the person is not married, and a partner of the same sex.

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.

Overseas applications for registration which are unsuccessful

8. Where an application is made under article 13(1)(c) of the Order which does not satisfy the Registrar that the applicant meets the standards of proficiency required for admission to the register—

- (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(d) of the Fees Rules, in respect of an unsuccessful application;
- (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(d) of the Fees Rules.

Knowledge of English

9. The Registrar may require an applicant who is not an EEA national exercising an enforceable Community right, or an exempt person, to produce evidence that she has sufficient knowledge of spoken and written English to enable her to practise as a registered nurse or registered midwife safely and competently in the United Kingdom.

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.

- (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.

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 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.

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.

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 as to her good health and good character;
- (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.

(2) Subject to rule 14(4) 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.

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 subject to paragraph (4), the Registrar may remove a registrant's name from the register upon written application made by or on behalf of that registrant.

(2) An application, as referred to in paragraph (1), to remove a registrant's name from the register shall be made in writing and shall be accompanied by a declaration that the registrant concerned is not aware of any matter which could give rise to an allegation against her under article 22 of the Order.

(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 or rule 13

- (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.

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) and 6(1) 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

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

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

- (a) in consequence of any notification under paragraph (1);
- (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.

Circumstances for refund of renewal of registration fee

17. A person who satisfies the Council that she has retired on reaching her occupational retirement age, or on the grounds of ill-health, leaving unexpired any complete year of a registration period, shall, on written application to the Council, be given a refund of the proportion of the fee paid by her in respect of each such year.

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.

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 sub-paragraph (a), (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 article 9(4) of the Order.

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 article 37(1)(a), (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.

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

- (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;
- (b) a person who has never been admitted to the register or the old register and who is not a registered medical practitioner; and

(c) where the health of the appellant is in issue, a registered medical practitioner.

(4) A member of the Council shall be appointed as Chair.

(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.

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
- (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

Extract from the second Nursing Directive**Articles 1, 2 and Annex**

1. The formal qualification of nurses responsible for general care is subject to the person concerned passing an examination which guarantees that during her training period she has acquired:

- (a) adequate knowledge of the sciences on which general nursing is based, including sufficient understanding of the structure, physiological functions and behaviour of healthy and sick persons, and of the relationship between the state of health and the physical and social environment of the human being;
- (b) sufficient knowledge of nature and ethics of the profession and of the general principles of health and nursing;
- (c) adequate clinical experience; such experience, which should be selected for its training value, should be gained under the supervision of qualified nursing staff and in places where the number of qualified staff and equipment are appropriate for the nursing care of the patients;
- (d) the ability to participate in the practical training of health personnel and experience of working with such personnel;
- (e) experience of working with members of other professions in the health sector.

2. The training referred to in paragraph 1 shall include at least:

- (a) a general school education of 10 years' duration attested by a diploma, certificate or other formal qualification awarded by the competent authorities or bodies in a Member State, or a certificate resulting from a qualifying examination of an equivalent standard for entrance to a nurses' training school;
- (b) full time training, of a specifically vocational nature, which must cover the subjects of the programme set out [below] and comprise a three-year course or 4600 hours of theoretical and clinical instruction.

3. Member States shall ensure that the institution training nurses is responsible for the co-ordination of theoretical and clinical instruction throughout the training.

- (a) "Theoretical instruction" shall be defined as:
that part of nursing training whereby student nurses acquire the knowledge, understanding and professional skills needed to plan, provide and assess total nursing care. This teaching is provided in nursing schools and other teaching environments chosen by the training institution, and is given by a staff of nursing teachers and other competent persons.
- (b) "Clinical instruction" shall be defined as:
that part of nursing training whereby student nurses as part of a team and in direct contact with a healthy or sick individual and/or a community learn to plan, provide and assess the required total nursing care on the basis of their acquired knowledge and skills. The student nurse learns not only to be a member of the team, but to be a team leader organising total nursing care, including health education, for individuals and small groups in the health institutions or in the community.

This instruction takes place in hospitals and other health institutions and in the community, under the responsibility of teachers who are nurses and with the co-operation and assistance of other qualified nurses. Other qualified personnel may be involved in this teaching process.

Student nurses shall participate in the activities of the departments concerned in so far as those activities contribute to their training, enabling them to learn to undertake the responsibilities inherent in nursing care.

4. The theoretical instruction should be balanced and co-ordinated with the clinical instruction in such a way that the knowledge and experience listed in paragraph 1 may be acquired in an adequate manner. The length of the theoretical instruction shall amount to no less than one-third and that of the clinical instruction to no less than one-half of the minimum length of training referred to in paragraph 2(b).

Member States may grant partial exemption to persons who have undergone part of the training referred to in paragraph 2(b) in the form of other training which is of at least equivalent standard.

Member States may permit part-time training under conditions approved by the competent national authorities.

The total period of part-time training may not be shorter than that of full-time training. The standard of this training may not be impaired by its part-time nature.

Training Programme for Nurses Responsible for General Care

The training programme leading to the award of a diploma, certificate or evidence of other formal qualifications as nurse responsible for general care shall consist of the two parts and at least the subjects listed below. Instruction in one or more of these subjects may be given as part of, or in association with, other courses.

A. Theoretical instruction:

- (a) Nursing:
 - nature and ethics of the profession,
 - general principles of health and nursing,
 - nursing principles in relation to:
 - general and specialist medicine,
 - general and specialist surgery,
 - child care and paediatrics,
 - maternity care,
 - mental health and psychiatry,
 - care of the old and geriatrics.
- (b) Basic sciences:
 - anatomy and physiology,
 - pathology,
 - bacteriology, virology and parasitology,
 - biophysics, biochemistry and radiology,
 - dietetics,
 - hygiene:
 - preventive medicine,
 - health education,
 - pharmacology.
- (c) Social sciences:
 - sociology,
 - psychology,
 - principles of administration,
 - principles of teaching,
 - social and health legislation,
 - legal aspects of nursing.

B. Clinical Instruction:

- Nursing in relation to:
 - general and specialist medicine,
 - general and specialist surgery,
 - child care and paediatrics,
 - maternity care,
 - mental health and psychiatry,
 - care of the old and geriatrics,
 - home nursing.

Extract from the second Midwifery Directive**Articles 1 and 3**

[The numbering given to some of the provisions reproduced below has been changed for ease of reference]

1. [Formal qualification in midwifery is subject to the person concerned acquiring during the total duration of her training:]
 - (a) adequate knowledge of the sciences on which the activities of midwives are based, particularly obstetrics and gynaecology;
 - (b) adequate knowledge of the ethics of the profession and the professional legislation;
 - (c) detailed knowledge of biological functions, anatomy, and physiology in the field of obstetrics and of the newly born, and also a knowledge of the relationship between the state of health and the physical and social environment of the human being, and of her behaviour;
 - (d) adequate clinical experience gained in approved institutions under the supervision of staff qualified in midwifery and obstetrics;
 - (e) adequate understanding of the training of health personnel and experience of working with such personnel.
2. The training referred to in paragraph 1 shall comprise:
 - (a) either a full-time course in midwifery comprising at least three years of practical and theoretical studies, admission to which is subject to completion of at least the first 110 years of general school education,
 - (b) or a full-time course in midwifery lasting at least 18 months, admission to which is subject to possession of a diploma, certificate or other evidence of formal qualifications of nurses responsible for general care.

3. The course in midwifery provided for in paragraph 2(a) shall cover at least the subjects of the training programme listed below.

The course provided for in paragraph 2(b) shall cover at least the subjects of the training programme set out below which did not form part of an equivalent course in the training of nurses.

4. Member States shall ensure that the institution training midwives is responsible for the coordination of theory and practice throughout the programme.

The theoretical and technical training shall be balanced and co-ordinated with the clinical training of midwives in such a way that their knowledge and experience listed in paragraph 1 may be acquired in an adequate manner.

Clinical instruction shall take the form of supervised in-service training in hospital departments or other health services approved by the competent authorities or bodies. As part of this training, student midwives shall participate in the activities of the departments concerned in so far as those activities contribute to their training. They shall be taught the responsibilities involved in the activities of midwives.

Member States may permit part-time training under conditions approved by the competent national authorities.

The total period of part-time training may not be less than that of full-time training. The standard of the training may not be impaired by its part-time nature.

Training Programme for Midwives

The training programme for obtaining a diploma, certificate or other evidence of formal qualifications in midwifery consists of the following two parts:

A Theoretical and Technical Instruction

- (a) General subjects:
 1. Basic anatomy and physiology;
 2. Basic Pathology;
 3. Basic bacteriology, virology and parasitology;
 4. Basic biophysics, biochemistry and radiology;
 5. Paediatrics, with particular reference to new-born infants;
 6. Hygiene, health education, preventive medicine, early diagnosis of diseases;
 7. Nutrition and dietetics, with particular reference to women, new-born and young babies;
 8. Basic sociology and socio-medical questions;
 9. Basic pharmacology;

10. Psychology;
 11. Principles and methods of teaching;
 12. Health and social legislation and health organisation;
 13. Professional ethics and professional legislation;
 14. Sex education and family planning;
 15. Legal protection of mother and infant.
- (b) Subjects specific to the activities of midwives:
1. Anatomy and physiology;
 2. Embryology and development of the fetus;
 3. Pregnancy, childbirth and puerperium;
 4. Gynaecological and obstetrical pathology;
 5. Preparation for childbirth and parenthood, including psychological aspects;
 6. Preparation for delivery (including knowledge and use of technical equipment in obstetrics);
 7. Analgesia, anaesthesia and resuscitation;
 8. Physiology and pathology of the new-born infant;
 9. Care and supervision of the new-born infant;
 10. Psychological and social factors.

B Practical and Clinical Training

This training is to be dispensed under appropriate supervision:

1. Advising of pregnant women, involving at least 100 pre-natal examinations;
2. Supervision and care of at least 40 women in labour;
3. The student should personally carry out at least 40 deliveries; where this number cannot be reached owing to the lack of available women in labour, it may be reduced to a minimum of 30, provided that the student participates actively in 20 further deliveries;
4. Active participation with breech deliveries. Where this is not possible because of lack of breech deliveries, practice may be in a simulated situation;
5. Performance of episiotomy and initiation into suturing. Initiation shall include theoretical instruction and clinical practice. The practice of suturing includes suturing of the wound following an episiotomy and a simple perineal laceration. This may be in a simulated situation if absolutely necessary;
6. Supervision and care of 40 women at risk in pregnancy or labour or post-natal period;
7. Supervision and care (including examination) of at least 100 post-natal women and healthy new-born infants;
8. Observation and care of the new-born requiring special care including those born pre-term, post-term, underweight or ill;
9. Care of women with pathological conditions in the fields of gynaecology and obstetrics;
10. Initiation into care in the field of medicine and surgery. Initiation shall include theoretical instruction and clinical practice.

SCHEDULE 3

Rule 5(1)(a)

Application for admission to a part of the register

The following information shall be provided by an applicant, on the personalised documentation supplied by the Council—

- (a) her surname;
- (b) her forenames;
- (c) her personal identification number or personal reference number as applicable;
- (d) her address for correspondence;
- (e) the part of the register to which her application relates;
- (f) details of her qualification;
- (g) a declaration by the applicant as to her good health and good character;
- (h) confirmation that she has not been convicted of any criminal offence or been issued with a formal caution and, if she has, details of such conviction or formal caution.

SCHEDULE 4

Rule 11(a)

Notice of renewal of registration

1. The following information shall be provided by the registrant, on the personalised documentation supplied by the Council—

- (a) her surname;
- (b) her initials;
- (c) her personal identification number;
- (d) the date upon which her existing period of registration shall end;
- (e) a declaration that she has complied with rule 13(1) in respect of the part or parts of the register in relation to which she is seeking to renew her registration; and
- (f) a declaration by the registrant as to her good health and good character.

2. Any registrant who has been convicted of any criminal offence or been issued with a formal caution, since her registration or last renewal of registration, shall provide details of the same in a manner which the Council may from time to time determine.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made under the Nursing and Midwifery Order 2001, approves Rules made by the Nursing and Midwifery Council (“NMC”) which deal in Part 1 with general provisions relating to commencement and interpretation; in Part 2 with Education; in Part 3 with Registration; and in Part 4 with Registration Appeals.

Part 1

Rule 1 provides for the Rules to come into force on 1st August 2004.

Rule 2 provides definitions of terms used in the Rules.

Part 2

Rule 3 contains requirements to be observed by a nurse or midwife in respect of education to be undertaken where she first applies for registration more than five years after being awarded the qualification on which her application is based; whose registration has lapsed and who, in the five years before she applies for readmission to the register, has practised for less than 750 hours; or who has practised for less than 450 hours since she last renewed her registration. There is a transitional provision to ensure that, until two years after the coming into force of these rules, training undertaken under the previous arrangements will be taken into account in determining whether she satisfies the last of these.

The rule also requires nurses and midwives to undertake continuing professional development in accordance with standards set by the NMC; and contains requirements to be met by training leading to a qualification which is subject to automatic recognition by other EEA States and Switzerland under Directive 77/452/EEC (nurses) or 80/154/EEC (midwives).

Part 3

Rule 4 contains provisions relating to the register to be maintained by the NMC. It provides what information is to be kept on the register about registered nurses and midwives (name, address, qualifications etc). A home address is not to be included in the published register without the consent of the nurse or midwife concerned.

Rule 5 sets out the process of applying for admission to the register and the evidence to be provided in support of the application.

Rule 6 sets out what evidence of good character and good health is to be supplied by a nurse or midwife applying for admission to the register .

Rule 7 prescribes 5 years as the period after which a person applying for admission to the register for the first time after obtaining the relevant qualification must undertake additional training.

Rule 8 provides that where an application is made on the basis of a qualification awarded outside the EEA and the Registrar is not satisfied that the applicant meets the standards required, the evaluation fee paid under the Nursing and Midwifery Council (Fees) Rules 2004 will not be refunded; and the application will be retained until the time for any appeal expires after which another application may be made accompanied by another evaluation fee.

Rule 9 provides that an applicant for registration who is not exercising a right under European Community law may be required to produce evidence that she has sufficient knowledge of English to be able to practise safely and competently.

Rule 10—A nurse or midwife will renew her registration at the end of a registration period which is generally three years. This rule sets out how a registration period is determined in various circumstances including the general case but also following a first application for admission to the register and after readmission or restoration to the register.

Rules 11 and 13 set out the procedure for renewal of registration.

Rule 12 relates to the addresses to which notices are to be sent under the Rules and the date on which they are presumed to have been sent.

Rule 14 concerns the lapse of registration on application by the registered nurse or midwife or on a failure to satisfy requirements as to continuing professional development or other additional education, training or experience. Registration shall not lapse merely for non-payment of a fee or failure to apply for renewal where the nurse or midwife concerned is the subject of an allegation or of investigations or proceedings under Part V or Part VI of the Nursing and Midwifery Order.

Rule 15 sets out the procedure for readmission to the register.

Rule 16 requires registrants to notify the Registrar of a change of name or address and provides for the Registrar to amend the register following such notification, to reflect an order made by a Practice Committee or to reflect other relevant information.

Rule 17 provides that a registration fee relating to any complete year after a nurse or midwife retires on reaching her occupational retirement age or on grounds of ill-health may be refunded.

Part 4

Rule 18 defines terms used in that Part of the Rules.

Rule 19 relates to the addresses to which documents are to be sent and the date on which they are to be treated as sent.

Rule 20 provides that an appeal must be made within 28 days of the decision appealed against or, where there has been a failure to issue a decision, within 28 days of the date by which a decision should have been given.

Rule 21 describes how notice of an appeal must be given.

Rule 22 provides that the Council shall acknowledge the notice and inform the appellant that she is entitled to request a hearing. Even if she does not do so the Council may decide that a hearing is desirable.

Rule 23 provides that the Council shall give notice of a hearing

Rule 24 provides that the parties must inform the Council whether they intend to attend the hearing and whether they intend to call witnesses. An appellant may be represented. An appellant may submit written representations if she does not intend to be present at or represented at the hearing. The Council may offer anyone who, in its opinion, has an interest in the proceedings the opportunity to make written representations.

Rule 25 relates to the constitution of the Council or Appeal Panel considering the appeal and provides for decision by majority vote (the Chair has a casting vote in favour of the appellant in the case of a tie).

Rule 26 provides for a preliminary meeting to be held if it would, in the opinion of the Appeal Panel, assist it to perform its functions, and for directions to be given.

Rule 27 provides that, in specified circumstances, an appeal may be determined without an oral hearing.

Rule 28 provides that an Appeal Panel may postpone a hearing or adjourn proceedings.

Rule 29 provides that an Appeal Panel may determine an appeal in the absence of the appellant where satisfied that reasonable steps have been taken to notify her of the hearing.

Rule 30 relates to the conduct of the hearing which is to be in public unless the Appeal Panel considers that, for one of the reasons specified, all or part of it should be in private. The rule provides for the Appeal Panel, taking account of criteria set out, to determine the order in which the parties will be heard and for the giving of evidence.

Rule 31 relates to the evidence which may be presented to the Appeal Panel and permits a party to rely on grounds not stated in the notice of appeal.

Rule 32 provides for the Appeal Panel to give notice of its decision.

Schedules 1 and 2 set out provisions of Directives 77/453/EEC (nurses) and 80/155/EEC (midwives) respectively which relate to training and which are referred to in the rules.

Schedule 3 sets out the information to be provided in respect of an application for registration.

Schedule 4 sets out the information to be provided in respect of an application for renewal of registration.

2004 No. 1767

**HEALTH CARE AND ASSOCIATED PROFESSIONS
NURSES AND MIDWIVES**

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(Education, Registration and Registration Appeals)
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