

2005 No. 2250

NURSES AND MIDWIVES

**The Nursing and Midwifery Council (Election Scheme) Rules
Order of Council 2005**

Made - - - - - *27th July 2005*

Laid before Parliament *15th August 2005*

Coming into force - - - *12th September 2005*

At the Council Chamber, Whitehall, the 27th day of July 2005

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

Whereas in exercise of the powers conferred on it by article 47(2) and paragraph 2 of Schedule 1 to 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 Council (Election Scheme) Rules 2005 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 Council (Election Scheme) Rules Order of Council 2005 and shall come into force on 12th September 2005.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 2002/253; there are no relevant amending instruments.

SCHEDULE

THE NURSING AND MIDWIFERY COUNCIL (ELECTION SCHEME) RULES 2005

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The Nursing and Midwifery Council, in exercise of its powers under article 47(2) and paragraph 2 of Schedule 1 to the Nursing and Midwifery Order 2001 and of all other powers enabling it in that behalf, following consultation in accordance with article 47(3) of that Order, hereby makes the following Rules—

Citation and commencement

1. These Rules may be cited as the Nursing and Midwifery Council (Election Scheme) Rules 2005 and shall come into force on 12th September 2005.

Interpretation

2.—(1) In these Rules—

“elector” means a registrant who is entitled, in accordance with rule 15(1), to vote in an election;

“extension period” shall be construed in accordance with rule 11(1), read with rules 12(1) and 23(1)(b);

“further extension period” shall be construed in accordance with rule 11(4);

“Independent Scrutineer” means the person appointed in accordance with rule 4(1);

“last date for despatch of voting papers” shall be construed in accordance with rule 14(1)(a), read with rules 11(3)(a) and (5)(a), 12(2)(a) and 23(1)(c)(i);

“last date for nominations” shall be construed in accordance with rule 7(1), read with rules 11(1) and (4), 12(1) and 23(1)(b);

“last date for return of voting papers” shall be construed in accordance with rule 14(1)(b), read with rules 11(3)(b) and (5)(b), 12(2)(b) and 23(1)(c)(ii);

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

“personal identification number” means the unique number allocated to each applicant on first registration; and

“Returning Officer” shall be construed in accordance with rule 3.

(2) Any requirement in these Rules for any nomination, voting paper, electronic vote or other material to be received by the Independent Scrutineer by a date fixed by the Returning Officer or calculated in accordance with these Rules shall be construed as a requirement that it shall be received by her not later than 5.00 pm on that date.

(3) In computing for the purpose of these Rules a period expressed as a period of clear days, no account shall be taken of the day of the event from or to which the period is computed.

Returning Officer

3.—(1) At least six months before the end of the full term of office of any registrant member or alternate member, the Council shall, as regards the election to be held in respect of that vacancy, appoint a Returning Officer who shall hold office, subject to paragraph (5), until the conclusion of that election (including any re-running of the election following a declaration that the election was void).

(2) Where a by-election becomes necessary to fill a casual vacancy in accordance with rules 11(6)(b), 23(1)(d)(ii) or (3) or 26(5), or a new election becomes necessary under rules 11(2), 23(2)(a) or 28(3), the Council shall appoint a Returning Officer who shall hold office, subject to paragraph (5), until the conclusion of that election (including any re-running of the election following a declaration that the election was void).

(3) The Council may at the same time as it appoints the Returning Officer appoint a Deputy Returning Officer who shall be entitled to carry out the functions of the Returning Officer if she is absent or unable to act.

(4) The persons appointed as Returning Officer or as Deputy Returning Officer may be the Registrar or an employee of the Council, but may not be a member of the Council.

(5) If the Returning Officer or the Deputy Returning Officer dies, resigns, ceases to be able to act or becomes a candidate in the election for which she is appointed, the Council shall appoint a new Returning Officer or Deputy Returning Officer, as the case may be, to act in her place.

(6) The Returning Officer shall be responsible for the conduct of the election for which she is appointed, subject to and in accordance with the provisions of the Order and of these Rules, and shall exercise the functions conferred upon her by these Rules.

(7) The Returning Officer may arrange for the Independent Scrutineer or any other person to carry out on her behalf such administrative functions connected with the election as she considers appropriate.

Independent Scrutineer

4.—(1) The Council shall, at least five months before the end of the full term of office of any registrant or alternate member of the Council, or upon the need for a by-election or new election arising, appoint an Independent Scrutineer to act in respect of the election to fill the vacancy.

(2) As well as carrying out her other functions set out in these Rules, and any functions she carries out on behalf of the Returning Officer in accordance with rule 3(7), the Independent Scrutineer shall be responsible for—

- (a) receiving nominations for election submitted in accordance with rule 9;
- (b) receiving and scrutinising the completed voting papers and the votes cast or preferences recorded electronically in the ballot;
- (c) counting the votes cast or preferences recorded in the ballot and determining the votes cast or preferences recorded for each candidate; and
- (d) certifying the result of the ballot in writing to the Returning Officer.

Election by national constituencies

5. Each national constituency shall elect three registrant members and three alternate members of the Council, one registrant member and one alternate member being drawn in the case of each national constituency from each of the three parts of the register.

Eligibility to become a candidate in an election

6.—(1) A registrant may be a candidate for election only if—

- (a) she is registered in the part of the register for which she seeks election, but no person may seek election for more than one part of the register at a time;
- (b) in respect of a national constituency, she lives or works wholly or mainly in that national constituency;
- (c) she is not the subject of any allegation, investigation or proceedings concerning her fitness to practise; and
- (d) she is wholly or mainly engaged in the practice, teaching or management of the profession in respect of which she is registered and seeks election, or in research in those fields.

(2) The Returning Officer shall reject any nomination which appears to her to be invalid on the ground that the person nominated is not eligible to be a candidate by virtue of this rule.

Last date for nominations

7.—(1) The Returning Officer appointed for an election shall for that election determine a date (“the last date for nominations”), which shall be at least 42 clear days before the last date for return of voting papers, by which, subject to rules 11(1) and (4), 12(1) and 23(1)(b), nominations for election must be received by the Independent Scrutineer in that election.

(2) Any nomination which is received after the last date for nominations shall be invalid.

Notice of election

8.—(1) At least 28 clear days before the last date for nominations, the Returning Officer shall give notice of the election.

(2) The notice of election shall be published on the Council's website, and in such journals circulating inside and outside the United Kingdom as the Returning Officer shall determine.

(3) The notice of election shall be in such form as the Returning Officer shall determine and shall state—

- (a) the national constituency and parts of the register in respect of which the vacancies to be filled arise;
- (b) except in the case of the election held prior to the end of the second transitional period, the names of the registrant members and alternate members whose retirements create the vacancies to be filled or, where the vacancy has occurred other than at the expiration of a full term of office, the name of the member who held office immediately prior to the vacancy arising;
- (c) the address of the Independent Scrutineer to which nominations are to be sent, together with such other information as to the mode of delivery of nominations as the Returning Officer thinks fit;
- (d) the maximum length and acceptable format of election statements which candidates may submit, and the size and acceptable format of photographs of themselves which candidates may supply, as specified by the Returning Officer under rule 10(1); and
- (e) the last date for nominations.

Nominations

9.—(1) Nominations for election shall—

- (a) be made in writing on a nomination form which is in the form specified by the Returning Officer and obtainable from the Independent Scrutineer; and
- (b) be sent to the Independent Scrutineer by post, or by facsimile transmission, to be received not later than the last date for nominations.

(2) Each nomination form shall be signed by ten registrants—

- (a) registered in respect of the national constituency and part of the register to which the election relates; and
- (b) whose full names, registered addresses and personal identification numbers must be given on the form.

(3) A nomination form shall contain the following particulars of the candidate to which it relates—

- (a) her full name, registered address and personal identification number;
- (b) her current appointment or field of professional practice; and
- (c) the national constituency and part of the register for which she seeks election.

(4) Each nomination form shall be signed by the candidate to whom it relates, who in doing so shall confirm that—

- (a) the information contained in the form is correct;
- (b) she consents to being nominated for election; and
- (c) she is willing to serve, if elected.

(5) The Independent Scrutineer shall reject any nomination or purported nomination which—

- (a) subject to rules 11(1) and (4), 12(1) and 23(1)(b), is received after the last date for nominations;
- (b) is not on a nomination form which is in the form specified under paragraph (1)(a);
- (c) does not bear the signatures of ten nominators qualified to nominate by virtue of paragraph (2)(a);
- (d) does not contain the information required by paragraph (2)(b);
- (e) does not contain the particulars required by paragraph (3); and

(f) is not signed by the candidate to which it relates.

(6) A nomination may be withdrawn at any time until the last date for nominations by a written notification signed by the candidate and addressed to the Returning Officer.

Election statements by candidates and photographs

10.—(1) A candidate for election may supply to the Independent Scrutineer, not later than the last date for nominations—

- (a) an election statement in such form and of such maximum length as the Returning Officer shall specify; and
- (b) a photograph of herself of such size and format as the Returning Officer shall specify.

(2) Subject to the following provisions of this rule, any election statement and photograph received under paragraph (1) shall be reproduced and circulated by the Returning Officer as part of the election material circulated in accordance with rule 16(2).

(3) This rule shall not require the Returning Officer to circulate any election statement which is of greater length than she has specified, and in the event that an election statement is submitted which is greater in length than the specified maximum, the election statement circulated shall end at the last complete sentence which is within the specified length.

(4) The Returning Officer shall not be required by this rule to circulate an election statement which she considers to be defamatory or otherwise unlawful, or factually misleading, and may either edit the election statement before circulating it or decide not to circulate it.

(5) Any question as to the format or presentation of an election statement when it is circulated shall be decided conclusively by the Returning Officer.

(6) Every candidate who supplies an election statement under paragraph (1) shall be deemed to have agreed—

- (a) that the decision of the Returning Officer not to issue the whole or any part of it is final; and
- (b) to indemnify the Returning Officer and the Council against any liability to any third party which arises by reason of issuing the statement.

Procedure if no candidate nominated

11.—(1) If no candidate has been validly nominated for a vacancy by the last date for nominations, the period for receipt of nominations for the election to fill that vacancy shall be extended by the period of 21 clear days (“the extension period”).

(2) If no valid nomination is received for the vacancy within the extension period, the election shall be treated as void, and a new election shall take place.

(3) If two or more valid nominations are received within the extension period, the election shall proceed in accordance with these Rules, but—

- (a) the Returning Officer shall determine a new last date for despatch of voting papers, which shall be at least 21 clear days after the end of the extension period; and
- (b) the Returning Officer shall determine a new last date for return of voting papers, which shall be at least 42 clear days after the end of the extension period.

(4) If one valid nomination only is received within the extension period, the period for the receipt of nominations for the election shall be extended by a further extension period of 21 clear days (“the further extension period”).

(5) If one or more valid nominations are received within the further extension period, the ballot shall proceed in accordance with these Rules, but—

- (a) the Returning Officer shall determine a new last date for despatch of voting papers, which shall be at least 21 clear days after the end of the further extension period; and

- (b) the Returning Officer shall determine a new last date for return of voting papers, which shall be at least 42 clear days after the end of the further extension period.
- (6) If no other valid nomination is received within the further extension period—
 - (a) the Returning Officer shall declare the candidate nominated within the extension period to have been elected as registrant member for the national constituency and part of the register in relation to which the election is taking place (unless it is a by-election for an alternate member, in which case, the Returning Officer shall declare the candidate to have been elected to fill the vacancy for an alternate member in relation to which the by-election is taking place); and
 - (b) the vacancy for the alternate member for that national constituency and part of the register (if it is not a by-election for an alternate member) shall be treated as a casual vacancy to be filled by a by-election held in accordance with rule 26(5).

Procedure if only one candidate nominated

12.—(1) If one candidate only is validly nominated by the last date for nominations, the period for receipt of nomination papers shall be extended in the manner set out in rule 11(1).

(2) If one or more valid nominations are received within the extension period, the ballot shall proceed in accordance with these Rules, but—

- (a) the Returning Officer shall determine a new last date for despatch of voting papers, which shall be at least 21 clear days after the end of the extension period; and
- (b) the Returning Officer shall determine a new last date for return of voting papers, which shall be at least 42 clear days after the end of the extension period.
- (3) If no other valid nomination is received within the extension period—
 - (a) the Returning Officer shall declare the candidate nominated to have been elected as registrant member for the national constituency and part of the register in relation to which the election is taking place (unless it is a by-election for an alternate member, in which case, the Returning Officer shall declare the candidate to have been elected to fill the vacancy for an alternate member in relation to which the by-election is taking place); and
 - (b) the vacancy for the alternate member for that national constituency and part of the register (if it is not a by-election for an alternate member) shall be treated as a casual vacancy to be filled by a by-election held in accordance with rule 26(5).

Basis of election

13.—(1) If two candidates only have been nominated by the last date for nominations, or by the end of any extension period or further extension period, each elector shall be entitled to vote for one candidate, and—

- (a) the candidate with the higher number of valid votes shall be elected as the registrant member (or alternate member, if it is a by-election for an alternate member); and
- (b) the other candidate shall be elected as the alternate member (unless it is a by-election for an alternate member)

for the relevant national constituency and part of the register, but if there is a tie in the ballot, the Independent Scrutineer shall determine the result by the drawing of lots.

(2) Where three or more candidates are nominated by the last date for nominations, or by the end of any extension period or further extension period, the ballot shall take place by a single transferable voting system—

- (a) which has been agreed between the Council and the Independent Scrutineer;
- (b) under which—
 - (i) a vote is capable of being given so as to indicate the voter’s order of preference for up to a maximum of six candidates, and

- (ii) a vote is capable of being transferred to the next choice—
 - (aa) when the vote is not required to give a prior choice the necessary quota of votes, or
 - (bb) when, owing to a deficiency in the number of votes given to a prior choice, that choice is eliminated from the list of candidates; and
- (c) which has been published by the Council, in such form and manner as the Council shall determine, at the same time as or before the Returning Officer has given notice of the election.

(3) Subject to paragraph (4), in any ballot that takes place by single transferable voting (other than a by-election ballot for an alternate member only), the candidate who is elected first shall be elected as the registrant member, and the candidate who is elected second as the alternate member, for the relevant national constituency and part of the register.

(4) Where, as a result of paragraph 6(b) of Schedule 2 to the Order, the full terms of office of the registrant and alternate members for the same national constituency and part of the register end on different dates—

- (a) as regards the vacancy at the end of the full term of office of the registrant member—
 - (i) the alternate member may not be a candidate in the election for the registrant member unless she resigns as the alternate member,
 - (ii) if the alternate member resigns in order to be a candidate in the election for the registrant member, that election shall be used as the basis for filling the vacancies for both the registrant member and the alternate member, and rule 26 shall not apply to the vacancy in respect of the alternate member, and
 - (iii) if the alternate member does not resign in order to be a candidate in the election for the registrant member, the election shall proceed on the basis that there is a vacancy both for a registrant and an alternate member, but the alternate member shall be treated as though she were elected second in the election (although her term of office remains unchanged); and
- (b) as regards the vacancy at the end of the full term of office of the alternate member, it shall be filled by a by-election held in accordance with rule 26(5).

Last dates for despatch and return of voting papers

14.—(1) Subject to paragraph (2), the Returning Officer appointed for an election shall for that election determine—

- (a) a date (“the last date for despatch of voting papers”) by which, subject to rules 11(3)(a) and (5)(a), 12(2)(a) and 23(1)(c)(i), a voting paper must be sent to each elector; and
- (b) a date (“the last date for return of voting papers”) by which, subject to rules 11(3)(b) and (5)(b), 12(2)(b) and 23(1)(c)(ii), completed voting papers and electronic votes must be received by the Independent Scrutineer in that election.

(2) The last date for despatch of voting papers shall be at least 21 clear days before the last date for return of voting papers.

Entitlement to vote

15.—(1) A registrant may only vote in an election—

- (a) in respect of one part of the register;
- (b) for candidates who represent a part of the register in which she is registered on the last date for nominations; and
- (c) for candidates seeking election for either—
 - (i) a national constituency in which the registrant wholly or mainly lives or works,

- (ii) the national constituency the registrant has selected and notified to the Returning Officer, if the registrant does not wholly or mainly live or work in any national constituency, but has selected and notified a national constituency to the Returning Officer, or
 - (iii) if the registrant does not wholly or mainly live or work in any national constituency and has not selected and notified a national constituency to the Returning Officer, the national constituency of her last registered address in the United Kingdom.
- (2) The Returning Officer shall have power to determine any question of entitlement to vote by virtue of this rule.

Conduct of the ballot

16.—(1) If in any election two or more candidates have been nominated by the last date for nominations, or by the end of any extension period or further extension period, the Returning Officer shall not later than the last date for despatch of voting papers send a voting paper and election material to each elector.

- (2) The voting paper and the election material shall together include the following—
- (a) the national constituency and title of the part of the register to which the ballot relates;
 - (b) the full name of each candidate, together with such geographical locator as the Returning Officer considers will be sufficient to enable the candidate to be identified;
 - (c) the current appointment or field of professional practice of each candidate;
 - (d) instructions on how to complete the voting paper or vote electronically;
 - (e) the address of the Independent Scrutineer to which a completed voting paper should be returned;
 - (f) the last date for the return of voting papers or for electronic votes to be registered; and
 - (g) subject to the provisions of rule 10, copies of any election statements which were supplied by candidates in the specified form and any photographs which were supplied by the candidates in the specified size and format.

Postal voting

- 17.** An elector who wishes to vote by post shall—
- (a) record her vote on the voting paper circulated in accordance with rule 16(1), in accordance with the instructions on how to complete the voting paper circulated pursuant to rule 16(2)(d); and
 - (b) return it, without making any distinguishing mark on the return envelope, to the Independent Scrutineer by the last date for the return of voting papers.

Duplicate voting papers

18. The Independent Scrutineer may, on being satisfied by a request from an elector that the original voting paper sent to her has been lost, destroyed or damaged, send a duplicate voting paper to that elector, but the Independent Scrutineer shall not give effect to a request for a duplicate voting paper unless—

- (a) the elector concerned states her full name, registered address, personal identification number and part of the register; and
- (b) the request is made in writing (including by facsimile transmission or electronic mail).

Exchange of voting papers

19. The Independent Scrutineer may, on being requested to do so by an elector who wholly or mainly lives or works in a constituency different from the one for which she has been sent a voting paper in an election, send her a voting paper for the election in the constituency in which she

wholly or mainly lives or works, but the Independent Scrutineer shall not give effect to such a request unless—

- (a) the elector concerned states her full name, registered address, personal identification number and part of the register;
- (b) the request is made in writing (including by facsimile transmission or electronic mail); and
- (c) the elector has returned unused the voting paper originally sent to her and has not voted electronically.

Electronic voting

20.—(1) An elector who wishes to vote electronically shall do so on a website voting facility—

- (a) in accordance with the arrangements for electronic voting approved by the Independent Scrutineer; and
- (b) by the last date for return of voting papers.

(2) The Independent Scrutineer may take such steps as she considers appropriate to satisfy herself that a vote cast electronically is valid.

Double voting

21.—(1) An elector who has returned a voting paper in an election shall not vote electronically in that election, and an elector who has voted electronically in an election shall not return a voting paper in that election.

(2) If an elector votes both by returning a voting paper and by casting an electronic vote, the Independent Scrutineer shall take into account only the first vote she receives.

Scrutiny of votes

22.—(1) The Independent Scrutineer shall reject any voting paper which—

- (a) is ambiguous;
- (b) has not been completed in accordance with the instructions circulated pursuant to rule 16(2)(d);
- (c) is spoiled or mutilated in such a manner that no clear voting intention may be discerned; or
- (d) has been received by the Independent Scrutineer after the last date for return of voting papers.

(2) Where an elector has voted by electronic means, the Independent Scrutineer shall reject any purported vote which—

- (a) is ambiguous;
- (b) has not been registered in accordance with the arrangements for electronic voting approved by the Independent Scrutineer; or
- (c) has been received by the Independent Scrutineer after the last date for return of voting papers.

(3) The Independent Scrutineer shall certify the result of each ballot to the Returning Officer in writing (which may be by facsimile transmission or electronic mail), giving the following information—

- (a) the total number of voting papers circulated;
- (b) the total number of voting papers and electronic votes received by the last date for return of voting papers;
- (c) the total number of voting papers and electronic votes which were rejected and the reasons for rejection;

- (d) where there were only two candidates in the election, the number of valid votes cast for each candidate and the names of the candidates who have been elected as registrant member and alternate member respectively (or as alternate member, if it is a by-election for an alternate member);
- (e) where there were three or more candidates in the election—
 - (i) the quota for election,
 - (ii) the number of preference votes allocated at each stage of the single transferable vote process to each of the candidates, and
 - (iii) the names of the two candidates who have been elected first and second in the election (or the candidate who has been elected, if it is a by-election for an alternate member), and
 - (iv) an ordered list of the top four non-elected candidates in the ballot, or, if there are fewer than four non-elected candidates, an ordered list of all the non-elected candidates.

(4) The Independent Scrutineer shall retain the voting papers in secure custody for a period of at least 28 clear days from the date of her certificate, following which, in the absence of any challenge made under rule 28, they may be destroyed, as may be any information held in printed or electronic form relating to individual votes cast by electronic means.

Death, disqualification or resignation of candidate

23.—(1) If notification of the death or disqualification of a candidate is received by the Returning Officer after the last date for nominations, but before any voting papers have been circulated to the electors, the procedure to be adopted shall be as follows—

- (a) if two or more candidates remain, the name of the deceased or disqualified candidate shall be removed from the voting paper and the election shall proceed in all respects as if she had never been nominated;
- (b) if one candidate only remains, the period for receipt of nominations shall be extended by an extension period in the manner set out in rule 11(1), but with the extension period running from the date the Returning Officer receives notification of the death or disqualification of the candidate;
- (c) if one or more valid nominations are received within the extension period, the ballot shall proceed in accordance with these Rules, but—
 - (i) the Returning Officer shall determine a new last date for despatch of voting papers, which shall be at least 21 clear days after the end of the extension period; and
 - (ii) the Returning Officer shall determine a new last date for return of voting papers, which shall be at least 42 clear days after the end of the extension period.
- (d) if no other valid nomination is received within the extension period—
 - (i) the Returning Officer shall declare the remaining candidate to have been elected as registrant member for the national constituency and part of the register in relation to which the election is taking place (unless it is a by-election for an alternate member, in which case, the Returning Officer shall declare the candidate to have been elected to fill the vacancy for an alternate member in relation to which the by-election is taking place), and
 - (ii) the vacancy for an alternate member for that national constituency and part of the register (if it is not a by-election for an alternate member) shall be treated as a casual vacancy to be filled by a by-election held in accordance with rule 26(5).

(2) If notification of the death or disqualification of a candidate is received by the Returning Officer after voting papers have been circulated to the electors, but before the conclusion of the election, the procedure to be adopted shall be as follows—

- (a) if one candidate only remains, the election shall be treated as void and a new election shall take place;

- (b) if two candidates remain, the election shall continue and in the count only the first preferences recorded for those candidates shall be taken into account as if they were votes cast in a ballot with two candidates;
- (c) if three or more candidates remain, the election shall continue and in the count preference votes recorded for the deceased or disqualified candidate shall be disregarded.

(3) If a candidate who has been elected dies or resigns following the election, but before taking up office, this shall be treated as if a casual vacancy had arisen in respect of the office she would have filled, and dealt with in accordance with rule 26.

Declaration of result by Returning Officer

24.—(1) The Returning Officer shall, upon receipt of the Independent Scrutineer’s certificate on the election issued in accordance with rule 22(3), declare the result of the election and certify in writing to the next Council meeting the names of the elected candidates for appointment as the registrant member and the alternate member to fill the vacancies in each national constituency and part of the register in respect of which an election has taken place.

(2) Where a candidate has been declared elected in accordance with rules 11(6)(a), 12(3)(a) or 23(1)(d)(i), the Returning Officer shall so certify in writing to the next Council meeting.

Appointment of Council members

25.—(1) Subject to rule 28 and unless rule 23(3) applies, the Council shall, upon receipt of the Returning Officer’s certificate on the election issued in accordance with rule 24(1), appoint the persons elected as registrant members or alternate members of the Council, as the case may be, for the national constituency and part of the register concerned.

(2) Subject to rule 28 and unless rule 23(3) applies, the Council shall, upon receipt of the Returning Officer’s certificate in accordance with rule 24(2), appoint the candidate named in the certificate the registrant member for the national constituency and part of the register concerned (or alternate member, if it was a by-election for an alternate member).

Casual vacancies

26.—(1) Where a casual vacancy arises in the office of either a registrant member or an alternate member of the Council, and the unexpired term of office in respect of the vacancy is 12 months or more, the vacancy shall be filled in accordance with the following paragraphs of this rule.

(2) If the vacancy is for a registrant member (“the departing registrant member”), the relevant alternate member shall fill the vacancy, unless she indicates in writing within 14 days of being notified of the vacancy that she is unwilling to do so (“an indication of unwillingness”).

(3) If the relevant alternate member has given an indication of unwillingness, the four persons whose names appear at the top of the list of non-elected candidates provided by the Independent Scrutineer in accordance with rule 22(3)(e)(iv) in the most recent ballot in which the departing registrant member was elected shall be entitled in turn (in descending order in the list) to fill the vacancy, subject to any indication of unwillingness.

(4) If the vacancy is for an alternate member, the procedure described in paragraph (3) shall apply as if the vacancy was for a registrant member and the relevant alternate member had given an indication of unwillingness.

(5) If the vacancy cannot be filled by the procedures described in the foregoing paragraphs, the vacancy shall be filled through a by-election.

(6) Where a by-election becomes necessary in accordance with paragraph (5), these Rules shall apply to any such by-election, subject to such necessary modifications as the Council may determine.

(7) Where a vacancy arises of the kind mentioned in paragraph (1), and the unexpired term is less than 12 months, the vacancy shall not be filled.

Commencement of term of office

27.—(1) Subject to paragraph (2), a person who is appointed as a registrant or alternate member of the Council shall take office immediately following the expiration of the term of office of the member previously appointed to represent the relevant national constituency and part of the register or, if the appointment is made after the expiration of the relevant member's term of office or has been to fill a casual vacancy, immediately upon appointment by the Council.

(2) A person whose election has been challenged under rule 28 shall not be appointed or take office until the challenge has been considered and disposed of by the Council.

Challenge to validity of an election

28.—(1) Any 25 electors in an election may within the period of 21 clear days after the declaration of the result by the Returning Officer challenge the validity of the election, but only on the grounds that the election was—

- (a) not in accordance with the provisions of these Rules; or
- (b) furthered by conduct which, if the election had been regulated by the Representation of the People Act 1983(a), would have been a corrupt practice by way of bribery, treating or undue influence under sections 113, 114 or 115 of that Act (bribery, treating and undue influence).

(2) Any such challenge must be in writing, signed by the electors making it, and addressed to the Returning Officer, who shall send a copy of it to each of the candidates in the election.

(3) The Council shall determine whether or not to declare the election void according to such procedure as it thinks fit, which shall, however, afford all candidates in the election under challenge the right to make written representations on the subject of the challenge, and the Council's determination shall be final and conclusive for all purposes.

(4) The Council shall not declare an election void under paragraph (3) unless it is satisfied—

- (a) that the irregularity concerned rendered the election substantially not in accordance with the provisions of these Rules; or
- (b) that the irregularity concerned significantly affected the result of the election.

Postal disruption and civil contingencies

29. In the event of a significant disruption to postal services or internet facilities, or of any other civil contingency arising, the Returning Officer may defer the last dates set out in these Rules, and otherwise adjust the procedures set out in these Rules, at her discretion.

Given under the official seal of the Nursing and Midwifery Council on 20th July 2005



Jonathan Ashbridge
President

Sarah Thewlis
Chief Executive and Registrar

(a) 1983. c.2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves Rules of the Nursing and Midwifery Council which provide for an election scheme to elect the registrant and alternate members of the Nursing and Midwifery Council. Four registrant members and four alternate members are to be appointed in respect of each of the three parts of the register maintained by the Nursing and Midwifery Council, one of those four being appointed in respect of each national constituency (England, Scotland, Wales and Northern Ireland).

Ballots will usually take place by the single transferable voting system, and generally, the first placed candidate in a ballot is to be appointed as the registrant member, and the second placed candidate is to be appointed the alternate member, for the constituency and part of the register in respect of which the ballot is held. However, there are separate arrangements if two or fewer candidates stand. There are also arrangements for the promotion of candidates in the event of a registrant or alternate member later resigning: normally, if a registrant member resigns, her alternate member becomes the registrant member and the third placed candidate in the election in which she was elected becomes the new alternate member, a process which allows for the promotion of a maximum of four unsuccessful candidates in any election.

The election scheme also contains measures relating to: the appointment of a returning officer and an independent scrutineer; the nominations process; the holding of polls (including arrangements for both postal and electronic voting); and the declaration of results and the subsequent appointment of registrant and alternate members to the Nursing and Midwifery Council. The scheme includes special provisions for dealing with issues such as the death or withdrawal of candidates and protests. Provision is also made for re-running elections and holding by-elections, where necessary.

2005 No. 2250

NURSES AND MIDWIVES

**The Nursing and Midwifery Council (Election Scheme) Rules
Order of Council 2005**

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1220 8/2005 151220T 19585

ISBN 0-11-073240-5



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