
STATUTORY INSTRUMENTS

2007 No. 3101

The European Qualifications (Health and Social Care Professions) Regulations 2007

PART 11 U.K.

NURSES AND MIDWIVES: OTHER LEGISLATION

The Nursing and Midwifery Council (Fees) Rules 2004 U.K.

174. In the Nursing and Midwifery Council (Fees) Rules 2004^{M1}, in rule 3^{M2} (fees), in the table—
- in the entry in column (2) of row (b), for “13(1)(a) or (b)” substitute “ 13(1)(a), (b), (c), (e) or (f) ”;
 - in the entry in column (2) of row (c), for “13(1)(c)” substitute “ 13(1)(d) ”; and
 - in the entry in column (2) of row (d), after “13(1)(c)” substitute “ or (d) ”.

Marginal Citations

M1 Scheduled to [S.I. 2004/1654](#).

M2 [Rule 3](#) was amended by [S.I. 2005/3353](#) and 2007/1885.

The Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004 U.K.

175. In the Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004^{M3}, after article 7 add—

“Annotations denoting visiting nurses or midwives from relevant European States

8. The entries in the register are to include such annotation as the Council considers appropriate to denote that a registrant is a visiting nurse or midwife from a relevant European State^{M4}.”.

Marginal Citations

M3 [S.I. 2004/1765](#); there are no relevant amending instruments.

M4 “Visiting nurse or midwife from a relevant European State” is defined in Schedule 4 to the Order as a nurse or midwife registered in exercise of entitlement under article 39A of or Schedule 2A to the Order.

The European Nursing and Midwifery Qualifications Designation Order of Council 2004 **U.K.**

176.—(1) The European Nursing and Midwifery Qualifications Designation Order of Council 2004 ^{M5} is amended as follows.

(2) In article 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of “diploma”, omit “and Schedule 2”,

(ii) after the definition of “diploma” insert—

““listed diploma” means—

(a) in the case of a nursing diploma, evidence of formal qualifications as a nurse responsible for general care listed in Annex V, point 5.2.2 of the Directive ^{M6}, or

(b) in the case of a midwifery diploma, evidence of formal qualifications as a midwife listed in Annex V, point 5.5.2 of the Directive;”;

(iii) omit the definition of “the Nursing Directives”, and

(iv) before the definition of “registration” insert—

““reference date” means—

(a) in the case of a nursing qualification awarded in a relevant European State, the date listed in relation to that State in the column entitled “Reference date” in Annex V, point 5.2.2 of the Directive, and

(b) in the case of a midwifery qualification awarded in a relevant European State, the date listed in relation to that State in the column entitled “Reference date” in Annex V, point 5.5.2 of the Directive;”;

(b) for paragraph (2) substitute—

“(2) In this Order, “a competent authority certificate” means a certificate issued by a competent authority in a relevant European State stating that the person named in the certificate has practised effectively and lawfully in that State—

(a) as a midwife, or

(b) as a nurse responsible for general care whose activities include full responsibility for the planning, organisation and carrying out of the nursing care of the patient,

for at least three consecutive years or, for the purposes of articles 4(3)(b)(ii), 6(3)(b)(ii) and 8, two consecutive years, during the period of five years ending with the date of issue of the certificate.”;

(c) for paragraph (3) substitute—

“(3) In this Order, “an article 41(2) certificate” means a certificate issued to a person by a competent authority in a relevant European State in accordance with article 41(2) of the Directive (procedures for the recognition of evidence of formal qualifications as a midwife), to the effect that the person, after qualifying as a midwife, has practised satisfactorily, for the period provided for in article 41(1)(a)(ii) or (c) of the Directive, as a midwife in a hospital or other health care establishment approved for the purposes of article 41(2) of the Directive.

(3A) In this Order, references to the Directive or to any provision of the Directive are references to the Directive, or to that provision of the Directive, as amended from time to time.”; and

(d) omit paragraph (4).

(3) For article 3 substitute—

“Qualifications in respect of which a listed diploma is awarded on or after the reference date

3.—(1) A professional qualification in respect of which a listed diploma is awarded in a relevant European State on or after the reference date and which is not evidence of training commenced by the holder before that date, shall be an approved qualification for the purposes of registration, subject in the case of a midwifery qualification to paragraph (2).

(2) A midwifery qualification in respect of which a midwife holds a diploma referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—

- (a) it attests to training which satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive; and
- (b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that article, it is accompanied by an article 41(2) certificate relating to the holder.”.

(4) For article 4 substitute—

“Qualifications in respect of which a listed diploma is awarded before the reference date

4.—(1) Subject to paragraph (2), a professional qualification in respect of which a listed diploma is awarded in a relevant European State other than Poland or Romania before the reference date, or on or after that date in respect of a course of training begun before that date, shall be an approved qualification for the purposes of registration.

(2) The diploma referred to in paragraph (1) shall—

- (a) be one awarded in respect of training which complies with the requirements laid down—
 - (i) in the case of a nursing qualification, in article 31 of the Directive (training of nurses responsible for general care), or
 - (ii) in the case of a midwifery qualification, in article 40 of the Directive (training of midwives),

subject also in the case of a midwifery qualification to paragraph (3); or

- (b) be accompanied by a competent authority certificate relating to the holder.

(3) A midwifery qualification referred to in paragraph (1), in respect of which a diploma which falls within paragraphs (1) and (2)(a) has been awarded, shall be an approved qualification for the purposes of registration only if—

- (a) it attests to training which satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive; and
- (b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that article—
 - (i) it is accompanied by an article 41(2) certificate relating to the holder, or
 - (ii) if the diploma was awarded before the reference date, it is accompanied by a competent authority certificate relating to the holder.”.

(5) For article 5 substitute—

“Qualifications in respect of which a diploma other than a listed diploma is awarded before the reference date in respect of training which does not comply with Directive requirements

5.—(1) A professional qualification in respect of which a diploma specified in paragraph (2) is awarded in a relevant European State other than Poland or Romania shall be an approved

Status: Point in time view as at 03/12/2007.

Changes to legislation: There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, PART 11. (See end of Document for details)

qualification for the purposes of registration if it is accompanied by a competent authority certificate.

- (2) The diploma referred to in paragraph (1) is—
- (a) a diploma in nursing in general care which is not a listed diploma and is awarded —
 - (i) before the reference date or on or after that date in respect of a course of training begun before that date, and
 - (ii) in respect of training which does not comply with the requirements of article 31 of the Directive; or
 - (b) a midwifery diploma which is not a listed diploma and is awarded—
 - (i) before the reference date or on or after that date in respect of a course of training begun before that date, and
 - (ii) in respect of training which does not comply with the requirements of article 40 of the Directive.”.
- (6) For article 6 substitute—

“Qualifications in respect of which a diploma other than a listed diploma is awarded in respect of training which complies with Directive requirements

6.—(1) A professional qualification in respect of which a diploma specified in paragraph (2) is awarded in a relevant European State shall be an approved qualification for the purposes of registration, subject in the case of a midwifery qualification to paragraph (3).

- (2) The diploma referred to in paragraph (1) is one which—
- (a) is not a listed diploma; and
 - (b) is accompanied by a certificate issued by a competent authority of the relevant European State in which the diploma was obtained to the effect that the diploma—
 - (i) is evidence of training which complied with the requirements of article 31 or 40 of the Directive (as the case may be), and
 - (ii) is treated by that State as if it were a qualification listed in relation to that State in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be).
- (3) A midwifery qualification in respect of which a midwife holds a diploma referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—
- (a) it attests to training which satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive; and
 - (b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that article—
 - (i) it is accompanied by an article 41(2) certificate relating to the holder, or
 - (ii) if the diploma was awarded before the reference date, it is accompanied by a competent authority certificate relating to the holder.”.

(7) In article 7 (qualifications awarded in Poland before the implementation date or relevant date, or awarded in respect of nursing or midwifery training begun before those dates which do not comply with Directive requirements)—

- (a) for the heading substitute “Qualifications awarded in Poland before the reference date in respect of training which does not comply with Directive requirements”;
- (b) for paragraph (1) substitute—
 - “(1) This article applies to a professional qualification in respect of which a diploma in nursing in general care or midwifery is awarded in Poland—

- (a) subject to paragraph (2)(b), before the reference date or on or after that date in respect of a course of training begun before that date; and
- (b) in respect of training which does not comply with the requirements of article 31 or 40 of the Directive (as the case may be).”;
- (c) for paragraph (2) substitute—
 - “(2) A qualification referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—
 - (a) the requirements of paragraph (3) are satisfied; or
 - (b) it is a qualification in nursing in general care or midwifery—
 - (i) attested by the diploma “bachelor” and obtained on the basis of the special upgrading programme described in article 33(3) of the Directive (acquired rights specific to nurses responsible for general care) or in article 43(4) of the Directive (acquired rights specific to midwives), and
 - (ii) awarded in respect of training completed before the reference date.”; and
- (d) in paragraph (3)—
 - (i) in sub-paragraph (a)—
 - (aa) for “the diploma of bachelor of nursing” substitute “evidence of formal qualifications as a nurse at degree level”, and
 - (bb) for “the diploma of bachelor of midwifery” substitute “evidence of formal qualifications as a midwife at degree level”,
 - (ii) in sub-paragraph (b)—
 - (aa) for “the diploma of nurse” substitute “evidence of formal qualifications as a nurse”, and
 - (bb) for “the diploma of midwife” substitute “evidence of formal qualifications as a midwife”, and
 - (iii) in the tailpiece, for “the diploma of bachelor of nursing or the diploma of nurse” substitute “evidence of formal qualifications as a nurse mentioned in either of those sub-paragraphs”.
- (8) After article 7 insert—

“Qualifications awarded in Romania before the reference date in respect of training which does not comply with Directive requirements

7A.—(1) This article applies to a professional qualification in respect of which a diploma in nursing in general care or midwifery is awarded in Romania—

- (a) before the reference date or (in the case of a diploma in nursing in general care only) on or after that date in respect of a course of training begun before that date; and
- (b) in respect of training which does not comply with the requirements of article 31 or 40 of the Directive (as the case may be).

(2) A qualification referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if it is accompanied by a certificate from a Romanian competent authority stating that the person named in the certificate has practised effectively and lawfully as a nurse responsible for general care or, as the case may be, as a midwife in Romania for—

- (a) in the case of a person holding evidence of formal qualifications as a nurse (*certificat de competente profesionale de asistent medical generalist*) with post-secondary education obtained from a *scoala postliceala*, at least five consecutive years during

Status: Point in time view as at 03/12/2007.

Changes to legislation: There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, PART 11. (See end of Document for details)

the period of seven years ending with the date of issue of the certificate, provided that that period of practice has included the person taking full responsibility for the planning, organisation and carrying out of the nursing care of the patient; or

- (b) in the case of a person holding evidence of formal qualifications as a midwife (*asistent medical obstetrica-ginecologie/obstetrics-gynecology nurse*), at least five consecutive years during the period of seven years ending with the date of issue of the certificate.”.

(9) For article 8 substitute—

“Qualifications in midwifery awarded following training in the former German Democratic Republic which complies with Directive requirements

8. A professional qualification in respect of which a midwifery diploma has been awarded in respect of training which—

- (a) was received in the territory of the former German Democratic Republic,
 (b) commenced before 3rd October 1990, and
 (c) complies with the requirements of article 40 of the Directive,

shall be an approved qualification for the purposes of registration, provided that it is accompanied by a competent authority certificate issued by a competent authority in Germany and relating to the holder.”.

(10) In article 9 (qualifications following training in the former German Democratic Republic which does not comply with Directive requirements)—

(a) in paragraph (1)—

- (i) for “not specified in Part 1 of Schedule 2 or, as the case may be, a midwifery diploma not specified in Part 2 of Schedule 2” substitute “ other than a listed diploma or, as the case may be, a midwifery diploma other than a listed diploma ”, and

(ii) for sub-paragraph (c) substitute—

“(c) does not comply with the requirements of article 31 or 40 of the Directive (as the case may be),”;

- (b) in paragraph (2), for “under the heading “Germany” in Part 1 (nursing diplomas) or, as the case may be, Part 2 (midwifery diplomas) of Schedule 2” substitute “ in relation to Germany in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be) ”; and

(c) for paragraph (3) substitute—

“(3) The diploma shall be accompanied by a competent authority certificate issued by a competent authority in Germany and relating to the holder.”.

(11) In article 10 (qualifications following training in the former Czechoslovakia, the former Soviet Union or Yugoslavia)—

(a) in the heading, for “Yugoslavia” substitute “ the former Yugoslavia ”;

(b) in paragraph (1), in the table, for “Yugoslavia” substitute “ Former Yugoslavia ”; and

(c) in paragraph (2)—

(i) for sub-paragraph (a) substitute—

“(a) be accompanied by a competent authority certificate issued by a competent authority of the State specified in column (c) of the corresponding row of the table in paragraph (1); and”, and

(ii) in sub-paragraph (b), for “in Part 1 of Schedule 2 or, as the case may be, Part 2 of Schedule 2” substitute “ in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be) ”.

(12) Omit article 11 (transitional provision for Spanish midwifery qualifications).

(13) Omit Schedule 1.

(14) Omit Schedule 2 (diplomas listed in the Annex to the Nursing Directive and the Annex to the Midwifery Directive).

Marginal Citations

M5 [S.I. 2004/1766](#).

M6 “The Directive” is defined in Schedule 4 to the Order as Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005.

The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 **U.K.**

177.—(1) The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004^{M7} are amended as follows.

(2) In rule 2 (interpretation)—

(a) the existing provision containing a table of definitions shall be numbered as paragraph (1); and

(b) after paragraph (1) add—

“(2) In these Rules, a reference to any provision of the Directive^{M8} is a reference to that provision of the Directive as amended from time to time.”.

(3) After rule 2 insert—

“Application to visiting nurses and midwives from relevant European States

2A. In these Rules—

(a) Part 2 shall not apply to visiting nurses and midwives from relevant European States^{M9}, or in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rule 3(3);

(b) Part 3 shall not apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order, except for rules 4 (the register), 14 (lapse of registration) and 16 (amendments to the register);

(c) Part 4 shall apply in respect of a person's registration in exercise of entitlement under article 39A of, or Schedule 2A to, the Order.”.

(4) In rule 3 (education leading to registration and re-registration)—

(a) for paragraph (1) substitute—

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

(1A) Subject to paragraph (1B), where an approved programme of education leads to the award of a qualification listed in relation to the United Kingdom in Annex V, point 5.5.2

of the Directive (evidence of formal qualifications as a midwife), that programme must comply with the training requirements laid down in article 40 of the Directive (training of midwives).

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

(b) for paragraph (2) substitute—

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

(5) In rule 5 (application for admission to a part of the register)—

(a) in paragraph (2)—

(i) in sub-paragraph (a)(ii)—

(aa) for “EEA State” substitute “European State ”, and

(bb) for “been met, or” substitute “ been met, ”,

(ii) in sub-paragraph (a)(iii)—

(aa) for “article 13(1)(c)” substitute “ article 13(1)(c) or (d) ”, and

(bb) for “applying; and” substitute “ applying, or ”, and

(iii) after sub-paragraph (a)(iii) insert—

“(iv) where the applicant is relying on article 13(1)(e) or (f) of the Order, evidence of her qualification and details as to her training; and”;

(b) after paragraph (2) add—

“(3) If the applicant (“A”)—

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

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

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

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

(4) The certificate—

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

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

(6) In rule 6 (requirements for declarations of good health and good character)—

(a) in paragraph (1)—

(i) omit sub-paragraph (d), and

(ii) in sub-paragraph (e), for “article 13(1)(c)” substitute “ article 13(1)(c) or (d) ”;

(b) after paragraph (1) insert—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) in paragraph (5)(b), for “(1)(a), (b), (c), (d)(i), (e), (2) or (3)” substitute “ (1)(a), (b), (c) or (e) or paragraph (1D), (1E), (2) or (3) ”;

(d) in paragraph (6)(b), for “(1)(a), (b), (c), (d)(ii), (e), (2) or (3)” substitute “ (1)(a), (b), (c) or (e) or paragraph (1B), (1C), (2) or (3) ”; and

(e) in paragraph (7), omit the definition of “Member State of origin”.

(7) In rule 8 (overseas applications for registration which are unsuccessful), for “article 13(1)(c)” substitute “ article 13(1)(d) ”.

Status: Point in time view as at 03/12/2007.

Changes to legislation: There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, PART 11. (See end of Document for details)

- (8) In rule 9 (knowledge of English), for “an EEA national exercising an enforceable Community right, or an exempt person,” substitute “an exempt person^{M10}”.
- (9) In rule 15 (readmission to the register), in paragraph (2), after “6(1)” insert “to (1E)&”.
- (10) In rule 20 (period during which an appeal may be made)—
- (a) in paragraph (a), for “sub-paragraph (a)” substitute “sub-paragraph (a), (aa)”;
 - (b) in paragraph (b), for “article 9(4)” substitute “article 9(5)”.
- (11) In rule 21 (notice of appeal), in paragraph (2)(a)(iii), after “37(1)(a),” insert “(aa),”.
- (12) Omit Schedule 1 (extract from the Second Nursing Directive).
- (13) Omit Schedule 2 (extract from the Second Midwifery Directive).
- (14) In Schedule 3 (application for admission to a part of the register), after paragraph (b) insert—
- “(ba) if the applicant is relying on article 13(1)(b), (c), (e) or (f) of the Order and is a national of a relevant European State, proof of her nationality;
 - (bb) if the applicant is relying on article 13(1)(b), (c), (e) or (f) of the Order and is not a national of a relevant European State, proof of the Community right by virtue of which she is an exempt person;”.

Marginal Citations

- M7** Scheduled to [S.I. 2004/1767](#); there are no relevant amending instruments.
- M8** “The Directive” is defined in Schedule 4 to the Order as Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005.
- M9** “Visiting nurse or midwife from a relevant European State” is defined in Schedule 4 to the Order as a nurse or midwife registered in exercise of entitlement under article 39A of or Schedule 2A to the Order.
- M10** “Exempt person” is defined in Schedule 4 to the Order.

Status:

Point in time view as at 03/12/2007.

Changes to legislation:

There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2007, PART 11.