

2007 No. 3134

HEALTH CARE AND ASSOCIATED PROFESSIONS

NURSES AND MIDWIVES

**The Nursing and Midwifery Council (Election Scheme)
(Amendment) Rules Order of Council 2007**

Made - - - - - *29th October 2007*

Laid before Parliament *7th November 2007*

Coming into force - - *3rd December 2007*

At the Council Chamber, Whitehall, the 29th day of October 2007

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

The Nursing and Midwifery Council has made the Nursing and Midwifery Council (Election Scheme) (Amendment) Rules 2007, which are set out in the Schedule to this Order, in exercise of the powers conferred by article 47(2) of, and paragraph 2 of Schedule 1 to, the Nursing and Midwifery Order 2001(a) and having consulted in accordance with article 47(3) of that Order.

By virtue of articles 47(1) and 48 of that Order, such Rules shall not come into force until approved by Order of the Privy Council.

Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

This Order may be cited as the Nursing and Midwifery Council (Election Scheme) (Amendment) Rules Order of Council 2007 and shall come into force on 3rd December 2007.

Judith Simpson
Clerk of the Privy Council

(a) S.I. 2002/253; paragraph 2 of Schedule 1 has been amended by S.I. 2006/1914.

SCHEDULE

The Nursing and Midwifery Council (Election Scheme) (Amendment) Rules 2007

The Nursing and Midwifery Council makes the following Rules in exercise of the powers conferred by article 47(2) of, and paragraph 2 of Schedule 1 to, the Nursing and Midwifery Order 2001.

The Nursing and Midwifery Council has consulted in accordance with article 47(3) of that Order.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Nursing and Midwifery Council (Election Scheme) (Amendment) Rules 2007 and shall come into force on 3rd December 2007.

(2) In these Rules “the principal Rules” means the Nursing and Midwifery Council (Election Scheme) Rules 2005(a).

Amendment of rule 2 of the principal Rules

2. In rule 2 of the principal Rules (interpretation), in paragraph (1)—

- (a) in the definition of “extension period”, omit “, read with rules 12(1) and 23(1)(b)”;
- (b) omit the definition of “further extension period”;
- (c) in the definition of “last date for despatch of voting papers”, for “rules 11(3)(a) and (5)(a), 12(2)(a) and 23(1)(c)(i)” substitute “rule 11(3)(a)”;
- (d) in the definition of “last date for nominations”, for “rules 11(1) and (4), 12(1) and 23(1)(b)” substitute “rule 11(1)”;
- (e) in the definition of “last date for return of voting papers”, for “rules 11(3)(b) and (5)(b), 12(2)(b) and 23(1)(c)(ii)” substitute “rule 11(3)(b)”.

Amendment of rule 3 of the principal Rules

3. In rule 3 of the principal rules (Returning Officer)—

- (a) in paragraph (1), for “six” substitute “three”; and
- (b) in paragraph (2)—
 - (i) for “rules 11(6)(b), 23(1)(d)(ii) or (3) or 26(5)” substitute “rule 11(4)(a), 12(a), 23(1)(b)(i), 23(2)(a)(i), 23(3) or 26(5)”, and
 - (ii) for “rules 11(2), 23(2)(a) or 28(3)” substitute “rule 11(2), 23(1)(c), 23(2)(d) or 28(3)”.

Amendment of rule 4 of the principal Rules

4. In rule 4 of the principal Rules (Independent Scrutineer), in paragraph (1), for “five” substitute “three”.

Amendment of rule 7 of the principal Rules

5. In rule 7 of the principal Rules (last date for nominations), in paragraph (1), for “rules 11(1) and (4), 12(1) and 23(1)(b)” substitute “rule 11(1)”.

(a) Scheduled to S.I. 2005/2250; as amended by S.I. 2006/1914.

Amendment of rule 8 of the principal Rules

6. In rule 8 of the principal Rules (notice of election)—
- (a) in paragraph (1), for “28” substitute “21”; and
 - (b) in paragraph (3)(b), omit “except in the case of the election held prior to the end of the second transitional period.”.

Amendment of rule 9 of the principal Rules

7. In rule 9 of the principal Rules (nominations), in paragraph (5)(a), for “rules 11(1) and (4), 12(1) and 23(1)(b)” substitute “rule 11(1)”.

Amendment of rule 11 of the principal Rules

8. In rule 11 of the principal Rules (procedure if no candidate nominated)—
- (a) in paragraph (1), for “21” substitute “at least 10”;
 - (b) in paragraph (3)(a), for “21” substitute “14”;
 - (c) in paragraph (3)(b), for “42” substitute “35”;
 - (d) for paragraph (4), substitute the following paragraph—
 - “(4) If one valid nomination only is received within the extension period—
 - (a) unless the election is a by-election for an alternate member, 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, and the vacancy for the alternate member for that national constituency and part of the register shall be treated as a casual vacancy to be filled, if the Council needs to appoint an alternate member, by a by-election held in accordance with rule 26(5); and
 - (b) if the election is a by-election for an alternate member, the Returning Officer shall declare the candidate nominated to have been elected to fill the vacancy for an alternate member for the national constituency and part of the register in relation to which the by-election is taking place.”; and
 - (e) omit paragraphs (5) and (6).

Amendment of rule 12 of the principal Rules

9. For rule 12 of the principal Rules (procedure if only one candidate nominated) substitute the following rule—

“Procedure if only one candidate nominated

12. If one valid nomination only is received by the last date for nominations—
- (a) unless the election is a by-election for an alternate member, 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, and the vacancy for the alternate member for that national constituency and part of the register shall be treated as a casual vacancy to be filled, if the Council needs to appoint an alternate member, by a by-election held in accordance with rule 26(5); and
 - (b) if the election is a by-election for an alternate member, the Returning Officer shall declare the candidate nominated to have been elected to fill the vacancy for an alternate member for the national constituency and part of the register in relation to which the by-election is taking place.”.

Amendment of rule 13 of the principal Rules

- 10.** In rule 13 of the principal Rules (basis of election)—
- (a) in paragraph (1), omit “or further extension period”; and
 - (b) in paragraph (2), omit “or further extension period”.

Amendment of rule 14 of the principal Rules

- 11.** In rule 14 of the principal Rules (last dates for despatch and return of voting papers)—
- (a) in paragraph (1)(a), for “rules 11(3)(a) and (5)(a), 12(2)(a) and 23(1)(c)(i)” substitute “rule 11(3)(a)”; and
 - (b) in paragraph (1)(b), for “rules 11(3)(b) and (5)(b), 12(2)(b) and 23(1)(c)(ii)” substitute “rule 11(3)(b)”.

Amendment of rule 16 of the principal Rules

- 12.** In rule 16 of the principal Rules (conduct of the ballot), in paragraph (1), omit “or further extension period”.

Amendment of rule 23 of the principal Rules

- 13.** In rule 23 of the principal Rules (death, disqualification or resignation of candidate)—
- (a) in paragraph (1)—
 - (i) for “circulated to the electors” substitute “printed”, and
 - (ii) for sub-paragraphs (b), (c) and (d) substitute the following sub-paragraphs—
 - “(b) if one candidate only remains—
 - (i) unless the election is a by-election for an alternate member, the Returning Officer shall declare that 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, and the vacancy for the alternate member for that national constituency and part of the register shall be treated as a casual vacancy to be filled, if the Council needs to appoint an alternate member, by a by-election held in accordance with rule 26(5), and
 - (ii) if the election is a by-election for an alternate member, the Returning Officer shall declare the candidate nominated to have been elected to fill the vacancy for an alternate member for the national constituency and part of the register in relation to which the by-election is taking place;
 - (c) if no candidate remains, the election shall be treated as void and a new election shall take place.”; and
 - (b) in paragraph (2)—
 - (i) for “circulated to the electors” substitute “printed”,
 - (ii) for sub-paragraph (a) substitute the following sub-paragraph—
 - “(a) if one candidate only remains—
 - (i) unless the election is a by-election for an alternate member, the Returning Officer shall declare that 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, and the vacancy for the alternate member for that national constituency and part of the register shall be treated as a casual vacancy to be filled, if the Council needs to appoint an alternate member, by a by-election held in accordance with rule 26(5), and
 - (ii) if the election is a by-election for an alternate member, the Returning Officer shall declare the candidate nominated to have been elected to fill the vacancy

for an alternate member for the national constituency and part of the register in relation to which the by-election is taking place;”,

(iii) at the end of sub-paragraph (c) add “; and”, and

(iv) after sub-paragraph (c) add the following sub-paragraph—

“(d) if no candidate remains, the election shall be treated as void and a new election shall take place.”.

Amendment of rule 24 of the principal Rules

14. In rule 24 of the principal Rules (declaration of result by Returning Officer), in paragraph (2), for “rules 11(6)(a), 12(3)(a) or 23(1)(d)(i)” substitute “rule 11(4), 12, 23(1)(b) or 23(2)(a)”.

Amendment of rule 26 of the principal Rules

15. In rule 26 of the principal Rules (casual vacancies)—

(a) after paragraph (3) insert the following paragraph—

“(3A) If any of those four persons would, if appointed, need to be removed from office by virtue of paragraph 8(2) of Schedule 1 to the Order, that person shall be deemed to have given an indication of unwillingness.”; and

(b) for paragraph (5) substitute the following paragraph—

“(5) If a vacancy that cannot be filled by the procedures described in the foregoing paragraphs needs to be filled, it shall be filled by a by-election.”.

Given under the official seal of the Nursing and Midwifery Council on 18th October 2007.



Nancy Kirkland
President

Sarah Thewlis
Chief Executive and Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves amendments made by the Nursing and Midwifery Council (“the Council”) to its Rules relating to the election scheme for the elected members of the Council. Elections are held annually for groups of registrant and alternate members of the Council on the basis of either the “first past the post” system, if there are only two candidates, or a “single transferable vote” system, if there are more than two candidates. The winner of the ballot becomes the registrant member and the second placed candidate becomes the alternate member for the particular national constituency and part of the Council’s register in relation to which the election is taking place.

The overall timetable for elections is reduced from six months to three, with corresponding cuts in the time allowed for each stage of the electoral process to take place (rules 3(a), 4, 6(a), 8(a) to (c))

Previously, at elections (modified arrangements apply, in any event, where a by-election is needed), if no candidates had put themselves forward by the last date for nominations, there was the possibility of two extension periods, but this has been reduced to one. Now, if one candidate emerges during the sole extension period, that person becomes the registrant member (at an annual election) and a by-election is held (if needed) for the alternate member (rule 8(d)). Similarly, if one candidate puts himself or herself forward before the last date for nominations, that candidate becomes the registrant member (at an annual election) and a by-election is held (if needed) for the alternate member (rule 9). The rules relating to what happens in the event of the death or disqualification of a candidate are adapted to follow the same approach, and a minor timetabling modification has been made to that procedure, so that the cut-off point between different arrangements applying is the printing rather than the circulation of voting papers (rule 13). The new approach has also necessitated a number of changes to update cross references to the amended provisions (rules 2, 3(b), 5, 7, 10, 11, 12 and 14).

Where registrant and alternate members have been elected in a single transferable vote ballot, the unsuccessful candidates, in the order in which they were placed in the ballot, become eligible for promotion to a vacant seat on Council, if one becomes available. If, in the meantime, they have ceased to be entitled to the office for which they sought election (for example, because the office holder must live or work wholly or mainly in a particular country and they no longer do so), they are deemed to refuse a promotion to which they would otherwise be entitled. If that results in a vacancy that needs to be filled, there has to be a by-election (rule 15). The opportunity has also been taken to remove some redundant wording (rule 6(b)).

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