

SCHEDULE

Article 2

The Nursing and Midwifery Council (Fitness to Practise) (Education, Registration and Registration Appeals) (Amendment No. 2) Rules 2015

The Nursing and Midwifery Council makes the following Rules in exercise of the powers conferred under articles 7(1) and (2), 9(2), 26(3), 28A, 32(1) and (2), 37(4) and 47(2) of the Nursing and Midwifery Order 2001, having consulted in accordance with article 47(3) of that Order.

PART 1

Preliminaries

Citation and commencement

1. These Rules may be cited as the Nursing and Midwifery Council (Fitness to Practise) (Education, Registration and Registration Appeals) (Amendment No. 2) Rules 2015 and come into force on 19th January 2016.

PART 2

Amendment of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004

2. The Nursing and Midwifery Council (Fitness to Practise) Rules 2004⁽¹⁾ are amended as follows.

3. In rule 6B (investigation of Fitness to Practise allegations)⁽²⁾, after paragraph (3) insert—

“(3A) Paragraphs (3B) to (3E) apply in the case of an allegation that the registrant’s fitness to practise is impaired by reason of not having the necessary knowledge of English.

(3B) The Registrar may direct the registrant to, within such period as the Registrar may specify in a notification referred to in paragraph (3D),—

- (a) undertake an examination or other assessment as specified in that notification; and
- (b) provide the Registrar with evidence of the result of that examination or other assessment in the form required by paragraph (3C).

(3C) The registrant must provide the evidence referred to in paragraph (3B)(b) in the form of a certificate or other document signed by an officer of the body providing that examination or other assessment.

(3D) Where the Registrar makes a direction pursuant to paragraph (3B), the Registrar must notify the registrant, in writing, of the direction and the notice must also inform the registrant of—

- (a) the name of the examination or other assessment that the registrant is directed to undertake;
- (b) the evidence to be provided in accordance with paragraph (3C); and
- (c) the provisions of rule 31(6A).

(3E) The Registrar must provide the Case Examiners with the evidence provided by the registrant pursuant to paragraph (3C).”

⁽¹⁾ These rules are set out in the Schedule to [S.I. 2004/1761](#).

⁽²⁾ Rule 6B was inserted by rule 10 of the Nursing and Midwifery Council (Fitness to Practise) (Education, Registration and Registration Appeals) (Amendment) Rules 2014 which are set out in the Schedule to [S.I. 2015/52](#).

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4. In rule 6D(1)(c) (consideration of fitness to practise allegations by the Investigating Committee)(3) for “rule 2A(4), 6B(1), (2) or (3)” substitute “rule 2A(4), 6B(1), (2), (3) or (3B)”.

5. In rule 9 (action upon referral of an allegation)(4)—

- (a) at the end of paragraph (4)(a) omit “ and”;
- (b) in paragraph (4)(b) for “Council.” substitute “Council; and”;
- (c) after paragraph (4)(b) add—

“(c) in the case of an allegation that the registrant’s fitness to practise is impaired by reason of not having the necessary knowledge of English, the Conduct and Competence Committee may direct the registrant to, within such period as it may specify in the notification referred to in paragraph (4A),—

- (i) undertake an examination or other assessment of the registrant’s knowledge of English as specified in the notification referred to in paragraph (4A), and
- (ii) provide the Conduct and Competence Committee with evidence of the result of that examination or other assessment in the form required by rule 6B(3C).”;

(d) after paragraph (4) insert—

“(4A) Where the Conduct and Competence Committee makes a direction pursuant to paragraph (4)(c), the Committee must notify the registrant of the direction and the notice must also inform the registrant of the matters set out in rule 6B(3D).”.

6. In rule 18 (preliminary meetings)—

- (a) at the end of paragraph (5)(h) omit “and”;
- (b) in paragraph (5)(i) for “held.” substitute “held; and”;
- (c) after paragraph (5)(i) insert—

“(j) a direction that the registrant, within such period as the Chair may specify in the written confirmation referred to in paragraph (8),—

- (i) undertake an examination or other assessment of the registrant’s knowledge of English as specified in the written confirmation referred to in paragraph (8), and
- (ii) provide the Conduct and Competence Committee with evidence of the result of that examination or other assessment in the form required by rule 6B(3C).”;

(d) for paragraph (8) substitute—

“(8) The Chair of the preliminary meeting must—

- (a) keep a record of the directions given;
- (b) send written confirmation of such directions to the parties promptly; and
- (c) where a direction is made pursuant to paragraph (5)(j), inform the registrant of the matters set out in rule 6B(3D).”.

7. After rule 25 (order of proceedings at a review or restoration hearing) insert—

(3) Rule 6D was inserted by rule 10 of the Nursing and Midwifery Council (Fitness to Practise) (Education, Registration and Registration Appeals) (Amendment) Rules 2014 which are set out in the Schedule to [S.I. 2015/52](#).

(4) Rule 9 was amended by rule 9 of the Nursing and Midwifery Committee (Fitness to Practise) (Amendment) Rules 2011 which are set out as a Schedule to [S.I. 2012/17](#).

“Investigations prior to a review hearing

25A.—(1) This rule applies where a registrant’s fitness to practise has been found to be impaired by reason of not having the necessary knowledge of English.

(2) Prior to the opening of a review hearing, the Registrar may direct the registrant to, within such period as the Registrar may specify in the notification referred to in paragraph (3),—

- (a) undertake an examination or other assessment as specified in the notification referred to in paragraph (3); and
- (b) provide the Registrar with evidence of the result of that examination or other assessment in the form required by rule 6B(3C).

(3) Where the Registrar makes a direction pursuant to paragraph (2), the Registrar must notify the registrant of the direction and the notice must also inform the registrant of the matters set out in rule 6B(3D).

(4) The Registrar must provide the Conduct and Competence Committee with the evidence provided by the registrant in compliance with a direction made under paragraph (2).”.

8. In rule 31 (evidence)(5)—

- (a) after paragraph (4) insert—

“(4A) Where under these Rules the registrant is directed by the Registrar or the Conduct and Competence Committee to undertake an examination or other assessment of the registrant’s knowledge of English, a certificate or other document stating the result achieved by the registrant in that examination or other assessment that is signed by an officer of the body providing the examination or other assessment shall be conclusive proof of the result achieved by the registrant in that examination or other assessment.”; and

- (b) after paragraph (6) insert—

“(6A) In determining whether a registrant’s fitness to practise is impaired by reason of not having the necessary knowledge of English, the Conduct and Competence Committee may draw such inferences as seem appropriate to it if a registrant fails to undertake an examination or other assessment or to provide evidence of the result of that examination or other assessment in accordance with a direction made pursuant to these Rules.”.

PART 3

Amendment of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004

9. The Nursing and Midwifery (Education, Registration and Registration Appeals) Rules 2004(6) are amended as follows.

10. In rule 5 (application for admission to a part of the register)(7) after paragraph (2)(aa) insert—

“(ab) evidence that the applicant has the necessary knowledge of English for the purpose of complying with article 9(2)(ba) of the Order(8);”

(5) Rule 31 was amended by [S.I. 2009/1182](#), article 4(1), Schedule 4, Part 2, paragraph 22, by section 81(5) of the Policing and Crime Act 2009 (c. 26) and by article 34 of [S.I. 2012/3006](#).

(6) These Rules are set out as a Schedule to [S.I. 2004/1767](#).

(7) Rule 5 was amended by regulation 177(5) of [S.I. 2007/3101](#) and by [S.I. 2014/1887](#), article 2(1), Schedule 1, Part 7, paragraphs 30 and 31.

(8) Article 9(2) was amended by [S.I. 2014/1887](#), article 2(1), Schedule 1, Part 7, paragraphs 23 and 24 and by [S.I. 2015/806](#), articles 32 and 34(1) and (2).

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11. Omit rule 9 (knowledge of English)(9).
12. In rule 15 (readmission to the register)(10)—
 - (a) in paragraph (2) before “and (b)” insert “, (ab)”;
 - (b) at the end of paragraph (4)(b) omit “and”;
 - (c) in paragraph (4)(c) for “6(6).” substitute “6(6); and”; and
 - (d) after paragraph (4)(c) insert—
 - “(d) that the applicant has the necessary knowledge of English for the purposes of article 9(2)(ba) of the Order.”.
13. In rule 20 (period during which an appeal may be made)(11), in paragraph (a) for “sub-paragraph (a), (aa), (b) or (c)” substitute “sub-paragraph (za), (zb), (a), (aa), (b) or (c)”.
14. In rule 21 (notice of appeal)(12) in paragraph (2)(a)(iii) for “article 37(1)(a), (aa), (b) or (c)” substitute “article 37(1)(za), (zb), (a), (aa), (b) or (c)”.

(9) Rule 9 was amended by regulation 177(8) of [S.I. 2007/3101](#).

(10) Rule 15 was amended by regulation 177(9) of [S.I. 2007/3101](#), by rule 4 of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) (Amendment) Rules 2012 which are set out as a Schedule to [S.I. 2012/2754](#) and by [S.I. 2014/1887](#), article 2(1), Schedule 1, Part 7, paragraphs 30 and 33.

(11) Rule 20 was amended by regulation 177(10) of [S.I. 2007/3101](#).

(12) Rule 21 was amended by regulation 177(11) of [S.I. 2007/3101](#).