

The Nursing and Midwifery Order 2001 (SI 2002/253)

Unofficial consolidated text

Effective from 31 March 2024

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Amended text is enclosed in [], a footnote identifies the amending legislation.

Text from amendments that were made by SI 2008/1485, but will not come into force, have been included for information. The text is *italicised* and enclosed in { }, the corresponding footnote sets out why the amendments will not come into force.

This text incorporates amendments made by:

SI 2002/2469	The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002
SI 2003/1398	The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003
SI 2003/3148	The European Qualifications (Health Care Professions) Regulations 2003
SI 2004/1947	The European Qualifications (Health and Social Care Professions and Accession of New Member States) Regulations 2004
SI 2004/2626	The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 4) Order 2004
SI 2006/1914	The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006
SI 2006/2603	The Health Act 2006 (Commencement No. 1 and Transitional Provisions) Order 2006

National Health Service (Consequential Provisions) Act 2006

- SI 2007/3101 The European Qualifications (Health and Social Care Professions) Regulations 2007
- SI 2008/1485 The Nursing and Midwifery (Amendment) Order 2008
- SR(NI) 2009/144 The Health and Social Care (Reform) (2009 Act) (Consequential Provisions) Order (Northern Ireland) 2009
- SI 2009/1182 The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009
- SI 2013/235 The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013
- SI 2014/1887 The Health Care and Associated Professions (Indemnity Arrangements) Order 2014
- SI 2014/3272 The Nursing and Midwifery (Amendment) Order 2014
- SI 2015/806 The Health Care and Associated Professions (Knowledge of English) Order 2015¹
- Health and Social Care (Safety and Quality) Act 2015²
- SI 2016/1030 The European Qualifications (Health and Social Care Professions) Regulations 2016
- SI 2017/321 The Nursing and Midwifery (Amendment) Order 2017
- The Data Protection Act 2018³
- SI 2018/838 The Nursing and Midwifery (Amendment) Order 2018
- The Coronavirus Act 2020⁴
- SI 2019/419 Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations
- SI 2019/593 European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations
- SI 2021/531 The Nursing and Midwifery (European Qualifications) (Amendment) Regulations 2021

¹ Comes into effect by virtue of paragraph 4 of SI 2015/1451 on 18th January 2016.

² Comes into effect by virtue of paragraph 2 of SI 2016/906 on 26th September 2016

³ The relevant provisions come into effect by virtue of regulation 2(1)(g) of SI 2018/625 (C.51), on 25th May 2018.

⁴ The Coronavirus Act 2020 made temporary modifications to the Nursing and Midwifery Order 2001. All outstanding provisions expired on 31st March 2024 .

- SI 2023/162 The Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2023
- SI 2023/1286 The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023

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The Nursing and Midwifery Order 2001

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Whereas a draft of this Order in Council has been approved by a resolution of each House of Parliament in accordance with section 62(9) of the Health Act 1999;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4) of that Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Part I General

Citation and commencement

- 1.—(1) This Order may be cited as the Nursing and Midwifery Order 2001.
- (2) This article and article 54(4) come into force on the day on which this Order is made and the other provisions of this Order shall come into force on such day as the Secretary of State may specify.
- (3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

Interpretation

2. This Order is to be interpreted in accordance with Schedule 4.

[Application to nursing associates

- 2A. The provisions of this Order that apply to nursing associates, and only to the extent that they apply to nursing associates, apply in respect of England only.]⁵

Part II The Council and its Committees

The Nursing and Midwifery Council and its Committees

- 3.—(1) There shall be a body corporate known as the Nursing and Midwifery Council (referred to in this Order as “the Council”).
- (2) The principal functions of the Council shall be to establish from time to time standards of education, training, conduct and performance for [nurses, midwives and nursing associates]⁶ and to ensure the maintenance of those standards.
- (3) The Council shall have such other functions as are conferred on it by this Order or as may be provided by the Privy Council by order.
- (4) [The over-arching objective of the Council in exercising its functions is the protection of the public.

⁵ Inserted - SI 2018/838, Schedule 1, para 2.

⁶ Substituted – SI 2018/838, Schedule 1, para 3(a)

(4A) The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives—

- (a) to protect, promote and maintain the health, safety and wellbeing of the public;
- (b) to promote and maintain public confidence in the professions regulated under this Order; and
- (c) to promote and maintain proper professional standards and conduct for members of those professions.]⁷

[(5) In exercising its functions, the Council shall—

- (a) have proper regard for—
 - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and
 - (ii) any differing interests of different categories of registrants;
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—
 - (i) the employment (whether or not under a contract of service) of registrants,
 - (ii) the education or training of nurses, midwives[, nursing associates]⁸ or other health care professionals,
 - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
 - (iv) the regulation of health services, and
 - (v) the provision, supervision or management of health services.

(5A) In carrying out its duty to co-operate under paragraph (5)(b), the Council shall have regard to any differing considerations relating to practising as a nurse or midwife which apply in England, Scotland, Wales or Northern Ireland.

(5B) In paragraph (5), “health care professionals” means persons regulated by a body, other than the Council, mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (which relates to the Council for the Regulation of Health Care Professionals).]⁹

(6) Before making any order under paragraph (3), the Privy Council shall consult the Council.

⁷ Substituted - Health and Social Care (Safety and Quality) Act 2015, Schedule 1, paragraph 5(2)

⁸ Inserted – SI 2018/838, Schedule 1, paragraph 3(b)

⁹ Substituted – SI 2008/1485, schedule 1, paragraph 1(a)

- (7) [...] ¹⁰
- [(7A) The Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of Schedule 1.] ¹¹
- (8) Part I of Schedule 1 shall have effect with respect to the constitution of the Council [and orders of the Privy Council under paragraph (7A)] ¹².
- (9) [There shall be two committees of the Council, to be known as—
- (a) the Investigating Committee; and
 - (b) the Fitness to Practise Committee.] ¹³
- (10) [The two committees mentioned in paragraph (9) are referred to in this Order as “the Practice Committees”.] ¹⁴
- (11) Each of the [Practice Committees] ¹⁵ shall have the functions conferred on it by this Order.
- (12) The Council may establish such other committees as it considers appropriate in connection with the discharge of its functions and delegate any of its functions to them, other than any power to make rules.
- (13) The Council shall inform and educate registrants, and shall inform the public, about its work.
- (14) Before establishing any standards or giving any guidance under this Order the Council shall consult representatives of any group of persons it considers appropriate including, as it sees fit, representatives of—
- (a) registrants or classes of registrant;
 - (b) employers of registrants;
 - (c) users of the services of registrants; and
 - (d) persons providing, assessing or funding education or training for registrants or prospective registrants.
- (15) The Council shall publish any standards it establishes and any guidance it gives.
- (16) Paragraphs (14) and (15) do not apply to guidance given to an individual which is particular to him.

¹⁰ Omitted – SI 2008/1485, schedule 1, paragraph 1(b)

¹¹ Inserted – SI 2008/1485, schedule 1, paragraph 1(c)

¹² Inserted – SI 2008/1485, schedule 1, paragraph 1(d)

¹³ Substituted – SI 2017/321, schedule 1, paragraph 1(1)(a)

¹⁴ Substituted – SI 2017/321, schedule 1, paragraph 1(1)(b)

¹⁵ Substituted – SI 2017/321, schedule 1, paragraph 1(1)(c)

- (17) Part II of Schedule 1 shall have effect with respect to the [Practice Committees]¹⁶.
- (18) Nothing in this Order shall require or permit any disclosure of information which is prohibited by or under any other enactment [or the UK GDPR]^{17 18}.
- [(19) [...]]^{19 20}

Part III Registration

Registrar

- 4.—(1) The Council shall appoint a Registrar who shall hold office for such period and on such terms as the Council may determine.
- (2) The Registrar shall have such functions as the Council may direct.
- (3) The terms on which the Registrar holds office may, in addition to providing for his remuneration, include provision for the payment of such pensions, allowances or gratuities to or in respect of him, or such contributions or payments towards provision for such pensions, allowances or gratuities, as may be determined by the Council.
- (4) Where the terms on which the Registrar holds office include provision for the payment to him of any allowances or expenses, the rate at which those allowances or expenses are paid shall be determined by the Council.
- (5) If the Council appoints a deputy or assistant Registrar and that deputy or assistant Registrar is authorised by the Registrar to act for him in any matter, any reference in this Order to “the Registrar” shall include a reference to that deputy or assistant Registrar.

Establishment and maintenance of register

- 5.—(1) In accordance with the provisions of this Order the Council shall establish and maintain a register of qualified [nurses, midwives and nursing associates]²¹.
- (2) The Council shall from time to time—

¹⁶ Substituted – SI 2017/321, schedule 1, paragraph 1(1)(c)

¹⁷ Inserted - Data Protection Act 2018, Schedule 19, paragraph 280(2). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

¹⁸ Word substituted by Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 Sch.3(3) para.39(2)

¹⁹ Inserted – Data Protection Act 2018, Schedule 19, paragraph 280(3). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

²⁰ Omitted by Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 Sch.3(3) para.39(3)

²¹ Substituted – SI 2018/838, schedule 1, paragraph 4(a). The nursing associate part of the register is created on 12 July 2018 for the purpose only of establishing standards in relation to nursing associates. (SI 2018/838 Article 1(2)(b)(iv)). The remaining provisions including admission to the nursing associate part of the register will come into force on 28 January 2019.

- (a) establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register; and
 - (b) prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Registrar that an applicant is capable of safe and effective practice as a [nurse, midwife or nursing associate]²².
- (3) The Council shall—
- (a) before prescribing the requirements mentioned in paragraph (2)(b), consult [. . .]²³ the persons referred to in article 3(14); and
 - (b) publish those requirements.
- (4) The register shall show, in relation to each registrant, such address and other details as the Council may prescribe.
- (5) [. . .]²⁴

[Supplementary provisions as to necessary knowledge of English

- 5A.**—(1) The Council must publish guidance about—
- (a) the evidence, information or documents to be provided by an applicant for the purpose of satisfying the Registrar under article 9(2)(ba) that the applicant has the necessary knowledge of English; and
 - (b) the process by which the Registrar is to determine whether the Registrar is satisfied as mentioned in paragraph (a).
- (2) The Registrar must have regard to the guidance published under paragraph (1) in determining whether the Registrar is satisfied as mentioned in paragraph (1)(a).
- (3) Paragraphs (4) and (6) apply if, having considered any evidence, information or documents provided by the applicant in support of the applicant's application, the Registrar is not satisfied under article 9(2)(ba) that the applicant has the necessary knowledge of English.
- (4) The Registrar may request the applicant to provide further evidence, information or documents within such period as the Registrar may specify.
- (5) [. . .]²⁵
- (6) The Registrar may require the applicant—

²² Substituted – SI 2018/838, Schedule 1, para 4(b)

²³ Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(a)

²⁴ Omitted – SI 2018/838, schedule 1, para 4(c)

²⁵ Omitted – SI 2019/593 Schedule 4(1) para 3

- (a) to undergo an examination or other assessment; and
- (b) to provide information in respect of that examination or assessment, within such a period as the Registrar may specify.

[(6A) A requirement imposed by the Council under sub-paragraph (6)(a) must be proportionate to the level of language skills referred to in article 9(2)(ba).]²⁶

(7) [...]²⁷

(8) Guidance published under paragraph (1) may make different provision in relation to different cases or classes of case.

(9) In this article, references to an applicant are references to a person applying for registration in part of the register or readmission to that part.]²⁸

Register

6.—(1) The register shall be divided into such parts as the Privy Council may by order determine, on a proposal by the Council or otherwise, and in this Order, references to parts of the register are to the parts so determined.

(2) Each part shall have a designated title indicative of different qualifications and different kinds of education or training and a registrant is entitled to use the title corresponding to the part of the register in which he is registered.

(3) Subject to article 7, the Privy Council may by order, on a proposal by the Council or otherwise, make such other provision in connection with the register as it considers appropriate and in particular may provide for—

(a) the register to include entries indicating the possession of qualifications (whether or not they are approved qualifications) or competence in a particular field or at a particular level of practice, or for the use of a particular category of entry to be discontinued;

(aa) [...] ^{29 30 31}

(b) persons to be registered in one or more parts of the register by virtue of having been included in the register maintained under the 1997 Act;

(c) the recording of additional entries by virtue of their having been in the register maintained under the 1997 Act;

²⁶ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 61

²⁷ Omitted – SI 2019/593 Schedule 4(1) para 3

²⁸ Inserted – SI 2015/806 part 4, paragraph 33

²⁹ Substituted – SI 2018/838, Schedule 1, para 5

³⁰ Inserted – SI 2007/3101, part 10, regulation 156

³¹ Omitted – SI 2019/593 Schedule 4(1) para 4

- (d) a specified part of the register to be closed, as from a date specified in the order, so that on or after that date no further person may become registered in that part;
 - (e) a specified part of the register to be sub-divided into two or more parts, or for two or more parts to be combined into one;
 - (f) persons to be registered in one or more parts of the register by virtue of having been registered in a part or parts of the register which have been closed, sub-divided or combined;
 - (g) the register to include a part or parts for specialists in community and public health;
 - (h) the recording in Welsh of titles, qualifications and other entries referred to in this paragraph in respect of those members of the professions regulated by this Order whose registered address is in Wales.
- (4) The Privy Council, except where acting in accordance with a proposal made by the Council, shall consult the Council before making, varying or revoking any order under this article.
- (5) Before making any proposal referred to in paragraph (1) or (3), the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed order.

[Temporary annotations with regard to emergencies involving loss of human life or human illness etc.

6A.—[(A1) The Registrar may not exercise the powers conferred by this article in relation to a registrant who is entered in the nursing associates' part of the register.]³²

- (1) If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this article, the Registrar may make—
- (a) an annotation in the register against the name of a registrant to indicate that the registrant is qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that the registrant is not so qualified, if the Registrar considers that the registrant is a fit, proper and suitably experienced person to order drugs, medicines and appliances in that capacity with regard to the emergency;
 - (b) annotations in the register against the names of registrants comprising a specified group of registrants to indicate that they are qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that they are not so qualified, if the Registrar considers that the group is comprised of registrants who are of a type who may reasonably be considered fit, proper and suitably

³² Inserted – SI 2018/838, Schedule 1, para 6

experienced persons to order drugs, medicines and appliances in that capacity with regard to the emergency.

- (2) The Registrar may make the annotation in such a way so as to distinguish registrants against whose names in the register annotations are made by virtue of paragraph (1) from registrants in respect of whom the annotation is made otherwise than by virtue of paragraph (1).
- (3) Annotations made by virtue of paragraph (1)—
 - (a) must be removed by the Registrar if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to advise the Registrar as mentioned in paragraph (1) no longer exist;
 - (b) may be removed by the Registrar at any time, including where the Registrar has grounds for suspecting that the registrant's fitness to order drugs, medicines or appliances may be impaired.
- (4) A registrant against whose name in the register an annotation is made by virtue of paragraph (1)(b) as one of a specified group may have that annotation removed without the Registrar removing the equivalent annotations against the names of the other members of the group or by virtue of a decision to remove the annotations made by virtue of paragraph (1)(b) against the names of all the members of the group.
- (5) For the purposes of this article, "emergency" means an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004 (meaning of "emergency"), read with [subsection (2)(a) and (b)]³³ of that section.]³⁴

The register: supplemental provisions

7.—(1) The Council shall make rules in connection with registration and the register, and as to the payment of fees.

- (2) The rules shall, in particular, make provision as to—
 - (a) the form and keeping of the register;
 - (b) the procedure for the making, alteration and deletion of entries in the register;
 - (c) the form and manner in which applications are to be made and the fee to be charged—
 - (i) for registration, renewal of registration and readmission to the register,
 - (ii) for the making of any additional entry in the register, and
 - (iii) for registration to lapse;

³³ Substituted – SI 2009/1182, schedule 4, part 6, paragraph 38(b)

³⁴ Inserted – SI 2008/1485, schedule 1, paragraph 2

(d) the documentary and other evidence which is to accompany applications of the kind mentioned in sub-paragraph (c).

[(2A) Where the applicant applies in reliance on a specified state qualification or qualifications, the Registrar may not request more documentary and other evidence than is necessary to demonstrate to the Registrar that the applicant has satisfied the conditions specified in article 9(2).

(2B) Where documentary or other evidence falls to be provided in connection with the registration of a specified state professional under article 9, the Council must accept certified copies of documents in place of original documents unless it requires original documents to protect the integrity of the application process.

(2C) For the purposes of paragraph (2B), a certified copy of a document is one which is certified to be a true copy of the original by a solicitor practising in any part of the United Kingdom.

(2D) Any fee prescribed by the Council under paragraph (1) in connection with the making of an entry in the register relating to a specified state professional must be—

(a) reasonable and proportionate to the cost of dealing with such an applicant's application;

(b) transparent, and made public in advance; and

(c) payable by electronic means through the Council's website.]³⁵

(3) Before determining or varying any fees mentioned in paragraph (2)(c) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.

(4) [...] ^{36 37}

[(5) Rules may not be made under this article in connection with annotations made under article 6A.] ³⁸

Access to register etc.

8.—(1) The Council shall make the register available for inspection by members of the public at all reasonable times.

(2) The Council shall publish the register maintained by it in such manner, and at such times, as it considers appropriate.

(3) Any copy of, or extract from, the published register shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

³⁵ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 62

³⁶ Omitted – SI 2019/593 Schedule 4(1) para 5

³⁷ Substituted – SI 2018/838, Schedule 1, para 7

³⁸ Inserted – SI 2008/1485, schedule 1, paragraph 3

- (4) A certificate purporting to be signed by the Registrar, certifying that a person—
- (a) is registered in a specified category;
 - (b) is not registered;
 - (c) was registered in a specified category at a specified date or during a specified period;
 - (d) was not registered in a specified category, or in any category, at a specified date or during a specified period; or
 - (e) has never been registered,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

- (5) [...] ^{39 40 41}

Registration

9.—(1) [A ⁴² person] ⁴³ seeking admission to a part of the register must apply to the Council and, subject to the provisions of this Order, if he satisfies the conditions mentioned in paragraph (2) he shall be entitled to be registered in that part.

(2) Subject to paragraph (3), the conditions are that the application is made in the prescribed form and manner and that the applicant—

- (a) satisfies the Registrar that he holds an approved qualification awarded—
 - (i) within such period, not exceeding five years ending with the date of the application, as may be prescribed, or
 - (ii) before the prescribed period mentioned in head (i), and he has met such requirements as to additional education, training and experience as the Council may specify under article 19(3) and which apply to him;

[aa) satisfies the Registrar that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;]⁴⁴

- (b) satisfies the Registrar in accordance with the Council's requirements mentioned in article 5(2) that he is capable of safe and effective practice [as a nurse, midwife or nursing associate]⁴⁵;

³⁹ Substituted – SI 2007/3101, part 10, regulation 158(a)

⁴⁰ Substituted – SI 2007/3101, part 10, regulation 158(b)

⁴¹ Omitted – SI 2019/593 Schedule 4(1) para 6

⁴² Substituted – SI 2019/593 Schedule 4(1) para 7(a)

⁴³ Substituted – SI 2007/3101, part 10, regulation 159(a)

⁴⁴ Inserted – SI 2014/1887, part 7, paragraph 24

⁴⁵ Substituted – SI 2018/838, Schedule 1, para 8

[(ba) satisfies the Registrar that he has the necessary knowledge of English; and]⁴⁶

(c) has paid the prescribed fee.

(3) Where the applicant is already registered in the register and wishes to be registered in an additional part of the register or to have additional entries recorded, paragraph (2)(a) shall apply only to the qualifications on which his application is based.

[[(3A)....] ⁴⁷

[(3B) ⁴⁸

(3C) ⁴⁹] ⁵⁰ ⁵¹

[(4) Where a person makes an application under paragraph (1), the Registrar must, as soon as reasonably practicable and in any event within the specified period, notify the applicant in writing—

(a) of the result of the application; and

(b) if the Registrar refuses the application, of the reasons for the decision, and of the applicant's right of appeal.

[(4A) Where a specified state professional makes an application under paragraph (1), the Registrar must—

(a) give the applicant adequate time to complete the requirements and procedures of the application process;

(b) within the period of one month beginning with the date when the Registrar receives the application—

(i) acknowledge receipt of the application;

(ii) inform the applicant of any missing document required for the purposes of the application; and

(c) deal promptly with the application.]⁵²

(5) [Subject to paragraph (5ZA),] ⁵³ in paragraphs (4) and (6) “the specified period” [means “—

⁴⁶ Inserted – SI 2015/806, part 4, paragraph 34(2)(b)

⁴⁷ Inserted – SI 2007/3101, part 10, regulation 159(b)

⁴⁸ Substituted – SI 2018/838, Schedule 1 para 8(b)

⁴⁹ Substituted – SI 2018/838, Schedule 1, para 8(b)

⁵⁰ Inserted – SI 2015/806, part 4, paragraph 34(3)

⁵¹ Omitted – SI 2019/593 Schedule 4(1) para 7(b)

⁵² Inserted – SI 2023/1286 Schedule 3 Part 5 Para 63(a)

⁵³ Inserted – SI 2015/806, part 4, paragraph 34(4)

[(a) where A holds a specified state qualification, the period of four months beginning with the relevant date;

(b) in any other case, the period of three months beginning with that date.]⁵⁴

(a)

(b)]⁵⁵ (5ZA) In calculating any period of time for the purposes of paragraph (5), the following are to be disregarded—

(a) any period which begins on the date on which the Registrar makes a request under article 5A(4) and ends on the date on which the applicant complies with the request; and

(b) any period which begins on the date on which the Registrar requires the applicant to undergo an examination or other assessment under article 5A(6)(a) and end on the date on which the applicant complies with the requirement under article 5A(6)(b).]⁵⁶

(5A) The “relevant date”, in relation to an application, is—

(a) the date when the Registrar receives the application; or

(b) if any document required for the purposes of the application is missing when the Registrar receives the application, the date on which the Registrar first has all the documents required for those purposes.]⁵⁷

[(5B) A document that is requested or required under article 5A(4) or (6)(b) is not to be treated as missing for purposes of this article.]⁵⁸

(6) Failure to notify the applicant of the Registrar’s decision [[...]]⁵⁹]^{60 61} within [the specified period]⁶² shall be treated as a decision from which the applicant may appeal under article 37.

(7) [...]]^{63 64}

9A. [. . .]⁶⁵

⁵⁴ Substituted – SI 2023/1286 Schedule 3 Part 5 Para 63(b)

⁵⁵ Substituted – SI 2019/593 Schedule 4(1) para 7(c)

⁵⁶ Inserted – SI 2015/806, part 4, paragraph 34(5)

⁵⁷ Substituted – SI 2007/3101, part 10, regulation 159(c)

⁵⁸ Inserted – SI 2015/806, part 4, paragraph 34(6)

⁵⁹ Substituted – SI 2018/838, Schedule 1, para 8(b)

⁶⁰ Omitted – SI 2019/593 Schedule 4(1) para 7(d)

⁶¹ Inserted – SI 2015/806, part 4, paragraph 34(7)

⁶² Substituted – SI 2007/3101, part 10, regulation 159(d)

⁶³ Substituted – 2018/838, Schedule 1, para 8(c)

⁶⁴ Omitted – SI 2019/593 Schedule 4(1) para 7(e)

⁶⁵ Omitted – Temporary provisions made by Coronavirus Act 2020, Schedule 1, paragraph 1(2).

Renewal of registration and readmission

10.—(1) [Where⁶⁶ a person]⁶⁷ is registered and wishes to renew his registration at the end of a prescribed period, he shall make an application for renewal to the Registrar in accordance with rules made by the Council.

(2) The Registrar shall grant the application for renewal if the applicant—

(a) meets the conditions set out in article 9(2)(b) and (c);

[(aa) satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;]⁶⁸

[(ab) in such circumstances as may be prescribed, meets the condition in article 9(2)(ba);]⁶⁹

(b) satisfies the Registrar that he has met any prescribed requirements for continuing professional development within the prescribed time; and

(c) where he has not practised, or has practised for less than the prescribed period, since his first registration or, as the case may be, his latest renewal, has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

[(2A) If the Council makes rules pursuant to paragraph 2(ab)—

(a) paragraph (3) applies to an applicant who is required to meet the condition in article 9(2)(ba) as if “ (ab),” were inserted after “paragraph 2”; and

(b) article 5A applies as if in paragraph (9) of that article “or renewal of registration,” was inserted after “registration”.]⁷⁰

(3) Where an applicant does not satisfy the Registrar that he has met the requirements mentioned in paragraph (2)(b) or (c), the Registrar may renew the applicant’s registration on condition that he satisfy those requirements within a specified time and if the person fails to comply with the condition, subject to articles 12(3) and 37(3), his registration shall lapse and, in accordance with prescribed procedure, his name shall be removed from the register.

(4) Where a person’s registration has lapsed, he may apply to the Registrar to be readmitted and the Registrar shall grant the application if—

(a) the applicant meets the conditions set out in article 9(2)(b) [, (ba)]⁷¹ and (c);

⁶⁶ Substituted – SI 2019/593 Schedule 4(1) para 8(a)

⁶⁷ Substituted – SI 2007/3101, part 10, regulation 160(a)

⁶⁸ Inserted – SI 2014/1887, part 7, paragraph 25

⁶⁹ Inserted – SI 2015/806, part 4, paragraph 35(2)

⁷⁰ Inserted – SI 2015/806, part 4, paragraph 35(3)

⁷¹ Inserted – SI 2015/806, part 4, paragraph 35(4)

[(aa) the applicant satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;⁷² and

(b) he satisfies the Registrar that he has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

(5) Article 9(4) to (6) shall apply to applications made under this article.

(6) [...] ^{73 74 75}

11. [...] ⁷⁶

Lapse of registration

12.—(1) The Council may make rules providing for the procedure by which and the circumstances in which a registrant's name may be removed from the register on his own application or after the expiry of a specified period.

(2) Where a person's name is removed in accordance with this article or article 10(3), his registration shall be referred to as lapsed.

(3) Any rules made under paragraph (1) shall provide that a person's registration shall not lapse under this article or under article 10(3)—

(a) where the person concerned is the subject of an allegation, or is treated under article 22(6) as if he were the subject of an allegation, or is the subject of any investigations or proceedings under Part V or VI of this Order, on the grounds only that he has not paid the prescribed fee 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.

[Indemnity arrangements

12A.—(1) Each practising registrant must have in force in relation to that registrant an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this article, an "indemnity arrangement" may comprise—

(a) a policy of insurance;

⁷² Inserted – SI 2014/1887, part 7, paragraph 25

⁷³ Substituted – SI 2018/838, Schedule 1, para 9

⁷⁴ Added – SI 2007/3101, part 10, regulation 160(b)

⁷⁵ Omitted – SI 2019/593 Schedule 4(1) para 8(b)

⁷⁶ Omitted – SI 2007/3101, part 10, regulation 161

- (b) an arrangement made for the purposes of indemnifying a person;
 - (c) a combination of the two.
- (3) For the purposes of this article, “appropriate cover”, in relation to practice as a [registered nurse, midwife or nursing associate]⁷⁷ means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.
- (4) The Council may make rules in connection with the information to be provided to the Registrar—
- (a) by or in respect of a person applying for registration (including an application for restoration or readmission) for the purpose of determining whether or not the Registrar is satisfied that if the person is registered, there will be in force in relation to that person by the time that person begins to practise, an indemnity arrangement which provides appropriate cover;
 - (b) by or in respect of a person applying for renewal of their registration for the purpose of determining whether or not the Registrar is satisfied that if the person’s registration is renewed, there will be in force in relation to that person by the time that person resumes practice, an indemnity arrangement which provides appropriate cover; and
 - (c) by or in respect of a registrant for the purposes of determining whether at any time there is in force in relation to the registrant an indemnity arrangement which provides appropriate cover.
- (5) Rules made under paragraph (4) may require information to be provided—
- (a) at the request of the Registrar; or
 - (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.
- (6) The Council may also make rules requiring a registrant to inform the Registrar if there ceases to be in force in relation to that registrant appropriate cover under an indemnity arrangement.
- (7) The Council may also make rules requiring a registrant to provide the Registrar with such information as is necessary for the purpose of satisfying the Registrar that there is or will be in force in relation to that registrant appropriate cover provided under an indemnity arrangement by an employer.
- [(7A) For the purposes of verifying that information, the Registrar may disclose to any person information relating to a person’s indemnity arrangement which is provided to the Council by virtue of rules made under paragraph (4) or (7).]⁷⁸

⁷⁷ Substituted – SI 2018/838, Schedule 1, para 10(a)

⁷⁸ Inserted – SI 2014/3272 – article 3.

- (8) If a registrant is in breach of paragraph (1)—
- (a) the Registrar may remove that person from the register; or
 - (b) the person's fitness to practise may be treated for the purposes of article 22(1)(a)(i) as being impaired by reason of misconduct, and the Registrar may accordingly refer the matter to persons appointed by it under article 22(5)(b)(i) (where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii).
- (9) If an applicant breaches rules under paragraph (4), or there is a breach of rules under that paragraph in respect of the applicant the Registrar may refuse the applicant's application for—
- (a) admission (or readmission) to the register;
 - (b) restoration to the register; or
 - (c) renewal.
- (10) If a registrant breaches rules under paragraph (4)(b) or (c), that person's fitness to practise may be treated for the purposes of article 22(1)(a)(i) as being impaired by reason of misconduct, and the Registrar may accordingly refer the matter to persons appointed by it under article 22(5)(b)(i) (where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii).
- (11) [...] ^{79 80 81}

Approved qualifications

13.—(1) For the purposes of this Order a person is to be regarded as having an approved qualification if—

- [(a) he has a nursing or midwifery qualification awarded in the United Kingdom or a nursing associate qualification awarded in England which has been approved by the Council as attesting to the standard of proficiency it requires for admission to the part of the register in respect of which he is applying; [or] ⁸² ⁸³
- [(b)
- (c)] ⁸⁴

⁷⁹ Substituted – SI 2018/838, Schedule 1, para 10(b)

⁸⁰ Inserted – SI 2014/1887, part 7, paragraph 26

⁸¹ Omitted – SI 2019/593 Schedule 4(1) para 9

⁸² Inserted – SI 2019/593 Schedule 4(1) para 10(a)(i)

⁸³ Substituted – SI 2018/838, Schedule 1, para 11(a)

⁸⁴ Omitted – SI 2019/593 Schedule 4(1) para 10(a)(ii)

- (d) []⁸⁵ he has, elsewhere than in the United Kingdom, undergone training in nursing or midwifery [or training comparable to that of a nursing associate]⁸⁶, and either—
- (i) [his qualification has been approved by the Council in accordance with article 15(7) as demonstrating the requisite standard of proficiency for admission to the part of the register for which he is applying,
 - (ii) his qualification has been recognised by the Council as being of a comparable standard to a qualification mentioned in paragraph (1)(a), or
 - (iii) [subject to article 13ZA, the Council is satisfied that, following any test of competence that it may require the applicant to take, the applicant has the requisite standard of proficiency for admission to the part of the register in respect of which the applicant is applying, provided that a specified state professional who has passed an aptitude test or successfully completed an adaptation period must be deemed to have the requisite standard of proficiency referred to;]⁸⁷⁸⁸ [...] [...] ⁸⁹ ⁹⁰ [...] ⁹¹
- [(dd) he has, in Northern Ireland, Scotland or Wales undergone training comparable to that of a nursing associate, and either –
- (i) the Council is satisfied that his qualification attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a) required for admission to the nursing associates' part of the register, or
 - (ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the nursing associates' part of the register;]⁹².]⁹³
- [(e) []⁹⁴ []⁹⁵ []⁹⁶
- (f) []⁹⁷]⁹⁸ ⁹⁹

⁸⁵ Omitted – SI 2019/593 Schedule 4(1) para 10(a)(iii)(aa)

⁸⁶ Inserted – SI 2018/838, Schedule 1, para 11(b)

⁸⁷ Substituted – SI 2023/1286 Schedule 3 Part 5 Para 64(a)

⁸⁸ Substituted – SI 2023/162, Schedule 2, paragraph 2

⁸⁹ Word inserted – SI 2019/593 Schedule 4(1) para 10(a)(iii)(bb)

⁹⁰ Substituted – SI 2015/806, part 4, paragraph 36

⁹¹ Omitted – SI 2015/806, part 4, paragraph 36

⁹² Inserted – SI 2018/838, Schedule 1, para 11(c)

⁹³ Inserted – SI 2018/838, Schedule 1, para 11(c)

⁹⁴ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 62(2)

⁹⁵ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 62(3)(a)

⁹⁶ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 62(3)(b)

⁹⁷ Substituted – SI 2018/838, Schedule 1, para 11(d)

⁹⁸ Substituted – SI 2007/3101, part 10, regulation 162(a)

⁹⁹ Omitted – SI 2019/593 Schedule 4(1) para 10(a)(iv)

[(1A)

(1B)] ^{100 101}

(2) The Council [may]¹⁰² determine procedures to—

- (a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to a qualification mentioned in paragraph (1)(a) and it shall, where it sees fit, keep a list of qualifications which are of a comparable standard which it shall publish and keep under review; and
- (b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in subparagraph (a) where appropriate, with the standard of proficiency required for admission to any part of the register.

[(3) A relevant European qualification is to be treated as a qualification as to which the Council is satisfied as mentioned in paragraph [(1)(d)(ii)]¹⁰³ (and accordingly included in any list kept under paragraph (2)(a)).

(4) In this article "*relevant European qualification*" means a qualification that falls within article 13AA and has not been designated by the Council for the purposes of this paragraph.

(5) The Council—

- (a) may designate a qualification for the purposes of paragraph (4) only with the approval of the Privy Council;
- (b) must maintain and publish a list of the qualifications that are so designated.]¹⁰⁴

[(5A) The Council may determine that a specified state qualification is not evidence of having reached a standard of proficiency comparable to that evidenced by a qualification approved under paragraph (1)(a) only where one or more of Conditions 1 to 3 are met.

(5B) Condition 1 is met where there exists a substantial difference between the standard of proficiency evidenced by that specified state qualification and the requisite standard of proficiency for admission to the part of the register in respect of which the applicant is applying.

(5C) Condition 2 is met where the professional activities to which a qualification approved under paragraph (1)(a) relates include one or more professional activities that cover substantially different matters from those covered by the specified state qualification.

(5D) Condition 3 is met where requiring a person who holds the specified state qualification to pass an aptitude test or to successfully complete an adaptation period, or to do both,

¹⁰⁰ Inserted – SI 2007/3101, part 10, regulation 162(b)

¹⁰¹ Omitted – SI 2019/593 Schedule 4(1) para 10(a)(iv) and 10(b)

¹⁰² Substituted – SI 2023/162, Schedule 2, paragraph 3

¹⁰³ Substituted – SI 2023/162, Schedule 2, paragraph 4

¹⁰⁴ Added by SI 2019/593 Schedule 4(1) para 10(c)

would amount to requiring the person to acquire a qualification approved under paragraph (1)(a).]¹⁰⁵

[(6) In relation to a person holding a relevant European qualification who makes an application under article 9(1), article 9(2)(a) is to be read as if the words after “holds an approved qualification” to the end were omitted.]¹⁰⁶

[Article 13: further provision relating to specified state professionals

13ZA.—(1) This article applies where a person holds a specified state qualification which is not a relevant European qualification and wishes to be registered under article 9.

(2) This article does not apply if the qualification held by the person is not a relevant European qualification because Condition 3 in article 13(5D) is met in relation to it.

(3) Where this article applies, the Council must specify what aptitude test or adaptation period, or aptitude test and adaptation period, must be passed or successfully completed by the person.

(4) An aptitude test or adaptation period specified under this article, or aptitude test and adaptation period together specified under this article, must be proportionate to the difference sought to be addressed.

(5) The Council must give a person its reasons for specifying in relation to the person an aptitude test or adaptation period, or both, if the person makes a written request for them.

(6) Where the Council specifies an aptitude test under this article, the Council must ensure that such aptitude tests are scheduled with reasonable frequency and at least once a year.]¹⁰⁷

[Transitional provisions relating to admission to the register

13A.—(1) This article applies to a person who, on or before 26th July 2019—

- (a) has been awarded a specified qualification; or
- (b) has commenced a course of education or training leading to a specified qualification.

(2) A person referred to in paragraph (1) who applies for admission to the nursing associates' part of the register under article 9(1) (“the applicant”) and who satisfies the conditions in paragraph (3) of this article, shall be treated as holding an approved qualification for the purposes of article 9(2)(a).

(3) The conditions referred to in paragraph (2) are that—

¹⁰⁵ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 64(b)

¹⁰⁶ Substituted SI 2021/531, regulation 3

¹⁰⁷ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 65

- (a) the applicant provides evidence of the award of the specified qualification and the Council is satisfied, on the basis of that evidence, that the applicant has been awarded that qualification; and
 - (b) the Council is satisfied that the qualification attests to a standard of proficiency comparable to the requisite standard of proficiency for admission to the nursing associates' part of the register; or
 - (c) the Council is not so satisfied but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require the applicant to take, that the applicant has the requisite standard of proficiency for admission to the nursing associates' part of the register.
- (4) For the purposes of this article—
- (a) “a specified qualification” means a qualification as a nursing associate awarded—
 - (i) on the satisfactory completion of a course of education or training which has been approved by Health Education England¹⁰⁸ in accordance with sections 97, 98,99,100,and 101 of the Care Act 2014^(b)¹⁰⁹, or
 - (ii) as part of an approved English apprenticeship for nursing associates under an approved English apprenticeship agreement;
 - (b) “an approved English apprenticeship” and “an approved English apprenticeship agreement” have the meanings given in section A1(2) and (3) respectively of the Apprenticeship, Skills, Children and Learning Act 2009^(c)¹¹⁰.¹¹¹

[European qualifications

13AA.— (1) Subject to the following provisions of this article, a qualification falls within this article if it was awarded in a relevant European State and—

- (a) in relation to registration as a nurse in sub-Part 1 of the Nurses' Part of the register, it is listed in Annex V, point 5.2.2 of the Directive;
 - (b) in relation to registration in the Midwives' Part of the register, it is listed in Annex V, point 5.5.2 of the Directive.
- (2) A qualification within paragraph (1)(b) falls within this article only if—
- (a) it attests to training that satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive, and

¹⁰⁸ (a) Health Education England is a body corporate established by section 96(1) of the Care Act 2014 (c.23)

¹⁰⁹ (b) 2014 c.23

¹¹⁰ (c) 2009 c.22

¹¹¹ Inserted – SI 2018/838, Schedule 1, para 12

- (b) in the case mentioned in paragraph (1)(c) of that article, it is accompanied by a certificate of the sort described in paragraph (2) of that article.
- (3) A qualification does not fall within this article if it was awarded before the reference date, or on or after that date in respect of a course of training begun before that date.
- (4) In paragraph (3), "reference date" means—
- (a) in the case of a qualification within paragraph (1)(a), the date listed in relation to the State in which the qualification was awarded in the column entitled "Reference date" in Annex V, point 5.2.2 of the Directive;
 - (b) in the case of a qualification within paragraph (1)(b), the date listed in relation to the State in which the qualification was awarded in the column entitled "Reference date" in Annex V, point 5.5.2 of the Directive.] ¹¹²

EEA qualifications

- 14.—[(1) ... [] ¹¹³ ¹¹⁴
- (2) ... [] ¹¹⁵ [] ¹¹⁶
- (3) ... [] ¹¹⁷ ¹¹⁸

Part IV Education and training

Education and training

- 15.—(1) The Council shall from time to time establish—
- (a) the standards of education and training necessary to achieve the standards of proficiency it has established under article 5(2); and
 - (b) the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character.
- (2) [... [] ¹¹⁹] ¹²⁰

¹¹² Added by SI 2019/593 Schedule 4(1) para 11

¹¹³ Substituted – SI 2007/3101, part 10, regulation 163(a)(i)

¹¹⁴ Substituted – SI 2007/3101, part 10, regulation 163(a)(ii)

¹¹⁵ Substituted – SI 2007/3101, part 10, regulation 163(b)(i)

¹¹⁶ Substituted – SI 2007/3101, part 10, regulation 163(b)(ii)

¹¹⁷ Omitted – SI 2007/3101, part 10, regulation 163(c)

¹¹⁸ Omitted by SI 2019/593 Schedule 4(1) para 13

¹¹⁹ Substituted – SI 2007/3101, part 10, regulation 164

¹²⁰ Omitted by SI 2019/593 Schedule 4(1) para 10(c)

- (3) The standards mentioned in paragraph (1)(a) shall include such matters as the outcomes to be achieved by that education and training.
 - (4) Before establishing the requirements referred to in paragraph (1) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate.
 - (5) The Council shall—
 - (a) ensure that universities and other bodies in the United Kingdom concerned with such education and training are notified of the standards and requirements established under paragraph (1); and
 - (b) take appropriate steps to satisfy itself that those standards and requirements are met.
- [(5A) The Council's duties in paragraph (5), where these relate to nursing associates, are exercisable in relation to universities and other bodies in England only.]¹²¹**
- (6) In performing the function mentioned in paragraph (5)(b) the Council may in particular, approve, or arrange with others to approve—
 - (a) a course of education or training which the Council is satisfied confers or would confer on persons completing it successfully the standards of proficiency mentioned in paragraph (1);
 - (b) qualifications which are granted following success in an examination, or some other appropriate assessment, taken as part of an approved course of education or training;
 - (c) institutions which the Council considers to be properly organised and equipped for conducting the whole or part of an approved course of education or training;
 - (d) such tests of competence or knowledge of English as it may require.
 - (7) In connection with paragraph (6), the Council may approve or arrange with others to approve a course of education or training run outside the United Kingdom by an institution to which paragraph (6)(c) applies.
 - (8) The Council shall from time to time publish a statement of the criteria which will be taken into account in deciding whether to give approval under paragraph (6).
 - (9) The Council shall maintain and publish a list of the courses of education or training, qualifications and institutions—
 - (a) which are for the time being approved under this Order; or
 - (b) which have been approved under this Order but which are no longer so approved, together with a record of the periods in respect of which they were approved.

¹²¹ Inserted – SI 2018/838, Schedule 1, paragraph 13

- (10) In this article a reference to education or training includes any course of education or training or test referred to in paragraph (6).

Visitors

16.—(1) The Council may appoint persons (“visitors”) to visit any place at which or institution by which or under whose direction—

- (a) any relevant course of education or training is, or is proposed to be, given;
 - (b) any examination or other assessment is, or is proposed to be, held in connection with any such course;
 - (c) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purposes connected with this Order.
- (2) For the purposes of this article and article 18, the words “any test of competence” includes an assessment to establish the level of a person’s knowledge of written or spoken English.
- (3) In this article, “relevant course of education or training” means any course of education or training which forms, or is intended to form, part of an approved course of education or training or any course which a registrant may be required to undergo after registration in accordance with rules made by the Council.
- (4) No visitor may exercise his functions under this Order in relation to—
- (a) any place at which he regularly gives instruction in any subject; or
 - (b) any institution with which he has a significant connection.
- [**(5) A person is not to be prevented from being a visitor merely because he is a member of the Council, or any of its committees, but he may not be a visitor if he is employed by the Council.
- (6) Visitors are to be selected with due regard to the profession with which the education and training they are to report on is concerned and subject to paragraph (6A), at least one of the visitors must be registered in that part of the register which relates to that profession.
- (6A) At least one of the visitors who are to report on the education and training of nursing associates shall be registered in the nurses’ or the nursing associates’ parts of the register.]¹²²
- (7) Where a visitor visits any place or institution in the exercise of his functions under this article, he shall report to the Council—
- (a) on the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at that place or by that institution; and

¹²² Substituted – SI 2018/838, Schedule 1, paragraph 14

- (b) on such other matters (if any) as it requires.
- (8) Requirements of the kind mentioned in paragraph (7)(b) may be imposed by the Council—
 - (a) generally in relation to all visits made to a specified kind of place or institution or in respect of a specified type of course; or
 - (b) specifically in relation to a particular visit.
- (9) Where a visitor reports to the Council in accordance with paragraph (7), the Council shall on receipt of the report—
 - (a) send a copy of it to the institution concerned; and
 - (b) notify that institution of the period within which it may make observations on the report.
- (10) The period specified by the Council in a notice given under sub-paragraph (b) of paragraph (9) shall be not less than one month beginning with the date on which a copy of the report is sent to the institution concerned under sub-paragraph (a) of paragraph (9).
- (11) The Council shall not take any steps in the light of any report made under paragraph (7) before the end of the specified period mentioned in paragraph (10).
- (12) The Council shall publish such reports together with, on the request of the institution concerned, the response of that institution to the report.
- (13) The Council may make such provision in respect of visitors as it may determine—
 - (a) for the payment of fees and allowances, including the payment of allowances to employers of visitors for the purposes of enabling visitors to perform functions under this article;
 - (b) for the reimbursement of such expenses as visitors may reasonably have incurred in the course of carrying out their functions under this article.

Information to be given by institutions

- 17.—**(1) This article applies to any institution in the United Kingdom by which, or under whose direction, whether inside or outside the United Kingdom—
- (a) any relevant course of education or training is, or is proposed to be, given; or
 - (b) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purpose connected with this Order.
- (2) In paragraph (1) “relevant course of education or training” has the same meaning as in article 16(3).

- (3) Whenever required to do so by the Council, any such institution shall give to the Council such information and assistance as the Council may reasonably require in connection with the exercise of its functions under this Order.
- (4) Where an institution refuses any reasonable request for information made by the Council under this article, the Council may in accordance with article 18 refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which the information relates.
- (5) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).

Refusal or withdrawal of approval of courses, qualifications and institutions

18.—(1) Where as a result of any visitor's report or other information acquired by the Council and taking account of the observations received from the institution under article 16(9), the Council is of the opinion that the standards established under article 15(1) are not, or will not be, met by particular education or training or that an institution is not observing the requirements referred to in article 15(1) it may refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which that opinion relates.

- (2) In this article a reference to education or training includes any course of education or training or test referred to in article 15(6).
- (3) In making any decision under paragraph (1) to refuse or to withdraw approval the Council shall act in accordance with this article.
- (4) The Council shall—
 - (a) notify the institution concerned, setting out its reasons; and
 - (b) inform the institution of the period within which it may make observations on the matters raised, which shall be not less than one month beginning with the date on which the reasons are sent to the institution under sub-paragraph (a).
- (5) The Council shall take no further steps before the period specified in sub-paragraph (b) of paragraph (4) has expired.
- (6) If, taking account of the matters referred to in paragraph (1) and any observations submitted by the institution under paragraph (4), the Council decides that it is appropriate to refuse or withdraw approval under paragraph (1) it shall notify the institution accordingly.
- (7) A decision under paragraph (6) shall have effect from the date of the decision or from such later date as may be specified in the decision.
- (8) Where approval is withdrawn under this article, the Council shall use its best endeavours to secure that any person who is undertaking the education or training concerned or is studying for the qualification concerned or is studying at the institution concerned at the time when recognition is withdrawn is given the opportunity to follow

approved education or training or to study for an approved qualification or at an approved institution.

- (9) The withdrawal under this article of approval from any education or training, qualification or institution shall not affect the entitlement of any person to be registered on the basis of an award to him, before the date on which the decision withdrawing approval had effect, of—
- (a) the qualification concerned; or
 - (b) any qualification awarded—
 - (i) in connection with any education or training, or
 - (ii) by an institution
- from which approval has been withdrawn.

Post-registration training

19.—(1) The Council may make rules requiring registrants to undertake such continuing professional development as it shall specify in standards.

(2) The rules may, in particular, make provision with respect to registrants who fail to comply with any requirements of the rules, including making provision for their registration to cease to have effect.

[(2A) ... []¹²³ []¹²⁴

(2B)

(2C) []¹²⁵

(2D) []¹²⁶ []¹²⁷ []¹²⁸(3) The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.

- (4) If the Council makes rules under paragraph (1) or (3), it shall establish the standards to be met in relation to—
- (a) continuing professional development;
 - (b) the education or training mentioned in paragraph (3),

¹²³ Substituted – SI 2018/838, Schedule 1, para 15(a)

¹²⁴ Substituted – SI 2018/838, Schedule 1, para 15(b)

¹²⁵ Substituted – SI 2018/838, Schedule 1, para 15(c)

¹²⁶ Substituted – SI 2018/838, Schedule 1, para 15(d)

¹²⁷ Inserted – SI 2007/3101, part 10, regulation 165

¹²⁸ Omitted by SI 2019/593 Schedule 4(1) para 14

and article 15(3) to (9) and articles 16 to 18 of this Order shall apply in respect of those standards as if they were standards established under article 15(1)(a).

- (5) In the articles mentioned in paragraph (4), references to “education and training” shall, for the purposes of that paragraph, be treated as being to education, training or experience.
- (6) In respect of additional qualifications which may be recorded on the register the Council may establish standards of education and training and article 15(3) to (9) and articles 16 to 18 shall apply in respect of those standards as if they were standards established under article 15(1)(a).

Wales

20. The National Assembly for Wales may create or designate a body with which the Council may enter into any such arrangements as are referred to in article 15(6) of this Order in order to perform its function under article 15(5)(b) in respect of the standards established under article 15(1) or 19(4) or (6).

Part V Fitness to practise

Council's functions in respect of fitness to practise, ethics and other matters

21.—(1) The Council shall—

- (a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants and give them such guidance on these matters as it sees fit; and
 - (b) establish and keep under review effective arrangements to protect the public from persons whose fitness to practise is impaired.
- (2) The Council may also from time to time give guidance to registrants, employers and such other persons as it thinks appropriate in respect of standards for the education and training, supervision and performance of persons who provide services in connection with those provided by registrants.
- (3) Before establishing any [...] ¹²⁹ arrangements mentioned in paragraph (1), the Council shall consult [...] ¹³⁰ the persons mentioned in article 3(14).

[Information for specified state professionals

¹²⁹ Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(c)

¹³⁰ Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(c)

21A.—(1) The Council must make information about the following matters available to specified state professionals—

- (a) the relevant laws to be applied regarding disciplinary action, financial responsibility or liability and other relevant matters;
- (b) the principles of discipline and enforcement of professional standards, including disciplinary jurisdiction and consequential effects on practising professional activities;
- (c) the processes and procedures for the ongoing verification of competence;
- (d) the criteria for, and procedures relating to, removal of an entry from the register;
- (e) the documentation required of specified state professionals and the form in which it should be presented; and
- (f) the documents and certificates issued in relation to professional qualifications or other conditions that apply to the practice of registrants that are acceptable to the Council.

(2) The Council must deal promptly with enquiries from specified state professionals about conditions that apply to the practice of registrants.]¹³¹

Allegations

22.—(1) This article applies where any allegation is made against a registrant to the effect that—

- (a) his fitness to practise is impaired by reason of—
 - (i) misconduct,
 - (ii) lack of competence,
 - (iii) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence,
 - (iv) his physical or mental health, or
 - [(iva) not having the necessary knowledge of English,] ¹³²
 - (v) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect;

¹³¹ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 66

¹³² Inserted – SI 2015/806, part 4, paragraph 37

{ (vi) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or

(vii) the Scottish Ministers including the person in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007). }¹³³

(b) an entry in the register relating to him has been fraudulently procured or incorrectly made.

(2) For the purposes of this article references to a conviction include a conviction by a Court Martial.

(3) This article is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the person against whom the allegation is made was not registered.

(4) Rules may provide that where [the Fitness to Practise Committee]¹³⁴ finds that a person has failed to comply with the standards mentioned in article 21(1), such failure shall not be taken of itself to establish that his fitness to practise is impaired, but may be taken into account in any proceedings under this Order.

(5) When an allegation is made to the Council or any of its committees, as soon as reasonably practicable after receipt of the allegation in the form required by the Council, the Council shall refer it—

(a) where it is an allegation of the kind mentioned in paragraph (1)(b), to the Investigating Committee; and

[(b) in any other case, to a Practice Committee.]¹³⁵

(6) If an allegation is not made under paragraph (1) but it appears to the Council that there should be an investigation into the fitness to practise of a registrant or into his entry in the register it may refer the matter in accordance with paragraph (5) and this Order shall apply as if it were an allegation made under paragraph (1).

(7) [...]¹³⁶

(8) While the registration of a registrant is suspended by virtue of a suspension order or an interim suspension order he shall be treated as not being registered notwithstanding

¹³³ Inserted – SI 2008/1485, schedule 1, paragraph 4. Article 1(4)(a) of SI 2008/1485 provided that this amendment would come into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006 (the 2006 Act), when “or” would also be deleted from the end of paragraph (iv). Section 75(6) of the Protection of Freedoms Act 2012 subsequently made provision for section 44 of the 2006 Act to be omitted and the provision was brought into force on 10 September 2012 by article 2(l) of The Protection of Freedoms Act 2012 (Commencement No. 3) Order 2012 (SI 2012/2234). This means that these inserted paragraphs will not come into force.

¹³⁴ Substituted – SI 2017/321, schedule 1, paragraph 2(a)

¹³⁵ Substituted – SI 2018/838, Schedule 1, para 16

¹³⁶ Omitted – SI 2017/321, schedule 1, paragraph 2(b)

that his name still appears in the register but this does not prevent action being taken in respect of such a person as appropriate under articles 22 to 32 of this Order.

- (9) The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article [26(5A), (7) or (12)]¹³⁷, 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 [and of any warning issued under article 26(7A)(a)]¹³⁸ and of its reasons for them and of any decision given on appeal.
- (10) The Council may disclose to any person any information relating to a person's fitness to practise which it considers it to be in the public interest to disclose.
- (11) In this Part "the person concerned" means the person against whom an allegation has been made.
- [(12) The Council may withhold from publication under paragraph (9), information concerning the physical or mental health of a person which the Council considers to be confidential.]¹³⁹

Screeners

23. [...] ¹⁴⁰

Screeners: supplementary provisions

24. [...] ¹⁴¹

Council's power to require disclosure of information

25.—(1) For the purpose of assisting [the Council [or any of its Practice Committees, the Registrar or any other officer of the Council]¹⁴² in]¹⁴³ carrying out functions in respect of fitness to practise, a person authorised by [the Council]¹⁴⁴ may require any person (other than the person concerned) who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.¹⁴⁵

¹³⁷ Substituted – SI 2017/321, schedule 1, paragraph 2(c)(i)

¹³⁸ Inserted – SI 2017/321, schedule 1, paragraph 2(c)(ii)

¹³⁹ Inserted – SI 2017/321, schedule 1, paragraph 2(d)

¹⁴⁰ Omitted – SI 2018/838, Schedule 1, paragraph 17

¹⁴¹ Omitted – SI 2018/838, schedule 1, para 17

¹⁴² Substituted – SI 2014/3272 – article 4

¹⁴³ Substituted – SI 2009/1182, schedule 4, part 6, paragraph 38(d)(i)

¹⁴⁴ Substituted – SI 2009/1182, schedule 4, part 6, paragraph 38(d)(i)

¹⁴⁵ The Coronavirus Act 2020, Schedule 1, paragraph 1(3) states:

Article 25(1) (power of Nursing and Midwifery Council to require disclosure of information) has effect as if it enabled requirements to be imposed for the purpose of assisting the Registrar in carrying out functions in respect of identifying any person registered by virtue of article 9A(2)(b) (emergency registration of a group of persons).

Maintained in accordance with Section 89 of the Act

- (2) As soon as is reasonably practicable after a decision has been made under article 22(5) or (6) to refer an allegation or other matter to a Practice Committee, the Council shall require, from the person concerned, details of—
- (a) any person—
 - (i) by whom he is employed to provide services in, or in relation to, nursing or midwifery[, or as a nursing associate]¹⁴⁶; or
 - (ii) with whom he has an arrangement to provide such services; and
 - (b) any body by which he is authorised to practise, in the United Kingdom or elsewhere, a health or social care profession which is regulated under any enactment.
- (3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment [or the GDPR]¹⁴⁷.
- (4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.
- (5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision of [a Practice Committee with regard to the person concerned] ¹⁴⁸.
- (6) For the purposes of [paragraph (3) —]¹⁴⁹
- “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

[...]^{150 151}**The Investigating Committee**

26.—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22 [...]¹⁵².

(2) Where an allegation is referred to the Investigating Committee [...] ¹⁵³ —

¹⁴⁶ Inserted – SI 2018/838, Schedule 1, para 18

¹⁴⁷ Inserted – Data Protection Act 2018, Schedule 19, paragraph 281(2). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

¹⁴⁸ Substituted – SI 2009/1182, schedule 4, part 6, paragraph 38(d)(ii)

¹⁴⁹ Inserted – Data Protection Act 2018, Schedule 19, paragraph 281(3)(a). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

¹⁵⁰ Inserted – Data Protection Act 2018, Schedule 19, paragraph 281(3)(b). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

¹⁵¹ Omitted by Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019/419 schedule 3(3) para 40(3)

¹⁵² Omitted – SI 2018/838, schedule 1, para 19(a)

¹⁵³ Omitted – SI 2014/3272 – article 5(a)(i)

- (a) [the Council shall without delay notify the person concerned of the allegation and invite him to submit written representations to the [Investigating]¹⁵⁴ Committee within a prescribed period;]¹⁵⁵
- (b) [the [Investigating]¹⁵⁶ Committee shall]¹⁵⁷ where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the [Investigating]¹⁵⁸ Committee in respect of those representations;
- (c) [the [Investigating]¹⁵⁹ Committee shall]¹⁶⁰ take such other steps as are reasonably practicable to obtain as much information as possible about the case;
- (d) [the [Investigating]¹⁶¹ Committee shall]¹⁶² consider, in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b), whether in its opinion—
- (i) in respect of an allegation of the kind mentioned in article 22(1)(a), there is a case to answer, and
 - (ii) in respect of an allegation of the kind mentioned in article 22(1)(b), whether the entry concerned has been fraudulently procured or incorrectly made.
- (3) The Council shall by rules make provision as to the procedure to be followed by the Investigating Committee in any investigation carried out by it under this article.
- (4) In the case of an allegation of the kind mentioned in article 22(1)(b) the rules shall, in particular, make similar provision to that made by virtue of article 32(2)(b), (f), (g), (h), (i), (j), (m), (n), (o) and (p) and may provide for the Registrar to be made a party to the proceedings.
- (5) When the Investigating Committee reaches a decision under paragraph (2) as to whether—
- (a) there is a case to answer; or
 - (b) an entry in the register has been fraudulently procured or incorrectly made,
- it shall notify in writing both the person concerned and the person making the allegation, if any, of its decision, giving its reasons.
- [(5A) Where the Investigating Committee has concluded under paragraph (2)(d)(i) that there is a case to answer, it may, at any time until the allegation is considered by the

¹⁵⁴ Inserted – SI 2017/321, schedule 1, paragraph 4(a)

¹⁵⁵ Substituted - SI 2014/3272 – article 5(a)(ii)

¹⁵⁶ Inserted – SI 2017/321, schedule 1, paragraph 4(a)

¹⁵⁷ Inserted – SI 2014/3272 - article 5(a)(iii)

¹⁵⁸ Inserted – SI 2017/321, schedule 1, paragraph 4(a)

¹⁵⁹ Inserted – SI 2017/321, schedule 1, paragraph 4(a)

¹⁶⁰ Inserted – SI 2014/3272 - article 5(a)(iii)

¹⁶¹ Inserted – SI 2017/321, schedule 1, paragraph 4(a)

¹⁶² Inserted – SI 2014/3272 - article 5(a)(iii)

Fitness to Practise Committee, agree with the person concerned that that person is to comply with such undertakings as the Investigating Committee considers appropriate.

- (5B) Rules may make provision in connection with undertakings agreed under paragraph (5A) (including provision as to the actions which may be taken as a consequence of an undertaking being breached).]¹⁶³
- (6) [Where the Investigating Committee concludes under paragraph (2)(d)(i) that there is a case to answer but it does not agree undertakings under paragraph (5A), it must—
- (a) undertake mediation; or
 - [(b) refer the case to the Fitness to Practise Committee.]¹⁶⁴
- [(6A) In deciding whether to act under [paragraphs (5A) or (6)(a)]¹⁶⁵, the Investigating Committee (or any panel by which a function under that paragraph is exercisable as mentioned in paragraph 17(1A) of Schedule 1) must have regard to the over-arching objective of the Council under article 3(4) (read with article 3(4A)).]¹⁶⁶
- (7) In the case of an allegation of a kind mentioned in article 22(1)(b), if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.
- [(7A) If the Investigating Committee concludes under paragraph (2)(d)(i) that there is no case to answer, it may—
- (a) issue a warning to the person concerned; or
 - (b) give advice to that person in connection with any matter arising during the investigation of the allegation.
- (7B) If the Investigating Committee issues a warning or gives advice under paragraph (7A), it must include in the notification referred to in paragraph (5)—
- (a) details of that warning or advice;
 - (b) its reasons for issuing the warning or giving the advice;
 - (c) the period for which any warning will be published by the Council under article 22(9).]¹⁶⁷
- (8) If the Investigating Committee concludes that there is no case to answer or that the relevant entry was not fraudulently procured or incorrectly made—

¹⁶³ Inserted – SI 2017/321, schedule 1, paragraph 4(b)

¹⁶⁴ Substituted – SI 2018/838, Schedule 1, para 19(b)

¹⁶⁵ Substituted – SI 2018/838, Schedule 1, para 19(c)

¹⁶⁶ Inserted - Health and Social Care (Safety and Quality) Act 2015, Schedule 1, paragraph 5(3)

¹⁶⁷ Inserted – SI 2017/321, schedule 1, paragraph 4(e)

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect, giving its reasons; and
 - (b) in any other case and with the consent of the person concerned, may make such a declaration.
- (9) For the purposes of paragraph (8), the publication of the decision mentioned in paragraph (5) together with the reasons for it may constitute such a declaration.
- (10) No order made under paragraph (7) shall have effect—
- (a) before the expiry of the period within which an appeal against the order may be made; or
 - (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
- (11) The Investigating Committee may make an interim order in accordance with article 31 at the same time as making an order under paragraph (7) or at any time before [or after]¹⁶⁸ referring a case to the [Fitness to Practise Committee]¹⁶⁹ under paragraph (6).
- (12) The Investigating Committee may review an order made under paragraph (7) if new evidence relevant to the order becomes available after the order has been made and may revoke that order if it considers that it should not have been made.
- (13) Where the Investigating Committee makes an order under paragraph (7) or decides not to review such an order under paragraph (12) the person concerned may appeal to the appropriate Court and the provisions of article 38 shall apply to the appeal.
- (14) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.
- (15) On an appeal under this article, the Council shall be the respondent.
- (16) An entry which has been restored to the register on an application for readmission or restoration being granted may be treated for the purposes of this article as having been fraudulently procured or incorrectly made if any previous entry from which the restored entry is derived was fraudulently procured or incorrectly made.

[Exercise of Investigating Committee functions by the Registrar or officers of the Council

26A. —(1) The Council may by rules make provision for—

- (a) the Registrar; or

¹⁶⁸ Inserted – SI 2014/3272 – article 5(b)(i)

¹⁶⁹ Substituted – SI 2017/321, schedule 1, paragraph 4(f)

(b) any other officer of the Council,

to exercise the functions of the Investigating Committee under [paragraphs (1), (2)(b) to (d), (5), (5A), (6), (7A) and (8)]¹⁷⁰ of article 26, whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Investigating Committee under paragraph (6)(b)(ii) [. . .]¹⁷¹ of article 26, the referral of a case to the [Fitness to Practise Committee]¹⁷² shall be deemed to have been made by the Investigating Committee.
] ¹⁷³

[Review of decisions by the Council

[26B. (1) The Council may review a decision—

- (a) that there is no case to answer made by the Investigating Committee under article 26(2)(d)(i);
- (b) that there is no case to answer made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (c) to agree undertakings with the person concerned made by the Investigating Committee under article 26(5A);
- (d) to agree undertakings with the person concerned made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (e) made pursuant to rules made under article 26(5B) that undertakings no longer apply and that the allegation must not be considered further.

(2) The Council may make rules in connection with carrying out reviews under paragraph (1).] ¹⁷⁴] ¹⁷⁵

[Exercise of Council functions by the Registrar or officers of the Council

26C. —(1) The Council may make rules providing for—

- (a) the Registrar; or
- (b) any other officer of the Council,

to exercise the functions of the Council under articles 22, 26(2)(a) and [26B(1)]¹⁷⁶ whether generally or in relation to such classes of case as may be specified in the rules.

¹⁷⁰ Substituted – SI 2017/321, schedule 1, paragraph 5(a)

¹⁷¹ Omitted – SI 2017/321, schedule 1, paragraph 5(b)(i)

¹⁷² Substituted – SI 2017/321, schedule 1, paragraph 5(b)(ii)

¹⁷³ Inserted – SI 2014/3272 – article 6

¹⁷⁴ Substituted – SI 2017/321, schedule 1, paragraph 6

¹⁷⁵ Inserted – SI 2014/3272 – article 6

¹⁷⁶ Substituted – SI 2017/321, schedule 1, paragraph 7(a)

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Council under article 22(5), the referral of a case to the [Fitness to Practise Committee]¹⁷⁷ shall be deemed to have been made by the Council.]¹⁷⁸

[The Fitness to Practise Committee

26D. The Fitness to Practise Committee must consider—

- (a) an allegation referred to it by the Council [...] ¹⁷⁹ or the Investigating Committee; and
- (b) an application for restoration referred to it by the Registrar.] ¹⁸⁰

27. [...] ¹⁸¹

28. [...] ¹⁸²

[Assessment of necessary knowledge of English

28A. —(1) The Council may make rules authorising the giving of directions by—

- (a) any of the Practice Committees;
- (b) any other persons specified in the rules,

requiring the person concerned to undertake an examination or other assessment of that person's knowledge of English.

- (2) An examination or other assessment under paragraph (1) must be made in accordance with rules.
- (3) That rules must, in particular, provide for—
 - (a) the procedures to be followed by such persons when directing the person concerned to undertake such an examination or other assessment;
 - (b) the person concerned who is required to undertake such an examination or other assessment to provide information in respect of that examination or assessment to such persons as may be prescribed under the rules;
 - (c) the information provided by virtue of sub-paragraph (b) to be disclosed to such persons as may be prescribed under the rules.

¹⁷⁷ Substituted – SI 2017/321, schedule 1, paragraph 7(b)

¹⁷⁸ Inserted – SI 2014/3272 – article 6

¹⁷⁹ Omitted – SI 2018/838, Schedule 1, para 20

¹⁸⁰ Inserted – SI 2017/321, schedule 1, paragraph 8

¹⁸¹ Omitted - SI 2017/321, schedule 1, paragraph 9

¹⁸² Omitted - SI 2017/321, schedule 1, paragraph 9

- (4) Rules under this article may make provision for the [Fitness to Practise Committee]¹⁸³ to draw such inferences as seem appropriate to it if a person fails—
- (a) to undergo an examination or other assessment by virtue of rules under paragraph (1); or
 - (b) to provide the information required by virtue of rules made under paragraph (3)(b).]¹⁸⁴

[Orders of the Fitness to Practise Committee]¹⁸⁵

29.—(1) If, having considered an allegation, [the Fitness to Practise Committee]¹⁸⁶ concludes that it is not well founded—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons; and
 - (b) in any other case and with the consent of the person concerned, may make such a declaration.
- (2) For the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.
- (3) If, having considered an allegation, [the Fitness to Practise Committee]¹⁸⁷ concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.
- [(4) The Committee may undertake mediation of the matter, or decide that it is not appropriate to take any further action.]¹⁸⁸
- (5) Where a case does not fall within paragraph (4), the Committee shall—
- (a) make an order directing the Registrar to strike the person concerned off the register (a “striking-off order”);
 - (b) make an order directing the Registrar to suspend the registration of the person concerned for a specified period which shall not exceed one year (a “suspension order”);
 - (c) make an order imposing conditions with which the person concerned must comply for a specified period which shall not exceed three years (a “conditions of practice order”); or

¹⁸³ Substituted – SI 2017/321, schedule 1, paragraph 10

¹⁸⁴ Inserted – SI 2015/806, part 4, paragraph 38

¹⁸⁵ Substituted – SI 2017/321, schedule 1, paragraph 11(a)

¹⁸⁶ Substituted – SI 2017/321, schedule 1, paragraph 11(b)

¹⁸⁷ Substituted – SI 2017/321, schedule 1, paragraph 11(b)

¹⁸⁸ Substituted – SI 2018/838, Schedule 1, para 21

- (d) caution the person concerned and make an order directing the Registrar to annotate the register accordingly for a specified period which shall be not less than one year and not more than five years (a “caution order”).
- (6) A striking-off order may not be made in respect of an allegation of the kind mentioned in article 22(1)(a) [(ii), (iv) or (iva)] ¹⁸⁹ unless the person concerned has been continuously suspended, or subject to a conditions of practice order, for a period of no less than two years immediately preceding the date of the decision of the Committee to make such an order.
- (7) The Committee may specify in an order made under paragraph (5) a period within which an application to vary, replace or revoke the order may not be made, which—
- (a) in the case of a striking-off order, except where new evidence relevant to the order becomes available, shall be expressed in terms of article 33(2);
- (b) in the case of a suspension order shall not exceed 10 months; and
- (c) in the case of a conditions of practice order shall not exceed two years.
- (8) The Committee shall, when it makes, varies, replaces or revokes an order under this article or article 30 or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order;
- [(8A) If, at the time of making an order under paragraph (5)(b) or (c), the Fitness to Practise Committee is satisfied that, with effect from the date of the expiry of that order, it will not be necessary to—
- (a) extend the period of the order;
- (b) vary the order; or
- (c) make any other order falling within article 29(5),
- the Committee may decide that article 30(1) does not apply to that order.] ¹⁹⁰
- (9) The person concerned may appeal to the appropriate court against an order made under paragraph (5) and article 38 shall apply to the appeal.
- (10) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.
- (11) No order mentioned in paragraph (9) shall have effect—
- (a) before the expiry of the period within which an appeal against the order may be made; or

¹⁸⁹ Substituted – SI 2015/806, part 4, paragraph 39

¹⁹⁰ Inserted – SI 2017/321, schedule 1, paragraph 11(c)

- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

[Review of orders by the Fitness to Practise Committee]¹⁹¹

30.—(1) [Except where article 29(8A) applies,]¹⁹² before the expiry of an order made under article 29(5)(b) or (c) [the Fitness to Practise Committee]¹⁹³ shall review the order and may, subject to paragraph (5)—

- (a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;
 - (b) [with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);]¹⁹⁴
 - (c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.
- (2) [On the application of the person concerned or otherwise, at any time an order made by the Fitness to Practise Committee under article 29(5)(b) to (d) is in force, the Fitness to Practise Committee may review the order and may take any of the steps referred to in paragraph (4).]¹⁹⁵
- (3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).
- (4) The steps mentioned in paragraph (2) are for the Committee to—
- (a) confirm the order;
 - (b) extend, or further extend, the period for which the order has effect;
 - (c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);
 - (d) [subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the term of the order it replaces;]¹⁹⁶
 - (e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;

¹⁹¹ Substituted – SI 2017/321, schedule 1, paragraph 12(a)

¹⁹² Inserted – SI 2017/321, schedule 1, paragraph 12(b)(i)

¹⁹³ Substituted – SI 2017/321, schedule 1, paragraph 12(b)(ii)

¹⁹⁴ Substituted – SI 2014/3272 – article 7(a)

¹⁹⁵ Substituted – SI 2017/321, schedule 1, paragraph 12(c)

¹⁹⁶ Substituted – SI 2014/3272 – article 7(b)

- (f) vary any condition imposed by the order.
- (5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.
- (6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has established under article 19(3) and which apply to him.
- (7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the [Fitness to Practise Committee]¹⁹⁷ may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.
- (8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the [Fitness to Practise Committee]¹⁹⁸ and any of the steps mentioned in paragraph (4) may be taken.
- (9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8) [the Fitness to Practise Committee]¹⁹⁹ shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).
- (10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).
- (11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.
- (12) On an appeal under this article the Council shall be the respondent.

Interim Orders by a Practice Committee

31.—(1) This article applies where—

- (a) an allegation against a registered professional has been referred to [a Practice Committee]²⁰⁰ but—
- (i) that Committee has not reached a decision on the matter; or
- (ii) in a case to which article 26(6) applies, where the Investigating Committee refers the matter to [the Fitness to Practise Committee]²⁰¹;

¹⁹⁷ Substituted – SI 2017/321, schedule 1, paragraph 12(d)

¹⁹⁸ Substituted – SI 2017/321, schedule 1, paragraph 12(e)

¹⁹⁹ Substituted – SI 2017/321, schedule 1, paragraph 12(f)

²⁰⁰ Substituted – SI 2017/321, schedule 1, paragraph 13(a)(i)

²⁰¹ Substituted – SI 2017/321, schedule 1, paragraph 13(a)(ii)

- (b) the Investigating Committee makes an order under article 26(7), or
 - (c) the [Fitness to Practise Committee]²⁰² makes an order under article 29(5)(a) to (c).
- (2) [...]²⁰³ if the [Practice]²⁰⁴ Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the registration of that person to be suspended or to be made subject to conditions, it may—
- (a) make an order directing the Registrar to suspend the person’s registration (an “interim suspension order”), or
 - (b) make an order imposing conditions with which the person must comply (an “interim conditions of practice order”),

during such period not exceeding eighteen months as may be specified in the order.

- (3) In a case coming within paragraph (1)(b) or (c), such an order may be made at the same time as an order made under article 26(7) or 29(5)(a) to (c).
- (4) [...]²⁰⁵
- (5) Subject to paragraphs (6), (7), (9) and (12) the order mentioned in paragraph (2) shall cease to have effect—
 - (a) [in a case falling within paragraph (1)(a)—
 - (i) when the Investigating Committee reaches a decision under article 26(2)(d)(i) that there is no case to answer,
 - (ii) when the Investigating Committee agrees undertakings with the person concerned under article 26(5A),
 - (iii) where in respect of an allegation mentioned in article 22(1)(b), the Investigating Committee reaches a decision in respect of the allegation,
 - (iv) when the Fitness to Practise Committee reaches a decision in respect of the allegation in question;]²⁰⁶
 - (b) in a case falling within paragraph (1)(b) or (c)—
 - (i) if there is no appeal against the order mentioned in that paragraph, when the period for appealing expires, or

²⁰² Substituted – SI 2017/321, schedule 1, paragraph 13(a)(iii)

²⁰³ Omitted – SI 2014/3272 – article 8(a)

²⁰⁴ Inserted – SI 2017/321, schedule 1, paragraph 13(b)

²⁰⁵ Omitted – SI 2014/3272 – article 8(b)

²⁰⁶ Substituted – SI 2017/321, schedule 1, paragraph 13(c)

- (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of.
- (6) [In a case falling within paragraph (1)(a), an order made under paragraph (2) must be reviewed by either the Committee which made the order or [where the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), by the Fitness to Practise Committee]²⁰⁷ —
- (a) within the period of six months beginning on the date on which the order was made, and that Committee must thereafter, for so long as the order continues in force, further review it before the end of the period of [six months]²⁰⁸ beginning on the date of the decision of the immediately preceding review;
- (b) where new evidence relevant to the order has become available after the making of the order.]²⁰⁹
- (7) Where an interim suspension order or an interim conditions of practice order has been made under this article (including this paragraph) [then either]²¹⁰ the Practice Committee which made the order [or, if the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), the Fitness to Practise Committee]²¹¹ [...]²¹² may, subject to paragraph (15)—
- (a) revoke the order or revoke any condition imposed by the order;
- (b) confirm the order;
- (c) vary any condition imposed by the order;
- (d) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the former;
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an interim conditions of practice order, replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the former.
- (8) The Council may apply to the court for an order made by a Practice Committee under paragraph (2) or (7) to be extended, and may apply again for further extensions.
- (9) [On such an application the court may—

²⁰⁷ Substituted – SI 2017/321, schedule 1, paragraph 13(d)(i)

²⁰⁸ Substituted – SI 2017/321, schedule 1, paragraph 13(d)(ii)

²⁰⁹ Substituted – SI 2014/3272 – article 8(d)

²¹⁰ Inserted – SI 2014/3272 – article 8(e)(i)

²¹¹ Substituted – SI 2017/321, schedule 1, paragraph 13(e)

²¹² Omitted – SI 2014/3272 – article 8(e)(iii)

- (a) extend (or further extend) for up to 12 months the period for which the order has effect;
 - (b) replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the order as extended;
 - (c) replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the order as extended.] ²¹³
- (10) In this article, references to an interim suspension order or interim conditions of practice order include such an order as so extended.
- (11) [For the purposes of paragraph (6), the first review—
- (a) after the extension of an order by the court pursuant to paragraph (9)(a) or after the replacement of an order by the court pursuant to paragraph (9)(b) or (c), must take place within the period of 6 months beginning with the date on which the court extended that order or replaced the order, as the case may be;
 - (b) after the replacement of an interim conditions of practice order or an interim suspension order by a Practice Committee pursuant to paragraph (7)(d) or, as the case may be, paragraph (7)(e), must take place within the period of 6 months beginning with the date on which the replacement order was made.] ²¹⁴
- (12) [Where an order has effect under paragraph (2), (7) or (9), the court may, on an application being made by the person concerned—
- (a) in the case of an interim suspension order—
 - (i) terminate the suspension,
 - (ii) replace the interim suspension order with an interim conditions of practice order;
 - (b) in the case of an interim conditions of practice order—
 - (i) revoke or vary any condition imposed by the order,
 - (ii) replace the interim conditions of practice order with an interim suspension order;
 - (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

and the decision of the court under any application under this paragraph shall be final.
] ²¹⁵

²¹³ Substituted – SI 2017/321, schedule 1, paragraph 13(f)

²¹⁴ Substituted – SI 2017/321, schedule 1, paragraph 13(g)

²¹⁵ Substituted – SI 2017/321, schedule 1, paragraph 13(h)

- (13) In this article “the court” has the same meaning as “the appropriate court” in article 38.
- (14) The [Practice]²¹⁶ Committee shall notify the person concerned giving its reasons where it makes an order under paragraph (2) or any decision under paragraph (7) and shall notify him of his right to apply to the court.
- (15) No order under paragraph (2) or (7)(c) to (e), or, in a case where paragraph (5)(b) applies, under paragraph (7)(b), shall be made by [a Practice Committee]²¹⁷ in respect of any person unless he has been afforded an opportunity of appearing before the Committee and being heard on the question whether such an order should be made in his case.
- (16) At any such hearing, the person concerned shall be entitled to be represented whether by a legally qualified person or otherwise.
- (17) The [Practice]²¹⁸ Committee shall when it makes, varies, replaces or revokes an order under this article or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

Investigation of allegations: procedural rules

32.—(1) The Council shall make rules as to the procedure to be followed by the [Fitness to Practise Committee]²¹⁹ in considering any allegation and before making an order under article 29(5).

(2) The rules shall, in particular, make provision—

- (a) [. . .]²²⁰
- (b) empowering [the Fitness to Practise Committee]²²¹, before it holds any hearing to which sub-paragraph (f) applies, where it considers that it would assist it in performing its functions, to hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;
- (c) requiring the person concerned to be given notice of the allegation without delay;
- (d) giving the person concerned an opportunity to submit written representations within a prescribed period;
- (e) for the Committee, where it sees fit, to notify the person making the allegation of the representations provided under sub-paragraph (d) and to invite him to deal within a prescribed period with any points raised by the Committee in respect of those representations;

²¹⁶ Inserted – SI 2017/321, schedule 1, paragraph 13(i)

²¹⁷ Substituted – SI 2017/321, schedule 1, paragraph 13(j)

²¹⁸ Inserted – SI 2017/321, schedule 1, paragraph 13(i)

²¹⁹ Substituted – SI 2017/321, schedule 1, paragraph 14(a)

²²⁰ Omitted – SI 2017/321, schedule 1, paragraph 14(b)(i)

²²¹ Substituted – SI 2017/321, schedule 1, paragraph 14(b)(ii)

- (f) giving the person concerned an opportunity to put his case at a hearing if—
 - (i) before the end of the prescribed period, he asks for a hearing; or
 - (ii) the Committee considers that a hearing is desirable;
 - (g) entitling the person concerned to be represented whether by a legally qualified person or otherwise at any such hearing;
 - (h) [where an allegation is referred by the Council [...] ²²² or the Investigating Committee to the Fitness to Practise Committee, for the Council to give notice of that referral to, where they are known, any person referred to in article 25(2);] ²²³
 - (i) giving any person, other than the person concerned, who, in the opinion of the relevant Committee, taking account of any criteria included in the rules, has an interest in proceedings before it, the opportunity to submit written representations;
 - (j) requiring a hearing before [the Fitness to Practise Committee] ²²⁴ to be held in public except in so far as may be provided by the rules;
 - (k) requiring the Committee to notify the person concerned of its decision, its reasons for reaching that decision and of his right of appeal;
 - (l) requiring the person by whom the allegation was made to be notified by the Committee of its decision and of its reasons for reaching that decision;
 - (m) empowering the Committee to require persons (other than the person concerned) to attend and give evidence or to produce documents;
 - (n) about the admissibility of evidence;
 - (o) enabling the Committee to administer oaths;
 - (p) where the person concerned has been convicted of a criminal offence, for the conviction to be proved by the production of a certified copy of the certificate of conviction, or, in Scotland, an extract conviction, relating to the offence and for the findings of fact upon which the conviction is based to be admissible as proof of those facts.
- (3) Each stage in proceedings under Part V and article 37 shall be dealt with expeditiously and the [Fitness to Practise Committee] ²²⁵ may give directions as to the conduct of the case and for the consequences of failure to comply with such directions (which may include the making of an order or refusal of an application if the failure to comply was without reasonable excuse).

²²² Omitted – SI 2018/838, Schedule 1, paragraph 22

²²³ Substituted – SI 2017/321, schedule 1, paragraph 14(b)(iii)

²²⁴ Substituted – SI 2017/321, schedule 1, paragraph 14(b)(iv)

²²⁵ Substituted – SI 2017/321, schedule 1, paragraph 14(c)

- (4) The Council may provide in the rules for the [chair]²²⁶ of the [Fitness to Practise]²²⁷ Committee to hold the meeting referred to in paragraph (2)(b) or to give the directions mentioned in paragraph (3) and, subject to the agreement of the parties to his acting on behalf of the Committee, to take such action as the Committee would be competent to take at such a meeting.
- (5) In this article “parties” means the Council and the person concerned.

Restoration to the register of persons who have been struck off

33.—(1) [Where a person has been struck off the register by virtue of an order made under article 29(5)(a), 30(1)(b) or 38(3)(c) and the person wishes to be restored to the register, that person must make an application for restoration to the Registrar.]²²⁸

- (2) Subject to article 30(7), no such application may be made—
- (a) before the end of the period of five years beginning with the date on which the order under [article 29(5)(a), 30(1)(b) or 38(3)(c)]²²⁹ took effect; or
 - (b) in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off.
- (3) [An application for restoration must be referred by the Registrar to the Fitness to Practise Committee for determination.]²³⁰
- (4) Before making any decision on the application the Committee shall give the applicant an opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).
- (5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2)(a) [, (b) and (ba)]²³¹ but, having regard in particular to the circumstances which led to the making of the order under article 29, 30 or 38, is also a fit and proper person to practise the relevant profession.
- (6) The Committee may make the granting of an application subject to the applicant satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.
- (7) On granting an application for restoration, the Committee—
- (a) shall direct the Registrar to register the applicant in the relevant part of the register [on his satisfying the Registrar as mentioned in article 10(4)(aa),]²³² on his

²²⁶ Substituted – SI 2008/1485, schedule 1, paragraph 5

²²⁷ Inserted – SI 2017/321, schedule 1, paragraph 14(d)

²²⁸ Substituted – SI 2017/321, schedule 1, paragraph 15(a)

²²⁹ Substituted – SI 2017/321, schedule 1, paragraph 15(b)

²³⁰ Substituted – SI 2017/321, schedule 1, paragraph 15(c)

²³¹ Substituted – SI 2015/806, part 4, paragraph 40.

²³² Inserted – SI 2014/1887, part 7, paragraph 27.

satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and

- (b) may make a conditions of practice order with respect to him.
- (8) The provisions of article 29 shall have effect in relation to a conditions of practice order made under paragraph (7) as they have effect in relation to a conditions of practice order made under that article and article 30 shall apply as if the order made under paragraph (7) were an order made under article 29.
- (9) If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the [Fitness to Practise Committee] ²³³ may direct that that person's right to make any further such applications shall be suspended indefinitely.
- (10) A person in respect of whom a direction is made under paragraph (9) may, after the expiration of three years from the date on which the direction was made, apply to the Registrar for that direction to be reviewed and, thereafter, may make further applications for review but no such application may be made before the expiration of three years from the date of the most recent review decision.
- (11) The Registrar shall refer an application made under paragraph (10) to the [Fitness to Practise Committee for determination] ²³⁴ .
- (12) A person whose application under paragraph (10) or whose application for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.
- (13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, or granting it but imposing conditions under paragraph (6), is served on the applicant.

Legal assessors

34.—(1) The Council shall appoint legal assessors.

- (2) Legal assessors shall have the general function of giving advice to—
 - (a) [...] ²³⁵
 - (b) the Practice Committees;
 - (c) the Registrar; or
 - (d) the Council,

²³³ Substituted – SI 2017/321, schedule 1, paragraph 15(d)

²³⁴ Substituted – SI 2017/321, schedule 1, paragraph 15(e)

²³⁵ Omitted – SI 2018/838, Schedule 1, para 23(a)

on questions of law arising in connection with any matter which any of those persons is considering under article 9 or 10, Part V or VI.

- (3) They may at the request of the person mentioned in paragraph (2) assist in the drafting of any decision required by this Order to be issued under any of the provisions mentioned in that paragraph.
- (4) They shall have such other functions as may be conferred on them by rules made by the Council.
- (5) To be qualified for appointment as a legal assessor, a person must—
 - (a) have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
 - (b) be an advocate or solicitor in Scotland of at least 10 years' standing; or
 - (c) be a member of the Bar of Northern Ireland of at least 10 years' standing.
- (6) No person shall be a legal assessor if he is—
 - (a) a member of the Council;
 - (b) a member of a Practice Committee;
 - (c) a [...] ²³⁶ visitor or medical or registrant assessor; or
 - (d) employed by the Council.
- (7) The Council may make such provision in respect of legal assessors as it may determine—
 - (a) for the payment of fees and allowances, including the payment of allowances to employers of legal assessors for the purposes of enabling legal assessors to perform functions under this article;
 - (b) for the reimbursement of such expenses as the legal assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Medical assessors

35.—(1) The Council may appoint registered medical practitioners to be medical assessors.

- (2) They shall have the general function of giving advice to—
 - (a) [...] ²³⁷
 - (b) the Practice Committees;

²³⁶ Omitted – SI 2018/838, Schedule a, para 23(b)

²³⁷ Omitted – SI 2018/838, Schedule 1, paragraph 24(a)

- (c) the Registrar; or
- (d) the Council,

on matters within their professional competence in connection with any matter which any of those persons is considering.

- (3) They shall also have such other functions as may be conferred on them by rules made by the Council.
- (4) No person shall be a medical assessor if he is—
 - (a) a member of the Council;
 - (b) a member of a Practice Committee;
 - (c) a [...] ²³⁸ visitor or legal or registrant assessor; or
 - (d) employed by the Council.
- (5) The Council may make such provision in respect of medical assessors as it may determine—
 - (a) for the payment of fees and allowances, including the payment of allowances to employers of medical assessors for the purposes of enabling medical assessors to perform functions under this article;
 - (b) for the reimbursement of such expenses as the medical assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Registrant assessors

36.—(1) The Council may appoint registered professionals as registrant assessors.

- (2) They shall have the general function of giving advice to—
 - (a) the Council;
 - (b) the committees of the Council; [or] ²³⁹
 - (c) [...] ²⁴⁰
 - (d) the Registrar,

on matters of professional practice arising in connection with any matter which any of those persons is considering.

²³⁸ Omitted – SI 2018/838, Schedule 1, paragraph 24(b)

²³⁹ Inserted – SI 2018/838, Schedule 1, paragraph 25(a)

²⁴⁰ Omitted – SI 2018/838, Schedule 1, paragraph 25(a)

- (3) The assessors shall also have such other functions as may be conferred on them by rules made by the Council.
- (4) No person shall be a registrant assessor if he is—
- (a) a member of the Council;
 - (b) a member of a Practice Committee;
 - (c) a [...] ²⁴¹ visitor or legal or medical assessor; or
 - (d) employed by the Council.
- (5) The Council may make such provision in respect of registrant assessors as it may determine—
- (a) for the payment of fees and allowances, including the payment of allowances to employers of registrant assessors for the purposes of enabling registrant assessors to perform functions under this article;
 - (b) for the reimbursement of such expenses as the registrant assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Part VI Appeals

Appeals against Registrar's decisions

37.—(1) Where the Registrar [or the Council] ²⁴² [. . .] ²⁴³

[(za) requires a person to undergo an examination or other assessment under article 5A(6)(a) because the Registrar is not satisfied that the person has the necessary knowledge of English;

[(zb)... [] ²⁴⁴] ²⁴⁵ ²⁴⁶

(a) refuses an application for registration, readmission or renewal or for the inclusion of an additional entry;

²⁴¹ Omitted – SI 2018/838, Schedule 1, paragraph 25(b)

²⁴² Inserted – SI 2016/1030, part 5, chapter 1, paragraph 63(2)(a)

²⁴³ Omitted - SI 2016/1030, part 5, chapter 1, paragraph 63(2)(b)

²⁴⁴ Substituted – SI 2018/838, Schedule 1, para 26(a)

²⁴⁵ Inserted – SI 2015/806, part 4, paragraph 41

²⁴⁶ Omitted by SI 2019/593 Schedule 4(1) para 15(a)

[(aa) ... []²⁴⁷]^{248 249}

[(ab) removes the name of a registrant from the register on the grounds that the registrant has failed to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement;]²⁵⁰

(b) in determining an application under article 9 or 10, imposes additional conditions which must be satisfied before the applicant may be admitted to, readmitted to or retained on the register;

(c) removes the name of a registrant from the register on the ground that he has breached a condition in respect of continuing professional development or such additional education, training or experience as is mentioned in article 19(3) subject to which his registration has effect; [. . .]²⁵¹

(d) fails, within the terms of article 9(6), to issue a decision,

[(e) ... []²⁵²

(f)

(g)

(h)]^{253 254}

the person aggrieved may appeal to the Council within the prescribed period.

[(1A) Paragraph (1)(ab) does not apply where the removal is in consequence of a refusal of an application for renewal (including an application for readmission or restoration where registration has lapsed).]²⁵⁵

(2) No appeal lies to the Council where the person aggrieved has been refused registration solely because he has failed to pay the prescribed fee for registration or has failed to apply in the prescribed form and manner in accordance with article 9 or 10.

[(2A) No appeal lies to the Council where the Registrar has refused to make, or has removed, an annotation under article 6A.]²⁵⁶

²⁴⁷ Inserted – SI 2018/838, Schedule 1, para 26(b)

²⁴⁸ Inserted – SI 2007/3101, part 10, regulation 166

²⁴⁹ Omitted by SI 2019/593 Schedule 4(1) para 15(a)

²⁵⁰ Inserted – SI 2014/1887, part 7, paragraph 28

²⁵¹ Omitted - SI 2016/1030, part 5, chapter 1, paragraph 63(2)(c)

²⁵² Substituted – SI 2018/838, Schedule 1, para 26(c)

²⁵³ Inserted - SI 2016/1030, part 5, chapter 1, paragraph 63(2)(d)

²⁵⁴ Omitted by SI 2019/593 Schedule 4(1) para 15(a)

²⁵⁵ Inserted – SI 2014/1887, part 7, paragraph 28

²⁵⁶ Inserted – SI 2008/1485, schedule 1, paragraph 6(a)

- [(2B) No appeal lies to the Council if the complaint of the person aggrieved is, in effect, that a provision of rules under article 7, 9, 10 or 12A is invalid.]²⁵⁷
- [(2C) No appeal lies to the Council where the Registrar—
- (a) has refused to register a person under article 9A, or
 - (b) has revoked a person's registration under that article.]²⁵⁸
- (3) No decision removing a registrant from the register against which an appeal to the Council may be made under paragraph (1) shall have effect before—
- (a) the expiry of the period within which such an appeal may be made; or
 - (b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.
- (4) Any appeal shall be subject to such rules as the Council shall make for the purpose of regulating appeals under this article.
- (5) The rules shall in particular provide—
- (a) for the quorum of the Council considering such an appeal;
 - (b) that the members considering the appeal are to include registrants and lay members and that the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one;
 - [(c) for a panel considering an appeal to consist of no fewer than three members who are to be selected with due regard to the matter under consideration and to include—
- (i) one registrant registered in the same part of the register as the one in which the person concerned is, or is applying to be, registered except in relation to appeals concerning nursing associates, where the panel must include one registrant registered in the nurses' or the nursing associates' part of the register, and
 - (ii) a person who—
 - (aa) is not and never has been a registered nurse, midwife or nursing associate,
 - (bb) is not and never has been a registered medical practitioner, and

²⁵⁷ Inserted – SI 2014/1887, part 7, paragraph 28

²⁵⁸ Temporarily inserted – The Coronavirus Act 2020, Schedule 1, paragraph 1(4). 24/03/2022 – retained in accordance with Section 89 of the Act.

(cc) does not hold qualifications which would entitle them to apply for registration as a registered nurse, midwife, nursing associate or a registered medical practitioner;²⁵⁹

(iii) [...]²⁶⁰

(d) [...]²⁶¹

(e) that no one who has been involved in any other capacity in the case to be considered is to be a member of the panel;

(f) for the decision to be made by a majority vote of the persons present;

(g) in the event of a tie, for the [chair]²⁶² to have an additional casting vote which he shall exercise in the favour of the person concerned;

(h) for the Registrar to be made a party to the proceedings;

(i) for similar provision to be made to that in article 32(2)(b), (f), (g), (i), (j), (k), (m), (n) and (o).

(6) Article 32(3) shall apply to appeals under this article as if a reference to [the Fitness to Practise Committee]²⁶³ were to the Council.

(7) Article 25, with the exception of paragraph (2), shall apply to appeals under this article as if a reference to a Practice Committee were to the Council.

(8) [...]²⁶⁴

(9) Having considered the appeal under this article, the Council may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against [...]^{265 266};

(c) substitute for the decision appealed against any other decision that the Registrar could have made; [or]²⁶⁷[...]²⁶⁸

[(ca)]^{269 270}

²⁵⁹ Substituted – SI 2018/838, Schedule 1, para 26(d)

²⁶⁰ Omitted – SI 2014/3272 - article 9(c)

²⁶¹ Omitted – SI 2014/3272 - article 9(c)

²⁶² Substituted – SI 2008/1485, schedule 1, paragraph 6(b)

²⁶³ Substituted – SI 2017/321, schedule 1, paragraph 16(a)

²⁶⁴ Omitted – SI 2017/321, schedule 1, paragraph 16(b)

²⁶⁵ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 63(3)

²⁶⁶ Omitted by by SI 2019/593 Schedule 4(1) para 15(b)(i)

²⁶⁷ Word inserted by SI 2019/593 Schedule 4(1) para 15(b)(ii)

²⁶⁸ Omitted - SI 2016/1030, part 5, chapter 1, paragraph 63(4)

²⁶⁹ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 63(5)

²⁷⁰ Omitted by SI 2019/593 Schedule 4(1) para 15(b)(iii)

- (d) remit the case to the Registrar to be disposed of in accordance with its directions.
- (10) The person concerned may appeal to a county court or, in Scotland, a sheriff against an unfavourable decision made under paragraph (9)(a), (c) or (d) and article 38 shall apply to that appeal.
- (11) Subject to paragraph 12, the Council shall publish as soon as reasonably practicable a decision of the Council made under this article together with the reasons for it.
- (12) If the decision is favourable to the person concerned, the Council is not required to publish it unless the person concerned so requests but it may do so with the consent of the person concerned.

Appeals

38.—(1) An appeal from—

- (a) any order or decision of the [Fitness to Practise Committee]²⁷¹ other than an interim order made under article 31, shall lie to the appropriate court; and
- (b) [a decision of the Council mentioned in paragraph (1A)]²⁷² or of the Investigating Committee under article 26(7) or (12) shall lie to a county court or, in Scotland, to a sheriff.

[(1ZA) An appeal from a decision referred to in paragraph (1)(b) relating to a nursing associate or a person seeking registration in the nursing associates' part of the register lies only to the county court.]²⁷³

[(1A) The decisions referred to in paragraph (1)(b) are—

- (a) any decision of the Council under article 37;
 - (b) [...]²⁷⁴]²⁷⁵
- (2) In any appeal under this article the Council shall be the respondent.
- (3) The Court or sheriff may—
- (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against [...]²⁷⁶]²⁷⁷;

²⁷¹ Substituted – SI 2017/321, schedule 1, paragraph 17(a)

²⁷² Substituted – SI 2007/3101, part 10, regulation 167(a)

²⁷³ Inserted – SI 2018/838, Schedule 1, para 27(a)

²⁷⁴ Omitted - SI 2016/1030, part 5, chapter 1, paragraph 64(2)

²⁷⁵ Inserted – SI 2007/3101, part 10, regulation 167(b)

²⁷⁶ Inserted - SI 2016/1030, part 5, chapter 1, paragraph 64(3)

²⁷⁷ Omitted by SI 2019/593 Schedule 4(1) para 16(a)

- (c) substitute for the decision appealed against any other decision the [Fitness to Practise Committee]²⁷⁸ or the Council, as the case may be, could have made; [or]²⁷⁹ [. . .]²⁸⁰

[(ca)...]^{281 282}

- (d) remit the case to the [Fitness to Practise Committee]²⁸³ or Council, as the case may be, to be disposed of in accordance with the directions of the court or sheriff, and may make such order as to costs (or, in Scotland, expenses) as it, or he, as the case may be, thinks fit.

(4) [Subject to paragraph (5), in this article]²⁸⁴ “the appropriate court” means—

- (a) in the case of a person whose registered address is (or, if he were registered, would be) in Scotland, the Court of Session;
- (b) in the case of a person whose registered address is (or, if he were registered, would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and
- (c) [. . .]²⁸⁵ in any other case, the High Court of Justice in England and Wales.

[(5) Where the appeal mentioned in paragraph (1)(a) concerns a nursing associate, “the appropriate court” means the High Court of Justice in England and Wales.]²⁸⁶

Part VII EEA provisions

[Visiting midwives, and certain visiting nurses, from relevant European States

39. ...]^{287 288}

[Visiting general systems nurses from relevant European States

39A.—(1) ...

²⁷⁸ Substituted – SI 2017/321, schedule 1, paragraph 17(b)

²⁷⁹ Word inserted by SI 2019/593 Schedule 4(1) para 16(b)

²⁸⁰ Omitted - SI 2016/1030, part 5, chapter 1, paragraph 64(4)

²⁸¹ Inserted - SI 2016/1030, part 5, chapter 1, paragraph 64(5)

²⁸² Omitted by SI 2019/593 Schedule 4(1) para 16(c)

²⁸³ Substituted – SI 2017/321, schedule 1, paragraph 17(b)

²⁸⁴ Substituted – SI 2018/838, Schedule 1, paragraph 27(b)

²⁸⁵ Omitted – SI 2007/3101, part 10, regulation 167(c)

²⁸⁶ Inserted – SI 2018/838, Schedule 1, paragraph 27(c)

²⁸⁷ Substituted – SI 2007/3101, part 10, regulation 168

²⁸⁸ Omitted by SI 2019/593 Schedule 4(1) para 17

- (a) ...
- [(b) ...]²⁸⁹**
- (2) **[...]²⁹⁰**
- (3) ...
- (4) ...
- (5) **[...]²⁹¹ [...]²⁹²**
- (6) ...
 - (a) ...
 - (b) ...
- (7) ...
 - (a) ...
 - (b) ...
 - (c) ...
- (8) ...
- (9) ...
- (10) **...]²⁹³ ²⁹⁴**

[European professional card

39B ...]²⁹⁵

[(3) ...]²⁹⁶]²⁹⁷

[Visiting general systems nursing associates from relevant European States

²⁸⁹ Substituted – SI 2018/838, Schedule 1, paragraph 28

²⁹⁰ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 65(2)

²⁹¹ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 65(3)(a)

²⁹² Substituted – SI 2016/1030, part 5, chapter 1, paragraph 65(3)(b)

²⁹³ Inserted – SI 2007/3101, part 10, regulation 169

²⁹⁴ Omitted by SI 2019/593 Schedule 4(1) para 17

²⁹⁵ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 66

²⁹⁶ Inserted – Data Protection Act 2018, Schedule 19, para 282. Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

²⁹⁷ Omitted by SI 2019/593 Schedule 4(1) para 17

39C ...]^{298 299}

[The Directive: designation of competent authority etc.

40. [...]^{300...]} ^{301 302}

PART VIII

41. [...] ³⁰³

42. [...] ³⁰⁴

43. [...] ³⁰⁵

Part IX Offences

Offences

44.—(1) [Subject to paragraph (1A), a person commits an offence]³⁰⁶ if with intent to deceive (whether expressly or by implication)—

- (a) he falsely represents himself to be registered in the register, or a particular part of it or to be the subject of any entry in the register;
- (b) he uses a title referred to in article 6(2) to which he is not entitled;
- (c) he falsely represents himself to possess qualifications in nursing or midwifery [or a qualification as a nursing associate]³⁰⁷.

[(1A) Where the representations referred to in paragraph (1) relate to the nursing associates' part of the register or a nursing associate qualification, or where a person uses the title of nursing associate when not entitled to, the offence referred

²⁹⁸ Inserted- SI 2018/838, Schedule 1, paragraph 29

²⁹⁹ Omitted by SI 2019/593 Schedule 4(1) para 17

³⁰⁰ Inserted – Data Protection Act 2018, Schedule 19, paragraph 283. Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g).

³⁰¹ Substituted - SI 2007/3101, part 10, regulation 170

³⁰² Omitted by SI 2019/593 Schedule 4(1) para 17

³⁰³ Omitted – SI 2017/321, schedule 1, paragraph 18

³⁰⁴ Omitted – SI 2017/321, schedule 1, paragraph 18

³⁰⁵ Omitted – SI 2017/321, schedule 1, paragraph 18

³⁰⁶ Substituted – SI 2018/838, Schedule 1, paragraph 30(a)

³⁰⁷ Inserted – SI 2018/838, Schedule 1, paragraph 30(b)

to in that paragraph is committed only when those representations are made, or the title is used, in England.]³⁰⁸

- (2) [Subject to paragraph (2A), a person commits an offence]³⁰⁹ if—
- (a) with intent that any person shall be deceived (whether expressly or by implication) he causes or permits another person to make any representation about himself which, if made by himself with intent to deceive, would be an offence under paragraph (1); or
 - (b) with intent to deceive, he makes with regard to another person any representation which—
 - (i) is false to his own knowledge, and
 - (ii) if made by the other person with that intent would be an offence by him under paragraph (1).

[(2A) Where the representations referred to in paragraph (2) relate to the nursing associates' part of the register or a nursing associate qualification, the offence referred to in that paragraph is committed only when those representations are made in England.]³¹⁰

- (3) [Subject to paragraph (3A), a person who fraudulently procures]³¹¹, or tries to procure, the making, amendment, removal or restoration of an entry in the register, is guilty of an offence.

[(3A) Where under paragraph (3), a person fraudulently procures, or tries to procure, the making, amendment, removal or restoration of an entry in the nursing associates' part of the register, the offence referred to in that paragraph is committed only if the fraudulent procurement, or attempted procurement, occurs in England.]³¹²

- (4) A person who, without reasonable excuse, fails to comply with any requirement imposed by—
- (a) the Council, or
 - (b) a Practice Committee
- under article 25(1) or (2) or rules made by virtue of article 32(2)(m) or under any corresponding rule made by virtue of article 26, 33 or 37 is guilty of an offence.
- (5) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Attendance by unqualified persons at childbirth

³⁰⁸ Inserted – SI 2018/838, Schedule 1, paragraph 30(c)

³⁰⁹ Inserted – SI 2018/838, Schedule 1, paragraph 30(d)

³¹⁰ Inserted – SI 2018/838, Schedule 1, paragraph 30(e)

³¹¹ Inserted – SI 2018/838, Schedule 1, paragraph 30(f)

³¹² Inserted – SI 2018/838, Schedule 1, paragraph 30(g)

45.—(1) A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.

(2) Paragraph (1) does not apply—

- (a) where the attention is given in a case of sudden or urgent necessity; or
- (b) in the case of a person who, while undergoing training with a view to becoming a medical practitioner or to becoming a midwife, attends a woman in childbirth as part of a course of practical instruction in midwifery recognised by the Council or by the General Medical Council.

(3) A person who contravenes paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Part X Miscellaneous

Further provisions

46.—(1) The Privy Council may make provision by order with regard to the functions of legal assessors and in particular provision may be made—

- (a) requiring legal assessors, when advising the Council or any of its committees, to do so in the presence of the parties or their representatives or, where advice is given in private, requiring the parties to be notified of the advice tendered by the legal assessors;
- (b) requiring the parties to be notified in any case where the legal assessor's advice is not accepted.

- (2) Paragraph (1)(a) and (b) shall not apply to advice given by a legal assessor in respect of the drafting of a decision mentioned in article 34(3).

Rules and orders

47.—(1) No rules made under this Order shall come into force until approved by order of the Privy Council.

- (2) Any rules made by the Council and any order of the Privy Council made under this Order may make different provision with respect to different cases or classes of case.
- (3) Before making any rules under this Order, the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed rules and these may include such persons as appear to it to be representative of—
- (a) registrants or classes of registrant;
 - (b) employers of registrants;
 - (c) users of the services of registrants; or
 - (d) persons providing, assessing or funding education and training for registrants and prospective registrants.

Exercise of powers by the Privy Council

48.—(1) Where the approval of the Privy Council is required by this Order in respect of the making of any rules by the Council, it shall be given by an order made by the Privy Council.

- (2) Any power of the Privy Council under this Order to make an order shall be exercisable by statutory instrument.
- [(2A) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), paragraph (2) shall have effect as if contained in an Act of Parliament.]³¹³
- (3) Any order under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament but this does not apply to an order made under article 54(2) or Schedule 2, paragraph 19, 20, 21 or 25.
- (4) For the purpose of exercising any powers conferred by this Order the quorum of the Privy Council shall be two.
- (5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.
- (6) Any document purporting to be—
- (a) an instrument made by the Privy Council under this Order, and

³¹³ Inserted – SI 2008/1485, schedule 1, paragraph 7

- (b) signed by the Clerk of the Privy Council, shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.

Default powers of the Privy Council

49.—(1) If it appears to the Privy Council that the Council has failed to perform any functions which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Council of its opinion and require the Council to make representations to it.

- (2) The Privy Council may, having considered the representations of the Council, give such directions (if any) to the Council as it considers appropriate.
- (3) If the Council fails to comply with any directions given under this article, the Privy Council may give effect to the direction.
- (4) Subject to paragraph (5), for the purpose of giving effect to a direction under paragraph (3), the Privy Council may—
 - (a) exercise any power of the Council or do any act or other thing authorised to be done by the Council; and
 - (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Council.
- (5) The Privy Council shall not exercise the power in paragraph (4) to make, amend, remove or restore an entry in the register in respect of an individual, nor to refuse to do so.
- (6) The powers under paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

[Annual reports, statistical reports and strategic plans

50.—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of its functions which includes a description of the arrangements that the Council has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1)(b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

- (2) The Council shall submit copies of the reports and the plan published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament.]³¹⁴

Finances of the Council

51.—(1) The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.

- (2) Subject to this article, the expenses of the Council are to be met out of fees received by the Council and other sums paid to it in connection with the exercise of its functions.
- (3) The Secretary of State or an appropriate authority may make grants or loans to the Council towards expenses incurred, or to be incurred by it—
- (a) in connection with the process of the implementation of this Order, or
 - (b) for such other purposes in connection with the professions regulated by this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Council.
- (4) In this paragraph, “appropriate authority” means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

Accounts of the Council

52.—(1) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
 - (b) prepare annual accounts in respect of each financial year, in such form as the Privy Council may determine.
- (2) The annual accounts shall be audited by persons the Council appoints.
- [(3) The Council shall ensure that the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006 (statutory auditors).]³¹⁵
- (4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Council shall—
- (a) cause them to be published together with any report on them made by the auditors; and
 - (b) send a copy of the annual accounts and of any such report to the Privy Council and to the Comptroller and Auditor General.

³¹⁴ Substituted – SI 2008/1485, schedule 1, paragraph 8

³¹⁵ Substituted – SI 2008/1485, schedule 1, paragraph 9

- (5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.
- (6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and any records relating to them.
- (7) The Privy Council shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).
- (8) In this article, “financial year” means—
 - (a) the period beginning with the date on which the Council is established and ending with the next 31st March following that date, and
 - (b) each successive period of 12 months ending with 31st March.

Inquiry by the Privy Council

53.—(1) The Privy Council may cause an inquiry to be held into any matter connected with the exercise by the Council of its functions.

- (2) Before an inquiry is begun, the Privy Council may direct that it shall be held in public.
- (3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.
- (4) For the purpose of any such inquiry (but subject to paragraph (5)) the person appointed to hold the inquiry—
 - (a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
 - (b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.
- (5) Nothing in this article requires a person, in obedience to a summons under the article, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him.
- (6) Any person who refuses or deliberately fails to attend in obedience to a summons under this article, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this article, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Where the Privy Council causes an inquiry to be held under this article—

- (a) the costs incurred by it in relation to the inquiry (including such reasonable sum as it may determine for the services of any officer engaged in the inquiry) shall be paid by such party to the inquiry as it may direct; and
 - (b) it may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any person shall be recoverable from that person by the Privy Council summarily as a civil debt.
- (8) Where the Privy Council causes an inquiry to be held under this article it may make orders—
- (a) as to the costs of the parties at the inquiry; and
 - (b) as to the parties by whom costs are to be paid,
- and every such order may be made a rule of the appropriate court on the application of any party named in the order.
- (9) “Appropriate court” has the same meaning as in article 38(5).

Supplementary and transitional provisions and extent

- 54.**—(1) The transitional provisions contained in Schedule 2 to this Order shall apply.
- (2) The Privy Council may by order make such further transitional provisions as it considers appropriate.
 - (3) The consequential amendments contained in Schedule 5 to this Order shall apply.
 - (4) This Order extends to the whole of the United Kingdom.

[Review

55. ...] ³¹⁶ ³¹⁷

³¹⁶ Inserted - SI 2016/1030, part 5, chapter 1, paragraph 67

³¹⁷ Omitted by SI 2019/593 Schedule 4(1) para 18

Schedule 1

The Nursing and Midwifery Council and Committees

Part I

The Nursing and Midwifery Council

[1.— ...

2.— ...

3. ...

4. ...

5. ...

6. ...

7.— ...

8.— ...

9. ...

10. ...

11.— ...]³¹⁸

[Membership: general

1A.—(1) The Council shall consist of—

(a) registrant members, that is members who are registrants; and

(b) lay members, that is members who—

(i) are not and never have been [registered nurses, midwives or nursing associates]³¹⁹ (and article 5(5) does not apply for these purposes), and

(ii) do not hold qualifications which would entitle them to apply for registration under this Order.

(2) The members of the Council shall be appointed by the Privy Council.

³¹⁸ Removed by substitution of new paragraphs 1A and 1B – SI 2008/1485, schedule 1, paragraph 10(2)

³¹⁹ Substituted – SI 2018/838, Schedule 1, paragraph 31.

- (3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.
- (4) [...] ³²⁰
- (5) [...] ³²¹

Matters for the order of the Privy Council under article 3(7A)

1B.—(1) An order under article 3(7A) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
 - (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;
 - (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
 - (d) the appointment of a chair of the Council and the chair's term of office [, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment] ³²²;
 - (e) deputising arrangements in respect of the chair;
 - (f) the quorum of the Council; and
 - (g) the circumstances in which members cease to hold office or may be removed or suspended from office.
- (2) But an order under article 3(7A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.
 - (3) An order under article 3(7A) may include provision with regard to—
 - (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
 - (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
 - (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—

³²⁰ Omitted – SI 2013/235, schedule 2, paragraph 51(2)

³²¹ Omitted – SI 2013/235, schedule 2, paragraph 51(2)

³²² Inserted – SI 2009/1182, schedule 4, part 6, paragraph 38(g)(i)

- (i) that education and training to be the responsibility of another body, and
 - (ii) those requirements to be set and varied by that body from time to time;
 - (d) the attendance of members of the Council at meetings of the Council;
 - (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member; and
 - (f) enabling the Privy Council to appoint as the chair of the Council, for a specified period, the person who held office as President of the Council on the day before the first order under article 3(7A) comes into force.
- (4) An order under article 3(7A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.]³²³

Procedure etc. of Council and committees

[12.—(1) Subject to any provision made by this Order or under this Order (otherwise than by standing orders), the Council may by standing orders make provision in respect of—

- (a) its procedure;
 - (b) the performance of its functions;
 - (c) the constitution of its committees and sub-committees, other than the Practice Committees [. . .]³²⁴;
 - (d) the procedure of any of its committees or sub-committees;
 - (e) the performance by any of its committees or sub-committees of their functions; and
 - (f) the standards of education, training, attendance and performance expected of the members of its committees and sub-committees.
- (2) Standing orders of the Council may make provision with regard to the provisional suspension of a member from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under article 3(7A).]³²⁵

13.—(1) In appointing non-Council members to any committee set up under article 3(12) the Council shall have regard, where appropriate and subject to the other provisions of this Order, to the guidance issued by the Commissioner for Public Appointments.

³²³ Substituted in place of original paragraphs 1 to 11 – SI 2008/1485, schedule 1, paragraph 10(2)

³²⁴ Omitted – SI 2017/321, schedule 1, paragraph 19(a)

³²⁵ Substituted – SI 2008/1485, schedule 1, paragraph 10(3)

- (2) The Council shall ensure that such members of the committee who are not Council members shall have such qualifications, interests or experience as, in the opinion of the Council, are relevant to the field with which the committee is mainly concerned.
- (3) The Council shall—
 - (a) establish and maintain a system for the declaration and registration of private interests of its members and other members of its committees and sub-committees; and
 - (b) publish entries recorded in the register of members' interests.

14.—(1) Decisions of the Council and committees shall be made by a majority vote of the members present and voting.

- (2) In the event of a tie the [chair]³²⁶ shall have an additional casting vote.
- (3) [. . .]³²⁷
- (4) This paragraph does not apply to the [Practice Committees]³²⁸ or to decisions of the Council under article 37.

Powers of the Council

15.—(1) Subject to any provision made by or under this Order, the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.

- (2) The Council shall, in particular, have power—
 - (a) to borrow;
 - (b) to appoint such staff as it may determine;
 - (c) to pay its staff such salaries, allowances and expenses as it may determine;
 - (d) to make such provision for the payment of such pensions, allowances or gratuities, or such contributions or payments towards provision for such pensions, allowances or gratuities, to or in respect of its staff as it may determine;
 - (e) to make such provision in respect of its members and members of its committees and sub-committees as it may determine—
 - (i) for the payment of fees and allowances, including the payment of allowances to employers of such members for the purposes of enabling the members to perform functions under this Order;

³²⁶ Substituted – SI 2008/1485, schedule 1, paragraph 10(4)(a)

³²⁷ Omitted – SI 2008/1485, schedule 1, paragraph 10(4)(b)

³²⁸ Substituted – SI 2008/1485, schedule 1, paragraph 10(4)(c)

- (ii) for the reimbursement of such expenses as the members may reasonably have incurred in the course of carrying out their functions under this Order;
 - (f) to establish such sub-committees of any of its committees as it may determine;
 - (g) [. . .] ³²⁹
 - (h) to abolish any of its committees, other than a [Practice Committee] ³³⁰, or any sub-committee of any of its committees.
- (3) The Council may not employ any member of the Council or its committees or sub-committees.
- (4) If it appears to the Council that [a Practice Committee] ³³¹ is failing to perform its functions adequately, the Council may give a direction as to the proper performance of those functions.
- (5) Where the Council, having given a direction under sub-paragraph (4), is satisfied that the committee has failed to comply with the direction, it may exercise any power of that committee or do any act or other thing authorised to be done by that committee.
- [(6) . . .
- (7) . . .] ³³²
- (8) No person who is a member of the Council or any of its committees or sub-committees by virtue of his membership of any profession, may take part in any proceedings of the Council in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

15A [. . .] ^{333, 334}

³²⁹ Omitted – SI 2008/1485, schedule 1, paragraph 10(5)(a)

³³⁰ Substituted – SI 2017/321, schedule 1, paragraph 19(b)(i)

³³¹ Substituted – SI 2017/321, schedule 1, paragraph 19(b)(ii)

³³² Omitted – SI 2008/1485, schedule 1, paragraph 10(5)(b)

³³³ Inserted – SI 2004/2626 (commencement order for schedule 12, paragraph 7 of Health and Social Care (Community Health and Standards) Act 2003

³³⁴ Omitted – SI 2006/2603 (commencement order for schedule 8, paragraph 47 of Health Act 2006)

Part II

[The Practice Committees] ³³⁵

16.— [. . .] ³³⁶

Practice Committees

[17.—(1) The Council shall by rules make provision with regard to the constitution of each Practice Committee, and those rules shall include provision with regard to—

- (a) its [. . .] ³³⁷ membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

[(1A) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.] ³³⁸

(2) The rules may make provision for a body (including a committee of the Council which is not one of the Practice Committees) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of a Practice Committee, including any function relating to tenure of office or suspension or removal from office.

(3) Subject to any provision made by this Order or under this Order, including provision made by standing orders of the Council under paragraph 12(1)(d), each Practice Committee may regulate its own procedure.] ³³⁹

18.— [(1) . . .

(2) . . .

(3) . . .] ³⁴⁰

(4) [. . .] ³⁴¹

335 Substituted – SI 2017/321, schedule 1, paragraph 19(c)

336 Omitted – SI 2017/321, schedule 1, paragraph 19(d)

337 Omitted – SI 2017/321, schedule 1, paragraph 19(e)

338 Inserted – SI 2009/1182, schedule 4, part 6, paragraph 38(g)(ii)

339 Substituted – SI 2008/1485, schedule 1, paragraph 10(7)

340 Omitted – SI 2008/1485, schedule 1, paragraph 10(8)(a)

341 Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(g)(iii)

- (5) The Council shall, subject to other provisions in this Order, have regard when selecting non-Council members for a Practice Committee, to the guidance issued by the Commissioner for Public Appointments.
- (6) [...] ³⁴²
- (7) Decisions of a Practice Committee shall be made by a majority vote of the members present and voting.
- (8) In the event of a tie, the [chair] ³⁴³ shall have an additional casting vote and in respect of a decision under Part V shall exercise his casting vote in favour of the person concerned.
- (9) [...] ³⁴⁴
- (10) Apart from proceedings under Part V, no proceedings of a Practice Committee shall be invalidated by any defect in the appointment of a member.
- [(10A) [In exercising a function under article 26D, 29, 30 or 33, the Fitness to Practise Committee (or any panel by which the function is exercisable as mentioned in paragraph 17(1A) of this Schedule) must have regard to the over-arching objective.] ³⁴⁵
- (10B) [...] ³⁴⁶
- (10C) References in [sub-paragraph (10A) to the over-arching objective is] ³⁴⁷ to the over-arching objective of the Council under article 3(4) (read with article 3(4A)).] ³⁴⁸
- (11) [...] ³⁴⁹

³⁴² Omitted – SI 2008/1485, schedule 1, paragraph 10(8)(a)

³⁴³ Substituted – SI 2008/1485, schedule 1, paragraph 10(8)(b)

³⁴⁴ Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(g)(iii)

³⁴⁵ Substituted – SI 2017/321, schedule 1, paragraph 19(f)(i)

³⁴⁶ Omitted – SI 2017/321, schedule 1, paragraph 19(f)(ii)

³⁴⁷ Substituted – SI 2017/321, schedule 1, paragraph 19(f)(iii)

³⁴⁸ Inserted - Health and Social Care (Safety and Quality) Act 2015, Schedule 1, paragraph 5(4)

³⁴⁹ Omitted – SI 2009/1182, schedule 4, part 6, paragraph 38(g)(iii)

Schedule 2

Transitional provisions

The initial membership of the Council

1. When first constituted, the membership of the Council shall be determined in accordance with the provisions of this Schedule.

The transitional periods

2. In this Schedule—

“the first transitional period” means the period beginning with the coming into force of article 3 and ending on the date of coming into force of the first order made by the Privy Council under article 6(1);

“the second transitional period” means the period beginning with the day after the coming into force of the first order made by the Privy Council under article 6(1) and ending on the second anniversary of that date, unless ended earlier by the Privy Council on a proposal received by it from the Council.

The Members

3.—(1) During the transitional periods, the Council shall consist of—

- (a) 12 members appointed by the Privy Council (referred to in this Order as “practitioner members”);
- (b) 11 members who are appointed by the Privy Council (referred to in this Order as “lay members”); and
- (c) 12 members appointed by the Privy Council (referred to in this Order as “alternate members”).

(2) The Privy Council shall appoint an alternate member for each practitioner member.

(3) An alternate member shall have the same functions as a practitioner member but he may attend a Council meeting in his capacity as an alternate member and vote only if his corresponding practitioner member is unable to do so.

(4) Following consultation of persons who appear to it to be representative of the professions to which this Order relates, the Privy Council shall appoint practitioner and alternate members from among persons who are registered under the 1997 Act, or, if section 7 has been repealed, who were so registered immediately before that provision was repealed.

(5) It shall select four practitioner members from each of the following categories—

- (a) persons registered in Part 10 of the register maintained under section 7 of the 1997 Act;
 - (b) persons registered in Part 11 of the register maintained under section 7 of the 1997 Act;
 - (c) persons registered in any other Part of that register of whom the members may all be selected from the same Part or from different Parts.
- (6) No person may be appointed as a practitioner member while he is the subject of fitness to practise investigations or proceedings whether under this Order or under the 1997 Act.
- (7) Having consulted such persons as it considers appropriate, the Privy Council shall appoint lay members from among persons who are not and never have been on the register or the register kept under the 1997 Act and who have such qualifications, interests and experience as, in the opinion of the Privy Council, will be of value to the Council in the performance of its functions.
- (8) The members shall live or work wholly or mainly in the United Kingdom.
- (9) There shall be at least one practitioner member and one alternate member from each part of the register, and the number of practitioner and alternate members from each part shall be equal.
- (10) The practitioner and alternate members appointed in respect of each part of the register shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.
- (11) The members who are not registered professionals shall include at least one member from each of the countries of the United Kingdom and that member shall live or work wholly or mainly in the country concerned.

Tenure of members

4. Unless he resigns or is removed in such circumstances as are set out in paragraph 8(2) of Schedule 1, each member shall hold office until the end of the second transitional period.

5. Where a member ceases to be a member, the Privy Council may replace him and the successor's term of office shall begin with the day after that on which the member ceases to be a member and end at the end of the second transitional period.

6. [. . .] ³⁵⁰

Election Scheme

³⁵⁰ Omitted – SI 2008/1485, schedule 1, paragraph 12(2)

7. The Council shall provide in rules for an election scheme in accordance with the provisions of paragraph 2 of Part I of Schedule 1 to this Order no later than six months before the end of the second transitional period.

Appointment of first President

8. The first President of the Council shall be appointed by the Privy Council from among the members of the Council.

The register

9. During the first transitional period, the Council shall make—

- (a) proposals to the Privy Council for an order to be made under article 6(1);
- (b) rules under articles 5 and 7 and such other rules as are necessary for the proper operation of the register.

10. Until such date as the first order under article 6(1) is and the rules mentioned in paragraph 9 are in force (“the appointed day”) the Council shall—

- (a) perform the functions of maintaining the register under section 7 of the 1997 Act, and
- (b) determine applications under section 8 of the 1997 Act,

and if those provisions have been repealed, shall act under sub-paragraphs (a) and (b) as if they remained in force and as if references in that Act and subordinate legislation made under it to the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) or to a National Board for Nursing, Midwifery and Health Visiting (a “National Board”) were to the Council.

11. Where on the appointed day there are outstanding applications for—

- (a) registration;
- (b) renewal of registration;
- (c) the recording of additional qualifications;
- (d) any entry in the register to be made, altered or restored,

the Council shall dispose of the application in accordance with the provisions of the 1997 Act, as if those provisions were still in force, or in such other manner as it considers just.

12. The entries in the register kept under the 1997 Act may be transferred to the register in accordance with articles 5 and 6 but, where the home address of a person registered under the 1997 Act appears in the register kept under that Act and the entry for that person is transferred to the register, his home address shall not be published in the register without the consent of that person.

The Registrar

13. The first Registrar may be appointed by the Secretary of State, and shall otherwise be appointed by the Council, on such terms and conditions as the body appointing him sees fit.

14. If the first Registrar ceases to hold office before a Registrar is appointed under article 4, the Secretary of State or the Council, as the case may be, may appoint a replacement.

Functions of the Council during the transitional period

15.—(1) During the transitional periods, and subject to any contrary provision in this Order, the Council shall, until the relevant provisions of this Order and subordinate legislation made under it come into force, exercise the functions of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) and of the National Boards for Nursing, Midwifery and Health Visiting (“the National Boards”) under sections 2, 3, 4, 5, 6, 14, 15, 20 and 21 of the 1997 Act and subordinate legislation made under that Act with such modifications as necessary and as if references to the UKCC and National Boards were to the Council.

(2) If the relevant provision has been repealed, it shall be treated for the purposes of subparagraph (1) as if it remained in force.

Fitness to practise proceedings

16.—(1) Until relevant rules under Part V come into force—

(a) where disciplinary proceedings—

(i) are pending before the UKCC or any of its committees; or

(ii) have begun but the body or committee dealing with the case has not communicated its decision to the person who is the subject of the proceedings,

that body or committee shall refer the proceedings to the Council and the Council shall dispose of the matter in accordance with the 1997 Act or, if the relevant provisions have been repealed, as if those provisions remained in force;

(b) where an allegation is received by the Council it shall dispose of the matter as if the 1997 Act remained in force; and in both cases

(c) references in the 1997 Act to the UKCC are to be treated as references to the Council.

17. An appeal—

(a) under section 12 of the 1997 Act which is pending or proceeding before any court on the date on which that section is repealed; or

(b) which is received by the Council before the relevant appeal provisions in the rules referred to in paragraph 16 are in force,

shall be dealt with as if section 12 remained in force.

18. [. . .] ³⁵¹

Transfer of staff and property

19. The Privy Council may by order make provision—

- (a) enabling persons who, when paragraph 3(1) of this Order (creation of Council) comes into force, hold office as members or staff of the UKCC and the National Boards to continue to hold office until those bodies are dissolved;
- (b) authorising the UKCC to make grants or loans to any person in connection with the implementation or preparations for the implementation of the Order.

20.—(1) The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
- (b) property, rights and liabilities.

(2) In this paragraph—

- (a) “the new employer” means the Council; and
- (b) “the old employer” means the UKCC.

(3) In this paragraph and in paragraph 21—

“an eligible employee” means a person who is employed under a contract of employment with the old employer; and

“property” includes rights and interests of any description.

21.—(1) The Privy Council may by order provide for the transfer from the old to the new employer of any—

- (a) eligible employee; and
- (b) property, rights and liabilities.

(2) In this paragraph and in paragraph 25—

- (a) “the new employer” means, in relation to—
 - (i) England, the Secretary of State,
 - (ii) Wales, the National Assembly for Wales,

³⁵¹ Omitted – SI 2017/321, schedule 1, paragraph 20

(iii) Scotland, the Scottish Ministers, and

(iv) Northern Ireland, the Northern Ireland Department of Health, Social Services and Public Safety,

or any person or body established or authorised by any of them; and

(b) “the old employer” means a National Board.

22. An order made under paragraph 20(1)(a) or 21(1)(a) may be made by the Privy Council only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

23. An order made under paragraph 20(1)(a) or 21(1)(a) may apply to all, or any description of, employees or to any individual employee.

24.—(1) The contract of employment of an employee transferred under an order made under paragraph 20(1)(a) or 21(1)(a)—

(a) is not terminated by the transfer; and

(b) has effect from the date of the transfer as if originally made between the employee and the transferee.

(2) Without prejudice to the generality of sub-paragraph (1), where an employee is transferred under an order mentioned in that sub-paragraph—

(a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are, by virtue of this paragraph, transferred to the transferee on the date of the transfer; and

(b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

(3) Sub-paragraphs (2)(a) and (b) do not transfer an employee’s contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old employer or the transferee that he objects to the transfer.

(4) Where an employee objects as mentioned in sub-paragraph (3), his contract of employment with the old employer is terminated immediately before the date of the transfer, but he is not to be treated for any purpose as having been dismissed by that employer.

(5) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this paragraph—

“the date of the transfer” means the date of the transfer determined under an order made under paragraph 20(1)(a) or 21(1)(a) in relation to the employee; and

“the transferee” means the new employer to whom the employee is or would be transferred under that order.

25.—(1) An order made under paragraph 20(1)(b) or 21(1)(b) may provide for the new employer to—

- (a) prepare a statement of accounts in respect of the financial year to 31st March 2002;
 - (b) submit a report on the performance of the old employer for the period since the last report under section 18(6) of the 1997 Act to 31st March 2002; or
 - (c) carry out any other functions necessary or expedient consequent on the dissolution of the old employer.
- (2) Section 18(3), (4), (5) and (7) of the 1997 Act shall apply as if they remained in force except that they shall apply as if the accounts or report, as the case may be, mentioned in paragraph (1) had been prepared by the old employer.

Unofficial consolidated text

[Schedule 2A

Visiting midwives, and certain visiting nurses, from relevant European States

Application and interpretation

1. [...] ³⁵²

2.

Registration in respect of provision of occasional nursing services or occasional midwifery services

3.

Entitlement to provide occasional nursing services or occasional midwifery services: first year

4. ...

(a) ...

(b) ... [...] ³⁵³ ... [...] ³⁵⁴ ...

First provision of services: required documents

5. (1) ...

(2) ...

(a) [...] ³⁵⁵

...

(3) ...

6. (1) ..

(2) ... [...] ³⁵⁶ ... [...] ³⁵⁷ ...

³⁵² Inserted – SI 2016/1030, part 5, chapter 1, paragraph 68(2)

³⁵³ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 68(3)(a)

³⁵⁴ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 68(3)(b)

³⁵⁵ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 68(4)

³⁵⁶ Substituted – SI 2016/1030, part 5 chapter 1, paragraph 68(5)(a)

³⁵⁷ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 68(5)(b)

(3)

(4)

Entitlement to provide occasional nursing services or occasional midwifery services after first year: renewals

7. ...

Duration of entitlement to provide occasional nursing services or occasional midwifery services

8. (1) ...

(2) ...

(3) ...

(4) ...

(5)

(6) ... [...]³⁵⁸ ...

(7)

Conditions

9. ...]^{359 360}

³⁵⁸ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 68(6)

³⁵⁹ Inserted – SI 2007/3101, part 10, regulation 171

³⁶⁰ Omitted by SI 2019/593 Schedule 4(1) para 19

[SCHEDULE 2B

Directive 2005/36/EC: European professional card

PART 1

General

Introductory

1. ...

Interpretation

2. ...

PART 2

General functions of the Council in relation to European professional cards

Council not to request resubmission of valid documents

3. ...

Power to revoke a European professional card

4. ...

Rectification of the European professional card or the IMI file

5. ...

Duty to give reasons and to notify of right of appeal

6. ...

Updating the IMI file: disciplinary actions or criminal sanctions

7.

Access to data

8. (1) ... [...] ³⁶¹ ...

(2)

Processing data

9.(1) ...

(2) [...] ³⁶²

PART 3

European professional cards for establishment in the United Kingdom or another relevant European State

European professional cards for establishment in a host State other than the United Kingdom

10. ...

Issue of European professional card for establishment in the United Kingdom

11.

PART 4

European professional cards for the provision of occasional nursing services in a relevant European State other than the United Kingdom

Issue of European professional card for the provision of occasional nursing services in a host State other than the United Kingdom

12. ...

Variation of a European professional card for the provision of occasional nursing services in a host State other than the United Kingdom

³⁶¹ Substituted – Data Protection Act 2018, Schedule 19, paragraph 284(2). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

³⁶² Omitted – Data Protection Act 2018, Schedule 19, paragraph 284(3). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

13.

PART 5

European professional card: requirements and entitlements as to registration

Requirement to register: establishment cases

14. ...

Entitlement to registration: provision of occasional nursing services

15. ...

PART 6

Conditions in relation to fitness to practise

Conditions in relation to fitness to practise: providers of occasional nursing services

16. ...] ³⁶³ ³⁶⁴

³⁶³ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 69

³⁶⁴ Omitted by SI 2019/593 Schedule 4(1) para 20

Schedule 3

[Directive 2005/36: Functions of the Council under Article 40(2)

<i>Provision of Directive</i>	<i>Function of Council</i>
... [...] ³⁶⁵
...	[...] ³⁶⁶
	[...] ³⁶⁷
... [...	...
...	...] ³⁶⁸
[...	...] ³⁶⁹
...	...] ³⁷⁰ [[...] ³⁷¹ ...] ³⁷²
[...	...
...	... [...] ³⁷³ ...
...	...] ³⁷⁴ ³⁷⁵

³⁶⁵ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 70(2)

³⁶⁶ Substituted – SI 2016/1030, part 5, chapter 1, paragraph 70(3)(a)

³⁶⁷ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 70(3)(b)

³⁶⁸ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 70(4)

³⁶⁹ Inserted – SI 2015/806, part 4, paragraph 42

³⁷⁰ Substituted – SI 2007/3101, part 10, regulation 172

³⁷¹ Substituted – Data Protection Act 2018, Schedule 19, paragraph 285(2). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

³⁷² Inserted – SI 2016/1030, part 5, chapter 1, paragraph 70(5)

³⁷³ Substituted – Data Protection Act 2018, Schedule 19, paragraph 285(3). Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

³⁷⁴ Inserted – SI 2016/1030, part 5, chapter 1, paragraph 70(6)

³⁷⁵ Omitted by SI 2019/593 Schedule 4(1) para 21

Schedule 4

Interpretation

In this Order, unless the context otherwise requires—

“the 1997 Act” means the Nurses, Midwives and Health Visitors Act 1997;

[. . .]³⁷⁶

[. . .]³⁷⁷

[. . .]³⁷⁸

[. . .]^{379, 380}

[“adaptation period” means a period of practice, subject to an assessment and, where necessary, accompanied by further training, which is supervised by a registered nurse, midwife or nursing associate;]³⁸¹

[. . .]³⁸²“application for restoration” has the meaning given to it in article 33;

[“appropriate cover” is to be construed in accordance with article 12A(3);]³⁸³

“approved course of education or training” means a course approved under article 15(6)(a);

“approved qualification” has the meaning given to it in articles 13 and 15;

[“aptitude test” means an assessment, with the aim of determining whether a specified state professional meets the standards referred to in article 5(2)(a);]³⁸⁴

[. . .]³⁸⁵

[“competent authority” means any authority or body of a relevant European State designated by that State for the purposes of the Directive as competent to—

- (a) receive or issue evidence of qualifications or other information or documents, or

³⁷⁶ Omitted – SI 2007/3101, part 10, regulation 173(a)

³⁷⁷ Omitted – SI 2007/3101, part 10, regulation 173(b)

³⁷⁸ Omitted – SI 2007/3101, part 10, regulation 173(c)

³⁷⁹ Inserted – SI 2004/1947, regulation 2(2)(b)

³⁸⁰ Omitted – SI 2007/3101, part 10, regulation 173(d)

³⁸¹ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 67

³⁸² Omitted – SI 2008/1485, schedule 1, paragraph 11(a)

³⁸³ Inserted – SI 2014/1887, part 7, paragraph 29

³⁸⁴ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 67

³⁸⁵ Omitted – SI 2007/3101, part 10, regulation 173(e)

(b) receive applications and take the decisions referred to in the Directive,
[in connection with the practice as a nurse, midwife or nursing associate]³⁸⁶;]³⁸⁷
[. . .]³⁸⁸
[. . .]³⁸⁹

“the Council” means the Nursing and Midwifery Council established under article 3;

[“the Directive” means Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJ No L255, 30.09.2005, p 22), and any reference in this Order to the Directive or to any provision of the Directive is a reference to the Directive, or to that provision, as it had effect immediately before exit day]^{390 391}

[. . .]³⁹²

[. . .]³⁹³

[. . .]³⁹⁴

[. . .]³⁹⁵

[. . .]³⁹⁶

[. . .]³⁹⁷

[. . .]³⁹⁸ . . .]³⁹⁹

[. . .]⁴⁰⁰

[. . .]⁴⁰¹

³⁸⁶ Substituted – SI 2018/838, Schedule 1, paragraph 32(a)

³⁸⁷ Substituted – SI 2007/3101, part 10, regulation 173(f)

³⁸⁸ Omitted – SI 2008/1485, schedule 1, paragraph 11(a)

³⁸⁹ Omitted – SI 2008/1485, schedule 1, paragraph 11(a)

³⁹⁰ Inserted – SI 2007/3101, part 10, regulation 173(g)

³⁹¹ Substituted - SI 2019/593 Schedule 4(1) para 22(a)

³⁹² Omitted – SI 2007/3101, part 10, regulation 173(h)

³⁹³ Omitted – SI 2007/3101, part 10, regulation 173(i)

³⁹⁴ Omitted – SI 2007/3101, part 10, regulation 173(j)

³⁹⁵ Omitted – Data Protection Act 2018, Schedule 19, paragraph 286. Brought into force on 25 May 2018 by SI 2018/625 (C.51), regulation 2(1)(g)

³⁹⁶ Inserted – SI 2016/1030 – part 5, chapter 1, paragraph 71(3)

³⁹⁷ Inserted – SI 2016/1030 – part 5, chapter 1, paragraph 71(3)

³⁹⁸ Substituted – SI 2018/838, Schedule 1, paragraph 32(b)

³⁹⁹ Substituted – SI 2007/3101, part 10, regulation 173(k)

⁴⁰⁰ Substituted – SI 2016/1030 – part 5, chapter 1, paragraph 71(2)

⁴⁰¹ Inserted – SI 2016/1030 – part 5, chapter 1, paragraph 71(3)

[...] ^{402 403}

[“indemnity arrangement” is to be construed in accordance with article 12A(2);] ⁴⁰⁴

[“lay member” shall be construed in accordance with paragraph 1A(1)(b) of Schedule 1;] ⁴⁰⁵

[...]⁴⁰⁶

“licensing body” means a regulatory body which has the function of authorising persons to practise a health or social care profession;

[. . .] ⁴⁰⁷

[. . .] ⁴⁰⁸

[[...] ⁴⁰⁹ [...] ^{410 411}

[. . .] ⁴¹²

[. . .] ⁴¹³

[“the necessary knowledge of English”—

(a) in relation to a person registered, or applying to be registered, as a nurse means a knowledge of English which is necessary for safe and effective practice of nursing in the United Kingdom;

(b) in relation to a person registered, or applying to be registered, as a midwife means a knowledge of English which is necessary for the safe and effective practice of midwifery in the United Kingdom;] ⁴¹⁴

[(c) in relation to a person registered, or applying to be registered, as a nursing associate means knowledge of English which is necessary for the safe and effective practice as a nursing associate in England;] ⁴¹⁵

⁴⁰² Inserted – SI 2016/1030 – part 5, chapter 1, paragraph 71(3)

⁴⁰³ Omitted by SI 2019/593 Schedule 4(1) para 22(b)

⁴⁰⁴ Inserted – SI 2014/1887, part 7, paragraph 29

⁴⁰⁵ Substituted – SI 2008/1485, schedule 1, paragraph 11(b)

⁴⁰⁶ Omitted – SI 2018/838, Schedule 1, paragraph 32(c)

⁴⁰⁷ Omitted – SI 2017/321, schedule 1, paragraph 21(b)

⁴⁰⁸ Omitted – SI 2007/3101, part 10, regulation 173(m)

⁴⁰⁹ Substituted SI 2007/3101, part 10, regulation 173(n)

⁴¹⁰ Inserted – SI 2003/3148, regulation 4(2)(b)(iii)

⁴¹¹ Omitted by SI 2019/593 Schedule 4(1) para 22(b)

⁴¹² Omitted – SI 2008/1485, schedule 1, paragraph 11(a)

⁴¹³ Omitted – SI 2007/3101, part 10, regulation 173(o)

⁴¹⁴ Inserted – SI 2015/806, part 4, paragraph 43

⁴¹⁵ Inserted – SI 2018/838, Schedule 1, paragraph 32(d)

“parties”, except in respect of article 53, means the Council and the person concerned except in respect of article 37 when it includes the Registrar;

[“Practice Committees” has the meaning given to it in article 3(10);]⁴¹⁶

[“practising” means working as a registered nurse or a midwife or working as a nursing associate in England;]⁴¹⁷

“prescribed” means prescribed in rules made by the Council;

[“the professions regulated under this Order” means the professions of nurse, midwife and nursing associate;]⁴¹⁸

“register” means the register established and maintained under article 5;

[“registrant” means a nurse, midwife or nursing associate who has been admitted to the register maintained under article 5;]⁴¹⁹

[. . .]⁴²⁰

“Registrar” means the person appointed under article 4;

[“relevant European State” means an EEA State or Switzerland;]⁴²¹

[. . .]⁴²²

[. . .]⁴²³

[. . .]⁴²⁴

[“specified state professional” means a person who holds a specified state qualification;]⁴²⁵

[“specified state qualification” means a nursing or midwifery qualification or a qualification comparable to that of a nursing associate awarded in one of the states specified in Schedule 1 to the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023;]⁴²⁶

⁴¹⁶ Substituted – SI 2017/321, schedule 1, paragraph 21(c)

⁴¹⁷ Substituted – SI 2018/838, Schedule 1, paragraph 32(e)

⁴¹⁸ Substituted – SI 2018/838, Schedule 1, paragraph 32(f)

⁴¹⁹ Substituted – SI 2018/838, Schedule 1, paragraph 32(g)

⁴²⁰ Omitted – SI 2008/1485, schedule 1, paragraph 11(a)

⁴²¹ Inserted – SI 2007/3101, part 10, regulation 173(p)

⁴²² Omitted – SI 2018/838, Schedule 1, paragraph 32(i)

⁴²³ Omitted – SI 2007/3101, part 10, regulation 173(q)

⁴²⁴ Omitted – SI 2007/3101, part 10, regulation 173(r)

⁴²⁵ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 67

⁴²⁶ Inserted – SI 2023/1286 Schedule 3 Part 5 Para 67

“standards of proficiency” means the standards established by the Council under article 5(2);

“the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act);⁴²⁷

[. . .]⁴²⁸

[. . .]^{429, 430}

“United Kingdom country” means England, Scotland, Wales or Northern Ireland;

[. . .]^{431 432}

“visitors” means persons appointed under article 16.

Unofficial consolidated text

⁴²⁷ Inserted – Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations SI 2019/419

⁴²⁸ Omitted – SI 2017/321, schedule 1, paragraph 21(d)

⁴²⁹ Inserted – SI 2003/3148, regulation 4(2)(c)

⁴³⁰ Omitted – SI 2007/3101, part 10, regulation 173(s)

⁴³¹ Substituted – SI 2018/838, Schedule 1, paragraph 32(h)

⁴³² Omitted by SI 2019/593 Schedule 4(1) para 22(b)

Schedule 5

Consequential amendments to primary legislation

The Parliamentary Commissioner Act 1967 (c.13)

1. In Schedule 2 to the Parliamentary Commissioner Act 1967 (Departments etc. subject to investigation), the entry relating to the English National Board for Nursing, Midwifery and Health Visiting shall be omitted.

Medicines Act 1968 (c.67)

2. In section 58 of the Medicines Act 1968 (medicinal products on prescription only)—

(a) for subsection (1)(d) there shall be substituted—

“(d) registered nurses or midwives who are of such a description and comply with such conditions as may be specified in the order”;

(b) in subsection (4)(a), for the words “a registered nurse, midwife or health visitor,” there shall be substituted “a registered nurse or midwife,”.

The Fair Trading Act 1973 (c.41)

3. [. . .] ⁴³³

The House of Commons Disqualification Act 1975 (c.24)

4. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of any of the National Boards for Nursing, Midwifery and Health Visiting mentioned in section 5 of the Nurses, Midwives and Health Visitors Act 1997 or any member of those Boards appointed at a salary, shall be omitted.

The Northern Ireland Assembly Disqualification Act 1975 (c.25)

5. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), the entry relating to the Chairman of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland or member of that Board appointed at a salary, shall be omitted.

National Health Service Act 1977 (c.49)

6. [. . .] ⁴³⁴

⁴³³ Revoked – SI 2003/1398, schedule, paragraph 44

⁴³⁴ Revoked – National Health Service (Consequential Provisions) Act 2006, schedule 4

The Interpretation Act 1978 (c.30)

7. In Schedule 1 to the Interpretation Act 1978 (words and expressions defined), for the definition of “Registered” in relation to nurses, midwives and health visitors there shall be substituted—

“ “Registered” in relation to nurses and midwives, means registered in the register maintained under article 5 of the Nurses and Midwives Order 2001 by virtue of qualifications in nursing or midwifery, as the case may be.”.

The Registered Homes Act 1984 (c.23)

8. In section 42 of the Registered Homes Act 1984 (tribunal for appeals relating to nursing homes (including maternity homes) and mental nursing homes) in subsection (4)(a), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001”.

The Video Recordings Act 1984 (c.39)

9. In section 3 of the Video Recordings Act 1984 (exempted supplies), in subsection (11), for “the Nurses, Midwives and Health Visitors Act 1997”, there shall be substituted “the Nursing and Midwifery Order 2001”.

Children Act 1989 (c.41)

10. In the Children Act 1989—

- (a) in section 45 (duration of emergency protection orders and other supplemental provisions), in subsection (12), for the words “registered health visitor” there shall be substituted “registered midwife”;
- (b) in section 48 (powers to assist in discovery of children who may be in need of emergency protection), in subsection (11), for the words “registered health visitor”, there shall be substituted “registered midwife”; and
- (c) in section 102 (power of constable to assist in exercise of certain powers to search for children or inspect premises) in subsection (3), for the words “registered health visitor”, there shall be substituted “registered midwife”.

The Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (NI 20))

11. In Article 32 of the Registered Homes (Northern Ireland) Order 1992, paragraph (2)(b), for “section 7 of the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “article 5 of the Nursing and Midwifery Order 2001”.

The Value Added Tax Act 1994 (c.23)

12. In Part II of Schedule 9 to the Value Added Tax Act 1994 (exempt supplies of goods and services), for item 1(d) in Group 7 (health and welfare), there shall be substituted “the register of qualified nurses and midwives maintained under article 5 of the Nursing and Midwifery Order 2001”.

Employment Rights Act 1996 (c.18)

13. In section 55 of the Employment Rights Act 1996 (right to time off for ante-natal care), in each of subsections (1)(b) and (2)(a) for “registered health visitor”, there shall be substituted “registered nurse”.

Data Protection Act 1998 (c.29)

14. In section 69 of the Data Protection Act (meaning of “health professional”), in section (1), for subsection (e), there shall be substituted—

“(e) a registered nurse or midwife”.

Government of Wales Act 1998 (c.38)

15. In Part III of Schedule 4 to the Government of Wales Act 1998 (public bodies subject to reform by the Assembly which may only gain functions), paragraph 17 shall be omitted.

The Health Act 1999 (c.8)

16. In the Health Act 1999—

- (a) in section 60 (regulation of health care and associated professions), in subsection (2), in paragraph (b), for “the Nurses, Midwives and Health Visitors Act 1997” there shall be substituted “the Nursing and Midwifery Order 2001”; and
- (b) in Schedule 3 (regulation of health care and associated professions), in paragraph 8 (certain functions not to be transferred from regulatory body), in sub-paragraph (3) “or the Nurses, Midwives and Health Visitors Act 1997” shall be omitted.

Freedom of Information Act 2000 (c.36)

17. In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part VI (other public bodies and offices: general)—

- (a) the entries for the English National Board for Nursing, Midwifery and Health Visiting and the Welsh National Board for Nursing, Midwifery and Health Visiting shall be omitted; and
- (b) the entry for the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, shall be omitted and “The Nursing and Midwifery Council.” shall be inserted in the appropriate place.

End of order
