



Nurses, Midwives and Health Visitors Act 1997

1997 CHAPTER 24

An Act to consolidate the Nurses, Midwives and Health Visitors Act 1979 and the enactments amending it. [19th March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Central Council

1 Constitution of Central Council

- (1) There shall continue to be a corporate body known as the United Kingdom Central Council for Nursing, Midwifery and Health Visiting.
- (2) Subject to any order under paragraph 1 of Schedule 1 to this Act, the Council shall consist of sixty members.
- (3) Two-thirds of the members of the Council ("elected members") shall be appointed by the Secretary of State on being elected under the electoral scheme, that is to say, the scheme having effect under the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (Electoral Scheme) Order 1992 (with any variations under paragraph 2 of Schedule 1 to this Act).
- (4) Appointments otherwise than for the purposes of subsection (3) shall be made by the Secretary of State from among persons who—
 - (a) are registered nurses, midwives, health visitors or medical practitioners; or
 - (b) have such qualifications and experience in education or other fields as, in the opinion of the Secretary of State, will be of value to the Council in the performance of its functions.

- (5) In making appointments for the purposes of subsection (4) the Secretary of State shall have especially in mind—
 - (a) the need to secure that the members of the Council include registered nurses, midwives and health visitors and persons living or working in each part of the United Kingdom; and
 - (b) the need to secure that qualifications and experience in the teaching of nursing, midwifery and health visiting are adequately represented on the Council.
- (6) The Council shall have a president and a vice-president appointed by the Council from among its members.
- (7) Schedule 1 to this Act shall have effect with respect to the constitution and administration etc. of the Council.
- (8) For the purposes of subsection (3), a person appointed as a replacement for an elected member shall be treated as an elected member.

2 Functions of the Council

- (1) The principal functions of the Central Council shall be to establish and improve standards of training and professional conduct for nurses, midwives and health visitors.
- (2) The Council shall ensure that the standards of training it establishes are such as to meet any Community obligation of the United Kingdom.
- (3) The Council shall by means of rules determine the conditions of a person's being admitted to training, and the kind, content and standard of training to be undertaken, with a view to registration.
- (4) The rules may also make provision with respect to the kind, content and standard of further training available to persons who are already registered.
- (5) The powers of the Council shall include that of providing, in such manner as it thinks fit, advice for nurses, midwives and health visitors on standards of professional conduct.
- (6) In the discharge of its functions the Council shall have proper regard for the interests of all groups within the professions, including those with minority representation.

3 Standing committees of Council

- (1) The Secretary of State shall by order constitute as standing committees of the Council a Midwifery Committee and a Finance Committee.
- (2) The Council shall consult the Finance Committee on all financial matters.
- (3) If the Council (having regard to the duty imposed by section 2(6)) requests the Secretary of State to do so, he may by order constitute other standing committees of the Council and (to the extent prescribed by the order) require the Council to consult them on, or empower them to discharge functions of the Council with respect to, other matters.
- (4) An order constituting a standing committee of the Council—

- (a) may provide for persons who are not members of the Council to be appointed as members of that committee; and
- (b) shall provide for a majority on the committee to be persons who work or have worked in the professional field with which it is primarily concerned.

4 The Midwifery Committee

- (1) Of the members of the Council's Midwifery Committee the majority shall be practising midwives.
- (2) The Council shall consult the Committee on all matters relating to midwifery and the Committee shall, on behalf of the Council, discharge such of the Council's functions as are assigned to the Committee either by the Council or by the Secretary of State by order.
- (3) The Council shall assign to the Committee any matter involving a proposal to make, amend or revoke rules under section 14 below; and the Committee shall consider the proposal and report on it to the Council.
- (4) The Secretary of State shall not approve rules relating to midwifery practice unless satisfied that they are framed in accordance with recommendations of the Council's Midwifery Committee.
- (5) Any matter which is assigned to the Midwifery Committee otherwise than under subsection (3) shall be finally dealt with by the Committee on behalf of the Council so far as the Council expressly authorises the Committee to deal finally with it; and the Committee shall make a report to the Council as to the way in which it has dealt with the matter.

The National Boards and their relationship to the Central Council

5 Constitution of National Boards

- (1) England, Wales, Scotland and Northern Ireland shall each continue to have a National Board for Nursing, Midwifery and Health Visiting, and the Boards shall be corporate bodies.
- (2) A National Board shall consist of—
 - (a) a chairman appointed by the Secretary of State from among persons who are registered nurses, midwives or health visitors;
 - (b) such number of other members appointed by the Secretary of State as he may specify by order;
 - (c) the person for the time being appointed in pursuance of subsection (7)(a) to be the chief executive officer of the Board; and
 - (d) any person for the time being appointed in pursuance of subsection (7)(b) to an office under the Board which is specified for the purposes of this paragraph by the Secretary of State by order.
- (3) Appointments to a National Board for the purposes of subsection (2)(b) shall be made from among persons who—
 - (a) are registered nurses, midwives or health visitors; or

- (b) have such qualifications and experience in education or other fields as, in the opinion of the Secretary of State, will be of value to the Board in the performance of its functions.
- (4) The Secretary of State shall so exercise his powers under this section as to secure in relation to a National Board that a majority of the members of the Board are registered nurses, midwives or health visitors.
- (5) The Secretary of State may, with the consent of the Treasury—
 - (a) pay such remuneration as he thinks fit to any person who is a member of a National Board by virtue of appointment by the Secretary of State; and
 - (b) make such provision as he thinks fit for the payment to or in respect of any such person of pensions, allowances or gratuities.
- (6) A National Board may pay to its chairman and members and to other persons appointed to serve on its standing and other committees, such travelling and other allowances as the Secretary of State may determine with the approval of the Treasury.
- (7) A National Board shall have—
 - (a) a chief executive officer, and
 - (b) such other officers as the Secretary of State may by order specify for the purposes of this paragraph,appointed by the Board.
- (8) The Secretary of State may by order make such further provision with respect to the constitution and administration of a National Board as he thinks fit.
- (9) Without prejudice to the generality of subsection (8), provision under that subsection may include provision—
 - (a) with respect to qualification for membership;
 - (b) for the appointment of a deputy chairman and with respect to his powers;
 - (c) with respect to the tenure of office of the chairman, deputy chairman and other members;
 - (d) with respect to the appointment of officers;
 - (e) requiring payments to employees, and provision for the payment of pensions, allowances or gratuities to or in respect of them, to be such as the Secretary of State may, with the consent of the Treasury, approve;
 - (f) requiring powers with respect to the employment of staff to be exercised in accordance with written directions of the Secretary of State;
 - (g) with respect to procedure, including the constitution of committees;
 - (h) authorising the appointment of persons who are not Board members to committees of the Board.
- (10) Orders under subsection (8) may include provision with respect to proof of documents.
- (11) Orders under this section may make different provision in relation to different Boards.

6 Functions of Boards

- (1) The National Boards shall in England, Wales, Scotland and Northern Ireland respectively—
 - (a) approve institutions in relation to the provision of—

- (i) courses of training with a view to enabling persons to qualify for registration as nurses, midwives or health visitors or for the recording of additional qualifications in the register; and
 - (ii) courses of further training for those already registered;
 - (b) ensure that such courses meet the requirements of the Central Council as to their kind, content and standard;
 - (c) hold, or arrange for others to hold, such examinations as are necessary to enable persons to satisfy requirements for registration or to obtain additional qualifications;
 - (d) collaborate with the Council in the promotion of improved training methods; and
 - (e) perform such other functions relating to nurses, midwives or health visitors as the Secretary of State may by order prescribe.
- (2) The National Boards shall discharge their functions subject to and in accordance with any applicable rules of the Council and shall take account of any difference in the considerations applying to the different professions.

Registration

7 The professional register

- (1) The Central Council shall continue to maintain a register of qualified nurses, midwives and health visitors.
- (2) The register shall be divided into such parts as the Secretary of State may by order determine, the parts being indicative of different qualifications and different kinds and standards of training, and in this Act references to parts of the register are to the parts so determined.
- (3) The Council may by rules make provision—
- (a) as to the documentary and other evidence to be produced, and the fees to be paid, by those applying for registration or for additional qualifications to be recorded, or for any entry in the register to be altered or restored;
 - (b) as to the keeping of the register and the means of obtaining access to, and copies of extracts from, the register;
 - (c) for a person's registration to remain effective without limitation of time (subject to removal from the register for misconduct or otherwise) or to lapse after a specified period or in specified cases, or to be subject to renewal as and when provided by the rules.
- (4) The Secretary of State may by order provide—
- (a) for persons to be registered in one or more parts of the register by virtue of having been included in one or more of the registers, rolls or lists maintained under enactments repealed by the Nurses, Midwives and Health Visitors Act 1979, or having been certified under any of those enactments;
 - (b) for a specified part of the register to be closed, as from a date specified by the order, so that on or after that date no further persons can become registered in that part;
 - (c) for 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.

- (5) The Secretary of State shall consult the Central Council before making, varying or revoking any order under this section.
- (6) A certificate issued and duly authenticated by the Council stating that a person is, or was at any date, or is not, or was not at any date, registered shall be evidence in all courts of law of the fact stated in the certificate.
- (7) In any enactment or instrument (past or future, and including this Act) “registered”, in relation to nurses, midwives and health visitors, means registered in the register maintained under this section by virtue of qualifications in nursing, midwifery or health visiting, as the case may be.
- (8) Orders under subsection (2) may, by reference to the part or parts in which a person is registered, prescribe the more advanced qualifications which he must have in order to be treated as a qualified nurse for the purposes of any particular enactment or instrument.

8 Admission to register

- (1) A person seeking admission to a part of the register must make application to the Central Council in accordance with the Council’s rules.
- (2) Subject to subsection (6) below, the applicant shall be registered in that part (on payment of such fee as may be required by the rules) if he satisfies the Council that he is of good character and has the appropriate professional qualifications.
- (3) He is to be regarded as having those qualifications if—
 - (a) he has in the United Kingdom undergone the training, and passed the examinations, required by the Council’s rules for admission to that part of the register; or
 - (b) being a national of any EEA State, he has professional qualifications, obtained in an EEA State other than the United Kingdom, which the Secretary of State has by order designated as having Community equivalence for the purposes of registration in that part; or
 - (c) he has, elsewhere than in the United Kingdom, undergone training in nursing, midwifery or health visiting (as the case may be) and either—
 - (i) that training is recognised by the Central Council as being to a standard sufficient for registration in that part; or
 - (ii) it is not so recognised, but the applicant has undergone in the United Kingdom or elsewhere such additional training as the Council may require.
- (4) An order under subsection (3)(b) may provide that a professional qualification designated by the order is to be regarded as having Community equivalence for the purposes of registration in a part of the register only if prescribed conditions required by a directive issued by the Council of the European Communities are fulfilled; and different conditions may be prescribed with respect to the same qualification for different circumstances.
- (5) Any person who—
 - (a) is not a national of an EEA State, but
 - (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated,

for the purposes of access to the nursing profession, or the profession of midwifery, no less favourably than a national of such a State,
shall be treated for the purposes of subsection (3)(b) as if he were such a national.

- (6) In the case of an applicant within subsection (3)(c), the rules may either—
- (a) make it an additional condition of his being registered that he has the necessary knowledge of English; or
 - (b) require him to have that knowledge within a period specified by the rules (failing which his registration will lapse at the end of the period).

- (7) In any case where—
- (a) an application for admission to a part of the register is made by an applicant within subsection (3)(b), and
 - (b) the Central Council has received all the documentary evidence as to his character and qualifications required to enable him to be registered,

he shall be registered in that part within three months of the date on which the Council was in receipt of that evidence or such longer period as may be permitted in his case by Article 10 of the Nursing Directive or Article 11 of the Midwifery Directive.

- (8) In this Act—

“EEA State” means a Contracting Party to the EEA Agreement;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“national”, in relation to an EEA State, means the same as it does for the purposes of the Community Treaties.

9 Deemed registration of visiting EEA nurses and midwives

- (1) A visiting EEA nurse may practise as a nurse responsible for general care during the period specified in his relevant documents in pursuance of section 21(5)(a)(ii), and while he is so practising he shall be deemed to be registered as a nurse responsible for general care.
- (2) A visiting EEA midwife shall be deemed to be registered as a midwife during the period specified in her relevant documents in pursuance of section 21(5)(a)(ii).

10 Removal from, and restoration to, register

- (1) The Central Council shall by rules determine circumstances in which, and the means by which—
 - (a) a person may, for misconduct or otherwise, be removed from the register or a part of it, whether or not for a specified period;
 - (b) a person who has been removed from the register or a part of it may be restored to it;
 - (c) a person’s registration in the register or a part of it may be directed to be suspended, that is to say, not to have effect during such period as may be specified in the direction;
 - (d) the suspension of a person’s registration in the register or a part of it may be terminated; and
 - (e) an entry in the register may be removed, altered or restored.

- (2) Committees of the Council shall be constituted by the rules to deal with proceedings for a person's removal from, or restoration to, the register, for the suspension, or termination of the suspension, of a person's registration in the register or for the removal, alteration or restoration of any entry.
- (3) The Council may bring proceedings before a committee constituted in pursuance of subsection (2) in respect of a visiting EEA nurse or midwife for the purpose of determining whether by reason of his misconduct or otherwise the provisions of this Act (except this section) relating to visiting EEA nurses or midwives should cease to apply to him; and the provisions of this section and of rules made under this section shall apply, with any necessary modifications, in relation to any such proceedings as they apply in relation to proceedings relating to a person's removal from the register.
- (4) In any case where it is determined that those provisions should cease to apply to any person he shall thereupon cease to be a visiting EEA nurse or, as the case may be, a visiting EEA midwife for the purposes of this Act and accordingly shall also cease to be deemed to be registered; and he shall not be entitled to be treated as such a nurse or midwife before the expiry of such period (if any) as may be specified in the determination, or if no such period is specified, without the written consent of the Council.
- (5) The committees need not be constituted exclusively from members of the Council, but the rules shall provide, in relation to committees constituted by them, that there shall be a quorum only if a majority of those present are members of the Council.
- (6) The rules shall so provide that the members of a committee constituted to adjudicate upon the conduct of any person are selected with due regard to the professional field in which that person works.
- (7) The rules shall make provision as to the procedure to be followed, and the rules of evidence to be observed, in such proceedings, whether before the Council itself or before any committee so constituted, and for the proceedings to be in public except in such cases (if any) as the rules may specify.
- (8) Schedule 2 to this Act has effect with respect to the conduct of proceedings to which this section applies.
- (9) Where a person's registration in the register or a part of it is suspended under subsection (1)(c), he shall be treated as not being registered in the register or part notwithstanding that his name still appears in it.

11 Cautions

- (1) Without prejudice to the generality of section 10, rules under that section may make provision with respect to the giving, in the course of disciplinary proceedings, of cautions as to future conduct.
- (2) Rules under section 10 may also make provision with respect to the keeping by the Council of a record of any caution as to future conduct given in the course of disciplinary proceedings.
- (3) For the purposes of this section, "disciplinary proceedings" means proceedings for removal from the register or a part of it for misconduct.

12 Appeals

- (1) A person aggrieved by a decision to remove him from the register or to direct that his registration in the register be suspended or to remove or alter any entry in respect of him, or by any decision under section 10(3) or (4), may, within three months after the date on which notice of the decision is given to him by the Council, appeal to the appropriate court; and on the appeal—
 - (a) the court may give such directions in the matter as it thinks proper, including directions as to the costs of the appeal; and
 - (b) the order of the court shall be final.
- (2) The appropriate court for the purposes of this section is the High Court, the Court of Session or the High Court in Northern Ireland, according as the appellant's ordinary place of residence is in England and Wales, Scotland or Northern Ireland at the time when notice of the decision is given.

13 False claim of professional qualification

- (1) A person commits an offence if, with intent to deceive (whether by words or in writing or by the assumption of any name or description, or by the wearing of any uniform or badge or by any other kind of conduct)—
 - (a) he falsely represents himself to possess qualifications in nursing, midwifery or health visiting; or
 - (b) he falsely represents himself to be registered in the register, or in a particular part of it.
- (2) A person commits an offence if—
 - (a) with intent that any person shall be deceived, 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 by him under subsection (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 with that intent would be an offence by the other under that subsection.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Miscellaneous provisions about midwifery

14 Rules as to midwifery practice

- (1) The Council shall make rules regulating the practice of midwives and these rules may in particular—
 - (a) determine the circumstances in which, and the procedure by means of which, midwives may be suspended from practice;
 - (b) require midwives to give notice of their intention to practise to the local supervising authority for the area in which they intend to practise; and
 - (c) require registered midwives to attend courses of instruction in accordance with the rules.

- (2) If rules are made requiring midwives to give the notice referred to in subsection (1) (b), it is then the duty of the local supervising authority to inform the Council of any notices given to the authority in compliance with the rules.

15 Local supervision of midwifery practice

- (1) The following bodies shall be local supervising authorities for midwives—
- (a) in England and Wales, Health Authorities;
 - (b) in Scotland, Health Boards; and
 - (c) in Northern Ireland, Health and Social Services Boards.
- (2) Each local supervising authority shall—
- (a) exercise general supervision, in accordance with rules under section 14, over all midwives practising within its area;
 - (b) report any prima facie case of misconduct on the part of a midwife which arises in its area to the Council;
 - (c) have power in accordance with the Council's rules to suspend a midwife from practice.
- (3) The Council may by rules prescribe the qualifications of persons who may be appointed by a local supervising authority to exercise supervision over midwives within its area, and no person shall be so appointed who is not qualified in accordance with the rules.
- (4) The National Boards are responsible for providing the authorities with advice and guidance in respect of the exercise of their functions under this section.
- (5) The Council may by rules prescribe standards to be observed with respect to advice and guidance provided under subsection (4).

16 Attendance by unqualified persons at childbirth

- (1) A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.
- (2) Subsection (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 General Medical Council or one of the National Boards.
- (3) A person who contravenes subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Financial provisions

17 Finances of Council and Boards

- (1) The Central Council and the National Boards may each charge such fees, in respect of such matters, as are determined by them respectively with the approval of the Secretary

of State, including fees in connection with the training, qualification, examination and certification of nurses, midwives and health visitors.

- (2) Fees received by the Council and Boards shall be applied to defray the expenses of the Council and Boards respectively.
- (3) The Secretary of State may make grants to the Council and the Boards towards expenses incurred, or to be incurred, by them with the approval of the Secretary of State in connection with—
 - (a) the promotion by the Council and Boards of improvements in the education and training of nurses, midwives and health visitors;
 - (b) the performance by the National Boards of their duties under section 6(1)(a) and (b) above;
 - (c) the coming into force (whether in whole or part) of any provision of the Nurses, Midwives and Health Visitors Act 1992.
- (4) Any sums required by the Secretary of State for making grants under subsection (3) shall be paid out of money provided by Parliament.

18 Accounts of Council and Boards

- (1) The Central Council and each of the National Boards shall—
 - (a) keep proper accounts, and such records in relation to the accounts, as the Secretary of State may direct; and
 - (b) in respect of each financial year, prepare a statement of accounts in such form as the Secretary of State may with the approval of the Treasury direct.
- (2) The accounts of the Council and of each of the Boards shall be audited in such manner and by such persons as the Secretary of State may direct; and copies of the statements of account, together with the auditors' reports, shall be sent to the Secretary of State who shall send them to the Comptroller and Auditor General not later than 30th November in the year following that for which the accounts are made up.
- (3) A person shall not be appointed as auditor under subsection (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.
- (4) The Comptroller and Auditor General shall examine the statements of account and auditors' reports, certify the statements and prepare a report on the results of his examination.
- (5) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and Boards and any records relating to them.
- (6) The Council and each of the Boards shall annually, within such time as may be limited by the Secretary of State, submit a report to him on the performance of their respective functions during the period since their last such report, and a report under this subsection shall, in the case of a report by any of the Boards, be in such form as the Secretary of State may require.
- (7) The Secretary of State shall lay before each House of Parliament—
 - (a) copies of the statements of account certified by the Comptroller and Auditor General, and the auditors' reports in respect of the Council and each of the Boards, together with copies of the report made by the Comptroller and Auditor General under subsection (4); and

- (b) copies of the reports submitted by the Council and each of the Boards under subsection (6).

Miscellaneous and general

19 Central Council rules

- (1) The Council may make rules for the purpose of giving effect to this Act, and in particular with respect to anything which by this Act is required or authorised to be determined by rules.
- (2) Rules under this Act may make different provision in relation to England, Wales, Scotland and Northern Ireland respectively.
- (3) Before making any rules under this Act, the Council shall consult—
 - (a) representatives of any group of persons who appear likely to be affected by the proposed rules; and
 - (b) the National Boards for the parts of the United Kingdom to which the proposed rules are to extend.
- (4) Subsection (3)(b) shall not require the Council to consult a National Board if the proposed rules do not appear to the Council to be relevant to the Board's functions.
- (5) Rules under section 10 shall not come into force until approved by order by the Lord Chancellor and, in the case of rules which apply to proceedings in Scotland, the Lord Advocate; otherwise, rules come into force only when approved by the Secretary of State by order.

20 Community documents

A registered nurse or midwife who—

- (a) wishes to practise as a nurse or midwife in any EEA State, and
- (b) requires for that purpose any such documentary evidence relating to his qualification as is referred to in the Nursing Directive or, as the case may be, the Midwifery Directive,

may apply to the Council for, and the Council shall provide, the necessary documents.

21 Visiting EEA nurses and midwives

- (1) In this Act “visiting EEA nurse” and “visiting EEA midwife” means a person who—
 - (a) is a national of any EEA State;
 - (b) is lawfully practising in an EEA State other than the United Kingdom as a nurse responsible for general care or, as the case may be, as a midwife;
 - (c) holds the appropriate diploma;
 - (d) is temporarily in the United Kingdom as a visitor; and
 - (e) provides the Council with the relevant documents.
- (2) Any person who—
 - (a) is not a national of an EEA State, but
 - (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated,

for the purposes of access to the nursing profession, or the profession of midwifery, no less favourably than a national of such a State, shall be treated for the purposes of subsection (1) as if he were such a national.

- (3) A visiting EEA nurse and a visiting EEA midwife shall provide the Council with the relevant documents before he provides any services as a nurse or midwife in the United Kingdom except that, in a case of sudden or urgent necessity, a nurse may provide the documents as soon as possible after he has provided his services as a nurse.

This subsection is without prejudice to section 16(2)(a).

- (4) For the purposes of this Act “the appropriate diploma” means a diploma, certificate or other evidence of formal qualifications which EEA States are required to recognise in the case of a nurse, by the Nursing Directive or, in the case of a midwife, by the Midwifery Directive.

- (5) For the purposes of this Act “relevant documents”, in relation to any person means—

- (a) a written declaration stating—
- (i) that he is intending to practise in the United Kingdom as a nurse responsible for general care or, as the case may be, as a midwife; and
 - (ii) the address of the place where and the period during which he intends so to practise; and
- (b) a certificate or certificates issued, not more than twelve months before the date on which the Council is provided with the relevant documents, by the competent authority of the EEA State in which he is practising as mentioned in subsection (1)(b) certifying—
- (i) that he is lawfully practising as a nurse responsible for general care or, as the case may be, as a midwife in that State; and
 - (ii) that he holds an appropriate diploma.

- (6) For the purposes of this Act—

“competent authority”, in relation to an EEA State, means the authority or body designated by that State as competent for the purposes of the Nursing Directive or, as the case may be, the Midwifery Directive;

“Nursing Directive” means Council Directive No. [77/452/EEC](#), concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of nurses responsible for general care, as adapted, amended or extended by the Accession of Greece Act, Council Directive No. [81/1057/EEC](#), the Accession of Spain and Portugal Act, Council Directives Nos. [89/594/EEC](#), [89/595/EEC](#) and [90/658/EEC](#), the EEA Agreement and the Accession of Austria, Finland and Sweden Act; and

“Midwifery Directive” means Council Directive No. [80/154/EEC](#), concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications in midwifery, as adapted, amended or extended by Council Directive No. [80/1273/EEC](#), the Accession of Spain and Portugal Act, Council Directives Nos. [89/594/EEC](#) and [90/658/EEC](#), the EEA Agreement and the Accession of Austria, Finland and Sweden Act;

and “EEA Agreement”, “EEA State” and “national” shall be construed in accordance with section 8(8).

- (7) For the purposes of this section—

“the Accession of Greece Act” means the Act annexed to the Treaty relating to the accession of the Hellenic Republic to the European Community signed at Athens on 28th May 1979;

“the Accession of Spain and Portugal Act” means the Act annexed to the Treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Community signed at Madrid and Lisbon on 12th June 1985;

“the Accession of Austria, Finland and Sweden Act” means the Act annexed to the Treaty relating to the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, signed at Corfu on 24th June 1994, as adjusted by the Decision of the Council of the European Union of 1st January 1995 adjusting the instruments concerning the accession of new member States to the European Union.

22 Interpretation and supplementary

(1) In this Act—

“by order” means by order in a statutory instrument;

“the Central Council” and “the Council” mean the body mentioned in section 1(1);

“elected members” and “electoral scheme” have the meaning given by section 1(3);

“the National Boards” and “the Boards” mean the bodies mentioned in section 5(1);

“prescribed” means prescribed by the Secretary of State by order;

“the professional register” means the register maintained by the Council under section 7(1), and “registration” and “register” shall be construed accordingly;

“rules” means rules made by the Council;

“training” includes education;

and for a person to be treated as “practising” he must be working in some capacity by virtue of a qualification in nursing, midwifery or health visiting as the case may be.

(2) Orders under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament; but this does not apply to orders under section 19(5) or 24(3) or (4) or under Schedule 2.

(3) Schedule 3 to this Act has effect for adapting the provisions of this Act there mentioned in their application to Northern Ireland and to the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland.

23 Consequential amendments, transitionals, repeals etc

(1) The enactments mentioned in Schedule 4 to this Act shall be amended in accordance with that Schedule.

(2) Schedule 5 to this Act which contains transitional provisions and savings has effect.

(3) The enactments and instruments mentioned in Schedule 6 to this Act are repealed or revoked to the extent specified in the third column of that Schedule.

24 Short title, commencement, extent etc

- (1) This Act may be cited as the Nurses, Midwives and Health Visitors Act 1997.
- (2) Subject to subsection (3) below, this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.
- (3) Until such day as the Secretary of State may by order appoint, section 6(1)(a) shall apply to Northern Ireland with the substitution for the words preceding subparagraph (i) of the words “provide, or arrange for others to provide, at institutions approved by the Board”.
- (4) Section 5(6) shall cease to have effect from such day as the Secretary of State may appoint by order.
- (5) Different days may be appointed under subsection (3) or (4) in relation to different purposes.
- (6) This Act extends to Northern Ireland.

Status: This is the original version (as it was originally enacted).

SCHEDULES

SCHEDULE 1

Section 1.

CONSTITUTION ETC. OF CENTRAL COUNCIL

Variation of membership

- 1 (1) If the Secretary of State approves a proposal submitted to him by the Council with respect to the number of its members, he shall by order amend section 1 as he thinks fit for the purpose of giving effect to the proposal.
- (2) The Secretary of State may not approve a proposal under this paragraph if the number proposed—
- (a) is greater than sixty, or
 - (b) is not a multiple of three.

Variation of electoral scheme

- 2 (1) The Council may vary the electoral scheme with the approval of the Secretary of State.
- (2) The Secretary of State may not approve a variation under this paragraph if it would have the effect of making anyone other than a registered nurse, midwife or health visitor living or working in the United Kingdom eligible to be elected in an election held under the scheme.
- (3) The Secretary of State shall signify his approval of a variation under this paragraph by order.

Tenure of office of members and president etc.

- 3 (1) Appointment as a member of the Council shall be for a period prescribed by the Secretary of State by order.
- (2) The period prescribed by the Secretary of State for the purposes of sub-paragraph (1) above shall not be less than three nor more than five years.
- 4 (1) This paragraph applies where a person (“the former member”) ceases to be a member of the Council before the end of the period for which he was appointed.
- (2) The vacancy left by the former member shall be filled by a person appointed by the Secretary of State for the remainder of the period for which the former member was appointed.
- (3) If the former member was an elected member, the Secretary of State shall appoint under sub-paragraph (2) above a person nominated by the Council who shall have the same qualification for election under the electoral scheme as the former member had at the time of his appointment.

Status: This is the original version (as it was originally enacted).

- (4) If the former member was not an elected member, the Secretary of State shall, in making an appointment under sub-paragraph (2) above, have regard to the qualification by virtue of which the former member was appointed.
- (5) In sub-paragraphs (3) and (4) above, references to an elected member include a replacement for such a member.
- 5 (1) Where a member of the Council or any of its committees is absent from meetings for more than six months consecutively or is disqualified from practising as a nurse, midwife or health visitor, the Council may by resolution declare that he has ceased to be a member.
- (2) An elected member shall cease to be a member if he ceases to hold any qualification by virtue of which he was elected.
- (3) A person appointed as a replacement for an elected member shall cease to be a member if he ceases to hold any qualification by virtue of which he was appointed.
- 6 If the president or vice-president ceases to be a member of the Council he shall also cease to be president or vice-president.

Procedure

- 7 (1) The Council may act notwithstanding—
- (a) any vacancy among its members; or
 - (b) that by reason of one or more vacancies, less than two-thirds of the members of the Council are elected members (or their replacements).
- (2) At any meeting of the Council the quorum shall be twenty members including, in the case of each part of the United Kingdom, at least one member living or working in that part.
- (3) The Council may constitute committees of itself for the purpose of transacting particular business of the Council.
- (4) Persons who are not members of the Council may be appointed by it as members of such committees; but not more than one-third of the members of such a committee shall be persons appointed by virtue of this sub-paragraph.
- (5) The Council may, by means of standing orders, regulate its own procedure, that of its standing committees and that of any committees constituted under sub-paragraph (3) above, and may, to such extent and in such cases as may be permitted or required by orders of the Secretary of State or by its rules and standing orders, act through those standing and other committees.
- (6) No defect in the appointment of any member shall invalidate any proceedings of the Council or of its committees.

Remuneration, allowances and pensions

- 8 (1) The Council may pay to its president such remuneration, and make such provision for the payment of pensions, allowances or gratuities to or in respect of him, as it thinks fit.
- (2) The Council may pay to its members and to other persons appointed to serve on its committees such travelling and other allowances as it thinks fit.

Status: This is the original version (as it was originally enacted).

Documents

- 9 A document purporting to be duly executed under the seal of the Council or to be signed on its behalf shall be received in evidence and shall be deemed to be so executed or signed unless the contrary is proved.

SCHEDULE 2

Section 10(8).

PROCEEDINGS BEFORE COUNCIL AND COMMITTEES

- 1 For purposes of proceedings under section 10 before the Council or a committee in England and Wales—
- (a) the Council or committee may administer oaths;
 - (b) a solicitor to the Council, and any person entitled to appear at the proceedings, may sue out writs of subpoena ad testificandum and duces tecum (but not so as to compel a person to produce a document which he could not be compelled to produce on the trial of an action); and
 - (c) section 36 of the Supreme Court Act 1981 (subpoena valid throughout United Kingdom) applies as in relation to causes or matters in the High Court.
- 2 (1) For purposes of proceedings under section 10 before the Council or a committee in Scotland—
- (a) the Council or committee may administer oaths; and
 - (b) the Court of Session shall, on the application of any party to the proceedings, have the same such powers as are mentioned in sub-paragraph (2) below as it has in an action in that court.
- (2) The powers mentioned above are—
- (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Council or committee, and for the issue of second diligence against any witness or haver failing to appear after due citation;
 - (b) to grant warrant for the recovery of documents; and
 - (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.
- 3 (1) The Central Council shall appoint assessors (either generally or for any particular proceedings or class of proceedings) to advise the Council or committees on questions of law arising in the proceedings.
- (2) Assessors shall be—
- (a) persons who have a ten year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) advocates or solicitors in Scotland of at least ten years' standing; or
 - (c) members of the Bar of Northern Ireland or solicitors of the Supreme Court of Northern Ireland of at least ten years' standing.
- (3) The Council shall pay to assessors such remuneration as it may determine.
- 4 (1) The Lord Chancellor and, for proceedings in Scotland, the Lord Advocate may by order make provision with regard to the functions of assessors.

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- (2) In particular, provision may be made—
- (a) requiring assessors, when advising the Council or any of its committees, to do so in the presence of the parties or, where advice is given in private, requiring the parties to be notified of the advice tendered by the assessors; and
 - (b) requiring the parties to be informed in cases where the assessors' advice is not accepted.

SCHEDULE 3

Section 22(3).

ADAPTATIONS FOR NORTHERN IRELAND AND ITS NATIONAL BOARD

- 1 In sections 5, 6, 17, 18, 19 and 22 and Schedule 2, as they apply to Northern Ireland and to the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland, there are made the adaptations provided for by this Schedule.
- 2 Subject to the following provisions of this Schedule, in the provisions of this Act specified in column 1 of the Table set out below, for any reference specified in column 2 substitute the reference specified in column 3.

TABLE

<i>Provision</i>	<i>Reference</i>	<i>Substituted reference</i>
Sections 5(9)(e) and (f) and 18(6) and (7)	The Secretary of State	The Head of the Department of Health and Social Services for Northern Ireland.
Sections 6(1)(e), 17(1) and (3) and 18(1) and (2)	The Secretary of State	The Department of Health and Social Services for Northern Ireland.
Sections 5(9)(e) and 18(1) (b)	The Treasury	The Department of Finance and Personnel in Northern Ireland.
Section 18	The Comptroller and Auditor General	The Comptroller and Auditor General for Northern Ireland.
Section 18(3)	Section 25 of the Companies Act 1989	Article 28 of the Companies (Northern Ireland) Order 1990.
Section 18(7)	Each House of Parliament	The Northern Ireland Assembly.
Section 19(5) and Schedule 2, paragraph 4	The Lord Chancellor	The Lord Chief Justice of Northern Ireland.

- 3 In section 5, for subsections (2) to (8) substitute—
- “(2) The National Board for Nursing, Midwifery and Health Visiting for Northern Ireland shall consist of—

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- (a) a chairman appointed by the Head of the Department of Health and Social Services for Northern Ireland from among persons who are registered nurses, midwives or health visitors;
 - (b) such number of other members appointed by the Head of the Department of Health and Social Services for Northern Ireland as that Department may specify by order;
 - (c) the person for the time being appointed in pursuance of subsection (7)(a) to be the chief executive officer of the Board; and
 - (d) any person for the time being appointed in pursuance of subsection (7)(b) to an office under the Board which is specified for the purposes of this paragraph by the Department of Health and Social Services for Northern Ireland by order.
- (3) Appointments to the Board for the purposes of subsection (2)(b) shall be made from among persons who—
- (a) are registered nurses, midwives or health visitors; or
 - (b) have such qualifications and experience in education or other fields as, in the opinion of the Head of the Department of Health and Social Services for Northern Ireland, will be of value to the Board in the performance of its functions.
- (4) The powers conferred by this section shall be so exercised as to secure that a majority of the members of the Board are registered nurses, midwives or health visitors.
- (5) The Department of Health and Social Services for Northern Ireland may, with the consent of the Department of Finance and Personnel in Northern Ireland—
- (a) pay such remuneration as the Department of Health and Social Services for Northern Ireland thinks fit to any person who is a member of the Board by virtue of appointment by the Head of that Department; and
 - (b) make such provision as the Department of Health and Social Services for Northern Ireland thinks fit for the payment to or in respect of any person who is a member of the Board by virtue of such appointment of pensions, allowances or gratuities.
- (6) A National Board may pay to its chairman and members and to other persons appointed to serve on its standing and other committees, such travelling and other allowances as the Department of Health and Social Services for Northern Ireland may determine with the consent of the Department of Finance and Personnel in Northern Ireland.
- (7) The Board shall have—
- (a) a chief executive officer; and
 - (b) such other officers as the Department of Health and Social Services for Northern Ireland may by order specify for the purposes of this paragraph,
- appointed by the Board.
- (8) The Department of Health and Social Services for Northern Ireland may by order make such further provision with respect to the constitution and administration of the Board as it thinks fit.”

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- 4 In section 22(1)—
- (a) in the definition of “by order”, at the end add the words “or, in the case of an order under section 5 or 6 made by the Department of Health and Social Services for Northern Ireland or an order under section 19(5) or paragraph 4 of Schedule 2 made by the Lord Chief Justice of Northern Ireland, means by order made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979”;
 - (b) in the definition of “prescribed” after the words “Secretary of State” insert the words “or, as the case may be, the Department of Health and Social Services for Northern Ireland”.
- 5 In section 22(2) at the end add the words “or orders made by the Department of Health and Social Services for Northern Ireland under section 5 or 6; and the orders made by that Department under those sections shall be subject to negative resolution as defined by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.”
- 6 In paragraph 1 of Schedule 2 for “in England and Wales” substitute “in Northern Ireland” and for sub-paragraph (c) substitute—
- “(c) section 67 of the Judicature (Northern Ireland) Act 1978 (subpoena valid throughout United Kingdom) applies as in relation to causes or matters in the High Court in Northern Ireland”.

SCHEDULE 4

Section 23(1).

CONSEQUENTIAL AMENDMENTS

The House of Commons Disqualification Act 1975 (c. 24)

- 1 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 in the entry relating to the National Boards constituted under section 5 of the Nurses, Midwives and Health Visitors Act 1979 for “constituted under section 5 of the Nurses, Midwives and Health Visitors Act 1979” substitute “mentioned in section 5 of the Nurses, Midwives and Health Visitors Act 1997”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 2 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 there shall continue to be an entry as follows—
- “Chairman of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland or member of that Board appointed at a salary”.

The Registered Homes Act 1984 (c. 23)

- 3 In section 42(4)(a) of the Registered Homes Act 1984, for “the Nurses, Midwives and Health Visitors Act 1979” substitute “the Nurses, Midwives and Health Visitors Act 1997”.

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The Video Recordings Act 1984 (c. 39)

- 4 In section 3(11) of the Video Recordings Act 1984, for “the Nurses, Midwives and Health Visitors Act 1979” substitute “the Nurses, Midwives and Health Visitors Act 1997”.

The Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20))

- 5 In Article 32(2)(b) of the Registered Homes (Northern Ireland) Order 1992 for “section 10 of the Nurses, Midwives and Health Visitors Act 1979” substitute “section 7 of the Nurses, Midwives and Health Visitors Act 1997”.

The Value Added Tax Act 1994 (c. 23)

- 6 In Part II of Schedule 9 to the Value Added Tax Act 1994, in item 1(d) in Group 7, for “section 10 of the Nurses, Midwives and Health Visitors Act 1979” substitute “section 7 of the Nurses, Midwives and Health Visitors Act 1997”.

SCHEDULE 5

Section 23(2).

TRANSITIONAL PROVISIONS AND SAVINGS

General

- 1 The substitution of this Act for the provisions repealed by it does not affect the continuity of the law.
- 2 Anything done (including subordinate legislation made) under or otherwise by reference to a provision repealed by this Act has effect as if done under or by reference to any corresponding provision of this Act.
- 3 Any reference, express or implied, in this Act, another enactment or an instrument or document, to a provision of this Act is, subject to its context, to be read as being or including a reference to the corresponding provision repealed by this Act, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.
- 4 (1) Any reference, express or implied, in any enactment, instrument or document, to a provision repealed by this Act is, subject to its context, to be read as being or including a reference to the corresponding provision of this Act, in relation to times, circumstances or purposes in relation to which that provision has effect.
- (2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as that Act, the power is also exercisable in relation to any corresponding provision of this Act.
- 5 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the repeal has come into force is, subject to its context, to be read as being or including a reference to the corresponding provision of this Act.
- 6 Paragraphs 1 to 5 are in place of section 17(2) of the Interpretation Act 1978 but do not otherwise affect the application of that Act.

Status: This is the original version (as it was originally enacted).

Claims against pre-1979 bodies

- 7 (1) Where a person formerly employed by any of the bodies dissolved by virtue of section 21(1) of the Nurses, Midwives and Health Visitors Act 1979 claims to have a right of action against that body arising from his employment by it but is unable to pursue his claim because of the dissolution of the body, he may bring his claim—
- (a) if he was transferred to the employment of the Central Council or one of the National Boards, against the body to whose employment he was transferred; or
 - (b) in any other case, against the Central Council.
- (2) The body against whom a claim is brought by virtue of sub-paragraph (1) shall be liable in the same manner and to the same extent as the body dissolved would have been liable if it had not been dissolved.

SCHEDULE 6

Section 23(3).

REPEALS AND REVOCATIONS

<i>Chapter or number</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1979 c. 36.	The Nurses, Midwives and Health Visitors Act 1979.	The whole Act so far as unrepealed except sections 23(4) and 24 and Schedule 7.
S.I. 1983/884.	The Nursing and Midwifery Qualifications (EEC Recognition) Order 1983.	The whole instrument.
S.I. 1984/1975.	The Nursing and Midwifery Qualifications (EEC Recognition) Amendment Order 1984.	The whole instrument.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Nurses, Midwives and Health Visitors Act 1979.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 10, paragraph 43.
1992 c. 16.	The Nurses, Midwives and Health Visitors Act 1992.	The whole Act.
1995 c. 17.	The Health Authorities Act 1995.	In Schedule 1, paragraph 104.
S.I. 1996/3101.	The Nurses, Midwives and Health Visitors Act 1979 (Amendment) Regulations 1996.	The whole instrument.