
STATUTORY INSTRUMENTS

1992 No. 2159

NURSES, MIDWIVES AND HEALTH VISITORS

The United Kingdom Central Council for Nursing,
Midwifery and Health Visiting (Electoral Scheme) Order 1992

<i>Made</i>	- - - -	<i>8th September 1992</i>
<i>Laid before Parliament</i>		<i>9th September 1992</i>
<i>Coming into force</i>	- -	<i>30th September 1992</i>

In exercise of the powers conferred upon me by section 2(5) of the Nurses, Midwives and Health Visitors Act 1992⁽¹⁾ and having approved the electoral scheme prepared and submitted to me by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting under section 2(1)(b), I hereby give effect to that scheme which is set out in the Schedule to this Order.

This Order may be cited as the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (Electoral Scheme) Order 1992 and shall come into force on 30 September 1992.

8th September 1992

Virginia Bottomley
One of Her Majesty's Principal Secretaries of
State

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SCHEDULE

The United Kingdom Central Council for Nursing, Midwifery and Health Visiting in Exercise of the Powers in Section 2(1)(B), (2) and (3) of the Nurses, Midwives and Health Visitors Act 1992 hereby makes the following Scheme:—

ELECTORAL SCHEME

Citation and Interpretation

1.—(1) These rules may be cited as the Nurses, Midwives and Health Visitors (Electoral Scheme) Rules 1992.

(2) In these Rule—

“the Act” means the Nurses, Midwives and Health Visitors Act 1992⁽²⁾;

“the 1979 Act” means the Nurses, Midwives and Health Visitors Act 1979⁽³⁾;

“Appeals Committee” means the Committee whose constitution is set out in rule 14;

“category” means one of those categories specified in rule 6;

“the Council” means the United Kingdom Central Council for Nursing, Midwifery and Health Visiting;

“effective registration” means registration effected in compliance with rule 6(1) of the Nurses, Midwives and Health Visitors Rules 1983⁽⁴⁾ or renewed in compliance with rule 9 of the same Rules and which registration is not subject of a determination to remove such person’s name from the register;

“election” means the procedure by which members of the Council are elected;

“professional identification number” means the number allocated by the Council to each nurse, midwife and health visitor and by which she is identified in the register;

“quota” means a number calculated in accordance with paragraph 1(3) of Appendix II to this Scheme;

“register” means the register prepared by the Council pursuant to section 10(1) of the 1979 Act;

“Registrar” means the Registrar and Chief Executive of the Council.

(3) Unless the context otherwise requires—

(a) any reference in this Scheme—

(i) to a numbered rule is a reference to the rule bearing that number in this Scheme;

(ii) to a form thereby prescribed includes a form substantially the same;

(b) any reference in a rule in this Scheme to a numbered paragraph is a reference to the paragraph bearing that number in that rule.

(4) The Interpretation Act 1978⁽⁵⁾ shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

(2) 1992 c. 16.

(3) 1979 c. 36.

(4) Approved by S.I.1983/873; relevant amending instruments are S.I. 1986/1345, 1986/1897, 1986/2294, 1989/1456 and 1991/135.

(5) 1978 c. 30.

Elections

2. An election shall be held prior to the expiry of the period of office of members of the Council, and such number of members as is proposed and approved in accordance with section 2 of the Act shall be elected.

Returning Officer

3.—(1) The Registrar shall be the Returning Officer.

(2) The Returning Officer shall appoint a Deputy Returning Officer, who shall not be a member of the Council, or of any of its Committees, to act for him at his request, and in his absence, and the expression “Returning Officer” in this Scheme includes the Deputy Returning Officer.

(3) The Returning Officer may, subject to the approval of the Council, use monies received from the Council to employ staff, and pay for equipment and all services necessary, for the conduct of the election.

(4) Subject to the provisions of this Scheme, the Returning Officer shall be responsible for the conduct of the election.

(5) Subject to a decision by the Appeals Committee under rules 8(9) or 12(4), any question arising with regard to the validity of a nomination or ballot paper, or otherwise in connection with an election held under this Scheme, shall be determined by the Returning Officer.

Numbers to be Elected to the Council and the Categories in which they are to be Elected

4.—(1) The number of persons to be elected to the Council shall, subject to paragraph (2), include 7 nurses, 2 midwives and 1 health visitor in respect of each country of the United Kingdom respectively, as determined in accordance with rule 6.

(2) Where the number of validly nominated candidates in any of the three categories in each country is smaller than the number required to be elected, the Returning Officer may accept as eligible to be elected in respect of that category and country, any person validly nominated in the same category, in a different country, who fails to secure election in her own country.

(3) The candidate who may be elected to fill any vacancy under paragraph (2) shall be a candidate who secures, in descending order, the highest percentage of first preference votes in relation to the quota for election in the country and category in which she is a candidate, and the quota shall be calculated in accordance with the provisions of Appendix II.

(4) Where the number of validly nominated candidates in any of the three categories is smaller than the number required to be elected for that category throughout the United Kingdom, the Returning Officer shall —

- (a) postpone the election until such time as the required number of valid nominations is received; and
- (b) extend the period of receipt of valid nominations in that category for the four countries of the United Kingdom.

Electoral Roll

5.—(1) The Returning Officer shall compile a roll of electors (“the Electoral Roll”) comprising, in respect of each election, the names of those nurses, midwives and health visitors who have effective registration on a date determined by the Council.

(2) Subject to paragraph (3), a person named on the Electoral Roll shall only be eligible to vote for candidates seeking election in one category, in the same country as that in which the voter resides or works or has her registered address, on a further date determined by the Council.

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(3) A person named on the Electoral Roll whose registered address is outside the United Kingdom, shall be sent ballot papers for each of the four countries of the United Kingdom and shall be entitled to vote for candidates listed in one category on any one of the ballot papers.

(4) The Returning Officer shall determine the date, which shall be later than that determined by the Council under paragraph (1), by which nominations for election must be received by him.

(5) At least 28 days' notice of the date determined by the Council under paragraph (1) shall be given, by being placed in two or more newspapers circulating in England, Wales, Northern Ireland and Scotland and in such professional journals circulating in England, Wales, Northern Ireland and Scotland and outside the United Kingdom as the Returning Officer shall determine.

Categories of Candidates

6.—(1) There shall be three categories of candidates, for each country of the United Kingdom, comprising nurses, midwives and health visitors respectively.

(2) A candidate shall —

- (a) be included in the Electoral Roll;
- (b) be nominated and seconded in accordance with rule 8(2) and (3);
- (c) reside or work, on the date specified by the Council under rule 5(1), in the country in which she seeks election;
- (d) have effective registration, on the date on which the Electoral Roll is compiled:
 - (i) in one or more of Parts 1 to 9 or 12 to 15 of the Register if seeking election in the nurse category;
 - (ii) in Part 10 of the Register if seeking election in the midwife category; or
 - (iii) in Part 11 of the Register if seeking election in the health visitor category.

Publication of Notice of Election

7.—(1) The Returning Officer shall, at least 28 days before the date fixed for receipt of nomination papers under rule 8(5), publish a Notice of the election, specifying—

- (a) the number of persons to be elected in each category for each country;
- (b) the place to which the nomination papers are to be sent; and
- (c) the last day on, and the time by, which nomination papers are to be received by him.

(2) The Notice of the election shall be published in two or more newspapers circulating in England, Wales, Northern Ireland and Scotland and in such professional journals both in the United Kingdom and outside the United Kingdom as the Returning Officer shall determine.

Nomination

8.—(1) There shall be a separate nomination paper for each candidate.

(2) A candidate shall be nominated by one person and seconded by another person, both of whom shall satisfy the same criteria specified in rule 6 as are satisfied by the candidate nominated or seconded.

(3) A nomination paper shall state—

- (a) the name and address of the candidate;
- (b) the country and category in which she wishes to seek election;
- (c) the candidate's professional identification number;
- (d) details of her current appointment or current professional field of practice, if any; and

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- (e) the names, addresses and country of residence or work of her nominator and seconder.
- (4) A candidate shall sign the nomination paper and signify, in writing, her willingness to be a candidate.
- (5) The Returning Officer shall determine the last day by which nomination papers are to be received by him and every nomination paper shall, before 12.00 noon on that day, reach the Returning Officer at the address specified in the Notice referred to in rule 7.
- (6) A candidate may, on written notice to the Returning Officer, received by him within 10 days after the date determined under paragraph (5), withdraw her nomination as a candidate.
- (7) A nomination paper shall be invalid if—
 - (a) it is not received by the Returning Officer before 12.00 noon on the last day fixed for the receipt of nomination papers; or
 - (b) any requirement of this Scheme has not been complied with; provided that no misnomer or inaccurate or incomplete description of any person or place named in any nomination paper shall invalidate that paper, if in the opinion of the Returning Officer, the description of the person or place is such as to be commonly understood.
- (8) Where, in the opinion of the Returning Officer, the nomination of a candidate is invalid—
 - (a) the Returning Officer shall forthwith send notice to the candidate to that effect;
 - (b) the candidate may, not later than 7 clear days before the date on which the list of candidates validly nominated is required to be published under paragraph (10), personally or by her agent appointed in writing, appeal in writing to the Appeals Committee against the Returning Officer's decision, stating her reasons.
- (9) The Appeals Committee shall—
 - (a) consider an appeal made under paragraph (8);
 - (b) take into account any comments the Returning Officer wishes to make; and
 - (c) before the date on which lists of candidates validly nominated are published under paragraph (10), make its decision, which shall be final.
- (10) The Returning Officer shall, within 21 days of the date and time fixed for the receipt of nomination papers—
 - (a) publish at the offices of the Council the list of the duly nominated candidates; and
 - (b) send, by Recorded Delivery Post to all validly nominated persons, the names of other validly nominated candidates in their category and country.

Conduct of Election

- 9.—(1) Candidates shall be elected in accordance with the provisions of the following paragraphs.
- (2) Where the number of validly nominated candidates in all three categories in any country is equal to, or less than, the number required to be elected, the Returning Officer shall, subject to rule 4(4), forthwith declare those candidates elected and certify accordingly in writing.
- (3) Subject to paragraph (2), the Returning Officer shall —
 - (a) prepare a ballot paper for each country to include the names of all candidates validly nominated in each category; and
 - (b) determine, and specify on the ballot papers the last day on, the time by, and the place to, which they shall be returned.
- (4) The Returning Officer shall, not fewer than twenty-one days before the last date fixed for the receipt of ballot papers, send to each person on the Electoral Roll—

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- (a) the ballot paper prepared in respect of candidates in the country of such person's registered address;
 - (b) in the case of a person whose registered address is outside the United Kingdom, all ballot papers;
 - (c) a declaration of identity in the form of Appendix I;
 - (d) details of candidates listed on the ballot paper or papers sent, giving in respect of each one:
 - (i) her name;
 - (ii) her address;
 - (iii) the category in which she stands for election; and
 - (iv) such summary of her current appointment or current professional field of practice, if any, as the Returning Officer may decide; and
 - (e) a pre-paid addressed envelope for the return of the documents specified in paragraph (10).
- (5) If the country of a voter's registered address is different from that in which she resides or works, on the date determined under rule 5(2), she may request and receive from the Returning Officer, the ballot paper prepared for the country in which she resides or works on that date.
- (6) Votes shall not be cast by a voter except upon a ballot paper provided by the Returning Officer and only one ballot paper may be completed and returned by each voter.
- (7) The election shall take place by the single transferable vote system as defined in the rules specified in Appendix II which are based on rules prepared by the Electoral Reform Society.
- (8) A voter shall have one single transferable vote and shall mark on the ballot paper delivered to her to show the names of the candidates in one category for whom she wishes to vote, indicating the order of her preference.
- (9) Any ballot paper on which the voter has failed to mark her first preference shall be invalid.
- (10) A voter shall sign the declaration of identity and send the declaration, together with the completed ballot paper, by post or otherwise, to the Returning Officer.
- (11) A ballot paper—
- (a) which is not accompanied by a declaration of identity;
 - (b) in respect of which any requirement of this Scheme has not been complied with; or
 - (c) which is not received by the Returning Officer before 12.00 noon on the last day fixed for the receipt of ballot papers, or such later date and time as he may determine,
- shall be invalid.

The Count

10.—(1) The Returning Officer shall, immediately after the time and date determined under rule 9(3)(b) or 9(11), determine the validity of the votes cast.

(2) The Returning Officer shall, after the last day for the return of ballot papers, forthwith obtain from the Electoral Reform Ballot Services a certificate specifying the particulars mentioned in paragraph (3).

(3) The particulars of the certificate mentioned in paragraph (2) are, for each category in each country of the United Kingdom—

- (a) the total number of valid ballot papers received;
- (b) the names of the candidates who have been elected; and
- (c) the number of ballot papers determined to be invalid and the reasons for treating them as invalid.

- (4) The certificate shall be accompanied by a result sheet which shall—
 - (a) detail the quota and the number of votes allocated at each stage of the count to each of the candidates; and
 - (b) be signed by a duly authorised officer of the Electoral Reform Ballot Services.
- (5) The ballot shall be secret.
- (6) The Returning Officer, Officers of the Electoral Reform Ballot Services and every Officer employed in connection with the election shall maintain, and assist in maintaining, the secrecy of the ballot and shall not disclose any information as to how an individual cast her vote.

Notice to Candidates of Results of Election

11. The Returning Officer shall forthwith give to every candidate listed on the ballot papers written notice of the result of the election.

Validity of Election

12.—(1) A candidate who is not elected may, personally or by her agent appointed in writing, notify the Returning Officer in writing, within fourteen days after the declaration of the result of the election, that she contests the validity of that part of the election in respect of which she was unsuccessful, on the ground of non-compliance with a provision of this Scheme.

(2) If, after the consideration of the contention disclosed in the notice referred to in paragraph (1), the Returning Officer is satisfied, in respect of that part, that the election was conducted substantially in accordance with the provisions of this Scheme and that any non-compliance did not affect the result of that part of the election, he shall, within fourteen days of receiving the notice—

- (a) issue a certificate to that effect; and
- (b) send a copy of the certificate to the unsuccessful candidate who may, within seven days, appeal, in writing, to the Appeals Committee.

(3) Where the Returning Officer does not issue a certificate in accordance with paragraph (2)(a), he shall, not later than fifteen days after receiving the notice, send a copy to the Appeal Committee together with such comments as he shall think fit.

(4) The Appeals Committee, whose decision shall be final, shall consider any appeal made under paragraph (2) and any information supplied under paragraph (3) and shall determine whether the result of the relevant part of the election was affected by any non-compliance with a provision of this Scheme.

(5) Where the Appeals Committee decides that the result of the relevant part of the election was affected by a non-compliance, the Committee may direct a fresh election, as appropriate, or a recount of the affected votes.

Results of Election

13.—(1) The Returning Officer shall furnish to the Council a list of persons certified by him to have been duly elected.

(2) The Council shall, subject to the outcome of an appeal pursued under rule 12, publish, by such means as the Returning Officer may determine, the names of those duly elected.

The Appeals Committee

14. The Appeals Committee shall consist of five members who shall be appointed by the Council from amongst those members of the Council who are not candidates or nominators or seconders of a candidate in the election.

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Postal Disruption

- 15.** In the event of any serious disruption to postal services, the Returning Officer may—
- (1) where ballot papers have not been despatched, change the date for their return and include a statement to this effect when the ballot papers are sent out; or
 - (2) in the case where ballot papers have been despatched, allow additional time for their return.

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APPENDIX I

Rule 9(4)(c)

FORM B

DECLARATION OF IDENTITY

Form of Declaration

Notice to Voter

This declaration is simply to validate the ballot paper. It will be detached by the Electoral Reform Ballot Services before the voting paper is examined and will be retained on their premises thereby ensuring the confidentiality of the ballot.

I, the undersigned, hereby declare that I am the person to whom the enclosed ballot paper is addressed as on this slip, that I am entered on the Electoral Roll and that I have not marked any other ballot paper in this election.

Signed

IMPORTANT: Your vote will be invalid if you fail to return this slip or return it unsigned.

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APPENDIX II

RULES FOR COUNTING VOTES

Rules 9(7) and 10

The First Stage

1.—(1) The voting papers shall be sorted into parcels according to first preferences, any invalid papers being set aside.

(2) The number of first preference votes for each candidate and the total number of valid votes shall be determined.

(3) The quota for election shall be determined by dividing the total number of valid votes by one more than the number of places to be filled, the result being rounded up if not exact to the next whole number above.

(4) Any candidate who is credited with a number of votes equal to or exceeding the quota shall be deemed to be elected, provided that the number of candidates deemed elected does not exceed the number of places to be filled.

(5) This completes the first stage of the count.

Subsequent stages

2.—(1) If one or more candidates have surpluses above the quota, and the total value of such surpluses together with any votes in suspense does not exceed the difference between

- (a) the number of votes credited to the candidate with the smallest number of votes and the number of votes credited to the candidate with the next smallest number of votes; or
- (b) the total number of votes credited to the two or more candidates with the smallest numbers of votes and the number of votes credited to the candidate with the next smallest number of votes, the transfers of such surpluses shall be deferred.

(2) Otherwise, if one or more candidates have surpluses, the largest surplus shall be transferred.

(3) If the two or more candidates with the largest surpluses have equal surpluses, the surplus of the candidate who was credited with the largest number of votes at the earliest stage at which they had an unequal number of votes shall be transferred. If such two or more candidates have been credited with the same number of votes at all stages of the count, it shall be determined by lot which surplus to transfer.

(4) If, after all surpluses have been transferred or deferred, one or more places remain to be filled, the candidate or candidates credited with the smallest number or numbers of votes shall be excluded.

(5) The two or more candidates credited with the smallest numbers of votes shall be excluded together if the total number of votes of such two or more candidates together with the total of any deferred surpluses and any votes in suspense does not exceed the number of votes credited to the candidate with the smallest number of votes.

(6) Otherwise, the candidate credited with the smallest number of votes shall be excluded if the number of votes of such candidate together with the total of any deferred surpluses and any votes in suspense does not exceed the number of votes credited to the candidate with the next smallest number of votes.

(7) If the two or more candidates credited with the smallest numbers of votes are each credited with the same number of votes, then the candidate who had the smallest number of votes at the earliest stage at which they had an unequal number of votes shall be excluded. If such two or more

candidates have been credited with the same number of votes at all stages of the count, then it shall be determined by lot which candidate to exclude.

The transfer of a surplus

3.—(1) In the case of a surplus arising at the first stage, all the voting papers received by a candidate shall be examined.

(2) In the case of a surplus arising at a later stage consequential on the transfer of another surplus or from the exclusion of a candidate or candidates, only the last parcel of voting papers, all of one value, which gave rise to the surplus, shall be examined.

(3) The voting papers to be examined shall be sorted in sub-parcels according to next available preferences for continuing candidates, any papers on which no next available preference is expressed being set aside.

(4) The number of papers in each sub-parcel, the total number of transferable papers, and the number of non-transferable papers shall be determined.

(5) If the present total value of the transferable papers exceeds the surplus, the transfer value of each paper shall be determined by dividing the surplus by the number of transferable papers to two decimal places, ignoring any remainder and the papers shall be marked with the new transfer value. Otherwise, the transfer value of each paper is its present value.

(6) Each continuing candidate shall be credited with the value of any papers received, and any non-transferable difference between the total value of such papers and the surplus shall be added to the previous non-transferable total.

(7) Any candidate who is now credited with a number of votes equal to or exceeding

(a) the quota; or

(b) the sum, divided by one more than the number of places remaining to be filled, of the votes credited to continuing candidates, any votes in suspense, and any untransferred surpluses,

shall be deemed to be elected, provided that the number of candidates deemed elected does not exceed the number of places to be filled.

(8) The transfer of a surplus constitutes a further stage in the count.

Exclusion of a candidate or candidates

4.—(1) The voting papers of the excluded candidate or candidates, together with any papers held in suspense, shall be arranged in parcels, in descending order of transfer value.

(2) The parcel of papers of highest transfer value shall be sorted into sub-parcels according to next available preferences for continuing candidates, any papers on which no next available preference is expressed being set aside.

(3) The number and value of papers in each sub-parcel, and the number and value of non-transferable papers shall be determined.

(4) Each continuing candidate shall be credited with the value of any papers received, and the value of any non-transferable papers shall be added to the previous non-transferable total.

(5) Any candidate who is now credited with a number of votes equal to or exceeding

(a) the quota; or

(b) the sum, divided by one more than the number of places remaining to be filled, of the votes credited to continuing candidates, the value of any parcels of papers not yet transferred, and any untransferred surpluses

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shall be deemed to be elected, provided that the number of candidates deemed elected does not exceed the number of places to be filled.

(6) Any remaining parcels of papers shall be sorted and transferred in turn in descending order of transfer value in the same way, and candidates deemed elected where appropriate.

(7) After the transfer of a parcel of papers of any one value, if the total value of the remaining papers of lower value does not exceed the difference between

- (a) the number of votes credited to the candidate with the smallest number of votes and the number of votes credited to the candidate with the next smallest number of votes; or
- (b) the total number of votes credited to the two or more candidates with the smallest number of votes and the number of votes credited to the candidate with the next smallest number of votes,

the transfer of the remaining parcels of papers may be deferred and their value held in suspense.

(8) The exclusion of a candidate or candidates constitutes a further stage in the count.

Filling the last vacancies

5.—(1) If at any stage, as the result of the proposed exclusion of one or more candidates, the number of continuing candidates would be equal to the number of places remaining to be filled, such continuing candidates shall be deemed to be elected.

(2) If at any stage the number of candidates deemed to be elected is equal to the number of places to be filled, no further transfers of papers shall be made, and the remaining continuing candidate(s) shall be formally excluded.

(3) If the Returning Officer has exercised his powers under Rule 4(2) the further transfer of papers shall proceed in accordance with the direction of the Returning Officer until the total number of candidates elected in each category is equal to the number provided for in Rule 4(1).

(4) The count is now complete.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the electoral scheme prepared by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting. Persons elected under this scheme will form two-thirds of the members of the Council upon their appointment by the Secretary of State under section 1(3) of the Nurses, Midwives and Health Visitors Act 1979 as amended by the Nurses, Midwives and Health Visitors Act 1992.