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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which is made under the Nursing and Midwifery Order 2001, approves Rules made by the Nursing and Midwifery Council (“NMC”) which deal in Part 1 with general provisions relating to commencement and interpretation; in Part 2 with Education; in Part 3 with Registration; and in Part 4 with Registration Appeals.

### **Part 1**

Rule 1 provides for the Rules to come into force on 1st August 2004.

Rule 2 provides definitions of terms used in the Rules.

### **Part 2**

Rule 3 contains requirements to be observed by a nurse or midwife in respect of education to be undertaken where she first applies for registration more than five years after being awarded the qualification on which her application is based; whose registration has lapsed and who, in the five years before she applies for readmission to the register, has practised for less than 750 hours; or who has practised for less than 450 hours since she last renewed her registration. There is a transitional provision to ensure that, until two years after the coming into force of these rules, training undertaken under the previous arrangements will be taken into account in determining whether she satisfies the last of these.

The rule also requires nurses and midwives to undertake continuing professional development in accordance with standards set by the NMC; and contains requirements to be met by training leading to a qualification which is subject to automatic recognition by other EEA States and Switzerland under Directive [77/452/EEC](#) (nurses) or [80/154/EEC](#) (midwives).

### **Part 3**

Rule 4 contains provisions relating to the register to be maintained by the NMC. It provides what information is to be kept on the register about registered nurses and midwives (name, address, qualifications etc). A home address is not to be included in the published register without the consent of the nurse or midwife concerned.

Rule 5 sets out the process of applying for admission to the register and the evidence to be provided in support of the application.

Rule 6 sets out what evidence of good character and good health is to be supplied by a nurse or midwife applying for admission to the register .

Rule 7 prescribes 5 years as the period after which a person applying for admission to the register for the first time after obtaining the relevant qualification must undertake additional training.

Rule 8 provides that where an application is made on the basis of a qualification awarded outside the EEA and the Registrar is not satisfied that the applicant meets the standards required, the evaluation fee paid under the Nursing and Midwifery Council (Fees) Rules 2004 will not be refunded; and the application will be retained until the time for any appeal expires after which another application may be made accompanied by another evaluation fee.

Rule 9 provides that an applicant for registration who is not exercising a right under European Community law may be required to produce evidence that she has sufficient knowledge of English to be able to practise safely and competently.

Rule 10—A nurse or midwife will renew her registration at the end of a registration period which is generally three years. This rule sets out how a registration period is determined in various circumstances including the general case but also following a first application for admission to the register and after readmission or restoration to the register.

Rules 11 and 13 set out the procedure for renewal of registration.

Rule 12 relates to the addresses to which notices are to be sent under the Rules and the date on which they are presumed to have been sent.

Rule 14 concerns the lapse of registration on application by the registered nurse or midwife or on a failure to satisfy requirements as to continuing professional development or other additional education, training or experience. Registration shall not lapse merely for non-payment of a fee or failure to apply for renewal where the nurse or midwife concerned is the subject of an allegation or of investigations or proceedings under Part V or Part VI of the Nursing and Midwifery Order.

Rule 15 sets out the procedure for readmission to the register.

Rule 16 requires registrants to notify the Registrar of a change of name or address and provides for the Registrar to amend the register following such notification, to reflect an order made by a Practice Committee or to reflect other relevant information.

Rule 17 provides that a registration fee relating to any complete year after a nurse or midwife retires on reaching her occupational retirement age or on grounds of ill-health may be refunded.

#### **Part 4**

Rule 18 defines terms used in that Part of the Rules.

Rule 19 relates to the addresses to which documents are to be sent and the date on which they are to be treated as sent.

Rule 20 provides that an appeal must be made within 28 days of the decision appealed against or, where there has been a failure to issue a decision, within 28 days of the date by which a decision should have been given.

Rule 21 describes how notice of an appeal must be given.

Rule 22 provides that the Council shall acknowledge the notice and inform the appellant that she is entitled to request a hearing. Even if she does not do so the Council may decide that a hearing is desirable.

Rule 23 provides that the Council shall give notice of a hearing

Rule 24 provides that the parties must inform the Council whether they intend to attend the hearing and whether they intend to call witnesses. An appellant may be represented. An appellant may submit written representations if she does not intend to be present at or represented at the hearing. The Council may offer anyone who, in its opinion, has an interest in the proceedings the opportunity to make written representations.

Rule 25 relates to the constitution of the Council or Appeal Panel considering the appeal and provides for decision by majority vote (the Chair has a casting vote in favour of the appellant in the case of a tie).

Rule 26 provides for a preliminary meeting to be held if it would, in the opinion of the Appeal Panel, assist it to perform its functions, and for directions to be given.

Rule 27 provides that, in specified circumstances, an appeal may be determined without an oral hearing.

Rule 28 provides that an Appeal Panel may postpone a hearing or adjourn proceedings.

Rule 29 provides that an Appeal Panel may determine an appeal in the absence of the appellant where satisfied that reasonable steps have been taken to notify her of the hearing.

Rule 30 relates to the conduct of the hearing which is to be in public unless the Appeal Panel considers that, for one of the reasons specified, all or part of it should be in private. The rule provides for the Appeal Panel, taking account of criteria set out, to determine the order in which the parties will be heard and for the giving of evidence.

Rule 31 relates to the evidence which may be presented to the Appeal Panel and permits a party to rely on grounds not stated in the notice of appeal.

Rule 32 provides for the Appeal Panel to give notice of its decision.

Schedules 1 and 2 set out provisions of Directives [77/453/EEC](#) (nurses) and [80/155/EEC](#) (midwives) respectively which relate to training and which are referred to in the rules.

Schedule 3 sets out the information to be provided in respect of an application for registration.

Schedule 4 sets out the information to be provided in respect of an application for renewal of registration.