

2012 No. 2754

HEALTH CARE AND ASSOCIATED PROFESSIONS

NURSES AND MIDWIVES

**The Nursing and Midwifery Council (Education, Registration
and Registration Appeals) (Amendment) Rules Order of Council
2012**

<i>Made</i> - - - -	<i>26th October 2012</i>
<i>Laid before Parliament</i>	<i>5th November 2012</i>
<i>Coming into force</i> - -	<i>14th January 2013</i>

At the Council Chamber, Whitehall, the 26th day of October 2012

By the Lords of Her Majesty's Most Honourable Privy Council

The Nursing and Midwifery Council has made the Nursing and Midwifery Council (Education, Registration and Registration Appeals) (Amendment) Rules 2012 as set out in the Schedule to this Order, in exercise of the powers conferred by articles 7(2), 12(1), 32 and 47(2) of the Nursing and Midwifery Order 2001(a).

In accordance with article 47(3) of the Nursing and Midwifery Order 2001 the Nursing and Midwifery Council has consulted representatives of groups of persons who appear likely to be affected by the proposed rules.

In accordance with articles 47(1) and 48 of the Nursing and Midwifery Order 2001 such Rules shall not come into force until approved by order of the Privy Council.

Citation and commencement

1. This Order may be cited as the Nursing and Midwifery Council (Education, Registration and Registration Appeals) (Amendment) Rules Order of Council 2012 and comes into force on 14th January 2013.

(a) S.I. 2002/253; to which there are amendments not relevant to this Order.

Council approval

2. Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

THE NURSING AND MIDWIFERY COUNCIL (EDUCATION, REGISTRATION AND REGISTRATION APPEALS) (AMENDMENT) RULES 2012

The Nursing and Midwifery Council makes the following Rules in exercise of the powers conferred by articles 7(2), 12(1), 32 and 47(2) of the Nursing and Midwifery Order 2001(a).

In accordance with article 47(3) of that Order, the Nursing and Midwifery Council has consulted representatives of groups of persons who appear likely to be affected by the rules.

Citation and commencement

1. These Rules may be cited as the Nursing and Midwifery Council (Education, Registration and Registration Appeals) (Amendment) Rules 2012 and shall come into force on 14th January 2013.

Amendments to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004

2. The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(b) are amended as follows.

3. In rule 14 (lapse of registration)—

(a) in paragraph (1), for “subject to paragraph (4)” substitute “subject to paragraphs (2A) and (4)”; and

(b) for paragraph (2), substitute—

“(2) An application referred to in paragraph (1) shall be accompanied by a declaration by the registrant confirming, as the case may be, that the registrant is—

(a) not aware of any matter which could give, or has given, rise to an allegation under article 22 of the Order;

(b) aware of any such matter: in such a case the registrant is to give full details of that matter.

(2A) Where, on the date the Registrar receives an application under this rule, an allegation against the registrant has been referred to a Practice Committee under article 22(5) of the Order and consideration of the allegation at a substantive meeting or hearing before a Practice Committee has commenced, the Registrar is to seek the advice of that Committee and is to take that advice into account in determining the application.

(2B) Where matters have given rise to an allegation against the registrant under article 22 of the Order, and the Council’s proceedings in relation to that allegation have not concluded—

(a) the Registrar shall before determining the application provide the maker of the allegation (if any) with a reasonable opportunity to comment on the application;

(b) the Registrar, in considering whether to remove the registrant’s name from the register or, where paragraph (2A) applies, the Committee in considering its advice

(a) S.I. 2002/253; to which there are amendments not relevant to these Rules.

(b) Scheduled to S.I. 2004/1767, rule 14 of which has been amended by S.I. 2005/3354, and rule 15 of which has been amended by S.I. 2007/3101.

to the Registrar, shall amongst such other matters which the Registrar or, as the case may be, the Committee considers appropriate, have regard to—

- (i) any comments received pursuant to sub-paragraph (a): such comments may also be considered by the Registrar or Committee in discharging any of their other functions;
- (ii) the interests of the registrant; and
- (iii) the public interest.”.

4. In rule 15 (readmission to the register), after paragraph (3) insert—

“(4) Where the Registrar receives an application for readmission in accordance with this rule and is or becomes aware of information (whether received before or after the applicant’s registration lapsed or before or after the readmission application was made) which raises concerns that the registrant’s fitness to practise may be impaired, the Registrar shall have regard to that information for the purposes of determining whether the applicant has satisfied the Registrar—

- (a) that the applicant is capable of safe and effective practice as a nurse or midwife in accordance with article 9(2)(b) of the Order;
- (b) of the applicant’s good health in accordance with rule 6(5); and
- (c) of the applicant’s good character in accordance with rule 6(6).”.

Given under the official seal of the Nursing and Midwifery Council this 13th day of September 2012.



Mark Addison
Chair
Jackie Smith

Date

Acting Chief Executive and Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves the Rules made by the Nursing and Midwifery Council exercising its powers under the Nursing and Midwifery Order 2001 (“the Order”) in relation to applications from registrants for their voluntary removal from, and readmission to, the Council’s register.

Rules 3 and 4 make amendments to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 (S.I. 2004/1767).

Rule 3 amends rule 14 of those Rules (which deals with applications for voluntary removal from the register) by substituting paragraph (2) of the rule so that declarations by registrants must provide details of any matters which the registrant is aware of which may give rise, or have given rise, to a fitness to practise allegation.

It also inserts a new paragraph (2A) to provide that where an application for voluntary removal from the register is received at a time when the registrant is subject to a fitness to practise allegation which has been referred to a Practice Committee and consideration of the allegation at a substantive meeting or hearing has commenced, the Registrar is to seek the advice of the Committee and take that advice into account in determining the registrant’s application.

New paragraph (2B) provides that where the registrant is subject to fitness to practise proceedings, the Registrar must, in relation to the registrant’s application for voluntary removal from the

register, seek comments from the maker of any allegation which is the subject of fitness to practise proceedings in respect of the registrant. The Registrar in making a determination and any Committee in giving advice must have regard to those comments and other matters. Such comments may also be considered by the Registrar or the Committee in discharging any of their other functions.

Rule 4 amends rule 15 of those Rules to set out the matters that the Registrar may take into account where a registrant's registration has lapsed and an application is made by the registrant for readmission to the register.

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STATUTORY INSTRUMENTS

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