Draft Order in Council laid before Parliament under section 62(9) of the Health Act 1999, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

NURSES AND MIDWIVES

The Nursing and Midwifery (Amendment) Order 2014

Made - - - - 2014

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the xx day xx of xx 2014

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) of, and Schedule 3 to, the Health Act 1999(**a**).

The Secretary of State published a draft Order and invited representations as required by paragraph 9(1) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

A draft of this Order in Council has been laid before, and approved by resolution of, each House of Parliament in accordance with section 62(9) of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of her Privy Council, to make the following Order in Council.

(**a**) 1999 c. 8; Section 60 was amended by paragraph 16 of Schedule 5 to the Nursing and Midwifery Order 2001 (S.I. 2002/253); section 26(9) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17); paragraph 1 of Schedule 8 to the Health and Social Care Act 2008 (c. 14); sections 209, 210 and 213 of, and paragraphs 60 and 72 of, Schedule 15 to the Health and Social Care Act 2012 (c. 7); paragraph 7 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231); paragraph 43 of Schedule 34 to the Human Medicines Regulations 2012 (S.I. 2012/1916). Section 62 was amended by paragraph 1 of Schedule 4 to the National Health Service (Consequential Provisions) Act 2006 (c. 43); and paragraph 2 of Schedule 8 to the Health and Social Care Act 2008. Subsections (4) and (4A) were substituted in section 62 by paragraph 11 of Schedule 10 to the Health and Social Care Act 2008. Schedule 3 was amended by section 26(10) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17); paragraph 8(b) of Schedule 4 to the Health and Social Work Professions Order 2002 (S.I. 2002/254); paragraph 67 of Schedule 11, and paragraph 1 of Schedule 14, to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); paragraphs 4 to 9 of Schedule 8, and paragraph 1 of Schedule 15, to the Health and Social Care Act 2008; section 211 of, and paragraphs 61 and 72 of Schedule 15 to, the Health and Social Care Act 2012.

Citation and commencement

1. This Order may be cited as the Nursing and Midwifery (Amendment) Order 2014 and shall come into force on the day after the day on which this Order is made.

Amendments to the Nursing and Midwifery Order 2001

2. The Nursing and Midwifery Order 2001(**a**) is amended as follows.

Amendment to article 12A

3. In article 12A (indemnity arrangements)(**b**) after paragraph (7) insert—

"(7A) For the purposes of verifying that information, the Registrar may disclose to any person information relating to a person's indemnity arrangement which is provided to the Council by virtue of rules made under paragraph (4) or (7).".

Amendment to article 25

4. In article 25(1) (Council's power to require disclosure of information)(**c**) for "or any of its Practice Committees" substitute ", any of its Practice Committees, the Registrar or any other officer of the Council".

Amendments to article 26

5. In article 26 (the Investigating Committee)—

(a) in paragraph (2)—

(i) omit ", it shall",

(ii) for sub-paragraph (a) substitute—

"(a) the Council shall without delay notify the person concerned of the allegation and invite him to submit written representations to the Committee within a prescribed period;",

(iii) in sub-paragraphs (b), (c) and (d), at the beginning of those sub-paragraphs insert "the Committee shall";

(b) in paragraph (11)—

(i) after "before" insert "or after",

(ii) after "paragraph (6)" insert ": but the Investigating Committee may only make an interim order after it has referred a case if the Health Committee or the Conduct and Competence Committee has not begun its consideration of the case".

Insertion of articles 26A, 26B and 26C

6. After article 26 insert—

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

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

(a) the Registrar; or

(b) any other officer of the Council,

(**a**) S.I. 2002/253.
(**b**) Article 12A was inserted by article 26 of S.I.2014/1887.
(**c**) Article 25 was amended by S.I. 2009/1182, article 4 and Schedule 4, Part 6, paragraph 38(d)(i) and (ii).

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

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Investigating Committee under paragraph (6)(b)(ii) or (iii) of article 26, the referral of a case to the Health Committee or to the Conduct and Competence Committee shall be deemed to have been made by the Investigating Committee.

Review of decisions by the Council

26B. The Council may—

(a) review a decision made under article 26(2)(d)(i), or by virtue of rules made under article 26A, that there is no case to answer; and

(b) make rules in connection with the carrying out of a review under paragraph (a).

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

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

(a) the Registrar; or

(b) any other officer of the Council,

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

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Council under article 22(5), the referral of a case to the Conduct and Competence Committee or to the Health Committee shall be deemed to have been made by the Council.".

Amendments to article 30

7. In article 30 (review of orders by the Health Committee and the Conduct and Competence Committee)—

(a) for paragraph (1)(b) substitute—

"(b) with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);";

(b) for paragraph (4)(d) substitute—

"(d) subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the term of the order it replaces;".

Amendments to article 31

8. In article 31(interim orders by a Practice Committee)—

(a) in paragraph (2) omit "Subject to paragraph (4),";

(b) omit paragraph (4);

(c) in paragraph (5) for sub-paragraph (a) substitute—

"(a) in a case falling within paragraph (1)(a)—

(i) when the Conduct and Competence Committee or the Health Committee reaches a decision in respect of the allegation in question, or

(ii) when, in respect of an allegation of the kind mentioned in article 22(1)(b), the Investigating Committee reaches a decision in respect of the allegation;";

(d) for paragraph (6) substitute—

"(6) In a case falling within paragraph (1)(a), an order made under paragraph (2) must be reviewed by either the Committee which made the order or any Practice Committee to which the matter has been referred—

(a) within the period of six months beginning on the date on which the order was made, and that Committee must thereafter, for so long as the order continues in force, further review it before the end of the period of three months beginning on the date of the decision of the immediately preceding review;

(b) where new evidence relevant to the order has become available after the making of the order.";

(e) in paragraph (7)—

(i) before "the Practice Committee" where it first appears insert "then either",

(ii) after "which made the order or" insert "any Practice Committee to which the matter has been referred",

(iii) omit "where the case has been referred to another Practice Committee, that Committee,".

Amendment to article 37

9. In article 37(5)(**a**) (appeals against Registrar's decisions)—

(a) after sub-paragraph (c)(i) insert "and";

(b) after sub-paragraph (c)(ii)(cc) omit "and";

(c) omit sub-paragraphs (c)(iii) and (d).

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Nursing and Midwifery Order 2001 (S.I. 2002/253) ("the 2001 Order").

Article 3 of this Order amends article 12A of the 2001 Order to provide that the Registrar can disclose information relating to a person's indemnity arrangement for the purposes of verifying that information.

Article 6 of this Order inserts articles 26A, 26B and 26C. Article 26A provides that the Council may make rules providing for the Registrar or any other officer of the Council to exercise certain functions of the Investigating Committee.

Article 26B introduces a power for the Council to review a decision made by the Investigating Committee under article 26(2)(d)(i), or by Case Examiners by virtue of rules made under article 26A, that there is no case to answer and to make rules in connection with the carrying out of such a review.

Article 26C provides that the Council may make rules providing for the Registrar or any other officer of the Council to exercise the functions of the Council under articles 22 (allegations), 26(2)(a) (notification of allegation and invitation to submit written representations) and 26B(a) (review of a decision of no case to answer). As Case Examiners and the Registrar will, by virtue of

(**a**) Article 37 was amended by S.I. 2007/3101, regulation 1(2), S.I. 2008/1485, article 2(1), Schedule 1, paragraph 6(a) and (b) and S.I. 2009/1182, article 4(1), Schedule 4, part 6, paragraph 38(f).

the new powers in Articles 26A, 26B and 26C, undertake some functions of the Council or of the Investigating Committee, article 4 of this Order amends the Order to provide that the Council may require any person to supply information for the purposes of assisting the Council or any of its Practice Committees or the Registrar or any other officer of the Council in carrying out functions in respect of fitness to practise.

Article 5 of this Order amends article 26(2) of the 2001 Order to provide that, where an allegation is referred to the Investigating Committee, the Council, rather than the Investigating Committee, will notify the person concerned of the allegation and invite that person to submit written representations.

Article 5 also amends article 26(11) of the 2001 Order to provide that the Investigating Committee may make an interim order in accordance with article 31 after it has referred a case to another Practice Committee but before that Practice Committee has started to consider the case. Article 8 makes consequential amendments to article 31of the 2001 Order (interim orders).

Article 7 of this Order amends article 30(1) of the 2001 Order to clarify that the Health Committee or the Conduct and Competence Committee on review of a suspension order or a conditions of practice order may, subject to articles 29(6) and (7), make any order falling within article 29(5). It also amends article 30(4) to clarify the position in respect of reviews of such orders which are undertaken on the application of the person concerned or where the Committee, at any time, considers that a review is necessary.

Article 9 of this Order amends article 37 of the 2001 Order to remove the requirement for a Council member to chair the Registration Appeals Panel and to remove the requirement for this Panel to include a registered medical practitioner where the health of a registrant is in issue.

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