1973. No. 131 **[C]**

NURSES AND MIDWIVES

Nurses (Disciplinary) Rules Approval Order

ORDER, DATED 19TH APRIL 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 52 OF THE NURSES AND MIDWIVES ACT (NORTHERN IRELAND) 1970.

WHEREAS the Northern Ireland Council for Nurses and Midwives has, in exercise of its powers under Part V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970(a) made the Nurses (Disciplinary) Rules (Northern Ireland) 1973 and has submitted them to the Ministry of Health and Social Services (in this Order referred to as "the Ministry") for approval:

NOW, THEREFORE, the Ministry, on behalf of the Secretary of State and in exercise of the powers conferred on it by section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of every other power enabling it in that behalf, hereby makes the following Order:

1. This Order may be cited as the Nurses (Disciplinary) Rules (Northern Ireland) 1973 Approval Order (Northern Ireland) 1973.

2. The Ministry hereby approves the said Rules in the form set out in the Schedule.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 19th day of April 1973.

(L.S.) *F. A. Elliott,*
Assistant Secretary.

(a) 1970. c. 11 (N.I.).

SCHEDULE

The Northern Ireland Council for Nurses and Midwives in exercise of its powers under Part V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of all other powers enabling it in that behalf hereby makes the following Rules:—

PART I

GENERAL

1. These Rules may be cited as the Nurses (Disciplinary) Rules (Northern Ireland) 1973.

2. Part V of the Nurses Rules (Northern Ireland) 1965 and Part V of the Enrolled Nurses Rules (Northern Ireland) 1965 are hereby revoked.

3.—(1) In these Rules—

"the Act" means the Nurses and Midwives Act (Northern Ireland) 1970;

"the Register" means the Register of Nurses maintained by the Council;

"the Roll" means the roll of nurses maintained by the Council;

"the List" means the list of nurses maintained by the Council under the Act;

"the English List" means the list of nurses kept by the General Nursing Council for England and Wales under section 5 of the Nurses Act 1957;

"enrolled nurse" means a nurse whose name is on the Roll of Nurses maintained by the Council;

"registered nurse" means a nurse whose name is in the Register;

"the Investigating Committee" means the committee appointed by the Council under section 46(1)(*b*) of the Act;

"the Director" means the person for the time being appointed to act as Director of Nursing and Midwifery Education, and includes any person duly authorised to act and acting on her behalf;

"complainant" means a body or person by whom a complaint has been made to the Council alleging that a registered nurse, an enrolled nurse or a person whose name is in the List has been convicted of an offence or has been guilty of misconduct or alleging that the entry of a name in the Register, the Roll or the List has been procured by fraud and who, where the case has been referred by the Investigating Committee in their discretion under Rule 8 of these Rules to the Disciplinary Committee, wishes to be a party to the proceedings;

"Solicitor" means the person who for the time being is the Solicitor to the Council or his deputy appointed by the Council.

(2) In these Rules words importing the feminine gender include the masculine.

PART II

REMOVAL OF NAME FROM THE REGISTER, THE ROLL OR THE LIST

4. When it is brought to the notice of the Council that a registered nurse, an enrolled nurse or a person whose name is in the List (in this part of these Rules referred to as "the respondent") has been convicted of a crime, or where she is alleged to have been guilty of any misconduct, during the period in which her name is in the Register, on the Roll or the List, or during any period in which her name has for any reason been excluded from the Register, the Roll or the List, or where a question arises whether an entry in the Register, the Roll or the List was procured by fraud, the Director, after making such further inquiries relative thereto as she thinks necessary, shall invite the respondent to furnish any written statement or explanation which she may desire to offer and shall lay the matter before the Investigating Committee.

5. The Investigating Committee shall consist of the Vice-Chairman of the Council, who shall be Chairman and four other members of the Council none of whom shall be members of the Disciplinary Committee; a quorum shall be three.

6. The Council shall delegate to the Investigating Committee the responsibility for deciding whether any matter shall be referred to the Disciplinary Committee.

7. The Investigating Committee shall consider the matter and may at any stage of the case take the advice of the Solicitor, and may instruct him to obtain proofs of evidence in support of the allegations against the respondent, and may, in such cases as they think fit, decline to proceed with the matter.

8. Where the Investigating Committee decides that a prima facie case is made out for the removal of the respondent's name from the Register, the Roll or the List, they shall refer the case to the Disciplinary Committee and may direct the Solicitor to take all necessary steps for verifying the evidence to be submitted to the Disciplinary Committee and for obtaining the necessary documents and the attendance of witnesses.

9. The Disciplinary Committee shall consist of nine members of the Council, two thirds of whom shall be nurses and midwives. The Council shall appoint one of the members of the Committee to be Chairman. A quorum shall be six.

10. The Disciplinary Committee shall meet at such times and in such places as it may determine.

11. Members of the Disciplinary Committee shall be given not less than three clear days written notice of each meeting of the Committee.

12. Where a case has been referred by the Investigating Committee to the Disciplinary Committee under the provisions of Rule 8 the Director shall send to the respondent a notice of inquiry in writing in the form set out in the Appendix, specifying the nature and particulars of the charge against her, and informing her of the time and place of the meeting of the Disciplinary Committee at which the case will be heard.

13.—(1) Such notice shall be sent by registered letter or by letter sent by recorded delivery to the permanent address of the respondent contained in the Register, on the Roll or the List; or if the Director has reason to believe that the address is not her present address, then to any later address which may be known to the Director and shall be posted so as to allow at least twenty-one days to elapse between the day on which the notice is posted and the date fixed for the hearing.

(2) Where any question whether any entry in the Register, on the Roll or the List was procured by fraud has been referred by the Investigating Committee to the Disciplinary Committee, the Director, in addition to sending a notice of inquiry in writing to the respondent, shall also send a copy of the notice to any person who is alleged to have been a party to the fraud alleged and to such other persons (if any) as the Chairman of the Disciplinary Committee may direct. Any such person may with the leave of the Chairman appear at the inquiry as an additional party thereto.

(3) In any case in which there is a complainant, the Director shall send him a copy of the notice of inquiry and a copy of these Rules.

(4) Upon application by any party to the inquiry, the Director shall send to that party copies of any statutory declaration, explanation, admission or other similar statement or communication sent to the Council or the Investigating Committee or the Disciplinary Committee by any party to the inquiry.

(5) Any party to the inquiry may appear in person or be represented at the hearing by a friend or by counsel or solicitor or, in the case of an incorporated or unincorporated body being a complainant, by a member or officer duly appointed by them for the purpose. If the respondent intends to be represented by counsel or a solicitor, not less than seven days notice of such intention shall be given to the Director.

14. The Disciplinary Committee may postpone the hearing of an inquiry or may refer the matter to the Investigating Committee for further consideration or may amend a notice of inquiry or may decide that an inquiry shall not be held.

15. At the hearing of the case, the Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall first state to the Disciplinary Committee the facts of the case and the charge alleged against the respondent, and shall then submit to the Disciplinary Committee the evidence in support of the charge and the respondent or her representative shall be entitled to cross-examine any witness appearing against her.

16. A certificate of a competent officer of the Court in which the proceedings took place, that the respondent was convicted of a crime, shall be sufficient proof of the conviction, unless the respondent proves that the conviction was subsequently quashed on appeal.

17. When the statement of the charge and the evidence in support thereof are concluded, the respondent or her representative shall be invited by the Chairman to address the Disciplinary Committee and to tender evidence in answer to the charge. The Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall be entitled to cross-examine any witness tendered in answer to the charge, and to reply upon the whole case after the respondent or her representative has addressed the Disciplinary Committee a second time at the conclusion of the respondent's defence.

18. Where the Disciplinary Committee have found that a charge against a respondent has been proved, the Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall be invited by the Chairman to address the Disciplinary Committee, and to adduce evidence as to the circumstances leading up to the charge and as to the previous history of the respondent. The Chairman shall then invite the respondent or her representative to address the Disciplinary Committee by way of mitigation and evidence on behalf of the respondent may be adduced as aforesaid, and as to character.

19. If the respondent does not attend, either personally or by a representative the Disciplinary Committee may proceed to hear and determine the case in her absence.

20.—(1) Upon the conclusion of the case the Disciplinary Committee shall after consideration of the relevant evidence, pronounce their decision either forthwith or in writing at a later date or at a subsequent meeting.

(2) If the Disciplinary Committee find the charges against the respondent to be proved either in whole or in part, they may remove her name from the Register, the Roll or the List as the case may be.

(3) Whether or not the Disciplinary Committee proceed to determine that an entry in the Register, the Roll or the List, as the case may be, has been proved to their satisfaction to have been procured by fraud, they may, if they are satisfied that the entry has been incorrectly made, cause the entry to be amended.

21. The Director shall forthwith communicate with the respondent by registered letter informing her of the decision of the Disciplinary Committee, and shall, in the case of the removal of the respondent's name from the Register, the Roll or the List requiring her within fourteen days from the date on which notice is served on her, to surrender to the Council her certificate and badge if any, and if she fails to do so, she shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £10.

22. The Director shall in the case of the removal of the respondent's name from the Register, the Roll or the List delete her name from the part or parts of the Register, the Roll or the List in which it is included.

23. In the event of the removal of the name of a nurse from any part of the Register, the Roll or the List under this part of these Rules, notification of the fact shall forthwith be sent by the Director to the General Nursing Council for England and Wales and/or to the General Nursing Council for Scotland, if the Council are aware that the name of such nurse is or was also registered or enrolled in England and Wales and/or Scotland or included in the English List.

24. In the event of the Council receiving a notification from the General Nursing Council for England and Wales and/or the General Nursing Council for Scotland that the name of any nurse registered or enrolled by either or both of those Councils has been removed from the Register or the Roll in England and Wales or Scotland or that the name of any nurse included in the English List has been removed from that List by reason of a finding of such Council that such nurse has been guilty of a crime, or any misconduct, and if the Director shall find that the nurse is also registered in any part of the

Register or entered on the Roll or that her name is included in any part of the List, she shall inform her by registered letter that the Council have received such notification, and shall enquire of her whether she desires to show cause why her name should not also be removed from the Register or the Roll or the List as the case may be. If no answer is received by the Director within twenty-eight days after the despatch of such letter, or such longer period as the Disciplinary Committee may allow if they are satisfied that there is sufficient reason for an extension of time, or if the nurse replies that she does not desire to show cause as aforesaid, then the Disciplinary Committee shall at their next convenient meeting direct the Director to remove the nurse's name from the Register, the Roll, or the List as the case may be. If the nurse replies that she does desire to show cause as aforesaid, the Director shall lay the matter before the Disciplinary Committee. The Disciplinary Committee shall thereupon proceed to deal with the matter by way of a rehearing under these Rules, as if the complaint had been originally made to the Council and the nurse had been referred to them by the Investigating Committee. The action of the Disciplinary Committe shall in due course be notified to the General Nursing Council for England and Wales and/or the General Nursing Council for Scotland, as the case may be.

25. Nothing in this part of these Rules shall prevent one inquiry being held into charges against two or more respondents; and where such an inquiry is held the foregoing Rules shall apply with the necessary adaptations and subject to any directions given by the Disciplinary Committee as to the order in which proceedings shall be taken under any of those Rules by or in relation to the several respondents, so however that any of the rights ensured to a respondent under those Rules shall be exercised separately by each of the respondents who desires to invoke that right.

PART III

RESTORATION OF NAME TO THE REGISTER OR THE LIST

26.—(1) Where the name of a nurse has been removed from the Register, the Roll or the List for disciplinary reasons, any application for its restoration to the Register, the Roll or the List shall be made in writing, addressed to the Director and signed by the applicant, stating the grounds on which the application is made. On receipt of such application the Director shall forward same to the Investigating Committee.

(2) The application shall contain the names and addresses of two or more persons of whom two shall be either Justices of the Peace, Ministers of Religion, Registered Medical Practitioners, or registered nurses able and willing to identify the applicant and give evidence as to her character, and the nature of her employment since the date of the removal of her name, and such other evidence as the Investigating Committee may require.

(3) The Investigating Committee may require the applicant to verify by a statutory declaration any statement made in her application, or any further statement which they may think necessary, and shall, when all requisite information has been produced, refer the matter to the Disciplinary Committee.

27.—(1) Unless the Disciplinary Committee decide to restore the name of an applicant without a hearing, they shall afford to her, if she wishes, an opportunity of being heard by them and of adducing evidence. The applicant shall be entitled to be represented at such hearing by a friend, or by counsel or a solicitor.

(2) If upon consideration of the application and of the evidence furnished in support of it, the Disciplinary Committee are satisfied that the name of the applicant should be restored to the Register, the Roll or the List, they may direct the Director accordingly, and upon payment by the applicant of such fee as the Council with the approval of the Ministry of Health and Social Services may from time to time determine, her name shall be restored to the appropriate part or parts of the Register, the Roll or the List and a new certificate or certificates of registration, enrolment or of inclusion in the List shall be issued to her.

28. In the event of the restoration of the name of a nurse to any part of the Register, the Roll or the List under this part of these Rules, notification of the fact shall be forthwith sent by the Director to the General Nursing Council for England and Wales and/or to the General Nursing Council for Scotland, if the Council are aware that the name of such nurse is or was also registered or enrolled in England and Wales and/or Scotland or included in the English List.

29.—(1) In the event of notice being received by the Council from the General Nursing Council for England and Wales and/or the General Nursing Council for Scotland that they have restored to their Register, or Roll or List the name of a nurse whose name they had removed from their Register, or Roll or List, and if the Director shall find that the name of such nurse was removed from the Register, the Roll or List, it shall be the duty of the Director to lay the matter before the Disciplinary Committee. The Disciplinary Committee shall then consider the matter, and if necessary make inquiries and shall, if they think fit, having regard to all the circumstances and at their discretion, likewise restore the name of such nurse to the Register, the Roll or the List, as the case may be, if she applies under and conforms to such of the provisions of this part of these Rules as the Disciplinary Committee shall require.

(2) Unless the Disciplinary Committee decide to restore the name of such nurse without a hearing, they shall afford to her, if she wishes, an opportunity of being heard by them and of adducing evidence. The nurse shall be entitled to be represented at such a hearing by a friend, or by counsel or a solicitor.

(3) In the event of the Disciplinary Committee restoring the name of a nurse to the Register, the Roll or the List under this Rule, the Director shall as soon as possible notify the fact of such restoration to the General Nursing Council for England and Wales and/or the General Nursing Council for Scotland.

30. Any determination made by the Disciplinary Committee shall subject to Rule 20 be final and conclusive and shall not require confirmation or endorsement by the Council, so however that any such determination shall be notified to the Council and shall be of no effect until so notified.

APPENDIX

FORM OF NOTICE

NORTHERN IRELAND COUNCIL FOR NURSES AND MIDWIVES
NURSES AND MIDWIVES ACT (NORTHERN IRELAND) 1970

To .....

of .....

TAKE NOTICE that the charge [*or* charges] against you, particulars of which are set forth below, *has/have been brought to the notice of the Council and that the Disciplinary Committee of the Council propose to investigate such charge[s] at a meeting to be held at the offices of the Council,

at .....
*a.m.
p.m.

on ..... the ..... 19...,
and to determine whether your name should be removed from the Register, the Roll (or the List) or not removed.

(*Here insert particulars of charge(s)—separate charges should be set out under separate counts*).
YOU ARE HEREBY REQUIRED to attend before the Disciplinary Committee at the time and place mentioned above and to answer such charge[s].

You are entitled to be represented at the hearing before the Disciplinary Committee by a friend or by counsel or a solicitor but if you propose to employ counsel or a solicitor you must give written notice to the Director at the address mentioned above at least seven days before the hearing.

You should bring with you all papers and documents in your possession relevant to the matter and arrange for the attendance of any persons whose evidence you wish to lay before the Disciplinary Committee.

A copy of the Nurses (Disciplinary) Rules (Northern Ireland) 1973 is enclosed.

.....
Director of Nursing and Midwifery Education.

.....
Date

**Strike out words not applicable*

The Seal of the Northern Ireland Council for Nurses and Midwives was affixed hereto this 5th day of October 1972.

T. C. C. Adam,
Chairman.

W. B. Baxter,
Secretary.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

The Rules approved by this Order supersede Part V of the Nurses Rules (Northern Ireland) 1965 and Part V of the Enrolled Nurses Rules (Northern Ireland) 1965 and lay down the procedure relating to disciplinary proceedings against nurses and enrolled nurses.