STATUTORY RULES OF NORTHERN IRELAND

2002 No. 117

NURSES, MIDWIVES AND HEALTH VISITORS

The Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No. 2) Rules 2002, Approval Order (Northern Ireland) 2002

Made . . . . . *20th March 2002*

Coming into operation . . *31st March 2002*

I, the Right Honourable Sir Robert Carswell, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred on me by sections 19(5) and 22(3) of, and Schedule 3 to, the Nurses, Midwives and Health Visitors Act 1997(**a**) and of all other powers enabling me in that behalf, hereby approve the Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No. 2) Rules 2002(**b**) made by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting and set out in the Schedule hereto.

This Order may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No. 2) Rules 2002, Approval Order (Northern Ireland) 2002 and shall come into operation on 31st March 2002.

Robert Carswell
Lord Chief Justice of Northern Ireland

Dated 20th March 2002

(**a**) 1997 c. 24
(**b**) The Rules amended are, as concerns Northern Ireland, in the Schedule to S.R. 1993 No. 313 as amended by Rules in the Schedules to S.R. 1998 No. 159, S.R. 2001 No. 76 and S.R. 2002 No. 43

SCHEDULE

The Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No. 2) Rules 2002

The United Kingdom Central Council for Nursing, Midwifery and Health Visiting, in exercise of the powers conferred on it by section 10 of the Nurses, Midwives and Health Visitors Act 1997(**a**), and after due consultation in accordance with section 19(3) thereof, hereby makes the following rules—

Citation and interpretation

1.—(1) These rules may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No. 2) Rules 2002.

(2) For the purposes of these rules "the Professional Conduct rules" means The Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1993(**b**).

Amendment of the Professional Conduct rules

2.—(1) The Professional Conduct rules shall be amended in accordance with the following paragraphs of this rule.

(2) In rule 31 (Information raising the question as to the fitness to practise of nurses, midwives or health visitors)—

(*a*) in paragraph (4)(*b*)—

(i) for the words "two medical examiners" there shall be substituted the words "a medical examiner";

(ii) for the word "examiners" where it appears for the second time, there shall be substituted the word "examiner"; and

(iii) for the word "reports" there shall be substituted the words "a report";

(*b*) in paragraph 4(*c*) for the words "other medical practitioners" there shall be substituted the words "another medical practitioner";

(*c*) for paragraph (5) there shall be substituted the following—

"(5) All information received by the Registrar pursuant to paragraph (4)(*b*), (*c*) or (*d*) or paragraph (6) shall be forwarded to the professional screeners";

(*d*) for paragraph (6) there shall be substituted the following—

"(6) If it appears necessary or desirable to the professional screeners, a second medical examiner may be chosen at the Council's expense to report to the Registrar on the practitioner's fitness to practise; and in the event of the two chosen medical examiners not being able to agree on the result of their respective examinations a third medical examiner may be chosen at the Council's expense to report to the Registrar".

(3) For rule 32 (Examination by medical examiners) there shall be substituted the following—

"32.—(1) If the practitioner—

(**a**) 1997 c. 24. The whole Act is repealed by section 60(3) of and Schedule 5 to the Health Act 1999 (c. 8) from a date or dates to be appointed; in relation to section 10(5) and paragraph 7(4) of Schedule 1 this repeal has been commenced on 11th May 2001 by Article 2(2)(*a*) of the Health Act 1999 (Commencement No. 11) Order 2001 (S.I. 2001/1985)

(**b**) The Rules amended are, as concerns Northern Ireland, in the Schedule to S.R. 1993 No. 313, as amended by Rules in the Schedules to S.R. 1998 No. 159, S.R. 2001 No. 76 and S.R. 2002 No. 43

(*a*) agrees to submit to medical examination in response to an invitation sent pursuant to rule 31(4)(*b*) or 31(6); or

(*b*) nominates a medical practitioner to examine her under rule 31(4)(*c*)

the Registrar shall make arrangements for such examination.

(2) Any medical examiner chosen under rule 31(4)(*b*) or 31(6) shall be chosen by the professional screeners in accordance with the Second Schedule to these rules.

(3) The Registrar shall—

(*a*) send to any medical examiner chosen under rule 31(4)(*b*) or 31(6) and to any medical practitioner nominated under rule 31(4)(*c*) the information received by the Registrar and the professional screeners under rule 31(1), 31(2) or 31(4)(*d*); and

(*b*) ask each of them to—

(i) report on the fitness of the practitioner to engage in practice, and

(ii) recommend how her case should be managed.".

(4) In rule 33 (Action following consideration of reports of medical examiners)—

(*a*) for paragraph (1) there shall be substituted the following—

"(1) The Registrar shall refer to the professional screeners each report received from a medical examiner chosen by the professional screeners or nominated by the practitioner. The professional screeners shall consider them and shall cause the Registrar to send copies of them to the practitioner.".

(*b*) in paragraph (2)(*a*)—

(i) for the words "If the medical examiners consider unanimously" there shall be substituted the words "If it is the view of the medical examiner or, if there is more than one medical examiner, the unanimous view of the medical examiners";

(ii) after the words "information received" there shall be inserted the words "under rule 31(1), 31(2) or 31(4)(*d*)".

(5) In rule 34 (Provisions applying when a case has been referred to the professional screeners by the Preliminary Proceedings Committee, the President or the Conduct Committee)—

(*a*) in paragraph (1)(*a*) for the words "at least two medical examiners" there shall be substituted the words "a medical examiner";

(*b*) in paragraph (1)(*b*) for the word "examiners" there shall be substituted the word "examiner", and for the word "reports" there shall be substituted the words "a report";

(*c*) in paragraph (1)(*c*) for the words "other medical practitioners" there shall be substituted the words "another medical practitioner";

(*d*) for paragraph (2) there shall be substituted the following—

"(2) If it appears necessary or desirable to the professional screeners, a second medical examiner may be chosen at the Council's expense to report to the Registrar on the practitioner's fitness to practise; and in the event of the two chosen medical examiners not being able to agree on the result of their respective examinations a third medical examiner may be chosen at the Council's expense to report to the Registrar. All such examiners shall be chosen by the professional screeners in accordance with the Second Schedule to these rules.".

(*e*) for paragraph (3) there shall be substituted the following—

"(3)(*a*) If the practitioner agrees to submit to medical examination under paragraph (1)(*a*), (1)(*c*) or (2), the Registrar shall make arrangements for such examination. Each medical examiner chosen under paragraph (1)(*a*) or (2) shall be chosen by the professional screeners in accordance with the Second Schedule to these rules.

(*b*) The Registrar shall send to each medical examiner chosen by the professional screeners and any medical practitioner nominated by the practitioner the information on which the Preliminary Proceedings Committee, the President or the Conduct Committee, as the case may be, decided to refer the case.".

(*f*) there shall be inserted the following paragraph—

"(3A) The Registrar shall refer to the professional screeners the information referred to in paragraph (3)(*b*) and any report received pursuant to paragraph (1) or (2).";

(*g*) in paragraph (4), for the words "paragraph (3)" there shall be substituted the words "paragraph (3A)".

(*h*) in paragraph (5)—

(i) for the words "rule 31(4)(*b*)" there shall be substituted the words "the foregoing rules"; and

(ii) for the words "rule 31(4)(*c*)" there shall be substituted the words "the foregoing rules".

(6) In rule 37 (Preliminary circulation of evidence) for the words "the medical examiners" there shall be substituted the words "each medical examiner".

(7) In rule 42 (Questions) for the words "the medical examiner" there shall be substituted the words "a medical examiner or a medical practitioner nominated by the practitioner".

(8) In rule 49 (Termination of suspension and restoration to the register)—

(*a*) in paragraph (5)—

(i) for the words "at least two medical examiners" there shall be substituted the words "a medical examiner";

(ii) for the word "examiners" where it appears for the second time there shall be substituted the word "examiner";

(iii) for the word "reports" there shall be substituted the words "a report";

(*b*) for paragraph (6) there shall be substituted the following—

"(6) If it appears necessary or desirable to the professional screeners, a second medical examiner may be chosen at the Council's expense to report to the Registrar on the practitioner's fitness to practise; and in the event of the two chosen medical examiners not being able to agree on the result of their respective examinations a third medical examiner may be chosen at the Council's expense to report to the Registrar. All such examiners shall be chosen by the professional screeners in accordance with the Second Schedule to these rules.".

(9) In the Second Schedule, in paragraph 1 for the words "Health Committee" there shall be substituted the word "Council".

Given under the Official Seal
of the UNITED KINGDOM CENTRAL
COUNCIL FOR NURSING, MIDWIFERY
AND HEALTH VISITING this
8th day of March, 2002

Alison Norman
President

Sue Norman
Chief Executive/Registrar

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order approves, as respects proceedings in Northern Ireland only, the Rules set out in the Schedule. These amend the Professional Conduct rules of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting so as to reduce the number of medical examiners who are required to examine the practitioner from two to one in cases concerning the practitioner's fitness to practice; and to make further provision with respect to any medical practitioner instructed by the practitioner.

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