STATUTORY INSTRUMENTS

1987 No. 2156

NURSES, MIDWIVES AND HEALTH VISITORS

The Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987 Approval Order 1987

Made - - - -	*9th December 1987*
Coming into force	*1st February 1988*

The Lord Chancellor and the Lord Advocate, in exercise of their powers under section 22(4) of the Nurses, Midwives and Health Visitors Act 1979(**a**), hereby approve the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987 made by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting as set out in the Schedule hereto.

This Order may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987 Approval Order 1987 and shall come into force on 1st February 1988.

Mackay of Clashfern, C

7th December 1987

Cameron of Lochbroom

9th December 1987

THE SCHEDULE

THE NURSES, MIDWIVES AND HEALTH VISITORS (PROFESSIONAL CONDUCT) RULES 1987
made by
THE UNITED KINGDOM CENTRAL COUNCIL FOR NURSING, MIDWIFERY AND HEALTH VISITING
under
THE NURSES, MIDWIVES AND HEALTH VISITORS ACT 1979

The United Kingdom Central Council for Nursing, Midwifery and Health Visiting, in exercise of the powers conferred on it by section 12 of the Nurses, Midwives and Health Visitors Act 1979 and all other powers enabling it in that behalf, hereby revokes the Nurses, Midwives, and Health Visitors (Professional Conduct) Rules 1983(**b**) and makes the following rules.

(a) 1979 c.36.
(b) S.I. 1983/887 and S.R. (N.I.) 1983 No. 153.

PART I

Citation and interpretation

1.—(1) These rules may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987.

(2) For the purposes of these rules the following expressions have the meanings hereby respectively assigned to them except where the context otherwise requires–

(a) "the Act" means the Nurses, Midwives and Health Visitors Act 1979;

(b) "applicant" means a former practitioner who has been removed from the register or part or parts of it and who is making an application for her name to be restored to the register or part or parts thereof;

(c) "complainant" means a body or person by whom a complaint has been made to the Council or a National Board alleging that a practitioner has been guilty of misconduct or that her fitness to practise is seriously impaired by reason of her physical or mental condition and who, where the case has been referred to a National Board or to the Conduct Committee or the Health Committee, wishes to be a party to the proceedings;

(d) "the Conduct Committee" means the Professional Conduct Committee of the Council constituted under rule 5;

(e) "the Council" means the United Kingdom Central Council for Nursing, Midwifery and Health Visiting;

(f) "the Health Committee" means the Health Committee of the Council constituted under rule 22;

(g) "legal assessor" means a person appointed to be a legal assessor under the provisions of paragraph 3(1) of Schedule 3 to the Act;

(h) "medical examiners" means the persons referred to in the Second Schedule to these rules;

(i) "misconduct" means conduct unworthy of a nurse, midwife or health visitor, as the case may be, and includes obtaining registration by fraud;

(j) "National Board" and "Board" shall have the same meaning as that assigned to them in the Act and shall include any National Board Committee which has been set up by a Board for the purpose of carrying out its functions under these rules;

(k) "Notice of Referral" means the notice of referral under rule 29;

(l) "parties to the proceedings" means the respondent, applicant, complainant and/or solicitor collectively or such of them as are involved in a particular case;

(m) "practitioner" means any person whose name is on the register of nurses, midwives and health visitors;

(n) "professional screeners" means the professional screeners selected by the Council under rule 23(2);

(o) "the register" means the professional register of nurses, midwives and health visitors maintained by the Council under section 10(1) of the Act;

(p) "Registrar" means the person for the time being appointed as Registrar and Chief Executive of the Council and includes any person duly authorised to act and acting on her behalf;

(q) "respondent" means any practitioner who is alleged to be liable to have her name removed from the register;

(r) "the solicitor" means in the case of an investigation by a Board the solicitor appointed by the relevant National Board and in any case before the Conduct Committee or the Health Committee the solicitor appointed by the Council.

(3) The Interpretation Act 1978(a) applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

Removal from, and restoration to, the register

2.—(1) The circumstances in which a person may be removed from the register are–

(a) that she has been guilty of misconduct; or

(a) 1978 c.30.

(b) that her fitness to practise is seriously impaired by reason of her physical or mental condition.

(2) The means by which a person may be removed from the register in the circumstances of paragraph (1)(a) are that, in accordance with Part I of these rules, the question of misconduct has been investigated and referred to the Conduct Committee, the misconduct has been proved to the Conduct Committee's satisfaction and the Conduct Committee has directed the removal.

(3) The means by which a person may be removed in the circumstances of paragraph (1)(b) are that, in accordance with Part II of these rules, the question of unfitness to practise has been investigated and referred to the Health Committee which has determined the person's fitness to practise to be seriously impaired by reason of her physical or mental condition and has directed the removal.

(4) A person who has been removed from the register by the means specified in paragraph (2) may be restored by the direction of the Conduct Committee on an application made and determined in accordance with rule 15.

(5) A person who has been removed from the register by the means specified in paragraph (3) may be restored by the direction of the Health Committee on an application made and determined in accordance with rule 43.

(6) References in this rule to removal from, and restoration to, the register include removal from, and restoration to, any part of it.

Removal, alteration and restoration of entries

3. Without prejudice to her more general power to remove or alter entries in the register which would otherwise be inaccurate, the Registrar shall remove, alter and restore entries whenever so directed by either the Conduct Committee or the Health Committee in accordance with these rules.

Investigating procedures

4.—(1) The National Boards of England, Wales, Scotland and Northern Ireland shall each respectively carry out investigations of cases of alleged misconduct by practitioners who are, or were at the time of their registration, ordinarily resident in the country for which the Board is constituted referred to them direct or through the Council, with a view to proceedings before the Council or a committee of the Council for a practitioner to be removed from the register or part or parts of it.

(2) Any Board may if it so wishes carry out its investigations through a committee appointed by the Board all of whom must be members of the Board concerned.

(3) Each Board shall ensure that whether investigations are carried out by a Board or by a committee appointed by a Board no member of the Council shall take part in any investigating procedures as a member of a Board or of a committee appointed by a Board.

(4) When considering how cases shall be investigated Boards shall have proper regard for the interests of all groups within the professions, including those with minority representation.

(5) Each Board shall consider all matters referred to it direct or through the Council.

(6) Where it has been brought to the notice of a Board that a practitioner is alleged to have been guilty of any misconduct the Board shall invite the respondent to furnish any written statement or explanation which she may desire to offer and shall lay the matter before the Board.

(7) A Board shall consider the matter and obtain such reports as it considers necessary and may at any stage of the case take the advice of the solicitor, and may instruct him to obtain proofs of evidence and statements in respect of the allegations of misconduct against the respondent, or in the case of a complainant who is not acting in a public capacity ask that the complaint may be verified by way of a statutory declaration, and may also, in such cases as the relevant Board may think fit, decline to proceed with the matter.

(8) Any statutory declaration required from a complainant who is not acting in a public capacity shall state the address and description of the complainant and the grounds for her belief in the truth of any fact declared which is not within her personal knowledge.

(9) A Board shall determine whether the case is one which would justify a hearing before the Conduct Committee with a view to removal from the register or part or parts of it and shall advise the Council if it considers that the allegations justify a hearing before the Conduct Committee.

(10) The Chief Executive Officer of the relevant Board or her authorised deputy shall inform the respondent and the complainant of the decision of the relevant Board.

(11) Where a Board decides that the case is one which shall be referred to the Conduct Committee the Council may direct the solicitor to take all necessary steps to verify the evidence to be submitted to the Conduct Committee and to obtain the necessary documents and the attendance of witnesses.

(12) If, at any stage in its consideration of any matter, a Board, having determined that the information received by it gives cause for concern, forms the opinion that the allegations may be an indication that the fitness to practise of the practitioner is seriously impaired by reason of her physical or mental condition, it may refer the case to the Health Committee with a view to proceedings before the Health Committee.

(13) Where a Board decides that the case shall be referred to the Health Committee the Board shall so inform the Registrar who shall proceed in accordance with rule 27.

(14) Where in any case so referred the Health Committee returns the case to the Board certifying its opinion that the fitness to practise of the practitioner is not seriously impaired by reason of her physical or mental condition the Board shall determine whether the matter shall be referred to the Conduct Committee or concluded.

Professional Conduct Committee

5.—(1) A Conduct Committee shall be constituted to determine whether or not–

(a) a practitioner shall be removed from the register or a part or parts of it, for reasons falling within rule 2(1);

(b) a person who has been removed from the register or a part or parts of it may be restored to it;

(c) an entry in the register may be altered.

(2) All members of the Council shall be members of the Conduct Committee.

(3) A quorum of the Conduct Committee shall be three.

(4) The Conduct Committee hearing any particular case or cases shall be chosen with due regard to the professional fields in which the respondent works or has worked.

(5) The Chairman of the Council shall be the chairman of the Conduct Committee.

(6) In addition the Council shall appoint a panel of not more than nine persons from whom a deputy chairman may be chosen who shall then take the chair in the absence of the chairman.

(7) In the event of neither the chairman nor any one of the deputy chairmen being available those members who constitute the Conduct Committee on that occasion shall select a chairman from within their own number.

(8) Any member who has participated in the preliminary consideration of a case as a member of a Board shall not be permitted to be a member of the Conduct Committee dealing with that case.

Notice of Inquiry before the Committee

6.—(1) Where a case has been referred by a Board to the Conduct Committee under the provisions of rule 4(9), or where a case having previously been referred by a Board for consideration by the Health Committee has been referred back by the latter committee, and subsequently referred by the said Board to the Conduct Committee, the Registrar shall send to the respondent a notice of inquiry in writing in the form set out in the First Schedule to these rules, specifying the nature and particulars of the charge against her, and informing her of the date, time and place of the meeting of the Conduct

Committee at which the case will be heard. Such notice shall be sent by the recorded delivery service to the registered address of the respondent contained in the register or, if the Registrar has reason to believe that that address is not her present address, then to any later address which may be known to the Registrar, and shall be posted so as to allow at least 28 days to elapse between the day on which the notice is posted and the date fixed for the hearing.

(2) In any case in which there is a complainant, whether or not the complainant is to appear before the Conduct Committee, the Registrar shall send a copy of the notice of inquiry and a copy of the relevant rules to her.

(3) Upon any application by any of the parties to the proceedings, the Registrar shall send to that party copies of any statutory declarations, explanation, admission or other similar statement or communication sent to the Council by either the respondent or the complainant.

(4) The respondent may appear in person or be represented at the hearing by a friend, or by counsel or a solicitor, or by any officer of a professional organisation or trade union. A complainant may be represented only by counsel or a solicitor or, in the case of a corporate body being the complainant, by a member or officer of that corporate body duly appointed by the corporate body for the purpose or by counsel or a solicitor. In the event of the respondent or complainant deciding to be represented the Council must be given seven days notice thereof.

(5) The Council shall prosecute any complaint which as a result of investigation has come before the Conduct Committee unless the complainant notifies the Council at least ten days before the hearing that she wishes to prosecute the complaint herself. If the complainant wishes to prosecute the complaint herself then she shall prosecute it at her own expense.

Postponement or cancellation of Inquiry

7.—(1) The chairman of the Conduct Committee, of her own motion or upon the application of any party to the proceedings, may postpone the hearing of an inquiry or may refer the matter back to a Board for further consideration as to whether an inquiry should be held.

(2) Where before the inquiry opens it appears to the chairman of the Conduct Committee, or at any stage of the proceedings it appears to the Conduct Committee, that a notice of inquiry is defective, she or it shall cause the notice to be amended unless it appears that the required amendment cannot be made without injustice, or, if she or it considers that the circumstances in which an amendment is made require it, she or it may direct that the inquiry shall be postponed or shall not be held.

(3) The Registrar shall, as soon as practicable, give to all parties to whom a notice of inquiry has been sent notification of any decision to postpone or not to hold an inquiry, informing them of the date fixed for the hearing of a postponed inquiry.

Opening of Inquiry and reading of the charge

8.—(1) Where the respondent does not appear the chairman of the Conduct Committee shall call upon the solicitor to satisfy the Conduct Committee that the notice of inquiry has been received by the respondent. If it does not appear to have been so received the Conduct Committee may nevertheless proceed with the inquiry, if it is satisfied that all reasonable efforts in accordance with these rules have been made to serve the notice of inquiry on the respondent.

(2) The charge shall be read in public and in the presence of the parties to the proceedings by an officer of the Council. If the respondent does not appear but the Conduct Committee nevertheless decides that the inquiry shall proceed the charge shall be read in her absence.

(3) As soon as the charge has been read the respondent may, if she so desires, object to the charge, or to any part or parts of it, on a point of law, and any other party to the proceedings may reply to any such objection. If any such objection is upheld, no further proceedings shall be taken on that charge or on that part of the charge to which the objection relates.

Misconduct: procedure to be followed where conviction is alleged

9.—(1) In cases arising out of a complaint or information alleging misconduct from which it appears that a practitioner has been convicted of a criminal offence, but excluding any cases which fall within section 13(1) of the Powers of Criminal Courts Act 1973(**a**) or section 8(1) of the Probation Act (Northern Ireland) 1950(**b**), the following order of proceedings shall be observed concerning proof of the convictions alleged in the charge–

(a) the solicitor or, if the complainant appears, the complainant shall adduce evidence of each conviction;

(b) where a person has been convicted by or before a Court in England, Wales or Northern Ireland or before a Court-martial, a certificate that she has been so convicted granted by a competent officer of the Court or Court-martial shall be conclusive evidence of the conviction for the purposes of these rules unless the person is able to prove beyond reasonable doubt that she is not the person referred to in the certificate of conviction or that the offence referred to in the certificate of conviction was not that of which she was convicted;

(c) where a person has been convicted by or before a Court in Scotland, an extract conviction shall be conclusive evidence of the conviction for the purpose of these rules unless the person is able to prove beyond reasonable doubt that she is not the person referred to in the extract conviction or that the offence referred to in the extract conviction was not that of which she was convicted;

(d) if no evidence is adduced concerning any particular conviction, the chairman of the Conduct Committee shall thereupon announce that that conviction has not been proved;

(e) if the respondent appears, the chairman shall ask her concerning each conviction of which evidence is adduced whether she admits that she was so convicted and if she does so admit the chairman shall thereupon announce that the conviction has been proved.

(2) If, where the respondent appears, she does not admit that she was so convicted she may then adduce evidence concerning any conviction which she has not admitted, but only on the question of whether she was the person convicted as alleged or whether the offence referred to was not that of which she was convicted, and may address the Conduct Committee on that question; provided that only one address may be made under this paragraph and, where the respondent adduces evidence, that address may be made either before that evidence is begun or after it is concluded.

(3) Where evidence is adduced under paragraph (2), the solicitor or, where the complainant appears, the complainant may adduce evidence to rebut such evidence.

(4) Except where the respondent has admitted that she was convicted as alleged the Conduct Committee shall next consider every conviction of which evidence has been adduced and shall determine whether or not it has been proved; and the chairman shall announce its determination in such terms as the Conduct Committee may decide.

(5) After the Conduct Committee has determined that any conviction has been proved the validity of that conviction shall not be questioned, either by the Conduct Committee or by any party to the inquiry.

(6) Proof of conviction shall be conclusive evidence for the purpose of these rules of the commission by the respondent of the offence of which she was convicted.

(7) Proof of conviction alone shall not constitute misconduct: misconduct shall be a matter for the Conduct Committee to determine in accordance with these rules.

(8)(a) At the conclusion of the proceedings under paragraphs (1) to (4) the chairman shall invite the solicitor to address the Conduct Committee as to the circumstances leading to the conviction or convictions and the solicitor may adduce evidence as to those circumstances.

(b) The respondent may then address the Conduct Committee as to the circumstances and may adduce evidence.

(c) The solicitor shall have a right of reply and may adduce evidence limited to those matters raised by the respondent.

(**a**) 1973 c.62.
(**b**) 1950 c.7 (N.I.).

Misconduct: procedure to be followed regarding other allegations

10.—(1) In cases arising out of a complaint or information from which it appears that a question arises whether a respondent has been guilty of misconduct the following order of proceedings shall be observed in respect of proof of the charge or charges–

(a) if the respondent appears the chairman shall ask her whether she admits the facts alleged in the charge or charges and if she does so admit them the chairman shall thereupon announce that the facts have been proved;

(b) if the respondent does not appear and has not admitted in writing to the Conduct Committee after receiving the notice of inquiry the facts alleged in the charge or charges, or if she appears and does not admit all the facts alleged, the solicitor or the complainant (if any appears) shall open the case and adduce evidence of the facts alleged;

(c) if the respondent does not appear but has admitted in writing to the Conduct Committee after receiving the notice of inquiry the facts alleged in the charge or charges the chairman shall announce that the facts have been proved; the Chairman shall then invite the solicitor to address the Conduct Committee as to the circumstances leading up to those facts in the charge or charges and the solicitor may call evidence;

(d) if no evidence is adduced concerning any particular charge on which there has been no admission of the facts alleged, the Conduct Committee, subject to its right in such a case to order the adjournment of the inquiry, shall record and the chairman shall announce the finding that the respondent is not guilty of misconduct in respect of the matters to which that charge relates.

(2) Where the respondent appears and has admitted the facts the following further order of proceedings shall be followed–

(a) the solicitor shall address the Conduct Committee as to the circumstances leading up to the facts in the charge or charges and may call evidence;

(b) the respondent or her representative shall have a right of reply and may call evidence in connection therewith;

(c) the solicitor shall have a further right of reply and may adduce evidence limited to those matters raised by the respondent;

(d) either party may cross-examine or re-examine the other party or any person giving evidence on behalf of either party.

(3) Where the respondent appears but does not admit the facts the following order of proceedings shall be observed–

(a) the solicitor shall present the case against the respondent and the respondent shall have the right to cross-examine any person giving evidence against her and the solicitor may re-examine;

(b) at the close of the case against her the respondent may, if she so desires, make either or both of the following submissions relating to any charge concerning which evidence has been adduced, namely

(i) that no sufficient evidence has been adduced upon which the Conduct Committee could find that the facts alleged in that charge have been proved;

(ii) that the facts alleged in the charge are not such as to constitute misconduct;

and where either or both of such submissions is made, any other party may reply thereto;

(c) if a submission is made under sub-paragraph (b), the Conduct Committee shall, in camera, consider and determine whether it should be upheld; and if the Conduct Committee determines to uphold it, it shall record and the chairman shall announce its finding that, in relation to the matters to which that charge relates, the respondent is not guilty of misconduct;

(d) where such submissions are heard and are rejected by the Conduct Committee, or where no submission has been made under sub-paragraph (b) the respondent may adduce evidence in answer to any charge concerning which evidence has been adduced and, whether she adduces evidence or not, may address the Conduct Committee; except with the leave of the Conduct Committee only one address may be made under this sub-paragraph which, where the respondent

adduces evidence, may be made either before that evidence is begun or after it is concluded; at the close of the case for the respondent, the solicitor or the complainant, as the case may be, may with the leave of the Conduct Committee adduce evidence to rebut any evidence adduced by the respondent, and if he does so the respondent may make a further address limited to the rebutting evidence;

(e) the solicitor or the complainant, as the case may be, may with the leave of the Conduct Committee address the Conduct Committee by way of reply to the respondent's case;

(f) without prejudice to sub-paragraph (e), if the respondent has made a submission to the Conduct Committee on a point of law any other party has a right to reply limited to that submission.

(4) On the conclusion of the proceedings under paragraph (3) the Conduct Committee shall consider and determine, in camera, in respect of each charge which remains outstanding which, if any, of the allegations have been proved to its satisfaction.

(5) If under paragraph (4) the Conduct Committee determines in respect of any charge, either that none of the allegations in the charge has been proved to its satisfaction, or that such facts as have been so proved would be insufficient to support a finding of misconduct, the Conduct Committee shall record a finding that the respondent is not guilty of misconduct in respect of the matters to which that charge relates. The chairman shall announce the findings in public and declare that the respondent is not guilty of misconduct in respect of the matters to which the charge relates.

Procedure upon proof of the facts in cases of alleged misconduct

11.—(1) Where in a case of alleged misconduct the Conduct Committee has found the facts or any of them alleged in any charge to have been proved to its satisfaction the following procedure shall be observed–

(a) if the respondent appears, the chairman shall ask her whether on the basis of the facts which have been proved she admits the charge of misconduct; if she does not so admit the charge, the respondent either directly or through her representative may adduce both evidence and argument as to why the facts do not constitute misconduct; the solicitor may reply to the respondent or her representative and with the leave of the Conduct Committee may adduce further evidence and the respondent shall have a right of reply to any matters raised by the solicitor but may not adduce further evidence;

(b) if the respondent does not appear and has not admitted in writing the charge of misconduct, the Conduct Committee may call upon the solicitor to present any further information or evidence in respect of that charge.

(2) The Conduct Committee shall then forthwith consider and determine whether in relation to the facts found proved as aforesaid the respondent is guilty of misconduct. If it determines that she is not guilty of misconduct in relation to some or any of such facts it shall record a finding to that effect and the chairman shall announce it in public.

(3) If the Conduct Committee determines that the respondent is guilty of misconduct in relation to all or any of such facts the chairman shall invite the solicitor or the complainant or her or its representative, as the case may be, to address the Conduct Committee and to provide evidence as to the previous history of the respondent. The respondent or her representative may cross-examine any person giving evidence at this stage of the proceedings and the solicitor or the complainant or her or its representative, as the case may be, may then re-examine that person. The chairman shall then invite the respondent or her representative to address the Conduct Committee by way of mitigation and the respondent or her representative, as the case may be, may adduce evidence as to her previous history and as to character. The complainant or her or its representative or the solicitor may cross-examine any person giving evidence at this stage of the proceedings and the respondent or her representative may re-examine that person.

(4) Except where the respondent has been found not guilty of misconduct on all charges the Conduct Committee shall next consider and determine in camera whether it should postpone judgment.

(5) If the Conduct Committee determines to postpone judgment, it shall also

determine the month and year in which the hearing will resume, and the chairman of the Conduct Committee shall announce in public its determination in such terms and with such recommendations as the Conduct Committee shall have decided.

(6) If the Conduct Committee determines not to postpone judgment, it shall determine whether by reason of the misconduct of the respondent the Registrar shall be directed to remove the respondent's name from the register or part or parts of it. The chairman shall then announce its determination in public in such terms and with such recommendations as the Conduct Committee shall have approved.

(7) Where the Conduct Committee has determined not to postpone judgment and not to direct that the respondent's name be removed from the register or part or parts of it, the Conduct Committee shall determine to conclude the case without taking any further action on the respondent's proven misconduct. The chairman shall then announce its determination in public in such terms as the Conduct Committee shall have approved.

(8)(a) The Registrar shall forthwith communicate with the respondent by the recorded delivery service informing her of the decision of the Conduct Committee and state any registration fee which may be due where the Conduct Committee has determined not to remove the respondent's name from the register or any part or parts of it.

(b) In those cases where judgment has been postponed the letter shall set out any recommendations made by the Conduct Committee including the requirement for any registration fee that may be due.

(c) In those cases where the respondent has been removed from the register or part or parts of it the letter shall set out any recommendations made by the Conduct Committee. In such a case the letter shall also require that she should return to the Registrar within 21 days any document or insignia issued by the Council or its predecessor which indicates registration status and warn her of her liability to proceedings under section 14(1)(b) of the Act if she holds herself out to be a practitioner in a part of the register from which her name has been removed.

(d) The letter shall enclose a form to be signed by the respondent acknowledging the receipt of the Council's decision and confirming that the contents of the letter are understood, which shall be signed and returned to the Registrar.

(e) The Registrar, in the case of the removal of the respondent's name from the register or part or parts thereof, shall delete her name from the register or the part or parts of the register which the Conduct Committee have determined.

Procedure in cases relating both to alleged misconduct and to other matters

12. Where in any misconduct case it is alleged against the respondent that misconduct is evidenced by conviction and also by other matters the Conduct Committee shall proceed first under rule 9 as regards the conviction and then under rule 10 as regards the other matters.

Procedure on postponement of judgment

13.—(1) Where under any of the foregoing provisions of these rules the judgment of the Conduct Committee in any case stands postponed, the following rules of procedure shall apply–

(a) not later than eight weeks before the day fixed for the resumption of the proceedings the Registrar shall send to the respondent at the address given by the respondent at the earlier hearing, or to any subsequent address notified by the respondent, a notice sent by the recorded delivery service specifying the day and place at which the proceedings are to be resumed and invite the respondent to appear thereat with or without representation as she chooses;

(b) additionally, the notice shall remind the respondent of the recommendations made by the Conduct Committee at the earlier hearing and confirmed or notified to her by subsequent letter and shall invite the respondent to furnish to the Registrar the names and addresses of at least two suitable persons with knowledge of the facts found against her who are able and willing to give evidence as to the nature of her employment since the adjourned hearing, and such other evidence as the Conduct Committee may reasonably require; such names and addresses shall be submitted to the Conduct Committee not less than

four weeks before the date of the hearing;

(c) a copy of the notice shall be sent to the complainant, if any, and she may in turn, if she so desires, send to the Registrar a statement or statutory declaration concerning any matter relating to the conduct of the respondent since the previous hearing provided that the statement or statutory declaration is made from her own knowledge;

(d) not less than four weeks before the date fixed for the resumption of the proceedings a notice shall be sent to both the respondent and the complainant stating the time at which the hearing will be resumed;

(e) at the meeting at which the proceedings are resumed the chairman shall first invite an officer of the Council, or if the Conduct Committee so requires the solicitor, to inform the Conduct Committee, which shall meet in public, of the facts established at the original hearing, and of any recommendations of the Conduct Committee at the time; the Conduct Committee shall then consider any reports or references and any further oral or documentary evidence in relation to the case, or to the conduct of the respondent since the previous hearing and shall hear any other evidence in mitigation or aggravation; the Conduct Committee shall also hear any other party to the proceedings who desires to be heard; the Conduct Committee shall allow the respondent to address the Conduct Committee either directly or through a representative, and may question the respondent;

(f) the Conduct Committee shall then consider and determine, in camera, whether it should further postpone its judgment on the charges on which its judgment was previously postponed; if the Conduct Committee determines further to postpone judgment, the judgment of the Conduct Committee shall stand postponed until such future meeting of the Conduct Committee as it may determine; the chairman of the Conduct Committee shall announce its determination in public in such terms as the Conduct Committee may decide;

(g) if the Conduct Committee determines that judgment shall not be further postponed, it shall resolve the matter in accordance with rule 11(6).

(2) At any resumed proceedings any new charge alleged against the respondent in accordance with these rules shall first be dealt with in accordance with such of the foregoing rules as may be applicable unless the respondent has admitted the allegations in writing and had been previously warned in writing that such allegations and admission would be considered.

(3) If the Conduct Committee determines not to postpone judgment in respect of any such new charge or charges the Conduct Committee may apply rule 11 (6) simultaneously to the new charge and the charge in respect of which it has postponed judgment.

(4) Nothing in paragraph (3) shall prevent the Conduct Committee from receiving evidence at any resumed proceedings of any conviction of a criminal offence recorded against the respondent and the provisions of rule 9 or so much of that rule as is applicable shall be followed.

(5) It shall not be necessary for the Conduct Committee when meeting to consider a case on which judgment had earlier been postponed to be composed of the same members who constituted the Conduct Committee at the original hearing. The validity of any resumed hearings shall not be called into question on these grounds.

Procedure where there is more than one respondent

14. Nothing in this Part of these rules shall prevent one inquiry being held into charges against two or more respondents where the Conduct Committee considers the circumstances justify the procedure; and where such an inquiry is held the foregoing rules shall apply with the necessary adaptations and subject to any directions given by the Conduct Committee on the advice of the legal assessor as to the order in which proceedings shall be taken under any of those rules by or in relation to the several respondents. Any of the rights ensured to a respondent under these rules shall be exercised separately by each of the respondents who may desire to invoke any of those rights.

Restoration to the register or a part or parts of it

15.—(1) Where the name of a practitioner has been removed from the register or a part or parts of it in the circumstances set out in rule 2(1)(a) any application for its restoration to any or all parts of the register for which the applicant possesses a qualification shall be made in writing addressed to the Registrar and signed by the applicant, stating the grounds on which the application is made.

(2) The applicant shall then be sent a letter by the Registrar to–

(a) outline the application procedure;

(b) remind the applicant of any recommendations made by the Conduct Committee at the time of removal;

(c) enclose a form on which the applicant must state the necessary personal details, and the names and addresses of two or more persons with knowledge of the facts found against her 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, where practicable, before that date;

(d) require the applicant to declare that she has not been convicted of a criminal offence since being removed from the register or that she is not the subject of any current criminal proceedings, but if she has been convicted of a criminal offence or if she is currently the subject of criminal proceedings to provide details thereof including the judgment and the address of the Court at which the proceedings took place or are taking place;

(e) require her to declare that she has not knowingly represented herself to be a practitioner since the date of her removal from the register or part or parts of it, except in respect of any part from which her name has not been removed;

(f) state the fee for restoration should the application be successful;

(g) state any registration fee which may be due.

The Conduct Committee may invite the applicant to verify by statutory declaration any statement made in her application or on the invitation of the Conduct Committee.

(3) Subject to the foregoing provisions of this rule and to those of rules 16, 17 and 18, the procedure of the Conduct Committee in respect of applications for restoration to the register or part or parts of it shall be such as the Conduct Committee may determine.

(4) As soon as practicable after the documents have been received in respect of the application a date, time and place for the consideration of the application by the Conduct Committee shall be determined and shall be notified to the applicant in a letter signed by the Registrar. The particular Conduct Committee which considers the application shall be convened with due regard to the applicant's professional qualifications, and the part or parts of the register to which restoration is sought.

(5) The Conduct Committee shall not consider an application for restoration to the register or any part or parts of it in the absence of the applicant unless it shall decide that there are exceptional reasons for her inability to attend. In the latter circumstances the Conduct Committee may, unless it determines otherwise, invite the applicant's response through the solicitor to specific questions it wishes to raise, and may require that the written answers are provided in the form of a statutory declaration.

(6) At the meeting at which the application is considered the chairman shall first require an officer of the Council or the solicitor to inform the Conduct Committee, which shall meet in public, of the facts established at the hearing which resulted in removal from the register or part or parts thereof, and of any recommendations of the Conduct Committee.

(7) The chairman may also require an officer of the Council or the solicitor to inform the Conduct Committee about any known activities of the applicant since the applicant was removed from the register or any part or parts thereof.

(8) The Conduct Committee shall consider the evidence submitted in respect of the application, and may question the applicant.

(9) The applicant may appear in person or be represented at the hearing by a friend or by counsel or a solicitor or by any officer of a professional organisation or trade union.

(10) Where the Conduct Committee decides that the applicant shall be restored to the register or any part or parts thereof it shall also determine the date when the restoration shall take effect and whether it should be subject to any of the limitations for which rules made under section 10(3)(c) of the Act provide. The decision of the Conduct Committee shall be announced in public.

(11) The decision of the Conduct Committee shall be signed by the Registrar and conveyed to the applicant by the recorded delivery service.

(12) Where the Conduct Committee has decided that the name of the applicant shall be restored to the register or part or parts thereof then, upon payment by the applicant of the restoration and any registration fee, the Registrar shall cause the entry in the register to be restored, and shall issue to the applicant a full copy of that restored entry.

Hearing and Adjournment

16.—(1) The Conduct Committee may deliberate in camera at any time and for any purpose during or after the hearing of any proceedings.

(2) Save as aforesaid and where provided in these rules all proceedings before the Conduct Committee shall take place in the presence of all parties thereto who appear therein and shall be open to the public except as provided by paragraph (3).

(3) Where in the interests of justice it appears to the Conduct Committee that the public should be excluded from any proceedings or part thereof, the Conduct Committee may direct that the public shall be so excluded; but a direction under this paragraph shall not apply to the announcement in pursuance of any of these rules of a determination of the Conduct Committee.

(4) The Conduct Committee may adjourn its proceedings from time to time as it thinks fit.

Referral to the Health Committee

17.—(1) At any time during the proceedings but before the Conduct Committee determines whether by reason of the misconduct of the respondent the Registrar shall be directed to remove the respondent's name from the register or part or parts of it in accordance with rule 11(6) the Conduct Committee may direct that the respondent shall be referred to the Health Committee to ascertain whether the fitness to practise of the respondent is seriously impaired by reason of her physical or mental condition.

(2) Where the Health Committee refers the matter back to the Conduct Committee certifying its opinion that the fitness to practise of the practitioner is not seriously impaired by reason of her physical or mental condition the Conduct Committee shall resume its inquiry into the case and dispose of it.

Evidence

18.—(1) The Conduct Committee may receive oral, documentary or other evidence of any fact which appears to it relevant to the inquiry into the case before it; provided that, where a fact which it is sought to prove or the form in which any evidence is tendered is such that it would not be admissible in criminal proceedings in any English Court, or Scottish Court where the proceedings are in Scotland, or Northern Ireland Court where the proceedings are in Northern Ireland, the Conduct Committee shall not receive evidence of that fact or in that form, unless after consultation with the legal assessor it is satisfied that it is desirable in the interests of justice to receive it having regard to the difficulty or expense of obtaining evidence which would be so admissible.

(2) Without prejudice to the generality of paragraph (1) the Conduct Committee may, if satisfied that the interests of justice will not thereby be prejudiced, admit in evidence without strict proof copies of documents which are themselves admissible, maps, plans, photographs, certificates of conviction and sentence, certificates of birth and marriage and death, the records (including the registers) of the Council, the notes of proceedings before the Conduct Committee and before other tribunals and the records of such tribunals, and the Conduct Committee may take note without strict proof of the professional qualifications, the registration, the address and the identity of the practitioner and of any other person.

(3) The Conduct Committee may accept admissions made by any party and may in such case dispense with proof of the matters admitted.

(4) A witness, including the respondent (if she gives evidence), shall first be examined by the person calling her and may then be cross-examined and re-examined. Questions may be put to any witness by the Conduct Committee through the chairman or by the legal assessor with the leave of the chairman.

(5) The Conduct Committee may cause any person to be called as a witness in any proceedings before it whether or not the parties consent thereto.

Voting

19.—(1) Any question put to the vote of the Conduct Committee shall be put in the form of a motion. The chairman shall call on all members present to vote for or against the motion by raising their hands and shall declare that the motion appears to have been carried or not carried as the case may be. No member of the Conduct Committee may abstain.

(2) Where the result so declared is challenged by any member, the chairman shall require the officer servicing the Conduct Committee to call each member's name in turn, and the members shall declare themselves for or against the motion, the chairman voting last. The chairman shall then declare the number of members who have voted for and the number who have voted against the motion and whether the motion has been carried or not carried. No member of the Conduct Committee may abstain.

(3) Where on any motion at a hearing of the Conduct Committee to remove a person from the register or part or parts of it the votes are equal, the question shall be deemed to have been resolved in favour of the respondent and against the complainant. For the purposes of this rule a decision to postpone judgment shall be deemed to be a resolution in favour of the respondent and the chairman shall so inform the respondent. Should the respondent object to the postponement of judgment the Conduct Committee shall further consider its judgment in camera and determine the matter in accordance with rule 11(6).

(4) Where on any motion at a hearing of the Conduct Committee to restore a person to the register or part or parts of it the votes are equal the question shall be deemed to have been resolved against the applicant.

Communication of the Conduct Committee's decision to persons and bodies in the United Kingdom

20. Where a decision is made to remove the respondent from the register or part or parts thereof the Chief Executive Officer of each of the National Boards shall be informed.

Communication of the Conduct Committee's decision to Nurse, Midwife or Health Visitor Registration Authorities outside the United Kingdom

21. Where it is evident from the Council's records that a person who has been removed or restored to its register or part or parts of it either–

(a) was admitted to that register following original registration outside the United Kingdom; or

(b) was the subject of verification of her original registration in the United Kingdom to registration authorities in any other countries;

a communication to the relevant authorities of the decision to remove the respondent from the register or part or parts of it or restore the applicant to the register or part or parts of it shall be sent by the Registrar.

PART II

Health Committee

22.—(1) A Health Committee shall be constituted to determine whether or not–

(a) a practitioner shall be removed from the register or a part or parts of it under rule 2(1)(b); and

(b) a person who has been removed from the register or part or parts of it under rule 2(1)(b) may be restored.

(2) The Council shall appoint twenty five persons from among its members who shall be eligible and required to serve from time to time on the Health Committee, such members to be selected with due regard to the need to represent a wide range of fields of professional work.

(3) The chairman of the Council shall be the chairman of the Health Committee.

(4) In addition, from amongst those twenty five persons the Council shall appoint a panel of six persons from whom a deputy chairman may be chosen who shall then take the chair in the absence of the chairman.

(5) In the event of neither the chairman nor any of the six deputy chairmen being available those members who constitute the Health Committee on that occasion shall select a chairman from within their own number.

(6) The quorum of the Health Committee shall be three.

Appointment of persons to conduct initial consideration of cases

23.—(1) No case shall be considered by the Health Committee unless it has been referred either–

(a) by a National Board; or

(b) by the Conduct Committee; or

(c) by the professional screeners appointed under paragraph (2).

(2) The Council shall establish a panel of not less than twelve persons, to include not less than seven nurses, two midwives and two health visitors from within the Council membership, from whom a group of three professional screeners shall be selected to consider any matters referred to them, due regard being had to the professional field in which the practitioner is or was working

Information raising the question as to the fitness to practise of nurses, midwives or health visitors

24.—(1) Where information in writing is received by the Registrar about any practitioner which raises a question as to whether the fitness to practise of the practitioner is seriously impaired by reason of her physical or mental condition, the Registrar shall submit the information to the professional screeners.

(2) Anyone wishing to lay information must execute a statutory declaration which shall state–

(a) her address and designation; and

(b) the information; and

(c) her grounds for the belief in the truth of any fact declared which is not within her personal knowledge.

(3) If it appears to the professional screeners that there is no reasonable evidence to support the allegations they shall direct the Registrar so to inform the complainant and, if they consider it necessary or desirable, the practitioner. The professional screeners may, if they consider it necessary to assist them in arriving at a decision, obtain an opinion from a selected medical examiner on the information and evidence they have received.

(4) Unless it appears to the professional screeners that the matter need not proceed further they shall direct the Registrar to write by the recorded delivery service to the practitioner–

(a) notifying her that information has been received which appears to raise a question as to whether her fitness to practise has become seriously impaired by reason of her physical or mental condition and indicating the symptomatic behaviour which gives rise to that question;

(b) inviting the practitioner to agree within fourteen days to submit to examination at the Council's expense by two medical examiners to be chosen by the professional screeners and to agree that such examiners should furnish to the Registrar reports on the practitioner's fitness to practise;

(c) informing the practitioner that it is also open to her to nominate other medical practitioners to examine her at her own expense and to report to the Registrar on the practitioner's fitness to practise; and

(d) inviting the practitioner to submit to the Registrar any observations or other evidence which she may wish to offer as to her own fitness to practise.

(5) All information received by the Registrar pursuant to paragraph (4)(b) (c) and (d) shall be forwarded to the professional screeners.

(6) In the event of the two medical examiners not being able to agree on the result of their examination a third medical examiner may be appointed at the Council's expense.

(7) Before giving a direction under paragraph (4) the professional screeners may cause such enquiries to be made in relation to the matters before them as they may think fit.

Examination by Medical Examiners

25.—(1) If the practitioner agrees to submit to medical examination in response to an invitation sent out under rule 24(4)(b) and (c) the Registrar shall make arrangements for such examination. The medical examiners shall be chosen by the professional screeners in accordance with the provisions of the Second Schedule to these rules.

(2) The Registrar shall send to the chosen medical examiners the information received by the Registrar and the professional screeners and shall ask the medical examiners to report on the fitness of the practitioner to engage in practice, and how they recommend that her case shall be managed.

Action following consideration of reports of Medical Examiners

26.—(1) The professional screeners shall then consider the reports received from the medical examiners, including any reports by medical practitioners nominated by the practitioner under rule 24(4)(c) and shall cause the Registrar to send copies of them to the practitioner.

(2)(a) If the medical examiners consider unanimously that the practitioner is not fit to practise, or is a practitioner on whose practice restrictions should be imposed, or if in the case of a difference of opinion amongst the medical examiners it appears to the Registrar after consultation with the professional screeners that the practitioner may not be fit to practise or may not be fit to practise without the imposition of restrictions, the Registrar shall refer the information received together with the reports of the medical examiners to the Health Committee and may direct the solicitor to take all necessary steps for verifying the evidence to be submitted to the Health Committee and for obtaining any necessary documents and the attendance of witnesses;

(b) where in any case there is considered to be no sufficient evidence of illness in accordance with the foregoing rules the practitioner and complainant shall be so informed by the Registrar.

Provisions applying when a case has been referred to the Health Committee by a National Board or by the Conduct Committee

27.—(1) Where a case has been referred by a National Board or the Conduct Committee to the Health Committee, the Health Committee shall direct the Registrar–

(a) to invite the practitioner to submit to examination at the Council's expense before the case is considered by the Health Committee, by at least two medical examiners to be chosen by the professional screeners; and

(b) to agree that such examiners should furnish to the Health Committee reports on the practitioner's fitness to practise; and

(c) to inform the practitioner that it is also open to her to nominate another medical practitioner at her own expense to examine her and to report to the Health Committee on her.

(2) In the event of the medical examiners not agreeing on their report a third medical examiner may be appointed at the Council's expense.

(3) If the practitioner agrees to submit to examination as aforesaid the Registrar shall make arrangements for such examination and any reports received shall be referred to

the Health Committee, together with the information on which a National Board or the Conduct Committee, as the case may be, decided to refer the case.

Action following a refusal by the practitioner to submit to be medically examined

28. If the practitioner declines to submit to examination as provided for in rule 24(4)(b) or refuses to nominate other medical practitioners to examine her under rule 24(4)(c) the Registrar shall consult with the professional screeners and shall decide whether or not to refer the information received to the Health Committee indicating the reason why no medical report is available.

Notice of Referral

29.—(1) Subject to rule 27 as soon as practicable after a case has been referred to the Health Committee, the Registrar shall send to the practitioner a Notice of Referral which shall–

(a) indicate the grounds for the belief that her fitness to practise is seriously impaired; and

(b) state the day, time and place at which the Health Committee will meet to consider the matter.

(2) Except with the agreement of the practitioner no case shall be referred for consideration at any date earlier than twenty eight days after the date of posting the Notice of Referral.

(3) A Notice of Referral shall be delivered to the practitioner or sent by registered post or by the recorded delivery service to her at her address on the register or at her last known or any other address if it appears to the Registrar that a Notice so addressed is more likely to reach her.

(4) When sending a Notice of Referral the Registrar shall inform the practitioner that it is open to her to be represented at the inquiry and also to be accompanied by her medical adviser. The Registrar shall also invite the practitioner to state whether she proposes to attend the inquiry.

(5) The Registrar shall send with any Notice of Referral a copy of these rules and copies of any reports and other information which it is proposed to present to the Health Committee, other than reports of which copies have already been sent to the practitioner under rule 26(1).

(6) When forwarding copies of the information or medical reports to the practitioner under paragraph (5) the Registrar shall ask the practitioner to state within fourteen days of the receipt of the Notice of Referral whether she will require evidence of any part of the information or of the findings and opinions contained in the reports to be given orally before the Health Committee. If the practitioner requires the presentation of oral evidence the Registrar may fix a new date for the hearing and shall issue an amended Notice of Referral in accordance with the requirements of paragraphs (2) and (3).

Postponement or Cancellation of Inquiry

30.—(1) Notwithstanding the provisions of the foregoing rules the chairman of the Health Committee, of her own motion or upon the application of any party thereto, may postpone the hearing of any inquiry or may refer the matter back to a Board or to the professional screeners, as the case may be, for further consideration as to whether an inquiry should be held. If the chairman determines to refer the matter back she shall certify her reasons for so doing.

(2) Where before the inquiry opens it appears to the chairman of the Health Committee, or at any stage of the proceedings it appears to the Health Committee, that a Notice of Referral is defective, she or it shall cause the notice to be amended unless it appears that the required amendment cannot be made without injustice, or if she or it considers that the circumstances in which an amendment is made require it, she or it may direct that the inquiry shall be postponed or shall not be held.

(3) The Registrar shall, as soon as practicable, give to all parties to whom a Notice of Referral has been sent notification of any decision to postpone or not to hold an inquiry, informing them of the date fixed for the hearing of the postponed inquiry.

Preliminary circulation of evidence

31. Before the meeting of the Health Committee the Registrar shall send to each member of the Health Committee, and to the medical examiners chosen to advise the Health Committee on the particular case, copies of the Notice of Referral, of the information received by the Council, of any medical reports received in accordance with rules 26 and 27, and of any observations or other evidence submitted by or on behalf of the practitioner.

Conduct of inquiry

32.—(1) The Health Committee shall sit in private.

(2) At least one of the medical examiners selected by the professional screeners to examine the practitioner shall be in attendance throughout the inquiry except during those periods when the Health Committee decides to deliberate in camera.

(3) The practitioner shall be entitled to be present while her case is heard, and may also be represented by a friend or by counsel or a solicitor or by an officer of a professional organisation or a trade union and may be accompanied by her medical adviser.

(4) Where the practitioner is neither present nor represented the chairman of the Health Committee shall ask the Registrar or the solicitor, if present, to satisfy the Health Committee that the Notice of Referral has been received by the practitioner. If it does not appear to have been so received the Health Committee may nevertheless proceed with the inquiry, if it is satisfied that all reasonable efforts in accordance with these rules have been made to serve the Notice of Referral on the practitioner.

Grounds for belief that the practitioner's fitness to practise is seriously impaired and calling of witnesses where notice has been given

33.—(1) At the opening of the proceedings the chairman shall draw attention to the grounds for the belief that the practitioner's fitness to practise is seriously impaired as set out in the Notice of Referral and to the documentation which has been circulated.

(2) Where in any case the practitioner has within the period indicated in rule 29(6) required that all or part of the information or reports be supported by oral evidence, the persons on whose testimony or opinions such information or reports depend shall be called as witnesses. Such witnesses may be examined by the solicitor, and may be cross-examined by or on behalf of the practitioner and may then be re-examined.

(3) Where in any case the practitioner has declined medical examination the solicitor may adduce evidence of the facts alleged and the practitioner or her representative may cross-examine any person giving evidence and the solicitor may then re-examine that person.

Calling of witnesses where no previous notice has been given

34. If, in any case where no prior notice has been given on behalf of the practitioner that all or part of the evidence shall be given orally, the practitioner or her representative indicates that she requires such evidence to be given orally, the Health Committee shall consult the legal assessor as to whether, in the interests of justice, it should adjourn the hearing in order to secure the attendance of such persons as witnesses or whether to proceed with the hearing without taking such oral evidence. If such witnesses are called they may be examined by the Health Committee or the solicitor and may be cross-examined on behalf of the practitioner and may be re-examined.

Presentation of the practitioner's case

35. At the conclusion of any oral evidence given as aforesaid the chairman shall invite the practitioner or her representative to address the Health Committee and to adduce evidence as to the practitioner's fitness to practise.

Questions

36. At any time in the proceedings questions may be put to any witness by the Health Committee through the chairman or by the legal assessor or the medical examiner with

the leave of the chairman. Whether or not witnesses are called the Health Committee may put questions to the practitioner either direct or through her representative.

Determination by Health Committee

37. At the conclusion of proceedings under the foregoing rules the Health Committee may–

(a) adjourn the case in order to obtain further medical reports or evidence as to the physical or mental condition of the practitioner or for such other purposes as may in the circumstances be appropriate; or

(b) determine that the fitness to practise of the practitioner is not seriously impaired by reason of her physical or mental condition; or

(c) postpone judgment; or

(d) determine that the fitness to practise of the practitioner is seriously impaired by reason of her physical or mental condition.

Determination that fitness is not impaired

38. If the Health Committee makes a determination under rule 37(b) it shall either–

(a) certify such opinion and instruct the Registrar to refer the matter back to the relevant Board or to the Conduct Committee from which the case was referred, which shall deal with it in accordance with Part I of these rules; or

(b) conclude the case and where it has been referred to the Health Committee by a Board or the Conduct Committee it shall so certify to the relevant Board or the Conduct Committee.

Postponement of judgment

39. If the Health Committee makes a determination under rule 37(c) it shall also determine the month and year in which the hearing will resume and shall indicate the medical evidence of the practitioner's fitness to practise which it will require at the resumed hearing.

Determination that fitness is impaired

40. If the Health Committee makes a determination under rule 37(d) it shall direct the Registrar to remove the practitioner's name from the register or part or parts of it.

Announcement of determination

41. The chairman shall announce the determination or determinations of the Health Committee under the foregoing rules in such terms and with such recommendations as the Health Committee may decide.

Communication of decision

42.—(1) The Registrar shall forthwith communicate with the practitioner by the recorded delivery service informing her of the decision of the Health Committee and stating any registration fee which may be due where the Conduct Committee has determined not to remove the practitioner's name from the register.

(2) In those cases where a decision has been postponed the letter shall set out any recommendations made by the Health Committee including a requirement for the payment of any registration fee which may be due.

(3) In those cases where the practitioner has been removed from the register or part or parts of it the letter shall set out any recommendations made by the Health Committee. In such a case the letter shall also require that she should return to the Registrar within 21 days any document or insignia issued by the Council or its predecessor which indicates registration status and warn her of her liability to proceedings under section 14(1)(b) of the Act if she holds herself out to be a practitioner in a part of the register from which her name has been removed.

(4) The letter shall enclose a form to be signed by the practitioner acknowledging the receipt of the Council's decision and confirming that the contents of the letter are understood, which shall be signed and returned to the Registrar.

(5) The Registrar, in the case of the removal of the practitioner's name from the register or part or parts thereof, shall delete her name from the register or the part or parts of the register which the Health Committee has determined.

Restoration to the register or part or parts of it

43.—(1) Where the name of a practitioner has been removed from the register or a part or parts of it because the fitness of the practitioner to practise has been seriously impaired by reason of her physical or mental condition any application for her restoration to the register or part or parts thereof shall be made in writing addressed to the Registrar and signed by the applicant stating the grounds on which the application is made.

(2) The applicant shall then be sent a letter by the Registrar to–

(a) outline the application procedure;

(b) enclose a form on which the applicant must state the necessary personal details, and the name and address of a medical practitioner to whom the Council may apply for a report on the applicant's health;

(c) require the applicant to declare that she has not been convicted of a criminal offence since being removed from the register, or that she is not the subject of any current criminal proceedings, but if she has been convicted of a criminal offence or if she is currently the subject of criminal proceedings to provide details thereof including the judgment and the address of the Court at which the proceedings took place or are taking place;

(d) require her to declare that she has not knowingly represented herself to be a practitioner since the date of her removal from the register or part or parts of it, except in respect of any part from which her name has not been removed;

(e) state the fee (if any) for restoration should the applicant be successful;

(f) state any registration fee which may be due.

The Health Committee may invite the applicant to verify by statutory declaration any statement made in her application or on the invitation of the Health Committee.

(3) As soon as practicable after the documents have been received in respect of the application a date, time and place for the consideration of the application by the Health Committee shall be determined and shall be notified to the applicant in a letter signed by the Registrar.

(4) The Health Committee shall direct the Registrar to invite the practitioner to submit to examination at the Council's expense before the application is considered by the Health Committee, by at least two medical examiners to be chosen by the professional screeners and to agree that such examiners should furnish to the Health Committee reports on the practitioner's fitness to practise.

(5) In the event of the medical examiners not agreeing on their report a third medical examiner may be appointed at the Council's expense.

(6) If the applicant agrees to submit to examination as aforesaid the Registrar shall make arrangements for such examination and any reports received shall be referred to the Health Committee. If the practitioner declines to submit to a medical examination as aforesaid the Registrar shall refer the application to the Health Committee but indicating the reason why no medical report is available.

(7) At the meeting at which the application is considered the chairman shall first require the solicitor or an officer of the Council to inform the Health Committee, which shall meet in private, of the facts established at the hearing which resulted in removal from the register or part or parts thereof, and of any recommendation of the Health Committee to apply in the event of an application for restoration.

(8) The chairman may also require the officer servicing the Health Committee to provide information about any known activities of the applicant since the applicant was removed from the register or any part or parts thereof.

(9) The Health Committee shall consider the evidence submitted in respect of the application, and may question the applicant.

(10) Where the Health Committee decides that the applicant shall be restored to the register or any part or parts thereof it shall also determine the date when the restoration shall take effect and whether it should be subject to any of the limitations for which rules made under section 10(3)(c) of the Act provide. The decision of the Health Committee shall be announced in the presence of the applicant and/or her representative and/or her medical practitioner as referred to in paragraph (2)(b) if the practitioner wishes any or all of them to be present.

(11) The decision of the Health Committee shall be signed by the Registrar and conveyed to the applicant by the recorded delivery service.

(12) Where the Health Committee has decided that the applicant shall be restored to the register or part or parts thereof then, upon the payment by the applicant of any restoration fee and any registration fee, the Registrar shall cause the entry in the register to be restored and shall issue to the applicant a full copy of that restored entry.

(13) Subject to the foregoing paragraphs of this rule and the requirements of natural justice the procedure of the Health Committee shall be such as it may determine.

Notice of resumed hearing

44.—(1) Where under any of the foregoing rules the Health Committee has adjourned the case or postponed judgment, the Registrar shall not later than four weeks before the day fixed for the resumption of the proceedings send to the practitioner a notice which shall–

(a) specify the day, time and place at which the proceedings are to be resumed and invite her to appear thereat; and

(b) if the Health Committee has so directed, invite the practitioner to submit to examination by the medical examiners chosen by the Health Committee; and

(c) if the Health Committee has so directed, invite the practitioner to furnish the names and addresses of medical practitioners or other persons to whom the Health Committee may apply for confidential information as to their knowledge of her fitness to practise since the time of the original inquiry.

(2) Paragraphs (3), (4), (5) and (6) of rule 29 shall apply to the sending of notices under this rule.

Application of rules 31 to 43

45. At any resumed hearing the procedure shall be that provided by rules 31 to 43 for the original hearing and the Health Committee may exercise any power which under those rules it could have exercised at the original hearing.

Adjournment of proceedings

46. The Health Committee may adjourn any of its proceedings or meetings from time to time as it thinks fit.

Deliberation in camera

47. Subject to the provisions of these rules the Health Committee may deliberate in camera at any time and for any purpose during any proceedings and for such purpose may exclude the practitioner, her representative and her medical adviser.

Evidence

48. The Health Committee shall comply with rule 18 insofar as it is applicable.

Voting

49. The voting procedure of the Health Committee shall be governed by rule 19 insofar as it is applicable.

Postal service of documents

50. Without prejudice to any requirement of these rules as to the service of

documents by registered post or the recorded delivery service, any notice authorised or required by these rules may be sent by post.

Communication of Health Committee's decision to persons and bodies in the United Kingdom

51. Where a decision is made to remove the respondent from the register or part or parts thereof the Chief Executive Officer of each of the National Boards shall be informed.

Communication of Health Committee's decision to Nurse, Midwife or Health Visitor Registration Authorities outside the United Kingdom

52. Where it is evident from the Council's records that a person who has been removed or restored to its register or part or parts of it either–

(a) was admitted to that register following original registration outside the United Kingdom; or

(b) was the subject of verification of her original registration in the United Kingdom to registration authorities in any other countries;

a communication to the relevant authorities of the decision to remove the respondent from the register or part or parts of it or restore the applicant to the register or part or parts of it shall be sent by the Registrar.

FIRST SCHEDULE (Rule 6(1))

FORM OF NOTICE

UNITED KINGDOM CENTRAL COUNCIL FOR NURSING, MIDWIFERY AND HEALTH VISITING
PROFESSIONAL CONDUCT COMMITTEE
Nurses, Midwives & Health Visitors Act, 1979

NOTICE OF INQUIRY

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 Professional Conduct Committee of the Council proposes to investigate such charge(s) at a meeting to be held at
..... at .....am/pm on ..... the .....
19..... and to determine whether your name should be removed from the register or any part or parts of it.

PARTICULARS OF CHARGE(S)

You are hereby required to attend before the Professional Conduct Committee of the Council at the time and place mentioned above and to answer such charges bringing with you all papers and documents in your possession relevant to the matter and any persons whose evidence you wish to lay before the Professional Conduct Committee. It should be carefully noted–

You are entitled to be represented at the hearing before the Professional Conduct Committee by a friend (including a spouse or other relative), or by counsel or a solicitor, or by any officer of a professional organisation or trade union, but if you propose to be so represented, you should give written notice to the Registrar of the Council at the address mentioned above at least seven days before the hearing.

A copy of the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987 is enclosed.

.....
Registrar and Chief Executive of the Council

(Rule 25(1))

SECOND SCHEDULE

MEDICAL EXAMINERS

1. Subject to paragraph 4 of this Schedule medical examiners shall be chosen by the Health Committee from persons nominated by any one of the following bodies:

The Royal College of Psychiatrists	Psychiatrists
The Central Committee for Hospital Medical Services of the British Medical Association	Neurologists Physicians Surgeons
The General Medical Services Committee of the British Medical Association	General Practitioners and other Branches of Medicine
Royal College of General Practitioners	General Practitioners
Royal College of Physicians of London	Neurologists and Physicians
Royal College of Physicians of Edinburgh	Physicians
Royal College of Surgeons of England	Surgeons
Royal College of Physicians and Surgeons of Glasgow	Neurologists, Physicians and Surgeons
Royal College of Obstetricians and Gynaecologists	Gynaecologists
Royal College of Physicians of Ireland	Physicians
Royal College of Surgeons in Ireland	Surgeons

2. Members of the Council shall not be eligible for nomination as medical examiners.

3. The Council shall from time to time determine the minimum number of persons to be nominated in respect of each branch of medicine, the periods for which nomination shall be made, and the intervals at which lists of those nominations shall be revised and may give directions as to the nomination of persons on a geographical basis.

4. In choosing medical examiners to act in relation to particular cases, the professional screeners and the Health Committee shall have regard to the nature of the physical or mental condition which is alleged to impair the practitioner's fitness to practise.

5. (a) It shall be the duty of at least one of the medical examiners selected to examine the practitioner, whether or not the practitioner has agreed to be examined, to be present at the inquiry and to advise the Health Committee on the medical significance of the evidence before it.

(b) Medical examiners shall give advice on questions referred to them by the Health Committee, and shall also advise the Health Committee of their own motion if it appears to them that, but for such advice, there is a possibility of a mistake being made in judging the medical significance of such evidence (including the absence of evidence) on any particular matter relevant to the fitness to practise of the practitioner.

GIVEN under the Official Seal of the
UNITED KINGDOM CENTRAL COUNCIL FOR
NURSING, MIDWIFERY AND HEALTH VISITING
this 24th day of November 1987

L.S.

Audrey Emerton
Chairman

Colin Ralph
Registrar and Chief Executive

EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order are made by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting and will have effect throughout the United Kingdom. The Rules provide for all circumstances in which, and the means by which, a nurse, midwife or health visitor may be (a) removed from the register or (b) restored to it. The main provisions of the Rules are those concerned with removal from the register for misconduct or because the fitness of the practitioner to practise is seriously impaired by reason of her physical or mental condition. Questions of misconduct are to be decided by the Professional Conduct Committee of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting whereas questions of fitness are to be decided by the Health Committee of the same Council. The Rules provide for the investigation of misconduct by the National Boards or by Committees set up for the purpose by the Boards concerned. Questions of fitness are to be considered, in the first instance, by Professional Screeners chosen from a panel of Council members who have been selected for the purpose. Applications to be restored to the register are to be made to the Professional Conduct Committee or the Health Committee, whichever directed the removal.