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STATUTORY INSTRUMENTS

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**1993 No. 893**

**NURSES, MIDWIVES AND HEALTH VISITORS**

**The Nurses, Midwives and Health Visitors (Professional  
Conduct) Rules 1993 Approval Order 1993**

*Made* - - - - 22nd March 1993  
*Coming into force* - - 1st April 1993

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(1), and as respects proceedings in England and Wales and in Scotland, respectively, hereby approve the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1993 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) Rules 1993 Approval Order 1993 and shall come into force on 1st April 1993.

Dated 22nd March 1993

*Mackay of Clashfern, C.*

Lord Advocate's Chambers  
Dated 22nd March 1993

*Rodger of Earlsferry*  
Lord Advocate

## THE SCHEDULE

THE NURSES , MIDWIVES AND HEALTH VISITORS (PROFESSIONAL CONDUCT)  
RULES 1993 made by THE UNITED KINGDOM CENTRAL COUNCIL FOR NURSING,  
MIDWIFERY AND HEALTH VISITING under THE NURSES, MIDWIVES AND HEALTH  
VISITORS ACT 1979 AND THE NURSES, MIDWIVES AND HEALTH VISITORS ACT 1992

### “ARRANGEMENT OF RULES

#### PART I

1. Citation and interpretation
2. Removal from, and restoration to, the register
3. Suspension from the register
4. Caution as to future conduct
5. Removal, alteration and restoration of entries
6. Consideration of allegations of misconduct
7. Preliminary Proceedings Committee
8. Initial consideration of allegations of misconduct
9. Commencement of disciplinary proceedings
10. Referral by professional screeners to Preliminary Proceedings Committee
11. Voting

#### PART II

12. Professional Conduct Committee
13. Notice of Inquiry before the Conduct Committee
14. Postponement or cancellation of hearing
15. Opening of inquiry and reading of the charge
16. Misconduct: procedure to be followed where conviction is alleged
17. Misconduct: procedure to be followed regarding other allegations
18. Procedure upon proof of the facts in cases of alleged misconduct
19. Procedure in cases relating both to alleged misconduct and to other matters
20. Procedure on postponement of judgment
21. Procedure where there is more than one respondent
22. Restoration to the register
23. Hearing and adjournment
24. Referral to the professional screeners
25. Evidence
26. Voting
27. Communication of the Conduct Committee’s decision to nurse, midwife or health visitor registration authorities outside the United Kingdom
28. Record of caution

#### PART III

29. Health Committee
30. Appointment of persons to conduct initial consideration of cases

31. Information raising the question as to the fitness to practise of nurses, midwives or health visitors
32. Examination by medical examiners
33. Action following consideration of reports of medical examiners
34. Provisions applying when a case has been referred to the professional screeners by the Preliminary Proceedings Committee, the President or the Conduct Committee
35. Notice of Referral
36. Postponement or cancellation of hearing
37. Preliminary circulation of evidence
38. Conduct of inquiry
39. Grounds for belief that the practitioner's fitness to practise is seriously impaired and calling of witnesses where notice has been given
40. Calling of witnesses where no previous notice has been given
41. Presentation of the practitioner's case
42. Questions
43. Determination by Health Committee
44. Determination that fitness is not impaired
45. Postponement of judgment
46. Determination that fitness is impaired
47. Announcement of determination
48. Communication of decision
49. Termination of suspension and restoration to the register
50. Notice of resumed hearing
51. Application of rules 37 to 49
52. Adjournment of proceedings
53. Deliberation in camera
54. Evidence
55. Voting
56. Postal service of documents
57. Communication of Health Committee's decision to nurse, midwife or health visitor registration authorities outside the United Kingdom

#### PART IV

58. Interim suspension of registration
59. Termination of interim suspension
60. Miscellaneous
61. Transitional provision
62. Revocation of previous rules

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FIRST SCHEDULE — – Form of Notice

SECOND SCHEDULE — – Medical Examiners

The United Kingdom Central Council for Nursing, Midwifery and Health Visiting, in exercise of the powers conferred on it by sections 12 and 12A of the Nurses, Midwives and Health Visitors Act 1979(2), hereby makes the following rules:

## PART I

### Citation and interpretation

1.—(1) These rules may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1993.

(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 whose registration has been suspended, and who is making an application for her name to be restored to the register, or for the termination of such suspension;
- (c) “complainant” means a body or person by whom a complaint has been made to the Council 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;
- (d) “the Conduct Committee” means the Professional Conduct Committee of the Council constituted under rule 12;
- (e) “the Council” means the United Kingdom Central Council for Nursing, Midwifery and Health Visiting;
- (f) “the Council’s officer” means any employee of the Council serving the Preliminary Proceedings Committee, the Conduct Committee, the professional screeners or the Health Committee;
- (g) “the Vice-President” means the Vice-President of the Council;
- (h) “the Health Committee” means the Health Committee of the Council constituted under rule 29;
- (i) “legal assessor” means a person appointed to be a legal assessor under the provisions of paragraph 3(1) of Schedule 3 to the Act;
- (j) “medical examiners” means the persons referred to in the Second Schedule to these rules;
- (k) “misconduct” means conduct unworthy of a registered nurse, midwife or health visitor, as the case may be, and includes obtaining registration by fraud;
- (l) “Notice of Inquiry” means the notice referred to in rule 13(1);
- (m) “Notice of Proceedings” means the notice referred to in rule 9(1)(a);
- (n) “Notice of Referral” means the notice referred to in rule 35(1);
- (o) “parties to the proceedings” means the respondent, applicant and/or solicitor collectively or such of them as are involved in a particular case;
- (p) “practitioner” means any person whose name is on the register of nurses, midwives and health visitors;

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(2) Section 12 was amended by sections 7 and 8 of the Nurses, Midwives and Health Visitors Act 1992 (c. 16) and section 12A was inserted by section 9 of that Act.

- (q) “the Preliminary Proceedings Committee” means the Preliminary Proceedings Committee constituted by the Council under rule 7;
- (r) “the President” means the President of the Council;
- (s) “professional screeners” means the professional screeners selected by the Council under rule 30(2);
- (t) “the register” means the professional register maintained by the Council under section 10(1) of the Act, and any part or parts thereof as determined in the Nurses, Midwives and Health Visitors (Parts of the Register) Order 1983(3), and “registration” shall be construed accordingly.
- (u) “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;
- (v) “respondent” means any practitioner who is alleged to be liable to be removed from the register, have her registration suspended or have a caution issued as to her future conduct;
- (w) “the solicitor” means the solicitor appointed by the Council for any purpose under these rules.

### **Removal from, and restoration to, the register**

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

- (a) that she has been guilty of misconduct; or
- (b) that her fitness to practise is seriously impaired by reason of her physical or mental condition.

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

(3) The means by which a practitioner may be removed in the circumstances of paragraph (1)(b) are that, in accordance with these rules, the question of unfitness to practise has been investigated and referred to the Health Committee which has determined the practitioner’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 in accordance with rule 22(1), or by the direction of the Conduct Committee on an application made and determined in accordance with rule 22.

(5) A person who has been removed from the register by the means specified in paragraph (3) may be restored in accordance with rule 49(1) or by the direction of the Health Committee on an application made and determined in accordance with rule 49.

### **Suspension from the register**

3.—(1) The circumstances in which a practitioner may be suspended are—

- (a) that her fitness to practise is seriously impaired by reason of her physical or mental condition; or
- (b) that it appears necessary to do so as an interim measure—

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(3) See S.I. 1983/667.

- (i) for the protection of the public; or
- (ii) in the practitioner's interests.

(2) The means by which a practitioner's registration may be suspended in the circumstances of paragraph (1)(a) are that, in accordance with Part III of these rules, the question of fitness to practise has been investigated and referred to the Health Committee which has determined the practitioner's fitness to practise to be seriously impaired by reason of her physical or mental condition and has directed the suspension.

(3) The means by which a practitioner's registration may be suspended in the circumstances of paragraph (1)(b) are that, in accordance with Part IV of these rules, the Preliminary Proceedings Committee, Conduct Committee or Health Committee has determined and directed that interim suspension is necessary for the protection of the public or in the interests of the practitioner.

(4) The suspension of a person's registration by the means specified in paragraph (2) may be terminated in accordance with rule 49(1) or by the direction of the Health Committee on an application made and determined in accordance with rule 49.

(5) The suspension of a person's registration by the means specified in paragraph (3) may be terminated in accordance with the provisions of rule 59.

#### **Caution as to future conduct**

4.—(1) The circumstances in which a practitioner may be cautioned as to her future conduct are that she has been guilty of misconduct.

(2) The means by which a practitioner may be cautioned as to her future conduct are that, in accordance with Part I of these rules, the Preliminary Proceedings Committee has considered the question of misconduct, a Notice of Proceedings has been sent to the practitioner, and—

- (a) the Preliminary Proceedings Committee has received the practitioner's admission of the facts and misconduct, has made a finding of misconduct and has determined it appropriate to issue a caution; or
- (b) the Preliminary Proceedings Committee has referred the case to the Conduct Committee which has made a finding of misconduct and the Conduct Committee has determined it appropriate to issue a caution.

#### **Removal, alteration and restoration of entries**

5. 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 the Preliminary Proceedings Committee, the Conduct Committee or the Health Committee in accordance with these rules.

#### **Consideration of allegations of misconduct**

6. The Council shall consider allegations of misconduct by practitioners referred to it with a view to proceedings for such practitioners to be removed from the register.

#### **Preliminary Proceedings Committee**

7.—(1) A Preliminary Proceedings Committee shall be constituted by, and shall include members of, the Council, in order to—

- (a) carry out investigation of cases of alleged misconduct;
- (b) determine whether or not to refer a case of alleged misconduct to—

- (i) the Conduct Committee with a view to removal of a practitioner from the register, or
  - (ii) the professional screeners, with a view to consideration of a practitioner's fitness to practise;
  - (c) determine whether a practitioner is guilty of misconduct and, if so, whether it is appropriate to issue a caution as to her future conduct.
- (2) The Vice-President shall be the chairman of the Preliminary Proceedings Committee.
- (3) The Council shall appoint 2 of its members to be deputy chairmen of the Preliminary Proceedings Committee and each may act as chairman of the Preliminary Proceedings Committee at the Vice-President's request or in her absence.
- (4) If neither the Vice-President, nor any of the deputy chairmen is available, the members of the Preliminary Proceedings Committee present at the relevant meeting, shall select one of their number, who shall be a member of the Council, to act as chairman.
- (5) The Preliminary Proceedings Committee shall be quorate if at least 3 members of the Council constitute a majority of those considering a particular case.
- (6) The members of the Preliminary Proceedings Committee considering a particular case shall be selected with due regard to the professional field in which the practitioner under consideration works or has worked.
- (7) The Preliminary Proceedings Committee shall meet in private.
- (8) It shall not be necessary for the Preliminary Proceedings Committee when meeting to consider a particular case to be composed of the same members who considered that case on any previous occasion.

### **Initial consideration of allegations of misconduct**

**8.—**(1) After an allegation of misconduct which the Council's officer considers may lead to removal from the register is received by the Council, the Registrar shall send, in writing, to the practitioner concerned—

- (a) a summary of the allegations;
  - (b) notice that the Preliminary Proceedings Committee will in due course consider the matter; and
  - (c) confirmation that, if a Notice of Proceedings is issued by the Preliminary Proceedings Committee under rule 9(1)(a), the practitioner will be invited to respond in writing to the Notice, but that if the practitioner wishes to submit a preliminary response to the summary of allegations, such response will be made available to the Preliminary Proceedings Committee, provided that it is received by the Council in time to do so.
- (2) The Council shall, if it considers it appropriate, conduct, through the solicitor or otherwise, an investigation before the matter is first considered by the Preliminary Proceedings Committee and if such an investigation indicates that the practitioner may be removed from the register, the Registrar shall send to the practitioner copies of statements obtained during the investigation, together with any other documents considered appropriate which are in the Council's possession, and again notify the practitioner that she is entitled to submit a preliminary response for consideration by the Preliminary Proceedings Committee at its meeting.
- (3) At any stage in its consideration of allegations made against a practitioner the Preliminary Proceedings Committee may—
- (a) decline to proceed with the matter;

- (b) require further investigations to be conducted;
- (c) adjourn consideration of the matter;
- (d) refer the matter to the professional screeners;
- (e) take the advice of the solicitor and may instruct him to obtain such documents, proofs of evidence and other evidence in respect of the allegations as he considers necessary;
- (f) require, in the case of a complainant who is not acting in a public capacity, that the complaint be verified by way of a statutory declaration.

(4) Any statutory declaration which may be 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.

### **Commencement of proceedings**

**9.—(1)** The Preliminary Proceedings Committee shall consider allegations of misconduct and shall, subject to any determination under rule 8(3), and where it considers that the allegations may lead to removal from the register, direct the Registrar to send to the practitioner—

- (a) a Notice of Proceedings;
- (b) copies of statements obtained by the Council during investigation of the allegations and any other documents the Preliminary Proceedings Committee considers appropriate which are in the Council's possession, unless such documents have already been sent to the practitioner under rule 8(2) or otherwise;
- (c) a request that the practitioner respond, in writing, to the Notice of Proceedings.

(2) The documents referred to in paragraph (1) shall be sent by the recorded delivery service to the registered address of the practitioner 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.

(3) Where a Notice of Proceedings has been sent to a practitioner the Preliminary Proceedings Committee shall consider any written response by the practitioner and, subject to any determination under rule 8(3), shall—

- (a) refer to the Conduct Committee a case which it considers justifies a hearing before the Conduct Committee with a view to removal from the register;
- (b) if it considers that the practitioner's fitness to practise may be seriously impaired, by reason of her physical or mental condition, refer a case to the professional screeners;
- (c) if not referring a case to the Conduct Committee or professional screeners, and provided that the practitioner has admitted the facts alleged in the Notice of Proceedings, and that such facts constitute misconduct, determine whether the practitioner has been guilty of misconduct and, if so, whether it is appropriate to issue a caution as to the practitioner's future conduct.

(4) Where the Preliminary Proceedings Committee has decided it is appropriate to issue a caution under paragraph (3)(c) it shall direct the Registrar to do so.

(5) Where the Preliminary Proceedings Committee has decided not to refer a case to the Conduct Committee under paragraph (3)(a), the Registrar shall so inform the complainant and the respondent but no person shall have any right of access to any documents relating to the case, nor shall the Committee be required to state reasons for, or review, its decision.



### **Referral by professional screeners to Preliminary Proceedings Committee**

10. Where a case which has been referred to the professional screeners by the Preliminary Proceedings Committee or the President pursuant to rule 8(3)(d) or rule 14(2) respectively, is referred back to the Preliminary Proceedings Committee, the Preliminary Proceedings Committee shall resume its consideration of the case in accordance with Part I of these rules.

### **Voting**

11.—(1) Any question put to the vote of the Preliminary Proceedings 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.

(2) Where the result so declared is challenged by any member, the chairman shall require the Council's officer 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.

(3) Where on any motion at a meeting of the Preliminary Proceedings Committee the votes are equal, the motion shall be deemed to have been resolved in favour of the practitioner under consideration.

(4) No member of the Preliminary Proceedings Committee present when any question is put to a vote may abstain from voting.

## **PART II**

### **Professional Conduct Committee**

12.—(1) A Conduct Committee shall be constituted by, and shall include members of, the Council, in order to determine whether—

- (a) a practitioner shall be removed from the register, whether or not for a specified period, for reasons falling within rule 2(1)(a);
- (b) a practitioner shall be cautioned as to her future conduct, for reasons falling within rule 2(1)(a);
- (c) a person who has been removed from the register may be restored to it;
- (d) an entry in the register may be altered.

(2) The Conduct Committee shall be quorate if at least three members of the Council constitute a majority of those considering a particular case.

(3) The Conduct Committee hearing any particular case or cases shall be chosen with due regard to the professional fields in which the practitioner or person under consideration works or has worked.

(4) The President of the Council shall be the chairman of the Conduct Committee.

(5) The Council shall appoint a panel of not more than 9 persons from whom a deputy chairman may be chosen who shall then take the chair in the absence of the chairman, or at her request.

(6) If neither the chairman nor any one of the deputy chairmen is available, the members of the Conduct Committee present at the relevant meeting shall select one of their number, who shall be a member of the Council, to act as chairman.

(7) Any person who has participated in the consideration of a case as a member of the Preliminary Proceedings Committee or as a professional screener shall not be permitted to be a member of the Conduct Committee dealing with that case.

#### **Notice of Inquiry before the Conduct Committee**

**13.—**(1) Where a case has been referred by the Preliminary Proceedings Committee or the Health Committee 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 which will constitute the hearing of the inquiry. The Notice of Inquiry 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 of Inquiry is posted and the date fixed for the hearing, unless the practitioner agrees otherwise.

(2) The Notice of Inquiry which is sent to the respondent pursuant to paragraph (1) shall not include any charge inconsistent with the substance of such allegations as were set out in the Notice of Proceedings.

(3) The Registrar shall send a copy of the Notice of Inquiry to the Complainant.

(4) Upon the application of a party to the proceedings to be dealt with by the Conduct Committee, 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 complainant or the respondent with respect to the proceedings.

(5) The respondent may appear in person or be represented at the hearing by counsel or a solicitor, or by any officer of a representative organisation, or by any other person of her choice.

(6) The Council shall prosecute proceedings which have been referred to the Conduct Committee.

#### **Postponement or cancellation of hearing**

**14.—**(1) The President, of her own motion or upon the application of a party to the proceedings, may postpone the hearing of an inquiry or may refer the matter back to the Preliminary Proceedings Committee for further consideration as to whether a hearing should take place.

(2) The President may, at any time before the hearing of an inquiry by the Conduct Committee begins, refer the case to the professional screeners. On such referral the Conduct Committee shall take no further steps in relation to the inquiry, pending a decision by the professional screeners and, if appropriate, the Health Committee.

(3) Where before the hearing begins it appears to the chairman of the Conduct Committee, or at any stage during the hearing 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 so require, she or it may direct that the hearing shall be postponed or shall not take place.

(4) The Registrar shall, as soon as practicable, inform all parties to whom a Notice of Inquiry has been sent of any decision to postpone or cancel the hearing specifying, in the case of a postponement, the further date fixed for the hearing.

### **Opening of inquiry and reading of the charge**

15.—(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 hearing, 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 the Council's officer. If the respondent does not appear but the Conduct Committee nevertheless decides that the hearing 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**

16.—(1) In cases arising out of a complaint alleging misconduct from which it appears that a practitioner has been convicted of a criminal offence, but excluding any cases which fall within section 1C(1) of the Powers of Criminal Courts Act 1973<sup>(4)</sup> or section 8(1) of the Probation Act (Northern Ireland) 1950<sup>(5)</sup>, the following order of proceedings shall be observed concerning proof of the conviction alleged in the charge—

- (a) the solicitor 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 had 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

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<sup>(4)</sup> 1973 c. 62; section 1C was inserted by the Criminal Justice Act 1991 (c. 53), section 8(3)(a) and Schedule 1.  
<sup>(5)</sup> 1950 c. 7 (NI).

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 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 the determination in such terms as the Conduct Committee shall have approved.

(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) 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. The respondent may then address the Conduct Committee as to the circumstances and may adduce evidence. The solicitor shall have a right of reply and may adduce evidence limited to those matters raised by the respondent.

#### **Misconduct: procedure to be followed regarding other allegations**

17.—(1) In cases arising out of a complaint from which it appears that a question arises as to 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 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) any witness called may be cross-examined and re-examined.
- (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; if the Conduct Committee determines to uphold the submission, it shall record, and the chairman shall announce the 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 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 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**

**18.—(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 admit misconduct the Conduct Committee shall nevertheless proceed to make a determination under paragraph (2); if she does not admit misconduct, 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 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 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 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 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 the determination in such terms and with such recommendations as the Conduct Committee shall have approved.

(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 from the register (whether or not for a specified period) or whether it is appropriate to issue a caution as to the respondent's future conduct. The chairman shall then announce the 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 be removed from the register, or that she be cautioned, 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 the determination in public in such terms as the Conduct Committee shall have approved.

- (a) The Registrar shall forthwith send a letter to 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 from the register.
- (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 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. With the letter shall be sent a form to be signed by the respondent and returned to the Registrar, acknowledging the receipt of the Council's decision and confirming that the contents of the letter are understood.
- (d) In those cases where the Conduct Committee has determined that it is appropriate to issue a caution the letter shall record that caution.
- (e) The Registrar, in the case of the removal of the respondent from the register, shall delete her name from the register in accordance with the Conduct Committee's determination.

#### **Procedures in cases relating both to alleged misconduct and to other matters**

**19.** 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 17 as regards the other matters and then under rule 16 as regards the conviction.

#### **Procedure on postponement of judgment**

**20.—(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 8 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, if any, 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 4 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 4 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 the Council's officer, 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 hearing at which the finding of misconduct was made, and shall hear any other evidence in mitigation or aggravation; 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 shall announce the determination in public in such terms as the Conduct Committee shall have approved;
- (g) if the Conduct Committee determines that judgment shall not be further postponed, it shall resolve the matter in accordance with rule 18(6).

(2) Prior to the commencement of any resumed proceedings if a new allegation of misconduct against the respondent has been received by the Council, the respondent shall be invited to admit, in writing, the facts in respect of the new allegation and that they constitute misconduct, and to agree that the Conduct Committee may, in such circumstances, apply rule 18(6) simultaneously to both matters.

(3) Nothing in paragraph (2) shall prevent the Conduct Committee from concluding any resumed proceedings as though no new allegation of misconduct had been received, or from postponing, or further postponing judgment in respect of one or both matters.

(4) If the respondent does not make the admissions referred to in paragraph (2) the new allegation of misconduct shall be considered in accordance with Part I and, if appropriate, Parts II, III and IV of these rules.

(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**

**21.** 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 these rights.

### **Restoration to the register**

**22.**—(1) Where a person has, for a specified period, been removed from the register in the circumstances set out in rule 2(1)(a), she shall be restored to the register on the expiry of the period so specified.

(2) Where a person has, for an unspecified period, been removed from the register in the circumstances set out in rule 2(1)(a), any application for restoration to any or all parts of the register for which she 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.

(3) 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 whether or not she has 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 whether or not she has knowingly represented herself to be a practitioner since the date of her removal from the register except in respect of any part from which she 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.

(4) Subject to the provisions of this rule and to those of rules 23, 24 and 25, the procedure of the Conduct Committee in respect of applications for restoration to the register shall be such as the Conduct Committee may determine.

(5) 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.

(6) The Conduct Committee shall not consider an application for restoration to the register 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 to specific questions it wishes to raise, and may require that the written answers are provided in the form of a statutory declaration.

(7) At the meeting at which the application is considered the chairman shall first invite the Council's officer, 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 hearing which resulted in removal from the register and of any recommendations of the Conduct Committee at the time.

(8) The chairman may also require the Council's officer or the solicitor to inform the Conduct Committee about any known activities of the applicant since the applicant was removed from the register.

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

(10) The applicant may appear in person or be represented at the hearing by counsel or a solicitor, or by any officer of a representative organisation, or by any other person of her choice.

(11) Where the Conduct Committee decides that the applicant shall be restored to the register, and so directs the Registrar, 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.

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

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

### **Hearing and adjournment**

**23.**—(1) The Conduct Committee may deliberate in camera at any time and for any purpose during or after a hearing.

(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 professional screeners**

**24.**—(1) At any time during the hearing, but before the Conduct Committee determines whether by reason of the misconduct of the respondent the Registrar shall be directed to remove the respondent from the register or whether the respondent should be cautioned as to her future conduct, in accordance with rule 18(6), the Conduct Committee may direct that the matter shall be referred to the professional screeners who shall proceed in accordance with rule 34.

(2) Where the professional screeners or the President, under rule 34(4)(b), or the Health Committee, under rule 44(a), refer a matter back to the Conduct Committee, the Conduct Committee shall resume, or begin, as the case may be, its inquiry into the case and dispose of it.

## **Evidence**

**25.**—(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 Court in England or Wales, 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. Questions may be put to any witness by the Conduct Committee, or by the legal assessor, with the leave of the chairman. A witness may then be re-examined.

(5) The Conduct Committee may require the solicitor to call any person as a witness in any proceedings before it.

(6) No witness as to fact other than the respondent, if she gives evidence, may, prior to giving evidence, be present during the hearing before the Conduct Committee.

## **Voting**

**26.**—(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.

(2) Where the result so declared is challenged by any member, the chairman shall require the Council's officer 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.

(3) Where on any motion at a hearing of the Conduct Committee to remove a respondent from the register the votes are equal, the motion shall be deemed to have been resolved in favour of the respondent. For the purposes of this rule if there is an equal vote on whether to postpone judgment the chairman shall so inform the respondent and judgment shall be postponed unless the respondent objects, in which case the Conduct Committee shall further consider its judgment in camera and determine the matter in accordance with rule 18(6).

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

(5) No member of the Conduct Committee present when any question is put to a vote may abstain from voting.

**Communication of the Conduct Committee’s decision to nurse, midwife or health visitor registration authorities outside the United Kingdom**

27. Where it is evident from the Council’s records that a person who has been removed from, or restored to, the register either–

- (a) was admitted to the 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 restore the applicant to the register shall be sent by the Registrar.

**Record of caution**

28. The Council shall keep a record for 5 years of each caution issued and the record of a caution may be taken into consideration by the Preliminary Proceedings Committee and Conduct Committee in the exercise of their respective powers.

## PART III

**Health Committee**

29.—(1) A Health Committee shall be constituted by, and comprise members of, the Council in order to determine whether, in the circumstances specified in rule 2(1)(b)–

- (a) a practitioner shall be removed from the register;
- (b) a practitioner’s registration shall be suspended;
- (c) a person who has been removed from the register may be restored to it; and
- (d) the suspension of a person’s registration shall be terminated.

(2) The Council shall appoint some of 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 President shall be the chairman of the Health Committee.

(4) In addition, from amongst those persons appointed under paragraph (2) 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, or at her request.

(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.

(7) Any person who has participated in the consideration of a case as a member of the Preliminary Proceedings Committee, or as a professional screener, shall not be permitted to be a member of the Health Committee dealing with that case.

### **Appointment of persons to conduct initial consideration of cases**

**30.**—(1) The Council shall appoint a panel of its members to be professional screeners from whom a group of 3 shall be selected to consider any matters referred to them, due regard being had to the professional field in which the practitioner works or has worked.

(2) No case shall be considered by the Health Committee unless it has been referred by the professional screeners appointed under paragraph (1).

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

**31.**—(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 14 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 sub-paragraphs (b), (c) and (d) of paragraph (4) 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 think fit.

### **Examination by medical examiners**

**32.**—(1) If the practitioner agrees to submit to medical examination in response to an invitation sent out under rule 31(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 should be managed.

### **Action following consideration of reports of medical examiners**

**33.**—(1) The professional screeners shall consider the reports received from the medical examiners, including any reports by medical practitioners nominated by the practitioner under rule 31(4)(c), and shall cause the Registrar to send copies of them to the practitioner.

- (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 professional screeners that the practitioner may not be fit to practise or may not be fit to practise without the imposition of restrictions, the professional screeners 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 to verify the evidence to be submitted to the Health Committee and to obtain 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 professional screeners by the Preliminary Proceedings Committee, the President or the Conduct Committee**

**34.**—(1) Where a case has been referred by the Preliminary Proceedings Committee, the President or the Conduct Committee to the professional screeners, the screeners shall direct the Registrar—

- (a) to invite the practitioner to submit to examination at the Council's expense by at least two medical examiners to be chosen by the professional screeners; and
- (b) to invite the practitioner to agree that such examiners should furnish to the professional screeners reports on the practitioner's fitness to practise; and
- (c) to inform the practitioner that it is also open to her to nominate other medical practitioners at her own expense to examine her and to report to the professional screeners 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 to be referred to the professional screeners, together with the information on which the Preliminary Proceedings Committee, the President or the Conduct Committee, as the case may be, decided to refer the case.

(4) The professional screeners shall consider the reports and information referred to in paragraph (3) and shall either—

- (a) refer the case to the Health Committee for a determination as to whether the practitioner's fitness to practise is seriously impaired by reason of her physical or mental condition; or
  - (b) refer the case back to the Committee from which it was received or, in the case of referral by the President under rule 14(2), to the President who shall, subject to a determination pursuant to rule 14(1), refer the matter to the Conduct Committee.
- (5) If the practitioner fails to submit to examination as provided for in rule 31(4)(b) or refuses to nominate other medical practitioners to examine her under rule 31(4)(c) the professional screeners 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**

**35.**—(1) Subject to rule 34, as soon as practicable after a case has been referred by the professional screeners 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 the recorded delivery service to the registered address of the practitioner 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.
- (4) When sending a Notice of Referral the Registrar shall inform the practitioner that it is open to her to be represented at the hearing and also to be accompanied by her medical adviser. The Registrar shall also invite the practitioner to state whether she proposes to attend the hearing.
- (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 33(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 hearing**

**36.**—(1) Notwithstanding the provisions of the foregoing rules the President, of her own motion or upon the application of a party thereto, may postpone the hearing of an inquiry or may refer the matter back to the Preliminary Proceedings Committee, the Conduct Committee or the professional screeners, as the case may be, for further consideration as to whether a hearing should take place.

- (2) Where before the hearing begins it appears to the chairman of the Health Committee, or at any stage during the hearing 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 hearing shall be postponed or shall not take place.

(3) The Registrar shall as soon as practicable inform the practitioner of any decision to postpone or cancel the hearing, specifying, in the case of a postponement, the further date fixed for the hearing.

#### **Preliminary circulation of evidence**

37. 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 33 and 34, and of any observations or other evidence submitted by or on behalf of the practitioner.

#### **Conduct of inquiry**

38.—(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 counsel or a solicitor, or by an officer of a representative organisation, or by any other person of her choice, 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 Council's officer 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**

39.—(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 35(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**

40. 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**

41. 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**

42. At any time in the proceedings questions may be put to any witness by the Health Committee and, with the leave of the chairman, by the legal assessor or the medical examiner. 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**

43. 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**

44. If the Health Committee makes a determination under rule 43(b) it shall either—
- (a) certify such opinion and instruct the Registrar to refer the matter back to the Committee from which the case was referred, or, in the case of a referral by the President, to the President who shall, subject to a determination pursuant to rule 14(1), refer the matter to the Conduct Committee; or
  - (b) conclude the case.

#### **Postponement of judgment**

45. If the Health Committee makes a determination under rule 43(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**

46. If the Health Committee makes a determination under rule 43(d) it shall direct the Registrar to remove the practitioner from the register, or to suspend the practitioner's registration, whether or not for a specified period.

### **Announcement of determination**

47. 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 shall have approved.

### **Communication of decision**

48.—(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 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 a person has been removed from the register, or where her registration has been suspended, the letter shall set out any recommendations made by the Health Committee. In such cases 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, or from which her registration has been suspended.

(4) With the letter shall be sent a form to be signed by the practitioner or person, as the case may be, and returned to the Registrar, acknowledging the receipt of the Council's decision and confirming that the contents of the letter are understood.

### **Termination of suspension and restoration to the register**

49.—(1) Where removal of a person from the register or suspension of a person's registration, in the circumstances set out in rule 2(1)(b) and rule 3(1)(a) respectively, has been for a specified period, such removal or suspension shall terminate at the expiry of the period so specified.

(2) Where, in the circumstances set out in rule 2(1)(b) or rule 3(1)(a) respectively, a person has, for an unspecified period, been removed from the register, or a person's registration has, for an unspecified period, been suspended, any application for restoration to the register, or for the suspension to be terminated, shall be made in writing addressed to the Registrar and signed by the applicant stating the grounds on which the application is made.

(3) 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 whether or not she has been convicted of a criminal offence since the date of her removal from the register, or suspension of her registration, 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 whether or not she has knowingly represented herself to be a practitioner since the date of her removal or suspension from the register, except in

respect of any part from which she was not removed or from which her registration was not suspended;

- (e) state the fee (if any) for restoration should the application 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.

(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 Health Committee shall be determined and shall be notified to the applicant in a letter signed by the Registrar.

(5) The professional screeners shall direct the Registrar to invite the applicant 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 applicant's fitness to practise.

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

(7) 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 applicant 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.

(8) The chairman may require the Council's officer to provide information about any known activities of the applicant since the applicant was removed or suspended from the register.

(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 that the suspension shall be terminated, and so directs the Registrar, it shall also determine the date when the restoration or termination 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 (3)(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 that the suspension shall be terminated, then, upon the payment by the applicant of any restoration and registration fee, the Registrar shall cause the applicant to be restored to the register and shall issue to the applicant a full copy of the entry in the register.

(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**

**50.**—(1) Where under any of the foregoing rules the Health Committee has adjourned the case or postponed judgment, the Registrar shall not later than 4 weeks before the day fixed for the resumption of the proceedings send to the practitioner or applicant, as the case may be, a notice which shall—

- (a) specify the day, time and place at which the proceedings are to be resumed and invited her to appear thereat; and
- (b) if the Health Committee has so directed, invite her to submit to examination by the medical examiners chosen by the Health Committee; and
- (c) if the Health Committee has so directed, invite her 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 35 shall apply to the sending of notices under this rule.

#### **Application of rules 37 to 49**

51. At any resumed hearing the procedure shall be that provided by rules 37 to 49 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**

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

#### **Deliberation in camera**

53. 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 or applicant, as the case may be, her representative and her medical adviser.

#### **Evidence**

54. The Health Committee shall comply with rule 25 insofar as it is applicable.

#### **Voting**

55. The voting procedure of the Health Committee shall be governed by rule 26 insofar as it is applicable.

#### **Postal service of documents**

56. 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 nurse, midwife or health visitor registration authorities outside the United Kingdom**

57. Where it is evident from the Council's records that a person who has been removed from, or restored to, the register or whose registration has been suspended, or whose suspension of registration has been terminated, either—

- (a) was admitted to the 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 made in respect of the person or applicant, as the case may be, shall be sent by the Registrar.

## PART IV

### **Interim suspension of registration**

**58.**—(1) If, during a hearing before the Conduct Committee or the Health Committee, it appears that the hearing will not conclude in the time set aside for that purpose, and it further appears to the Committee necessary to direct the interim suspension of a practitioner's registration, the chairman shall—

- (a) so inform the practitioner giving reasons for the Committee's views;
- (b) give the practitioner and her representative, if any, reasonable opportunity to show cause to the Committee why she should not be made the subject of such a direction;
- (c) require the Committee to determine, within the period set aside for the hearing, whether it is satisfied that a direction of interim suspension is necessary for the protection of the public or in the interests of the practitioner.

(2) Subject to the provisions of paragraph (1), if at any stage in the exercise of powers under these rules it appears necessary to do so, the Preliminary Proceedings Committee, Conduct Committee or Health Committee (referred to in this Part hereafter as "the Committee") shall, in accordance with the following paragraphs, consider whether to direct the interim suspension of a practitioner's registration.

(3) The Registrar shall, before a direction of interim suspension under paragraph (5) is given—

- (a) send, by registered post, notice to the practitioner to show cause why she should not be made the subject of a direction of interim suspension pursuant to paragraph (5), at a hearing on a date which shall be specified by the Registrar and which shall not be a date earlier than 14 days from the date the notice is sent to the practitioner, unless the practitioner otherwise agrees; such notice to be sent to the practitioner's registered address 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;
- (b) send to the practitioner with the notice referred to in paragraph (a), copies of any documents in the Council's possession, or any information, relevant to the question of interim suspension which the Committee will consider;
- (c) inform the practitioner of her right to attend the hearing referred to in paragraph (a) and to be heard on the issue of whether a direction of interim suspension of registration should be given;
- (d) inform the practitioner that she may be represented at the hearing by counsel or a solicitor, or by an officer of a representative organisation, or by any other person of her choice;
- (e) convene a hearing of the Committee, to be attended by a legal assessor, to consider the question of interim suspension, whether or not such hearing takes place for any other purpose laid down in Parts I, II or III of these rules.

(4) The Committee shall, before a direction of interim suspension under paragraph (5) is given—

- (a) give the practitioner, her witnesses and her representative, if present at the hearing, the opportunity to be heard in response to the documents and information referred to in paragraph 3(b);
- (b) put questions to the practitioner, if considered necessary, either direct or through her representative;
- (c) put questions to any witness direct, by the solicitor or, with the leave of the chairman, by the legal assessor or medical examiner, if any;
- (d) require such assistance from the solicitor as may be deemed necessary;
- (e) determine whether it is satisfied that a direction of interim suspension of the practitioner's registration is necessary for the protection of the public or in the interests of the practitioner.

(5) The Committee may direct the interim suspension of the practitioner's registration to have effect during such period as may be specified in the direction.

(6) After a direction has been made under paragraph (5), the Registrar shall fix a date, which shall be as soon as reasonably practicable, for such hearing, or resumed hearing, as may be required to be held, in respect of the person whose registration has been suspended, in accordance with Part II or III of these rules.

(7) During the period in which a direction of interim suspension is effective, the Committee which made the direction shall review the suspension at 3 monthly intervals, and may so review at any time, and the provisions of paragraph (4) shall apply to such review.

(8) The Committee which sits to exercise powers under this rule shall sit in private.

(9) The Committee may, at any stage when considering the question of interim suspension adjourn, or decline to proceed with, such consideration.

(10) The voting procedure of the Committee shall be governed by rule 26 insofar as it is applicable.

### **Termination of interim suspension**

**59.**—(1) Where a direction made under rule 58(5) specified a period during which the suspension is to have effect, such suspension shall terminate at the expiry of the specified period.

(2) Where a direction made under rule 58(5) does not specify a period during which the suspension is to have effect, such suspension shall terminate in accordance with the following provisions—

- (a) where the direction was given by the Preliminary Proceedings Committee, it shall terminate—
  - (i) upon the issue of a caution or the case being closed by the Preliminary Proceedings Committee;
  - (ii) in accordance with the following sub-paragraphs, where the case was referred to the Conduct Committee or Health Committee;
- (b) where the direction was given by the Conduct Committee or was given by the Preliminary Proceedings Committee or Health Committee prior to, or at the time of, referral to the Conduct Committee, it shall terminate—
  - (i) upon the issue of a caution, postponement of judgment, direction of removal from the register, or the case being closed by the Conduct Committee;
  - (ii) in accordance with sub-paragraph (c) where the case was determined by the Health Committee on referral to it;

(c) where the direction was given by the Health Committee or was given by the Preliminary Proceedings Committee or Conduct Committee prior to, or at the time of, referral for consideration of the practitioner's fitness to practise, it shall terminate—

(i) upon the direction of removal from the register or suspension of registration under rule 46;

(ii) upon postponement of judgment under rule 45;

(iii) upon the case being closed by the Health Committee.

(3) At any stage during the exercise of its functions under these rules, the Committee may revoke a direction made under rule 58(5), whether by that, or another, Committee.

### **Miscellaneous**

**60.** Save where indicated otherwise in rules 58 and 59, the Committee shall proceed in accordance with the provisions of Parts I, II and III of these rules, as required.

### **Transitional provision**

**61.** The provisions of these rules and all duties and powers contained therein (including the powers provided in rules 2, 3, 4 and 5) shall as of the date of coming into force of these rules have full and immediate effect in respect of—

(a) all allegations of misconduct notified or referred to a National Board or the Council prior to such date;

(b) all investigations already commenced, being carried out or otherwise under consideration by a National Board on such date;

(c) all proceedings referred by a National Board to the Conduct Committee or the Council and then pending;

(d) all cases or proceedings before the Conduct Committee which have not been concluded by a judgment (including all cases in which the Conduct Committee has postponed judgment prior to the said date and has not thereafter resumed its consideration).

### **Revocation of previous rules**

**62.** The Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987(6) are hereby revoked.

FIRST SCHEDULE

(Rule 6(1))

FORM OF NOTICE

UNITED KINGDOM CENTRAL COUNCIL FOR NURSING, MIDWIFERY AND HEALTH  
VISITING PROFESSIONAL CONDUCT COMMITTEENurses, Midwives and Health Visitors Act  
1979 as amendedNOTICE OF INQUIRY

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(6) See S.I. 1987/2156.

*Status: This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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, or whether you should be cautioned as to your future conduct. If the meeting has to be adjourned it is open to the Professional Conduct Committee to direct the immediate suspension of your registration but this will not occur without your being given an opportunity to make representations to the Professional Conduct Committee to show cause why this is not necessary for the protection of the public or in your own interests.

**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 counsel or a solicitor, or by an officer of a representative organisation, or by any other person of your choice, 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 1993 is enclosed.

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

**SECOND SCHEDULE**

(Rule 25(1))

**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 and 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 Physicians of Ireland	Physicians
Royal College of Surgeons in Ireland	Surgeons

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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.

- (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.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, as respects proceedings in Great Britain, approves the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1993, which are set out in the Schedule. The Order comes into force on 1st April 1993 and, in pursuance of section 22(4) of the Nurses, Midwives and Health Visitors Act 1979, the Rules come into force as respects Great Britain on that date; a further Order, made by the Lord Chief Justice of Northern Ireland, is required to bring them into force as respects Northern Ireland.

The Rules revoke and replace, with amendments, the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987. Most of the amendments arise as a consequence of the Nurses, Midwives and Health Visitors Act 1992 which, among other matters, transferred from

the National Boards to the Council the obligation to investigate allegations of misconduct; gave to the Council power to caution practitioners as to their future conduct and power to suspend practitioners' registration. Rule 7 constitutes a Preliminary Proceedings Committee ("PPC") which will investigate and give initial consideration to allegations of misconduct; a caution may be issued by this Committee after admission by a practitioner of the facts alleged and that they amount to misconduct (rule 9). The PPC will refer to the Professional Conduct Committee ("PCC") those cases which appear to justify removal from the register. The PPC may refer cases to the professional screeners for assessment of a practitioner's fitness to practise (rule 9). The power to caution is also given to the PCC (rule 12) though not to the Health Committee. The Health Committee may suspend a practitioner's registration (rule 46) though it retains the alternative power to remove the practitioner from the register (rule 29). All three Committees are granted a new power to direct the interim suspension of a practitioner's registration (rule 58) in circumstances in which it is thought necessary for the protection of the public or in the interests of the practitioner.

The PPC, the President and the PCC may refer cases of alleged misconduct to the professional screeners (rules 8, 14 and 24). The professional screeners are given a new discretion to assess the suitability of cases for consideration by the Health Committee and to return those which they deem unsuitable to the referring Committee (rule 34). The procedure to be followed where a practitioner is required to answer allegations of misconduct and matters evidenced by conviction has changed so that the PCC will first consider all other matters before addressing a conviction (rule 19). Rule 28 provides that the Council will keep for a period of five years a record of any caution issued. All practitioners the subject of consideration by the PPC will be informed, if not before the Committee's consideration, then afterwards, of the outcome (rule 9). The complainant no longer has a right to prosecute allegations before the PCC (rule 13). Where a practitioner admits misconduct the Committee considering the case will, nevertheless, be required to make a determination as to whether, in its view, the practitioner is guilty of misconduct (rule 9 and rule 18). The transitional provision (rule 61) provides that the Rules will apply to all allegations already the subject of consideration on the date the Rules become effective; all new powers given in the Rules may be exercised in relation to all such cases.