

**2012 No. 3025**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**NURSES AND MIDWIVES**

**The Nursing and Midwifery Council (Midwives) Rules Order of  
Council 2012**

*Made* - - - - *4th December 2012*

*Laid before Parliament* *6th December 2012*

*Coming into force* - - *1st January 2013*

At the Council Chamber, Whitehall the 4th day of December 2012

By the Lords of Her Majesty's Most Honourable Privy Council

The Nursing and Midwifery Council has made the Nursing and Midwifery Council (Midwives) Rules 2012, as set out in the Schedule to this Order, in exercise of the powers conferred by articles 42, 43 and 47(2) of the Nursing and Midwifery Order 2001(a).

In accordance with article 47(3) of the Nursing and Midwifery Order 2001 the Nursing and Midwifery Council has consulted representatives of groups of persons who appear likely to be affected by the proposed rules.

In accordance with articles 47(1) and 48 of the Nursing and Midwifery Order 2001, such Rules shall not come into force until approved by order of the Privy Council.

**Citation and commencement**

1. This Order may be cited as the Nursing and Midwifery Council (Midwives) Rules Order of Council 2012 and comes into force on 1st January 2013.

**Council approval**

2. Their Lordships, having taken these Rules into consideration, are pleased to, and do approve them.

*Richard Tilbrook*  
Clerk of the Privy Council

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(a) S.I.2002/253, to which there are amendments not relevant to this Order.

# SCHEDULE

## THE NURSING AND MIDWIFERY COUNCIL (MIDWIVES) RULES 2012

The Nursing and Midwifery Council makes the following Rules in exercise of the powers conferred under articles 42, 43 and 47(2) of the Nursing and Midwifery Order 2001(a), having consulted in accordance with article 47(3) of that Order.

### **Arrangement of Rules**

#### Part I – Preliminaries

1. Citation and commencement
2. Interpretation

#### Part II – Requirements for practice

3. Notification of intention to practise
4. Notifications by local supervising authority

#### Part III – Obligations and scope of practice

5. Scope of practice
6. Records

#### Part IV – Supervision and reporting

7. The local supervising authority midwifery officer
8. Supervisors of midwives
9. Local supervising authority's responsibilities for supervision of midwives
10. Publication of local supervising authority procedures
11. Visits and inspections
12. Exercise by a local supervising authority of its functions
13. Local supervising authority reports

#### Part V – Action by the local supervising authority

14. Suspension from practice by a local supervising authority

#### Part VI – Revocation

15. Revocation

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(a) S.I.2002/253, to which there are amendments not relevant to these Rules.

## PART I

### Preliminaries

#### **Citation and commencement**

1. These Rules may be cited as the Nursing and Midwifery Council (Midwives) Rules 2012 and come into force on 1st January 2013.

#### **Interpretation**

2. In these Rules—

“attendance upon” means providing care or advice to a woman or care to a baby whether or not the midwife providing the care or advice is physically present;

“baby” includes an unborn baby during the antenatal and intranatal periods;

“childbirth” includes the antenatal, intranatal and postnatal periods;

“education” includes training;

“emergency” means a sudden, unexpected event relating to the health or condition of a woman or baby which requires immediate attention;

“main geographical area of practice” means the geographical location where the midwife has been, or will be, predominantly practising in accordance with her most recent notification of intention to practise under rule 3;

“midwifery officer” means a midwife appointed by a local supervising authority to exercise functions in relation to the supervision of midwives in accordance with rule 7;

“the Order” means the Nursing and Midwifery Order 2001;

“postnatal period” means the period after the end of labour during which the attendance of a midwife upon a woman and baby is required, being not less than 10 days and for such longer period as the midwife considers necessary;

“practising midwife” means a registered midwife who has given notice of her intention to practise in accordance with rule 3;

“records” means the records relating to the care or advice given to a woman or care given to a baby, and includes correspondence and records made or held by electronic means;

“supervisor of midwives” means a person appointed by a local supervising authority to exercise supervision over midwives practising in its area in accordance with rule 8;

“woman” means any female person, regardless of her age.

## PART II

### Requirements for practice

#### **Notification of intention to practise**

3.—(1) If a midwife intends either to be in attendance upon a woman or baby during childbirth or to hold a post for which a midwifery qualification is required she must give notice of that intention in accordance with this rule.

(2) A midwife must, on a form provided by the Council for the purpose, give notice to each local supervising authority in whose area she intends to commence practising, before commencing to practise there.

(3) Where a midwife has given notice under paragraph (2), she must thereafter, before the date specified by the Council (the annual notice date), on a form provided by the Council for the purpose, give notice in respect of each 12 month period in which she intends to continue practising in the area.

(4) Any notice given under this rule shall continue until the next annual notice date.

(5) Where a midwife has given notice under paragraph (2) or (3) and does not, by the next annual notice date, give notice of her intention to continue practising in the area she must, the next time she intends to practise there, give notice under paragraph (2).

(6) The notice to be given under paragraph (1) may, in an emergency, be given after the time when a midwife commences to practise provided that it is given within 48 hours of her doing so.

#### **Notifications by local supervising authority**

4.—(1) A local supervising authority must publish—

- (a) the name and address of its midwifery officer to whom a notice under rule 3(2) or (3) is to be submitted;
- (b) the date by which a midwife must give notice under rule 3(3).

(2) Each local supervising authority must inform the Council, in such form and at such frequency as requested by the Council, of any notice given to it under rule 3.

## **PART III**

### **Obligations and scope of practice**

#### **Scope of practice**

5. A practising midwife who is responsible for providing care or advice to a woman or care to a baby during childbirth must do so in accordance with standards established and reviewed by the Council in accordance with article 21(1)(a) of the Order.

#### **Records**

6.—(1) A midwife must, as soon as reasonably practicable, ensure that all records relating to the care or advice given to a woman or care given to a baby are, following their discharge from that care—

- (a) transferred to the midwife's employer for safe storage; or
- (b) stored safely by the midwife herself if she is self-employed: but if the midwife is unable to do this, transferred to the local supervising authority in respect of her main geographical area of practice for safe storage.

(2) Where a midwife ceases to be registered with the Council, she must, as soon as reasonably practicable, ensure that all records relating to the care or advice given to a woman or care given to a baby are transferred for safe storage to the local supervising authority which was, prior to the cessation of her registration, the midwife's local supervising authority in respect of her main geographical area of practice.

## PART IV

### Supervision and reporting

#### **The local supervising authority midwifery officer**

7.—(1) Each local supervising authority must, in accordance with any standards set by the Council under article 43(3) of the Order, appoint a midwifery officer who satisfies the relevant qualifications and who shall be responsible for exercising its functions in relation to the supervision of midwives practising in its area.

(2) Those relevant qualifications are that a midwifery officer must—

- (a) be a practising midwife; and
- (b) meet the requisite standards of experience and education for the role of a midwifery officer as set by the Council from time to time.

#### **Supervisors of midwives**

8.—(1) A local supervising authority must appoint what the Council considers to be an adequate number of supervisors of midwives to exercise supervision over midwives practising in its area.

(2) A supervisor of midwives must—

- (a) be a practising midwife; and
- (b) meet the requisite standards of experience and education for the role of supervisor of midwives as set by the Council from time to time.

(3) Following her appointment, a supervisor of midwives must complete such periods of relevant learning relating to the supervision of midwives as the Council shall from time to time require.

#### **Local supervising authority's responsibilities for supervision of midwives**

9. A local supervising authority must ensure that—

- (a) each practising midwife within its area has a named supervisor of midwives from among the supervisors of midwives appointed by the local supervising authority in respect of her main geographical area of practice;
- (b) at least once a year, a supervisor of midwives meets each midwife for whom she is the named supervisor of midwives to review the midwife's practice and to identify her education needs;
- (c) all supervisors of midwives within its area maintain records of their supervisory activities, including any meeting with a midwife; and
- (d) all practising midwives within its area have 24-hour access to a supervisor of midwives whether that is the midwife's named supervisor or another supervisor of midwives.

#### **Publication of local supervising authority procedures**

10. Each local supervising authority must publish its procedure for—

- (a) reporting all adverse incidents relating to midwifery practice or allegations of impaired fitness to practise against practising midwives within its area;
- (b) investigating any reports made under paragraph (a); and
- (c) dealing with complaints or allegations of impaired fitness to practise against its midwifery officer or supervisors of midwives within its area.

## **Visits and inspections**

**11.**—(1) For the purposes of maintaining standards of practice by midwives and standards of supervision of the practice of midwives—

- (a) a representative of the Council or a local supervising authority (not being the one being visited) may visit a local supervising authority to inspect such records or documents held by the local supervising authority as may be considered appropriate by the Council or its representative or, as the case may be, the visiting local supervising authority or its representative; and
- (b) a representative of the Council or a local supervising authority may carry out an inspection of a midwife's place of work.

(2) The Council may nominate persons to act on its behalf for the purpose of carrying out visits and inspections under paragraph (1) and, in relation to any such inspection, the persons nominated must include a practising midwife.

(3) A practising midwife must permit persons nominated by the Council under paragraph (2) or acting on behalf of a local supervising authority under paragraph (1), to carry out inspections from time to time of any place of work in which she practises.

(4) Paragraph (3) does not apply where—

- (a) the midwife's place of work is a private residence of a woman and baby she is attending; or
- (b) in respect of any other place of work, the midwife has taken all reasonable steps to permit access to that place and it has been denied by a third party who is legally entitled to do so.

## **Exercise by a local supervising authority of its functions**

**12.** Where, in relation to the exercise of its functions as to the supervision of midwives, a local supervising authority has concerns about whether a midwifery officer or a supervisor of midwives meets the standards established from time to time by the Council for the exercise of supervision of midwives in its area, it must, as soon as reasonably practicable, report those concerns to the Council.

## **Local supervising authority reports**

**13.**—(1) Each year every local supervising authority must submit a written report or reports to the Council by such date or dates and containing such information as the Council may specify.

(2) Notwithstanding the provisions of paragraph (1), where the Council considers it appropriate to do so for the purposes of securing the maintenance of standards of supervision of midwives by the local supervising authority concerned, it may request such additional information from the local supervising authority as it thinks fit.

(3) Where the Council has requested information under paragraph (2), the local supervising authority must submit the information within such period as may be specified by the Council.

# **PART V**

## **Action by the local supervising authority**

### **Suspension from practice by a local supervising authority**

**14.**—(1) A local supervising authority may, following an appropriate investigation and having taken into account any representations made by or on behalf of the midwife concerned, suspend a practising midwife from practice in circumstances where the local supervising authority intends to refer an allegation to the Council that the fitness to practise of that midwife is impaired.

(2) Where it exercises its power to suspend a midwife from practice, a local supervising authority must—

- (a) immediately notify the midwife concerned of the decision to suspend her and the reason for the suspension;
- (b) where the notification was not in writing, as soon as reasonably practicable, write to the midwife confirming her suspension and, where not previously supplied to her, supplying the midwife with a copy of the documentation which it intends to submit to the Council in accordance with sub-paragraph (c); and
- (c) as soon as reasonably practicable, notify the Council in writing of any such suspension, the reason for it and details of the investigation carried out by the local supervising authority that led to it.

(3) Where a local supervising authority has notified the Council of its suspension of a midwife under paragraph (2)(c) and an allegation that the fitness to practise of that midwife is impaired has been referred to a Practice Committee, that Committee must determine whether or not to make an interim suspension order or interim conditions of practice order in respect of her.

(4) The local supervising authority must revoke its suspension of the midwife where the Practice Committee has made a determination in accordance with paragraph (3).

## PART VI

### Revocation

#### **Revocation**

15. The Nursing and Midwifery Council (Midwives) Rules 2004(a) are revoked.

Given under the common seal of the Nursing and Midwifery Council this 13th day of September 2012



*Mark Addison*  
Chair

*Jackie Smith*  
Acting Chief Executive and Registrar

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(a) S.I. 2004/1764, as amended by S.I. 2007/1887.

## EXPLANATORY NOTE

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

This Order which is made under the Nursing and Midwifery Order 2001, approves the Rules made by the Nursing and Midwifery Council (the “Council”) which relate to the practice of midwives and their supervision by the Local Supervising Authorities (“LSAs”) which are: in England, Strategic Health Authorities; in Wales, Health Authorities; in Scotland, Health Boards; and in Northern Ireland, the Regional Agency for Public Health and Social Well-being.

Rule 2 contains definitions used in the Rules.

Rule 3 requires a midwife to give notice to each LSA in whose area she intends to practise. (In an emergency a midwife may give notice after she begins practising in an LSA’s area provided this is done within 48 hours of her beginning to practise). She must subsequently give notice in advance in respect of each period of twelve months in which she intends to continue practising there, by a date specified under rule 3(3). If the midwife does not give notice of her intention to continue practising, she can only recommence practice after giving notice under rule 3(2).

Rule 4 requires an LSA to publish the name and address to which notice must be sent under rule 3. The LSA must inform the Council (in the form and at such frequency as it requires) of notices the LSA receives.

Rule 5 provides that a midwife, in providing care or advice to a woman or care to a baby during childbirth, must do so in accordance with the Council’s standards of conduct, performance and ethics.

Rule 6 requires a midwife to transfer to her employer records relating to the care or advice provided to a woman or care provided to a baby, following their discharge from her care. If the midwife is self-employed, she must preserve the records safely or, if she is unable to do so or when she ceases to be registered with the Council, the midwife is required to transfer the records to the LSA in respect of her main, or former main, geographical area of practice.

Rule 7 requires an LSA to appoint a local supervising authority midwifery officer who will be responsible for exercising its functions in relation to supervision of midwives. A person appointed as a local supervising authority midwifery officer must be a practising midwife and meet standards of experience and education set by the Council.

Rule 8 requires an LSA to appoint an adequate number of supervisors of midwives to supervise practising midwives in its area. A person appointed as a supervisor of midwives must be a practising midwife and meet standards of experience and education set by the Council. The rule requires a supervisor of midwives to complete such periods of relevant learning following her appointment as the Council shall require.

Rule 9 provides that each practising midwife shall have a named supervisor with whom she should meet at least once a year to review the midwife’s practice and to identify her education needs. Supervisors are required to keep records of their supervisory activities. An LSA must ensure that every practising midwife in its area has 24 hour access to a supervisor.

Rule 10 requires an LSA to publish its procedure for reporting and investigating adverse events relating to midwifery practice or allegations of impaired fitness to practice against midwives practising in its area; and the procedure by which it deals with complaints or allegations of impaired fitness to practise against midwifery officers or supervisors of midwives.

Rule 11 provides that a representative of the Council or an LSA may inspect the records or documents held by an LSA or inspect a midwife’s place of work. Persons acting on behalf of the Council in this respect must include a practising midwife. Rule 11(3) and (4) provide that, where she is in a position to do so, a midwife must permit inspection of her place of work.

Rule 12 provides that, where an LSA has concerns about whether a local supervising authority midwifery officer or a supervisor of midwives meets the Council’s standards, it shall report its concerns to the Council as soon as reasonably practicable.

Rule 13 requires an LSA to submit regular reports to the Council containing the information required by the Council. Under that rule, the Council may also request additional information to be provided by an LSA within such period as it may specify.

Rule 14 provides that an LSA may, following an appropriate investigation, suspend a midwife from practice where the LSA intends to refer an allegation to the Council that the midwife's fitness to practise is impaired. The LSA must immediately notify the midwife concerned, and must notify the Council of the suspension as soon as reasonably practicable. Under Rule 14(3), where the LSA has notified the Council of a suspension, the Practice Committee to which the allegation of impaired fitness to practise has been referred must determine whether to make an interim suspension order or interim conditions of practice order in respect of that midwife. Rule 14(4) provides that an LSA must revoke its suspension of a midwife where the Practice Committee has made a determination in accordance with Rule 14(3).

Rule 15 revokes the Nursing and Midwifery Council (Midwives) Rules 2004.

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STATUTORY INSTRUMENTS

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