European Nursing & Midwifery Qualifications Designation Order of Council 2004 (SI 2004/1766)

Consolidated text

Effective from 2nd June 2014

This consolidated text has been produced for internal use by the Nursing and Midwifery Council. It is not the official text and users must consult an authorised version of the legislation for the purpose of interpreting and applying the law.

Amended text is enclosed in [ ], a footnote identifies the amending legislation.

This text incorporates amendments made by:

SI 2007/3101 The European Qualifications (Health and Social Care Professions) Regulations 2007

SI 2013/3036 The European Qualifications (Health Care Professions) (Croatia Accession Amendment) Regulations 2013
At the Council Chambers, Whitehall, the 7th day of July 2004

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

Their Lordships, in exercise of powers conferred on them by article 14(1) of the Nursing and Midwifery Order 2001¹, and of all other powers enabling them in that behalf, hereby make the following Order of Council:—

PART 1

General

Citation and commencement

1. This Order may be cited as the European Nursing and Midwifery Qualifications Designation Order of Council 2004 and shall come into force on 1st August 2004.

Interpretation

2.—(1) In this Order—

“diploma” means, except where, in article 7(3) […]², the context otherwise requires, a diploma, certificate or other evidence of formal qualifications;

[“listed diploma” means—

(a) in the case of a nursing diploma, evidence of formal qualifications as a nurse responsible for general care listed in Annex V, point 5.2.2 of the Directive(2), or

(b) in the case of a midwifery diploma, evidence of formal qualifications as a midwife listed in Annex V, point 5.5.2 of the Directive;]³

¹ S.I.2002/253
² Omitted: SI 2007/3101
³ Inserted: SI 2007/3101
“reference date” means—

(a) in the case of a nursing qualification awarded in a relevant European State, the date listed in relation to that State in the column entitled “Reference date” in Annex V, point 5.2.2 of the Directive, and

(b) in the case of a midwifery qualification awarded in a relevant European State, the date listed in relation to that State in the column entitled “Reference date” in Annex V, point 5.5.2 of the Directive;

“registration” means, in the case of a nursing qualification, registration in sub-Part 1 of the Nurses’ Part of the register and, in the case of a midwifery qualification, registration in the Midwives’ Part of the register.

(2) In this Order, “a competent authority certificate” means a certificate issued by a competent authority in a relevant European State stating that the person named in the certificate has practised effectively and lawfully in that State—

(a) as a midwife, or

(b) as a nurse responsible for general care whose activities include full responsibility for the planning, organisation and carrying out of the nursing care of the patient,

for at least three consecutive years or, for the purposes of articles 4(3)(b)(ii), 6(3)(b)(ii) and 8, two consecutive years, during the period of five years ending with the date of issue of the certificate.

(3) In this Order, “an article 41(2) certificate” means a certificate issued to a person by a competent authority in a relevant European State in accordance with article 41(2) of the Directive (procedures for the recognition of evidence of formal qualifications as a midwife), to the effect that the person, after qualifying as a midwife, has practised satisfactorily, for the period provided for in article 41(1)(a)(ii) or (c) of the Directive, as a midwife in a hospital or other health care establishment approved for the purposes of article 41(2) of the Directive.

(3A) In this Order, references to the Directive or to any provision of the Directive are references to the Directive, or to that provision of the Directive, as amended from time to time.

(4) [...]
PART 2
Designation of Approved Qualifications

[Qualifications in respect of which a listed diploma is awarded on or after the reference date]

3.—(1) A professional qualification in respect of which a listed diploma is awarded in a relevant European State on or after the reference date and which is not evidence of training commenced by the holder before that date, shall be an approved qualification for the purposes of registration, subject in the case of a midwifery qualification to paragraph (2).

(2) A midwifery qualification in respect of which a midwife holds a diploma referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—

(a) it attests to training which satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive; and .

(b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that article, it is accompanied by an article 41(2) certificate relating to the holder.]

[Qualifications in respect of which a listed diploma is awarded before the reference date]

4.—(1) Subject to paragraph (2), a professional qualification in respect of which a listed diploma is awarded in a relevant European State other than Poland or Romania before the reference date, or on or after that date in respect of a course of training begun before that date, shall be an approved qualification for the purposes of registration.

(2) The diploma referred to in paragraph (1) shall—

(a) be one awarded in respect of training which complies with the requirements laid down—

(i) in the case of a nursing qualification, in article 31 of the Directive (training of nurses responsible for general care), or .

(ii) in the case of a midwifery qualification, in article 40 of the Directive (training of midwives),

subject also in the case of a midwifery qualification to paragraph (3); or

(b) be accompanied by a competent authority certificate relating to the holder.

10 Substituted: SI 2007/3101
(3) A midwifery qualification referred to in paragraph (1), in respect of which a diploma
which falls within paragraphs (1) and (2)(a) has been awarded, shall be an approved
qualification for the purposes of registration only if—

(a) it attests to training which satisfies the conditions in paragraph (1)(a), (b)
or (c) of article 41 of the Directive; and

(b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that
article—

(i) it is accompanied by an article 41(2) certificate relating to the
holder, or

(ii) if the diploma was awarded before the reference date, it is
accompanied by a competent authority certificate relating to the
holder.]11

[Qualifications in respect of which a diploma other than a listed diploma is
awarded before the reference date in respect of training which does not comply
with Directive requirements

5.—(1) A professional qualification in respect of which a diploma specified in paragraph
(2) is awarded in a relevant European State other than Poland or Romania shall be an
approved qualification for the purposes of registration if it is accompanied by a
competent authority certificate.

(2) The diploma referred to in paragraph (1) is—

(a) a diploma in nursing in general care which is not a listed diploma and is
awarded —

(i) before the reference date or on or after that date in respect of a
course of training begun before that date, and

(ii) in respect of training which does not comply with the requirements
of article 31 of the Directive; or

(b) a midwifery diploma which is not a listed diploma and is awarded—

(i) before the reference date or on or after that date in respect of a
course of training begun before that date, and

(ii) in respect of training which does not comply with the requirements
of article 40 of the Directive.]12

11 Substituted: SI 2007/3101
12 Substituted: SI 2007/3101
(3) This article shall not apply to the following qualifications obtained in Croatia before the reference date—

(a) viša medicinska sestra ginekološko-opstetričkog smjera (high gynaecology-obstetrical nurse);

(b) medicinska sestra ginekološko-opstetričkog smjera (gynaecology-obstetrical nurse);

(c) viša medicinska sestra primaljskog smjera (high nurse with midwifery degree);

(d) medicinska sestra primaljskog smjera (nurse with midwifery degree);

(e) ginekološko-opstetrička primalja (gynaecology-obstetrical midwife); and

(f) primalja (midwife).]^{13}

[Qualifications in respect of which a diploma other than a listed diploma is awarded in respect of training which complies with Directive requirements]

6.—(1) A professional qualification in respect of which a diploma specified in paragraph (2) is awarded in a relevant European State shall be an approved qualification for the purposes of registration, subject in the case of a midwifery qualification to paragraph (3).

(2) The diploma referred to in paragraph (1) is one which—

(a) is not a listed diploma; and

(b) is accompanied by a certificate issued by a competent authority of the relevant European State in which the diploma was obtained to the effect that the diploma—

(i) is evidence of training which complied with the requirements of article 31 or 40 of the Directive (as the case may be), and

(ii) is treated by that State as if it were a qualification listed in relation to that State in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be).

(3) A midwifery qualification in respect of which a midwife holds a diploma referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—

(a) it attests to training which satisfies the conditions in paragraph (1)(a), (b) or (c) of article 41 of the Directive; and

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^{13} Inserted: SI 2013/3036
(b) in the case of conditions specified in paragraph (1)(a)(ii) or (c) of that article—

(i) it is accompanied by an article 41(2) certificate relating to the holder, or

(ii) if the diploma was awarded before the reference date, it is accompanied by a competent authority certificate relating to the holder.\[^{14}\]

[Qualifications awarded in Poland before the reference date in respect of training which does not comply with Directive requirements]\[^{15}\]

7.—(1) [This article applies to a professional qualification in respect of which a diploma in nursing in general care or midwifery is awarded in Poland—

(a) subject to paragraph (2)(b), before the reference date or on or after that date in respect of a course of training begun before that date; and

(b) in respect of training which does not comply with the requirements of article 31 or 40 of the Directive (as the case may be).]\[^{16}\]

(2) [A qualification referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if—

(a) the requirements of paragraph (3) are satisfied; or .

(b) it is a qualification in nursing in general care or midwifery— .

(i) attested by the diploma “bachelor” and obtained on the basis of the special upgrading programme described in article 33(3) of the Directive (acquired rights specific to nurses responsible for general care) or in article 43(4) of the Directive (acquired rights specific to midwives), and .

(ii) awarded in respect of training completed before the reference date.\[^{17}\]

(3) The diploma referred to in paragraph (1) shall be accompanied by a certificate from the Polish competent authority stating that the person named in the certificate has practised effectively and lawfully as a nurse responsible for general care or, as the case may be, as a midwife in Poland for—

(a) in the case of a person holding [evidence of formal qualifications as a nurse at degree level]\[^{18}\] or the [evidence of formal qualifications as a

\[^{14}\text{Substituted: SI 2007/3101}\]
\[^{15}\text{Substituted: SI 2007/3101}\]
\[^{16}\text{Substituted: SI 2007/3101}\]
\[^{17}\text{Substituted: SI 2007/3101}\]
\[^{18}\text{Substituted: SI 2007/3101}\]
midwife at degree level\textsuperscript{19}, at least three consecutive years during the period of five years ending with the date of issue of the certificate; or

(b) in the case of a person holding the [evidence of formal qualifications as a nurse]\textsuperscript{20} or [evidence of formal qualifications as a midwife]\textsuperscript{21} with postsecondary education obtained from a medical vocational school, at least five consecutive years during the period of seven years ending with the date of issue of the certificate,

and the period of practice specified in either sub-paragraph (a) or (b) in relation to a person holding [evidence of formal qualifications as a nurse mentioned in either of those sub-paragraphs]\textsuperscript{22} must have included taking full responsibility for the planning, organisation and carrying out of the nursing care of the patient.

\textbf{Qualifications awarded in Romania before the reference date in respect of training which does not comply with Directive requirements}

\textbf{7A. (1)} This article applies to a professional qualification in respect of which a diploma in nursing in general care or midwifery is awarded in Romania—

(a) before the reference date or (in the case of a diploma in nursing in general care only) on or after that date in respect of a course of training begun before that date; and

(b) in respect of training which does not comply with the requirements of article 31 or 40 of the Directive (as the case may be).

(2) A qualification referred to in paragraph (1) shall be an approved qualification for the purposes of registration only if it is accompanied by a certificate from a Romanian competent authority stating that the person named in the certificate has practised effectively and lawfully as a nurse responsible for general care or, as the case may be, as a midwife in Romania for—

(a) in the case of a person holding evidence of formal qualifications as a nurse (certificat de competente profesionale de asistent medical generalist) with post-secondary education obtained from a scoala postliceala, at least five consecutive years during the period of seven years ending with the date of issue of the certificate, provided that that period of practice has included the person taking full responsibility for the planning, organisation and carrying out of the nursing care of the patient; or

(b) in the case of a person holding evidence of formal qualifications as a midwife (asistent medical obstetrica-ginecologie/obstetrics-gynecology

\textsuperscript{18} Substituted: SI 2007/3101
\textsuperscript{19} Substituted: SI 2007/3101
\textsuperscript{20} Substituted: SI 2007/3101
\textsuperscript{21} Substituted: SI 2007/3101
\textsuperscript{22} Substituted: SI 2007/3101
nurse), at least five consecutive years during the period of seven years ending with the date of issue of the certificate.] 23

Qualifications in midwifery awarded following training in the former German Democratic Republic which complies with Directive requirements

8. A professional qualification in respect of which a midwifery diploma has been awarded in respect of training which—

(a) was received in the territory of the former German Democratic Republic,

(b) commenced before 3rd October 1990, and

(c) complies with the requirements of article 40 of the Directive,

shall be an approved qualification for the purposes of registration, provided that it is accompanied by a competent authority certificate issued by a competent authority in Germany and relating to the holder.] 24

Qualifications following training in the former German Democratic Republic which does not comply with Directive requirements

9.—(1) Subject to paragraphs (2) and (3), a professional qualification in respect of which a diploma in nursing in general care [other than a listed diploma or, as the case may be, a midwifery diploma other than a listed diploma] 25 has been awarded which is evidence of training which—

(a) was received in the territory of the former German Democratic Republic;

and

(b) commenced before 3rd October 1990; but

(c) [does not comply with the requirements of article 31 or 40 of the Directive (as the case may be)],] 26

shall be an approved qualification for the purposes of registration.

(2) The qualification of which the diploma referred to in paragraph (1) is evidence must be such as to entitle the holder to practise anywhere in Germany as a nurse responsible for general care or, as the case may be, a midwife on the same conditions as the holder of a qualification evidenced by a diploma listed [in relation to Germany in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be)].] 27

23 Inserted: SI 2007/3101
24 Substituted: SI 2007/3101
25 Substituted: SI 2007/3101
26 Substituted: SI 2007/3101
27 Substituted: SI 2007/3101
(3) The diploma shall be accompanied by a competent authority certificate issued by a competent authority in Germany and relating to the holder.\textsuperscript{28}

Qualifications following training in the former Czechoslovakia, the former Soviet Union or \textit{[the former Yugoslavia]}\textsuperscript{29}

10.—(1) Subject to paragraph (2), a professional qualification in respect of which a diploma in nursing in general care or, as the case may be, a midwifery diploma has been awarded which—

(a) is evidence of training which commenced in the territory specified in column (a) of the table below before the date specified in the corresponding entry in column (b); or

(b) was awarded by the State or former State specified in column (a) of the table below before the date specified in the corresponding entry in column (b),

shall be an approved qualification for the purposes of registration.

<table>
<thead>
<tr>
<th>Column (a)</th>
<th>Column (b)</th>
<th>Column (c)</th>
</tr>
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<tbody>
<tr>
<td>Former Czechoslovakia</td>
<td>1st January 1993</td>
<td>Czech Republic</td>
</tr>
<tr>
<td>Former Czechoslovakia</td>
<td>1st January 1993</td>
<td>Slovakia</td>
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<tr>
<td>Former Soviet Union</td>
<td>20th August 1991</td>
<td>Estonia</td>
</tr>
<tr>
<td>Former Soviet Union</td>
<td>21st August 1991</td>
<td>Latvia</td>
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<tr>
<td>Former Soviet Union</td>
<td>11th March 1990</td>
<td>Lithuania</td>
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<tr>
<td>\textit{[Former Yugoslavia]}\textsuperscript{30}</td>
<td>25th June 1991</td>
<td>Slovenia</td>
</tr>
<tr>
<td>\textit{[Former Yugoslavia]}\textsuperscript{31}</td>
<td>8th October 1991</td>
<td>Croatia\textsuperscript{31}</td>
</tr>
</tbody>
</table>

(2) The diploma referred to in paragraph (1) shall—

(a) \textit{be accompanied by a competent authority certificate issued by a competent authority of the State specified in column (c) of the corresponding row of the table in paragraph (1); and}\textsuperscript{32}

(b) the certificate referred to in sub-paragraph (a) shall be accompanied by an attestation from that competent authority to the effect that the diploma has,
on its territory, the same legal validity as regards access to, and practice of, the profession concerned as the qualification listed in relation to that State [in Annex V, point 5.2.2 or point 5.5.2 of the Directive (as the case may be)].]^33

Transitional provision for Spanish midwifery qualifications

11. […]^34

A. K. Galloway
Clerk of the Privy Council

SCHEDULE 1

 […]^35

SCHEDULE 2

 […]^36

EXPLANATORY NOTE

(This note is not part of the Order)

This Order of Council is made by the Privy Council under the Nursing and Midwifery Order 2001 and replaces the EEC Nursing and Midwifery Qualifications Designation Order 1996 as amended which was made by the Secretary of State under the Nurses, Midwives and Health Visitors Act 1979 and which continued in existence under the Nurses, Midwives and Health Visitors Act 1997.

In accordance with article 14 of the Nursing and Midwifery Order 2001 and Directives 77/452/EEC (“the Nursing Directive”) (Articles 2, 4, 4a and 18b and the Annex) and 80/154/EEC (“the Midwifery Directive”) (Articles 2, 4, 5 and 19b and the Annex) as amended, it designates nursing and midwifery qualifications awarded in other EU States as being approved qualifications for the purposes of registration in the register maintained by the Nursing and Midwifery Council.

^33 Substituted: SI 2007/3101
^34 Omitted: SI 2007/3101
^35 Omitted: SI 2007/3101
^36 Omitted: SI 2007/3101
By virtue of the Agreement on the European Economic Area the provisions of these Directives apply to qualifications awarded in Iceland, Norway and Liechtenstein which are also designated.

In accordance with the Agreement between the European Community, and its Member States, and the Swiss Confederation, qualifications awarded in Switzerland are also designated.

Article 3 relates to the designation of a qualification awarded after the specified date by an EEA State (which, in this note, includes Switzerland) which satisfies the training requirements of Directive 77/453/EEC (“the second Nursing Directive”) or 80/155/EEC (“the second Midwifery Directive”) and is listed in the Annex to Directive 77/452/EEC or 80/154/EEC.

Article 4 relates to the designation of a qualification listed in the Annex to Directive 77/452/EEC or 80/154/EEC awarded before the specified date, or in respect of nursing training begun before that date, if it satisfies the training requirements of the relevant Directive or is accompanied by a certificate confirming that the holder has practised effectively and lawfully for the period stated in it.

Article 5 of the Order relates to the designation of a qualification which is not listed in the Annex to Directive 77/452/EEC or 80/154/EEC which was awarded before, or in respect of training begun before, the relevant date and which does not satisfy the training requirements of the relevant Directive but is accompanied by a certificate confirming that the holder has practised effectively and lawfully for the period stated in it.

Article 6 relates to the designation of a qualification which is not listed in the Annex to Directive 77/452/EEC or 80/154/EEC but which satisfies the training requirements of the relevant Directive and which is treated by the State which awarded it as if it were a listed qualification.

Article 7 relates to the designation of a qualification awarded in Poland before the specified date which does not satisfy the training requirements of the relevant Directive provided it is accompanied by a certificate confirming that the holder has practised effectively and lawfully for the period set out in article 7(3).

Articles 8 and 9 relate to the designation of qualifications arising out of training received in the former German Democratic Republic. Article 8 relates to a qualification not listed in the Annex to Directive 77/452/EEC or 80/155/EEC but which satisfies the training requirements of the relevant Directive and which is accompanied by a certificate confirming that the holder is entitled to practise in Germany as if he held a qualification listed in the Annex. Article 9 relates to a qualification which does not satisfy the training requirements of the relevant Directive but which entitles the holder to practise on the same conditions as a holder of a listed qualification and which is accompanied by a certificate confirming that he has practised effectively and lawfully for the time stated in it.

Article 10 relates to the designation of a qualification awarded by, or following training in, the former Czechoslovakia, the former Soviet Union or Yugoslavia which is
accompanied by a certificate confirming that the holder has practised effectively and lawfully for at least three 18 consecutive years out of the five years preceding the award of the qualification and an attestation that the qualification has the same legal validity in respect of access to and practice of the profession concerned as a qualification listed in the Directive.

Article 11 contains a transitional provision in relation to midwifery qualifications awarded in Spain following training which began before 1st January 1986 which are accompanied by a certificate confirming that the qualification satisfies Directive training requirements or, if it does not, that the holder has practised effectively and lawfully for the period stated in it.

Some midwifery qualifications awarded after shorter training which nevertheless satisfy the Directive requirements must be accompanied by a certificate issued in accordance with Articles 2 and 4 of Directive 80/154/EEC confirming that the midwife has practised satisfactorily. This is provided for in articles 3(2); 4(3)(b)(i) and (4)(a); 6(3)(a) and (4)(a); 11(3)(b) and (4)(a). Where the qualification is awarded before the coming into force of Directive 80/154/EEC it must be accompanied instead by a certificate confirming that the holder has practised effectively and lawfully for the period stated in it as is provided for in articles 4(3)(b)(ii) and (4)(b); 6(3)(b) and (4)(b); 8(3)(b) and (4); and 11(3)(b) and (4)(b).

(the expressions “the Nursing Directive”, “the second Nursing Directive”, “the Midwifery Directive” and “the second Midwifery Directive” are defined in Schedule 4 of the Nursing and Midwifery Order 2001 as amended by S.I. 2003/3148).