

EXPLANATORY MEMORANDUM

THE NURSING AND MIDWIFERY COUNCIL (MIDWIFERY AND PRACTICE COMMITTEES) (CONSTITUTION) (AMENDMENT) RULES ORDER OF COUNCIL 2009

2009 No. 2894

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Rules approved this Order of the Privy Council make amendments to the Nursing and Midwifery Council (Midwifery and Practice Committees) (Constitution) Rules Order of Council 2008 (“the 2008 Rules”) to increase the maximum membership of the NMC’s Investigating and Health Committees.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The 2008 Rules were made under the provisions of The Nursing and Midwifery Order 2001 (S.I. 2002/253) as amended by the Nursing and Midwifery (Amendment) Order 2008 (SI 2008/1485).
 - 4.2 The 2008 Rules were approved by Order of the Privy Council on 9 December 2008 and came into force on 5 January 2009. They set out the constitutional arrangements for all of the NMC’s statutory committees, making provision in respect of the membership, quorum and chairing arrangements for each committee and the criteria for the appointment, suspension and removal of members from office
 - 4.3 The amendments to the 2008 Rules made by this Order of Council increase the maximum membership of two of the statutory committees. The Rules are due to come into force on 23 November 2009.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 The 2008 Rules set out the current constitutional arrangements for all four of the NMC's statutory committees, the Midwifery Committee and the three Practice Committees. They make provision with regard to the composition, quora and chairing arrangements for each committee, the criteria for appointment of committee members, and the criteria for suspending and removing members from office.
- 7.2 Panel members to consider fitness to practise cases are drawn from the membership of the relevant Practice Committee. Since the 2008 Rules were introduced there has been a significant change in the caseload of the Practice Committees and the NMC has re-modelled its predictions for the future caseload. As a result it has approved amendments to its rules to increase the maximum membership of its Investigating Committee from 60 to 180 and of its Health Committee from 50 to 120.
- 7.3 These amendments will provide the NMC with greater flexibility in the way it uses its committee members and responds to changes in its caseload.

- *Consolidation*

- 7.4 There are no plans at this stage to consolidate the 2008 Rules as amended by the 2009 Rules.

8. Consultation outcome

- 8.1 The NMC's consultation on its proposed amendments was issued electronically by email and also made available on its website. It was targeted at those who participated in the consultations for the principal rules and who were already familiar with the issues. All the current members of the Practice Committees (including the Investigating and Health Committees) were also invited to contribute. The consultation was issued on 16 June 2009 and closed on 17 July 2009.
- 8.2 The report of the consultation, together with the consultation document is available on the NMC website (www.nmc-uk.org). Eighty responses were received, 59% of which supported the proposal to increase the maximum number of members for both the Investigating Committee and the Health Committee to 350. However, nearly half of the respondents raised concerns about the impact of having such a large pool of panel members and the need to ensure that those appointed to the committees maintained their skills. A number of respondents were critical that the NMC had not provided sufficient information in the consultation document to justify the proposed increase.

8.3 Having considered the concerns expressed in the report and other relevant information, the Council modified the original proposal by reducing the size of the increase. It agreed that the maximum membership of the Investigating Committee be increased from 60 to 180 and that the maximum membership of the Health Committee be increased from 50 to 120.

9. Guidance

9.1 The Department of Health has not issued any guidance in relation to this Order.

10. Impact

10.1 There is minimal impact business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This legislation will be subject to internal review after three years and the legislation may be amended accordingly.

13. Contact

Stuart Griffiths at the Department of Health Tel: 0113 254 5249 or email: stuart.griffiths@dh.gsi.gov.uk can answer any queries regarding the instrument.