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STATUTORY INSTRUMENTS

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**2020 No. 364**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS**

NURSES, MIDWIVES AND NURSING ASSOCIATES

The Nursing and Midwifery Council (Emergency  
Procedures) (Amendment) Rules 2020 Order of Council 2020

<i>Made</i>	- - - -	<i>27th March 2020</i>
<i>Laid before Parliament</i>		<i>30th March 2020</i>
<i>Coming into force</i>	- -	<i>31st March 2020</i>

At the Court Council Chamber, Whitehall, the 27th day of March 2020  
By the Lords of Her Majesty's Most Honourable Privy Council

The Nursing and Midwifery Council has made the Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020, as set out in the Schedule to this Order, in exercise of the powers conferred by articles 7(1) and (2), 26(3), 32(1) and (2), and 37(4) and (5) of the Nursing and Midwifery Order 2001<sup>(1)</sup>.

In accordance with article 47(3) of the Nursing and Midwifery Order 2001 ("the 2001 Order") 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 2001 Order, the 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 (Emergency Procedures) (Amendment) Rules 2020 Order of Council 2020 and comes into force on 31st March 2020.

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(1) [S.I. 2002/253](#). Relevant amending instruments are [S.I. 2008/1485](#), [2014/3272](#), [2017/321](#) and [2018/838](#).

**Privy Council approval**

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

*Richard Tilbrook*  
Clerk of the Privy Council

## SCHEDULE

Article 2

### THE NURSING AND MIDWIFERY COUNCIL (EMERGENCY PROCEDURES) (AMENDMENT) RULES 2020

The Nursing and Midwifery Council makes the following Rules in exercise of the powers conferred under articles 7(1) and (2), 26(3), 32(1) and (2), and 37(4) and (5) of the Nursing and Midwifery Order 2001.

The Nursing and Midwifery Council have consulted in accordance with article 47(3) of that Order, such consultation being limited in scope in the context of a worldwide health pandemic.

## PART 1

### Preliminaries

#### Citation and commencement

1. These Rules may be cited as the Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 and come into force on 31st March 2020.

2.—(1) Where the Secretary of State advises the Registrar of the matters under article 9A(1)(a)(2) (temporary registration in emergencies involving loss of human life or human illness etc) of the 2001 Order, the following Rules have effect as if they were subject to the amendments made by Parts 2, 3 and 4 respectively—

- (a) the Nursing and Midwifery Council (Fitness to Practise) Rules 2004(3);
- (b) the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(4);
- (c) the Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008(5).

(2) The amendments to the Rules cease to have effect when either—

- (a) the Secretary of State advises the Registrar that the emergency notified under article 9A(1)(a) of the 2001 Order has ended, or
- (b) section 2 of, and Schedule 1 to, the Coronavirus Act 2020(6) are no longer in operation.

## PART 2

### Amendment of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004

3.—(1) The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 are amended as follows.

(2) After rule 2 (interpretation), insert—

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(2) Article 9A is inserted by section 2 of, and Schedule 1, of the Coronavirus Act 2020 (c. 7)  
(3) S.I. 2004/1761.  
(4) S.I. 2004/1767.  
(5) S.I. 2008/3148.  
(6) 2020 c. 7

*Status: This is the original version (as it was originally made).*

**“Meetings and hearings during an emergency situation**

**2B.** Meetings and hearings arranged under these Rules may be conducted using audio or video conferencing facilities.”.

(3) After rule 5(3) (procedure of the Investigating Committee where the allegation relates to a fraudulent or incorrect entry in the register), insert—

“(3A) In paragraph (3) “venue” includes details of audio or video conferencing arrangements.”.

(4) After rule 11(3) (notice of hearing), insert—

“(3A) In paragraph (3) “venue” includes details of audio or video conferencing arrangements.”.

(5) After rule 19(4) (public and private hearings), add—

“(5) This rule does not apply to hearings conducted by audio or video conferencing.”.

(6) After rule 32(3) (postponements and adjournments), insert—

“(3A) In paragraph (3) “venue” includes details of audio or video conferencing arrangements.”.

(7) In rule 34 (service of documents)(7), for paragraph (1), substitute—

“(1) Any notice of hearing required to be served upon the registrant shall be delivered by sending it by—

- (a) a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at, the registrant’s address in the register; or
- (b) a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at, where this differs from, and it appears to the Council more likely to reach the registrant at, the registrant’s last known address; or
- (c) electronic mail to an electronic mail address that the registrant has notified to the Council as an address for communications.”.

**PART 3**

**Amendment of the Nursing and Midwifery Council  
(Education, Registration and Registration Appeals) Rules 2004**

**4.—**(1) The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 are amended as follows.

(2) After rule 2 (interpretation), insert—

**“Hearings during an emergency situation**

**2B.** Hearings arranged under these Rules may be conducted using audio or video conferencing facilities.”.

(3) In rule 14(5) (lapse of registration)(8), omit the words commencing with “not exceeding three months” and ending with “due under rule 13”.

(4) In rule 19 (service of documents in relation to registration appeals)—

(a) for paragraph (1), substitute—

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(7) Relevant amending instrument is [S.I.2012/17](#).

(8) Relevant amending instrument is [S.I. 2005/3354](#).

- “(1) In this part of the Rules a reference to sending of a notice or other document to a person is a reference to it being sent—
- (a) in the case of the Council, an Appeal Panel or the Registrar, to—
    - (i) the offices of the Council, or
    - (ii) the electronic mail address notified by the Council;
  - (b) in the case of the appellant, to—
    - (i) the address, identified in the appellant’s notice of appeal, or
    - (ii) the electronic mail address, identified in the appellant’s notice of appeal;
  - (c) in all other cases, to the person’s last known—
    - (i) postal address, or
    - (ii) electronic mail address.”.
- (b) in paragraph (2)—
- (i) after “by post”, insert “or electronic mail”;
  - (ii) for “letter or document”, substitute “letter, document or electronic mail”.
- (5) After rule 23(1) (notice of hearing), insert—
- “(1A) In paragraph (1) “venue” includes details of audio or video conferencing arrangements.”.
- (6) In rule 30 (conduct at hearing)—
- (a) in paragraph (1), before “The hearing shall” insert, “Subject to paragraph (1A),”;
  - (b) after paragraph (1), insert—

“(1A) Paragraph (1) does not apply where a hearing is conducted by audio or video conferencing.”.

## PART 4

### Amendment of the Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008

**5.—**(1) The Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008 are amended as follows.

- (2) In rule 6 (the practice committees)—
- (a) after paragraph (8), insert—

“(8A) The Council may extend the term of office of any member of the Practice Committee, who as of 3rd March 2020 was serving a second term, for such a period or periods as it considers appropriate.”;
  - (b) in paragraph (10), before “The quorum” insert “Subject to paragraph (11),”;
  - (c) after paragraph (10), add—

“(11) If it is not reasonably practicable to comply with the requirements of paragraph (10), that paragraph is amended as follows—

    - (a) for “3”, substitute “2”, and
    - (b) paragraph (10)(a) shall not apply.”.

Given under the common seal of the Nursing and Midwifery Council this 26th day of March 2020.



*Philip Graf*  
Chair  
*Andrea Sutcliffe*  
Chief Executive and Registrar

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#### **EXPLANATORY NOTE**

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

This Order amends the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ([S.I. 2004/1761](#)) (“the Fitness to Practise Rules”), the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 ([S.I. 2004/1767](#)) (“the Registration Rules”) and Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008 ([SI 2008/3148](#)) (“the Practice Committee Constitution Rules”), for the length of an emergency notified under article 9A of the Nursing and Midwifery Order 2001 ([S.I. 2002/253](#)).

Part 2 of the Schedule amends the Fitness to Practise Rules. Paragraph 3—

- provides that hearings and meetings may be held via, and that the word “venue” may mean use of, audio or video conference facilities;
- amends the provisions for public and private hearings, to include provision that the requirement to hold hearings in public does not apply to hearings which are held via audio or video conference;
- amends the provisions for the service of documents to allow for electronic service to the registrant’s nominated e-mail address.

Part 3 of the Schedule amends the Registration Rules. Paragraph 4—

- provides that hearings may be held via, and that the word “venue” may mean use of, audio or video conference facilities;
- amends the provisions for registrations during the period of the emergency, to allow the Registrar to give an appropriate extension of time for a registrant to renew their registration;
- amends the provisions relating to service of documents in relation to registration appeals, to allow for notices and documents to be sent and received by electronic mail;
- adds a provision to hearing provisions so that, where a hearing is to be held by audio or video conference, there is no obligation to hold it in public.

Part 4 of the Schedule amends the Practice Committee Constitution Rules. Paragraph 5 amends the provisions relating to the constitution of the Practice Committee to allow—

- the Nursing and Midwifery Council to extend the second term of office of a member of a Practice Committee for as long they consider appropriate, and
- for fewer panel members to be present for the committee to be quorate.