

**EXPLANATORY MEMORANDUM TO
THE NURSING AND MIDWIFERY COUNCIL (ELECTION SCHEME)
(AMENDMENT) RULES ORDER OF COUNCIL 2007**

2007 No. 3134

1. This explanatory memorandum has been prepared by Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1. This Order approves rules made by the Nursing and Midwifery Council (NMC), which amend the Nursing and Midwifery Council (Election Scheme) Rules 2005 (the Principal Rules). The main changes to these Rules will:
 - Reduce the overall timetable for elections to the NMC from six to three months by reducing the time for each stage
 - Amend the process for cases where only one candidate or no candidates put themselves forward for election
 - Amend the process for cases where a member dies, resigns or is disqualified
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None.
4. **Legislative Background**
 - 4.1. The NMC has an election scheme contained in the Principal Rules which sets out the process for electing registrant and alternate members of the council (alternate members are registered nurses or midwives who stand in for a registrant member in his or her absence). Members are elected on a four-year rotation with one quarter of the Council being replaced each year. The quarter that is replaced is the quarter that represents a particular national constituency (i.e. England Scotland, Wales and Northern Ireland). Each national constituency has three registrant and three alternate members, one in respect of each of the three parts of the NMC's register. Accordingly, the registrant and alternate members of a particular national constituency and a particular part of the register both come up for re-election at the same time.
 - 4.2. Depending on the number of candidates who put themselves forward, any necessary ballot takes place either on the basis of the "first past the post" system, if there are only two candidates, or the "single transferrable vote" system, if there are more than two candidates. Where a single transferrable vote ballot has taken place, winner becomes the registrant member and the second placed candidate the alternate member. The candidates placed third to (at the most) sixth on the ballot are held in reserve, and if either the registrant

or alternate member dies or has to resign during their term of office, the other original candidates are promoted in order, as appropriate, to fill the vacancy.

5. Extent

5.1. This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Policy

7.1 These amendments have arisen as a result of the Government's proposals regarding the future composition of the councils of regulatory bodies, as set out in the White Paper, *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*, which was published in February 2007. The White Paper proposes that in future registrant members (there will be no alternates) will be appointed to councils rather than elected.

7.2 However, the NMC is due to hold elections before these changes will be implemented. Where possible regulators, including the NMC, want to avoid running elections only to have those elected replaced by appointed members shortly after their election. There is also a risk that if elections go ahead under these circumstances that fewer candidates would come forward knowing that their tenure would be short. This may affect the regulator's ability to function effectively during a particularly important period for the profession.

7.3 The NMC therefore approached the Department to see how this issue can be resolved.

7.4 The agreed way forward is in two stages:

- Firstly, amend the current election scheme rules to allow the election timetable to be shortened. This will give more time for the legislation reforming the council to be completed before there is a need for elections. If the legislation is delayed for any reason the elections can still go ahead in accordance with the shortened timetable. There has also been a streamlining of procedures in cases where insufficient nominations are received or where candidates die or have to drop out.
- Secondly, extend the term of the existing council members through an Order under s60 of the Health Act 1999 to allow time to implement the changes required to move to appointment of members. This would also allow for a stable transition period between abolishing elections and appointing members to the new council.

Consultation

7.3 In view of the need to have the amendments to the election scheme in force before the end of the current year, the consultation on the Council's proposals was run over a shorter time period than would normally be appropriate. It was issued on Friday 6 July 2007 and was sent to an agreed list of key stakeholders, which included professional bodies, trade unions and relevant Government Departments. The consultation was also published on the NMC's website. The deadline for responses was Friday 3 August 2007.

7.4 Twenty three responses were received, 10 of which were submitted by organisations (including eight identified as being key stakeholders) and 13 from individuals (including nine identified as being NMC registrants).

7.5 There was a high level of support for the proposed amendments (83%). The comments of the four who did not support the proposals were mainly directed at the White Paper proposals, rather than the amendments proposed by the NMC to manage its elections in the interim period. One professional body supported the proposed amendments subject to the NMC running its election in England before the end of July 2008, if the relevant legislation to implement the White Paper proposals, had not come into force. They also sought and have been given, assurances regarding certain procedural aspects of running any such election.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as there is no impact on business, charities or voluntary bodies.

8.2 There are no identified costs to either the public or the Exchequer arising from this instrument.

9. Contact

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