

**EXPLANATORY MEMORANDUM TO**  
**THE NURSING AND MIDWIFERY COUNCIL**  
**(FEES) (AMENDMENT) RULES ORDER OF COUNCIL 2014**

**2014 No. 3139**

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 Order approves Rules made by the Nursing and Midwifery Council (the “NMC”), which amend the Nursing and Midwifery Council (Fees) Rules 2004 (SI 2004/1654).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 The order imposes a fee increase above the rate of inflation<sup>1</sup>. The NMC has been clear that increased fees are needed in order to perform its statutory duties. In 2012 the NMC identified that £120 per registrant per year is the amount required to cover its regulatory costs. Accordingly the NMC had intended to increase the level of its fee to £120 in February 2013. However, for two years the NMC’s costs have been subsidised by a Government grant, which enabled the NMC to charge a lower registration fee of £100 instead of £120. This grant will have been used by January 2015. The NMC reviews the level of its fee on an annual basis.
4. **Legislative Context**
  - 4.1 The Nursing and Midwifery Order 2001 (SI 2002/253)(“the Order”) empowers the NMC to make Rules in relation to the payment of fees. The relevant rules are the Nursing and Midwifery Council (Fees) Rules 2004 (S.I. 2004/1654) (“the Fee Rules”). The Order provides that the NMC Council should consult representatives of any groups of persons it considers appropriate, and any groups of persons who appear likely to be affected by any proposed changes to those rules.
  - 4.2 The Rules scheduled to this Order make amendments to the Fee Rules in relation to the fees to be paid for registration with the NMC.
5. **Territorial Extent and Application**
  - 5.1 This instrument extends to all of the United Kingdom (UK).
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.

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<sup>1</sup> The NMC is proposing to increase its registration fee from £100 to £120, which represents a 20% increase. Office for National Statistics (ONS) data estimates that Consumer Prices Index (CPI) grew by 1.2% in the year to September 2014, down from 1.5% in August. Source: [http://www.ons.gov.uk/ons/dcp171778\\_380135.pdf](http://www.ons.gov.uk/ons/dcp171778_380135.pdf)

## 7. Policy background

- 7.1 The NMC is the independent regulator for nurses and midwives in the UK. In common with all other regulated UK healthcare professionals, nurses and midwives are required to pay an annual registration fee. As an independent body, the NMC is responsible for determining the level of this fee, which must cover the full costs of its regulatory activity.
- 7.2 All professional regulators, including the NMC, are aware of the Government's position on registration fees, that we would not expect these to increase beyond current levels, unless there is a clear and robust business case that any increase is essential to ensure the exercise of statutory duties. The Government expects the NMC Council to take account of this position and to consider nurses and midwives' financial constraints when making decisions on fees but the need to protect the public must be paramount.
- 7.3 In accordance with its statutory duty to consult with any parties likely to be affected by changes to its registration fee, the NMC ran a twelve week public consultation between 8 May and 31 July 2014. This was on its proposal to increase its annual registration fee from £100 to £120. It is worth noting that there is a consequential rise for overseas applicants, those from outside of the European Economic Area (EEA), who pay an additional £33 on top of their first registration fee as an administrative cost.
- 7.4 The NMC's consultation document made clear that if its annual registration fee was not increased, there would be significant implications for its ability to fulfil its statutory duty to protect the public. Processing of fitness to practise cases, currently accounting for 77% of the NMC's income and a continuing increase in fitness to practise (FtP) referrals (133% since 2008-09) are cited as the main drivers for the proposed fee increase.
- 7.5 Since 2012–13, the NMC reports that it has made £25 million of efficiency savings to get the best value possible from registrants' fees. In addition, the NMC has advised that it is planning to save circa £18 million per year over the three-year period to 2016–17 mainly by changing the way it delivers its fitness to practise function. Without these improvements and savings, the NMC asserts that the cost of its regulatory activity would be closer to £150 per registrant per year. With these savings the NMC informs that the cost of regulation can be set at £120 per registrant per year.
- 7.6 These amendment Rules will increase the NMC's annual registration fee from £100 to £120. This will enable the NMC to generate income to cover its projected expenditure and restore financial reserves to appropriate levels. It will allow the NMC to continue to meet its statutory functions by:
- Providing an effective and efficient fitness to practise process to deal with the current caseload
  - Accommodating future demands arising from increased referrals and complexity of cases
  - Meeting its fitness to practise key performance indicators

- Developing and implementing fit for purpose Information Technology (IT) systems, which will support the business need, including maintaining the register
- Restoring its financial reserve levels by January 2016 and maintaining these with reasonable cover for unforeseen events.

## **8. Consultation outcome**

- 8.1 On 26 March 2014, the NMC Council formally reviewed its annual registration fee, agreed a proposal to increase the level of this fee from £100 to £120 and announced its intention to consult on this proposal. The consultation, in the form of an online survey, launched on 8 May 2014 and closed on 31 July 2014. The question relevant to these amendment rules asked whether the respondent agreed or disagreed that the registration fee should be increased to £120. The NMC's fee consultation document is available on the NMC website (<http://www.nmc-uk.org/Documents/Consultations/2014/Fee%20Rise%20Consultation.pdf>).
- 8.2 Prior to the launch of the consultation, the NMC provided briefing for key stakeholders including the Department of Health, professional bodies and unions. The NMC also published a news story on its website ([www.nmc-uk.org](http://www.nmc-uk.org)) about the fee rise consultation to highlight the associated consultation and bring it to the attention of registrants. At regular intervals during consultation period, the NMC placed articles in its email newsletters, of which the combined circulation is approximately 275,000 nurses, midwives, educators, students, employers, managers, patients and members of the public. The NMC also engaged on its social media platforms such as Twitter, through which it has 23,000 followers.
- 8.3 The NMC also issued related press releases, published news articles about its consultation and discussed the proposal at a number of forums it participates in. The NMC advises that its consultation web page has been viewed over 26,500 times. The NMC also provided a dedicated email inbox for consultation issues. The NMC has analysed the associated media coverage and found that its consultation generated 110 published media articles with a potential readership of over 9 million people. In addition to the formal consultation and related engagement, the NMC's fee proposal has been raised and discussed in a number of recent NMC engagement activities such as those in relation to revalidation, the professional code of conduct and midwifery regulation. Together the NMC considers that these activities have helped to ensure the consultation process has been open, honest and transparent.
- 8.4 Responses to the NMC's consultation were collated and analysed by Alpha Research, an independent research company. Alpha Research's report on the consultation response is available on the NMC's website as part of the bundle of papers considered by the NMC Council on 1 October 2014 (<http://www.nmc-uk.org/Documents/CouncilPapersAndDocuments/Council%202014/October%20Council%20Open%20Papers%20October%202014.pdf>). This report states that the NMC received 4,532 responses to its fee consultation, of which 27 responses were from organisations (including the Royal College of Nursing (RCN), the Royal College of Midwives (RCM), Unison and Unite) and 4,505 responses were from individuals. The majority of respondents to the consultation disagreed with the proposal to increase the

registration fee to £120 in 2015: 96% of individual respondents (2% agreed 2% not sure) and 25 (out of the 27) organisations responding.

- 8.5 In considering the report of its own fee consultation, the NMC considered the views of all responders, including those held by key responders (RCN, RCM, Unite and Unison). The NMC also reviewed the business case for the increase and considered an equality impact assessment. Having taken all the information into account, the NMC's Council agreed that the level of its annual registration fee should be increased to £120.

## **9. Guidance**

- 9.1 The NMC will not be issuing any guidance to registrants in relation to the increased level of the annual registration fee. However, information about the fee increase is available on its website and has been included in its email newsletters in advance of the coming into force date. Each registrant is sent a notice of the fee being charged at least five weeks in advance of the due date.

## **10. Impact**

- 10.1 The NMC completed an equality impact assessment in relation to its proposed fee increase, which is publically available on its website (<http://www.nmc-uk.org/Documents/Consultations/2014/Full%20equality%20analysis.pdf>).
- 10.2 The current NMC registration fee applies equally to all registrants, with no exceptions or reduced costs for any one group. The proposed fee increase will operate in the same manner. The NMC recognises that the fee increase will impact on registrants; amongst this the protected characteristics of age, gender and maternity/pregnancy status may be affected. However, having paid due regard to these findings, the NMC is of the view that a fee rise is objectively justified and proportionate to achieve the legitimate aim of enabling it to protect the public by ensuring it has sufficient funding to achieve the statutory requirements placed upon it to the expected standards.
- 10.3 To mitigate the financial impact of the proposed fee increase the NMC is proposing to introduce a rule change to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004, which would provide registrants with the option of paying their registration fee by instalment. Such a provision would allow registrants to spread the cost of registration, potentially easing the burden of these payments.

## **11. Regulating small business**

- 11.1 The legislation does not directly apply to small business, the changes that it brings about relate to the individual rather than business.

## **12. Monitoring & review**

- 12.1 The NMC will keep the Rules being amended by this legislation under on-going review.

### **13. Contact**

- 13.1** Rachel Bell at the Department of Health Tel: 0113 2545004 or email: [rachel.bell@dh.gsi.gov.uk](mailto:rachel.bell@dh.gsi.gov.uk) can answer any queries regarding the instrument.