

Council

NMC response to the Covid-19 emergency

Action: For decision.

Issue: Council is invited to agree the measures set out below which will allow us to respond appropriately and proportionately to the unprecedented challenges in the UK health and care system due to the Covid-19 emergency.

Core regulatory function: All regulatory functions.

Strategic priority: Strategic priority 1: Effective regulation
Strategic priority 3: Collaboration and communication
Strategic priority 4: An effective organisation.

Decision required: The Council is recommended :

1. To approve the draft Covid-19 emergency temporary registration policy including the proposed conditions of practice for some groups of temporary registrants (paragraph 24 and annexe 1b).
2. To approve the draft Covid-19 Emergency Education Programme Standards (paragraph 38 and annexe 2).
3. To extend the implementation date of the Standards for pre-registration nursing programmes and the Standards for prescribing programmes to September 2021 (paragraph 44).
4. In accordance with its powers set out in the Nursing and Midwifery Order 2001 and subject to any minor drafting changes required by the Privy Council, the Council is recommended to approve the Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 Order of Council 2020 (Annexe 3) with a view to making the Rules by correspondence following the passing of the Coronavirus Bill (paragraph 60).
5. To authorise the Chief Executive and Registrar, or in her absence, a nominated Assistant Registrar, with the agreement of the Chair, or in his absence, the Vice-Chairs, to add any additional groups of suitable people to the temporary register in line with the principles set out in the Covid-19 emergency temporary registration policy and to take any other action necessary to implement these emergency decisions and

policies (paragraph 62).

Annexes:

The following annexes are attached to this paper:

- Annexe 1a: Coronavirus Bill Schedule 1: new Article 9A of Nursing and Midwifery Order
- Annexe 1b: Draft Covid-19 emergency temporary registration policy
- Annexe 2: Draft Covid-19 Emergency Education Programme Standards
- Annexe 3: Draft Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 Order of Council 2020.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context:

- 1 Due to the significant and increasing effects of the worldwide coronavirus pandemic (Covid-19) across the UK, unprecedented and sustained pressure is already being placed on the nursing and midwifery workforce at all levels of the health and social care system.
- 2 We have been working with government and stakeholders, including representative bodies, to put plans in place to support nurses, midwives and nursing associates, and nursing and midwifery students, as they respond to the outbreak and play their part in protecting the public and saving lives.
- 3 On 19 March 2020, the government introduced the Coronavirus Bill 2019-2021 into Parliament. . Once in force this will give us a new emergency power to temporarily register individuals or groups of people who may reasonably be considered to be fit, proper and suitably experienced to be registered as nurses, midwives or nursing associates for the duration of this Covid-19 emergency. See Annexe 1a.
- 4 Alongside this we are proposing a number of immediate changes to our education programme standards and programme approval implementation dates to provide flexibility for our approved education institutions and their practice learning partners in how they can continue to support their students.
- 5 We are also seeking changes to our own Rules to allow us to vary our revalidation requirements and adapt our current regulatory procedures in order to support the people on our register and enable us to continue to be able to take appropriate action to protect the public during this emergency.
- 6 Temporary registration status is separate from full registration and will end when the emergency period ends. Once we are informed by the Secretary of State that the emergency has ended, we will be required to revoke all temporary registrations. Likewise, once the emergency period ends, our emergency rule changes and education standards will cease to apply.

Four country factors:

- 7 The power to temporarily register registered nurses and midwives during the coronavirus emergency will apply across the UK. The power to temporarily register nursing associates will only apply to England as this is an England-only profession. Each country is responsible for its own workforce deployment arrangements in relation to any people on the temporary register.
- 8 The proposed changes to our education standards and our Rules would apply in the same way across the UK.

Discussion: Covid-19 emergency temporary registration policy

- 9 When the Coronavirus Bill comes into force, and we have been formally advised of an emergency by the Secretary of State for Health and Social Care, we will have a new power to temporarily register individuals or groups of individuals that we consider to be fit, proper and suitably experienced to be registered for the duration of this Covid-19 emergency. We will also have the power to impose conditions on any temporary registration if required.
- 10 We have no power to apply our usual registration requirements to the temporary register and no registration fees are payable. Everyone on the Covid-19 temporary register will be required to comply with the Code¹. This includes recognising and working within the limits of their competence and being open and honest about tasks which they feel unable to do.
- 11 Our normal fitness to practise processes will also not apply to those on the temporary register. Instead, if concerns are raised about any individual on the temporary register, the Registrar will have the power to remove them from the temporary register immediately. Temporary registration may be revoked by the Registrar for any reason, including where the Registrar suspects that the person's fitness to practise may be impaired. We are in the process of developing a fair and proportionate operational process to use in such circumstances which will be considered by the Executive Board and approved by the Chief Executive and Registrar after consultation with the Chair.
- 12 Our over-arching objective is to protect the public, and any action we take in circumstances like these will seek to balance the need to support the health and care workforce to manage the increased risks of an emergency situation with the importance of minimising any risks to safety for people using services and patients.
- 13 We have set out how we intend to use our temporary registration powers in the draft Covid-19 emergency temporary registration policy attached at Annexe 1b. We have adopted a risk-based approach, so that we have identified different groups of potential temporary registrants who we consider it may be reasonable to invite to join the temporary register depending on the scale and duration of the Covid-19 emergency.
- 14 We have engaged with the Department of Health and Social Care and the devolved administrations, other UK health and care regulators, education leaders, and representative bodies in the development of our approach.
- 15 Our policy proposes that the first group of people who may

¹ The Code: Professional standards of practice and behaviour

reasonably be considered to be fit, proper and suitably experienced to be registered as nurses, midwives or nursing associates for the duration of this Covid-19 emergency are those individuals who were previously registered with us up to three years ago.

- 16 We will not consider people to be suitable for registration who were previously removed from the register through our fitness to practise processes or who left the register through our voluntary removal process.
- 17 On 20 March 2020 we contacted this first group of people to notify them of our plans and invite them to opt-in to temporary registration. In line with the latest government health advice, we have not contacted former registrants of 70 years or older or with known health conditions.
- 18 This is an unprecedented and evolving situation and we have already identified other groups of people who we consider may meet the requirements for temporary registration depending on the overall evolution of this pandemic and the severity of the resulting workforce shortages over the coming weeks. Such groups include final year nursing students and former registrants who left the register more than 3 years ago.
- 19 We have also begun to consider the suitability of a possible further group of potential temporary registrants, namely overseas registered nursing and midwifery professionals who are already in the UK. We will shortly start engaging with relevant stakeholders to explore the option of adding this group to the temporary register, and any other groups that may be identified, and how such an expansion of the temporary register could be safely and effectively implemented.
- 20 We recognise that these groups may present a different level of risk to the first group of potential registrants, so the draft policy sets out the approach we would take, including the use of our power to impose conditions on their temporary registration. Under the draft policy, should we decide to invite nursing students in their final 6 months to join the temporary register, it would be subject to a number of specific 'conditions of practice' to reflect the fact that they have not yet completed their pre-registration nursing programme.
- 21 Following discussions with senior midwives, we are not proposing to invite midwifery students to join the temporary register. This is because the newly registered midwife is required to practice with a high level of clinical autonomy, which it was felt could not be expected of students who had not completed their full programme.
- 22 Nursing Associate students who had not completed their

programmes are also not included as a group for temporary registration. This is because the programmes are new and only of two years duration, so nursing associates students are not in an immediately comparable position to final year nursing students.

- 23 In the event of any of the further groups set out in paragraphs 19-20 also being invited to join the temporary register, similar conditions would be placed on their registration to reflect their level of training and experience.
- 24 **Recommendation: The Council is recommended to approve the attached draft Covid-19 emergency registration policy including the proposed conditions of practice for some groups of temporary registrants (see Annexe 1b.)**

Covid-19 Emergency Education Programme Standards

- 25 Nursing and midwifery students make a valuable contribution to the workforce whilst completing practice placements as part of their pre-registration education programmes which are designed to meet our standards. A key purpose of our standards is to focus on students meeting practice learning outcomes in a safe and effective way.
- 26 We recognise the important contribution that many of our nursing and midwifery students will be making to the national response to the Covid-19 outbreak and the impact that the outbreak will have on those who are studying.
- 27 We have produced an emergency set of education programme standards to enable our Approved Education Institutions (AEIs) and their practice learning partners to support all of their nursing and midwifery students in an appropriate way during this emergency period. (See Annexe 2).
- 28 In drafting the standards we have engaged closely with the Council of Deans of Health, the main representative body for AEIs. We have also engaged with representative bodies who have brought the voice of students into the discussions. Together with all our partners we have sought to address the range of concerns that have been raised.
- 29 The draft standards include some new standards in order to ensure that all students' learning outcomes can continue to be met in a safe and effective way, and some amendments to our existing standards to provide flexibility in ensuring appropriate supervision and support for students in each year of their programmes.
- 30 These emergency standards are intended to be facilitative and not directive and these standards do not require AEIs or individual

students to change their current programmes.

- 31 Whilst we have removed the 50% clinical weighting which is defined in our standards, all courses must still comply with the minimum training hours requirements under EU legislation, namely 4600 programme hours, and a maximum two thirds clinical weighting which we have no legal power to change or waive.

Students in final 6 months of approved pre-registration nursing and midwifery programmes

- 32 Our emergency standards will enable students within their final six months of a nursing or midwifery programme to complete the remainder of their training in clinical practice. We appreciate the significance of supernumerary status as a means of protecting learning and ensuring supervision. However, during this emergency period the pressures on the health and care workforce mean that supernumerary status of students may not always be possible. We are therefore removing that requirement during this emergency period. However, to ensure students still get the support and supervision they need to learn, protected learning time must be provided. Our new (2018) education standards also allow any registered healthcare professional to supervise a group of students.

First year undergraduate students on approved pre-registration nursing and midwifery programmes.

- 33 For first year undergraduate students of pre-registration undergraduate programmes we have changed the standards to allow students to spend up to 100% of their programme in theory or academic learning. This change recognises that during this emergency period, pressures on the health and care workforce mean that appropriate levels of supervision and support for safe and effective clinical placements for first year students may not be possible. The new standards will allow the overall 50-50 split of theoretical and clinical hours to be made up over the remainder of the programme.

All other students on approved nursing and midwifery programmes

- 34 For all other undergraduate students (including those in their second/penultimate year(s) and in the first six months of their third or final year) and for first year postgraduate students, the new standards allow these students to spend up to 80% of their hours in clinical placements. This change will ensure that learning providers can continue to provide theoretical learning and provide students with the means of receiving ongoing learning and pastoral support in extended clinical placements. This approach will support the contribution these students can make to

expanding the workforce in this pandemic emergency.

All approved programmes

- 35 We have also allowed more flexibility in the methods for student support, supervision, teaching and assessment in all our programmes during this exceptional period.

Nursing associate (NA) programmes

- 36 Whilst the emergency standards which apply to all approved programmes could in principle also apply to our approved Nursing Associate programmes, we recognise that most NA students are on apprenticeship based programmes, and that many employers are calling their students back into practice during this emergency period, so many of these programmes will be suspended for now.
- 37 Should the Council agree these standards, we would then notify universities and other bodies concerned with education and training² and publish the standards.³
- 38 **Recommendation: The Council is recommended to approve the draft Covid-19 emergency education programme standards attached at Annexe 2.**

Extended implementation date for Standards for pre-registration nursing programmes and the Standards for prescribing programmes

- 39 We published our new Standards for pre-registration nursing programmes and Standards for prescribing programmes in May 2018. Following the approval of new standards, it is important to agree an implementation date after which the previous set of standards are no longer taught or in use. The Council previously agreed that AELs would have to be approved against the new standards for pre-registration nursing programmes by September 2020 and against the new Standards for pre-registration midwifery programmes by September 2021
- 40 Since then we have been approving programmes against these new standards with the majority of nursing programmes having now been approved. Twenty nursing programmes and thirty-six prescribing programmes have yet to have their approval events.
- 41 Due to the ongoing Covid-19 emergency situation we have changed our approval process by carrying out approval activity remotely. However, AELs and their practice learning partners, alongside visitors who are NMC registrants have raised concerns

² in line with article 15(5)(a) of the Order

³ in line with article 3(15) of the Order

that over the coming months undertaking approval activity will become increasingly difficult, and it may not be possible for all nursing programmes to be approved by September 2020. In these unprecedented circumstances we consider that it is appropriate to postpone the implementation date by a period of 12 months. This will bring the date into line with the implementation date for midwifery programmes and should allow AEs sufficient time to properly prepare for their approvals.

- 42 If the Council agrees to extend the implementation date for the Standards for pre-registration nursing programmes and the Standards for prescribing programmes then the NMC Quality Assurance Board (chaired by the Director of Education and Standards) would be empowered to extend programmes until those dates and AEs would be notified.
- 43 This will mean that programmes remain on the current standards for an additional year, however if the extension is given we would require programmes to transfer their students onto the new standards once they are approved.
- 44 **Recommendation: The Council is recommended to extend the implementation date for the Standards for pre-registration nursing programmes and the Standards for prescribing programmes to September 2021.**

Amendments to NMC Rules

- 45 In order to support our regulatory functions during the Covid-19 emergency we have proposed amendments to the following rules:
 - 45.1 The Nursing and Midwifery Council (Fitness to Practise) Rules 2004
 - 45.2 The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004
 - 45.3 The Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008
- 46 These changes will be made by Statutory Instrument - draft Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020.. This is attached at Annexe 3.
- 47 The amendments cover changes in two main areas:
 - 47.1 Revalidation and retention
 - 47.2 Fitness to practise and registration appeals

Revalidation (renewal) and retention

- 48 We are concerned that over the coming months our registrants will find themselves working in very challenging situations and may not have sufficient time to complete some of our revalidation requirements. This may be due to time pressures, illness or unavailability of colleagues.
- 49 At present, under our governing legislation, we can only allow an extension of up to three months to meet all the revalidation (renewal) requirements, after which an individual's registration will automatically lapse and they will be removed from the register.
- 50 In relation to any registrants who are approaching their revalidation date, we will automatically apply the three month extension period allowed by our legislation, but we recognise that in these challenging circumstances, that time is likely to be insufficient.
- 51 Our proposed amendments to our rules will extend the Registrar's power to consider an extension for any length of time considered appropriate, including after an extension has already been granted. They will also give us the power to extend the time we allow for an individual registrant to pay their annual retention fee. We may use this power if it is necessary to avoid anyone inadvertently lapsing during this emergency period.

Fitness to practise and registration appeals

- 52 We anticipate that physical attendance at hearings will significantly reduce due to existing and potentially future government advice given the current emergency situation. This will apply to all parties. The draft rules enable panel events to take place by video-conferencing, audio-link and telephone. In the first instance this will allow urgent hearings and meetings like interim orders and substantive order reviews (SORs) to continue to take place. This may also apply to substantive events later on in the year. We have also made it clear that the requirement to hold events in public does not apply to events being held by video-conferencing, audio-link or telephone. The approach we have taken is in line with the approach being taken in the civil courts.
- 53 As physical attendance at office premises by our staff is also likely to significantly reduce, and the ability of the Post Office to deliver mail may be affected by the situation, amendments to the rules will allow us to serve notices of hearings by email rather than by post.
- 54 A significant number of lay and registrant panel members are imminently due to end their second term of office and our ability to recruit new panel members, and in particular registrant members, is likely to be restricted during this emergency period. The proposed amendments to our rules therefore enable the Council

to extend the appointment of any panel member whose second term is due to expire as of 3 March.

- 55 Once the rule changes have been made, the Council may be asked to extend the terms of some panel members by Chair's Action which will be reported to a subsequent public meeting.
- 56 We are also aware that some of our registrant panel members may not be able to offer as much time to the NMC in the current situation and may become unavailable at short notice. We are concerned that we will not have sufficient numbers of registrant panel members available to hear all our interim order cases, SORs and substantive hearings during this period. The proposed amendments therefore temporarily reduce the quorum of an FtP panel event to two and allow for the requirement for one panel member to be a registrant to be waived during this emergency period.
- 57 We have not had time to undertake a full consultation process, but we have discussed these proposed rule changes with the professional bodies and unions who represent our registrants in Fitness to Practise and Registration appeal cases. They were broadly supportive of the use of email notices and videoconferencing, audio-link and telephone hearings, but raised questions around the feasibility of using these methods for FtP substantive hearings involving the cross-examination of witnesses.
- 58 At present we are postponing all our substantive hearings and focussing on the most urgent hearings, but if the emergency situation continues we will engage further with the representative bodies about how to use these powers in a fair way and we will continue to look at learning from the civil courts. Depending upon how long the current emergency situation lasts, we do not want to build up too great a backlog in our Fitness to Practise cases, whilst also respecting the rights of everyone involved.
- 59 There was also support from the representative bodies for the power to extend revalidation periods and the steps proposed to mitigate the risk of a shortage of registrant panel members during this emergency period. The representatives felt that the selection of panel members would need to be undertaken carefully during this time, with priority being given to registrants sitting on contested FtP substantive hearings where possible.
- 60 **Recommendation: In accordance with its powers set out in the Nursing and Midwifery Order 2001 and subject to any minor drafting changes required by the Privy Council, the Council is recommended to approve the Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 Order of Council 2020 (Annexe 3) with a view to**

making the Rules by correspondence following the passing of the Coronavirus Bill.

Delegated authority to Registrar

- 61 As outlined above, it may become necessary for further groups of people to be invited to join the temporary register, in line with the principles outlined in the policy at very short notice, if the emergency situation worsens and the resulting workforce shortages increase very quickly.
- 62 **Recommendation: To authorise the Chief Executive and Registrar, or in her absence, a nominated Assistant Registrar, with the agreement of the Chair, or in his absence, the Vice-Chairs, to add any additional groups of suitable people to the temporary register in line with the principles set out in the Covid-19 emergency temporary registration policy and to take any other action necessary to implement these emergency decisions and policies.**

Next Steps

- 63 We anticipate that the Coronavirus Bill will come into force imminently. Once an emergency is declared by the Secretary of State we will be able to begin to grant people temporary registration as outlined above.
- 64 Should the Council agree to make the rules these will be signed by the Chair and Registrar. This Statutory Instrument will then need to be approved by the Privy Council before passing through Parliament under the negative resolution procedure. This means that it will automatically become law without debate unless there is an objection from either House.
- 65 To mitigate against any risk to patient and public safety, we will not invite anyone to join the temporary register who was removed from the register either through our fitness to practise processes or who left the register under our voluntary removal process.
- 66 People with temporary registration will be expected to comply with the professional standards of practice and behaviour set out in the Code. This includes recognising and working within the limits of their competence and being open and honest about tasks which they feel unable to do.
- 67 If we do decide to grant temporary registration to nursing students within the last six months of their programme, their registration will be subject to specific conditions of practice.
- 68 If public protection concerns are raised about any individual on

Public protection implications:

the temporary register the Registrar will have the power to remove them from the temporary register immediately.

69 Although we are making changes to our standards to allow for more flexibility, the changes that we propose will still ensure all learning outcomes are met in a safe and effective way

70 The proposed changes to our rules will give us the power to be more flexible in response to the Covid-19 outbreak whilst still fulfilling our core public protection functions.

Resource implications:

71 The Covid-19 outbreak is a developing situation and, as such, it is not possible to provide exact figures surrounding resource implications at this time.

72 We will not charge any fees to individuals with temporary registration and so this will place an additional cost burden on the organisation during their registration. We have already signalled to the Department of Health and Social Care that we will specify these additional costs and seek funding from them to ensure existing registrants do not disproportionately bear the burden of this increased expenditure.

73 Additional resource will be required immediately to administer the temporary register and to respond to a likely increase in queries to the contact centre. This will be provided by diverting resource from other internal functions during this emergency period. The overall impact will depend on the scale and duration of the emergency.

Equality and diversity implications:

74 Given the extreme circumstances we have not been able to undertake a full EQIA. However, in so far as possible, we have taken into account considerations about the impact on protected characteristics when developing our approaches. A number of the proposed measures will provide added flexibility to our current procedures and will support distance learning and engagement with our functions via video, audio-link or telephone. We hope that this will have a positive impact across protected characteristics. We will continue to review our approaches as the situation develops.

75 We recognise, that the effects of Covid-19 are more serious for certain groups and therefore individuals from these groups may have reservations about returning to practice. In addition, individuals with caring responsibilities may also be concerned about practising. Temporary registration will be voluntary and we understand that individuals in these circumstances may not wish to join the register.

- Stakeholder engagement:**
- 76 The main elements of our draft emergency registration policy stem from the effect of the provisions set out in the Coronavirus Bill. However, we have engaged with a number of stakeholders in developing our approach to the cohorts that we will consider for temporary registration. These include:
- 76.1 The Department of Health and Social Care, the devolved administrations and the Chief Nursing Officers and Lead midwifery officers, for the four UK countries;
 - 76.2 Other Health and care regulators;
 - 76.3 Professional bodies and unions
 - 76.4 The Council of Deans of Health and education providers
- 77 In relation to the emergency standards, article 3(14) of the Nursing and Midwifery Order 2001 (“the Order”) requires us to consult with representatives of any group we consider appropriate before establishing new standards. Given the unprecedented and extreme circumstances of the current situation, we have not been able to consult widely, however we have engaged with a number of key stakeholders and representative bodies including the Council of Deans of Health.
- 78 Similarly, under article 47(3) of the Order, we are required to consult with representatives or any group who appear likely to be affected when we propose rules. We have discussed the proposed changes with representative bodies and the Department of Health and Social Care and the Professional Standards Authority. We consider that this shortened form of consultation and engagement is proportionate and sufficient given the unprecedented nature of the circumstances in which these changes are being made.
- Risk implications:**
- 79 The risks associated with these proposals and our proposed mitigations are all set out in the separate sections in this paper above.
- Legal implications:**
- 80 The powers to temporarily register nurses, midwives and nursing associates are set out in the Coronavirus Bill. When in force, and once an emergency is declared, this will have the effect of amending the Nursing and Midwifery Order 2001 during the emergency period.
- 81 These provisions will allow the Registrar to register individuals or groups that they consider to be fit, proper and suitably

experienced.

- 82 The legal basis for setting our education standards is contained in article 15(1) of the Order which requires the Council to establish standards for education and training necessary to achieve the standards of proficiency.
- 83 Changes to our rules are made in exercise of the powers conferred by articles 7(1) and (2), 9(1) and (2), 10(1) and (3), 12(1), 17(1), 26(4), 30(9), 32(1), 33(4), 37(4) and (5), 47(2), and article 15(1) of schedule 1, of the Nursing and Midwifery Order 2001.

Coronavirus Bill, Schedule 1: new Article 9A of Nursing and Midwifery Order

2 Emergency registration of nurses and other health and care professionals [\[j100\]](#)

Schedule 1 contains temporary modifications of—
(a) the Nursing and Midwifery Order 2001 (S.I. 2002/253), and
(b) the Health Professions Order 2001 (S.I. 2002/254).

SCHEDULE 1

EMERGENCY REGISTRATION OF NURSES AND OTHER HEALTH AND CARE PROFESSIONALS [\[J100S\]](#)

Nursing and Midwifery Order 2001

- 1 (1) During the emergency period, the Nursing and Midwifery Order 2001 (S.I. 2002/253) has effect as if it were subject to the following modifications.
(2) Article 6(3) is to be read as if it permitted the Privy Council to provide for the register to include an annotation denoting that a registrant is registered under article 9A (see sub-paragraph (3)).
(3) After article 9 insert—

“9A Temporary registration in emergencies involving loss of human life or human illness etc

- (1) The Registrar may register a person as a registered nurse, midwife or nursing associate, or the persons comprising a specified group of persons as registered nurses, midwives or nursing associates, if—
(a) the Secretary of State has advised the Registrar that an emergency has occurred, is occurring or is about to occur and that the Registrar should consider acting under this article,
and
(b) the Registrar considers that the emergency registration requirement is met in relation to the person or group of persons.
- (2) For the purposes of paragraph (1)(b) the emergency registration requirement is met—
(a) in relation to a person, if the Registrar considers that the person is a fit, proper and suitably experienced person to be registered as a nurse, midwife or nursing associate with regard to the emergency;
(b) in relation to a group of persons, if the Registrar considers that the group is comprised of persons who are of a type who may reasonably be considered fit, proper and suitably experienced persons to be registered as nurses, midwives or nursing associates with regard to the emergency.

(3) The Registrar may register all of the persons comprising a specified group of persons without first identifying each person in the group.

(4) The registration of a person under this article has effect subject to any conditions imposed by the Registrar; and the Registrar may at any time vary or revoke such a condition or add new conditions.

(5) Where a person is registered under this article as a member of a specified group, the person's registration may (but need not) be subject to the same conditions as the registration of other members of the group.

(6) A person's registration under this article ceases to have effect if revoked by the Registrar; and the Registrar—

(a) must revoke the registration if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to give the advice referred to in paragraph (1)(a) no longer exist;

(b) may at any time revoke the registration for any other reason, including where the Registrar suspects that the person's fitness to practise may be impaired.

(7) A person's registration as a member of a specified group may be revoked—

(a) without the registration of the other members of the group being revoked, or

(b) as a result of a decision to revoke the registration of all the members of the group.

(8) Rules under article 7 may not provide for fees to be charged in respect of a person's registration under this article.

(9) The following provisions of this Order do not apply to persons registered under this article—

articles 5A, 9, 10, 12 and 13 (provisions relating to registration);

articles 15 to 19 (provisions relating to education and training);

Part 5 (fitness to practise), other than articles 21, 22(10) and 25(1) and (3) to (6).

(10) If a person breaches a condition to which the person's registration is subject, anything done by the person in breach of the condition is to be treated as not done by a registered nurse, midwife or nursing associate (as the case may be).

(11) In this article "emergency" means an emergency of the kind described in section 19(1)(a) of the Civil Contingencies Act 2004, read with subsection (2)(a) and (b) of that section."

(4) Article 25(1) (power of Nursing and Midwifery Council to require disclosure of information) has effect as if it enabled requirements to be imposed for the purpose of assisting the Registrar in carrying out functions in respect of identifying any person registered by virtue of article 9A(2)(b) (emergency registration of a group of persons).

(5) In article 37 (appeals against Registrar's decisions), after paragraph (2B) insert—

"(2C) No appeal lies to the Council where the Registrar—

(a) has refused to register a person under article 9A, or

(b) has revoked a person's registration under that article."

Draft Covid-19 emergency temporary registration policy

Introduction

- 1 The Coronavirus Act 2020 gives the Registrar a new emergency power to temporarily register a person or group of persons as registered nurses, midwives or nursing associates if the Secretary of State advises that an emergency has occurred, is occurring or is about to occur.
- 2 It is useful to note that we also have existing powers under article 6A of the Nursing and Midwifery Order 2001 (“the Order”) to temporarily annotate existing entries to the register during an emergency to allow fit, proper, and suitably experienced registrants to prescribe. These powers do not extend to nursing associates. We have not yet developed a separate policy in relation to this emergency annotation power but we will keep the need for this under review.

Aims of the policy

- 3 The aims of this policy are to:
 - 3.1 outline our emergency registration powers;
 - 3.2 set out our approach to identifying persons or specified groups of persons that are, or may reasonably be considered to be, suitable to be temporarily registered during this Covid-19 emergency.

Our emergency powers

- 4 The Coronavirus Act 2020 has the effect of modifying “the Order” to insert article 9A (Temporary registration in emergencies involving loss of human life or human illness) when the Secretary of State has advised the Registrar that an emergency has occurred, is occurring or is about to occur and that the Registrar should consider acting under this article.
- 5 “Emergency” means an emergency of the kind described in section 19(1)(a) of the Civil Contingencies Act 2004, read with subsection (2)(a) and (b) of that section, namely an emergency involving a loss of human life or human illness.
- 6 This provision allows the Registrar to:
 - 6.1 Register a person, if the Registrar considers that the person is a fit, proper and suitably experienced person to be registered as a nurse, midwife or nursing associate with regard to the emergency;
 - 6.2 Register a group of people if the Registrar considers that the group is comprised of persons who are of a type who may reasonably be considered fit, proper and suitably experienced persons, to be registered as registered nurses, midwives or nursing associates in an emergency.

- 6.3 Apply conditions to the registration of a person registered under these provisions, and vary or revoke these conditions or add new ones;
 - 6.4 Remove someone registered in an emergency for any other reason, including where we suspect that the person's fitness to practise may be impaired.
- 7 We also have powers under article 6A (Temporary annotations with regard to emergencies involving loss of human life or human illness etc.) of the Order to annotate the register entries of individual registrants or groups of registrants that we consider fit, proper and suitably experienced to allow them to prescribe, even though they may not have a prescribing qualification. This power does not extend to nursing associates
- 8 Temporary registration status is separate from full registration and will end automatically when the emergency period ends.

Emergency registration requirements

- 9 We have no power to apply our usual registration requirements to the temporary register and no registration fees are payable. Everyone on the Covid-19 temporary register will be required to comply with the Code¹. This includes recognising and working within the limits of their competence and being open and honest about tasks which they feel unable to do.
- 10 The only emergency registration requirements which can be applied by the Registrar are those set out above, namely whether the potential temporary registrants are, or may reasonably be considered to be, fit, proper and suitably experienced people to be registered in the context of this particular emergency; We will not be applying our normal health, character or language requirements.
- 11 Potential registrants will be asked to assess their own suitability for temporary registration based on their own health conditions and personal situations and any employers for whom they work during this period will be responsible for undertaking any necessary DBS checks and providing training for specific roles.
- 12 People with temporary registration will still be required to hold a suitable indemnity arrangement when they practise, but the government is taking steps to ensure that all those working in health and care services to support the response to the Covid-19 emergency will have an indemnity arrangement provided by their employer. All temporary registrants should check their indemnity cover with any employer.
- 13 People with temporary registration will not be required to meet our revalidation requirements.

Emergency removal processes

- 14 Under the emergency powers, our normal fitness to practise processes will not apply to those on the temporary register. Instead, if concerns are raised about any

¹ The Code: Professional standards of practice and behaviour

individual on the temporary register, the Registrar will have the power to remove them from the temporary register immediately. Temporary registration may be revoked by the Registrar for any reason, including where the Registrar suspects that the person's fitness to practise may be impaired. We are in the process of developing a fair, proportionate and efficient process to use in such circumstances.

- 15 Temporary registration on the Covid-19 temporary register is only being granted for the purposes of practising in health and care services in the UK in support of this emergency. Using this temporary registration for any other purposes may result in removal from the temporary register.
- 16 Under the emergency legislation, there is no right of appeal against a decision by the Registrar to refuse to register a person or to revoke a person's registration.

Policy principles for emergency registration

- 17 Our over-arching objective is to protect the public, and any action we take in an emergency will seek to balance the need to support the health and care workforce with the importance of minimising risks to patient safety.
- 18 If we are advised by the Secretary of State that there is an emergency and that we should consider temporary registration, we will work to identify appropriate individuals or groups of people that we believe are fit, proper and suitably experienced to be registered during that emergency.
- 19 We will identify groups of people who may be suitable for temporary registration during this emergency period in stages depending on the scale of the emergency and we will seek to register those with the most relevant and recent experience first. We will adopt a risk-based approach, as we recognise that there are different groups of potential temporary registrants who we consider it may be reasonable to invite to join the temporary register at different times, depending on the scale and duration of the Covid-19 emergency.
- 20 We will not consider adding any people to the temporary register who were previously removed from the register either through our fitness to practise processes or who left the register through our voluntary removal process.
- 21 In deciding which people or groups of people we might register at any stage in this emergency period, we will consider the scale and duration of the Covid-19 emergency and what level of assurance we have about whether they are fit, proper and suitably experienced. We will also consider whether we need to apply any conditions to their registration.
- 22 We have engaged with the Department of Health and Social Care and the devolved administrations, other UK health and care regulators, education leaders, and representative bodies in the development of our policy approach.

First group of potential temporary registrants: recent former registrants

- 23 Applying these policy principles, we have proposed that the first group of people who may reasonably be considered to be fit, proper and suitably experienced to be

registered as nurses, midwives or nursing associates for the duration of this Covid-19 emergency are those individuals who were previously registered with us without any concerns, up to three years ago.

- 24 In line with our policy principles, we will be excluding from this group those who were previously removed from the register through our fitness to practise processes or who left the register through our voluntary removal process.
- 25 We are satisfied that they can reasonably be considered to be fit and proper by reason of their previous recent period of registration without concern, and suitably experienced by reason of their recent nursing and midwifery registered practice. They will be bound by the Code and will need to assess their own suitability for any work based on their own health conditions and personal situation. Any employers for whom they work during this period will be responsible for undertaking any necessary DBS checks and providing training for specific roles. In these circumstances, we do not consider it necessary to impose any specific conditions on their registration.
- 26 On 20 March 2020, with the agreement of the Council, we contacted this first group of people to notify them of our plans and invite them to opt-in to temporary registration. In line with the latest government health advice, we have not contacted former registrants of 70 years or older or with known health conditions.

Other groups of potential temporary registrants

- 27 This is an unprecedented and evolving situation and we have already identified other groups of people who we consider might meet the requirements for temporary registration depending on the overall evolution of this pandemic and the severity of the resulting workforce shortages over the coming weeks. Such groups include final year nursing students, former registrants who left the register more than three years ago, and overseas qualified nursing and midwifery professionals already working or studying in the UK in other healthcare roles.
- 28 We recognise that these groups may present a different level of risk to the first group of potential registrants, so in relation to all these groups we consider it is likely to be necessary to use our power to impose conditions on their temporary registration.

Nursing students in their final six months of study

- 29 Applying the principles set out above the next group of people that we consider may be suitable for temporary registration are nursing students in the final six months of their NMC approved pre-registration education programmes.
- 30 Following discussions with senior midwives, we are not proposing to invite midwifery students or nursing associates students to join the temporary register at this time. This is because the newly registered midwife is required to practice with a high level of clinical autonomy, which it was felt could not be expected of students who had not completed their full programme. Nursing Associate students who have not completed their programmes are also not included as a group for temporary registration. This is because the programmes are new and only of two

years duration, so nursing associates students are not in an immediately comparable position to final year nursing students.

- 31 We are satisfied that these final six month nursing students can reasonably be considered to be fit and proper by reason of their participation in our approved education programmes where they are subject to fitness to practice procedures in line with our health and character guidance.
- 32 We are also satisfied that they are suitably experienced to be registered during this emergency period, provided their temporary registration is subject to the proposed 'conditions of practice' set out below to reflect the fact that they have not yet fully completed their pre-registration nursing programme.
- 33 All these temporary registrants will be bound by the Code and we will be asking the Approved Education Institutions (AEIs) to provide us with the names of their students who meet these emergency registration requirements which will enable us to verify their identity and have a level of assurance about their previous successful completion of their programmes to date. We will ask AEIs to exclude any student who is in a local fitness to practise process, who has any outstanding failed assessments, or for whom the university would not sign a health and good character statement.

Proposed conditions of practice for nursing students going onto the Covid-19 temporary register

- 34 Any nursing student placed on the emergency register would be subject to the following conditions on their temporary registration:
 - 34.1 *You must ensure that you are supervised any time you are working. Your supervision must consist of:*
 - 34.1.1 *Working at all times with, but not always directly observed by, a NMC registered nurse, midwife, or other registered health care professional, who is not on a temporary register.*
 - 34.2 *You must not carry out any activity in which you have not been assessed as competent and appropriately signed off during your training unless you are supervised by NMC registered nurses, midwives, and other registered health care professionals who are not on a temporary register (unless a lifesaving intervention is required to avoid sudden and unexpected death).*
- 35 These conditions of practice would be published on the temporary register for any nursing student registrant. We will also inform students who were opting onto the register that they would be subject to those conditions.

Process for contacting potential temporary registrants

- 36 We may take different approaches to registration with different groups of people as we feel it is appropriate. For example, for some groups, individuals may be contacted and asked to opt-in to registration so that we can verify their identity and up to date contact details. For other groups, such as students, we may ask AEIs to provide a list of names and current contact details which we will add to the

temporary register. Anyone on the temporary register will be able to contact us to ask to be removed at any time.

- 37 We will not charge individuals a registration fee for joining the Covid-19 temporary register.
- 38 We recognise that some people may have caring responsibilities or health concerns that mean that they feel unable to return to practice during this emergency. We understand that individuals in these circumstances may not wish to join the register. In line with the most recent government health advice, we will also not knowingly contact anyone of 70 years or over to join the temporary register. No one is under any obligation to join the temporary register and people on the temporary register will not be compelled to work.
- 39 The temporary register will be published on our website. People on the temporary register may work in any health or social care setting provided that this is in support of the response to the Covid-19 emergency. Once people are added to the temporary register, we may share their registration details with health and care services across the UK and we will signpost them to where they can find information about how to offer their services in each country.
- 40 Each country is then responsible for its own workforce deployment arrangements in relation to any people on the temporary register. We expect employers to liaise directly with those on the temporary register to offer work and agree appropriate terms and conditions of employment.

End of temporary registration

- 41 Temporary registration status is separate from full registration and will end automatically when the emergency period ends. Once we are informed by the Secretary of State that the emergency has ended, we will be required to revoke all temporary registrations.
- 42 Anyone who then wishes to be readmitted to the full register will have to apply in the usual way and meet all our normal registration requirements.

Returning to the full register

- 43 Any practice hours which have been completed by any registered nurse, midwife or nursing associate during any period of temporary registration will count as practice hours for the purpose of any future application for readmission to the register.
- 44 Nursing students who choose to join the temporary register instead of completing their pre-registration programmes in an extended clinical placement will not be automatically admitted onto the full register at the end of the emergency period. In each case, the AEI would need to work with the student who opted to join the temporary register to see if their practice hours could be counted towards their programme. The AEI will also need to ensure that there is an appropriate assessment to ensure all the learning outcomes and requirements for full registration have been met. If not, then the student would need to return to their programme to complete their studies.

- 45 In considering any future applications for admission or readmission to the full register from people who have been removed from the temporary register for any reason, we may take into account any information which has been brought to our attention which raises serious concerns about an individual's ability to practice safely and effectively, but we will also take into account the context in which any concerns arose including the unprecedented nature of this Covid-19 emergency.
- 46 We may also share any information we hold about any students who are removed from the temporary register with their AElS so that they can take it into account in relation to their normal health and character declaration processes for the purposes of any application for full registration.

DRAFT

DRAFT Covid-19 Emergency Programme Standards

In response to the current ongoing Covid-19 situation, we have developed a number of emergency programme standards. These standards aim to provide Approved Education Institutions (AEIs) and practice learning partners with the flexibility to enable students within their final six months of their pre-registration nursing and midwifery programmes to complete their training within clinical placements, whilst ensuring all learning outcomes are met. This will enable these students to help support the workforce, and make use of the knowledge and skills that they have developed. Through these standards we are also allowing for flexibility in the way in which students are supervised, ensuring that they have the appropriate support, supervision, teaching and assessment during this period to enable them to provide safe and effective care.

We have also developed a small number of emergency programme standards for all other nursing and midwifery student year groups to continue with their nursing and midwifery programme of study and where possible support the workforce.

These emergency standards are intended to be facilitative and not directive and these standards do not require AEIs or individual students to change their current programmes.

These emergency standards are temporary and will no longer apply after the emergency period.

New Emergency Standard	Superseded/Withdrawn Standard/s	Rationale
Applies to students in the final six months of their pre-registration undergraduate and post graduate nursing and midwifery programmes		
E1 Students in the final six months of their pre-registration undergraduate or postgraduate nursing or midwifery programmes	<u>Standards for pre-registration nursing education (SPNE, 2010):</u> <i>Approaches to learning (pg. 9)</i> <i>Overall the programme requires 50 percent theory (2300 hours) and 50 percent</i>	To enable students within their final six months to complete their studies in practice we are removing the requirement that the programmes have a fifty percent split between practice and theory for these students.

may complete their programmes in clinical placements, whilst ensuring all learning outcomes are met.

E1.1 Students must not have spent more than two thirds of the 4600 programme hours on practice placement.

practice (2300 hours), with some flexibility in each part of the programme. AElS determine the nature of theoretical learning, which may include independent study. As outlined above, learning in theory and practice for students intending to enter the adult field must comply with EU directives.

R5.2.3 AElS must ensure there are at least 2,300 hours of practice learning. Overall the programme requires 50 percent theory (2300 hours) and 50 percent practice (2300 hours), with some flexibility in each part of the programme. AElS determine the nature of theoretical learning, which may include independent study.

R5.3.4 Programme providers must ensure that there is a period of practice learning of at least 12 weeks towards the end of the programme.

R5.3.5 Programme providers must ensure that the 12-week period of practice learning enables safe judgements to be made regarding the achievement of the required standards of competence for safe and effective practice for entry to the NMC register.

R5.3.6 Programme providers must ensure an equal balance between theory and

By completing their studies in practice for six months this may result in some programmes having a greater than fifty percent weighting towards practice. We would still require all of the learning outcomes to be met.

Whilst we have removed the fifty percent weighting which is defined in our standards, all courses must still comply with the minimum training requirements under EU legislation. This standard therefore reinforces the need to comply with the 4600 programme hours, and two thirds maximum clinical weighting set out in the EU directive which we have no legal power to change or waive.

	<p><i>practice learning is achieved by the end of the programme.</i></p> <p><u><i>Standards for pre-registration midwifery education (SPME 2009, p19)</i></u></p> <p><i>Standard 12 – Balance between clinical practice and theory Since September 2008, the practice to theory ratio of each programme is required to be no less than 50 per cent practice and no less than 40 per cent theory. The clinical practice experience must be sufficient to enable students to achieve the standards required by the NMC.</i></p> <p><u><i>Programme standards for nursing (2018)</i></u> <i>2 Curriculum</i> <i>Approved education institutions, together with practice learning partners, must:</i> <i>2.9 ensure the curriculum provides an equal balance of theory and practice learning using a range of learning and teaching strategies</i></p>	
<p>E1.2 Students finishing their programme in placements under standard E1 will be</p>	<p><u><i>SPNE (2010):</i></u> <i>R4.6.1 Programme providers must ensure that students are supernumerary during all practice learning. Supernumerary means</i></p>	<p>It is acknowledged that during the state of emergency and the pressures on the health and care workforce that supernumerary status of students may not be possible. We are therefore removing that requirement. However, to</p>

<p>provided with protected learning time¹.</p>	<p><i>that the student will not, as part of their programme of preparation, be contracted by any person or body to provide nursing care.</i></p> <p><u>Programme standards for nursing (2018)</u> <u>3 Practice learning</u> <i>Approved education institutions, together with practice learning partners, must:</i> <u>3.7 ensure that students are supernumerary.</u></p>	<p>ensure students still get the support and supervision they need to learn, protected learning time must be provided.</p>
<p>Applies to second year students, third and/or final year students on their first six months of study and first year postgraduate students of nursing and midwifery programmes</p>		
<p>E2 Second year students, third and/or final year students on their first six months of study and first year postgraduate students may spend no more than 80% of their hours in clinical placements and 20% of their hours in theoretical learning.</p>		<p>To enable second year students, third and/ or final year students on their first six months of study and first year postgraduate students to continue their studies we are supporting AELs to be able to adapt their programmes in a way that supports students and student learning and offers flexibility for the workforce.</p> <p>By continuing to have 20% of theory learning, programme providers can continue to provide theoretical learning to students and supported reflective learning opportunities in their role as students.</p> <p>This will provide students with the means of receiving ongoing learning and support in their academic studies and pastoral support from their lecturers.</p>

¹ The level of supervision a student needs is based on the professional judgement of their supervisors, taking into account any associated risks and the students' knowledge, proficiency and confidence.

		<p>By continuing their studies in practice for 80% of the time during the period of emergency may result in some programmes having a greater than fifty percent weighting towards practice.</p> <p>We would still require all of the learning outcomes to be met and hours to be adjusted following the end of the state of emergency in line with the requirements of E1.1 and the subsequent return to our published standards and all courses must still comply with the minimum training requirements under EU legislation. This standard therefore reinforces the need to comply with the 4600 programme hours, and two thirds weighting outlined within the EU directive which is not within our gift to change.</p>
<p>E.2.1 Students continuing their programme in placements under standard E2 will be provided with protected learning time².</p>		<p>It is acknowledged that during the state of emergency and the pressures on the health and care workforce that supernumerary status of students may not be possible. We are therefore removing that requirement. However, to ensure students still get the support and supervision they need to learn, protected learning time must be provided.</p> <p>These students will continue to have theoretical learning for 20% of their programme</p>
<p>Applies to first year students in their pre-registration undergraduate nursing and midwifery programmes</p>		
<p>E3 Students in the first year of pre-registration</p>		<p>It is acknowledged that during the state of emergency and the pressures on the health and care workforce that</p>

² The level of supervision a student needs is based on the professional judgement of their supervisors, taking into account any associated risks and the students' knowledge, proficiency and confidence.

undergraduate who continue with their nursing and midwifery programme may spend 100% of their programme in theory/academic learning.

supervision and support for first year students may not be possible.

First year nursing and midwifery students' clinical placements can be paused for the duration of the state of emergency. We want to encourage students to continue with their studies and, in doing this, students can focus on the theoretical aspect of their learning.

We would still require all of the learning outcomes to be met and hours to be adjusted following the end of the state of emergency in line with the requirements of E1.1 and the subsequent return to our published standards and all courses must still comply with the minimum training requirements under EU legislation. This standard therefore reinforces the need to comply with the 4600 programme hours, and two thirds weighting outlined within the EU directive which is not within our gift to change.

We acknowledge that nursing and midwifery students may volunteer or undertake paid work in their spare time, while they maintain their academic/theoretical study.

Volunteering or paid work will not be counted towards the practice hours and experience required to complete their pre-registration course.

Applies to all programmes

E4 Ensure placement allocations take account

Institutions and their practice learning partners will need to work with their students to find appropriate

<p>of current, relevant public health guidelines with due regard to the health and wellbeing of individual students.</p>		<p>placements, and ensure that students, with underlying health conditions for example, are not negatively impacted by these changes. This is also underpinned by our other standards which require that institutions should be actively supporting their students' health and wellbeing at all times.</p>
<p>E5 All students will receive support, supervision and assessments in line with the Standards for Student Supervision and Assessment 2018 (SSSA, 2018).</p>	<p><u>Standards to support learning and assessment in practice (SLAiP,2008)</u> All standards</p>	<p>We are suspending our 2008 Standards for support, learning and assessment in practice. All of those programmes which have not yet moved to the 2018 Standards for Student Supervision and Assessment (SSSA) will need to immediately adopt these standards.</p> <p>The SSSA standards allow for greater flexibility, by allowing any registered health or social care professional to supervise students. In a period where it is expected the workforce will be under extreme pressure this will help ensure students have the appropriate supervision and support.</p>
<p>E5.1 Exceptionally, the same person may fulfil the role of practice supervisor and practice assessor during this emergency period. The assessment to be conducted by a registered nurse, midwife or nursing associate with suitable equivalent qualifications for the</p>	<p><u>Standards for student supervision and assessment (SSSA, 2018)</u> <i>Assessment of students and confirmation of proficiency</i></p> <p><i>7.10 practice assessors are not simultaneously the practice supervisor and academic assessor for the same student</i></p>	<p>In line with our new prescribing standards we are exceptionally allowing a practice supervisor to also fulfil the role of practice assessor. This flexibility should help remove additional burden on the workforce at this time while still ensuring appropriate support and assessment for students.</p>

<p>programme the student is undertaking, and who is not on a temporary register.</p>		
<p>E6 Theoretical instruction can be replaced with distance learning, where appropriate to support student learning, which meets the required theoretical hours and learning outcomes.</p>		<p>This standard reinforces that institutions may undertake theoretical instruction through distance learning where appropriate.</p>
<p>E7 Where students currently have 12 weeks to meet any outstanding outcomes, under these exceptional circumstances there will be an unlimited period for these to be met.</p>	<p><u>SPNE (2010)</u> <i>Standard 3: Selection, admission, progression and completion</i> <i>R3.10.2 AEs must ensure that, where exceptional circumstances prevent all outcomes being achieved within the assessed period for that part of the programme, any outstanding outcomes are met and confirmed within 12 weeks of the student entering the next part of the programme. The 12-week period includes holidays and any absences. Reasonable adjustments may be applied for students with a disability. R3.10.3 AEs must ensure that students who fail to achieve the outstanding outcomes within the 12-week period must, depending on local assessment policy, either return to the</i></p>	<p>In line with our new standards we are removing the 12 week requirement for students to meet outcomes for a previous part of the course before progressing. This is being removed as, under the current emergency circumstances, this requirement may unfairly affect some students.</p>

previous part of the programme to meet the shortfall or be discontinued.

SPME (2009)

Standard 15 – Assessment strategy

Clinical practice must be graded and be counted as part of the academic award. All outcomes within a progression point period (for example an academic year) have to be achieved and confirmed within 12 weeks of entering the next academic level. All assessments must be completed and have been passed prior to successful completion of the programme. This is designed to confirm that the student has the theoretical knowledge, practical skills and attitude to achieve the standards required for entry to the midwives' part of the register.

STATUTORY INSTRUMENTS

2020 No.0000

HEALTH CARE AND ASSOCIATED PROFESSIONS

NURSES, MIDWIVES AND NURSING ASSOCIATES

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

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - ***

At the Court Council Chamber, Whitehall, the *** day of *** 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(a).

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, such consultation being limited in scope in the context of a worldwide pandemic.

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 *** 2020.

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

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

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 ***** 2020**.

2.—(1) Where the Secretary of State advises the Registrar of the matters in article 9A(1)(a) (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 modifications within Parts 2, 3 and 4—

- (a) the Nursing and Midwifery Council (Fitness to Practise) Rules 2004(a);
- (b) the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(b);
- (c) the Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008 (S.I. 2008/3148)(c).

(2) The modifications to the Rules will cease to have effect when the Secretary of State advises the Registrar that the emergency notified under article 9A(1)(a) of the 2001 Order has ended.

(3) In this article “emergency” means an emergency of the kind described in section 19(1)(a) of the Civil Contingencies Act 2004 (meaning of “emergency”)(d), read with subsection (2)(a), (b) and (h) of that section.

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) In rule (2) (interpretation)(e)—

- (a) after the definition of “the Code”, insert—
““hearing” includes hearings arranged by the Council and conducted using telephone, audio or video conferencing facilities;”;
- (b) after the definition of “lay”, insert—

(a) S.I. 2004/1761.

(b) S.I. 2004/1767.

(c) S.I. 2008/3148.

(d) 2004, c.36.

(e) Relevant amending instrument is S.I. 2015/52. There are other amending instruments, but none is relevant.

““meeting” includes meetings arranged by the Council and conducted using telephone, 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 telephone, audio or video conferencing arrangements.”

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

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

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

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

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

“(1) Any notice of hearing required to be served upon the registrant shall be sent either—

(a) by a postal service or other delivery service in which delivery or receipt is recorded to or by leaving it at—

(i) the registrant’s address in the register; or

(ii) where this differs from, and it appears to the Council more likely to reach the registrant at, the registrant’s last known address, the registrant’s last known address; or

(b) using 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) In rule 2(1) (interpretation)(b), after the definition of “education”, insert—

““hearing” includes hearings arranged by the Council and conducted using telephone, audio or video conferencing facilities;”.

(3) In rule 14(5) (lapse of registration)(c), 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—

“(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

(a) Relevant amending instrument is S.I.2012/17.

(b) Relevant amending instrument is S.I. 2007/3101.

(c) Relevant amending instrument is S.I. 2005/3354.

- (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 telephone, 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 telephone, 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—

“(3) 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 modified 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 *** day of March 2020.



Philip Graf
Chair

Andrea Sutcliffe
Chief Executive and Registrar

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”).

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

- the interpretation section of the Fitness to Practise Rules, to provide new definitions for “hearing” and “meeting”, and specific provision for “venue”, to clarify that hearings and meetings may be held by, and venues include use of, telephone, audio, or video conference facilities;
- the provisions for public and private hearings, to include a provision that the requirement to hold hearings in public does not apply to hearings which are held via telephone, audio, or videoconference;
- the provisions for the service of documents to allow for electronic service at the registrant’s nominated e-mail address.

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

- the interpretation section of the Registration Rules, to allow for the definition of “hearing”, and specific provision for “venue”, to clarify that a hearing may be held by, and venues include using, telephone, audio, or video conference facilities;
- 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;
- 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;
- to add a provision to hearing provisions so that, where a hearing is to be held by telephone, audio or video conference, there is no obligation to hold 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 they consider appropriate, and
- to allow for fewer panel members to be present to reach quorum.