EXPLANATORY MEMORANDUM TO

THE NURSING AND MIDWIFERY COUNCIL (FEES) (AMENDMENT) RULES ORDER OF COUNCIL 2012

2012 No. 3026

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. The NMC has been clear that increased fees are needed in order to perform its statutory duties. The magnitude of the increase is in part due the fact that the last fee rise for NMC registrants was in 2007. No further increases are planned, though the NMC will review the level of its fee on an annual basis. The NMC will monitor its business plan to ensure that registrant fees are in line with costs to deliver its statutory duties.

4. Legislative Context

4.1 The Nursing and Midwifery Order 2001 (SI 2002/253) empowers the NMC to make Rules in relation to the payment of fees. 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 in relation to the fees to be paid for registration with the NMC.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The NMC is the UK regulator for nurses and midwives and, in common with other professional regulators, is funded by the registration fees of its registrants. It needs to set a fee that allows it to carry out its statutory duties effectively. Registration fees were last reviewed in 2007 when they were raised to their current level of £76.

7.2 The Government set out its position on registrant fees in *Enabling Excellence* (published February 2011):

> *Government would not expect registration fees to increase beyond their current levels, unless there is a clear and robust business case that any increase is essential to ensure the exercise of statutory duties.*

7.3 Between 1 June and 24 August 2012, the NMC consulted on its proposals to increase its annual registration fee from £76 to £120. The NMC has stated that if the fee is not raised, there will be significant implications for its ability to fulfil its statutory duty to protect the public. Whilst a series of efficiency savings are being implemented, these have been factored in to business planning and the NMC has stated that these savings will not bridge the funding gap.

7.4 The Department of Health has been clear that the NMC's business case for such a rise must be robust, especially at a time of pay restraint for nurses and midwives.

7.5 The NMC consultation also sought views on whether, in principle, future fees should be linked to inflation. These amendment rules do not seek to enforce such a change. If the NMC wishes to take forward such a proposal, full consultation will be undertaken.

7.6 These amendment Rules will increase the NMC's annual registration fee from £76 to £100.

7.7 This will enable the NMC to levy income to cover its projected expenditure and build up adequate and appropriate reserve 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 IT systems, which will support the business need, including maintaining the register;
- Delivering an appropriate and cost effective model of revalidation;
- Meeting its revised reserve levels by January 2016 and maintaining these with reasonable cover for unforeseen events.

Consolidation

7.7 The statutory instrument amends the Nursing and Midwifery Council (Fees) Rules 2004. The NMC has published an unofficial consolidated version of these Rules, incorporating earlier amendments, on its website. In due course, the NMC will be updating the document on its website to reflect the changes made by these amendment Rules.

8. Consultation outcome

8.1 The NMC announced its intention to consult on a fee rise on 17 May 2012. The consultation, in the form of an online survey, launched on 1 June 2012 and closed on 24 August 2012. The question relevant to these amendment rules asked whether the respondent agreed or disagreed that the registration fee should be increased to £120.

8.2 Prior to the launch of the consultation, the NMC provided briefings for key stakeholders. At regular intervals during the consultation period, the NMC carried articles in email newsletters issued to over 155,000 recipients and engaged on social media platforms. It also provided a dedicated email address for consultation issues, monitored Parliamentary activity and media coverage.

8.3 The NMC received responses from 26,373 individuals and 110 organisations. Three of the four professional organisations and unions representing nurses and midwives developed their own surveys to inform their responses. In the NMC survey, 96% of individuals disagreed with the proposal and 97% of the organisations. Two of the organisations that developed their own surveys reported 98% disagreement and the third reported 99%.

8.4 The report of the consultation, together with the consultation document is available on the NMC website (http://www.nmc-uk.org/Get-involved/Consultations/NMC-fee-increase/)

8.5 In considering the report of its own consultation, the NMC also considered the responses provided by the four professional organisations and unions. It reviewed the business case for the increase and considered an equality impact assessment. It further considered a number of options for the fee level, together with the offer of a one-off grant from the Department of Health. Having taken all the information into account, the NMC agreed that accepting the grant would allow it to modify its original proposal by reducing the size of the increase. It agreed that the registration fee should be increased to £100.

9. Guidance

9.1 The NMC will not be issuing any guidance in relation to the new fees. However, it will be providing information on its website 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 a full equality impact assessment in relation to its proposals, which has been made public. This concluded that increasing the registration fee was unlikely to impact on five of the protected characteristics and would have a neutral impact on the other four. The full equality impact assessment is available online (http://www.nmc-uk.org/Documents/Consultations/Equality%20impact%20assessment.pdf)

11. Regulating small business

11.1 The legislation applies to individual registrants, not small businesses.

12. Monitoring & review

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

13. Contact

13.1 Rhian Wells at the Department of Health [rhian.wells@dh.gsi.gov.uk] can answer any queries regarding the instrument.