**Consultation Report**

**8 July 2020**

* The Nurses and Midwives (Education and Training) (Amendment) Rules 2020
* The Nurses and Midwives (Recognition of Professional Qualifications) (Amendment) Rules 2020
* The Nurses and Midwives (Register of Nurses and Midwives) (Amendment) Rules 2020

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8. **Introduction**

The Nursing and Midwifery Board of Ireland (NMBI) is the regulatory body for the professions of nursing and midwifery. We perform our functions in the public interest under the Nurses and Midwives Act 2011 (the Act). We have a statutory obligation to protect the integrity of the practice of the professions of nursing and midwifery and to protect the public. We do this by maintaining a register of nurses and midwives, publishing standards and requirements for the professional education and training of nurses and midwives and ensuring professional conduct amongst nurses and midwives.

1. **Background**

Whilst the Nurses and Midwives Act 2011 is the primary legislation which sets out the NMBI’s role and function, the Board has the power to develop secondary legislation in the form of rules for the better operation of the Act. The Nurses and Midwives Rules 2018 (S.I.No.218/2018, S.I. No. 219/2018, and S.I. No.220/2018) have been reviewed with the approval of the Minister for Health and NMBI has proposed amendments to support a better aligned execution of a number of provisions in the Act.

1. **The Public Consultation Process**

In June 2020 the NMBI launched a public consultation for a period of 4 weeks in accordance with Section 13 (4) of the Act seeking submissions on the following draft amendment rules:

* The Nurses and Midwives (Education and Training) (Amendment) Rules 2020
* The Nurses and Midwives (Recognition of Professional Qualifications) (Amendment) Rules 2020
* The Nurses and Midwives (Register of Nurses and Midwives) (Amendment) Rules 2020

Respondents participated in the consultation process by:

1. Completing an online consultation survey.
2. By providing written submissions.

The draft amended Rules were published on NMBI’s website and available to anyone who visited the site. Registrants, staff organisations, employers, managers and other key stakeholders were emailed directly to request participation. A copy of the draft amended Rules and a link to an online consultation survey were included in the emails.

1. **Participation in the Consultation Process**

NMBI would like to thank all respondents for their detailed consideration of the draft amendment Rules.

1. **Overview of Responses to the Consultation**

There were 398 responses to the survey and three submissions were received giving a total of 401. Respondents were asked if they agreed/disagreed with the amendments and were free to make comments.

Submissions were received on behalf of:

* Ireland East Hospital Group (IEHG)
* Office of the Nursing and Midwifery Services Directorate (ONMSD)
* Irish Nursing and Midwives Organisation (INMO)

The online survey was broken into two sections. Section A focused on respondents’ details and profile and section B focused on respondents’ views of the draft Rules. 97% provided feedback in a personal capacity and 3% completed the survey on behalf of an institution or organisation. The remainder of the document provides an overview of the consultation findings.

**The Nurses and Midwives (Education and Training) (Amendment) Rules 2020**

**Rule 4(2)** The current Rule provides that the minimum educational

requirements may be accumulated over a maximum of two sittings of

the Leaving Certificate Examination or an equivalent examination. Our

proposed amendment provides that the minimum educational

requirements may be accumulated over any number sittings of the

Leaving Certificate Examination or an equivalent examination.

Answered: 271 Skipped: 122

**Yes:** 71.96% (195) **No:** 28.04% (76)

**Consultation Findings**

The majority of respondents were in favour of the proposed amendment on the basis that it would encourage a wider range of applicants into the nursing and midwifery professions.

However, many of the respondents did not agree with this proposed amendment for various reasons. Some were concerned that if a student could not obtain the minimum educational requirements over two sitting of the Leaving Certificate examination or an equivalent examination then he/she may have difficulty completing the undergraduate nursing or midwifery education and training programme leading to higher attrition rates. Others did not understand the rationale for this amendment on the basis that if an individual could not obtain the minimum educational requirements over two sittings of the examination they could progress into a nursing or midwifery education and training programme as a mature student or enter a programme via the PLC route.

**Rule 5:** This Rule relates to return to practice programmes. Currently a nurse or midwife who wants to do a return to practice education and training programme must—(a) be registered, or have been previously registered, as a nurse or midwife with the Board, or(b) have his or her professional qualifications as a nurse or midwife recognised by the

Board under the Recognition Rules. The proposed rule change maintains section (a) above providing that only a person who is or has been registered may be admitted to a return to practice programme.

Answered: 269 Skipped: 124

**Yes:** 73.23% (197) **No:** 26.39% (71)

**Consultation Findings**

The majority of the respondents agreed with the Rule amendment. However, some respondents were of the view that this rule amendment was too restrictive and discriminatory against those who had trained outside of the State and were registered as a nurse or midwife in another country.

Clarification was sought on the maximum amount of time that a nurse/midwife can be out of practice before they are required to undertake a return to nursing/return to midwifery programme of education.

**Rule 6:** This Rule refers to post registration specialist programmes. The proposed amendment relates to post-registration midwifery programmes. It deletes the reference to ‘direct entry midwifery registration education and training programmes’ as this provision of the Rules only relates to the requirement that applicants for a post registration midwifery programme are registered on the general nurse division. To further qualify what this Rule relates to we have inserted ‘post-registration’ before ‘education and training’ programme. The proposed Rule would read: ‘A person seeking admission to a post registration education and training programme leading to registration in the midwives division of the Register of Nurses and Midwives must be registered in the general nurses division of the Register’ In the proposed Rule 6(2) we substitute ‘post-registration education and training programme’ for ‘an education and training

programme.’

Answered: 266 Skipped: 127

**Yes:** 93.23% (240) **No:** 9.77% (26)

**Consultation Findings**

The majority of respondents agreed with this amendment on the basis that it provides clarity. However, a number of respondents were of the view that post-registration midwifery education and training programmes should be available to nurses on other divisions of the register of nurses and midwives and not just available to general nurses.

**Rule 9** Rule 9(3) refers to the Board’s ‘visit’ to a body that delivers or seeks to deliver a nursing or midwifery education and training programme. The proposed Rule change would replace ‘visit’ with ‘inspection.’ This is being proposed to align the terminology in the Rule to that used in the Nurses and Midwives Act 2011.This proposal removes Rule 9(4) which relates to consultation with the Minister for Education and Skills on applications to deliver education and training as this is already represented in Section 85(2) of the Nursing and Midwifery Act 2011 and therefore does not need to be repeated. 9(4) and (5) would be replaced with: ‘A decision of the Board to approve an education and training programme under section 85(2)(a) of the Act, including approval with conditions shall be published in the prescribed manner.’ The original 9(5) mentions the website specifically. This amendment allows for direction on this and potentially a broader scope for publication.

Answered: 266 Skipped: 127

**Yes:** 93.23% (245) **No:** 5.64% (15)

**Consultation Findings**

The majority of the respondents were in agreement with the proposed amendment on the basis that it was in compliance with the wording in the Nurses and Midwives Act, 2011. A small minority of respondents thought the term ‘inspection’ too severe. Some welcomed the amendment as they were of the view that the word ‘visit’ was ambiguous but felt that there should be clear criteria set out for site inspections and site inspection teams.

**Rule 10**: This rule concerns annual reports and material changes. Our proposal for change of wording to include section 85 (2) (a) of the Act is a technical change in wording. This technical change will remove the need for any reference to Rule 9 and is consistent with the primary legislative responsibilities. Our proposal reads: 10(1)'A body granted

approval under’ section 85(2)(a) of the Act to deliver an education and training programme, shall, on an annual basis, provide the Board with a report in such form and manner as may be prescribed by the Board in relation to compliance of the programme with the standards and

requirements, and any conditions that the Board may have imposed under that section.’ 10(2) provides 'A body granted approval under Section 85 (2) (a)' of the Act to deliver an education and training programme shall notify the Board of any proposed material change to the programme.

Answered: 258 Skipped: 135

**Yes:** 95.74% (247) **No:** 4.26% (11)

**Consultation Findings**

The majority of respondents supported the proposed amendment, but some were of the view that the term ‘material change’ needs to be defined**.**

**Rule 11**: This rule concerns the review and monitoring of programmes. Our proposal for change of wording to include section 85(2) (a) of the Act is a technical change in wording. This technical change will remove the need for any reference to Rule 9 and is consistent with the primary legislative responsibilities. Our proposal reads: 11(1)’ Where the Board has granted approval for delivery of an education and training programme under Section 85(2)(a) it shall subsequently, and at intervals not exceeding five years, review whether the programme continues to conform with the standards and requirements, and any conditions that the Board may have imposed under that section. Notwithstanding paragraph (1) the Board shall monitor adherence to the standards and requirements by education and training programmes granted approval under section 85(2)(a) and any conditions that the Board may have imposed under that section.’

Answered: 261 Skipped: 132

**Yes:** 96.55% (252) **No:** 3.45% (9)

**Consultation Findings**

The majority of respondents agreed with this amendment. Some felt that the interval period between inspections should be less than 5 years given the pace of change in nursing practice.

**Rule 12:** This rule concerns the proposed recommendation to replace ‘visit’ with ‘inspection’ (Rule 9 above) to align language with that in the Act, the proposal here is to change the references in this Rule from ‘visit’ to ‘inspection’ also. This proposal also removes the requirement to define the site inspection team but still notes that those on the team should not have an interest that could influence the outcome – 12(3) will become 12(2) to support this.

Answered: 264 Skipped: 129

**Yes:** 90.91% (240) **No:** 8.71% (23)

**Consultation Findings**

The majority of respondents agreed with the proposed amendment regarding replacing the word ‘inspection’ by visit and seen it as necessary to provide consistency with the primary legislation. Some expressed concerns about the inspection team members not being defined in the Rules. They were of the view that the process of site inspections should be explicit in the Rules to ensure a consistent and standardised approach to inspections.

Some respondents were of the view that the definition of the site inspection team is very important and it was important to ensure that members of the team are from a relevant nursing or midwifery discipline when carrying out site inspections. Respondents also stated that it should be a necessary requisite that members of site inspection teams have a clinical or educational background.

**Rule 13:** The proposal for this Rule is to also replace ‘site visits’ with ‘site inspections’ for the reasons stated above.

Answered: 264 Skipped: 129

**Yes:** 93.56% (247) **No:** 6.44% (17)

**Consultation Findings**

The majority of respondents agreed with the proposed amendment regarding replacing the word ‘inspection’ by visit and seen it as necessary to provide consistency with the primary legislation.

**The Nurses and Midwives (Recognition of Professional Qualifications) (Amendment) Rules 2020**

Rule 12: This Rule refers to recognition of professional qualifications as a Nurse Tutor and provides that only those registered in the general nurse division may apply for recognition. This is an error in the Principal Rules and the draft amended Rule provides that nurses from any division of the Register are eligible to apply for recognition of professional qualifications as a nurse tutor. Amendment of Rule 12 of the Principal Rules: Do you agree with this amendment?

Answered: 258 Skipped: 135

**Yes:** 93.02% (242) **No:** 6.2% (16)

**Consultation Findings**

The majority of respondents agreed with this amendment. Comments were mainly regarding the establishment of separate Midwife Tutor division in recognition that midwifery is a separate profession to nursing.

**Rule 13:** This Rule refers to recognition of professional qualifications as a Nurse Prescriber and provides that only those registered in the general nurse division may apply for recognition. This is an error in the Principal Rules and the draft amended Rule provides that nurses from any division of the Register are eligible to apply for recognition of professional qualifications as a nurse prescriber.

Answered: 258 Skipped: 135

**Yes:** 93.36% (242) **No:** 6.25% (16)

**Consultation Findings**

The majority of respondents agreed with this amendment. Comments were mainly regarding the establishment of a separate Midwife Prescriberdivision in recognition that midwifery is a separate profession to nursing.

**The Nurses and Midwives (Register of Nurses and Midwives) (Amendment) Rules 2020**

**Rule 5:** NMBI has a defined legal function in making statistical records available for research and/or to inform workforce planning as set out under section 46 (9) of the Nurses and Midwives Act 2011 (as amended). We have however been unable to provide employment related statistics as following initial registration our current system has not greatly facilitated a process that enables us to quickly review gaps or opportunities in the system. The recent COVID-19 pandemic made this more apparent as we worked to support those joining the Register as well as those returning to practice. An increased ability to analyse statistics, will in the longer term better enable us to support the needs and skills of registered nurses and midwives in Ireland, as we work to maintain standards, and associated public safety.

NMBI intends to implement a new online registration system in September 2020 which will provide a wide range of self-service options to applicants and registrants, including the option to update/correct or amend contact or employment details as they are recorded on the Register. The introduction of this new system provides the ideal opportunity to consider additional employment related fields being added to the Register. While the proposed fields will enable NMBI to carry out its work as a regulator, it is important to note that the additional fields will also enable us to deliver required statistical data to the European Commission and the Organisation for Economic Co-operation and Development (OECD).

The proposed additional rules are as follows

Our proposal extends the 2018 Rule 5 section and provides as follows:

The register of nurses and midwives shall contain, in respect of each nurse or midwife registered, the following particulars: a…(m) if applicable, place of work and position held;(n)…’

To: “(m) if applicable, details of current employment as follows:

(i) employment sector;

(ii) workplace name;

(iii) workplace address;

(iv) job title;

(v) employment status;

(vi) whether working in direct patient care or patient facing;

(vii) employment start date;

(viii) employment end date where applicable; and

(ix) divisions of register in which practicing

Answered: 255 Skipped: 138

**Yes**: 69.02% (176) **No**: 10.59% (27) **Comments only**: 20.39% (52)

**Consultation Findings**

The response to this Rule amendment was very positive and the majority of respondents welcomed this amendment. Most were of the view that it would provide more accurate data on the number of practising nurses and midwives and the area in which they were practising which is important for workforce planning. However, some respondents did not support this Rule change and expressed concerns regarding data protection. Some regarded the extent of the data sought to be intrusive and contrary to registrants’ rights to privacy. Clarification was sought on how and by whom registrants’ data could be accessed, how the data would be verified and definitions sought regarding terms such as patient facing, employment sector and employment status. Clarification was sought regarding the definitions of employment sector, employment status and patient facing. It was also noted that nurses registering for the first time may not have an employment start date and employment end date may not be determined, therefore a range of options is required.

**6. Conclusion**

The process of public consultation provided the opportunity for the public to comment on the amended nurses and midwives Rules. Whilst most of the respondents agreed with the proposed amendments, important issues have been raised and further clarification required. The amendment Rules and Consultation Report were given due consideration by the Board on the 22July 2020 and the amendment Rules as drafted were approved.

**7. Recommendation**

The draft amendment Rules were sent to the Department of Health for consideration and approval by the Minister.