

Mark Bates
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Our reference NMC-02772-B5N0Y8

4 March 2020

Dear Mark Bates

Thank you for your enquiry to the Nursing and Midwifery Council which we received on 7 February 2020.

Please find our response to your query below.

1) Is it a criminal offence under Article 44 for a nurse and / or midwife to be employed / work without registration?

It is an offence to practise or be called a nurse or midwife without an effective NMC registration as set out by our legislation in article 44 of the Nursing and Midwifery Order 2001 which states:

"44 - (1) A person commits an offence if, with intent to deceive (whether expressly or by implication):

(a) he falsely represents himself to be registered in the register, or a particular part of it or to be the subject of any entry in the register

(b) he uses a title referred to in article 6(2) to which he is not entitled

2) If a nurse / midwife is employed / works without registration what is the maximum penalty that can be applied to the offender?

(5) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Further information on the above can be found on our website at the following address:

<https://www.nmc.org.uk/registration/staying-on-the-register/legal-basis-of-registration/>

3) If a nurse / midwife is found to be employed / working without registration and this is a criminal offence, is the NMC legally bound to inform the Police?

If someone is referred to the NMC for working as a Registered Nurse and they are not registered with the NMC, we cannot open a fitness to practise investigation because we do not have jurisdiction to do so, it is a criminal matter for Police investigation.

4) Is it a criminal offence for an employer to knowingly / unknowingly operate their business with a nurse / midwife who is found to be employed without registration?

This would be a matter for Police investigation. If the NMC were made aware of such a scenario, we would notify the Police.

5) Is the NMC legally bound to inform the Police of employers operating a business with unregistered staff?

The NMC would notify the Police as it is a criminal matter for Police investigation.

6) Again, what is the maximum penalty that can be applied to an employer?

7) Finally, if these failings are criminal would the NMC please provide historical evidence of the number of cases where the maximum penalties have been applied either by the NMC itself or by the Police.

If a person, or an employer is referred to the NMC for working as or, is employing unregistered nurses, we cannot open a fitness to practise investigation because we do not have jurisdiction to do so, it is a criminal matter for Police investigation therefore, penalties would be pursued through Police investigation.

Hope this is helpful to you.

Kind regards

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