



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 3

#### THE COUNCIL

##### *Registration*

#### **44 Register of social workers and of other social service workers**

- (1) The Council shall maintain a register of—
  - (a) social workers;
  - (b) social service workers of any other description prescribed; and
  - (c) persons—
    - (i) participating in a course, approved by it under section 54(1) of this Act, for those wishing to become; or
    - (ii) employed in positions probationary to their becoming, social workers or social service workers of such other description.
- (2) There shall be a separate part of the register for social workers, for each description of social service workers prescribed by virtue of paragraph (b) of subsection (1) above and for such persons as are mentioned in paragraph (c) of that subsection.
- (3) It may be prescribed that as from a specified date a specified part of the register shall be closed, so that on and after that date no further persons shall be registered in that part.
- (4) The Scottish Ministers shall consult the Council and such other persons, or groups of persons, as they consider appropriate before making, varying or revoking an order by virtue of this section.

#### **45 Applications for registration under Part 3**

- (1) An application for registration under this Part shall be made to the Council in accordance with rules made by the Council.
- (2) An application under subsection (1) above shall specify—
  - (a) in relation to the register, each part of it in which registration is sought; and

- (b) such other matters as may be required by the rules.
- (3) Any person who, in an application under subsection (1) above, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **46 Grant or refusal of registration under Part 3**

- (1) An application for registration under this Part may be granted either unconditionally or subject to such conditions as the Council thinks fit to impose.
- (2) If the Council is satisfied that the applicant—
  - (a) is of good character;
  - (b) satisfies such requirements as to competence or conduct as the Council may by rules impose; and
  - (c) except where subsection (4) below applies, either—
    - (i) satisfies such requirements as to education as the Council may by rules impose and has successfully completed a course of training, approved by the Council, for persons wishing to become social workers or, as the case may be, for persons wishing to become social service workers of the description in relation to which registration is sought; or
    - (ii) in the case of an application for registration as a social service worker other than a social worker, satisfies such requirements as the Council may by rules impose in relation to social service workers of the description in relation to which registration is sought,
 it shall grant the application unconditionally or give notice to the applicant that it proposes to grant the application subject to such conditions as it thinks fit; otherwise it shall give notice to the applicant that it proposes to refuse the application.
- (3) A notice under subsection (2) above shall give the Council's reasons for the proposal.
- (4) This subsection applies where the applicant—
  - (a) is a national of any EEA State who—
    - (i) has obtained, in an EEA State other than the United Kingdom, professional qualifications which are prescribed as having Community equivalence for the purposes of registration in the part of the register specified in the application; and
    - (ii) satisfies any other requirements which the Council may by rules impose; or
  - (b) has, outwith Scotland, undergone training which—
    - (i) is recognised by the Council as being to a standard sufficient for the applicant to be registered in the part of the register so specified; or
    - (ii) is not so recognised provided that the applicant has also undergone, in Scotland or elsewhere, such additional training as the Council may by rules require.
- (5) An order made by virtue of sub-paragraph (i) of subsection (4)(a) above may provide that a professional qualification designated by the order is to be regarded as having Community equivalence for the purposes mentioned in that sub-paragraph only if prescribed conditions required by a directive issued by the Council of the European

Communities are fulfilled; and different conditions may be prescribed with respect to the same qualification for different circumstances.

- (6) A person who—
- (a) is not a national of an EEA State; but
  - (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 (on freedom of movement for workers within the Community) or any other enforceable Community right, entitled to be treated, as regards the right to engage in the work of social service workers of the description in relation to which registration is sought, no less favourably than a national of such a State,

shall be treated, for the purposes of subsection (4)(a) above, as if such a national.

- (7) In this section—
- “EEA State” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as adjusted by the Protocol signed at Brussels on 17th March 1993); and
- “national”, in relation to such a State, means the same as it does for the purposes of the Community Treaties.

#### **47 Variation etc. of conditions in relation to registration under Part 3**

- (1) The Council may at any time give notice to a person registered under this Part that it proposes to—
- (a) vary or remove a condition for the time being in force; or
  - (b) impose an additional condition,
- in relation to the registration.
- (2) A notice under subsection (1) above shall give the Council’s reasons for the proposal.

#### **48 Right to make representations to Council as respects proposal**

- (1) A notice under section 46(2) or 47 of this Act shall state that, within fourteen days after service of the notice, the person to whom it is given may make written representations to the Council concerning any matter which that person wishes to dispute.
- (2) Where such a notice has been given, the Council shall do the thing proposed only after (whichever first occurs)—
- (a) the person to whom the notice was given makes such representations as are mentioned in subsection (1) above;
  - (b) that person notifies the Council in writing that such representations will not be made; or
  - (c) the period of fourteen days so mentioned elapses.

#### **49 Removal etc. from the Council’s register**

- (1) The Council shall, by rules made with the consent of the Scottish Ministers, determine circumstances in which, and the means by which—
- (a) an entry relating to a person in the register maintained by the Council may be removed from a part in which it appears;

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*Status: This is the original version (as it was originally enacted).*

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- (b) an entry removed by virtue of paragraph (a) above may be restored to the part in question;
  - (c) a person's registration in a part of that register may be suspended (and that person treated as not being registered in that part notwithstanding that the relevant entry still appears in it) for such period as the Council may specify in the case in question;
  - (d) a suspension by virtue of paragraph (c) above may be terminated; and
  - (e) an entry in a part of that register may be altered (other than in implementation of a proposal of which notice is given under section 47(1) of this Act).
- (2) Rules under subsection (1) above shall—
- (a) make provision as to—
    - (i) the procedure to be followed;
    - (ii) the standard of proof; and
    - (iii) the rules of evidence to be observed,
 in proceedings brought (whether before the Council or before any committee of the Council) for the purposes of the rules; and
  - (b) provide for such proceedings to be in public except in such cases (if any) as the rules may specify.
- (3) The Council shall maintain a register of persons who have been registered in the register maintained under section 44(1) of this Act but who, by virtue of paragraph (a) of subsection (1) above, are for the time being not so registered; and where an entry relating to a person is, by virtue of paragraph (b) of that subsection, restored, the entry relating to that person in the register maintained under this subsection shall be removed.

## **50 Notice of Council's decision**

- (1) If the Council decides to grant unconditionally an application for registration under this Part, it shall give the applicant notice of its decision.
- (2) If the Council decides—
- (a) to implement a proposal in relation to which it has given a notice under section 46(2) or 47 of this Act; or
  - (b) in accordance with rules made under subsection (1) of section 49 of this Act, to do any of the things mentioned in paragraphs (a) to (e) of that subsection,
- it shall give the person affected notice of the decision.
- (3) A notice under subsection (2) above shall—
- (a) explain the right of appeal conferred by section 51 of this Act;
  - (b) in the case of a decision to implement a proposal in relation to which notice was given under—
    - (i) section 46(2), being a proposal to grant the application, state the condition subject to which the application is granted; or
    - (ii) section 47, state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.
- (4) A decision such as is mentioned in subsection (2) above, other than a decision under section 46(2) to refuse the application, shall not take effect—

- (a) if no appeal is brought, until the period of fourteen days referred to in section 51(1) of this Act has elapsed; and
- (b) if an appeal is brought, until that appeal is finally determined or is abandoned.