



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 7

#### REGULATION OF HEALTH AND SOCIAL CARE WORKERS

##### *Orders under section 60 of the Health Act 1999*

#### **209 Power to regulate social workers etc. in England**

- (1) Section 60 of the Health Act 1999 (regulation of health care professions etc.) is amended as follows.
- (2) In subsection (1), after paragraph (b) insert—
  - “(ba) regulating the social work profession in England,
  - (bb) modifying the regulation of the social work profession in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving the regulation of the profession or the services which it provides or to which it contributes,”.
- (3) In that subsection, after paragraph (bb) insert—
  - “(bc) regulating social care workers in England who appear to Her to require regulation in pursuance of this section,
  - (bd) modifying the regulation of social care workers in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving their regulation or the services which they provide or to which they contribute,”.
- (4) In subsection (2), at the end of each of paragraphs (c) and (d), insert “(other than the social work profession in England)”.
- (5) After that subsection insert—

“(2ZA) In subsections (1) and (2), “the social work profession in England” means the profession engaged in social work in England; and for the purposes of

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this section, “social work in England” means social work which is required in connection with any health, education or social services provided in England.”

(6) After subsection (2ZA) insert—

“(2ZB) In subsection (1)(bc) and (bd), “social care workers in England” means persons who are engaged in social care work in England.

(2ZC) For that purpose, “social care work in England” means work (other than social work in England) that is of any of the following descriptions—

- (a) employment at a children’s home, care home or residential family centre in England,
- (b) management of a home or centre of a kind mentioned in paragraph (a),
- (c) employment for the purposes of a domiciliary care agency, fostering agency, voluntary adoption agency or adoption support agency, in so far as the agency provides services to persons in England,
- (d) management of an agency of a kind mentioned in paragraph (c),
- (e) work for the purposes of the social services functions of a local authority whose area is in England,
- (f) the provision in England of services similar to services which may or must be provided by a local authority in the exercise of its social services functions,
- (g) the provision of personal care for persons in England,
- (h) employment (in an undertaking other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care for persons in England,
- (i) management of an undertaking of the kind mentioned in paragraph (h),
- (j) employment in connection with the discharge of functions of the Secretary of State under section 80 of the Children Act 1989 (inspection of children’s homes),
- (k) employment as a member of staff of the Office for Standards in Education, Children’s Services and Skills who inspects premises under—
  - (i) section 87 of the Children Act 1989 (welfare of children accommodated in independent schools and colleges),
  - (ii) section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority), or
  - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector),
- (l) employment as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part),
- (m) management of staff mentioned in paragraph (k) or (l),
- (n) employment at a day centre in England,
- (o) participation in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to engage in the social work profession in England.”

(7) After subsection (2ZC) insert—

“(2ZD) An expression used in subsection (2ZC) and in section 55 of the Care Standards Act 2000 has the same meaning in that subsection as it has in that section.”

(8) After subsection (2ZD) insert—

“(2ZE) The exercise of functions of an approved mental health professional by a member of a profession to which subsection (2) applies is not to be regarded as social work of the kind engaged in by the social work profession in England.”

(9) After subsection (2ZE) insert—

“(2ZF) In this section, “approved mental health professional” has the meaning given in section 114 of the Mental Health Act 1983.”

(10) For the title to section 60 of the Health Act 1999 substitute “Regulation of health professions, social workers, other care workers etc.”.

(11) In section 60A of that Act (standard of proof in fitness to practise proceedings), in subsection (2), for “a person’s fitness to practise a profession to which section 60(2) applies” substitute “a matter specified in subsection (2A)”.

(12) After that subsection insert—

“(2A) The matters are—

- (a) a person’s fitness to practise a profession to which section 60(2) applies;
- (b) a person’s fitness to practise the social work profession in England (within the meaning given by section 60);
- (c) a person’s suitability to remain registered as a social care worker in England (within the meaning given by that section).”

(13) In subsection (3) of that section, at the end insert “or the social work profession in England (within the meaning given in section 60(2ZA))”.

## **210 Training etc. of approved mental health professionals in England**

In section 60 of the Health Act 1999 (regulation of health care professions etc.), in subsection (1), after paragraph (e) insert—

“(ea) modifying the functions, powers or duties of the Health and Care Professions Council that relate to the education and training of persons who are or wish to become approved mental health professionals,”.

## **211 Orders regulating social care workers in England: further provision**

(1) Schedule 3 to the Health Act 1999 (further provision as to power to make Orders in Council under section 60 of that Act) is amended as follows.

(2) After paragraph 1 (matters generally within the scope of the Orders) insert—

“1A An Order may make provision, in relation to any social care workers in England, for any of the following matters (among others)—

- (a) the establishment and continuance of a regulatory body,

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- (b) the functions of the Health and Care Professions Council or of another regulatory body,
- (c) keeping registers of social care workers in England of any description,
- (d) privileges of registered persons,
- (e) education and training,
- (f) standards of conduct and performance,
- (g) discipline,
- (h) removal or suspension from registration or the imposition of conditions on registration,
- (i) investigation and enforcement by or on behalf of the Health and Care Professions Council or another regulatory body,
- (j) appeals,
- (k) default powers exercisable by a person other than the Health and Care Professions Council or another regulatory body.”

(3) After paragraph 1A insert—

“1B The provision that may be made by virtue of paragraph 1(e) or 1A(f) includes provision for standards of conduct and performance of members of a profession, or social care workers in England, carrying out the functions of an approved mental health professional.”

(4) In paragraph 7 (prohibition on Orders abolishing regulatory bodies), in sub-paragraph (1), for paragraph (c) substitute—

“(c) the Health and Care Professions Council.”.

(5) In paragraph 8 (matters outside the scope of the Orders), after sub-paragraph (2) insert—

“(2ZA) Where an enactment provides for any function mentioned in sub-paragraph (2ZB) to be exercised by the Health and Care Professions Council or another regulatory body, or any of its committees or officers, an Order may not provide for any person other than that body or any of its committees or officers to exercise that function.

(2ZB) The functions are—

- (a) keeping the registers of social care workers in England of any description,
- (b) determining standards of education and training required as a condition of registration,
- (c) giving advice about standards of conduct and performance.”

(6) In paragraph 9 (preliminary procedure for making Orders), in sub-paragraph (1)(b)—

- (a) after “represent any profession” insert “or any social care workers in England”, and
- (b) after “by any profession” insert “or any social care workers in England”.

(7) In paragraph 10 (interpretation)—

- (a) at the appropriate place insert the following—  
““social care work in England”, “social care workers in England” and “the social work profession in England” have the meaning given by section 60,”, and

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- (b) in the definition of “regulatory body”—
  - (i) after “any profession” insert “or any social care workers in England”, and
  - (ii) after “the profession” insert “or the social care workers in England concerned”.
- (8) In paragraph 11 (application), after sub-paragraph (2) insert—
  - “(2A) References in section 60 and this Schedule to regulation, in relation to social care workers in England, include—
    - (a) the regulation of persons seeking to be registered or who were, but are no longer, allowed to be registered as social care workers in England,
    - (b) the regulation of activities carried on by persons who are not social care workers in England (or members of the social work profession in England) but which are carried on in connection with social care work in England.”

#### *The General Social Care Council*

### **212 Abolition of the General Social Care Council**

- (1) The General Social Care Council is abolished.
- (2) In section 54 of the Care Standards Act 2000 (the Care Councils)—
  - (a) in subsection (1), omit paragraph (a) and the “and” following it,
  - (b) in that subsection, for “conferred on them” substitute “conferred on it”,
  - (c) omit subsection (2),
  - (d) in subsection (4), for “Each Council” substitute “The Welsh Council”,
  - (e) in subsection (6), for “a Council” substitute “the Welsh Council”, and
  - (f) omit subsection (7).
- (3) For the title to that section substitute “The Care Council for Wales”.

#### *The Health and Care Professions Council*

### **213 Regulation of social workers in England**

- (1) The Health Professions Order 2001 ([S.I. 2002/254](#)) is amended as follows.
- (2) In Schedule 3 (interpretation), in paragraph 1, in the definition of “relevant professions”, at the appropriate place insert “social workers in England;”.
- (3) In that paragraph, at the appropriate place insert—
  - ““social worker in England” means a member of the social work profession in England, and references to “social work in England” are to be construed accordingly;”.
- (4) In article 1(1) (citation), for “the Health Professions Order 2001” substitute “the Health and Social Work Professions Order 2001”.

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- (5) In Schedule 1, in paragraph 1A (membership), in sub-paragraph (1)(b), after paragraph (i) (but before the “and” following it) insert—
- “(ia) are not and never have been registered as social workers in a register kept by the General Social Care Council, the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council;”.
- (6) For the title to the Order substitute “Health and Social Work Professions Order 2001”.
- (7) In the following provisions, for “the Health Professions Order 2001” substitute “the Health and Social Work Professions Order 2001”—
- (a) section 18(e) of the London County Council (General Powers) Act 1920;
  - (b) section 58(1A)(a) of the Medicines Act 1968;
  - (c) section 27(1A)(a) of the National Health Service (Scotland) Act 1978;
  - (d) section 3(11) of the Video Recordings Act 1984;
  - (e) paragraph (E) in the third column of the entry for the London County Council (General Powers) Act 1920 in Schedule 2 to the Greater London Council (General Powers) Act 1984;
  - (f) paragraph (c) of the definition of “establishment for special treatment” in section 4 of the London Local Authorities Act 1991;
  - (g) paragraph (c) of item 1 in Group 7 in Part 2 of Schedule 9 to the Value Added Tax Act 1994;
  - (h) section 69(1)(h) of the Data Protection Act 1998;
  - (i) section 60(2)(c) of the Health Act 1999;
  - (j) section 29(1)(j) of the National Health Service Reform and Health Care Professions Act 2002;
  - (k) section 126(4)(a) of the National Health Service Act 2006;
  - (l) section 80(4)(a) of the National Health Service (Wales) Act 2006;
  - (m) entry 10 in the table in section 41(7) of the Safeguarding Vulnerable Groups Act 2006.
- (8) In the definition of “registered psychologist” in each of the following provisions, for “the Health Professions Order 2001” substitute “the Health and Social Work Professions Order 2001”—
- (a) section 307(1) of the Criminal Procedure (Scotland) Act 1995;
  - (b) section 207(6) of the Criminal Justice Act 2003;
  - (c) section 21(2)(b) of the Criminal Justice (Scotland) Act 2003;
  - (d) section 25 of the Gender Recognition Act 2004.

## **214 The Health and Care Professions Council**

- (1) The body corporate known as the Health Professions Council—
- (a) is to continue to exist, and
  - (b) is to change its name to the Health and Care Professions Council.
- (2) In article 3 of the Health and Social Work Professions Order 2001 ([S.I. 2002/254](#)) (the Council and its Committees), for sub-paragraph (1) substitute—
- “(1) The Health and Care Professions Council is referred to in this Order as “the Council”.”

- (3) For the title to that article substitute “The Health and Care Professions Council and its Committees”.
- (4) In Schedule 3 to that Order (interpretation), in the definition of “the Council” in paragraph 1, for “the Health Professions Council established under article 3” substitute “the Health and Care Professions Council (formerly known as the Health Professions Council and continued in existence by section 214 of the Health and Social Care Act 2012)”.

## **215 Functions of the Council in relation to social work in England**

- (1) The Health and Social Work Professions Order 2001 (S.I. 2002/254) is amended as follows.
- (2) In article 3 (the Council and its Committees), in paragraph (5)(b)—
  - (a) in paragraph (ii), omit “other”,
  - (b) omit the “and” following paragraph (iv), and
  - (c) after paragraph (v) insert “,
    - (vi) the regulation of social work in England, and
    - (vii) the provision, supervision or management of the services of persons engaged in social work in England.”
- (3) In that article, after paragraph (5A) insert—

“(5AA) The public bodies with which the Council must co-operate for the purposes of paragraph (5)(b) include in particular—

  - (a) the Care Council for Wales,
  - (b) the Scottish Social Services Council, and
  - (c) the Northern Ireland Social Care Council.”
- (4) In that article, after paragraph (17) insert—

“(17A) The Council may—

  - (a) make recommendations to the Secretary of State concerning social care workers in England who in its opinion should be regulated pursuant to section 60(1)(bc) of the Health Act 1999; and
  - (b) give such guidance as it sees fit, to such persons as seem to it to have an interest in such regulation, on the criteria to be taken into account in determining whether social care workers in England should be so regulated.”
- (5) In article 6 (register), in paragraph (3)(aa), after “visiting health” insert “or social work”; and in consequence of that—
  - (a) for the title to article 13A substitute “Visiting health or social work professionals from relevant European States”, and
  - (b) in articles 7(4), 9(8) and 37(1)(aa), after “visiting health” insert “or social work”.
- (6) In article 10 (renewal of registration and readmission), in paragraph (6) after “visiting health” insert “or social work”.
- (7) In article 12 (approved qualifications), in paragraph (1)—

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- (a) omit the “or” preceding paragraph (c), and
  - (b) after that paragraph insert “; or
  - (d) where he is applying for admission to the register as a social worker, he has, in Wales, Scotland or Northern Ireland, undergone training in social work and—
    - (i) the training is recognised by the Council as meeting the standard which it requires for admission to the part of the register relating to the social work profession in England, or
    - (ii) the training is not so recognised but he has undergone, whether in England or elsewhere, such additional training or professional experience as satisfies the Council that he has the requisite standard of proficiency for admission to the part of the register relating to the social work profession in England.”
- (8) In that article, in paragraph (2)—
- (a) omit the “and” preceding paragraph (b), and
  - (b) after that paragraph insert “; and
  - (c) assess training or professional experience acquired in Wales, Scotland or Northern Ireland in social work and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard of proficiency required for admission to the part of the register relating to the social work profession in England.”
- (9) After article 13A insert—
- “13B Requirement for social workers in England to be registered**
- (1) A person may not practise as a social worker in England unless the person is registered in the part of the register relating to the social work profession in England.
  - (2) Paragraph (1) does not apply to a person who—
    - (a) is registered as a social worker in a register kept by the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council, and
    - (b) is practising in England as a social worker on a temporary basis.”
- (10) In article 19 (post-registration training), in paragraph (2A)(b), after “visiting health” insert “or social work”.
- (11) In article 20 (Wales), at the end insert “; but the reference to the Council’s function under article 15(4)(b) does not include a reference to that function so far as relating to social work in England”.
- (12) In article 39 (offences), after paragraph (1) insert—
- “(1A) A person who is registered as a social worker in a register kept by the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council is to be regarded for the purposes of paragraph (1) (b) as entitled to use the title of “social worker”.”



- (13) In Schedule 3 (interpretation), in paragraph 1, in the definition of “visiting health professional from a relevant European state”, after “health” in each place it appears insert “or social work”.

## **216 Appeals in cases involving social workers in England**

- (1) The Health and Social Work Professions Order 2001 (S.I. 2002/254) is amended as follows.
- (2) In article 37 (appeals against decisions of the Education and Training Committee), in paragraph (5A), at the end of sub-paragraph (a) insert “or registered as a social worker in a register kept by the General Social Care Council, the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council”.
- (3) In that article, in paragraph (8), after “paragraph (4)” insert “(other than a hearing on an appeal relating to a social worker in England)”.
- (4) In that article, after that paragraph insert—
- “(8A) A hearing provided for by the rules made under paragraph (4) on an appeal relating to a social worker in England is to be held in England.”
- (5) In article 38 (appeals), after paragraph (1) insert—
- “(1ZA) An appeal from a decision referred to in paragraph (1)(b) relating to social workers in England shall lie only to the county court.”
- (6) In that article, in paragraph (4), after “article” insert “(subject to paragraph (5))”.
- (7) In that article, after that paragraph insert—
- “(5) In this article, in the case of an appeal relating to a social worker in England, “the appropriate court” means the High Court of Justice in England and Wales.”

## **217 Approval of courses for approved mental health professionals**

- (1) Part 8 of the Mental Health Act 1983 (miscellaneous local authority functions etc.) is amended as follows.
- (2) Before section 114A insert—

### **“114ZA Approval of courses: England**

- (1) The Health and Care Professions Council may approve courses for persons who are, or wish to become, approved to act as approved mental health professionals by a local social services authority whose area is in England.
- (2) The Council must publish a list of—
- the courses which are approved under this section, and
  - the courses which have been, but are no longer, approved under this section and the periods for which they were so approved.

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- (3) The functions of an approved mental health professional are not to be considered to be relevant social work for the purposes of Part 4 of the Care Standards Act 2000.
- (4) Where the function under subsection (1) is, in accordance with the Health and Social Work Professions Order 2001, exercisable by a committee of the Council, the committee may arrange for another person to exercise the function on the Council's behalf."
- (3) In section 114 (approval of mental health professionals by local social services authority), in subsection (6), after "section" insert "114ZA or".
- (4) Section 114A (approval of courses) is amended as follows.
- (5) For subsection (1) substitute—
  - "(1) The Care Council for Wales may, in accordance with rules made by it, approve courses for persons who are, or wish to become, approved to act as approved mental health professionals by a local social services authority whose area is in Wales."
- (6) Omit subsection (3).
- (7) In subsection (5), omit "General Social Care Council and the".
- (8) For the title to that section substitute "Approval of courses: Wales".

## **218 Exercise of function of approving courses, etc.**

- (1) The Health and Social Work Professions Order 2001 ([S.I. 2002/254](#)) is amended as follows.
- (2) In article 3 (the Council and its Committees), in paragraph (3), at the end insert "(and see also section 114ZA of the Mental Health Act 1983 (approval of courses for approved mental health professionals))".
- (3) After paragraph (5) of that article insert—
  - "(5ZA) In the application of paragraph (5) to the functions of the Council that relate to persons who are, or wish to become, approved mental health professionals in England, references to registrants are to be read as including a reference to such approved mental health professionals in England as are not registrants."
- (4) In article 14 (the Council's education and training committee), after sub-paragraph (b) insert—
  - "(ba) the setting of criteria under article 15B;".
- (5) After article 15 insert—

### **"15A Exercise of function of approving courses for approved mental health professionals**

- (1) The function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals in England) is exercisable by the Education and Training Committee.

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- (2) In relation to AMHP courses run outside the United Kingdom, section 114ZA(1) of that Act applies only in relation to courses run by institutions which are approved in accordance with article 15B(3).
- (3) In this article and articles 15B to 18, “AMHP course” means a course of the kind referred to in section 114ZA(1) of the Mental Health Act 1983.

### **15B Criteria for approving courses for approved mental health professionals**

- (1) The Council must set the criteria to be applied in exercising the function under section 114ZA(1) of the Mental Health Act 1983.
- (2) The Education and Training Committee must—
  - (a) ensure that universities and other bodies in the United Kingdom concerned with the provision of AMHP courses are notified of the criteria set under paragraph (1); and
  - (b) take appropriate steps to satisfy itself that the AMHP courses provided by such bodies meet those criteria.
- (3) In performing the function under paragraph (2)(b), the Committee may, in particular, approve or arrange with others to approve institutions which the Committee considers to be properly organised and equipped for conducting AMHP courses.
- (4) The Council must from time to time publish a statement of the criteria set under paragraph (1).
- (5) An AMHP course is to be treated for the purposes of articles 16 to 18 as a relevant course of education or training.”
- (6) In article 16 (visitors), in paragraph (6), at the end insert “; but that does not apply to AMHP courses.”
- (7) In article 17 (information), after paragraph (3) insert—

“(3A) The reference in paragraph (3) to the functions of the Committee under this Order includes a reference to the function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals) in so far as that function is exercisable by the Committee.”
- (8) In article 18 (refusal or withdrawal of approval), after paragraph (1) insert—

“(1A) Where as a result of any visitor’s report or other information acquired by the Committee or the Council, and taking account of the observations received from the institution under article 16(9), the Committee is of the opinion that an AMHP course does not meet the criteria set under article 15B(1), it may refuse to approve, or withdraw approval from, the course.”
- (9) In that article—
  - (a) in paragraph (3), after “paragraph (1)” insert “or (1A)”, and
  - (b) in paragraph (6), after “paragraph (1)” in each place it appears insert “or, as the case may be, (1A)”.

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(10) In article 21(1)(a) (Council’s duty to establish standards of conduct etc. and give guidance), after “prospective registrants” insert “(including registrants or prospective registrants carrying out the functions of an approved mental health professional)”.

(11) In article 45 (finances of the Council), after paragraph (3) insert—

“(3A) The Secretary of State may make grants or loans to the Council towards expenses incurred, or to be incurred by it, in connection with the exercise of its functions in relation to persons who are, or wish to become, approved mental health professionals in England.”

## 219 Arrangements with other health or social care regulators

(1) After article 44 of the Health and Social Work Professions Order 2001 ([S.I. 2002/254](#)) insert—

### **“44A Arrangements with other persons who maintain registers of health or social care workers**

(1) The Council may make arrangements with any relevant person for the Council to provide administrative, technical or advisory services to that person.

(2) A relevant person is a person or group of persons (whether inside or outside the United Kingdom) who maintain—

- (a) a register of members of a profession engaged in the provision of health care,
- (b) a register of persons engaged in, but who are not members of a profession engaged in, the provision of health care,
- (c) a register of members of the social work profession, or
- (d) a register of persons engaged in social care work.”

(2) In Schedule 3 to that Order (interpretation), at the appropriate place, insert—

““health care” includes—

- (a) all forms of health care for individuals, whether relating to physical or mental health, and
- (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition;”.

## 220 References in enactments to registered health professionals, etc.

(1) In section 58 of the Medicines Act 1968 (medicinal products on prescription only), after subsection (1A) insert—

“(1ZA) Paragraphs (a) and (g) of subsection (1A) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

(2) In section 27 of the National Health Service (Scotland) Act 1978 (arrangements for provision of pharmaceutical services), after subsection (1B) insert—

“(1C) Paragraphs (a) and (h) of subsection (1A) do not apply to persons in so far as they are registered as members of the social work profession in England

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or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

- (3) In section 3 of the Video Recordings Act 1984 (exempted supplies), after subsection (11) insert—

“(11A) But subsection (11) does not apply to a person in so far as the person is required to register under the Health and Social Work Professions Order 2001 as a member of the social work profession in England (within the meaning of section 60 of the Health Act 1999).”

- (4) In Group 7 in Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemption for medical care services), in the Notes, after Note (2) insert—

“2ZA Paragraph (c) of item 1 does not include supplies of services made by a person in the capacity of a registered member of the social work profession in England (within the meaning of section 60 of the Health Act 1999).”

- (5) In section 69 of the Data Protection Act 1998 (meaning of “health professional”), at the end of paragraph (h) of subsection (1), insert “, except in so far as the person is registered as a social worker in England (within the meaning of that Order)”.

- (6) In section 25 of the National Health Service Reform and Health Care Professions Act 2002 (the Council for Healthcare Regulatory Excellence), after subsection (3) insert—

“(3A) A reference in an enactment to a body mentioned in subsection (3) is not (unless there is express provision to the contrary) to be read as including a reference to the Health and Care Professions Council, or a regulatory body within subsection (3)(j), so far as it has functions relating to—

- (a) the social work profession in England, or
- (b) social care workers in England.

- (3B) For the purposes of subsection (3A)—

“enactment” means an enactment contained in—

- (a) an Act, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales (whether passed before or after the commencement of this subsection), or
- (b) subordinate legislation (within the meaning of the Interpretation Act 1978), an instrument made under an Act of the Scottish Parliament, an Act or Measure of the National Assembly for Wales or Northern Ireland legislation (whether made before or after that commencement), and

“the social work profession in England” and “social care workers in England” have the meaning given in section 60 of the 1999 Act.”

- (7) In section 126 of the National Health Service Act 2006 (arrangements for provision of pharmaceutical services), after subsection (4) insert—

“(4A) Paragraphs (a) and (h) of subsection (4) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

- (8) In section 80 of the National Health Service (Wales) Act 2006 (arrangements for provision of pharmaceutical services), after subsection (4) insert—

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“(4A) Paragraphs (a) and (h) of subsection (4) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

*Role of the Secretary of State*

**221 Functions of the Secretary of State in relation to social care workers**

- (1) In section 67 of the Care Standards Act 2000 (functions of the appropriate Minister), after subsection (1) insert—
- “(1A) But the Secretary of State may not exercise the function under subsection (1) (a) or (d) in relation to a social worker who is registered as such in a register maintained under article 5 of the Health and Social Work Professions Order 2001.”
- (2) In subsection (2) of that section, after “take part in” insert “courses approved by the Health and Care Professions Council under article 15 or by virtue of article 19(4) of the Health and Social Work Professions Order 2001 for persons who are or wish to become social workers,”.
- (3) The Secretary of State may make arrangements with the Health and Care Professions Council for the discharge, during the relevant period, of the functions of the General Social Care Council; and for that purpose “the relevant period” is the period—
- (a) beginning with the day on which this Act is passed, and
  - (b) ending with the commencement of section 212(1).

*The Professional Standards Authority for Health and Social Care*

**222 The Professional Standards Authority for Health and Social Care**

- (1) The body corporate known as the Council for Healthcare Regulatory Excellence—
- (a) is to continue to exist, and
  - (b) is to change its name to the Professional Standards Authority for Health and Social Care.
- (2) In consequence of that, in section 25 of the National Health Service Reform and Health Care Professions Act 2002 (which establishes the Council for Healthcare Regulatory Excellence), in subsection (1)—
- (a) for “the Council for Healthcare Regulatory Excellence” substitute “the Professional Standards Authority for Health and Social Care”, and
  - (b) for ““the Council”” substitute ““the Authority””.
- (3) For the title of section 25 of that Act substitute “The Professional Standards Authority for Health and Social Care”.
- (4) For the cross-heading preceding that section substitute “The Professional Standards Authority for Health and Social Care”.
- (5) For the title of Part 2 of that Act substitute “Health and Social Care Professions etc.”.

## **223 Functions of the Authority**

- (1) In section 25 of the National Health Service Reform and Health Care Professions Act 2002 (the Professional Standards Authority), in subsection (2)(a), for “patients” substitute “users of health care, users of social care in England, users of social work services in England”.
- (2) In subsection (2A) of that section, for “patients” substitute “users of health care, users of social care in England, users of social work services in England”.
- (3) In section 26A of that Act (powers of Secretary of State etc. to request the Authority for advice), after subsection (1) insert—

“(1A) The Secretary of State may request the Authority for advice on any matter connected with the social work profession, or social care workers, in England; and the Authority must comply with such a request.”
- (4) After subsection (2) of that section insert—

“(2A) A person to whom the Authority gives advice, or for whom it investigates and reports on a matter, under this section must pay such fee as the Authority determines; and the fee may be charged by reference to the advice or the investigation and report concerned or on a periodic basis.”
- (5) In subsection (3) of that section, after “this section” insert “—  
health care profession” means a profession (whether or not regulated by or by virtue of any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals; and”.
- (6) In section 26B of that Act (duty to inform and consult the public), in subsection (4) (b), for “patients” substitute “users of health care, users of social care in England or users of social work services in England”.
- (7) In section 27 of that Act (the Authority and regulatory bodies), in subsections (5) and (13), for “Secretary of State” substitute “Privy Council”.
- (8) In subsection (7) of that section—
  - (a) for “Secretary of State” substitute “Privy Council”, and
  - (b) in paragraph (a), omit “he or”.
- (9) In section 29 of that Act (reference of disciplinary cases to court by the Authority), in subsection (5), after “subsection (4)” insert “(subject to subsection (5A))”.
- (10) After subsection (5) of that section insert—

“(5A) In the case of a social worker in England, the “relevant court” means the High Court of Justice in England and Wales.”
- (11) In section 38 of that Act (regulations and orders), in subsection (2), omit “27”.
- (12) In subsection (3) of that section, for “the Secretary of State” substitute “the Privy Council”.
- (13) After subsection (3D) of that section (inserted by section 224(3)) insert—

“(3E) A statutory instrument containing regulations made by the Privy Council under section 27 is subject to annulment in pursuance of a resolution of either House of Parliament.”

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- (14) In paragraph 16 of Schedule 7 to that Act (reports and other information), in subparagraph (1A)(a) for “patients” substitute “users of health care, users of social care in England, users of social work services in England”.

## **224 Funding of the Authority**

- (1) After section 25 of the National Health Service Reform and Health Care Professions Act 2002 insert—

### **“25A Funding of the Authority**

- (1) The Privy Council must by regulations require each regulatory body to pay the Authority periodic fees of such amount as the Privy Council determines in respect of such of the Authority’s functions in relation to that body as are specified in the regulations.
- (2) A reference in this section to the Authority’s functions does not include a reference to its functions under sections 25G to 25I and 26A.
- (3) The regulations must, in particular, provide for the method of determining the amount of a fee under the regulations.
- (4) Before determining the amount of a fee under the regulations, the Privy Council must request the Authority to make a proposal as to the amount of funding that it considers it requires in order to perform for the period to which the fee would apply such of its functions in relation to the regulatory bodies as are specified in the regulations.
- (5) The Authority must—
  - (a) comply with a request under subsection (4), but
  - (b) before doing so, consult the regulatory bodies.
- (6) Having received a proposal under subsection (5), the Privy Council may consult the regulatory bodies.
- (7) Having taken into account such representations as it receives from consultees, the Privy Council must—
  - (a) make a proposal as to the amount of funding that it considers the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to the regulatory bodies as are specified in the regulations, and
  - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that each regulatory body would be required to pay.
- (8) The Privy Council must—
  - (a) consult the Authority about the proposal under subsection (7)(a) and the determinations under subsection (7)(b), and
  - (b) consult each regulatory body about the determination under subsection (7)(b) of the amount it would be required to pay.
- (9) Having taken into account such representations as it receives from consultees, the Privy Council must—



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- (a) determine the amount of funding that the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to the regulatory bodies as are specified in the regulations, and
  - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that each regulatory body is to be required to pay.
- (10) Regulations under this section requiring payment of a fee may make provision—
  - (a) requiring the fee to be paid within such period as is specified;
  - (b) requiring interest at such rate as is specified to be paid if the fee is not paid within the period specified under paragraph (a);
  - (c) for the recovery of unpaid fees or interest.
- (11) The regulations may enable the Privy Council to redetermine the amount of a fee provided for under the regulations, on a request by the Authority or a regulatory body or on its own initiative.
- (12) Before making regulations under this section, the Privy Council must consult—
  - (a) the Authority,
  - (b) the regulatory bodies, and
  - (c) such other persons as it considers appropriate.”
- (2) In section 25(5) of that Act (meaning of “this group of sections”) for “26” substitute “25A”.
- (3) In section 38 of that Act (regulations and orders) after subsection (3) insert—
  - “(3A) A statutory instrument containing regulations made by the Privy Council under section 25A shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (3B) Regulations made by the Privy Council under section 25A that include provision which would, if included in an Act of the Scottish Parliament, fall within the legislative competence of that Parliament shall be subject to the negative procedure in that Parliament (in addition to the statutory instrument containing the regulations being subject to annulment under subsection (3A)).
  - (3C) Sections 28 and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) shall apply in relation to regulations of the description given in subsection (3B) as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) that is subject to the negative procedure, but as if references to a Scottish statutory instrument were references to a statutory instrument.
  - (3D) Section 32 of that Act (laying) shall apply in relation to the laying of a statutory instrument containing regulations of the description given in subsection (3B) before the Scottish Parliament as it applies in relation to the laying of a Scottish statutory instrument (within the meaning of Part 2 of that Act) before that Parliament.”
- (4) In paragraph 14 of Schedule 7 to that Act (payments and loans to Authority), after sub-paragraph (2) insert—

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“(2A) The Authority may borrow money for the purposes of or in connection with its functions; and sub-paragraphs (3) and (4) are without prejudice to the generality of this sub-paragraph.”

(5) In that paragraph, omit sub-paragraphs (5) and (6).

## **225 Power to advise regulatory bodies, investigate complaints, etc.**

(1) After section 25A of the National Health Service Reform and Health Care Professions Act 2002 insert—

### **“25B Power of the Authority to advise regulatory bodies etc.**

(1) The Authority may, for the purpose of assisting the Authority in its performance of its functions under this group of sections, provide advice or provide auditing services to—

- (a) a regulatory body;
- (b) a body which has functions (whether or not relating to health or social care) corresponding to those of a regulatory body.

(2) A body to which the Authority provides advice or auditing services under this section must pay such fee as the Authority may determine.

(3) In this section, “this group of sections” has the meaning given by section 25(5) but does not include section 26A.”

(2) In section 28(1) of that Act (power to make regulations about investigation by the Authority of complaints about regulatory bodies), for “The Secretary of State” substitute “The Privy Council”.

(3) In section 38(2) of that Act (regulations and orders), omit “regulations under section 28 or”.

## **226 Accountability and governance**

(1) Schedule 7 to the National Health Service Reform and Health Care Professions Act 2002 (constitution etc. of the Authority) is amended as follows.

(2) In paragraph 4 (membership and chair)—

- (a) in paragraph (e), for “the Secretary of State” substitute “the Privy Council”, and
- (b) in paragraph (f), for “two executive members” substitute “one executive member”.

(3) In paragraph 6 (appointments), for “The Secretary of State” substitute “The Privy Council”.

(4) In paragraph 10 (remuneration and allowances)—

- (a) in each of sub-paragraphs (1) and (2), for “the Secretary of State” substitute “the Authority”, and
- (b) for sub-paragraphs (3) and (4) substitute—

“(3) The Authority may provide for the payment of such pension, allowance or gratuities as it may determine to or in respect of a

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person who is or has been the chair or any other member of the Authority.

(4) The Authority may, where it considers there are special circumstances that make it right for a person ceasing to hold office as chair of the Authority to receive compensation, pay the person such compensation as it may determine.”

(5) In paragraph 11 (employees)—

- (a) in sub-paragraph (1), for “members” substitute “member”, and
- (b) in sub-paragraph (2), for “members must be employees” substitute “member must be an employee”.

(6) In paragraph 15 (accounts)—

- (a) in each of sub-paragraphs (1) and (2), for “the Secretary of State” substitute “the Privy Council”, and
- (b) in sub-paragraph (3)—
  - (i) omit “the Secretary of State and”, and
  - (ii) for “the Secretary of State” substitute “the Privy Council”.

(7) In paragraph 16 (reports and other information), after sub-paragraph (1A) insert—

“(1B) The Authority must, by such date in each year as the Privy Council determines, publish—

- (a) a strategic plan for the Authority for the coming financial year, and
- (b) a strategic plan for the Authority for such of the subsequent financial years as the Authority may determine.”

(8) In sub-paragraph (2) of that paragraph, after “its report for that year” insert “, and a copy of each of its strategic plans published in that year,”.

(9) In section 38 of that Act (regulations and orders), after subsection (3E) (inserted by section 223(13)) insert—

“(3F) A statutory instrument containing regulations made by the Privy Council under paragraph 6 of Schedule 7 is subject to annulment in pursuance of a resolution of either House of Parliament.”

## **227 Appointments to regulatory bodies**

After section 25B of the National Health Service Reform and Health Care Professions Act 2002 insert—

### **“25C Appointments to regulatory bodies**

- (1) The Privy Council and a regulatory body may make arrangements for the regulatory body or other persons to assist the Privy Council in connection with its exercise of any of its appointment functions in relation to the regulatory body.
- (2) The Privy Council and the Authority may make arrangements for the Authority to assist the Privy Council in connection with—
  - (a) its exercise of any of its appointment functions in relation to a regulatory body;

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- (b) its exercise of its function under paragraph 4 of Schedule 7.
- (3) The Privy Council may make arrangements with any other person to assist it in connection with—
  - (a) its exercise of any of its appointment functions in relation to a regulatory body;
  - (b) its exercise of its function under paragraph 4 of Schedule 7.
- (4) The Scottish Ministers and the Authority may make arrangements for the Authority to assist them in connection with their exercise of their function under that paragraph.
- (5) The Welsh Ministers and the Authority may make arrangements for the Authority to assist them in connection with their exercise of their function under that paragraph.
- (6) The Department of Health, Social Services and Public Safety in Northern Ireland may make arrangements for the Authority to assist the Department in connection with its exercise of its function under that paragraph.
- (7) In this section, “regulatory body” does not include the Pharmaceutical Society of Northern Ireland.
- (8) In this section, “appointment functions” means—
  - (a) in relation to the General Medical Council, the function under paragraph 1A(2) of Schedule 1 to the Medical Act 1983 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (appointment of members and chair and determination of terms of office),
  - (b) in relation to the General Dental Council, the function under paragraph 1A(2) of Schedule 1 to the Dentists Act 1984 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
  - (c) in relation to the General Optical Council, the function under paragraph 1A(2) of Schedule 1 to the Opticians Act 1989 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
  - (d) in relation to the General Osteopathic Council, the function under paragraph 1A(2) of the Schedule to the Osteopaths Act 1993 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
  - (e) in relation to the General Chiropractic Council, the function under paragraph 1A(2) of Schedule 1 to the Chiropractors Act 1994 and such functions as the Privy Council has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
  - (f) in relation to the General Pharmaceutical Council, the function under paragraph 1(2) of Schedule 1 to the Pharmacy Order 2010 ([S.I. 2010/231](#)) and such functions as the Privy Council from time to

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- time has by virtue of paragraph 2(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (g) in relation to the Nursing and Midwifery Council, the function under paragraph 1A(2) of Schedule 1 to the Nursing and Midwifery Order 2001 (S.I. 2002/253) and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council), and
  - (h) in relation to the Health and Care Professions Council, the function under paragraph 1(2) of Schedule 1 to the Health and Social Work Professions Order 2001 (S.I. 2002/254) and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council).
- (9) A reference to assisting in connection with the exercise of a function does not include a reference to exercising the function.”

## 228 Establishment of voluntary registers

After section 25C of the National Health Service Reform and Health Care Professions Act 2002 insert—

### “25D Power of regulatory bodies to establish voluntary registers

- (1) A regulatory body may establish and maintain a voluntary register of persons who are (and, where the body thinks appropriate, persons who have been)—
  - (a) unregulated health professionals;
  - (b) unregulated health care workers;
  - (c) unregulated social care workers in England;
  - (d) participating in studies that come within subsection (2) or (3).
- (2) Studies come within this subsection if they are studies for the purpose of becoming a member of—
  - (a) a profession to which section 60(2) of the Health Act 1999 applies, or
  - (b) the social work profession in England.
- (3) Studies come within this subsection if they are studies for the purpose of becoming—
  - (a) an unregulated health professional,
  - (b) an unregulated health care worker, or
  - (c) an unregulated social care worker in England.
- (4) A regulatory body may establish and maintain a register under subsection (1) (a), (b) or (c) of only such persons as are (or have been) engaged in work that supports, or otherwise relates to, work engaged in by members of a profession which the body regulates; but this subsection does not apply to the Health and Care Professions Council.
- (5) A regulatory body may establish and maintain a register under subsection (1) (d) of only such persons as are (or have been) participating in studies for the purpose of—
  - (a) in the case of studies coming within subsection (2), becoming a member of a profession which the body regulates,

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- (b) in the case of studies coming within subsection (3)(a), becoming a member of a profession for which the body maintains a voluntary register, or
  - (c) in the case of studies coming within subsection (3)(b) or (c), engaging in work in respect of which the body maintains a voluntary register.
- (6) The General Pharmaceutical Council may establish and maintain a register under subsection (1) of only such persons as are (or have been) engaged in work or participating in studies in England, Wales or Scotland.
- (7) The Pharmaceutical Society of Northern Ireland may establish and maintain a register under subsection (1) of only such persons as are (or have been) engaged in work, or are participating in studies, in Northern Ireland.
- (8) A regulatory body may establish and maintain a register under subsection (1) jointly with one or more other regulatory bodies.
- (9) Where regulatory bodies establish and maintain a register in reliance on subsection (8)—
- (a) subsections (4) and (5) apply to each body (but subsection (4) does not apply to the Health and Care Professions Council),
  - (b) subsection (6) applies to the General Pharmaceutical Council if it is one of the bodies, and
  - (c) subsection (7) applies to the Pharmaceutical Society of Northern Ireland if it is one of the bodies.
- (10) But subsections (6) and (7) do not apply where the bodies concerned are or include the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland.
- (11) Accordingly, in those circumstances, the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland may jointly establish and maintain a register of persons who are (and, where they consider appropriate, have been) engaged in work or participating in studies anywhere in the United Kingdom.
- (12) A request to be registered, or to continue to be registered, in a register established under subsection (1) must be accompanied by a fee of such amount as the regulatory body (or bodies) concerned may determine.

### **25E Section 25D: interpretation**

- (1) This section applies for the purposes of section 25D.
- (2) “Voluntary register” means a register of persons in which a person is not required by an enactment to be registered in order to be entitled to—
- (a) use a title,
  - (b) practise as a member of a profession,
  - (c) engage in work that involves the provision of health care,
  - (d) engage in work of a description given in section 60(2ZC) of the Health Act 1999 (social care work in England), or
  - (e) participate in studies that come within section 25D(2) or (3).

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- (3) Where an enactment imposes a requirement of that kind which applies to part only of the United Kingdom, a register is to be regarded as a voluntary register in so far as it applies to any part of the United Kingdom to which the requirement does not apply.
- (4) The reference in subsection (2) to an enactment does not include a reference to an enactment in so far as it imposes a requirement of that kind which applies—
  - (a) only to work or practice of a particular kind, and
  - (b) only when work or practice of that kind is engaged in for particular purposes.
- (5) In subsections (2) to (4), “enactment” means an enactment contained in, or in an instrument made under—
  - (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) an Act or Measure of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.
- (6) “Unregulated health professional” means a member of a profession—
  - (a) which is concerned with the physical or mental health of individuals, but
  - (b) to which section 60(2) of the Health Act 1999 does not apply.
- (7) “Unregulated health care worker” means a person engaged in work which—
  - (a) involves the provision of health care, but
  - (b) is not work which may be engaged in only by members of a profession.
- (8) In subsections (2) and (7), “health care” includes—
  - (a) all forms of health care for individuals, whether relating to physical or mental health, and
  - (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition.
- (9) “Unregulated social care worker in England” means a person engaged in social care work in England within the meaning of section 60 of the Health Act 1999.
- (10) But a person is not to be regarded as being (or having been) engaged in work as an unregulated social care worker merely because the person is (or has been) participating in a course of the description given in subsection (2ZC)(o) of that section (social work courses).
- (11) “The social work profession in England” has the meaning given in that section.

#### **25F Establishment of voluntary register: impact assessment**

- (1) Before establishing a register under section 25D, a regulatory body—
  - (a) must make an assessment of the likely impact of doing so, and
  - (b) must consult such persons as it considers appropriate.
- (2) In performing the duty under subsection (1)(a), the body must have regard to such guidance relating to the preparation of impact assessments as it considers appropriate.

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- (3) An assessment under this section must, in particular, include an assessment of the likely impact of establishing the register on—
  - (a) persons who would be eligible for inclusion in the register;
  - (b) persons who employ persons who would be eligible for inclusion in the register;
  - (c) users of health care, users of social care in England and users of social work services in England.
- (4) A regulatory body must publish any assessment it makes under this section.
- (5) In deciding whether to establish a register under section 25D, a regulatory body must have regard to the assessment it made under this section in relation to the register.”

## **229 Accreditation of voluntary registers**

- (1) After section 25F of the National Health Service Reform and Health Care Professions Act 2002 insert—

### **“25G Power of the Authority to accredit voluntary registers**

- (1) Where a regulatory body or other person maintains a voluntary register, the Authority may, on an application by the body or other person, take such steps as it considers appropriate for the purpose of establishing whether the register meets such criteria as the Authority may from time to time set (“accreditation criteria”).
- (2) Accreditation criteria may, in particular, relate to—
  - (a) the provision to the Authority of information in connection with the establishment, operation or maintenance of register;
  - (b) publication of the names of persons included in the register or who have been removed from the register (whether voluntarily or otherwise);
  - (c) the establishment or operation of a procedure for appeals from decisions relating to inclusion in or removal from the register.
- (3) If the Authority is satisfied that a voluntary register meets the accreditation criteria, it may accredit the register.
- (4) The Authority may carry out periodic reviews of the operation of registers accredited under this section for the purpose of establishing whether they continue to meet the accreditation criteria.
- (5) If, on a review under subsection (4), the Authority is satisfied that a voluntary register no longer meets the accreditation criteria, the Authority may remove or suspend, or impose conditions on, the accreditation of the register.
- (6) The Authority may refuse to accredit a register, or to continue to accredit a register, unless the person who maintains the register pays a fee of such amount as the Authority may determine.
- (7) The Authority must publish such accreditation criteria as it sets.
- (8) The Authority may publish a list of registers accredited under this section.



- (9) “Voluntary register” has the meaning given in section 25E.

### **25H Accreditation of voluntary register: impact assessment**

- (1) Before accrediting a register under section 25G, the Authority—
  - (a) must make an assessment of the likely impact of doing so, and
  - (b) must consult such persons as it considers appropriate.
- (2) For that purpose, the Authority must have regard to such guidance relating to the preparation of impact assessments as it considers appropriate.
- (3) An assessment under this section must, in particular, include an assessment of the likely impact of accrediting the register on—
  - (a) persons who are, or are eligible to be, included in the register;
  - (b) persons who employ persons who are, or are eligible to be, included in the register;
  - (c) users of health care, users of social care in England and users of social work services in England.
- (4) For the purposes of subsection (3), the Authority may request the person who maintains the register to provide it with such information as it specifies; and if the person refuses to comply with the request, the Authority may refuse to accredit the register.
- (5) The Authority may publish any assessment it makes under this section.
- (6) In deciding whether to accredit a register under section 25G, the Authority must have regard to its assessment under this section in relation to the register.

### **25I Functions of the Authority in relation to accredited voluntary registers**

- (1) The Authority has the following functions—
  - (a) to promote the interests of users of health care, users of social care in England, users of social work services in England and other members of the public in relation to the performance of voluntary registration functions,
  - (b) to promote best practice in the performance of voluntary registration functions, and
  - (c) to formulate principles of good governance in the performance of voluntary registration functions and to encourage persons who maintain or operate accredited voluntary registers to conform to those principles.
- (2) In this section—
  - (a) a reference to the performance of voluntary registration functions is a reference to the maintenance or operation of an accredited voluntary register, and
  - (b) “accredited voluntary register” means a register accredited under section 25G.”

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- (2) In section 26 of that Act (general powers and duties of the Authority), after subsection (2) insert—
- “(2A) A reference in subsection (2) to a regulatory body includes a reference to a person other than a regulatory body who has voluntary registration functions; and for that purpose, the only functions that person has are the person’s voluntary registration functions.”
- (3) After subsection (3) of that section insert—
- “(3A) A reference in subsection (3) to a regulatory body includes a reference to a person other than a regulatory body in so far as that person has voluntary registration functions.”
- (4) After subsection (4) of that section insert—
- “(4A) For the purposes of paragraph (c) of subsection (4), the reference in that subsection to subsection (3) includes a reference to subsection (3) as construed in accordance with subsection (3A).”
- (5) After subsection (12) of that section insert—
- “(13) In this section, “voluntary registration functions” is to be construed in accordance with section 25I.”
- (6) In section 26A of that Act (powers of Secretary of State and devolved authorities to request advice etc.), after subsection (1A) (inserted by section 223(3)), insert—
- “(1B) The Secretary of State may request the Authority for advice on any matter connected with accreditation of registers under section 25G; and the Authority must comply with such a request.
- (1C) The Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may request the Authority for advice on any matter connected with accreditation of registers under section 25G other than accreditation of registers referred to in subsection (1D); and the Authority must comply with such a request.
- (1D) The registers are registers of persons who are or have been—
- (a) unregulated social care workers in England,
  - (b) participating in studies for the purpose of becoming a member of the social work profession in England;
  - (c) participating in studies for the purpose of becoming an unregulated social care worker in England.
- (1E) In subsection (1D), “the social work profession in England” and “unregulated social care worker in England” each have the meaning given in section 25E.”
- (7) In section 26B of that Act (duty of the Authority to inform and consult the public), after subsection (1) insert—
- “(1A) The references in subsection (1) to the Authority’s functions do not include a reference to its accreditation functions.
- (1B) For the purpose of ensuring that members of the public are informed about the exercise by the Authority of its accreditation functions, the Authority

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

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may publish or provide in such manner as it thinks fit information about the exercise of those functions.

- (1C) For the purposes of this section, the Authority’s accreditation functions are—
- (a) its functions under sections 25G to 25I,
  - (b) its functions under section 26 that relate to the performance of voluntary registration functions (within the meaning given by section 25I), and
  - (c) its function under section 26A(1B).”

(8) In subsection (2) of that section, after “subsection (1)” insert “or (1B)”.

(9) At the end of subsection (4) of that section insert “(other than its accreditation functions)”.

*Consequential provision etc.*

### **230 Consequential provisions and savings, etc.**

- (1) Parts 1 to 3 of Schedule 15 (which contain minor and consequential amendments and savings relating to the preceding provisions of this Part) have effect.
- (2) The Privy Council may by order make transitional, transitory or saving provision in connection with the commencement of the preceding provisions of this Part.
- (3) The quorum for the exercise of the power under subsection (2) is two.
- (4) Anything done by the Privy Council under subsection (2) is sufficiently signified by an instrument signed by the Clerk of the Council.
- (5) In section 38 of the National Health Service Reform and Health Care Professions Act 2002 (regulations and orders), after subsection (4) insert—

“(4A) The quorum for the exercise by the Privy Council of the power under section 25A, 27 or 28 or paragraph 6 of Schedule 7 is two; and anything done by the Privy Council under either of those sections or that paragraph is sufficiently signified by an instrument signed by the Clerk of the Council.”
- (6) The amendments made by this Part to an Order in Council under section 60 of the Health Act 1999 do not affect the power to make a further Order in Council under that section amending or revoking provision made by those amendments.

*The Office of the Health Professions Adjudicator*

### **231 Abolition of the Office of the Health Professions Adjudicator**

- (1) The Office of the Health Professions Adjudicator (“the OHPA”) is abolished.
- (2) In Part 2 of the Health and Social Care Act 2008 (regulation of health professions etc.), omit sections 98 to 110 and Schedules 6 and 7 (establishment etc. of the OHPA).
- (3) All property, rights and liabilities to which the OHPA is entitled or subject immediately before the commencement of subsection (1) (including rights and liabilities relating to staff) are transferred to the Secretary of State.

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

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- (4) Part 4 of Schedule 15 (which contains consequential amendments and savings in relation to the OHPA) has effect.