

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Regulation of Health and Social Care Workers

The Professional Standards Authority for Health and Social Care

Section 228 – Establishment of voluntary registers

1344. This section inserts new sections 25D, 25E and 25F into the 2002 Act.
1345. Section 25D empowers the regulatory bodies to establish and maintain voluntary registers of persons who are or have been unregulated health professionals and unregulated health care workers in the UK, and unregulated social care workers in England. With the exception of the Health and Care Professions Council, this power is limited to establishing and maintaining voluntary registers of groups whose work supports or relates to the work of the profession which the body regulates. The terms “voluntary register”, “unregulated health professional”, “unregulated health care worker” and “unregulated social care worker in England” are defined in section 25E.
1346. Section 25E defines ‘voluntary register’ for the purposes of section 25D. A voluntary register is a register of persons who are not required by any enactment to be on that register in order to use a title, practise a profession, engage in health care work in the UK or social care work in England or undertake certain studies. It is defined in such a way that, should one or more of the administrations in England, Scotland, Wales or Northern Ireland decide to make it compulsory for persons in that part of the UK to be on a particular register in order to do one or more of these things, that register would still be regarded as a voluntary register in so far as it registers persons in other parts of the UK (in relation to which no requirement to be on that register exists). It is also defined in such a way that, if an enactment makes it compulsory for a person to be on a particular register in order to carry out work or practice of a particular kind but only for a specific purpose, that register will remain a voluntary register. An example would be if a statutory instrument required a person to be on a particular register in order to work as a health care support assistant in the NHS in England (but not in order to work as a health care support assistant outside the NHS in England).
1347. Under section 25D, regulatory bodies may also establish and maintain voluntary registers of certain students. This power, for each regulatory body, is limited to establishing and maintaining voluntary registers of persons studying to become a member of a profession regulated by that body or in relation to which that body maintains a voluntary register, or studying to engage in work as an unregulated health care worker or unregulated social care worker in England in relation to which that body maintains a voluntary register.
1348. All of the regulatory bodies have a UK-wide scope, with the exception of the General Pharmaceutical Council, which is the regulator of pharmacists, pharmacy technicians and pharmacy premises in Great Britain, and the Pharmaceutical Society of Northern Ireland, which is the regulator of pharmacists and pharmacy premises in

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

Northern Ireland. The General Pharmaceutical Council may only establish and maintain voluntary registers under section 25D for persons who are, or have been, engaged in work or participating in studies in Great Britain, and the Pharmaceutical Society of Northern Ireland may only establish and maintain voluntary registers for persons who are, or have been, engaged in work or participating in studies in Northern Ireland. The exception to this is where the General Pharmaceutical Council and Pharmaceutical Society of Northern Ireland jointly establish a voluntary register, which can have UK-wide scope.

1349. Section 25D also provides a power for the regulatory bodies to establish and maintain a voluntary register jointly with another regulatory body. Where voluntary registers are joint, the regulatory bodies maintaining that register will remain subject to the same limits on the types of register which can be maintained, and their geographical scope, as would apply to each regulatory body maintaining a register individually (with the limited exception described above in relation to a joint register maintained by the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland).
1350. Subsection (12) of section 25D provides that persons requesting registration, or the renewal of registration, on a voluntary register maintained by a regulatory body must pay a fee determined by the regulatory body.
1351. Section 25F imposes a duty on each regulatory body to carry out an impact assessment prior to establishing a voluntary register under section 25D. It provides that the regulatory body must have regard to any appropriate guidance in carrying out the assessment; must consider, in particular, the likely impact on potential registrants, employers of potential registrants and users of health care and English social care and social work services; must publish its impact assessment; and must have regard to the impact assessment in deciding whether to establish a voluntary register. The regulatory body must also consult such persons as it considers appropriate before establishing a voluntary register.