



Health and Social Care Act 2012

2012 CHAPTER 7

PART 7

REGULATION OF HEALTH AND SOCIAL CARE WORKERS

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”.
- (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;

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- (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)—
- (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

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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—
 - (a) the courses which are approved under this section, and
 - (b) the courses which have been, but are no longer, approved under this section and the periods for which they were so approved.
 - (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—

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“(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.

(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—

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- (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)”.
- (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—

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“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 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

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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—
- “(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).”