



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 3

#### THE COUNCIL

##### *Registration*

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

(1) The Council shall maintain a register of—

- (a) social workers;
- <sup>F1</sup>(aa) .....
- (b) social service workers of any other description prescribed; and
- (c) persons—
  - (i) participating in a course, approved by it under section 54(1) of this Act, for those wishing to become; or
  - (ii) employed in positions probationary to their becoming, social workers or social service workers of such other description.

[<sup>F2</sup>(2) There shall be a separate part of the register for—

- (a) social workers;
- <sup>F3</sup>(b) .....
- (c) each description of social service workers prescribed by virtue of paragraph (b) of subsection (1) above; and
- (d) such persons as are mentioned in paragraph (c) of that subsection.

<sup>F4</sup>(2A) .....]

- (3) It may be prescribed that as from a specified date a specified part of the register shall be closed, so that on and after that date no further persons shall be registered in that part.
- (4) The Scottish Ministers shall consult the Council and such other persons, or groups of persons, as they consider appropriate before making, varying or revoking an order by virtue of this section.

*Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Registration. (See end of Document for details)*

#### Textual Amendments

- F1** S. 44(1)(aa) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 9 para. 3(a)** (with reg. 12A, Sch. 9 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 44(2)(2A) substituted for s. 44(2) (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007](#) (S.I. 2007/3101), regs. 1(2), **257(b)**
- F3** S. 44(2)(b) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 9 para. 3(b)** (with reg. 12A, Sch. 9 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 44(2A) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 9 para. 3(c)** (with reg. 12A, Sch. 9 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I1** S. 44 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

### 45 Applications for registration under Part 3

- (1) An application for registration under this Part <sup>F5</sup>... shall be made to the Council in accordance with rules made by the Council.

<sup>F6</sup>(1A) .....

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

#### Textual Amendments

- F5** Words in s. 45(1) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 9 para. 4(a)** (with reg. 12A, Sch. 9 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 45(1A) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/593), reg. 1(2), **Sch. 9 para. 4(b)** (with reg. 12A, Sch. 9 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I2** S. 45 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

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*Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Registration. (See end of Document for details)*

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

(1) An application [<sup>F7</sup>under section 45(1) of this Act] for registration under this Part may be granted either unconditionally or subject to such conditions as the Council thinks fit to impose.

(2) If the Council is satisfied that the applicant—

- (a) is of good character;
- (b) satisfies such requirements as to competence or conduct as the Council may by rules impose; and
- (c) except where [<sup>F8</sup>section 46B of this Act] applies, either—
  - (i) satisfies such requirements as to education as the Council may by rules impose and has successfully completed a course of training, approved by the Council, for persons wishing to become social workers or, as the case may be, for persons wishing to become social service workers of the description in relation to which registration is sought; or
  - (ii) in the case of an application for registration as a social service worker other than a social worker, satisfies such requirements as the Council may by rules impose in relation to social service workers of the description in relation to which registration is sought,it shall grant the application unconditionally<sup>F9</sup>....

[<sup>F10</sup>(2A) Where an application is granted unconditionally—

- (a) the Council shall give the applicant notice of its so granting the application; and
- (b) registration shall take effect immediately on such notice being given.

(2B) If the Council is not satisfied as mentioned in subsection (2), it shall—

- (a) grant the application subject to such conditions as it thinks fit; or
- (b) refuse the application.

(2C) The Council shall give the applicant notice of its decision under subsection (2B), which shall—

- (a) give the Council's reasons for the decision; and
- (b) explain the right of appeal conferred by section 51 of this Act.

(2D) A decision to refuse the application takes effect immediately on notice to that effect being given.

(2E) Notice of a decision to grant the application subject to conditions shall state—

- (a) the conditions; and
- (b) that, within fourteen days after service of the notice, the applicant may make written representations to the Council concerning any matter which the applicant wishes to dispute.

(2F) Subject to subsections (2G) and (2H), a decision to grant the application subject to conditions takes effect at the end of the fourteen day period mentioned in subsection (2E).

(2G) Where—

- (a) the applicant makes such representations as are mentioned in subsection (2E);

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- (b) the Council, having considered the representations, confirms the decision mentioned in subsection (2F); and
  - (c) no appeal is brought under section 51 of this Act,
- the decision takes effect on the expiry of the fourteen day period mentioned in subsection (A1) of that section for bringing such an appeal.

(2H) Where an appeal against a decision mentioned in subsection (2F) is brought under section 51 of this Act (whether or not such representations as are mentioned in subsection (2E) are also made), the decision takes effect only when the appeal is finally determined or abandoned.]

- <sup>F11</sup>(3) .....
- <sup>F12</sup>(4) .....
- <sup>F12</sup>(5) .....
- <sup>F12</sup>(6) .....
- <sup>F12</sup>(7) .....

**Textual Amendments**

- F7** Words in s. 46(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(a)**
- F8** Words in s. 46(2)(c) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(b)**
- F9** Words in s. 46(2) repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 2(a)**; S.S.I. 2010/221, art. 3(2), sch.
- F10** S. 46(2A)-(2H) inserted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 2(b)**; S.S.I. 2010/221, art. 3(2), sch.
- F11** S. 46(3) repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 2(c)**; S.S.I. 2010/221, art. 3(2), sch.
- F12** S. 46(4)-(7) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(c)**

**Commencement Information**

- I3** S. 46 wholly in force at 1.4.2002, see s. 81(2)-(4) and S.S.I. 2002/162, **art. 2(e)** (subject to [arts. 3-13](#))

<sup>F13</sup>**46A. Visiting social workers from relevant European States**

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**Textual Amendments**

- F13** S. 46A omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 9 para. 5** (with [reg. 12A](#), [Sch. 9 Pt. 2](#)) (as amended by S.I. 2020/1394, regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)

[<sup>F14</sup>**46B. Qualifications gained outside Scotland**

This section applies where—

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- <sup>F15</sup>(a) .....
- (b) the applicant has, outwith Scotland, undergone training which—
- (i) is recognised by the Council as being to a standard sufficient for the applicant to be registered in the part of the register specified in the application; or
  - (ii) is not so recognised provided that the applicant has also undergone, in Scotland or elsewhere, such additional training as the Council may by rules require.]

#### Textual Amendments

- F14** Ss. 46A, 46B inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **260**
- F15** S. 46B(a) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 9 para. 6** (with reg. 12A, Sch. 9 Pt. 2) (as amended by [S.I. 2020/1394](#), regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)

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

- (1) The Council may at any time give notice to a person registered under this Part <sup>F16</sup>... [<sup>F17</sup>of its decision] to—
- (a) vary or remove a condition for the time being in force; or
  - (b) impose an additional condition,
- in relation to the registration.
- (2) A notice under subsection (1) above shall
- <sup>F18</sup>(a) give the Council's reasons for the [<sup>F19</sup>decision;]
  - (b) [<sup>F20</sup>explain the right of appeal conferred by section 51 of this Act; and
  - (c) state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.]

#### Textual Amendments

- F16** Words in s. 47(1) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 9 para. 7** (with reg. 12A, Sch. 9 Pt. 2) (as amended by [S.I. 2020/1394](#), regs. 4, 17); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in s. 47(1) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 3(a)**; S.S.I. 2010/221, art. 3(2), sch.
- F18** Words in s. 47(2) renumbered as s. 47(2)(a) (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 3(b)(i)**; S.S.I. 2010/221, art. 3(2), sch.
- F19** Word in s. 47(2) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 3(b)(ii)**; S.S.I. 2010/221, art. 3(2), sch.
- F20** S. 47(2)(b)(c) added (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 15 para. 3(b)(iii)**; S.S.I. 2010/221, art. 3(2), sch.

#### Commencement Information

- I4** S. 47 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to arts. 3-13)

*Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Registration. (See end of Document for details)*

#### 48 **Right to make representations to Council as respects [F21 decision under section 47]**

- (1) A notice under section <sup>F22</sup>... 47 of this Act shall state that, within fourteen days after service of the notice, the person to whom it is given may make written representations to the Council concerning any matter which that person wishes to dispute.
- [<sup>F23</sup>(2) Subject to subsections (3) and (4), a decision under section 47 of this Act takes effect at the end of the fourteen day period mentioned in subsection (1).
- (3) Where—
- the person to whom notice under section 47 was given makes such representations as are mentioned in subsection (1);
  - the Council, having considered the representations, confirms the decision mentioned in that section; and
  - no appeal is brought under section 51 of this Act,
- the decision takes effect on the expiry of the fourteen day period mentioned in subsection (A4) of that section for bringing such an appeal.
- (4) Where an appeal against a decision under section 47 is brought under section 51 (whether or not such representations as are mentioned in subsection (1) are also made), the decision takes effect only when the appeal is finally determined or abandoned.]

#### Textual Amendments

**F21** Words in s. 48 heading substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 15 para. 5](#); S.S.I. 2010/221, art. 3(2), sch.

**F22** Words in s. 48(1) repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 15 para. 4\(a\)](#); S.S.I. 2010/221, art. 3(2), sch.

**F23** S. 48(2)-(4) substituted for s. 48(2) (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 15 para. 4\(b\)](#); S.S.I. 2010/221, art. 3(2), sch.

#### Commencement Information

**I5** S. 48 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(e\)](#) (subject to [arts. 3-13](#))

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

- (1) The Council shall, by rules made with the consent of the Scottish Ministers, determine circumstances in which, and the means by which—
- an entry relating to a person in the register maintained by the Council may be removed from a part in which it appears;
  - an entry removed by virtue of paragraph (a) above may be restored to the part in question;
  - a person's registration in a part of that register may be suspended (and that person treated as not being registered in that part notwithstanding that the relevant entry still appears in it) for such period as the Council may specify in the case in question;
  - a suspension by virtue of paragraph (c) above may be terminated; and
  - an entry in a part of that register may be altered (other than in implementation of a [<sup>F24</sup>decision] of which notice is given under section 47(1) of this Act).
- (2) Rules under subsection (1) above shall—

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- (a) make provision as to—
    - (i) the procedure to be followed;
    - (ii) the standard of proof; and
    - (iii) the rules of evidence to be observed,in proceedings brought (whether before the Council or before any committee of the Council) for the purposes of the rules; and
  - (b) provide for such proceedings to be in public except in such cases (if any) as the rules may specify.
- (3) The Council shall maintain a register of persons who have been registered in the register maintained under section 44(1) of this Act but who, by virtue of paragraph (a) of subsection (1) above, are for the time being not so registered; and where an entry relating to a person is, by virtue of paragraph (b) of that subsection, restored, the entry relating to that person in the register maintained under this subsection shall be removed.

#### Textual Amendments

**F24** Word in s. 49(1)(e) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 15 para. 6](#); [S.S.I. 2010/221](#), art. 3(2), sch.

#### Commencement Information

**I6** S. 49 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), art. 2(e) (subject to arts. 3-13)

## 50 Notice of Council's decision [<sup>F25</sup>under rules under section 49]

<sup>F26</sup>(1) .....

(2) If the Council decides—

<sup>F27</sup>(a) .....

(b) in accordance with rules made under subsection (1) of section 49 of this Act, to do any of the things mentioned in paragraphs (a) to (e) of that subsection, it shall give the person affected notice of the decision.

(3) A notice under subsection (2) above shall—

(a) explain the right of appeal conferred by section 51 of this Act;

<sup>F28</sup>(b) .....

(4) [<sup>F29</sup>Subject to subsection (5),] a decision such as is mentioned in subsection (2) above<sup>F30</sup>... shall not take effect—

(a) if no appeal is brought, until the period of fourteen days [<sup>F31</sup>after the giving of a notice under subsection (2)] has elapsed; and

(b) if an appeal is brought, until that appeal is finally determined or is abandoned.

[<sup>F32</sup>(5) A decision in accordance with rules under section 49(1) of this Act to suspend a person's registration in a part of the register maintained under section 44(1) of this Act takes effect immediately on notice of that decision being given.]

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*Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Registration. (See end of Document for details)*

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### Textual Amendments

- F25** Words in s. 50 heading added (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 8**; S.S.I. 2010/221, art. 3(2), sch.
- F26** S. 50(1) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(a)**; S.S.I. 2010/221, art. 3(2), sch.
- F27** S. 50(2)(a) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(b)**; S.S.I. 2010/221, art. 3(2), sch.
- F28** S. 50(3)(b) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(c)**; S.S.I. 2010/221, art. 3(2), sch.
- F29** Words in s. 50(4) inserted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(d)(i)**; S.S.I. 2010/221, art. 3(2), sch.
- F30** Words in s. 50(4) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(d)(ii)**; S.S.I. 2010/221, art. 3(2), sch.
- F31** Words in s. 50(4)(a) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(d)(iii)**; S.S.I. 2010/221, art. 3(2), sch.
- F32** S. 50(5) added (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 7(e)**; S.S.I. 2010/221, art. 3(2), sch.

### Commencement Information

- I7** S. 50 wholly in force at 1.4.2002, see s. 81(2)-(4) and S.S.I. 2002/162, **art. 2(e)** (subject to arts. 3-13)



**Changes to legislation:**

There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001,  
Cross Heading: Registration.