



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 7

#### GENERAL

#### <sup>[F177]</sup> Interpretation

In this Act, unless the context otherwise requires—

“care service” has the meaning given by section 47(1) of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#);

“the Council” means the Scottish Social Services Council (which is constituted under section 43 of this Act);

<sup>[F2]</sup>“EEA State” means a member State, Norway, Iceland or Lichtenstein;]

“enactment” has the meaning given by section 126(1) of the Scotland Act [1998 \(c.46\)](#);

“equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 (equal opportunities) of Schedule 5 to the Scotland Act 1998;

“exempt person” means—

- (a) a national of a relevant European State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking to engage in relevant social work by virtue of an enforceable <sup>[F3]</sup>EU right; or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable <sup>[F3]</sup>EU right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of a relevant European State;

and in paragraphs (a) to (c), “national”, in relation to a relevant European State, means the same as in the <sup>[F3]</sup>EU Treaties, but does not include a person who, by virtue of Article 2 of Protocol No. 3 (Channel Islands and the Isle of Man) to the Treaty of Accession, is not to benefit from <sup>[F3]</sup>EU provisions relating to the free movement of persons and services;

<sup>[F4]</sup>“the General Systems Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015 ([S.I. 2015/2059](#));]

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act [1994 \(c.39\)](#);

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- “notice” means notice in writing;
- “prescribed” means prescribed by order made by the Scottish Ministers;
- “regulations” means regulations made by the Scottish Ministers;
- “relevant European State” means an EEA State or Switzerland;
- “social service worker” means a person, other than a person excepted from this definition by regulations, who—
- (a) has an entitling professional qualification in social work (that is to say a qualification which, if the person holding it also satisfies the requirements of subsection (2)(a) and (b) of section 46 of this Act and, except where section 46B of this Act applies, the requirements as to education imposed as mentioned in subsection (2)(c)(i) of that section, entitles that person to be registered in the part for social workers of the register maintained under section 44(1) of this Act); or
  - (b) is a visiting social worker from a relevant European State; or
  - (c) not being a person mentioned in paragraph (a) or (b) above, is employed in the provision of (or in managing the provision of) a care service; or
  - (d) being an employee of Social Care and Social Work Improvement Scotland, is an authorised person by virtue of section 56 of the Public Services Reform (Scotland) Act 2010;
- “social worker” means a person described in paragraph (a) of the definition, above, of “social service worker”;
- “visiting social worker from a relevant European state” means a person entitled under section 46A of this Act to be registered in the part of the register maintained under section 44(1) of this Act for visiting social workers from relevant European States; and
- “voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit.]

#### Textual Amendments

- F1** S. 77 substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 1 para. 9**
- F2** Words in s. 77 inserted (1.7.2013) by [The European Union \(Amendments in respect of the Accession of Croatia\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/177\)](#), reg. 1(1), **sch. para. 5**
- F3** Words in s. 77 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))
- F4** Words in s. 77 substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **118(2)** (with reg. 155)

## 78 Orders and regulations

- (1) Any order or regulations made under this Act shall be made by statutory instrument; and, subject to subsection (2), a statutory instrument containing any such order, other than an order under section 81(2), or any such regulations shall be subject to annulment in pursuance of a resolution of the Parliament.
- (2) A statutory instrument containing—
  - (a) regulations under section 28(1)(a), 56(1)(a) or 73(2)(b);
  - (b) an order under section 3 [<sup>F5</sup>or 25(5A)]; or
  - (c) if it amends or repeals an enactment, an order under section 80(2),

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of this Act shall not be made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

#### Textual Amendments

- F5** Words in s. 78(2)(b) inserted (17.10.2005) by [Smoking, Health and Social Care \(Scotland\) Act 2005](#) (asp 13), **ss. 31(3)**, 43(3); S.S.I. 2005/492, art. 3(a), sch. 1

### 79 Minor and consequential amendments

Schedule 3 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, has effect.

#### Commencement Information

- I1** S. 79 in force for specified purposes at 1.10.2001 by [S.S.I. 2001/304](#), **art. 2(1)(b)**; s. 79 in force for specified purposes at 1.4.2002 by [S.S.I. 2002/162](#), **art. 2(f)** (subject to [arts. 3-13](#))
- I2** S. 79 in force at 1.4.2004 for specified purposes by [S.S.I. 2004/100](#), **art. 2(d)** (with [arts. 3, 4](#)) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)

### 80 Repeals and transitional provisions etc.

- (1) The enactments mentioned in schedule 4 to this Act are repealed to the extent mentioned in the second column of that schedule.
- (2) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of this Act.
- (3) An order under subsection (2) above may amend or repeal any enactment (including any provision of this Act).
- (4) Before making an order under subsection (2) above, the Scottish Ministers shall consult such persons, or groups of persons, as they consider appropriate.

#### Commencement Information

- I3** S. 81(3)(4) in force at 1.10.2001 by [S.S.I. 2001/304](#), **art. 2(1)(c)**; s. 80(1) in force for certain purposes at 1.4.2002 by [S.S.I. 2002/162](#), **art. 2(g)** (subject to [arts. 3-13](#))
- I4** S. 80(1) in force at 1.4.2004 for specified purposes by [S.S.I. 2004/100](#), **art. 2(f)** (with [arts. 3, 4](#)) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)

### 81 Short title and commencement

- (1) This Act may be cited as the Regulation of Care (Scotland) Act 2001.
- (2) There shall come into force at the end of the period of fourteen days beginning with the day of Royal Assent sections 1, 4, 28, 43, 56 to 62, 66, 68 and 69, 74 to 78 and 80(2) of, and schedules 1 and 2 to, this Act; and the other provisions of this Act, except this section, shall come into force on such day as the Scottish Ministers may by order made by statutory instrument appoint.

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- (3) Different days may be so appointed for different provisions and for different purposes.
- (4) An order under subsection (2) above may contain such transitional provisions and such savings as the Scottish Ministers think fit.

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**Subordinate Legislation Made**

- P1** S. 81(2)(3)(4) power partly exercised: 1.4.2002 appointed for specified provisions by [S.S.I. 2002/162](#), [art. 2\(a\)-\(d\)](#)
- P2** S. 81(2) power partly exercised: different dates appointed for specified provisions by [S.S.I. 2001/304](#), [art. 2](#)

**Status:**

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**Changes to legislation:**

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