

SCHEDULE 15

(introduced by section 107)

SCOTTISH SOCIAL SERVICES COUNCIL: MODIFICATIONS OF REGULATION OF CARE (SCOTLAND) ACT 2001

- 1 Part 3 of the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#) (the Scottish Social Services Council) is amended as follows.
- 2 In section 46 (grant or refusal of registration under Part 3)—
 - (a) in subsection (2), the words from “or”, where it fourth occurs, to the end of the subsection are repealed,
 - (b) after that subsection insert—
 - “(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);
 - (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,

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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.”

(c) subsection (3) is repealed.

3 In section 47 (variation etc. of conditions in relation to registration under Part 3)—

(a) in subsection (1), for “that it proposes” substitute “of its decision”,

(b) in subsection (2)—

(i) the words from “give” to the end of the subsection become paragraph (a) of the subsection,

(ii) for “proposal” substitute “decision”,

(iii) after paragraph (a) (inserted by paragraph (i) above) add—

“(b) 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.”.

4 In section 48 (right to make representations to Council as respects proposal)—

(a) in subsection (1), the words “46(2) or” are repealed,

(b) for subsection (2) substitute—

“(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—

(a) the person to whom notice under section 47 was given makes such representations as are mentioned in subsection (1);

(b) the Council, having considered the representations, confirms the decision mentioned in that section; 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 (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.”.

5 In the heading to section 48, for “proposal” substitute “decision under section 47”.

6 In section 49 (removal etc. from the Council’s register), in subsection (1)(e), for “proposal” substitute “decision”.

7 In section 50 (notice of Council’s decision)—

- (a) subsection (1) is repealed,
- (b) in subsection (2), paragraph (a) and the “or” immediately following it are repealed,
- (c) in subsection (3), paragraph (b) is repealed,
- (d) in subsection (4)—
 - (i) at the beginning insert “Subject to subsection (5),”,
 - (ii) the words from “other” to “application” are repealed,
 - (iii) in paragraph (a), for the words “referred to in section 51(1) of this Act” substitute “after the giving of a notice under subsection (2)”,
- (e) after subsection (4) add—

“(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.”.

8 In the heading to section 50, at the end, add “under rules under section 49”.

9 In section 51 (appeal against decision of Council)—

- (a) before subsection (1) insert—

“(A1) Where—

 - (a) a person is given notice under subsection (2C) of section 46 of this Act of a decision to grant an application for registration under this Part subject to conditions;
 - (b) the person makes such representations as are mentioned in subsection (2E) of that section; and
 - (c) the Council confirms the decision,

the person may, within fourteen days after such confirmation is given, appeal to the sheriff against the decision.

(A2) Where—

 - (a) a person is given notice under subsection (2C) of section 46 of this Act of a decision to grant an application for registration under this Part subject to conditions; and
 - (b) no representations such as are mentioned in subsection (2E) of that section are made,

the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.

(A3) Where a person is given notice under subsection (2C) of section 46 of this Act of a decision to refuse an application for registration under this Part, the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.

(A4) Where—

 - (a) a person is given notice under section 47(1) of this Act of a decision mentioned in that section;
 - (b) the person makes such representations as are mentioned in section 48(1) of this Act; and
 - (c) the Council confirms the decision,

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the person may, within fourteen days after such confirmation is given, appeal to the sheriff against the decision.

(A5) Where—

- (a) a person is given notice under section 47(1) of this Act of a decision mentioned in that section; and
- (b) no representations such as are mentioned in section 48(1) of this Act are made,

the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.”,

(b) in subsection (1), for “that notice is given” substitute “service of the notice”,

(c) in subsection (2)—

- (i) for “such an appeal” substitute “an appeal under this section”,
- (ii) the “or” immediately following paragraph (a) is repealed,
- (iii) after paragraph (b) insert “, or
- (c) direct that it shall not have effect and make such other order as the sheriff thinks fit”.

10

In section 53 (codes of practice)—

(a) after subsection (3) insert—

“(3A) A social service worker shall, so far as relevant, have regard to any code published under subsection (1) by the Council.

(3B) An employer of a social service worker, or a person seeking to employ such workers, shall, so far as relevant, have regard to any code published under subsection (1) by the Council.”,

(b) after subsection (5) insert—

“(6) The Scottish Ministers may give directions (of a general or specific nature) to—

- (a) the persons mentioned in paragraph (a) or (b) of subsection (1);
- (b) the Council,

in relation to any code so published; and such directions must be complied with.

(7) The Scottish Ministers may vary or revoke any direction given under subsection (6).”.

11

In section 64 (complaints procedures)—

(a) in subsection (2)—

- (i) for “Ministers” substitute “Public Services Ombudsman”,
- (ii) the words from “and” to the end of the subsection are repealed,

(b) in subsection (3), for “with such consent” substitute “after such consultation”.