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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 318**

**SOCIAL CARE**

**The Regulation of Care (Social Service  
Workers) (Scotland) Order 2005**

<i>Made</i>	- - - -	<i>7th June 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th June 2005</i>
<i>Coming into force</i>	- -	<i>1st July 2005</i>

The Scottish Ministers in exercise of the powers conferred by section 44(1)(b) of the Regulation of Care (Scotland) Act 2001<sup>(1)</sup> and of all other powers enabling them in that behalf, and after consultation with the Scottish Social Services Council<sup>(2)</sup> and such other persons and groups of persons as they consider appropriate in accordance with section 44(4) of that Act, hereby make the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Regulation of Care (Social Service Workers) (Scotland) Order 2005 and shall come into force on 1st July 2005.

(2) In this Order—

“the Act” means the Regulation of Care (Scotland) Act 2001;

“child” means—

- (a) for the purposes of paragraph (a) of the definition of “residential child care service”, a person under the age of sixteen years;
- (b) for the purposes of paragraph (b) of the definition of “residential child care service”, a child within the meaning of section 135(1) (interpretation) of the Education (Scotland) Act 1980<sup>(3)</sup>; and
- (c) for the purposes of paragraph (c) of the definition of “residential child care service”, a child within the meaning of section 93(2)(b) (interpretation) of the Children (Scotland) Act 1995<sup>(4)</sup>;

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(1) 2001 asp 8. Section 77(1) of the Act defines “prescribed” as meaning “prescribed by order made by the Scottish Ministers”.

(2) Established by section 43 of the Act.

(3) 1980 c. 44.

(4) 1995 c. 36.

“residential child care service” means a service which consists in the provision of personal care or personal support—

- (a) to any child as part of a care home service<sup>(5)</sup>;
- (b) to any child as part of a school care accommodation service<sup>(6)</sup> other than the provision of residential accommodation where it is—
  - (i) provided by or under arrangements made by the managers of an independent school and does not provide personal care or support;
  - (ii) provided by an education authority with respect to a special school within the meaning of the Education (Scotland) Act 1980; or
  - (iii) a hostel provided by the local authority for the use of children to enable them to attend school; or
- (c) to any child as part of a secure accommodation service<sup>(7)</sup>; and

“residential child care worker” means a person who, not being a social worker<sup>(8)</sup>, is employed in the provision of (or in managing the provision of) a residential child care service.

(3) In this Order a reference to a numbered paragraph is a reference to the paragraph so numbered in the article in which that reference occurs.

### **Description of social service worker**

2. For the purposes of section 44(1)(b) of the Act, the description of social service worker prescribed is, subject to article 3, a person who is—

- (a) an employee of the Commission who is also an authorised person within the meaning of sections 25 and 27 of the Act;
- (b) a residential child care worker who is the manager of a residential child care service;
- (c) a residential child care worker who—
  - (i) does not fall within paragraph (b); and
  - (ii) supervises any other residential child care worker; or
- (d) a residential child care worker who does not fall within either paragraph (b) or paragraph (c)(ii).

### **Excluded persons**

3.—(1) A person who is registered with or (as the case may be) is a member of one or more of the following bodies is excluded from the description of social service worker in article 2—

- (a) the General Social Care Council<sup>(9)</sup>;
- (b) the Northern Ireland Social Care Council<sup>(10)</sup>;
- (c) the Care Council for Wales<sup>(11)</sup>;
- (d) the General Medical Council<sup>(12)</sup>;

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(5) Section 2(3) of the Act defines “care home service”.

(6) Section 2(4) of the Act defines “school care accommodation service”. The provision of residential accommodation described in sub paragraphs (i) to (iii) was excepted from the definition of “school care accommodation service” by S.S.I. 2002/120 but this exception from the definition was revoked with effect from 1st April 2005 by S.S.I. 2005/96.

(7) Section 2(9) of the Act defines “secure accommodation service”.

(8) Section 77(1) of the Act defines “social worker”.

(9) The General Social Care Council was established by section 54(1)(a) of the Care Standards Act 2000 (c. 14).

(10) The Northern Ireland Social Care Council was established by section 1(1) of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3).

(11) The Care Council for Wales was established by section 54(1)(b) of the Care Standards Act 2000 (c. 14).

(12) The General Medical Council continues to be established by virtue of section 1(1) of the Medical Act 1983 (c. 54).

- (e) the General Teaching Council for England(13);
- (f) the General Teaching Council for Wales(14);
- (g) the General Teaching Council for Northern Ireland(15);
- (h) the General Teaching Council for Scotland(16);
- (i) the Health Professions Council(17);
- (j) the Nursing and Midwifery Council(18);
- (k) the General Dental Council(19); or
- (l) the Royal Pharmaceutical Society of Great Britain(20).

(2) A person who is listed in the British Psychological Society's(21) Register of Chartered Psychologists is excluded from the description of social service worker in article 2.

### **Revocation**

4. The Regulation of Care (Social Service Workers) (Scotland) Order 2004(22) is hereby revoked.

St Andrew's House, Edinburgh  
7th June 2005

*EUAN MACFARLANE ROBSON*  
Authorised to sign by the Scottish Ministers

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- (13) The General Teaching Council for England was established by section 1(1) of the Teaching and Higher Education Act 1998 (c. 30).
  - (14) The General Teaching Council for Wales was established by article 2 of the General Teaching Council for Wales Order 1998 (S.I.1998/2911) made under section 8(1) of the Teaching and Higher Education Act 1998 (c. 30).
  - (15) The General Teaching Council for Northern Ireland was established by article 34(1) of the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) made under paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (c. 28).
  - (16) The General Teaching Council for Scotland was established by section 1(1) of the Teaching Council (Scotland) Act 1965 (c. 19).
  - (17) The Health Professions Council was established by article 3(1) of the Health Professions Order (S.I. 2002/254) made under sections 60 and 62(4) of the Health Act 1999 (c. 8).
  - (18) The Nursing and Midwifery Council was established by article 3(1) of the Nursing and Midwifery Order 2001 (S.I. 2002/253) made under sections 60 and 62(4) of the Health Act 1999 (c. 8).
  - (19) The General Dental Council continues to be established by virtue of section 1(1) of the Dentists Act 1984 (c. 24).
  - (20) The Royal Pharmaceutical Society of Great Britain was incorporated by Royal Charter first granted on 18th February 1843.
  - (21) The British Psychological Society was incorporated by Royal Charter first granted on 26th February 1965.
  - (22) S.S.I. 2004/268.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 44(1) of the [Regulation of Care \(Scotland\) Act 2001 \(2001 asp 8\)](#) (“the Act”) requires the Scottish Social Services Council to maintain a register of social workers, social service workers of any other description prescribed and persons participating in a course or employed in a position probationary to becoming either a social worker or social service worker of a qualified description.

The Regulation of Care (Social Service Workers) (Scotland) Order 2004 (S.S.I.2004/268) (“the 2004 Order”) prescribes a description of social service worker for the purposes of section 44(1)(b) of the Act. The description covers employees of the Scottish Commission for the Regulation of Care who are authorised persons within the meaning of sections 25 and 27 of the Act with certain exclusions.

This Order revokes the 2004 Order and prescribes a description of social service worker for the purposes of section 44(1)(b) of the Act. It re enacts the reference to employees of the Scottish Commission for the Regulation of Care who are authorised persons within the meaning of sections 25 and 27 of the Act and also prescribes three additional descriptions of social service worker, namely residential child care workers who are managers of residential child care services, residential child care workers who are not managers of residential child care services but do supervise other residential child care workers and residential child care workers who are neither managers of residential child care services nor supervisors of other residential child care workers (article 2).

The Order provides that chartered members of the British Psychological Society and those who are registered with or are a member of any of the other bodies listed in article 3 of the Order are excluded from the prescribed descriptions of social service worker (article 3). The exclusion does not extend to members of the British Psychological Society who are not chartered members of the Society although such persons were excluded by the 2004 Order.

The Order revokes the 2004 Order.