



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 7

#### REGULATION OF HEALTH AND SOCIAL CARE WORKERS

##### *Orders under section 60 of the Health Act 1999*

#### **209 Power to regulate social workers etc. in England**

- (1) Section 60 of the Health Act 1999 (regulation of health care professions etc.) is amended as follows.
- (2) In subsection (1), after paragraph (b) insert—
  - “(ba) regulating the social work profession in England,
  - (bb) modifying the regulation of the social work profession in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving the regulation of the profession or the services which it provides or to which it contributes,”.
- (3) In that subsection, after paragraph (bb) insert—
  - “(bc) regulating social care workers in England who appear to Her to require regulation in pursuance of this section,
  - (bd) modifying the regulation of social care workers in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving their regulation or the services which they provide or to which they contribute,”.
- (4) In subsection (2), at the end of each of paragraphs (c) and (d), insert “(other than the social work profession in England)”.
- (5) After that subsection insert—

“(2ZA) In subsections (1) and (2), “the social work profession in England” means the profession engaged in social work in England; and for the purposes of

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this section, “social work in England” means social work which is required in connection with any health, education or social services provided in England.”

(6) After subsection (2ZA) insert—

“(2ZB) In subsection (1)(bc) and (bd), “social care workers in England” means persons who are engaged in social care work in England.

(2ZC) For that purpose, “social care work in England” means work (other than social work in England) that is of any of the following descriptions—

- (a) employment at a children’s home, care home or residential family centre in England,
- (b) management of a home or centre of a kind mentioned in paragraph (a),
- (c) employment for the purposes of a domiciliary care agency, fostering agency, voluntary adoption agency or adoption support agency, in so far as the agency provides services to persons in England,
- (d) management of an agency of a kind mentioned in paragraph (c),
- (e) work for the purposes of the social services functions of a local authority whose area is in England,
- (f) the provision in England of services similar to services which may or must be provided by a local authority in the exercise of its social services functions,
- (g) the provision of personal care for persons in England,
- (h) employment (in an undertaking other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care for persons in England,
- (i) management of an undertaking of the kind mentioned in paragraph (h),
- (j) employment in connection with the discharge of functions of the Secretary of State under section 80 of the Children Act 1989 (inspection of children’s homes),
- (k) employment as a member of staff of the Office for Standards in Education, Children’s Services and Skills who inspects premises under—
  - (i) section 87 of the Children Act 1989 (welfare of children accommodated in independent schools and colleges),
  - (ii) section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority), or
  - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector),
- (l) employment as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part),
- (m) management of staff mentioned in paragraph (k) or (l),
- (n) employment at a day centre in England,
- (o) participation in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to engage in the social work profession in England.”

(7) After subsection (2ZC) insert—

“(2ZD) An expression used in subsection (2ZC) and in section 55 of the Care Standards Act 2000 has the same meaning in that subsection as it has in that section.”

(8) After subsection (2ZD) insert—

“(2ZE) The exercise of functions of an approved mental health professional by a member of a profession to which subsection (2) applies is not to be regarded as social work of the kind engaged in by the social work profession in England.”

(9) After subsection (2ZE) insert—

“(2ZF) In this section, “approved mental health professional” has the meaning given in section 114 of the Mental Health Act 1983.”

(10) For the title to section 60 of the Health Act 1999 substitute “Regulation of health professions, social workers, other care workers etc.”.

(11) In section 60A of that Act (standard of proof in fitness to practise proceedings), in subsection (2), for “a person’s fitness to practise a profession to which section 60(2) applies” substitute “a matter specified in subsection (2A)”.

(12) After that subsection insert—

“(2A) The matters are—

- (a) a person’s fitness to practise a profession to which section 60(2) applies;
- (b) a person’s fitness to practise the social work profession in England (within the meaning given by section 60);
- (c) a person’s suitability to remain registered as a social care worker in England (within the meaning given by that section).”

(13) In subsection (3) of that section, at the end insert “or the social work profession in England (within the meaning given in section 60(2ZA))”.

## **210 Training etc. of approved mental health professionals in England**

In section 60 of the Health Act 1999 (regulation of health care professions etc.), in subsection (1), after paragraph (e) insert—

“(ea) modifying the functions, powers or duties of the Health and Care Professions Council that relate to the education and training of persons who are or wish to become approved mental health professionals,”.

## **211 Orders regulating social care workers in England: further provision**

(1) Schedule 3 to the Health Act 1999 (further provision as to power to make Orders in Council under section 60 of that Act) is amended as follows.

(2) After paragraph 1 (matters generally within the scope of the Orders) insert—

“1A An Order may make provision, in relation to any social care workers in England, for any of the following matters (among others)—

- (a) the establishment and continuance of a regulatory body,

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- (b) the functions of the Health and Care Professions Council or of another regulatory body,
- (c) keeping registers of social care workers in England of any description,
- (d) privileges of registered persons,
- (e) education and training,
- (f) standards of conduct and performance,
- (g) discipline,
- (h) removal or suspension from registration or the imposition of conditions on registration,
- (i) investigation and enforcement by or on behalf of the Health and Care Professions Council or another regulatory body,
- (j) appeals,
- (k) default powers exercisable by a person other than the Health and Care Professions Council or another regulatory body.”

(3) After paragraph 1A insert—

“1B The provision that may be made by virtue of paragraph 1(e) or 1A(f) includes provision for standards of conduct and performance of members of a profession, or social care workers in England, carrying out the functions of an approved mental health professional.”

(4) In paragraph 7 (prohibition on Orders abolishing regulatory bodies), in sub-paragraph (1), for paragraph (c) substitute—

“(c) the Health and Care Professions Council.”.

(5) In paragraph 8 (matters outside the scope of the Orders), after sub-paragraph (2) insert

“(2ZA) Where an enactment provides for any function mentioned in sub-paragraph (2ZB) to be exercised by the Health and Care Professions Council or another regulatory body, or any of its committees or officers, an Order may not provide for any person other than that body or any of its committees or officers to exercise that function.

(2ZB) The functions are—

- (a) keeping the registers of social care workers in England of any description,
- (b) determining standards of education and training required as a condition of registration,
- (c) giving advice about standards of conduct and performance.”

(6) In paragraph 9 (preliminary procedure for making Orders), in sub-paragraph (1)(b)—

- (a) after “represent any profession” insert “or any social care workers in England”, and
- (b) after “by any profession” insert “or any social care workers in England”.

(7) In paragraph 10 (interpretation)—

- (a) at the appropriate place insert the following—  
““social care work in England”, “social care workers in England” and “the social work profession in England” have the meaning given by section 60,” and

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- (b) in the definition of “regulatory body”—
  - (i) after “any profession” insert “or any social care workers in England”,  
and
  - (ii) after “the profession” insert “or the social care workers in England  
concerned”.
  
- (8) In paragraph 11 (application), after sub-paragraph (2) insert—
  - “(2A) References in section 60 and this Schedule to regulation, in relation to  
social care workers in England, include—
    - (a) the regulation of persons seeking to be registered or who were, but  
are no longer, allowed to be registered as social care workers in  
England,
    - (b) the regulation of activities carried on by persons who are not social  
care workers in England (or members of the social work profession  
in England) but which are carried on in connection with social care  
work in England.”