

2012 No. 1480

HEALTH CARE AND ASSOCIATED PROFESSIONS

SOCIAL WORKERS

**The General Social Care Council (Transfer of Register and
Abolition—Transitional and Saving Provision) Order of Council
2012**

Made - - - - - *18th June 2012*

Laid before Parliament *20th June 2012*

Coming into force in accordance with article 1(2)

At the Council Chamber, Whitehall, the 18th day of June 2012

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships make the following Order of Council in exercise of the powers conferred by sections 230(2) and 304(10)(a) of the Health and Social Care Act 2012(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the General Social Care Council (Transfer of Register and Abolition—Transitional and Saving Provision) Order of Council 2012.

(2) This Order comes into force as follows—

- (a) this article, article 2 and article 3(3) and (4) come into force on the day after this Order is made;
- (b) the remainder of this Order comes into force on 1st August 2012.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In this Order—

“the 2001 Order” means the Health and Social Work Professions Order 2001(b);

“the GSCC” means the General Social Care Council;

(a) 2012 c. 7. The Act is referred to in footnotes below as “the 2012 Act”.

(b) S.I. 2002/254. The Order (referred to in the footnotes below as “the 2001 Order”), originally entitled the Health Professions Order 2001, is re-named by section 213(4) and (6) of the 2012 Act.

“the GSCC register” means the register maintained by the GSCC under section 56 of the Care Standards Act 2000(a);

“health procedure” means the procedure set out in paragraph 28 of Schedule 2 to the General Social Care Council (Conduct) Rules 2008(b);

“the HCPC” means the Health and Care Professions Council(c);

“the HCPC register” means the register maintained by the HCPC under article 5 of the 2001 Order(d);

“the principal part” and the “visiting European part” of the GSCC register have the meanings given by section 56(2A) of the Care Standards Act 2000(e);

“transferred person” has the meaning given by article 4(4).

(2) References in this Order to the Health and Care Professions Council are to be read, before the commencement of section 214(1) of the Health and Social Care Act 2012, as references to the Health Professions Council(f).

General

3.—(1) Subject to the following provisions of this Order, from 1st August 2012(g), anything done by, to or in relation to the GSCC, so far as relating to the statutory regulation of social workers in England, is (where appropriate) to be treated as done by, to or in relation to the HCPC.

(2) In particular, a communication made by or to the GSCC and relating to the statutory regulation of social workers in England is (where appropriate) to be treated as made by or to the HCPC.

(3) The HCPC and the GSCC are to enter into arrangements to facilitate the introduction of the new arrangements for the statutory regulation of social workers in England arising out of Part 7 of the Health and Social Care Act 2012.

(4) The arrangements entered into under paragraph (3) are to include arrangements to ensure that all the names in the GSCC register which are to be entered in the HCPC register pursuant to article 4 are so entered.

Transfer of GSCC register

4.—(1) Each person registered immediately before 1st August 2012 in the principal part or the visiting European part of the GSCC register is, with effect from that day, registered in Part 16 of the HCPC register(h).

(2) In relation to a person registered in the visiting European part of the GSCC register, the corresponding entry in the HCPC register is to include the annotation provided for by article 7 of the Health Professions (Parts of and Entries in the Register) Order of Council 2003(i).

(a) 2000 c. 14. Section 56 has been amended by S.I. 2007/3101 and is amended by paragraph 3 of Schedule 15 to the 2012 Act.

(b) The Rules were made under the Care Standards Act 2000 (c. 14), section 59 and 71.

(c) The Health and Care Professions Council is so named by section 214(1)(b) of the 2012 Act and is referred to in footnotes below as “the HCPC”. Before the coming into force of that provision the body is known as the Health Professions Council. See also paragraph 53 of Schedule 15 to the 2012 Act. The 2012 Act also makes other amendments to the Care Standards Act 2000 (c. 14) to reflect the abolition of the GSCC.

(d) Article 5 has been amended by S.I.2009/1182.

(e) Subsection (2A) of section 56 is part of a substitution made by S.I. 2007/3101.

(f) Section 214(1) of the 2012 Act re-names the Health Professions Council as the Health and Care Professions Council (HCPC). Paragraph 53(2) of Schedule 15 to the 2012 Act provides for references to the HCPC to be read as references to the Health Professions Council in relation to any time before the commencement of section 214(1) of the 2012 Act, but parts of this Order will be in force before the coming into force of paragraph 53(2).

(g) 1st August 2012 is the day on which section 213 of the 2012 Act, which provides for the regulation by the HCPC of the profession of social worker in England, comes into force (see S.I.2012/1319).

(h) Part 16 is provided for by the Health and Social Care Act 2012 (Consequential Provision—Social Workers) Order 2012 (S.I. 2012/1479), article 3, which amends the Health Professions (Parts of and Entries in the Register) Order of Council 2003 (S.I. 2003/1571).

(i) S.I. 2003/1571. Article 7 was inserted by S.I. 2007/3101.

(3) A person whose name appears in the principal part or the visiting European part of the GSCC register, but whose registration has been suspended, counts for the purposes of paragraphs (1) and (2) as being registered in that part of that register, but article 7 makes further provision about such persons.

(4) A person who becomes registered in the HCPC register by virtue of this article is referred to in this Order as a “transferred person”.

(5) References in the 2001 Order to an entry in the register having been fraudulently procured or incorrectly made are to be treated from 1st August 2012 as including former entries in the GSCC register relating to transferred persons.

Registration subject to conditions

5.—(1) This article applies if a transferred person’s registration in the GSCC register was immediately before 1st August 2012 subject to conditions imposed—

- (a) on the grant of the transferred person’s application to the GSCC for registration or for renewal of registration, or
- (b) by the GSCC’s Restoration Committee^(a).

(2) If the conditions would have continued in force on 1st August 2012, that person’s registration in Part 16 of the HCPC register continues to be subject to those conditions as if they had been imposed in the same terms and for the same duration in a conditions of practice order made by the relevant practice committee of the HCPC (which is to be taken to have had the power to make such an order)^(b).

(3) The relevant practice committee of the HCPC for the purposes of paragraph (2) is—

- (a) the Health Committee, if the conditions were imposed by the GSCC’s Restoration Committee for reasons relating to the transferred person’s health;
- (b) otherwise, the Conduct and Competence Committee.

Registration subject to admonishment

6.—(1) This article applies if—

- (a) immediately before 1st August 2012 there was a record of an admonishment on a transferred person’s entry in the GSCC register^(c), and
- (b) the record of the admonishment would have continued on 1st August 2012.

(2) From 1st August 2012, the person is to be treated as if subject to a caution order made, in the same terms and for the same duration as the admonishment, by the relevant practice committee of the HCPC (which is to be taken to have had the power to make such an order)^(d).

(3) The relevant practice committee of the HCPC for the purposes of paragraph (2) is—

- (a) the Health Committee, if the admonishment was imposed by the GSCC’s Conduct Committee under its health procedure;
- (b) otherwise, the Conduct and Competence Committee.

Suspended registration

7.—(1) This article applies if—

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- (a) The GSCC’s Restoration Committee, and its Preliminary Proceedings Committee and Conduct Committee, and their powers and procedure, are provided for in the General Social Care Council (Conduct) Rules 2008. These rules are not contained in a Statutory Instrument but may be obtained on request from the HCPC at Park House, 184 Kennington Park Road, London, SE11 4BU, and are available on the HCPC’s website: www.hcpc-uk.org.
 - (b) See article 29 of the 2001 Order for the order-making powers of the HCPC’s Health Committee and Conduct and Competence Committee. Paragraph (5)(c) of that article deals with conditions of practice orders.
 - (c) This is provided for in the General Social Care Council (Conduct) Rules 2008.
 - (d) Article 29(5)(d) of the 2001 Order deals with caution orders.

(a) a transferred person's registration in the GSCC register was immediately before 1st August 2012 suspended by virtue of a suspension order imposed by the GSCC's Conduct Committee or an interim suspension order imposed by its Preliminary Proceedings Committee, and

(b) the suspension would have continued on 1st August 2012.

(2) From 1st August 2012, the person's registration in the HCPC register is to be treated as if it had been suspended on the same terms and for the same duration by order of the relevant practice committee of the HCPC (which is to be taken to have had the power to make such an order).

(3) Accordingly, for so long as the suspension is treated as continuing, the person is to be treated as not being registered in the HCPC register notwithstanding that the person's name appears in it.

(4) The relevant practice committee of the HCPC for the purposes of paragraph (2) is—

(a) the Investigating Committee, if the suspension was imposed by way of an interim suspension order made by the GSCC's Preliminary Proceedings Committee;

(b) the Health Committee, if the suspension was imposed by the GSCC's Conduct Committee under its health procedure;

(c) otherwise, the Conduct and Competence Committee.

Barring orders

8.—(1) This article applies if immediately before 1st August 2012 a transferred person was subject to a barring order imposed by the GSCC's Restoration Committee.

(2) From 1st August 2012, the person's right to make an application for restoration to the HCPC register is to be treated as having been suspended indefinitely by a direction made, on the same date as that of the barring order, by the relevant practice committee of the HCPC under article 33(9) of the 2001 Order(a).

(3) The relevant practice committee of the HCPC for the purposes of paragraph (2) is—

(a) the Health Committee, if the person was removed from the GSCC register by the GSCC's Conduct Committee under its health procedure;

(b) otherwise, the Conduct and Competence Committee.

Existing GSCC proceedings

9.—(1) This article applies if immediately before 1st August 2012 a transferred person is—

(a) subject to proceedings before the GSCC's Preliminary Proceedings Committee or Conduct Committee, or

(b) a registrant about whom the GSCC has received information(b) which might lead to such proceedings.

(2) The HCPC is to make such arrangements as it considers just for the disposal of the matter.

Outstanding applications for registration or renewal

10.—(1) This article applies to an application made before 1st August 2012, but not by then determined, for—

(a) registration in the principal part or the visiting European part of the GSCC register, or

(b) the renewal of such a registration.

(a) This provides a power for the HCPC's Practice Committees to direct that a person may not make any further applications for restoration. After 3 years such a person may apply for the direction to be reviewed.

(b) Rule 12 of the General Social Care Council (Conduct) Rules 2008 relates to the procedure upon receipt of information about a registrant.

(2) Such an application is to be treated from 1st August 2012 as having been made to the HCPC for registration in Part 16 of the HCPC register, or for the renewal of such a registration.

(3) If immediately before 1st August 2012 proceedings before the GSCC's Registration Committee^(a) have begun pursuant to such an application, the HCPC is to make such arrangements as it considers just for the disposal of the matter.

Applications for restoration

11.—(1) Subject to article 8 and paragraph (2) of this article, a person in relation to whom a removal order was made by the GSCC's Conduct Committee before 1st August 2012, and who has not by then been restored to the GSCC register, may make an application to the HCPC for restoration to Part 16 of the HCPC register.

(2) In the case of such a person, article 33 of the 2001 Order (restoration to the register of persons who have been struck off) applies as if—

- (a) the person had been struck off by order of the relevant practice committee of the HCPC,
- (b) in paragraph (2)(a) of that article, for “five years” there were substituted “three years”; and
- (c) in paragraph (2)(b) of that article, the reference to an application for restoration to the register included an application made before 1st August 2012 for restoration to the GSCC register.

(3) An application made before 1st August 2012 for restoration to the principal part or the visiting European part of the GSCC register is to be treated from that day as having been made to the HCPC for restoration (or as the case may be readmission) to Part 16 of the HCPC register.

(4) If immediately before 1st August 2012 proceedings before the GSCC's Restoration Committee or Registration Committee have begun pursuant to such an application, the HCPC is to make such arrangements as it considers just for the disposal of the matter.

(5) The relevant practice committee of the HCPC for the purposes of paragraph (2)(a) is—

- (a) the Health Committee, if the person was removed from the GSCC register by the GSCC's Conduct Committee under its health procedure;
- (b) otherwise, the Conduct and Competence Committee.

Appeals

12.—(1) Section 68 of the Care Standards Act 2000^(b) (appeals to the Tribunal) continues to have effect in relation to a decision of the GSCC made before 1st August 2012 in relation to a transferred person or a person subject to a removal order as if that section had not been amended by paragraph 16 of Schedule 15 to the Health and Social Care Act 2012.

(2) But from 1st August 2012—

- (a) the respondent to an appeal under that section made or continued by virtue of paragraph (1) is to be treated as being the HCPC rather than the GSCC, and
- (b) the HCPC (or its relevant committee) is to be treated as having made the decision in question, and as having the power to implement the decision of the Tribunal (or any decision made on a further appeal from the Tribunal).

Questions relating to conduct

13.—(1) Any question as to the conduct or practice, before 1st August 2012, of a transferred person or a person subject to a removal order, is to be determined on or after that day as it would have been determined before that day.

(a) The Registration Committee is provided for in the General Social Care Council (Registration) Rules 2008 which may be obtained from the HCPC.

(b) 2000 c.14. Section 68 was amended by S.I. 2007/3101.

(2) In particular, a code of practice prepared and published under section 62 of the Care Standards Act 2000(a) which would have applied before 1st August 2012 in respect of the conduct or practice in question is to continue to apply from that day in respect of that conduct or practice.

Approval of standards, courses, etc.

14.—(1) The required standard of proficiency in relevant social work described immediately before 1st August 2012 in rules made by the GSCC under section 63(6) of the Care Standards Act 2000 has effect from that day as if it had been established under article 5(2)(a) of the 2001 Order as being the standard of proficiency necessary to be admitted to Part 16 of the HCPC register.

(2) The following are to be treated from 1st August 2012 as an approved qualification for the purposes of article 12(1)(a) of the 2001 Order(b)—

- (a) the satisfaction of requirements as to training imposed before 1st August 2012 by virtue of section 58(2)(a)(iii) of the Care Standards Act 2000 (which relates to a condition for the grant of registration under that Act as a social worker);
- (b) the successful completion of a course in relevant social work which was immediately before 1st August 2012 one approved by the GSCC by virtue of section 63(1) of the Care Standards Act 2000 (approval of courses).

(3) Paragraph (2)(b) also applies to courses treated immediately before 1st August 2012 as approved by the GSCC by virtue of article 5(2)(a) of the Central Council for Education and Training in Social Work (Transfer Scheme) Order 2001(c) as it applies to courses approved by the GSCC by virtue of section 63(1) of the Care Standards Act 2000.

(4) An adaptation period or aptitude test required of an applicant by the GSCC before 1st August 2012 by virtue of section 64(A1) of the Care Standards Act 2000 (qualifications gained outside a Council's area where applicant is an exempt person under General Systems Regulations)(d) is to be treated from that day as being one required by virtue of article 12(1)(b) of the 2001 Order(e).

(5) The successful completion of training elsewhere than in England in relevant social work which was immediately before 1st August 2012 recognised by the GSCC as being to a standard sufficient for registration in the principal part of the GSCC register for the purposes of section 64(1) of the Care Standards Act 2000(f) (qualifications gained outside a Council's area) is to be treated from that day as—

- (a) a qualification as to which the HCPC is satisfied for the purposes of article 12(1)(c)(i) of the 2001 Order (if the training was outside the United Kingdom), or
- (b) training which the HCPC recognises for the purposes of article 12(1)(d)(i) of that Order(g) (if the training was in Wales, Scotland or Northern Ireland).

(6) The successful completion of additional training required before 1st August 2012 by the GSCC under section 64(1)(b)(ii) of the Care Standards Act 2000 (additional training) is to be treated from that day as training which satisfies the HCPC for the purposes of sub-paragraph (c)(ii) or (d)(ii) of article 12(1) of the 2001 Order.

(7) Further training which was immediately before 1st August 2012 required by virtue of section 65 of the Care Standards Act 2000(h) (post-registration training) is to be treated from that day as if it were—

(a) 2000 c.14. Section 62 was amended by the Mental Health Act 2007 (c. 12), section 20.
(b) Article 12 relates generally to approved qualifications and has been amended by S.I.2007/3101.
(c) S.I. 2001/2561. Article 5(2)(a) treats as approved by the GSCC and other bodies certain courses previously approved by Central Council for Education and Training in Social Work, until such time as the GSCC (etc.) determines that such courses are not recognised by it.
(d) Section 64(A1) was inserted by S.I. 2007/3101, which also made other amendments to section 64.
(e) Sub-paragraph (b) of article 12(1) was substituted by S.I. 2007/3101.
(f) Section 64(1) was amended by S.I. 2007/3101.
(g) Sub-paragraph (d) of article 12(1) was inserted by the 2012 Act, section 215(7).
(h) Section 65 was amended by S.I. 2007/3101.

- (a) continuing professional development specified by the HCPC in standards under article 19(1) of the 2001 Order, unless the training related to an approved mental health professional, or
- (b) a course approved by the HCPC by virtue of section 114ZA(1) of the Mental Health Act 1983(a) (approval of courses—England), in the case of an approved mental health professional.

(8) Nothing in this article prevents the exercise by the HCPC from 1st August 2012 of its powers under the 2001 Order in relation to any standard, qualification, course, training or continuing professional development mentioned in this article.

Investigation of complaints by Parliamentary Commissioner for Administration

15.—(1) A complaint made to the Parliamentary Commissioner for Administration in relation to the GSCC before 1st August 2012 under the Parliamentary Commissioner Act 1967(b) may continue to be investigated by the Commissioner notwithstanding the abolition of the GSCC, but as if the complaint had been made in relation to the Department of Health.

(2) Where the Parliamentary Commissioner for Administration conducts an investigation under the terms set out in paragraph (1), the Commissioner must send a report of the result of that investigation to the Secretary of State and the HCPC.

Council for Healthcare Regulatory Excellence

16.—(1) Subject to paragraph (2), with effect from 1st August 2012 the profession of social worker in England is to be taken for the purposes of regulation 2(2)(j)(iii) of the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008(c) not to be a profession regulated by the 2001 Order, despite the coming into force of section 213 of the Health and Social Care Act 2012 (which provides for the regulation by the HCPC of the profession of social worker in England).

(2) Paragraph (1)—

- (a) applies only in relation to a chair or non-executive member of the Council for Healthcare Regulatory Excellence who was in office as such on 1st August 2012;
- (b) applies in relation to the term of office of such a person which was current on 1st August 2012, and also (if such a person is re-appointed on the expiry of that term of office) to the immediately succeeding term of office.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

The General Social Care Council (“GSCC”), which regulates the profession of social worker in England, is to be abolished on 1st October 2012 by section 212(1) of the Health and Social Care Act 2012. Before that, on 1st August 2012, the register of social workers maintained by the GSCC is to be transferred to a body to be re-named on that date the Health and Care Professions Council (“HCPC”) (before that it is known as the Health Professions Council).

This Order makes provision for the transfer to the HCPC of the GSCC’s register of social workers and certain other matters arising out of that and from the abolition of the GSCC.

(a) 1983 c.20. Section 114ZA is inserted by section 217(2) of the 2012 Act.
 (b) 1967 c.13.
 (c) S.I. 2008/2927. Regulation 2(2)(j)(iii) provides for a person who is or has been a member of a profession regulated by the 2001 Order to be disqualified for appointment as the chair or a non-executive member of the Council for Healthcare Regulatory Excellence. Regulation 2(2)(j)(iii) is substituted by paragraph 57 of the Schedule to the Health and Social Care Act 2012 (Consequential Provision—Social Workers) Order 2012 (S.I. 2012/1479).

Article 3 of the Order provides in general terms for anything done by, to or in relation to the GSCC so far as relating to the statutory regulation of social workers in England is, where appropriate, to be treated from 1st August 2012 as done by, to or in relation to the HCPC. Article 3 also requires the HCPC and the GSCC to cooperate in connection with setting up the new arrangements.

Article 4 provides for the transfer on 1st August of the GSCC register to the HCPC. Paragraph (5) makes it possible for an allegation that an entry in the GSCC register was fraudulently procured or incorrectly made to continue to be investigated by the HCPC.

Articles 5, 6, 7 and 8 deal with four special cases. If a social worker's registration in the GSCC register was subject to conditions, article 5 provides for those conditions to be carried over to the HCPC register when the social worker becomes registered with the HCPC. Article 6 makes corresponding provision in relation to a social worker with a record of an admonishment, and article 7 provides for a social worker suspended by the GSCC to continue to be suspended when registered with the HCPC. Article 8 relates to a social worker subject to a barring order, preventing the social worker from applying for restoration to the register, and converts the GSCC's barring order into the HCPC's equivalent. In each case the HCPC will then be able to deal with the matter under its own procedures.

Article 9 provides for proceedings pending before one of the GSCC's disciplinary committees, or outstanding allegations against a social worker which have yet to be investigated, to be dealt with from 1st August 2012 as the HCPC considers just.

Articles 10 and 11 deal with outstanding applications to join the register, for renewal of registration or for restoration to the register. From 1st August these applications are to be dealt with as if they were applications to the HCPC. A social worker who was struck off before 1st August 2012 may apply to the HCPC for restoration to the HCPC's register. Any pending proceedings are to be concluded as the HCPC considers just.

Article 12 preserves the right of appeal against a pre-1st August 2012 GSCC decision. The appeal lies to the Tribunal. *Article 13* provides that any question as to a social worker's conduct or practice before 1st August 2012 is to be judged from that date by the same standards as applied before.

Article 14 converts standards, qualifications, courses, training and continuing professional development approved before 1st August 2012 by the GSCC into the equivalent for the HCPC. The HCPC is empowered after that to make its own judgments about any approval inherited from the GSCC.

Article 15 provides for complaints about the GSCC made to the Ombudsman before 1st October 2012 to continue to be investigated, despite the abolition of the GSCC on that date. Any such complaint is to be treated as if it were against the Department of Health.

Article 16 provides that any person who is the chair or a non-executive member of the Council for Healthcare Regulatory Excellence and who is also a social worker may continue in office or be re-appointed for one more term after the register of social workers transfers to the HCPC. Without this provision, a social worker in such a position would be disqualified from membership of the Council.

An impact assessment has not been produced for this instrument as the Order itself has no impact on the private sector or civil society organisations. A full impact assessment has been produced in relation to the provisions of the Health and Social Care Act 2012, and a copy is available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583

STATUTORY INSTRUMENTS

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