



# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

VALID FROM 03/04/2017

## PART 4

### SOCIAL CARE WORKERS

*Meaning of “social care worker” etc.*

#### **79** Meaning of “social care worker” etc.

- (1) In Parts 3 to 8 of this Act “social care worker” means a person who—
  - (a) engages in relevant social work (referred to in those Parts as a “social worker”);
  - (b) manages a place at or from which a regulated service is provided [<sup>F1</sup>(referred to in those Parts as a “social care manager”)];
  - (c) in the course of his or her employment with a service provider, provides care and support to any person in Wales in connection with a regulated service provided by that provider;
  - (d) under a contract for services, provides care and support to any person in Wales in connection with a regulated service provided by a service provider.
- (2) The Welsh Ministers may by regulations—
  - (a) except persons of a specified description from the definition of social care worker in subsection (1);
  - (b) provide that persons of any of the descriptions in subsection (3), or categories of person falling within any of those descriptions, are to be treated as social care workers.
- (3) The descriptions of person are—

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- (a) a person designated under Chapter 2 of Part 1 (registration etc. of service providers) as a responsible individual in respect of a place at, from or in relation to which a regulated service is provided;
  - (b) a person engaged in work for the purposes of a local authority's social services functions (within the meaning of the 2014 Act), or in the provision of services similar to services which may or must be provided by local authorities in the exercise of those functions;
  - (c) a person providing care and support which would, but for paragraph 8(2)(a) of Schedule 1, constitute the provision of a domiciliary support service;
  - (d) a person registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) as—
    - (i) a child minder, or
    - (ii) a provider of day care for children;
  - (e) a person who manages, or is employed in, an undertaking carrying on an employment business (within the meaning of section 13 of the Employment Agencies Act 1973 (c.35)) which supplies persons to provide care and support to any person in Wales;
  - (f) a person who manages, or is employed in, an undertaking carrying on an employment agency (within the meaning of the section mentioned in paragraph (e)) which provides services for the purpose of supplying persons to provide care and support to any person in Wales;
  - (g) a person undertaking a course approved by SCW under section 114 (courses for persons who are or wish to become social care workers);
  - (h) an inspector carrying out inspections of regulated services on behalf of the Welsh Ministers under Chapter 3 of Part 1 of this Act (information and inspections);
  - (i) an inspector carrying out inspections under section 161 of the 2014 Act (inspections in connection with local authority social services functions);
  - (j) a person employed in connection with the discharge of the functions of the Welsh Ministers under section 80 of the Children Act 1989 (c.41) (inspection of children's homes etc.);
  - (k) staff of the Welsh Government who inspect premises under—
    - (i) section 87 of the Children Act 1989 (welfare of children accommodated in independent schools and colleges), or
    - (ii) section 40 of the Children and Families (Wales) Measure 2010 (inspection of child minding and day care in Wales);
  - (l) a person who manages staff mentioned in paragraph (j) or (k).
- (4) For the purposes of Parts 3 to 8 of this Act “relevant social work” means social work which is required in connection with any health, education or social services provided in Wales.
- (5) See section 2 for the meaning of “regulated service” and section 3 for the meaning of “service provider” and “care and support”.

#### **Textual Amendments**

- F1** Words in s. 79(1)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **124(2)** (with reg. 155)

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### Commencement Information

**I1** S. 79 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with **arts. 3, 4, Sch.**)

### *The register*

## 80 The register

- (1) SCW must keep a register of—
- (a) social workers,
  - (b) social care workers of any other description specified by the Welsh Ministers by regulations,<sup>F2</sup>...
  - (c) visiting social workers from relevant European States (see section 90) [<sup>F3</sup>, and]
  - [<sup>F4</sup>(d) visiting social care managers from relevant European States (see section 90A).]
- (2) There must be a separate part of the register—
- (a) for social workers;
  - (b) for each description of social care worker specified in regulations made under subsection (1)(b);
  - (c) for visiting social workers from relevant European States.
  - [<sup>F5</sup>(d) for visiting social care managers from relevant European States.]
- (3) For the purposes of Parts 3 to 8 of this Act—
- (a) the part mentioned in subsection (2)(a) is the “social worker part” of the register;
  - (b) a part mentioned in subsection (2)(b) is an “added part” of the register;
  - (c) the part mentioned in subsection (2)(c) is the “visiting European [<sup>F6</sup>social worker] part” of the register.
  - [<sup>F7</sup>(d) the part mentioned in subsection (2)(d) is the “visiting European social care manager part” of the register.]

### Textual Amendments

- F2** Word in s. 80(1)(b) omitted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(2)(a)** (with **reg. 155**)
- F3** Word in s. 80(1)(c) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(2)(b)** (with **reg. 155**)
- F4** S. 80(1)(d) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(2)(c)** (with **reg. 155**)
- F5** S. 80(2)(d) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(3)** (with **reg. 155**)
- F6** Words in s. 80(3)(c) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(4)(a)** (with **reg. 155**)
- F7** S. 80(3)(d) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), **regs. 1, 126(4)(b)** (with **reg. 155**)

### Commencement Information

**I2** S. 80 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with **arts. 3, 4, Sch.**)

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## **81 Duty to appoint a registrar**

- (1) SCW must appoint a registrar.
- (2) A person appointed as registrar holds office on such terms and conditions as SCW thinks appropriate; but SCW must consult the Welsh Ministers before determining any terms and conditions about the levels of remuneration, pensions, allowances and expenses payable to, or in respect of, such a person.
- (3) See paragraph 13 of Schedule 2 for further provision about SCW's staff.

### **Commencement Information**

**I3** S. 81 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4, Sch.](#))

*Registration in the social worker part or an added part of the register*

## **82 Application for registration**

- (1) An application for registration in the social worker part or an added part of the register is to be made to the registrar.
- (2) An application under subsection (1) must specify each part of the register in which registration is sought.

### **Commencement Information**

**I4** S. 82 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4, Sch.](#))

## **83 Registration**

- (1) The registrar must grant an application made under section 82 if satisfied that—
  - (a) the application is made in the form and manner specified in rules made by SCW,
  - (b) the applicant has paid the fee (if any) specified in rules made by SCW under section 74, and
  - (c) the applicant meets the registration requirements.
- (2) The registration requirements are that—
  - (a) the person is appropriately qualified (see section 84),
  - (b) the person's fitness to practise is not impaired on one or more of the grounds in section 117(1), and
  - (c) the person intends to practise the work of persons registered in the part of the register to which the application relates.
- (3) For the purposes of subsection (2)(c) SCW may by rules specify—
  - (a) activities that are to be regarded as practising the work of persons registered in a part of the register;
  - (b) the criteria to be applied by the registrar for determining whether a person intends to practise.

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#### Commencement Information

**I5** S. 83 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

*“Appropriately qualified”*

#### 84 “Appropriately qualified”

For the purposes of section 83 a person is appropriately qualified if—

- (a) in the case of an application for registration as a social worker, the applicant—
  - (i) has successfully completed a course approved by SCW under section 114 for persons wishing to become social workers,
  - (ii) satisfies the requirements of section 85 (qualifications gained outside of Wales [<sup>F8</sup>– social workers] ), or
  - (iii) satisfies any requirements as to training which SCW may by rules impose;
- [<sup>F9</sup>(aa) in the case of an application for registration as a social care manager, the applicant—
  - (i) has successfully completed a course approved by SCW under section 114 for persons wishing to become social care managers,
  - (ii) satisfies the requirements of section 85A (qualifications gained outside Wales – social care managers), or
  - (iii) satisfies any requirements as to training which SCW may by rules impose in relation to social care managers;]
- (b) in the case of an applicant for registration as a social care worker of any other description, the applicant—
  - (i) has successfully completed a course approved by SCW under section 114 for persons wishing to become a social care worker of that description, or
  - (ii) satisfies any requirements as to training which SCW may by rules impose in relation to social care workers of that description.

#### Textual Amendments

- F8** Words in s. 84(a)(ii) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), [regs. 1, 128\(2\)](#) (with [reg. 155](#))
- F9** S. 84(aa) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), [regs. 1, 128\(3\)](#) (with [reg. 155](#))

#### Commencement Information

**I6** S. 84 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

#### 85 Qualifications gained outside Wales [<sup>F10</sup>– social workers]

- (1) An applicant for registration in the social worker part of the register satisfies the requirements of this section if the applicant is an exempt person who by virtue of Part 3 of the General Systems Regulations is permitted to pursue the profession of

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social worker in the United Kingdom (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the applicant may be required to undertake pursuant to that Part of those Regulations).

- (2) An applicant for registration in the social worker part of the register satisfies the requirements of this section if—
- (a) the applicant has, elsewhere than in Wales, undergone training in social work, and
  - (b) either—
    - (i) that training is recognised by SCW as being to a standard sufficient for such registration, or
    - (ii) it is not so recognised, but the applicant has undergone such additional training as SCW may require (whether undergone in Wales or elsewhere).

#### Textual Amendments

**F10** Words in s. 85 heading inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **130(2)** (with reg. 155)

#### Commencement Information

**I7** S. 85 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with arts. 3, 4, Sch.)

### [<sup>F11</sup>85A. Qualifications gained outside Wales – social care managers

An applicant for registration as a social care manager in an added part of the register satisfies the requirements of this section if the applicant is an exempt person who by virtue of Part 3 of the General Systems Regulations is permitted to pursue the profession of social care manager in the United Kingdom (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the applicant may be required to undertake pursuant to that Part of those Regulations).]

#### Textual Amendments

**F11** S. 85A inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **132** (with reg. 155)

#### Commencement Information

**I8** S. 85A in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with arts. 3, 4, Sch.)

*Renewal of registration in the social worker part or an added part of the register*

## 86 Renewal of registration

- (1) SCW may by rules—
- (a) provide that an entry in the social worker part or in an added part of the register has effect only for a period specified in the rules, and
  - (b) make provision for the renewal of such an entry in the register.

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- (2) Where rules have been made under subsection (1), the registrar must, on the application of the person to whom the entry relates, grant an application for renewal if—
  - (a) the application is made in the form and manner specified by rules made by SCW,
  - (b) the applicant has paid the fee (if any) specified in rules made by SCW under section 74, and
  - (c) the registrar is satisfied that the applicant meets the renewal requirements.
- (3) The renewal requirements are that—
  - (a) the applicant has met any requirements to undertake further training imposed by rules made under section 113 (continuing professional development), and
  - (b) the applicant intends to practise the work to which his or her application for renewal relates.
- (4) Rules made under section 83(3) (criteria for registrar's determinations about an applicant's intention to practise) may include provision about a registrar's determination under subsection (3)(b) of this section.

#### Commencement Information

**I9** S. 86 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

## 87 Lapse of registration

- (1) A person's registration in the social worker part or an added part of the register lapses at the end of the period specified by SCW in rules under section 86(1)(a) if the person has not renewed his or her registration in accordance with rules made by SCW under section 86(1)(b).
- (2) But a person's registration does not lapse under subsection (1) if subsection (3) applies to the person.
- (3) This subsection applies to a person—
  - (a) who is the subject of any proceedings under Part 6, including preliminary consideration or investigation under Chapter 2 of that Part, which relate to the person's fitness to practise the work to which his or her registration relates (“the relevant work”);
  - (b) in respect of whom a decision has been made relating to the relevant work which may be appealed against under section 158 (appeals against decisions of fitness to practise panel);
  - (c) in respect of whom a conditional registration order relating to the relevant work has effect under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c);
  - (d) in respect of whom a suspension order relating to the relevant work has effect under section 138(8), 152(8)(d), 153(9)(c), 154(6), (7) or (10) or 155(9);
  - (e) in respect of whom an interim order relating to the relevant work has effect under section 144 or 147.
- (4) Subsection (2) ceases to apply to a person described in subsection (3)(b)—

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- (a) at the end of the period specified in section 158(3) during which an appeal may be made, or
  - (b) where an appeal is made before the end of that period, at the determination of the appeal.
- (5) A person whose registration in the social worker part or an added part of the register would have lapsed under subsection (1) but for subsection (2) is to be treated as not being registered in the relevant part of the register for all purposes other than those mentioned in subsection (6), despite the fact that the person's name continues to appear in it.
- (6) The person is to be treated as registered for the purposes of any proceedings under Part 6 (including preliminary consideration or investigation under Chapter 2) which relate to the person's fitness to practise the relevant work.

#### **Commencement Information**

**I10** S. 87 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

### *Dealing with applications for registration or renewal*

#### **88 Rules about applications for registration or renewal**

- (1) SCW must by rules make provision about how the registrar is to determine under section 83 whether a person's fitness to practise is impaired on any of the grounds in section 117(1).
- (2) Rules under subsection (1) may, in particular—
- (a) require a person making an application for registration to provide information for the purpose of the registrar's determination;
  - (b) provide that the information is to be provided to the registrar by means of a written declaration by the person making the application.
- (3) SCW must also by rules make provision about the procedure to be followed by the registrar in dealing with—
- (a) applications for registration in a part of the register, and
  - (b) where rules under section 86 provide for the renewal of an entry in the register, applications for renewal.
- (4) Rules under subsection (3) may, in particular, make provision about—
- (a) the period within which an application for registration or renewal of registration must be acknowledged;
  - (b) the information that must be provided by the registrar in response to an application;
  - (c) the period within which a notice under section 89 will be given;
  - (d) the information in support of an application that may be required by the registrar and the procedure to be followed by the registrar in requesting that information;
  - (e) circumstances in which the registrar may determine that an application has not been successful on the grounds that the person who made the application



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- has failed to provide information required by the registrar within a period specified by the registrar;
- (f) circumstances in which a fee for registration and, if relevant, renewal will be charged and circumstances in which such a fee may be reduced or waived.

#### Commencement Information

**I11** S. 88 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

### 89 Notice of decisions in respect of registration or renewal

- (1) Subsection (2) applies where the registrar decides to—
- (a) grant an application for registration, or
- (b) grant an application for renewal of registration.
- (2) The registrar must give the person to whom the application relates notice of the decision.
- (3) Subsection (4) applies where the registrar decides to—
- (a) refuse an application for registration, or
- (b) refuse an application for renewal of a person's registration.
- (4) The registrar must give the person to whom the decision relates notice—
- (a) of the decision,
- (b) of the reasons for the decision, and
- (c) of the right of appeal under section 101.

#### Commencement Information

**I12** S. 89 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

### *Visiting social workers*

### 90 Visiting social workers from relevant European States

- (1) This section applies to an exempt person (“V”) who is lawfully established as a social worker in a relevant European State other than the United Kingdom.
- (2) Subsection (3) applies if V has the benefit of regulation [<sup>F12</sup>12] of the General Systems Regulations in connection with the provision by V of services as a social worker in the United Kingdom on a temporary and occasional basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of services as a social worker).
- (3) V is entitled to be registered in the visiting [<sup>F13</sup>European social worker part] of the register, and the registrar must give effect to the entitlement.
- (4) If V is entitled under subsection (3) to be registered in the visiting [<sup>F13</sup>European social worker part] of the register but is not registered in that part, V is to be treated as having been registered in that part.

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- (5) V's entitlement under subsection (3) ends if V ceases, whether as a result of the operation of regulation [F1424] of the General Systems Regulations or otherwise, to have the benefit of regulation [F1512] of those Regulations in connection with the provision by V of services as a social worker in the United Kingdom on a temporary and occasional basis.
- (6) If V is registered in the visiting [F13European social worker part] of the register, the registrar may remove V from that part if V's entitlement under subsection (3) ends by reason of the operation of subsection (5).
- (7) Subsections (1) to (6) do not prevent sections 92 to 94 of this Part or Part 6 (fitness to practise) from applying to persons registered in the visiting [F13European social worker part] of the register.
- (8) For the purposes of Parts 3 to 8 of this Act—
- “exempt person” (“*person esempt*”) means—
- a national of a relevant European State other than the United Kingdom,
  - a national of the United Kingdom who is seeking to engage in relevant social work in Wales [F16, or to engage in work as a social care manager in Wales,] by virtue of an enforceable EU right, or
  - a person who is not a national of a relevant European State but who is, by virtue of an enforceable EU right, entitled to be treated, as regards the right to engage in relevant social work in Wales, [F17 or as regards the right to engage in work as a social care manager in Wales,] no less favourably than a national of a relevant European State;
- [F18“the General Systems Regulations” (“*y Rheoliadau Systemau Cyffredinol*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059);]
- “national” (“*gwladolyn*”), in relation to a relevant European State, means the same as in the 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 EU provisions relating to the free movement of persons and services;
- “relevant European State” (“*Gwladwriaeth Ewropeaidd berthnasol*”) means an EEA State or Switzerland.

#### Textual Amendments

- F12** Word in s. 90(2) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(3)** (with reg. 155)
- F13** Words in s. 90 substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(2)** (with reg. 155)
- F14** Word in s. 90(5) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(4)(a)** (with reg. 155)
- F15** Word in s. 90(5) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(4)(b)** (with reg. 155)
- F16** Words in s. 90(8) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(5)(a)(i)** (with reg. 155)
- F17** Words in s. 90(8) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(5)(a)(ii)** (with reg. 155)
- F18** Words in s. 90(8) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **134(5)(b)** (with reg. 155)

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#### Commencement Information

**I13** S. 90 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

#### **[<sup>F19</sup>90A. Visiting social care managers from relevant European States**

- (1) This section applies to an exempt person (“X”) who is lawfully established as a social care manager in a relevant European State other than the United Kingdom.
- (2) Subsection (3) applies if X has the benefit of regulation 12 of the General Systems Regulations in connection with the provision by X of services as a social care manager in the United Kingdom on a temporary and occasional basis (X having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by X of services as a social care manager).
- (3) X is entitled to be registered in the visiting European social care manager part of the register, and the registrar must give effect to the entitlement.
- (4) If X is entitled under subsection (3) to be registered in the visiting European social care manager part of the register but is not registered in that part, X is to be treated as having been registered in that part.
- (5) X’s entitlement under subsection (3) ends if X ceases, whether as a result of the operation of regulation 24 of the General Systems Regulations or otherwise, to have the benefit of regulation 12 of those Regulations in connection with the provision by X of services as a social care manager in the United Kingdom on a temporary and occasional basis.
- (6) If X is registered in the visiting European social care manager part of the register, the registrar may remove X from that part if X’s entitlement under subsection (3) ends by reason of the operation of subsection (5).
- (7) Subsections (1) to (6) do not prevent sections 92 to 94 or Part 6 (social care workers: fitness to practice) from applying to persons registered in the visiting European social care manager part of the register.]

#### Textual Amendments

**F19** S. 90A inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), [regs. 1, 136](#) (with [reg. 155](#))

#### Commencement Information

**I14** S. 90A in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

*Information to be contained on the register*

#### **91 Content of the register**

- (1) An entry in the register in respect of a person must show the following information—
  - (a) the date on which the person was entered onto the register;
  - (b) the person's qualifications to practise work of the kind to which his or her registration relates;

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*Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 4. (See end of Document for details)*

- (c) such other qualifications, knowledge or experience relevant to the person's registration as may be prescribed;
  - (d) such information relating to the person's fitness to practise as may be prescribed.
- (2) SCW may by rules require or authorise the registrar—
- (a) to include in an entry in the register information not required by virtue of subsection (1);
  - (b) to remove from an entry in the register information of a kind specified in the rules.
- (3) Rules under subsection (2) may not require or authorise the registrar to record information relating to a person's physical or mental health.

**Commencement Information**

**I15** S. 91 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4, Sch.](#))

*Removal of entries from the register*

**92 Removal by agreement**

- (1) SCW must by rules make provision for the removal of an entry from a part of the register on the application of the person to whom the application relates.
- (2) Rules under this section must include provision about—
- (a) the circumstances in which a person may make an application for an entry to be removed from a part of the register;
  - (b) the manner in which an application may be made;
  - (c) the criteria by reference to which a decision to grant or refuse an application may be made;
  - (d) the procedure for giving notice of a decision in respect of an application.
- (3) The rules may authorise or require SCW to refer an application under this section to a fitness to practise panel for determination.

**Commencement Information**

**I16** S. 92 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4, Sch.](#))

**93 Death of a registered person**

- (1) Where a person registered in a part of the register has died, the registrar must within the specified period remove the entry relating to that person from the register.
- (2) In subsection (1) “specified” means specified by rules made by SCW.

**Commencement Information**

**I17** S. 93 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4, Sch.](#))

**Status:** Point in time view as at 19/01/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 4. (See end of Document for details)

## 94 Entries based on false or misleading information

- (1) If the registrar is satisfied that an entry in a part of the register, or an annotation to an entry, has been included on the register on the basis of false or misleading information, the registrar may remove the entry or annotation from the register.
- (2) Subsection (3) applies where the registrar thinks—
  - (a) that an entry, or an annotation to an entry, in the register may have been included on the register on the basis of false or misleading information,
  - (b) the registered person's fitness to practise may be impaired, and
  - (c) an interim order may be necessary for the protection of the public.
- (3) The registrar may refer the matter to an interim orders panel.
- (4) Where the registrar decides to remove an entry in respect of a person from the register under this section the registrar must give notice to the person of—
  - (a) the decision,
  - (b) the reasons for the decision, and
  - (c) the right of appeal conferred by section 101.

### Commencement Information

**118** S. 94 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

### *Restoring an entry to the register*

## 95 Duty to restore a register entry

If the registrar is satisfied that an entry, or an annotation to an entry, has been removed from the register in error, the registrar must restore that entry or annotation to the register.

### Commencement Information

**119** S. 95 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

## 96 Power to restore a register entry

- (1) This section applies where an entry is removed from the register under—
  - (a) section 92 (removal by agreement);
  - (b) section 94 (entries based on false or misleading information).
- (2) The registrar may, on the application of the person to whom the entry related, restore the entry to the register.
- (3) The registrar may grant an application for restoration under this section only if satisfied that the applicant meets the registration requirements specified in section 83(2).
- (4) The registrar must give notice to the applicant as to whether his or her application has been granted.

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- (5) If the application for restoration is not granted the registrar must also give the applicant notice of—
- (a) the reasons for the decision, and
  - (b) any right of appeal in connection with the decision.

**Commencement Information**

**I20** S. 96 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4](#), [Sch.](#))

**97 Restoration following fitness to practise proceedings**

- (1) This section applies where a fitness to practise panel has made a removal order under—
- (a) section 138(9) (disposal following a finding of impairment);
  - (b) section 152(8)(e) (decisions following review of undertakings);
  - (c) section 153(9)(d) (decisions on review of conditional registration orders);
  - (d) section 154(8)(d) (decisions on review of suspensions orders).
- (2) Subject to subsection (3), the person to whom the order relates may make an application to the registrar for the entry in respect of the person to be restored to the register (but see section 98(4) for provision about circumstances in which a registration appeals panel may prevent a person making such an application).
- (3) The person to whom the order relates may not—
- (a) make an application for restoration before the expiry of the period of 5 years beginning with the date on which the order was made, or
  - (b) make more than one application for restoration to the register within a period of 12 months.
- (4) The registrar must refer an application made under subsection (2) to a registration appeals panel for determination (see section 98).
- (5) Where a registration appeals panel has given a direction under section 98(4) (suspension of the right to apply for restoration)—
- (a) the person in respect of whom the direction is given may make an application to the registrar for a review of the direction, and
  - (b) the registrar must refer the application to a registration appeals panel for determination.
- (6) A person may not make an application under subsection (5)(a)—
- (a) before the expiry of the period of 3 years beginning with the date on which the direction is given, or
  - (b) within the period of 3 years beginning with the date of a previous application for review.

**Commencement Information**

**I21** S. 97 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4](#), [Sch.](#))

**Status:** Point in time view as at 19/01/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 4. (See end of Document for details)

## 98 Restoration proceedings

- (1) Where the registrar has referred an application for restoration of a person's ("P") entry in a part of the register to a registration appeals panel under section 97(4), the panel must—
  - (a) determine that the entry in respect of P is to be restored to the relevant part of the register, or
  - (b) determine that the entry in respect of P must not be restored to that part of the register.
- (2) The registrar must give P notice of the panel's determination.
- (3) If the panel makes a determination under subsection (1)(b) the registrar must also give notice to P of—
  - (a) its reasons for making the determination, and
  - (b) any right of appeal in connection with the determination.
- (4) If—
  - (a) P has made two or more applications under section 97(2) for restoration to the same part of the register, and
  - (b) a registration appeals panel, on the second or any subsequent application, refuses restoration to that part of the register under subsection (1)(b),the panel may direct that P may not make further applications under section 97(2) for restoration to that part of the register.
- (5) If the registration appeals panel gives a direction under subsection (4), the registrar must give notice to P of—
  - (a) that direction, and
  - (b) P's right to appeal under section 104.
- (6) If a registration appeals panel makes a determination under subsection (1)(a) the panel must direct the registrar to restore P's entry to the register.

### Commencement Information

**I22** S. 98 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

## 99 Review of suspension of right to apply for restoration

- (1) Subsection (2) applies where—
  - (a) a registration appeals panel has given a direction under section 98(4) in respect of P (suspension of the right to apply for restoration), and
  - (b) a referral for the review of the direction has been made by the registrar under section 97(5)(b).
- (2) A registration appeals panel must review the direction, and may confirm or revoke it.
- (3) The registrar must give P notice of the panel's decision on review.
- (4) Where the panel confirms the direction, the registrar must also give P notice of—
  - (a) the panel's reasons for confirming the direction, and
  - (b) the right of appeal under section 104.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 4. (See end of Document for details)*

#### Commencement Information

**I23** S. 99 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

### 100 Rules about applications under section 96 and 97

- (1) SCW must by rules make provision about the procedure in connection with an application for—
- (a) restoration under section 96 or 97;
  - (b) review of a direction given under section 98(4) (suspension of a right to apply for restoration).
- (2) The rules may, in particular, make provision about—
- (a) the form and manner in which an application may be made;
  - (b) the information to be provided in support of an application;
  - (c) the period within which an application may be made;
  - (d) the period within which any notice required to be given by the registrar must be provided;
  - (e) circumstances in which an application for restoration under section 96 may be referred to a registration appeals panel for determination;
  - (f) the criteria by reference to which a registration appeals panel is to determine whether or not an entry is to be restored or a direction is to be confirmed or revoked;
  - (g) circumstances in which a fee will be charged for making an application to restore an entry to the register and circumstances in which such a fee may be reduced or waived.

#### Commencement Information

**I24** S. 100 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

#### *Appeals to a registration appeals panel*

### 101 Appeals against decisions of the registrar

- (1) A person may appeal to a registration appeals panel against a decision by the registrar—
- (a) under section 83 not to grant the person's application for registration;
  - (b) under section 86 not to grant the person's application for renewal of his or her registration;
  - (c) to remove an entry in respect of the person from the register under section 94;
  - (d) under section 96 not to grant the person's application for restoration of his or her entry to the register.
- (2) But a person may not appeal against a decision mentioned in subsection (1)(a), (b) or (d) if the decision was taken by reason only that the person failed to—
- (a) pay any fee required by SCW in connection with the application,
  - (b) make the application in the form and manner required by SCW, or



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- (c) provide documents or information in support of the application as required by the registrar.

**Commencement Information**

**I25** S. 101 in force at 3.4.2017 by S.I. 2017/309, art. 2(c) (with arts. 3, 4, Sch.)

**102 Appeals to the registration appeals panel: procedure**

- (1) An appeal under section 101 must be made by giving notice of appeal to the registrar.
- (2) The notice must be given before the end of the period of 28 days beginning with the relevant day.
- (3) But the registrar may allow an appeal to be made after the end of the period mentioned in subsection (2) if satisfied that there are good reasons for a failure to give notice before the end of that period (and for any delay in giving notice out of time).
- (4) In subsection (2) “relevant day” means—
- (a) in the case of a decision mentioned in section 101(1)(a) or (b), the day on which notice of the decision is given under section 89,
  - (b) in the case of a decision mentioned in section 101(1)(c), the day on which notice of the decision is given under section 94, and
  - (c) in the case of a decision mentioned in section 101(1)(d), the day on which notice of the decision is given under section 96.

**Commencement Information**

**I26** S. 102 in force at 3.4.2017 by S.I. 2017/309, art. 2(c) (with arts. 3, 4, Sch.)

**103 Decisions on appeal to the registration appeals panel**

On an appeal under section 101 a registration appeals panel may—

- (a) confirm the registrar's decision,
- (b) substitute for the decision appealed against another decision of a kind that the registrar could have made, or
- (c) remit the case to the registrar to dispose of in accordance with the directions of the panel.

**Commencement Information**

**I27** S. 103 in force at 3.4.2017 by S.I. 2017/309, art. 2(c) (with arts. 3, 4, Sch.)

*Appeals to the tribunal*

**104 Appeals against decisions of a registration appeals panel**

- (1) This section applies where a registration appeals panel—

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- (a) makes a determination under section 98(1)(b) that an entry in the register should not be restored for a reason that relates to the person's fitness to practise;
  - (b) directs under section 98(4) that a person may not make further applications for restoration to a part of the register, or confirms such a direction under section 99(2);
  - (c) makes a determination in respect of an application for restoration referred to it by virtue of rules made under section 100(2)(e) for a reason that relates to the person's fitness to practice;
  - (d) makes a determination under section 103 in respect of an appeal against a decision of the registrar.
- (2) The person to whom the panel's decision relates may appeal against it to the tribunal.
- (3) An appeal under this section must be brought before the end of the period of 28 days beginning with the date of the panel's decision.
- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may—
- (a) confirm the decision,
  - (b) substitute for the panel's decision another decision which the panel could have made, or
  - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.

#### Commencement Information

**I28** S. 104 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

### 105 Other appeals: decisions made under the General Systems Regulations

- (1) This section applies where SCW has made a decision—
- (a) under regulation [<sup>F20</sup>13(2)] of the General Systems Regulations as to whether a person is providing services as a social worker in the United Kingdom [<sup>F21</sup>or as a social care manager in the United Kingdom] on a temporary and occasional basis, <sup>F22</sup>...
  - (b) under Part 3 of those Regulations in respect of an aptitude test, or period of adaptation, in connection with a person's becoming permitted, by virtue of that Part, to have access to, and to pursue, the profession of social worker in the United Kingdom [<sup>F23</sup>or the profession of social care manager in the United Kingdom][<sup>F24</sup>, or]
  - [<sup>F25</sup>(c) under regulation 67 of those Regulations to send an alert about a person.]
- (2) The person to whom the decision relates may appeal against it to the tribunal.
- (3) An appeal under subsection (2) must be brought before the end of the period of 28 days beginning with the date the person was notified by SCW of the decision.

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- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of the period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may—
- (a) confirm the decision,
  - (b) substitute for the decision appealed against another decision that SCW could have made [<sup>F26</sup>or, in the case of an appeal from a decision falling within subsection (1)(c), direct that the alert be withdrawn or amended], or
  - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.

#### Textual Amendments

- F20** Word in s. 105(1)(a) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(2)(a)** (with reg. 155)
- F21** Words in s. 105(1)(a) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(2)(b)** (with reg. 155)
- F22** Word in s. 105(1)(a) omitted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(2)(c)** (with reg. 155)
- F23** Words in s. 105(1)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(3)(a)** (with reg. 155)
- F24** Word in s. 105(1)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(3)(b)** (with reg. 155)
- F25** S. 105(1)(c) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(4)** (with reg. 155)
- F26** Words in s. 105(5)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **138(5)** (with reg. 155)

#### Commencement Information

- I29** S. 105 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with arts. 3, 4, Sch.)

*Notifying the registrar of changes to information etc.*

### 106 Duty to notify the registrar of changes to registration information

- (1) SCW must by rules require a person registered in a part of the register to give notice to the registrar of changes to the information recorded in the register in respect of that person.
- (2) Rules under subsection (1) may, in particular, include provision about—
- (a) the changes to be notified,
  - (b) the manner in which and the time within which a notice must be given, and
  - (c) the consequences of failing to comply with any requirements contained in the rules (which may include referral of the matter to a fitness to practise panel).

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#### Commencement Information

**I30** S. 106 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

### 107 Requests for information relating to fitness to practise

- (1) SCW may by rules authorise the registrar to make requests for information from persons registered in any part of the register which relates to their fitness to practise.
- (2) The rules may, in particular, make provision about—
  - (a) the manner and form in which a request is to be made;
  - (b) the frequency of requests;
  - (c) the information which may and may not be requested by the registrar;
  - (d) the consequences of a failure to comply with a request (which may include referral of the matter to a fitness to practise panel).

#### Commencement Information

**I31** S. 107 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

*Duty to publish the register etc.*

### 108 Publication etc. of the register

- (1) SCW must publish the register in such manner, and at such times, as it thinks appropriate.
- (2) SCW must comply with any reasonable request made by a person for a copy of, or an extract from, the register.

#### Commencement Information

**I32** S. 108 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

### 109 Publication of certain registration appeal panel decisions

- (1) SCW must publish the following decisions—
  - (a) a decision of a registration appeals panel under section 98(1)(b) not to restore a person to the register;
  - (b) a decision of a registration appeals panel under section 98(4) that a person may not make further applications for restoration to the register.
- (2) But SCW must not publish any information about a person's physical or mental health.

#### Commencement Information

**I33** S. 109 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4, Sch.](#))

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## **110 List of persons removed from the register**

- (1) SCW must keep a list of persons whose entries in the register have been removed in circumstances to which this section applies.
- (2) This section applies where a person is subject to a removal order made by a fitness to practise panel under—
  - (a) section 138(9) (disposal following a finding of impairment of fitness to practise), or
  - (b) section 152(8)(e), 153(9)(d) or 154(8)(d) (disposal in a review case following a finding of impairment of fitness to practise).
- (3) An entry may not be made in the list relating to a person subject to such a removal order until the decision has taken effect under section 141(5) or 157(6) (as the case may be).
- (4) This section also applies where a person is subject to an order for removal by agreement made by a fitness to practise panel under—
  - (a) section 135 (removal from register on consensual basis), or
  - (b) section 152(2), 153(2), 154(2), or 155(5) (disposal in a review case).
- (5) Where a person is subject to such an order for removal by agreement the list must give details of the statement of facts agreed under section 135(2) or 150(2) (as the case may be).
- (6) The Welsh Ministers may by regulations make provision about—
  - (a) the form and content of the list;
  - (b) the publication of the list or specified information from the list;
  - (c) circumstances in which an entry relating to a person must be removed from the list.

### **Commencement Information**

**I34** S. 110 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(c\)](#) (with [arts. 3, 4](#), [Sch.](#))

*Protection of title “social worker” etc.*

## **111 Use of title “social worker” etc.**

- (1) It is an offence for a person in Wales who is not registered in a relevant register as a social worker to—
  - (a) take or use the title of social worker,
  - (b) take or use any title or description implying registration as a social worker, or
  - (c) pretend to be a social worker in any other way,with intent to deceive another.
- (2) It is an offence for a person in Wales who is not registered in a relevant register as a social care worker of such other description as may be prescribed to—
  - (a) take or use the title of that description of social care worker,
  - (b) take or use any title or description implying registration as such a social care worker, or

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(c) pretend to be such a social care worker in any other way,  
with intent to deceive another.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine.

(4) For the purposes of this section a register is a “relevant register” if it is a register kept by—

- (a) SCW,
- (b) the Health and Care Professions Council,
- (c) the Scottish Social Services Council, or
- (d) the Northern Ireland Social Care Council.

(5) The Welsh Ministers may amend subsection (4) by regulations.

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#### **Commencement Information**

**I35** S. 111 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(c)** (with [arts. 3, 4](#), [Sch.](#))

**Status:**

Point in time view as at 19/01/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 4.