



Regulation of Care (Scotland) Act 2001

2001 asp 8

PART 3

THE COUNCIL

Registration

44 Register of social workers and of other social service workers

- (1) The Council shall maintain a register of—
- (a) social workers;
 - [^{F1}(aa) visiting social workers from relevant European states;]
 - (b) social service workers of any other description prescribed; and
 - (c) persons—
 - (i) participating in a course, approved by it under section 54(1) of this Act, for those wishing to become; or
 - (ii) employed in positions probationary to their becoming, social workers or social service workers of such other description.
- [^{F2}(2) There shall be a separate part of the register for—
- (a) social workers;
 - (b) visiting social workers from relevant European States;
 - (c) each description of social service workers prescribed by virtue of paragraph (b) of subsection (1) above; and
 - (d) such persons as are mentioned in paragraph (c) of that subsection.
- (2A) The part of the register for visiting social workers from relevant European States is referred to in this Part of this Act as “the visiting European part” of the register.]
- (3) It may be prescribed that as from a specified date a specified part of the register shall be closed, so that on and after that date no further persons shall be registered in that part.
- (4) The Scottish Ministers shall consult the Council and such other persons, or groups of persons, as they consider appropriate before making, varying or revoking an order by virtue of this section.

Status: Point in time view as at 03/12/2007.

Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Registration. (See end of Document for details)

Textual Amendments

- F1** S. 44(1)(aa) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **257(a)**
- F2** S. 44(2)(2A) substituted for s. 44(2) (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **257(b)**

Commencement Information

- I1** S. 44 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

45 Applications for registration under Part 3

- (1) An application for registration under this Part [^{F3}, other than for registration in the visiting European part of the register,] shall be made to the Council in accordance with rules made by the Council.
- [^{F4}(1A) An application is not required for registration in the visiting European part of the register.]
- (2) An application under subsection (1) above shall specify—
- in relation to the register, each part of it in which registration is sought; and
 - such other matters as may be required by the rules.
- (3) Any person who, in an application under subsection (1) above, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Textual Amendments

- F3** Words in s. 45(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **258(a)**
- F4** S. 45(1A) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **258(b)**

Commencement Information

- I2** S. 45 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

46 Grant or refusal of registration under Part 3

- (1) An application [^{F5}under section 45(1) of this Act] for registration under this Part may be granted either unconditionally or subject to such conditions as the Council thinks fit to impose.
- (2) If the Council is satisfied that the applicant—
- is of good character;
 - satisfies such requirements as to competence or conduct as the Council may by rules impose; and
 - except where [^{F6}section 46B of this Act] applies, either—
 - satisfies such requirements as to education as the Council may by rules impose and has successfully completed a course of training, approved by the Council, for persons wishing to become social

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workers or, as the case may be, for persons wishing to become social service workers of the description in relation to which registration is sought; or

- (ii) in the case of an application for registration as a social service worker other than a social worker, satisfies such requirements as the Council may by rules impose in relation to social service workers of the description in relation to which registration is sought,

it shall grant the application unconditionally or give notice to the applicant that it proposes to grant the application subject to such conditions as it thinks fit; otherwise it shall give notice to the applicant that it proposes to refuse the application.

- (3) A notice under subsection (2) above shall give the Council’s reasons for the proposal.

- F7(4)
- F7(5)
- F7(6)
- F7(7)

Textual Amendments

- F5** Words in s. 46(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(a)**
- F6** Words in s. 46(2)(c) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(b)**
- F7** S. 46(4)-(7) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **259(c)**

Commencement Information

- I3** S. 46 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

[F8]46A. 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 8 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 or 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 European part of the register; and the Council shall give effect to the entitlement.
- (4) If V is entitled under subsection (3) to be registered in the visiting European part of the register but is not registered in that part, V shall be treated as being registered in that part.
- (5) V’s entitlement under subsection (3) ceases if V ceases, whether as a result of the operation of regulation 17 of the General Systems Regulations or otherwise, to have

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the benefit of regulation 8 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—
- (a) V's entitlement under subsection (3) ceases by reason of the operation of subsection (5); and
 - (b) V is registered in the visiting European part of the register,
- the Council may remove V from that part.
- (7) Subsections (1) to (6) are not to be taken to prejudice the application, in relation to persons registered in the visiting European part of the register maintained by the Council, of rules under section 49.

Textual Amendments

F8 Ss. 46A, 46B inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **260**

46B. Qualifications gained outside Scotland

This section applies where—

- (a) in the case of an applicant for registration as a social worker, 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 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); or
- (b) the applicant has, outwith Scotland, undergone training which—
 - (i) is recognised by the Council as being to a standard sufficient for the applicant to be registered in the part of the register specified in the application; or
 - (ii) is not so recognised provided that the applicant has also undergone, in Scotland or elsewhere, such additional training as the Council may by rules require.]

Textual Amendments

F8 Ss. 46A, 46B inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **260**

47 Variation etc. of conditions in relation to registration under Part 3

- (1) The Council may at any time give notice to a person registered under this Part [^{F9}, other than in the visiting European part of the register,] that it proposes to—
- (a) vary or remove a condition for the time being in force; or
 - (b) impose an additional condition,
- in relation to the registration.
- (2) A notice under subsection (1) above shall give the Council's reasons for the proposal.

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Textual Amendments

- F9** Words in s. 47(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **261**

Commencement Information

- I4** S. 47 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(e\)](#) (subject to [arts. 3-13](#))

48 Right to make representations to Council as respects proposal

- (1) A notice under section 46(2) or 47 of this Act shall state that, within fourteen days after service of the notice, the person to whom it is given may make written representations to the Council concerning any matter which that person wishes to dispute.

[^{F10}(2) Where such a notice has been given—

- (a) the Council may not decide to implement the proposal until (whichever first occurs)—
- (i) where the person to whom the notice was given makes such representations as are mentioned in subsection (1) above, it has considered those representations;
 - (ii) that person notifies the Council in writing that such representations will not be made;
 - (iii) the period of fourteen days mentioned in that subsection elapses without such representations being made and without the Council receiving such notification; and
- (b) where the circumstances are as mentioned in paragraph (a)(ii) or (iii) above, the Council shall implement the proposal unless it appears to it that it would be inappropriate to do so.]

Textual Amendments

- F10** S. 48(2) substituted (17.10.2005) by [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), [ss. 30\(4\), 43\(3\)](#); [S.S.I. 2005/492](#), [art. 3\(a\)](#), sch. 1

Commencement Information

- I5** S. 48 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(e\)](#) (subject to [arts. 3-13](#))

49 Removal etc. from the Council's register

- (1) The Council shall, by rules made with the consent of the Scottish Ministers, determine circumstances in which, and the means by which—
- (a) an entry relating to a person in the register maintained by the Council may be removed from a part in which it appears;
 - (b) an entry removed by virtue of paragraph (a) above may be restored to the part in question;
 - (c) a person's registration in a part of that register may be suspended (and that person treated as not being registered in that part notwithstanding that the relevant entry still appears in it) for such period as the Council may specify in the case in question;

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- (d) a suspension by virtue of paragraph (c) above may be terminated; and
 - (e) an entry in a part of that register may be altered (other than in implementation of a proposal of which notice is given under section 47(1) of this Act).
- (2) Rules under subsection (1) above shall—
- (a) make provision as to—
 - (i) the procedure to be followed;
 - (ii) the standard of proof; and
 - (iii) the rules of evidence to be observed,
 in proceedings brought (whether before the Council or before any committee of the Council) for the purposes of the rules; and
 - (b) provide for such proceedings to be in public except in such cases (if any) as the rules may specify.
- (3) The Council shall maintain a register of persons who have been registered in the register maintained under section 44(1) of this Act but who, by virtue of paragraph (a) of subsection (1) above, are for the time being not so registered; and where an entry relating to a person is, by virtue of paragraph (b) of that subsection, restored, the entry relating to that person in the register maintained under this subsection shall be removed.

Commencement Information

I6 S. 49 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(e\)](#) (subject to [arts. 3-13](#))

50 Notice of Council's decision

- (1) If the Council decides to grant unconditionally an application [^{F11}under section 45(1) of this Act] for registration under this Part, it shall give the applicant notice of its decision.
- (2) If the Council decides—
- (a) to implement a proposal in relation to which it has given a notice under section 46(2) or 47 of this Act; or
 - (b) in accordance with rules made under subsection (1) of section 49 of this Act, to do any of the things mentioned in paragraphs (a) to (e) of that subsection,
- it shall give the person affected notice of the decision.
- (3) A notice under subsection (2) above shall—
- (a) explain the right of appeal conferred by section 51 of this Act;
 - (b) in the case of a decision to implement a proposal in relation to which notice was given under—
 - (i) section 46(2), being a proposal to grant the application, state the condition subject to which the application is granted; or
 - (ii) section 47, state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.
- (4) A decision such as is mentioned in subsection (2) above, other than a decision under section 46(2) to refuse the application, shall not take effect—
- (a) if no appeal is brought, until the period of fourteen days referred to in section 51(1) of this Act has elapsed; and

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- (b) if an appeal is brought, until that appeal is finally determined or is abandoned.

Textual Amendments

- F11** Words in s. 50(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **262**

Commencement Information

- I7** S. 50 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(e)** (subject to [arts. 3-13](#))

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