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## 2001 CHAPTER 3

### PART I

#### SOCIAL CARE WORKERS

##### *Preliminary*

##### **The Northern Ireland Social Care Council**

1.—(1) There shall be a body corporate to be known as the Northern Ireland Social Care Council (referred to in this Part as “the Council”) which shall have the functions conferred on it by or under this Part or any other statutory provision.

(2) It shall be the duty of the Council to promote—

- (a) high standards of conduct and practice among social care workers; and
- (b) high standards in their training.

(3) The Council shall, in the exercise of its functions, act—

- (a) in accordance with any directions given to it by the Department; and
- (b) under the general guidance of the Department.

(4) Schedule 1 shall have effect with respect to the Council.

##### **“Social care worker”, etc.**

2.—(1) This section has effect for the purposes of this Part.

(2) “Social care worker” means a person (other than a person excepted by regulations) who—

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- (a) engages in relevant social work (referred to in this Part as a “social worker”);
  - (b) is employed at—
    - (i) a children's home;
    - (ii) a residential care home;
    - (iii) a nursing home;
    - (iv) a day care setting;
    - (v) a residential family centre;
  - (c) manages an establishment of a description mentioned in paragraph (b); or
  - (d) is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
- (3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers—
- (a) a person engaged in work for the purposes of the [F<sup>1</sup>social care] functions of [F<sup>2</sup>the Regional Board or an][F<sup>3</sup>HSC trust];
  - (b) a person engaged in the provision of personal care for any person;
  - (c) a person who manages, or is employed in, an undertaking which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care;
  - (d) a person engaged in the provision of services which are similar to services which may or must be provided by [F<sup>4</sup>the Regional Board] or [F<sup>5</sup>HSC trusts] in the exercise of their [F<sup>1</sup>social care] functions;
  - (e) a person employed in connection with the discharge of functions of the Department under Article 149 of the Children (Northern Ireland) Order 1995 (NI 2) (inspection of children's homes etc.);
  - (f) a person participating in a course approved by the Council under section 10 for persons wishing to become social workers.
- (4) “Relevant social work” means social work which is required in connection with any health, education, probation or [F<sup>1</sup>social care] provided by any person.
- [F<sup>6</sup>[F<sup>7</sup>(5) “The General Systems Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059).]
- (6) “Relevant European State” means an EEA State or Switzerland.
- (7) “Exempt person” means—
- (a) a national of a relevant European State other than the United Kingdom,
  - (b) a national of the United Kingdom who is seeking to engage in relevant social work by virtue of an enforceable Community right, or

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- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of a relevant European State;

and in this subsection, “national”, in relation to a relevant European State, means the same as in the Community 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 Community provisions relating to the free movement of persons and services.]

- F1** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, [art. 2](#)
- F2** Words in s. 2(3)(a) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 6\(2\)\(a\)](#), 8
- F3** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F4** Words in s. 2(3)(d) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 6\(2\)\(b\)](#), 8
- F5** Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F6** [S. 2\(5\)](#) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, [112\(2\)](#) (with reg. 155)
- F7** [S. 2\(5\)-\(7\)](#) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), [244](#)

## *Registration*

### **The register**

- 3.—(1)** The Council shall maintain a register of—
- (a) social workers; <sup>F8</sup> . . .
  - (b) social care workers of any other description specified by order made by the Department. [<sup>F9</sup>; and
  - (c) visiting social workers from relevant European States.]
- [<sup>F10</sup>(2) There shall be a separate part of the register for—
- (a) social workers;
  - (b) each description of social care workers specified pursuant to subsection (1) (b); and

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- (c) visiting social workers from relevant European States.
- (2A) For the purposes of this Part—
- (a) the part mentioned in subsection (2)(a) is the “principal 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 part” of the register.]
- (3) The Department may by order provide for a specified part of the register to be closed, as from a date specified by the order, so that on or after that date no further persons can become registered in that part.
- (4) The Department shall consult the Council before making, varying or revoking any order under this section.
- (5) The register may be kept by means of a computer.

- F8** Word in s. 3(1)(a) omitted (3.12.2007) by virtue of [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **245(a)**
- F9** S. 3(1)(c) and preceding word inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **245(a)**
- F10** S. 3(2)(2A) substituted (3.12.2007) for s. 3(2) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **245(b)**

### Applications for registration

- 4.—(1) An application for registration [<sup>F11</sup> in the principal part, or an added part, of the register <sup>F12</sup>...] shall be made to the Council in accordance with rules made by it.
- (2) An application under subsection (1) shall specify each part of the register in which registration is sought and such other matters as may be required by the rules.

- F11** Words in s. 4(1) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **246**
- F12** Words in s. 4(1) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. **6(3)**, 8

### Grant or refusal of registration

- 5.—(1) [<sup>F13</sup>In the case of an application under section 4(1), if the Council] is satisfied that the applicant—
- (a) is of good character;

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(b) is physically and mentally fit to perform the whole or part of the work of persons registered in any part of the register to which his application relates; and

(c) satisfies the following conditions,

it shall grant the application, either unconditionally or subject to such conditions as it thinks fit; and in any other case it shall refuse it.

(2) The first condition is that—

(a) in the case of an applicant for registration as a social worker—

(i) he has successfully completed a course approved by the Council under section 10 for persons wishing to become social workers;

(ii) he satisfies the requirements of section 11; or

(iii) he satisfies any requirements as to training which the Council may by rules impose in relation to social workers;

(b) in the case of an applicant for registration as a social care worker of any other description, he satisfies any requirements as to training which the Council may by rules impose in relation to social care workers of that description.

(3) The second condition is that the applicant satisfies any requirements as to conduct and competence which the Council may by rules impose.

[<sup>F14</sup>(4) For the purposes of subsection (1)(a), in considering whether a person is of good character, the Council may have regard to whether he is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007).]

**F13** Words in s. 5(1) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **247**

**F14** S. 5(4) added (12.10.2009) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(1), **Sch. 7 para. 5** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch.

### [<sup>F15</sup>Visiting social workers from relevant European States

**5A.**—(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>F16</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).

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(3) V is entitled to be registered in the visiting European part of the register <sup>F17</sup>...; 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 [<sup>F18</sup>24] of the General Systems Regulations or otherwise, to have the benefit of regulation [<sup>F19</sup>12] 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 <sup>F20</sup>..., 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 <sup>F21</sup>..., of rules under section 6.]

**F15** S. 5A. inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **248**

**F16** Word in s. 5A(2) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **113(2)** (with reg. 155)

**F17** Words in s. 5A(3) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\)](#), ss. **6(3)**, 8

**F18** Word in s. 5A(5) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **113(3)(a)** (with reg. 155)

**F19** Word in s. 5A(5) substituted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **113(3)(b)** (with reg. 155)

**F20** Words in s. 5A(6)(b) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\)](#), ss. **6(3)**, 8

**F21** Words in s. 5A(7) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\)](#), ss. **6(3)**, 8

### Removal, etc. from register

**6.—(1)** The Council shall by rules determine circumstances in which, and the means by which—

(a) a person may be removed from a part of the register, whether or not for a specified period;

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- (b) a person who has been removed from a part of the register may be restored to that part;
  - (c) a person's registration in a part of the register may be suspended for a specified period;
  - (d) the suspension of a person's registration in a part of the register may be terminated;
  - [<sup>F22</sup>(da) a person's registration in a part of the register may be made subject to conditions (whether or not for a specified period);
  - (db) the conditions to which a person's registration in a part of the register is subject may be varied or revoked;
  - (dc) the duration for which a person's registration in a part of the register is subject to conditions may be varied;
  - (dd) an agreement with a registered person that the person will comply with specified undertakings (whether or not for a specified period) may be made;
  - (de) an agreement of a kind mentioned in paragraph (dd) may be varied or revoked;
  - (df) a warning may be given to a registered person;
  - (dg) advice may be given to a registered person;]
  - (e) an entry in a part of the register may be removed, altered or restored.
- (2) The rules shall make provision as to the procedure to be followed, and the rules of evidence to be observed, in proceedings brought for the purposes of the rules, whether before the Council or any committee of the Council.
- (3) The rules shall provide for such proceedings to be in public except in such cases (if any) as the rules may specify.
- (4) Where a person's registration in a part of the register is suspended under subsection (1)(c), he shall be treated as not being registered in that part notwithstanding that his name still appears in it.

**F22** S. 6(1)(da)-(dg) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 1, 8](#)

### **Rules about registration**

7. The Council may by rules make provision about the registration of persons under this Part and, in particular—

- (a) as to the keeping of the register;
- (b) as to the documentary and other evidence to be produced by those applying [<sup>F23</sup>under section 4(1) for registration or applying] for additional

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qualifications to be recorded, or for any entry in the register to be altered or restored;

- (c) for a person's registration to remain effective without limitation of time (subject to removal from the register [<sup>F24</sup>under section 5A(6) or] in accordance with rules made by virtue of section 6) or to lapse after a specified period or in specified cases, or to be subject to renewal as and when provided by the rules.

- F23** Words in s. 7(b) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **249(a)**
- F24** Words in s. 7(c) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **249(b)**

### <sup>F25</sup>**Power to obtain information etc**

**7A.—(1)** The power under subsection (2) may be exercised for the purpose of assisting the Council in performing a function under section 5, 5A or 6 in respect of a person (“the relevant person”).

(2) If the Council considers that any person (except the relevant person) is able to provide information or produce a document that appears relevant to the performance of the function, it may by notice require the person to provide the information or produce the document.

(3) Subsection (2) does not require or permit any disclosure of information which is prohibited by or under any other statutory provision [<sup>F26</sup>or the GDPR] .

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the Council may, in exercising the power under subsection (2), require that the information be put into a form which is not capable of identifying that individual.

[<sup>F27</sup>(5) In determining for the purposes of subsection (3) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.]

(6) Subsection (2) does not apply to information or a document which the person could not be compelled to provide or produce in civil proceedings before the county court.

(7) If a person fails to provide any information or produce any document within 14 days of the person being required to do so under this section, the Council may apply to the county court for an order requiring the information to be provided or the document to be produced.]



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[<sup>F28</sup>(8) In this section, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).]

- F25** S. 7A inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 2\(1\), 8](#)
- F26** Words in s. 7A(3) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 77\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F27** S. 7A(5) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 77\(3\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F28** S. 7A(8) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 77\(4\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

[<sup>F29</sup>**Investigations under section 6: information about, and to, a registered person's employers**

**7B.**—(1) This section applies where a specified kind of investigation under section 6 is being undertaken in respect of a registered person.

(2) The Council may by notice require the registered person to give details of—

- (a) all relevant employers, and
- (b) any person who was a relevant employer at any time during a period stated in the notice.

(3) The Council may notify any relevant employer of the investigation.

(4) Section 7A(3), (5) and (7) apply for the purposes of subsection (2).

(5) In this section—

“relevant employer” means—

- (a) any person who employs the registered person to do relevant work, and
- (b) any person who has an arrangement with the registered person for the registered person to do relevant work;

“relevant work” means—

- (a) anything that, if done by a person, would result in the person being a social care worker, and
- (b) anything done anywhere outside Northern Ireland that, if done in Northern Ireland by a person, would result in the person being a social care worker;

“specified” means specified by rules made by the Council.”.]

- F29** S. 7B inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 2\(2\), 8](#)

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## Registration – enforcement

8.—(1) If a person who is not registered [<sup>F30</sup>in the register as a social worker or a visiting social worker from a relevant European State,] with intent to deceive another—

- (a) takes or uses the title of social worker;
- (b) takes or uses any title or description implying that he is [<sup>F31</sup>registered in either of those ways], or in any way holds himself out as so registered,

he is guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) The Department may by regulations make provision for prohibiting persons from working in such positions as may be prescribed unless they are registered in, or in a particular part of, [<sup>F32</sup>the register] .

(4) Regulations under subsection (3) may provide that a contravention of any specified provision of the regulations shall be an offence.

(5) A person guilty of an offence under such regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

<sup>F33</sup>(6) .....

**F30** Words in s. 8(1) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 3\(2\), 8](#)

**F31** Words in s. 8(1)(b) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\), regs. 1\(2\), 250\(b\)](#)

**F32** Words in s. 8(3) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 3\(3\), 8](#)

**F33** S. 8(6) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 3\(4\), 8](#)

## *Codes of practice*

### Codes of practice

9.—(1) The Council shall prepare and from time to time publish codes of practice laying down—

- (a) standards of conduct and practice expected of social care workers; and
- (b) standards of conduct and practice in relation to social care workers, being standards expected of persons employing or seeking to employ them.

(2) The Council shall—

- (a) keep the codes under review; and

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- (b) vary their provisions whenever it considers it appropriate to do so.
- (3) Before issuing or varying a code, the Council shall consult any persons it considers appropriate to consult.
- (4) A code published by the Council shall be taken into account—
  - (a) by the Council in making a decision under this Part; and
  - (b) in any proceedings on an appeal against such a decision.
- (5) A public body making any decision about the conduct of any social care worker employed by it shall, unless the Department otherwise directs, take into account any code published by the Council.
- (6) In subsection (5) “public body” means a body established by a statutory provision.
- (7) Any person who asks the Council for a copy of a code shall be entitled to have one.

### *Training*

#### **Approval of courses, etc.**

- 10.—**(1) The Council may, in accordance with rules made by it, approve courses in relevant social work for persons who are or wish to become social workers.
- (2) An approval given under this section may be either unconditional or subject to such conditions as the Council thinks fit.
- (3) Rules made by virtue of this section may in particular make provision—
  - [<sup>F34</sup>(a) about the provision of courses, including their content and methods of completing them;]
  - (b) as to the provision to the Council of information about courses;
  - (c) as to the persons who may participate in courses, or in parts of courses specified in the rules;
  - (d) as to the numbers of persons who may participate in courses;
  - (e) for the award by the Council of certificates of the successful completion of courses;
  - (f) about the lapse and renewal of approvals; and
  - (g) about the withdrawal of approvals.
- (4) The Council may—
  - (a) conduct, or make arrangements for the conduct of, examinations in connection with such courses as are mentioned in this section or section 14; and

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(b) carry out, or assist other persons in carrying out, research into matters relevant to training for relevant social work.

(5) A course for persons who wish to become social workers shall not be approved under this section unless the Council considers that it is such as to enable persons completing it to attain the required standard of proficiency in relevant social work.

(6) In subsection (5) “the required standard of proficiency in relevant social work” means the standard described in rules made by the Council.

(7) The Council shall from time to time publish a list of the courses which are approved under this section.

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### [<sup>F35</sup>Recognition of attainment of standards by social workers

**10A.**—(1) The Council may—

- (a) make rules describing standards of proficiency that may be attained by persons who are social workers;
- (b) by rules make provision for and in connection with the recognition by the Council of the attainment of any standard of proficiency described in the rules.

(2) Rules made by virtue of subsection (1)(b) may—

- (a) provide for the way in which a standard is to be attained in order for it to be recognised (which may be by completing a course or otherwise);
- (b) provide for the way in which the attainment of a standard is to be recognised (which may be by the award of a certificate or otherwise).

(3) The Council may conduct, or make arrangements for the conduct of, assessments in connection with the recognition by the Council of the attainment of any standard of proficiency described in the rules.]

F35 S. 10A inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 4\(1\), 8](#)

### Qualifications gained outside Northern Ireland

**11.**—[<sup>F36</sup>(A1) An applicant for registration in the principal part of the register <sup>F37</sup>... 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 worker in the United Kingdom (having, in particular, successfully completed any adaptation period, or passed any aptitude

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test, that the applicant may be required to undertake pursuant to that Part of those Regulations).]

(1) An applicant for registration [<sup>F38</sup>in the principal part of the register] satisfies the requirements of this section if—

- (a) <sup>F39</sup> .....
- (b) he has, elsewhere than in Northern Ireland, undergone training in relevant social work and either—
  - (i) that training is recognised by the Council as being to a standard sufficient for such registration; or
  - (ii) it is not so recognised, but the applicant has undergone in Northern Ireland or elsewhere such additional training as the Council may require.

- (2) <sup>F40</sup> .....
- (3) <sup>F40</sup> .....
- (4) <sup>F40</sup> .....

<b>F36</b>	S. 11(A1) inserted (3.12.2007) by <a href="#">European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101)</a> , regs. 1(2), <b>251(a)</b>
<b>F37</b>	Words in s. 11(A1) omitted (13.5.2016) by virtue of <a href="#">Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23)</a> , ss. <b>6(3)</b> , 8
<b>F38</b>	Words in s. 11(1) substituted (3.12.2007) by virtue of <a href="#">European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101)</a> , regs. 1(2), <b>251(b)(i)</b>
<b>F39</b>	S. 11(1)(a) omitted (3.12.2007) by <a href="#">European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101)</a> , regs. 1(2), <b>251(b)(ii)</b>
<b>F40</b>	S. 11(2)-(4) omitted (3.12.2007) by <a href="#">European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101)</a> , regs. 1(2), <b>251(c)</b>

**Post registration training**

12.—(1) The Council may make rules requiring persons registered under this Part in any part of the register to undertake further training.

(2) The rules may, in particular, make provision with respect to persons who fail to comply with any requirements of rules made by the Council, including provision for their registration to cease to have effect.

[<sup>F41</sup>(2A) Subsections (1) and (2), so far as relating to a person (“P”) who is registered as a social worker only in the visiting European part of the register, have effect subject to, respectively, subsections (2B) and (2C).

- (2B) Rules made under subsection (1)—
  - (a) may not impose requirements on P if P is required to undertake, in P's home State, further training in relation to the profession of social worker; and

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- (b) where they impose requirements on P—
  - (i) shall take account of the fact that P is a fully qualified social worker in P's home State, and
  - (ii) shall specify that training which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(2C) Where rules make provision such as is mentioned in subsection (2), the rules must secure that any sanction imposed in relation to P by or under that provision is appropriate and proportionate in view of P's continued lawful establishment as a social worker in P's home State.

(2D) In this section “home State”, in relation to P, means the relevant European State in which P is lawfully established as a social worker.]

(3) Before making, or varying, any rules by virtue of this section the Council shall take such steps as are reasonably practicable to consult the persons who are registered in the relevant part of the register and such other persons as the Council considers appropriate.

**F41** S. 12(2A)-(2D) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **252**

### **Visitors for certain social work courses**

**13.—**(1) The Council may by rules make provision for the visiting of places at which or institutions by which or under whose direction—

- (a) any relevant course (or part of such a course) is, or is proposed to be, given; or
- (b) any examination is, or is proposed to be, held in connection with any relevant course.

(2) The rules may make provision—

- (a) for the appointment of visitors;
- (b) for reports to be made by visitors on—
  - (i) the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at the place or by the institution visited; and
  - (ii) such other matters as may be specified in the rules;
- (c) for the payment by the Council of fees, allowances and expenses to persons appointed as visitors;
- (d) for such persons to be treated, for the purposes of Schedule 1, as members of the Council's staff.

(3) In subsection (1) “relevant course” means—

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- (a) any course for which approval by the Council has been given, or is being sought, under section 10; or
- (b) any training which a person registered [<sup>F42</sup>in the principal part of the register] may be required to undergo after registration.

**F42** Words in s. 13(3)(b) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **253**

## Functions of the Department

**14.—(1)** The Department has the function of—

- (a) ascertaining what training is required by persons who are or wish to become social care workers;
- (b) ascertaining what financial and other assistance is required for promoting such training;
- (c) encouraging the provision of such assistance;
- (d) drawing up occupational standards for social care workers.

(2) The Department shall encourage persons to take part in courses approved by the Council under section 10 and other courses relevant to the training of persons who are or wish to become social care workers.

(3) If it appears to the Department that adequate provision is not being made for training persons who are or wish to become social care workers, the Department may provide, or secure the provision of, courses for that purpose.

(4) The Department may, upon such terms and subject to such conditions as it considers appropriate—

- (a) make grants, and pay travelling and other allowances, to persons resident in Northern Ireland in order to secure their training in the work of social care workers;
- (b) make grants to organisations providing training in the work of social care workers.

(5) Any functions of the Department under this section—

- (a) may be delegated by it to the Council; or
- (b) may be exercised by any person, or by employees of any person, authorised to do so by the Department.

(6) Articles 13 to 15 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) apply in relation to an authorisation given under subsection (5)(b) as they apply in relation to an authorisation given under Part III of that Order; and in subsection (5)(b) “employee” has the same meaning as in that Order.

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### *Miscellaneous and supplemental*

#### [<sup>F43</sup> Appeals to the Care Tribunal

15.—(1) A person may appeal to the Care Tribunal against a relevant decision.

(2) On the appeal, the Care Tribunal may—

- (a) confirm the decision,
- (b) set aside the decision [<sup>F44</sup>or, in the case of an appeal from a decision falling within subsection (3)(c), direct that the alert be withdrawn or amended], or
- (c) substitute for the decision appealed against any other decision that could have been made.

(3) “Relevant decision” means—

- (a) a decision under this Part in respect of registration, <sup>F45</sup>...
- (b) a decision under Part 3 of the General Systems Regulations in respect of an aptitude test, or period of adaptation, in connection with a person's becoming permitted (by virtue of that Part of those regulations) to have access to, and to pursue, the profession of social worker in the United Kingdom [<sup>F46</sup>, and]

[<sup>F47</sup>(c) a decision under regulation 67 of the General Systems Regulations to send an alert about a person.]

(4) In subsection (3)(a) the reference to a decision under this Part in respect of registration includes a decision under section 6 to give a warning (but not a decision to enter into, vary or revoke an agreement of a kind mentioned in section 6(1)(dd) or a decision to give advice).]

**F43** S. 15 substituted (13.5.2016 with effect as mentioned in s. 5(2)) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. **5(1)**, 8

**F44** Words in s. 15(2)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **114(2)** (with reg. 155)

**F45** Word in s. 15(3)(a) omitted (18.11.2016) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **114(3)(a)** (with reg. 155)

**F46** Word in s. 15(3)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **114(3)(b)** (with reg. 155)

**F47** S. 15(3)(c) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **114(3)(c)** (with reg. 155)

#### **Publication, etc. of register**

16.—(1) The Council shall publish the register in such manner, and at such times, as it considers appropriate.



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(2) Any person who asks the Council for a copy of, or of an extract from, the register shall be entitled to have one.

#### **[<sup>F48</sup>Publication etc of information about fitness to practise**

**16A.**—(1) If it considers it is in the public interest to do so, the Council may publish or disclose to any person—

- (a) information relating to a particular registered person's fitness to practise, or
- (b) information of a particular description relating to the fitness to practise of—
  - (i) every registered person, or
  - (ii) every registered person of a particular description.

(2) For the purposes of subsection (1)(b) the Council need not consider whether it is in the public interest to publish or disclose the information in question in relation to each registered person to whom it relates.

(3) In this section “information” includes—

- (a) information relating to, or arising, before a person's registration (as well as after it), and
- (b) information arising outside the United Kingdom (as well as in it).

(4) In this section references to a registered person include a person who has at any time been a registered person.]

**F48** S. 16A inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. 2(3), 8

#### **Cesser of functions of CCETSW**

**17.** The Central Council for Education and Training in Social Work shall cease to exercise in relation to Northern Ireland the functions conferred on it by or under section 10 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

#### **Rules**

**18.**—(1) Rules made by the Council under this Part may make provision for the payment of reasonable fees to the Council in connection with the discharge of the Council's functions [<sup>F49</sup>, but subject to subsection (2A)].

(2) In particular, the rules may make provision for the payment of such fees in connection with—

- (a) registration (including applications for registration or for amendment of the register [<sup>F50</sup>, but subject to subsection (2A)]);

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- (b) the approval of courses under section 10;
- [<sup>F51</sup>(ba) assessments of a kind mentioned in section 10A(3);]
- (c) the provision of training;
- (d) the provision of copies of codes of practice or copies of, or extracts, from the register,

including provision requiring persons registered under this Part to pay a periodic fee to the Council of such amount, and at such time, as the rules may specify.

[<sup>F52</sup>(2A) Rules made by the Council under this Part may not make provision for the payment of fees in connection with registration in the visiting European part of the register.]

(3) No rules shall be made by the Council under this Part without the consent of the Department.

[<sup>F53</sup>(4) Rules under this Part may contain transitional, transitory or saving provision.

(5) Transitional provision made by rules under section 6 may in particular provide that where a person appeals against a decision made before the coming into operation of the rules (or any amendment of the rules), for the purposes of section 15(2)(c) the rules are (or the amendment is) to be treated as having been in operation at the time of that decision.]

**F49** Words in s. 18(1) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **255(a)**

**F50** Words in s. 18(2)(a) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **255(b)**

**F51** S. 18(2)(ba) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. **4(2)**, 8

**F52** S. 18(2A) inserted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **255(c)**

**F53** S. 18(4)(5) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. **6(4)**, 8

### Default powers of Department

**19.—(1)** The powers conferred by this section are exercisable by the Department if it is satisfied that the Council—

- (a) has without reasonable excuse failed to discharge any of its functions; or
- (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions or guidance given by it under section 1(3) in relation to those functions.

(2) The Department may—

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- (a) make an order declaring the Council to be in default; and
  - (b) direct the Council to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.
- (3) If the Council fails to comply with the Department's direction under subsection (2), the Department may—
- (a) discharge the functions to which the direction relates itself; or
  - (b) make arrangements for any other person to discharge those functions on its behalf.

*Ss. 20#21 rep. by 2003 NI 9*

#### [<sup>F54</sup>Interpretation of this Part

**22.—**[

<sup>F55</sup>(1)] In this Part “child”, “children's home”, “day care setting”, “domiciliary care agency”, “nursing home”, “personal care”, “registered care home”, “residential family centre”, “school” and “undertaking” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.]

[<sup>F56</sup>(2) In this Part—

“the register” means the register maintained under section 3;

“registered person” means a person registered in a part of the register.]

**F54** 2003 NI 9

**F55** S. 22: renumbered as s. 22(1) (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), **ss. 6(5)(a)**, 8

**F56** S. 22(2) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), **ss. 6(5)(b)**, 8

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Point in time view as at 25/05/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001, PART I.