



## 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—

- (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 personal social services functions of a Health and Social Services Board or HSS 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 Health and Social Services Boards or HSS trusts in the exercise of their personal social services 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 personal social services provided by any person.

### *Registration*

#### **The register**

- 3.—**(1) The Council shall maintain a register of—
- (a) social workers; and

- (b) social care workers of any other description specified by order made by the Department.
- (2) There shall be a separate part of the register for social workers and for each description of social care workers so specified.
- (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.

#### **Applications for registration**

- 4.—(1) An application for registration under this Part 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.

#### **Grant or refusal of registration**

- 5.—(1) If the Council is satisfied that the applicant—
  - (a) is of good character;
  - (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.

### **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;
- (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;
- (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.

### **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 for registration or for additional 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 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.

### **Registration – enforcement**

8.—(1) If a person who is not registered as a social worker in any relevant register, 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 so registered, 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, a relevant 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.
- (6) For the purposes of this section, a register is a relevant register if it is—
- (a) maintained by the Council; or
  - (b) a prescribed register maintained under a provision of the law of England and Wales or Scotland which appears to the Department to correspond to the provisions of this Part.

### *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
  - (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—

- (a) about the content of, and methods of completing, courses;
- (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
- (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.

**Qualifications gained outside Northern Ireland**

**11.—(1)** An applicant for registration as a social worker satisfies the requirements of this section if—

- (a) being a national of any EEA State—
  - (i) he has professional qualifications, obtained in an EEA State other than the United Kingdom, which the Department has by order designated as having Community equivalence for the purposes of such registration; and
  - (ii) he satisfies any other requirements which the Council may by rules impose; or
- (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) An order under subsection (1)(a) may provide that a professional qualification designated by the order is to be regarded as having Community equivalence for the purposes of registration as a social worker only if prescribed conditions required by a directive issued by the Council of the European Communities are fulfilled; and different conditions may be prescribed with respect to the same qualification for different circumstances.

(3) Any person who—

- (a) is not a national of an EEA State; but
- (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 (on freedom of movement for workers within the Community) or any other enforceable Community right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of such a State,

shall be treated for the purposes of subsection (1)(a) as if he were such a national.

(4) In this section—

“EEA State” means a Contracting Party to the EEA Agreement;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“national”, in relation to an EEA State, means the same as it does for the purposes of the Community Treaties.

**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.

(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.

**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—

(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 as a social worker may be required to undergo after registration.

**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.

### *Miscellaneous and supplemental*

#### **Appeals to the Social Care Tribunal**

- 15.—**(1) Registered Homes Tribunals shall be known instead as Social Care Tribunals.
- (2) An appeal against a decision of the Council under this Part in respect of registration shall lie to a Social Care Tribunal.
- (3) On an appeal against a decision, a Social Care Tribunal may confirm the decision or direct that it shall not have effect.

(4) A Social Care Tribunal shall also have power on an appeal against a decision—

- (a) to vary any condition for the time being in force in respect of the person to whom the appeal relates;
- (b) to direct that any such condition shall cease to have effect; or
- (c) to direct that any such condition as it thinks fit shall have effect in respect of that person.

(5) The Council shall comply with any direction given by a Social Care Tribunal under this section.

(6) In the Registered Homes Order—

- (a) for “Registered Homes Tribunal” (wherever occurring) there shall be substituted “Social Care Tribunal”;
- (b) for “Registered Homes Tribunals” (wherever occurring) there shall be substituted “Social Care Tribunals”;
- (c) in Article 30(1) after “1995” there shall be inserted “or under Part I of the Health and Personal Social Services Act (Northern Ireland) 2001”;
- (d) Article 34 applies in relation to appeals under this section with the substitution for references to the Board of references to the Council.

(7) In the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) in Articles 78(3), 87(1), 94(3) and 103(1) for “Registered Homes Tribunal” there shall be substituted “Social Care Tribunal”.

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

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

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

### **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.

(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);
- (b) the approval of courses under section 10;
- (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.

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

#### **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—

- (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.

#### **Interpretation of this Part – “children’s home”**

**20.—**(1) Subject to the provisions of this section, for the purposes of this Part an establishment is a children’s home if it provides care and accommodation for children.

(2) An establishment is not a children’s home merely because a child is cared for and accommodated there by a parent or relative of his or by a person who fosters him (within the meaning of Article 119(3) of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#)).

- (3) An establishment is not a children's home if it is—
- (a) a residential care home;
  - (b) a hospital or nursing home;
  - (c) a school at which board and lodging are not provided for pupils;
  - (d) a residential family centre;
  - (e) used primarily for or in connection with the provision of cultural, recreational, leisure, social or physical activities; or
  - (f) excepted by regulations.

**Interpretation of this Part – “residential care home” and “nursing home”**

**21.**—(1) Subject to subsections (3) and (4), in this Part “residential care home” has the meaning given by Article 3 of the Registered Homes Order.

(2) Subject to subsections (3) and (5), in this Part “nursing home” has the meaning given by Article 16 of the Registered Homes Order.

(3) An establishment is not a residential care home or a nursing home if it is a children's home.

(4) For the purposes of subsection (1), Article 3 of the Registered Homes Order shall have effect with the omission of—

- (a) paragraph (2)(d); and
- (b) paragraph (2)(f).

(5) For the purposes of subsection (2), Article 16 of the Registered Homes Order shall have effect with the omission of—

- (a) paragraph (1)(b) and (c); and
- (b) paragraph (2)(b) and (d).

**Interpretation of this Part – general**

**22.** In this Part—

“child” means a person under the age of 18;

“day care setting” means a place where persons in need of personal care may attend for the purposes of rehabilitation or counselling, but where they are not provided with board;

“domiciliary care agency” means an undertaking (other than one of a description excepted by regulations) which consists of or includes arranging the provision of 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;

“personal care” has the same meaning as in the Registered Homes Order, but does not include any prescribed activity;

“the Registered Homes Order” means the [Registered Homes \(Northern Ireland\) Order 1992 \(NI 20\)](#);

“residential family centre” means any establishment (other than one of a description excepted by regulations) at which—

- (a) accommodation is provided for children and their parents;
- (b) the parents' capacity to respond to the children's needs and to safeguard their welfare is monitored or assessed; and
- (c) the parents are given such advice, guidance or counselling as is considered necessary,

and for the purposes of this definition “parent”, in relation to a child, includes any person who is looking after him;

“school” has the same meaning as in the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#);

“undertaking” includes any business or profession and—

- (a) in relation to a public body, includes the exercise of any functions of that body;
- (b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body.