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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 121**

**The Public Services Reform (Scotland) Act 2010 (Health and Social Care) Savings and Transitional Provisions Order 2011**

**PART II**

**CARE SERVICES**

**TRANSITIONAL PROVISIONS**

**Registration**

2.—(1) Where on the appointed day, a person provides a care service which immediately before that day was registered under Part 1 or 2 of the 2001 Act, that care service is to be treated for all purposes as if it had been registered under Part 5 of the 2010 Act on that day and is subject to the same conditions as the registration under Part 1 or 2 of the 2001 Act was subject.

(2) Paragraph 1 does not apply to a registration to which article 18(1) applies.

**Improvement notices**

3.—(1) Where prior to the appointed day an improvement notice has been given under section 10 of the 2001 Act, that notice is to be treated for all purposes as if it had been given by SCSWIS under section 62 of the 2010 Act.

(2) Any reference in that notice to section 2, 12, 14, 41 or Part 2 of the 2001 Act is to be treated as a reference to section 64, 70, 91, Chapter 4 or schedule 12 of the 2010 Act as appropriate.

**Cancellation notices**

4. Where prior to the appointed day, the Commission has proposed under section 12 of the 2001 Act, to cancel the registration of a care service, that proposal is to be treated for all purposes as if it had been made by SCSWIS under section 64(1) of the 2010 Act, and as if any reference to a relevant offence or to a relevant requirement in that section were to a relevant offence or relevant requirement as defined in section 12 of the 2001 Act.

**Condition notices**

5. Where prior to the appointed day, a person providing a care service is given a condition notice under section 13 of the 2001 Act, that notice is to be treated for all purposes as if it had been given by SCSWIS under section 66 of the 2010 Act.

**Applications in respect of conditions**

6. Where prior to the appointed day a person providing a care service registered under Part 1 of the 2001 Act has applied to the Commission for the variation or removal of a condition in force in relation to the registration, or for cancellation of the registration, in accordance with section 14

of the 2001 Act, and that application has not been granted or refused prior to the appointed day, that application is to be treated for all purposes as if it were an application made to SCSWIS in accordance with section 70 of the 2010 Act by a person providing a care service registered under Part 5 of that Act.

### **Registration of authorised persons**

7. Where prior to the appointed day a person is registered in the register maintained by the Scottish Social Services Council under section 44(1)(b) of the 2001 Act, as an employee of the Commission who is also an authorised person within the meaning of sections 25 and 27 of the Act<sup>(1)</sup>, that person is to be treated for all purposes as an authorised person in terms of section 56 of the 2010 Act.

### **National Care Standards**

8. From the appointed day, the national care standards published by the Scottish Ministers under section 5 of the 2001 Act are to be treated for all purposes as if they were standards applicable to care services published under section 50 of the 2010 Act or standards applicable to independent health care services under section 10H of the NHS Act.

### **Complaints**

9. Where immediately before the appointed day, the Commission has received a complaint relating to—

- (a) the Commission;
- (b) a care service; or
- (c) an independent health care service,

and investigation of that complaint has not concluded, the investigation of that complaint is to be carried out by SCSWIS.

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(1) The Regulation of Care (Social Service Workers) (Scotland) Order (S.S.I. 2005/318) prescribes as amended by S.S.I. 2010/442 employees of the Commission for the purposes of section 44(1)(b) of the 2001 Act.