

EXPLANATORY MEMORANDUM TO
THE HEALTH AND SOCIAL CARE ACT 2012 (CONSEQUENTIAL
PROVISION – SOCIAL WORKERS) ORDER 2012

2012 No. 1479

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

- 2.1 The purpose of this instrument is to make provisions which are consequential on the commencement of those parts of the Health and Social Care Act 2012 (the 2012 Act) which provide for the Health Professions Council (which is renamed the Health and Care Professions Council (HCPC)) to regulate social workers in England and approve the training, in England, of those who are or wish to become Approved Mental Health Professionals (AMHPs): The provisions are largely technical amendments to secondary legislation.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

- 4. Legislative Context**

- 4.1 Sections 211 to 221 of the Health and Social Care Act 2012 provide for the HCPC to regulate social workers in England and approve the training in England of those who are, or wish to become, AMHPs. The provisions include:
 - Changing the name of the Health Professions Council to the Health and Care Professions Council (HCPC);
 - Changing the name of the Health Professions Order 2001 to the Health and Social Work Professions Order 2001;
 - Amending that Order to require the HCPC to regulate social workers in England;
 - Abolition of the GSCC; and,
 - Transferring the function of approving training in England for individuals who are or who wish to become Approved Mental Health Professionals (AMHPs).
- 4.2 The Health and Social Care Act 2012 (Commencement No.1 and Transitory Provision) Order 2012 commences the provisions in the 2012 Act which provide for the transfer of the regulation of social

workers in England from the GSCC to the HCPC on the 1st August. This order which will come into force on the same date makes changes to secondary legislation which are consequential to the transfer.

4.3 The related General Social Care Council (Abolition – Transitional And Saving Provision) Order Of Council 2012, (which makes transitory, transitional and savings provisions in relation to the commencement of the above provisions and is made by the Privy Council), will also be laid on the same day as this Order.

4.4 Consequential amendments fall out of a number of the provisions in the Act. However the key ones are:

section 213 - which requires the HCPC to regulate social workers in England and changes the name of the Health Professions Order 2001 (which establishes and provides the legislative framework of the HCPC) to the Health and Social Work Professions Order 2001.

section 217 - which gives the HCPC powers to approve courses for those who are or wish to become approved mental health professionals in England.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales, Scotland and Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The GSCC is an Executive Non-Departmental Public Body responsible for the regulation of social workers in England. The majority of its funding is provided by the Department of Health.

7.2 The Department of Health's Review of its arms length bodies, *Liberating the NHS, Report of the Arm's-Length Bodies Review* published on the 26th July 2010, concluded that there was no compelling reason for the GSCC to remain in the arms length bodies sector and there were potentially significant benefits from putting the regulation of Social Workers on a similar footing to the regulation of health professions.

7.3 The report announced the Government's intention to abolish the GSCC and transfer the regulation of social workers in England to the Health

Professions Council (HPC). The HPC is independent of the Department and funded, on a cost recovery basis, through registrant fees.

8. Consultation outcome

- 8.1 As required under Section 303(4) of the 2012 Act Scottish Ministers have been consulted on those consequential provisions in this order that would, if included in an Act of the Scottish Parliament, fall within the legislative competence of that Parliament. Scottish Ministers have confirmed they are content with those provisions.
- 8.2 The provisions in this Order are consequential to the commencement of those sections in the 2012 Act which transfer the regulation of social workers in England to the HCPC and which have been subject to formal debate in both Houses of Parliament. Therefore, no other formal consultation is considered necessary, although officials at the Department of Health have worked closely with the HCPC and GSCC in the preparation of this and the related transitional and savings order.

9. Guidance

- 9.1 None.

10. Impact

- 10.1 As this is a consequential order, we do not expect it to have any impact beyond that of the sections of the 2012 Act which provide for the HCPC to regulate social workers in England and approve the training for AMHPs. The impact of the transfer has been considered as part of the Impact Assessment for the Health and Social Care Act 2012, (pages 133 -135), which can be found at -

<http://www.parliament.uk/documents/impact-assessments/IA11-038.pdf>

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 There will be no formal monitoring or review of this order as it only contains provisions consequential on the abolition of the GSCC and transfer of its functions relating to the regulation of social workers and approval of training for AMHPs in England to the HCPC.
- 12.2 The HCPC's regulation of social workers in England will be subject to monitoring and annual review by the Council for Healthcare Regulatory Excellence which oversees the health and social care

professional regulatory bodies. In addition, the legislative framework for the regulation of health professionals across the UK and social workers in England is currently subject to review by the Law Commission.

13. Contact

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