



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 7

#### REGULATION OF HEALTH AND SOCIAL CARE WORKERS

##### *The Health and Care Professions Council*

#### **<sup>F1</sup>213 Regulation of social workers in England**

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#### **Textual Amendments**

**F1** S. 213 omitted (2.12.2019) by virtue of [Children and Social Work Act 2017 \(c. 16\), s. 70\(2\), Sch. 5 para. 38](#); S.I. 2019/1436, reg. 2(s)

#### **214 The Health and Care Professions Council**

- (1) The body corporate known as the Health Professions Council—
  - (a) is to continue to exist, and
  - (b) is to change its name to the Health and Care Professions Council.
- (2) In article 3 of the Health and Social Work Professions Order 2001 (S.I. 2002/254) (the Council and its Committees), for sub-paragraph (1) substitute—

“(1) The Health and Care Professions Council is referred to in this Order as “the Council”.”
- (3) For the title to that article substitute “The Health and Care Professions Council and its Committees”.
- (4) In Schedule 3 to that Order (interpretation), in the definition of “the Council” in paragraph 1, for “the Health Professions Council established under article 3” substitute

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**Changes to legislation:** *Health and Social Care Act 2012, Cross Heading: The Health and Care Professions Council is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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“the Health and Care Professions Council (formerly known as the Health Professions Council and continued in existence by section 214 of the Health and Social Care Act 2012)”.

**Commencement Information**

**I1** S. 214 in force at 1.8.2012 by S.I. 2012/1319, art. 2(4)

**F<sup>2</sup>215 Functions of the Council in relation to social work in England**

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**Textual Amendments**

**F2** S. 215 omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), Sch. 5 para. 38; S.I. 2019/1436, reg. 2(s)

**F<sup>3</sup>216 Appeals in cases involving social workers in England**

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**Textual Amendments**

**F3** S. 216 omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), Sch. 5 para. 38; S.I. 2019/1436, reg. 2(s)

**217 Approval of courses for approved mental health professionals**

- (1) Part 8 of the Mental Health Act 1983 (miscellaneous local authority functions etc.) is amended as follows.
- (2) Before section 114A insert—

“114ZA **Approval of courses: England**

- (1) The Health and Care Professions Council may approve courses for persons who are, or wish to become, approved to act as approved mental health professionals by a local social services authority whose area is in England.
- (2) The Council must publish a list of—
  - (a) the courses which are approved under this section, and
  - (b) the courses which have been, but are no longer, approved under this section and the periods for which they were so approved.
- (3) The functions of an approved mental health professional are not to be considered to be relevant social work for the purposes of Part 4 of the Care Standards Act 2000.
- (4) Where the function under subsection (1) is, in accordance with the Health and Social Work Professions Order 2001, exercisable by a committee of

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the Council, the committee may arrange for another person to exercise the function on the Council's behalf.”

- (3) In section 114 (approval of mental health professionals by local social services authority), in subsection (6), after “section” insert “114ZA or”.
- (4) Section 114A (approval of courses) is amended as follows.
- (5) For subsection (1) substitute—
  - “(1) The Care Council for Wales may, in accordance with rules made by it, approve courses for persons who are, or wish to become, approved to act as approved mental health professionals by a local social services authority whose area is in Wales.”
- (6) Omit subsection (3).
- (7) In subsection (5), omit “General Social Care Council and the”.
- (8) For the title to that section substitute “Approval of courses: Wales”.

#### Commencement Information

I2 S. 217 in force at 1.8.2012 by S.I. 2012/1319, art. 2(4)

### 218 Exercise of function of approving courses, etc.

- (1) The Health and Social Work Professions Order 2001 (S.I. 2002/254) is amended as follows.
- (2) In article 3 (the Council and its Committees), in paragraph (3), at the end insert “(and see also section 114ZA of the Mental Health Act 1983 (approval of courses for approved mental health professionals))”.
- (3) After paragraph (5) of that article insert—
  - “(5ZA) In the application of paragraph (5) to the functions of the Council that relate to persons who are, or wish to become, approved mental health professionals in England, references to registrants are to be read as including a reference to such approved mental health professionals in England as are not registrants.”
- (4) In article 14 (the Council's education and training committee), after sub-paragraph (b) insert—
  - “(ba) the setting of criteria under article 15B;”.
- (5) After article 15 insert—

#### “15A Exercise of function of approving courses for approved mental health professionals

- (1) The function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals in England) is exercisable by the Education and Training Committee.

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- (2) In relation to AMHP courses run outside the United Kingdom, section 114ZA(1) of that Act applies only in relation to courses run by institutions which are approved in accordance with article 15B(3).
- (3) In this article and articles 15B to 18, “AMHP course” means a course of the kind referred to in section 114ZA(1) of the Mental Health Act 1983.

#### **15B Criteria for approving courses for approved mental health professionals**

- (1) The Council must set the criteria to be applied in exercising the function under section 114ZA(1) of the Mental Health Act 1983.
- (2) The Education and Training Committee must—
  - (a) ensure that universities and other bodies in the United Kingdom concerned with the provision of AMHP courses are notified of the criteria set under paragraph (1); and
  - (b) take appropriate steps to satisfy itself that the AMHP courses provided by such bodies meet those criteria.
- (3) In performing the function under paragraph (2)(b), the Committee may, in particular, approve or arrange with others to approve institutions which the Committee considers to be properly organised and equipped for conducting AMHP courses.
- (4) The Council must from time to time publish a statement of the criteria set under paragraph (1).
- (5) An AMHP course is to be treated for the purposes of articles 16 to 18 as a relevant course of education or training.”
- (6) In article 16 (visitors), in paragraph (6), at the end insert “; but that does not apply to AMHP courses.”
- (7) In article 17 (information), after paragraph (3) insert—
 

“(3A) The reference in paragraph (3) to the functions of the Committee under this Order includes a reference to the function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals) in so far as that function is exercisable by the Committee.”
- (8) In article 18 (refusal or withdrawal of approval), after paragraph (1) insert—
 

“(1A) Where as a result of any visitor's report or other information acquired by the Committee or the Council, and taking account of the observations received from the institution under article 16(9), the Committee is of the opinion that an AMHP course does not meet the criteria set under article 15B(1), it may refuse to approve, or withdraw approval from, the course.”
- (9) In that article—
  - (a) in paragraph (3), after “paragraph (1)” insert “or (1A)”, and
  - (b) in paragraph (6), after “paragraph (1)” in each place it appears insert “or, as the case may be, (1A)”.

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(10) In article 21(1)(a) (Council's duty to establish standards of conduct etc. and give guidance), after “prospective registrants” insert “(including registrants or prospective registrants carrying out the functions of an approved mental health professional)”.

(11) In article 45 (finances of the Council), after paragraph (3) insert—

“(3A) The Secretary of State may make grants or loans to the Council towards expenses incurred, or to be incurred by it, in connection with the exercise of its functions in relation to persons who are, or wish to become, approved mental health professionals in England.”

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**Commencement Information**

**I3** S. 218 in force at 1.8.2012 by S.I. 2012/1319, art. 2(4)

## **219 Arrangements with other health or social care regulators**

(1) After article 44 of the Health and Social Work Professions Order 2001 (S.I. 2002/254) insert—

**“44A Arrangements with other persons who maintain registers of health or social care workers**

(1) The Council may make arrangements with any relevant person for the Council to provide administrative, technical or advisory services to that person.

(2) A relevant person is a person or group of persons (whether inside or outside the United Kingdom) who maintain—

- (a) a register of members of a profession engaged in the provision of health care,
- (b) a register of persons engaged in, but who are not members of a profession engaged in, the provision of health care,
- (c) a register of members of the social work profession, or
- (d) a register of persons engaged in social care work.”

(2) In Schedule 3 to that Order (interpretation), at the appropriate place, insert—

““health care” includes—

- (a) all forms of health care for individuals, whether relating to physical or mental health, and
- (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition;”.

## **220 References in enactments to registered health professionals, etc.**

(1) In section 58 of the Medicines Act 1968 (medicinal products on prescription only), after subsection (1A) insert—

“(1ZA) Paragraphs (a) and (g) of subsection (1A) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

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- (2) In section 27 of the National Health Service (Scotland) Act 1978 (arrangements for provision of pharmaceutical services), after subsection (1B) insert—

“(1C) Paragraphs (a) and (h) of subsection (1A) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

- (3) In section 3 of the Video Recordings Act 1984 (exempted supplies), after subsection (11) insert—

“(11A) But subsection (11) does not apply to a person in so far as the person is required to register under the Health and Social Work Professions Order 2001 as a member of the social work profession in England (within the meaning of section 60 of the Health Act 1999).”

- (4) In Group 7 in Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemption for medical care services), in the Notes, after Note (2) insert—

“2ZA Paragraph (c) of item 1 does not include supplies of services made by a person in the capacity of a registered member of the social work profession in England (within the meaning of section 60 of the Health Act 1999).”

- (5) In section 69 of the Data Protection Act 1998 (meaning of “health professional”), at the end of paragraph (h) of subsection (1), insert “, except in so far as the person is registered as a social worker in England (within the meaning of that Order)”.

- (6) In section 25 of the National Health Service Reform and Health Care Professions Act 2002 (the Council for Healthcare Regulatory Excellence), after subsection (3) insert—

“(3A) A reference in an enactment to a body mentioned in subsection (3) is not (unless there is express provision to the contrary) to be read as including a reference to the Health and Care Professions Council, or a regulatory body within subsection (3)(j), so far as it has functions relating to—

- (a) the social work profession in England, or
- (b) social care workers in England.

- (3B) For the purposes of subsection (3A)—

“enactment” means an enactment contained in—

- (a) an Act, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales (whether passed before or after the commencement of this subsection), or
- (b) subordinate legislation (within the meaning of the Interpretation Act 1978), an instrument made under an Act of the Scottish Parliament, an Act or Measure of the National Assembly for Wales or Northern Ireland legislation (whether made before or after that commencement), and

“the social work profession in England” and “social care workers in England” have the meaning given in section 60 of the 1999 Act.”

- (7) In section 126 of the National Health Service Act 2006 (arrangements for provision of pharmaceutical services), after subsection (4) insert—

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“(4A) Paragraphs (a) and (h) of subsection (4) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

(8) In section 80 of the National Health Service (Wales) Act 2006 (arrangements for provision of pharmaceutical services), after subsection (4) insert—

“(4A) Paragraphs (a) and (h) of subsection (4) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).”

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**Commencement Information**

**I4** S. 220 in force at 1.8.2012 by S.I. 2012/1319, art. 2(4)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)