

Professional Standards Authority  
UNOFFICIAL CONSOLIDATED VERSION OF OUR LEGISLATION

This document is an unofficial consolidated version of the legislation that sets out our powers, functions, status and procedures. It reflects the law as at 2 July 2019. The footnotes in this document are for information only: they are not part of the legislation.

The key piece of legislation is the National Health Service Reform and Health Care Professions Act 2002 (as amended). Sections 25 and 26 of the Act relate to all of our functions. The following table identifies which of the Act's other provisions relate to each of our functions.

<b>Function</b>	<b>Provisions relevant to the function (in addition to sections 25 and 26)</b>
Provide funding proposal to Privy Council	Subsection 25A(5)
Advise or audit regulatory bodies and others for a fee	Section 25B
Assist the Privy Council in the appointments it makes to the Councils of the regulatory bodies	Subsection 25C(2)(a)
Assist with appointments to the Authority	Section 25C
Accredit voluntary registers	Sections 25G, 25H and 25I
Advise health ministers in all four Governments	Section 26A
Communicate our work and involve patients, service users and the public	Section 26B
Review final fitness to practise cases and refer decisions to court	Section 29
Prepare and publish Annual Report and Accounts	Schedule 7, paragraphs 15 – 16
Annual performance review of the regulatory bodies	Schedule 7, subparagraph 16(1A)(b)
Investigations and special reviews of the regulatory bodies	Schedule 7, subparagraphs 16(3) – (4)
Audit the initial stages of the fitness to practise process of the regulatory bodies	-
Conduct research and improving regulation. Promoting good practice and right-touch regulation. Influencing national and international policy on the regulation of health and social care professions.	-
Using complaints received to improve practice across the regulatory bodies and investigating when necessary	If the Privy Council makes regulations under section 28 that section will become relevant to our complaints work
Publish an annual strategic plan	Schedule 7, subparagraph 16(1B)

# National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

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## PART 2

### HEALTH AND SOCIAL CARE PROFESSIONS

#### *The Professional Standards Authority for Health and Social Care*

#### **25 The Professional Standards Authority for Health and Social Care**

- (1) There shall be a body corporate known as the Professional Standards Authority for Health and Social Care (in this group of sections referred to as “the Authority”).<sup>1</sup>
- (2) The general functions of the Authority are—
  - (a) to promote the interests of users of health care, users of social care in England, users of social work services in England and other members of the public in relation to the performance of their functions by the bodies mentioned in subsection (3)(in this group of sections referred to as “regulatory bodies”), and by their committees and officers,
  - (b) to promote best practice in the performance of those functions,
  - (c) to formulate principles relating to good professional self-regulation, and to encourage regulatory bodies to conform to them, and
  - (d) to promote co-operation between regulatory bodies; and between them, or any of them, and other bodies performing corresponding functions.

~~(2A) The main objective of the Authority in exercising its functions under subsection (2)(b) to (d) is to promote the health, safety and well-being of users of health care, users of social care in England, users of social work services in England and other members of the public.~~

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<sup>1</sup> The Professional Standards Authority for Health and Social Care was previously called the Council for Healthcare Regulatory Excellence and before that we were The Council for the Regulation of Health Care Professionals. We became the Authority on 1 December 2012 (when Section 222 of the Health and Social Care Act 2012 was brought into force by S.I. 2012/2657).

- (2A)<sup>2</sup> The over-arching objective of the Authority in exercising its functions under subsection (2)(b) to (d) is the protection of the public.
- (2B) The pursuit by the Authority of its over-arching objective involves the pursuit of the following objectives—
- (a) to protect, promote and maintain the health, safety and well-being of the public;
  - (b) to promote and maintain public confidence in the professions regulated by the regulatory bodies;
  - (c) to promote and maintain proper professional standards and conduct for members of those professions;
  - (d) to promote and maintain proper standards in relation to the carrying on of retail pharmacy businesses at registered pharmacies (as defined in article 3(1) of the Pharmacy Order 2010 (S.I. 2010/231)); and
  - (e) to promote and maintain proper standards and conduct for business registrants (as defined in section 36(1) of the Opticians Act 1989).
- (3) The bodies referred to in subsection (2)(a) are—
- (a) the General Medical Council,
  - (b) the General Dental Council,
  - (c) the General Optical Council,
  - (d) the General Osteopathic Council,
  - (e) the General Chiropractic Council,
  - (f) the General Pharmaceutical Council,
  - (g) subject to section 26(6), the Pharmaceutical Society of Northern Ireland,
  - (ga) the Nursing and Midwifery Council,
  - (gb) the Health and Care Professions Council,
  - (gc) Social Work England<sup>3</sup>
  - ~~(h) until their abolition by virtue of section 60(3) of the 1999 Act—~~
    - ~~(i) the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, and each of the National Boards for Nursing, Midwifery and Health Visiting, and~~
    - ~~(ii) the Council for Professions Supplementary to Medicine and each Board established by or by virtue of the Professions Supplementary to Medicine Act 1960 (c. 66),~~

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<sup>2</sup> Subsection (2A) was replaced by the new (2A) and (2B) by Section 5(1) of the Health and Social Care (Safety and Quality) Act 2015 which was commenced on 26 September 2016 by The Health and Social Care (Safety and Quality) Act 2015 (Commencement No. 2) Regulations 2016 (S.I. 2016/906)

<sup>3</sup> Paragraph (gb) in Section 25(3) was inserted by Schedule 4, paragraph 2(2) of the Children and Social Work Act 2017. It is not yet in force.

- ~~(i) any regulatory body (within the meaning of Schedule 3 to the 1999 Act) established by an Order in Council under section 60 of that Act as the successor to a body mentioned in paragraph (h),<sup>4</sup>~~
- (j) any other regulatory body (within the meaning of Schedule 3 to the 1999 Act) established by an Order in Council under section 60 of that Act.

(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) a reference to Social Work** England, or
- (b) 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 social care workers in England.**<sup>5</sup>

(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

“social care workers in England” has the meaning given in section 60 of the 1999 Act.<sup>6</sup>

- (4) Schedule 7 (which makes further provision about the Authority) is to have effect.
- (5) “This group of sections” means this section and sections 25A<sup>7</sup> 26 to 29, and includes Schedule 7.

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<sup>4</sup> Schedule 10, paragraph 17(2) of the Health and Social Care Act 2008 substituted paragraphs (ga) and (gb) for paragraphs (h) and (i) and was commenced on 1 August 2012 by The Health and Social Care Act 2012 (Commencement No. 1 and Transitory Provision) Order 2012 (S.I. 2012/1319)

<sup>5</sup> Schedule 4, paragraph 2(3) of the Children and Social Work Act 2017 substitutes subsection (3A). It is not yet in force.

<sup>6</sup> Subsection (3B) is amended by Schedule 4, paragraph 2(4) of the Children and Social Work Act 2017. It is not yet in force.

<sup>7</sup> Section 25(5) was amended by Section 224(2) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

- (6) In this group of sections, references to regulation, in relation to a profession, are to be construed in accordance with paragraph 11(2) ~~and (3)~~<sup>8</sup> of Schedule 3 to the 1999 Act.<sup>9</sup>

**25A<sup>10</sup> Funding of the Authority by bodies other than Social Work England<sup>11</sup>**

- (1) The Privy Council must by regulations require each regulatory body, **other than Social Work England,**<sup>12</sup> to pay the Authority periodic fees of such amount as the Privy Council determines in respect of such of the Authority's functions in relation to that body as are specified in the regulations.
- (2) A reference in this section to the Authority's functions does not include a reference to its functions under sections 25G to 25I and 26A.
- (3) The regulations must, in particular, provide for the method of determining the amount of a fee under the regulations.
- (4) Before determining the amount of a fee under the regulations, the Privy Council must request the Authority to make a proposal as to the amount of funding that it considers it requires in order to perform for the period to which the fee would apply such of its functions in relation to the regulatory bodies as are specified in the regulations.
- (5) The Authority must—
- (a) comply with a request under subsection (4), but
  - (b) before doing so, consult the regulatory bodies.
- (6) Having received a proposal under subsection (5), the Privy Council may consult the regulatory bodies.
- (7) Having taken into account such representations as it receives from consultees, the Privy Council must—
- (a) make a proposal as to the amount of funding that it considers the Authority requires in order to perform for the period to which the fee would apply

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<sup>8</sup> The words "and (3)" were removed by Schedule 15, Part 2 of the Health and Social Care Act 2008 which was commenced on 1 January 2009 by The Health and Social Care Act 2008 (Commencement No. 7) Order 2008 (S.I. 2008/3244)

<sup>9</sup> Schedule 3 of the Health Act 1999 is available at <http://www.legislation.gov.uk/ukpga/1999/8/schedule/3>

<sup>10</sup> Section 25A was inserted by Section 224(1) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

<sup>11</sup> This heading is amended by Schedule 4, paragraph 3(3) of the Children and Social Work Act 2017. It is not yet in force.

<sup>12</sup> Subsection (1) is amended by Schedule 4, paragraph 3(2) of the Children and Social Work Act 2017. It is not yet in force.

such of its functions in relation to the regulatory bodies as are specified in the regulations, and

- (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that each regulatory body would be required to pay.
- (8) The Privy Council must—
- (a) consult the Authority about the proposal under subsection (7)(a) and the determinations under subsection (7)(b), and
  - (b) consult each regulatory body about the determination under subsection (7)(b) of the amount it would be required to pay.
- (9) Having taken into account such representations as it receives from consultees, the Privy Council must—
- (a) determine the amount of funding that the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to the regulatory bodies as are specified in the regulations, and
  - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that each regulatory body is to be required to pay.
- (10) Regulations under this section requiring payment of a fee may make provision—
- (a) requiring the fee to be paid within such period as is specified;
  - (b) requiring interest at such rate as is specified to be paid if the fee is not paid within the period specified under paragraph (a);
  - (c) for the recovery of unpaid fees or interest.
- (11) The regulations may enable the Privy Council to redetermine the amount of a fee provided for under the regulations, on a request by the Authority or a regulatory body or on its own initiative.
- (12) Before making regulations under this section, the Privy Council must consult—
- (a) the Authority,
  - (b) the regulatory bodies, and
  - (c) such other persons as it considers appropriate.

### **25AA Funding of the Authority by Social Work England<sup>13</sup>**

- (1) The Secretary of State must by regulations require Social Work England to pay the Authority periodic fees of such amount as the Secretary of State determines in respect of such of the Authority's functions in relation to Social Work England as are specified in the regulations.
- (2) A reference in this section to the Authority's functions does not include a reference to its functions under section 26A.
- (3) The regulations must, in particular, provide for the method of determining the amount of a fee under the regulations.
- (4) Before determining the amount of a fee under the regulations, the Secretary of State must request the Authority to make a proposal as to the amount of funding that it considers it requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations.
- (5) The Authority must—
  - (a) comply with a request under subsection (4), but
  - (b) before doing so, consult Social Work England.
- (6) Having received a proposal under subsection (5), the Secretary of State may consult Social Work England.
- (7) Having taken into account any representations from Social Work England, the Secretary of State must—
  - (a) make a proposal as to the amount of funding that the Secretary of State considers the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations, and
  - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that Social Work England would be required to pay.
- (8) The Secretary of State must—
  - (a) consult the Authority about the proposal under subsection (7)(a) and the determinations under subsection (7)(b), and

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<sup>13</sup> Section 25AA was inserted by Schedule 4, paragraph 4 of the Children and Social Work Act 2017 which was commenced (for the purposes of inserting Section 25AA) on 15 January 2018 by The Children and Social Work Act 2017 (Commencement No. 2) Regulations 2017 (S.I. 2017/1217)

- (b) consult Social Work England about the determination under subsection (7)(b) of the amount it would be required to pay.
- (9) Having taken into account such representations as it receives from consultees, the Secretary of State must—
- (a) determine the amount of funding that the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations, and
  - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that Social Work England is to be required to pay.
- (10) Regulations under this section requiring payment of a fee may make provision—
- (a) requiring the fee to be paid within such period as is specified;
  - (b) requiring interest at such rate as is specified to be paid if the fee is not paid within the period specified under paragraph (a);
  - (c) for the recovery of unpaid fees or interest.
- (11) The regulations may enable the Secretary of State to redetermine the amount of a fee provided for under the regulations, on a request by the Authority or Social Work England or on the Secretary of State's own initiative.
- (12) Before making regulations under this section, the Secretary of State must consult—
- (a) the Authority,
  - (b) Social Work England, and
  - (c) such other persons as the Secretary of State considers appropriate.

**25B<sup>14</sup>Power of the Authority to advise regulatory bodies etc.**

- (1) The Authority may, for the purpose of assisting the Authority in its performance of its functions under this group of sections, provide advice or provide auditing services to—
- (a) a regulatory body;
  - (b) a body which has functions (whether or not relating to health or social care) corresponding to those of a regulatory body.

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<sup>14</sup> Section 25B was inserted by Section 225(1) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)



- (2) A body to which the Authority provides advice or auditing services under this section must pay such fee as the Authority may determine.
- (3) In this section, “this group of sections” has the meaning given by section 25(5) but does not include section 26A.

### **25C Appointments to regulatory bodies**

- (1) The Privy Council and a regulatory body may make arrangements for the regulatory body or other persons to assist the Privy Council in connection with its exercise of any of its appointment functions in relation to the regulatory body.
- (2) The Privy Council and the Authority may make arrangements for the Authority to assist the Privy Council in connection with—
  - (a) its exercise of any of its appointment functions in relation to a regulatory body;
  - (b) its exercise of its function under paragraph 4 of Schedule 7.
- (3) The Privy Council may make arrangements with any other person to assist it in connection with—
  - (a) its exercise of any of its appointment functions in relation to a regulatory body;
  - (b) its exercise of its function under paragraph 4 of Schedule 7.
- (4) The Scottish Ministers and the Authority may make arrangements for the Authority to assist them in connection with their exercise of their function under that paragraph.
- (5) The Welsh Ministers and the Authority may make arrangements for the Authority to assist them in connection with their exercise of their function under that paragraph.
- (6) The Department of Health, Social Services and Public Safety in Northern Ireland may make arrangements for the Authority to assist the Department in connection with its exercise of its function under that paragraph.
- (7) In this section, “regulatory body” does not include the Pharmaceutical Society of Northern Ireland or Social Work England.<sup>15</sup>
- (8) In this section, “appointment functions” means—

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<sup>15</sup> Subsection (7) is amended by Schedule 4, paragraph 5 of the Children and Social Work Act 2017. It is not yet in force.

- (a) in relation to the General Medical Council, the function under paragraph 1A(2) of Schedule 1 to the Medical Act 1983 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (appointment of members and chair and determination of terms of office),
- (b) in relation to the General Dental Council, the function under paragraph 1A(2) of Schedule 1 to the Dentists Act 1984 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (c) in relation to the General Optical Council, the function under paragraph 1A(2) of Schedule 1 to the Opticians Act 1989 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (d) in relation to the General Osteopathic Council, the function under paragraph 1A(2) of the Schedule to the Osteopaths Act 1993 and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (e) in relation to the General Chiropractic Council, the function under paragraph 1A(2) of Schedule 1 to the Chiropractors Act 1994 and such functions as the Privy Council has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (f) in relation to the General Pharmaceutical Council, the function under paragraph 1(2) of Schedule 1 to the Pharmacy Order 2010 (S.I. 2010/231) and such functions as the Privy Council from time to time has by virtue of paragraph 2(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council),
- (g) in relation to the Nursing and Midwifery Council, the function under paragraph 1A(2) of Schedule 1 to the Nursing and Midwifery Order 2001 (S.I. 2002/253) and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council), and
- (h) in relation to the Health and Care Professions Council, the function under paragraph 1(2) of Schedule 1 to the Health and Social Work Professions Order 2001 (S.I. 2002/254) and such functions as the Privy Council from time to time has by virtue of paragraph 1B(1)(b) or (d) of that Schedule (corresponding functions in relation to that Council).

- (9) A reference to assisting in connection with the exercise of a function does not include a reference to exercising the function.

## **25D Power of regulatory bodies to establish voluntary registers**

- (1) A regulatory body **other than Social Work England<sup>16</sup>** may establish and maintain a voluntary register of persons who are (and, where the body thinks appropriate, persons who have been)—
- (a) unregulated health professionals;
  - (b) unregulated health care workers;
  - (c) unregulated social care workers in England;
  - (d) participating in studies that come within subsection (2) or (3).
- (2) Studies come within this subsection if they are studies for the purpose of becoming a member of—
- (a) a profession to which section 60(2) of the Health Act 1999 applies<sup>17</sup>
- (3) Studies come within this subsection if they are studies for the purpose of becoming—
- (a) an unregulated health professional,
  - (b) an unregulated health care worker, or
  - (c) an unregulated social care worker in England.
- (4) A regulatory body may establish and maintain a register under subsection (1)(a), (b) or (c) of only such persons as are (or have been) engaged in work that supports, or otherwise relates to, work engaged in by members of a profession which the body regulates; but this subsection does not apply to the Health and Care Professions Council.
- (5) A regulatory body may establish and maintain a register under subsection (1)(d) of only such persons as are (or have been) participating in studies for the purpose of—
- (a) in the case of studies coming within subsection (2), becoming a member of a profession which the body regulates,

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<sup>16</sup> Subsection (1) is amended by Schedule 4, paragraph 6(1) of the Children and Social Work Act 2017. It is not yet in force.

<sup>17</sup> Paragraph (b) is removed by Schedule 4, paragraph 6(3) of the Children and Social Work Act 2017. It is not yet in force.

- (b) in the case of studies coming within subsection (3)(a), becoming a member of a profession for which the body maintains a voluntary register, or
  - (c) in the case of studies coming within subsection (3)(b) or (c), engaging in work in respect of which the body maintains a voluntary register.
- (6) The General Pharmaceutical Council may establish and maintain a register under subsection (1) of only such persons as are (or have been) engaged in work or participating in studies in England, Wales or Scotland.
- (7) The Pharmaceutical Society of Northern Ireland may establish and maintain a register under subsection (1) of only such persons as are (or have been) engaged in work, or are participating in studies, in Northern Ireland.
- (8) A regulatory body may establish and maintain a register under subsection (1) jointly with one or more other regulatory bodies.
- (9) Where regulatory bodies establish and maintain a register in reliance on subsection (8)—
  - (a) subsections (4) and (5) apply to each body (but subsection (4) does not apply to the Health and Care Professions Council),
  - (b) subsection (6) applies to the General Pharmaceutical Council if it is one of the bodies, and
  - (c) subsection (7) applies to the Pharmaceutical Society of Northern Ireland if it is one of the bodies.
- (10) But subsections (6) and (7) do not apply where the bodies concerned are or include the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland.
- (11) Accordingly, in those circumstances, the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland may jointly establish and maintain a register of persons who are (and, where they consider appropriate, have been) engaged in work or participating in studies anywhere in the United Kingdom.
- (12) A request to be registered, or to continue to be registered, in a register established under subsection (1) must be accompanied by a fee of such amount as the regulatory body (or bodies) concerned may determine.

**25E Section 25D: interpretation.**

- (1) This section applies for the purposes of section 25D.
- (2) “Voluntary register” means a register of persons in which a person is not required by an enactment to be registered in order to be entitled to—

- (a) use a title,
  - (b) practise as a member of a profession,.
  - (c) engage in work that involves the provision of health care,
  - (d) engage in work of a description given in section 60(2ZC) of the Health Act 1999 (social care work in England), or
  - (e) participate in studies that come within section 25D(2) or (3).
- (3) Where an enactment imposes a requirement of that kind which applies to part only of the United Kingdom, a register is to be regarded as a voluntary register in so far as it applies to any part of the United Kingdom to which the requirement does not apply.
- (4) The reference in subsection (2) to an enactment does not include a reference to an enactment in so far as it imposes a requirement of that kind which applies—
- (a) only to work or practice of a particular kind, and
  - (b) only when work or practice of that kind is engaged in for particular purposes.
- (5) In subsections (2) to (4), “enactment” means an enactment contained in, or in an instrument made under—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) an Act or Measure of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.
- (6) “Unregulated health professional” means a member of a profession—
- (a) which is concerned with the physical or mental health of individuals, but
  - (b) to which section 60(2) of the Health Act 1999 does not apply.
- (7) “Unregulated health care worker” means a person engaged in work which—
- (a) involves the provision of health care, but
  - (b) is not work which may be engaged in only by members of a profession.
- (8) In subsections (2) and (7), “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.
- (9) “Unregulated social care worker in England” means a person engaged in social care work in England within the meaning of section 60 of the Health Act 1999.

#### **18 25F Establishment of voluntary register: impact assessment**

- (1) Before establishing a register under section 25D, a regulatory body—
  - (a) must make an assessment of the likely impact of doing so, and
  - (b) must consult such persons as it considers appropriate.
- (2) In performing the duty under subsection (1)(a), the body must have regard to such guidance relating to the preparation of impact assessments as it considers appropriate.
- (3) An assessment under this section must, in particular, include an assessment of the likely impact of establishing the register on—
  - (a) persons who would be eligible for inclusion in the register;
  - (b) persons who employ persons who would be eligible for inclusion in the register;
  - (c) users of health care and users of social care in England.<sup>19</sup>
- (4) A regulatory body must publish any assessment it makes under this section.
- (5) In deciding whether to establish a register under section 25D, a regulatory body must have regard to the assessment it made under this section in relation to the register.

#### **25G Power of the Authority to accredit voluntary registers**

- (1) Where a regulatory body or other person maintains a voluntary register, the Authority may, on an application by the body or other person, take such steps as it considers appropriate for the purpose of establishing whether the register meets such criteria as the Authority may from time to time set (“accreditation criteria”).

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<sup>18</sup> Subsections (10) and (11) are removed by Schedule 4, paragraph 17 of the Children and Social Work Act 2017. It is not yet in force.

<sup>19</sup> Paragraph (b) is amended by Schedule 4, paragraph 8 of the Children and Social Work Act 2017. It is not yet in force.

- (2) Accreditation criteria may, in particular, relate to—
  - (a) the provision to the Authority of information in connection with the establishment, operation or maintenance of register;
  - (b) publication of the names of persons included in the register or who have been removed from the register (whether voluntarily or otherwise);
  - (c) the establishment or operation of a procedure for appeals from decisions relating to inclusion in or removal from the register.
- (3) If the Authority is satisfied that a voluntary register meets the accreditation criteria, it may accredit the register.
- (4) The Authority may carry out periodic reviews of the operation of registers accredited under this section for the purpose of establishing whether they continue to meet the accreditation criteria.
- (5) If, on a review under subsection (4), the Authority is satisfied that a voluntary register no longer meets the accreditation criteria, the Authority may remove or suspend, or impose conditions on, the accreditation of the register.
- (6) The Authority may refuse to accredit a register, or to continue to accredit a register, unless the person who maintains the register pays a fee of such amount as the Authority may determine.
- (7) The Authority must publish such accreditation criteria as it sets.
- (8) The Authority may publish a list of registers accredited under this section.
- (9) “Voluntary register” has the meaning given in section 25E.
- (10) “regulatory body” does not include Social Work England.<sup>20</sup>

## **25H Accreditation of voluntary register: impact assessment**

- (1) Before accrediting a register under section 25G, the Authority—
  - (a) must make an assessment of the likely impact of doing so, and
  - (b) must consult such persons as it considers appropriate.
- (2) For that purpose, the Authority must have regard to such guidance relating to the preparation of impact assessments as it considers appropriate.

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<sup>20</sup> Subsection (10) is inserted by Schedule 4, paragraph 3(2) of the Children and Social Work Act 2017. It is not yet in force.

- (3) An assessment under this section must, in particular, include an assessment of the likely impact of accrediting the register on—
  - (a) persons who are, or are eligible to be, included in the register;
  - (b) persons who employ persons who are, or are eligible to be, included in the register;
  - (c) users of health care and users of social care in England.<sup>21</sup>
- (4) For the purposes of subsection (3), the Authority may request the person who maintains the register to provide it with such information as it specifies; and if the person refuses to comply with the request, the Authority may refuse to accredit the register.
- (5) The Authority may publish any assessment it makes under this section.
- (6) In deciding whether to accredit a register under section 25G, the Authority must have regard to its assessment under this section in relation to the register.

## **25I Functions of the Authority in relation to accredited voluntary registers**

- (1) The Authority has the following functions—
  - (a) to promote the interests of users of health care, users of social care in England<sup>22</sup> and other members of the public in relation to the performance of voluntary registration functions,
  - (b) to promote best practice in the performance of voluntary registration functions, and
  - (c) to formulate principles of good governance in the performance of voluntary registration functions and to encourage persons who maintain or operate accredited voluntary registers to conform to those principles.
- (2) In this section—
  - (a) a reference to the performance of voluntary registration functions is a reference to the maintenance or operation of an accredited voluntary register, and
  - (b) “accredited voluntary register” means a register accredited under section 25G.

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<sup>21</sup> Paragraph (c) is amended by Schedule 4, paragraph 10 of the Children and Social Work Act 2017. It is not yet in force.

<sup>22</sup> Subsection (1) is amended by Schedule 4, paragraph 11 of the Children and Social Work Act 2017. It is not yet in force.



## 26 Powers and duties of the Authority: general

- (1) Except as mentioned in subsections (3) to (6), the Authority may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) The Authority may, for example, do any of the following—
  - (a) investigate, and report on, the performance by each regulatory body of its functions,
  - (b) where a regulatory body performs functions corresponding to those of another body (including another regulatory body), investigate and report on how the performance of such functions by the bodies in question compares,
  - (c) recommend to a regulatory body changes to the way in which it performs any of its functions.
- (2A) A reference in subsection (2) to a regulatory body includes a reference to a person other than a regulatory body who has voluntary registration functions; and for that purpose, the only functions that person has are the person's voluntary registration functions.
- (3) The Authority may not do anything in relation to the case of any individual in relation to whom—
  - (a) there are, are to be, or have been proceedings before a committee of a regulatory body, or the regulatory body itself or any officer of the body, or
  - (b) an allegation has been made to the regulatory body, or one of its committees or officers, which could result in such proceedings.
- (3A) A reference in subsection (3) to a regulatory body includes a reference to a person other than a regulatory body in so far as that person has voluntary registration functions.
- (4) Subsection (3) does not prevent the Authority from—
  - (a) taking action under section 28,
  - (b) where section 29 applies, taking action under that section after the regulatory body's proceedings have ended, or
  - (c) investigating particular cases with a view to making general reports on the performance by the regulatory body of its functions or making general recommendations to the regulatory body affecting future cases.
- (4A) For the purposes of paragraph (c) of subsection (4), the reference in that subsection to subsection (3) includes a reference to subsection (3) as construed in accordance with subsection (3A).

- ~~(5) The Council may not do anything in relation to the functions of the Royal Pharmaceutical Society of Great Britain (or its Council, or an officer or committee of the Society) unless those functions are—~~
- ~~(a) conferred on the Society (or its Council, or an officer or committee of the Society) by or by virtue of any provision of the Pharmacy Act 1954 (c. 61), other than section 17 (the benevolent fund),~~
  - ~~(b) conferred as mentioned in paragraph (a) by, or by virtue of, an Order in Council under section 60 of the 1999 Act, or~~
  - ~~(c) otherwise conferred as mentioned in paragraph (a) and relate to the regulation of the profession regulated by the Pharmacy Act 1954.<sup>23</sup>~~
- (6) The Authority may not do anything in relation to the functions of the Pharmaceutical Society of Northern Ireland (or its Council, or an officer or committee of the Society) unless those functions are—
- (a) conferred on the Society (or its Council, or an officer or committee of the Society) by or by virtue of any provision of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)), other than Article 3(3)(e) (the benevolent functions),
  - (b) conferred as mentioned in paragraph (a) by, or by virtue of, an Order in Council under section 60 of the 1999 Act or an order under section 56 of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3) (which makes provision corresponding to section 60 of the 1999 Act), or
  - (c) otherwise conferred as mentioned in paragraph (a) and relate to the regulation of the profession regulated by the Pharmacy (Northern Ireland) Order 1976.
- ~~(7) The Secretary of State, the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland may ask the Council for advice on any matter connected with a profession appearing to him or them to be a health care profession.~~
- ~~(8) The Council must comply with such a request.<sup>24</sup>~~
- (9) In section 60(1) of the 1999 Act (regulation of health care and associated professions), after paragraph (b) there is inserted—
- “(c) modifying the functions, powers or duties of the Professional Standards Authority for Health and Social Care,
  - (d) modifying the list of regulatory bodies (in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002) in relation to which that Authority performs its functions,

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<sup>23</sup> Section 26(5) was repealed by The Pharmacy Order 2010 (S.I. 2010/231)

<sup>24</sup> Subsections (7) and (8) were repealed by Section 116(1) of the Health and Social Care Act 2008 (because they were superseded by the insertion of Section 26A(1))

- (e) modifying, as respects any such regulatory body, the range of functions of that body in relation to which the Authority performs its functions.”
- (10) In Schedule 3 to the 1999 Act (which makes further provision about orders under section 60 of that Act), in paragraph 7, after sub-paragraph (3) there is inserted—
  - “(4) An Order may not confer any additional powers of direction over the Professional Standards Authority for Health and Social Care.”
- (11) In subsections (3) and (4), “proceedings”, in relation to a regulatory body, or one of its committees or officers, includes a process of decision-making by which a decision could be made affecting the registration of the individual in question.
- ~~(12) In this section, “health care profession” means a profession (whether or not regulated by or by virtue of any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals.<sup>25</sup>~~
- (13) In this section, “voluntary registration functions” is to be construed in accordance with section 25I.

## **26A Powers of Secretary of State and devolved administrations**

- (1) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may request the Authority for advice on any matter connected with a profession appearing to the person making the request to be a health care profession; and the Authority must comply with such a request.
- (1A) The Secretary of State may request the Authority for advice on any matter connected with the social work profession, or social care workers, in England; and the Authority must comply with such a request.
- (1B) The Secretary of State may request the Authority for advice on any matter connected with accreditation of registers under section 25G; and the Authority must comply with such a request.
- (1C) The Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may request the Authority for advice on any matter connected with accreditation of registers under section 25G other than accreditation of registers referred to in subsection (1D); and the Authority must comply with such a request.
- (1D) The registers are registers of persons who are or have been—
  - (a) unregulated social care workers in England,

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<sup>25</sup> Section 26(12) was repealed by Schedule 15, Part 3, paragraph 64 of the Health and Social Care Act 2012

<sup>26</sup>(c) participating in studies for the purpose of becoming an unregulated social care worker in England.

(1E) In subsection (1D), “unregulated social care worker in England” has the meaning given in section 25E.<sup>27</sup>

(2) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may require the Authority to investigate and report on a particular matter in respect of which the Authority’s functions are exercisable.

(2A)<sup>28</sup> A person to whom the Authority gives advice, or for whom it investigates and reports on a matter, under this section must pay such fee as the Authority determines; and the fee may be charged by reference to the advice or the investigation and report concerned or on a periodic basis.

(3) In this section —

“health care profession” means a profession (whether or not regulated by or by virtue of any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals; and

“the relevant Northern Ireland department” means the Department of Health, Social Services and Public Safety in Northern Ireland.

## **26B Duty to inform and consult the public**

(1) For the purpose of ensuring that members of the public are informed about the Authority and the exercise by it of its functions, the Authority must publish or provide in such manner as it thinks fit information about the Authority and the exercise of its functions.

(1A) The references in subsection (1) to the Authority's functions do not include a reference to its accreditation functions.

(1B) For the purpose of ensuring that members of the public are informed about the exercise by the Authority of its accreditation functions, the Authority may publish or provide in such manner as it thinks fit information about the exercise of those functions.

(1C) For the purposes of this section, the Authority's accreditation functions are—

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<sup>26</sup> Paragraph (b) is removed by Schedule 4, paragraph 12(2) of the Children and Social Work Act 2017. It is not yet in force.

<sup>27</sup> Subsection (1E) is amended by Schedule 4, paragraph 12(3) of the Children and Social Work Act 2017. It is not yet in force.

<sup>28</sup> Subsection (2A) was inserted by Section 223(4) of the Health and Social Care Act 2012 which was commenced on 1 February 2016 by The Health and Social Care Act 2012 (Commencement No. 1 and Transitory Provision) Order 2012 (S.I. 2016/81)

- (a) its functions under sections 25G to 25I,
  - (b) its functions under section 26 that relate to the performance of voluntary registration functions (within the meaning given by section 25I), and
  - (c) its function under section 26A(1B).
- (2) Nothing in subsection (1) or (1B) authorises or requires the publication or provision of information if the publication or provision of that information—
- (a) is prohibited by any enactment, or
  - (b) would constitute or be punishable as a contempt of court.
- (3) In subsection (2) “enactment” has the same meaning as in Part 2 of the Health and Social Care Act 2008.
- (4) The Authority must from time to time seek the views of—
- (a) members of the public, and
  - (b) bodies which appear to the Authority to represent the interests of users of health care, users of social care in England or users of social work services in England,
- on matters relevant to the exercise by it of its functions (other than its accreditation functions).

## **27 Regulatory bodies and the Authority**

- (1) Each regulatory body must in the exercise of its functions co-operate with the Authority.
- (2) If the Authority considers that it would be desirable to do so for the protection of members of the public, it may give directions requiring a regulatory body **other than Social Work England** to make rules (under any power the body has to do so) to achieve an effect which must be specified in the directions.<sup>29</sup>
- (3) The Authority may give such directions only in relation to rules which must be approved by the Privy Council (whether by order or not) or by the Department of Health, Social Services and Public Safety in Northern Ireland before coming into force.
- (4) The Authority must send a copy of any such directions to the relevant authority.

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<sup>29</sup> Subsection (2) is substituted by Schedule 4, paragraph 13 of the Children and Social Work Act 2017. It is not yet in force.

- (5) The relevant authority is the Privy Council<sup>30</sup> or, if the regulatory body in question is the Pharmaceutical Society of Northern Ireland, the Department of Health, Social Services and Public Safety there.
- (6) The directions do not come into force until the date specified in an order made by the relevant authority.
- (7) The Privy Council<sup>31</sup> must lay before both Houses of Parliament, or (as the case may be) the Department of Health, Social Services and Public Safety must lay before the Northern Ireland Assembly, a draft of an order—
  - (a) setting out any directions it receives pursuant to subsection (4), and<sup>32</sup>
  - (b) specifying the date on which the directions are to come into force.
- (8) Subsections (4) to (7) apply also to—
  - (a) directions varying earlier directions, and
  - (b) directions revoking earlier directions, and given after—
    - (i) both Houses of Parliament have resolved to approve the draft order specifying the date on which the earlier directions are to come into force, or (as the case may be)
    - (ii) the Northern Ireland Assembly has done so.
- (9) Subsections (4) and (5) apply also to directions—
  - (a) revoking earlier directions, but
  - (b) which do not fall within subsection (8)(b),but subsections (6) and (7) do not apply to such directions.
- (10) If the Authority gives directions which fall within subsection (9), the earlier directions which those directions revoke shall be treated as if subsections (6) and (7) had never applied to them, and as never in force.
- (11) A regulatory body must comply with directions given under subsection (2) which have come into force and have not been revoked.
- (12) A regulatory body is not to be taken to have failed to comply with such directions merely because a court determines that the rules made pursuant to the directions are

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<sup>30</sup> “the Privy Council” was substituted for “the Secretary of State” by Section 223(7) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

<sup>31</sup> “the Privy Council” was substituted for “the Secretary of State” by Section 223(8) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

<sup>32</sup> Paragraph (a) was substituted by Section 223(8)(a) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

to be construed in such a way that the effect referred to in subsection (2) is not achieved.

- (13) The Privy Council<sup>33</sup> shall make provision in regulations as to the procedure to be followed in relation to the giving of directions under subsection (2).<sup>34</sup>
- (14) The regulations must, in particular, make provision requiring the Authority to consult a regulatory body before giving directions relating to it under subsection (2).
- (15) In this section—
  - (a) “making” rules includes amending or revoking rules, and
  - (b) “rules” includes regulations, byelaws and schemes.

## 28 Complaints about regulatory bodies

- (1) The ~~Secretary of State~~ Privy Council<sup>35</sup> may make provision in regulations about the investigation by the Authority of complaints made to it about the way in which a regulatory body **other than Social Work England** has exercised any of its functions.<sup>36</sup>
- (2) The regulations may, in particular, make provision as to—
  - (a) who (or what description of person) is entitled to complain,
  - (b) the nature of complaints which the Authority must (or need not) investigate,
  - (c) matters which are excluded from investigation,
  - (d) requirements to be complied with by a person who makes a complaint,
  - (e) the procedure to be followed by the Authority in investigating complaints,
  - (f) the making of recommendations or reports by the Authority following investigations,
  - (g) the confidentiality, or disclosure, of any information supplied to the Authority or acquired by it in connection with an investigation,
  - (h) the use which the Authority may make of any such information,
  - (i) the making of payments to any persons in connection with investigations,
  - (j) privilege in relation to any matter published by the Authority in the exercise of its functions under the regulations.

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<sup>33</sup> “the Privy Council” was substituted for “the Secretary of State” by Section 223(7) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

<sup>34</sup> No regulations have been made under Section 27(13) however in June 2012 we provided [advice](#) to the Department of Health to assist them with plans to make such regulations.

<sup>35</sup> “Privy Council” was substituted for “Secretary of State” by Section 225(2) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by the Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

<sup>36</sup> Subsection (1) is amended by Schedule 4, paragraph 14 of the Children and Social Work Act 2017. It is not yet in force.

- (3) The regulations may also make provision—
  - (a) empowering the Authority to require persons to attend before it,
  - (b) empowering the Authority to require persons to give evidence or produce documents to it,
  - (c) about the admissibility of evidence,
  - (d) enabling the Authority to administer oaths.
- (4) No person shall be required by or by virtue of regulations under this section to give any evidence or produce any document or other material to the Authority which he could not be compelled to give or produce in civil proceedings before the High Court or, in Scotland, the Court of Session.

## 29 Reference of disciplinary cases by Authority to court<sup>37</sup>

- (1) This section applies to—
  - (a) a direction of the Fitness to Practise Committee of the General Pharmaceutical Council under article 54 of the Pharmacy Order 2010 (consideration by the Fitness to Practise Committee) or under section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),
  - (b) a direction of the Statutory Committee of the Pharmaceutical Society of Northern Ireland under Article 20 of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)) (control of registrations by Statutory Committee) or section 80 of the Medicines Act 1968,
  - (c) a direction by ~~a Fitness to Practise Panel~~ a Medical Practitioners Tribunal<sup>38</sup> of the General Medical Council under section 35D of the Medical Act 1983 (c. 54) that the fitness to practise of a medical practitioner was impaired ~~otherwise than by reason of his physical or mental health~~<sup>39</sup>,
  - (ca) a direction by a Medical Practitioners Tribunal of the General Medical Council under paragraph 5A(3D) or 5C(4) of Schedule 4 to the Medical Act 1983 for suspension of a person's registration or for conditional registration,<sup>40</sup>

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<sup>37</sup> Some of the text in section 29 will change when and if regulation 18 of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) comes into force

<sup>38</sup> Paragraph (c) was amended by regulation 18(1) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

<sup>39</sup> Crossed out text was repealed on 1 January 2009 by Section 118(5) of the Health and Social Care Act 2008

<sup>40</sup> Paragraph (ca) was inserted by regulation 18(2) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)



- ~~(d) a direction by the Committee on Professional Performance of the General Medical Council under section 36A of that Act (professional performance),<sup>41</sup>~~
- (e) a direction by the Professional Conduct Committee, the Professional Performance Committee or the Health Committee of the General Dental Council under any of sections 27B, 27C, 36P or 36Q of the Dentists Act 1984 following a determination that a person's fitness to practise as a dentist or as a member of a profession complementary to dentistry, or class of members of such a profession, is impaired ~~(other than a determination based solely on the ground mentioned in section 27(2)(e) or 36N(2)(e) of that Act (adverse physical or mental health))<sup>42</sup>,~~
- (f) a direction by the Fitness to Practise Committee of the General Optical Council under section 13F(2) of the Opticians Act 1989 (powers of Fitness to Practise Committee), ~~other than a direction that a registrant's fitness to practise is impaired solely by virtue of a matter falling within section 13D(2)(f) of that Act<sup>43</sup>,~~
- (g) any step taken—
  - (i) by the Professional Conduct Committee of the General Osteopathic Council under section 22 of the Osteopaths Act 1993 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
  - (ii) by the Health Committee of the General Osteopathic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee),
- (h) any step taken—
  - (i) by the Professional Conduct Committee of the General Chiropractic Council under section 22 of the Chiropractors Act 1994 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
  - (ii) by the Health Committee of the General Chiropractic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee),
- (i) any corresponding measure taken in relation to a nurse or midwife under the Nursing and Midwifery Order 2001,
- (j) any corresponding measure taken in relation to a member of a profession regulated by the Health and Social Work Professions Order 2001, under that Order.

(2) This section also applies to—

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<sup>41</sup> Section 29(1)(d) was repealed by Article 16(1) and Schedule 1, paragraph 13 of The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135)

<sup>42</sup> Crossed out text was repealed on 1 January 2009 by Section 118(2)(c) of the Health and Social Care Act 2008

<sup>43</sup> Crossed out text was repealed on 1 January 2009 by Section 118(6) of the Health and Social Care Act 2008

- (a) a final decision of the relevant committee not to take any disciplinary measure under the provision referred to in whichever of paragraphs (a) to (h) of subsection (1) applies,
- (b) any corresponding decision taken in relation to a nurse, or midwife under the Nursing and Midwifery Order 2001, or to any such person as is mentioned in subsection (1)(j) and
- (c) a decision of the relevant regulatory body, or one of its committees or officers, to restore a person to the register following his removal from it in accordance with any of the measures referred to in paragraphs (a) to (j) of subsection (1).

(2A)<sup>44</sup> This section also applies to any steps or decisions which are taken by Social Work England (or any of its committees or officers) in connection with fitness to practise or discipline and which are of a description specified in regulations made by the Secretary of State.<sup>45</sup>

- (3) The things to which this section applies are referred to below as “relevant decisions”.
- (4) Where a relevant decision is made, the Authority may refer the case to the relevant court if it considers that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.
- (4A) Consideration of whether a decision is sufficient for the protection of the public involves consideration of whether it is sufficient—
  - (a) to protect the health, safety and well-being of the public;
  - (b) to maintain public confidence in the profession concerned; and
  - (c) to maintain proper professional standards and conduct for members of that profession.

~~If the Authority considers that—~~

- ~~(a) a relevant decision falling within subsection (1) has been unduly lenient, whether as to any finding of professional misconduct or fitness to practise on the part of the practitioner concerned (or lack of such a finding), or as to any penalty imposed, or both, or~~
- ~~(b) a relevant decision falling within subsection (2) should not have been made,~~

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<sup>44</sup> Subsection (2A) was inserted by Schedule 4, paragraph 15(2) of the Children and Social Work Act 2017 which was commenced on 1 April 2018 for the purpose of making regulations by The Children and Social Work Act 2017 (Commencement No. 3) Regulations 2018 (S.I. 2018/346) and is not yet in force otherwise (see Section 70(2) of the Children and Social Work Act 2017)

<sup>45</sup> Subsection (2A) is inserted by Schedule 4, paragraph 15(2) of the Children and Social Work Act 2017. It is not yet in force. Regulation 34 of the Social Workers Regulations 2018 (also not yet in force) sets out the decisions by Social Work England that the Authority can refer.

~~and that it would be desirable for the protection of members of the public for the Authority to take action under this section, the Authority may refer the case to the relevant court.~~<sup>46</sup>

- (5) In subsection (4) (subject to subsection (5A)), the “relevant court” —
- (a) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Scotland, means the Court of Session,
  - (b) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Northern Ireland, means the High Court of Justice in Northern Ireland, and
  - (c) in the case of any other person, means the High Court of Justice in England and Wales.
- (5A) In relation to something that is a relevant decision as a result of subsection (2A), “the relevant court” means the High Court of Justice in England and Wales.<sup>47</sup>
- (6) The Authority may not so refer a case after the end of the period of —
- (a) 40 days beginning with the day which is the last day on which the practitioner concerned can appeal against the relevant decision, or
  - (b) in the case of a relevant decision against which is it not possible for the practitioner concerned to appeal, 56 days beginning with the day on which notification of the decision was served on the person to whom the decision relates.<sup>48</sup>
- (7) If the Authority does so refer a case—
- (a) the case is to be treated by the court to which it has been referred as an appeal by the Authority against the relevant decision (even though the Authority was not a party to the proceedings resulting in the relevant decision), and
  - (b) the body which made the relevant decision (as well as the person to whom the decision relates)<sup>49</sup> is to be a respondent.

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<sup>46</sup> Subsection (4) was replaced and (4A) inserted by regulation 18(3) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

<sup>47</sup> Subsection (5A) is substituted by Schedule 4, paragraph 15(3) of the Children and Social Work Act 2017. It is not yet in force.

<sup>48</sup> Paragraph (b) was inserted by regulation 18(4) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

<sup>49</sup> This change was made by regulation 18(5) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

- (7A) In a case where the relevant decision is taken by a committee, the reference in subsection (7)(b) to the body which made the decision is to be read as a reference to the body of which it is a committee.<sup>50</sup>
- (8) The court may—
- (a) dismiss the appeal,
  - (b) allow the appeal and quash the relevant decision,
  - (c) substitute for the relevant decision any other decision which could have been made by the committee or other person concerned, or
  - (d) remit the case to the committee or other person concerned to dispose of the case in accordance with the directions of the court, or, in the case of a relevant decision within subsection (1)(c) or (ca) or a relevant decision within subsection (2)(a) or (c) not to take a disciplinary measure under a provision referred to in subsection (1)(c) or (ca), remit the case to the Medical Practitioners Tribunal Service for them to arrange for a Medical Practitioners Tribunal so to dispose of the case,<sup>51</sup>
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.
- (9) Where rules under paragraph 1 of Schedule 4 to the Medical Act 1983 provide, by virtue of paragraph 1(2E) of that Schedule, for the application of section 35D of that Act, the reference in subsection (1)(c) of this section to section 35D of that Act includes a reference to that section as so applied.
- (10) The reference in subsection (1)(ca) to paragraph 5A(3D) of the Medical Act 1983 includes a reference to that provision as applied by section 35A(6E) of that Act.<sup>52</sup>

#### **29A.— References under section 29: role of the General Medical Council**

- (1) If the Authority makes a reference under section 29 of a case involving a relevant decision such as is mentioned in subsection (8)(d) of that section—

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<sup>50</sup> Subsection (7A) was inserted by regulation 18(6) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

<sup>51</sup> This insertion in paragraph (d) was made by regulation 18(7) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ([S.I. 2015/794](#)) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

<sup>52</sup> Subsections (9) and (10) were inserted by regulation 18(8) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

- (a) the Authority must without delay give the General Medical Council notice of the reference; and
  - (b) the General Medical Council may not bring an appeal under section 40A of the Medical Act 1983 against the decision.
- (2) Where the General Medical Council is the respondent in the case of a reference under section 29, the matters which it may raise on the reference include any matter that it could have raised on an appeal against the relevant decision under section 40A of the Medical Act 1983.
- (3) If the General Medical Council is the respondent in the case of a reference under section 29, and the Authority either wishes to withdraw the reference or, having agreed the terms of a settlement of the case with the person to whom the relevant decision relates, wishes the case to be disposed of on those terms, the Authority must give notice of its wish to the Council.
- (4) The General Medical Council, having received a notice under subsection (3), must by notice inform the relevant court, the Authority and the person concerned whether it wishes the proceedings on the reference to continue.
- (5) Where the General Medical Council gives notice under subsection (4) that it wishes the proceedings to continue, they are to continue but, from the time when the Council gives its notice to the relevant court under subsection (4), are to be treated as proceedings on an appeal made by the Council under section 40A of the Medical Act 1983.
- (6) In a case within subsection (5), the General Medical Council must give notice to the relevant court, the Authority and the person concerned specifying the grounds of its case; and—
  - (a) the person concerned has the opportunity to respond accordingly, and
  - (b) the Authority has the opportunity to become a party to the appeal by virtue of section 40B(2) of the Medical Act 1983.
- (7) A requirement in this section to give a notice to a specified person is in addition to such requirements as are imposed by rules of court in relation to the persons to whom notice is to be given; and the giving of notice under this section is subject to such other requirements relating to the giving of notices as are imposed by rules of court.

- (8) In this section, “relevant court” and “relevant decision” each have the same meaning as in section 29.<sup>53</sup>

...

## SCHEDULE 7

### THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

#### Status

- 1 The Authority is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority’s property is not to be regarded as property of, or property held on behalf of, the Crown.
- 2 For the purposes of—
- (a) section 23(2)(b) of the Scotland Act 1998 (c. 46) (power of Scottish Parliament to require persons outside Scotland to attend to give evidence or produce documents); and
  - (b) section 70(6) of that Act (accounts prepared by cross-border bodies), the Authority is to be treated as a cross-border public authority within the meaning of that Act.

#### Powers

- 3 The power in section 26(1) includes the power to—
- (a) acquire and dispose of land and other property, and
  - (b) enter into contracts.

#### Membership and chairman

- 4 The Authority is to consist of—
- (a) a chair appointed by the Privy Council,
  - (b) one non-executive member appointed by the Scottish Ministers,
  - (c) one non-executive member appointed by the Welsh Ministers,
  - (d) one non-executive member appointed by the Department of Health, Social Services and Public Safety in Northern Ireland,

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<sup>53</sup> Section 29A was inserted by regulation 18(9) of The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794) which was commenced on 31 December 2015 by the Commencement Order (S.I. 2015/1952)

- (e) three non-executive members appointed by ~~the Secretary of State~~ the Privy Council<sup>54</sup>, and
- (f) one executive member appointed in accordance with paragraph 11.

#### Appointment, procedure etc

~~5 (1) The Secretary of State may direct a Special Health Authority to exercise his function of appointing members of the Authority under paragraph 4(1)(e).~~

~~(2) If he does so, the 1977 Act has effect as if —~~

- ~~(a) the directions were directions of the Secretary of State under section 16D of that Act, and, accordingly,~~
- ~~(b) the function were exercisable by the Special Health Authority under section 16D.<sup>55</sup>~~

6 The Privy Council<sup>56</sup> may by regulations provide for—

- (a) the conditions to be fulfilled for appointment as chair or other member of the Authority,
- (b) the tenure of office of the chair and non-executive members of the Authority (including the circumstances in which they cease to hold office or may be removed or suspended from office),
- (ba) the appointment of a member as deputy chair and the circumstances in which that member ceases to hold, or may be removed from, office as deputy chair, and
- (c) the appointment of, constitution of and exercise of functions by committees and sub-committees of the Authority (including committees and sub-committees which consist of or include persons who are not members of the Authority).

7 The Authority may regulate its own procedure.

8 The validity of any proceedings of the Authority is not affected by a vacancy amongst its members or by a defect in the appointment of a member.

#### Members' interests

9 (1) The Authority must establish and maintain a system for the declaration and registration of private interests of its members.

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<sup>54</sup> "The Privy Council" was substituted for "The Secretary of State" by Section 226(2)(a) of the Health and Social Care Act 2012 which was commenced on 9 June 2014 by The Health and Social Care Act 2012 (Commencement No. 8) Order 2014 (S.I. 2014/1454)

<sup>55</sup> Crossed out text was repealed on 1 October 2006 by Schedule 8, paragraph 52 of the Health Act 2006

<sup>56</sup> "The Privy Council" was substituted for "The Secretary of State" by Section 226(3) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(a)

- (2) The Authority must publish entries recorded in the register of members' interests.

#### Remuneration and allowances

- 10 (1) The Authority may pay to its chair, and to any other member of the Authority, such remuneration and allowances as the Authority<sup>57</sup> may determine.
- (2) The Authority may pay to any member of a committee or sub-committee of the Authority such allowances as the Authority<sup>58</sup> may determine.
- (3) The Authority may provide for the payment of such pension, allowance or gratuities as it may determine to or in respect of a person who is or has been the chair or any other member of the Authority.<sup>59</sup>
- (4) The Authority may, where it considers there are special circumstances that make it right for a person ceasing to hold office as chair of the Authority to receive compensation, pay the person such compensation as it may determine.<sup>60</sup>

#### Employees

- 11 (1) The Authority may appoint the executive member referred to in paragraph 4(f) on such terms and conditions as the Authority may determine.
- (2) The executive member must be an employee of the Authority.
- (3) Any decision of the Authority under sub-paragraph (1) must be taken by the members appointed under paragraph 4(a) to (e).
- (4) The Authority may appoint such other employees as it considers appropriate on such terms and conditions as it may determine.

#### Delegation of functions

- 12 (1) The Authority may arrange for the discharge of any of its functions by—
- (a) a committee, sub-committee, member or employee of the Authority, or
- (b) any other person.

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<sup>57</sup> "The Privy Council" was substituted for "The Secretary of State" by [Section 226\(4\)\(a\)](#) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(b)

<sup>58</sup> See previous footnote

<sup>59</sup> Sub-paragraph (3) was substituted by Section 226(4)(b) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(b)

<sup>60</sup> See previous footnote



- (2) If the Authority does arrange for the discharge of any function as mentioned in sub-paragraph (1)(b), the arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

#### Assistance

- 13 (1) The Authority may arrange for such persons as it thinks fit to assist it in the discharge of any of its functions in relation to a particular case or class of case.
- (2) Such arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

#### Payments and loans to Authority

- 14 (1) The Secretary of State may make payments out of money provided by Parliament to the Authority of such amounts, at such times and on such conditions (if any) as he considers appropriate.
- (2) An appropriate authority may make payments to the Authority of such amounts, at such times and on such conditions (if any) as it considers appropriate.
- (2A)<sup>61</sup>The Authority may borrow money for the purposes of or in connection with its functions; and sub-paragraphs (3) and (4) are without prejudice to the generality of this sub-paragraph.
- (3) The Secretary of State may make loans out of money provided by Parliament to the Authority on such terms (including terms as to repayment and interest) as he may determine.
- (4) An appropriate authority may make loans to the Authority on such terms (including terms as to repayment and interest) as it may determine.
- (5)<sup>62</sup> ~~The approval of the Treasury is required as to the amount and terms of any loan under sub-paragraph (3).~~

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<sup>61</sup> Sub-paragraph (2A) was inserted by Section 224(4) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

<sup>62</sup> Sub-paragraph (5) was repealed by Section 224(5) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

- ~~(6) Except as provided by sub-paragraphs (3) and (4), the Authority has no power to borrow money.<sup>63</sup>~~
- (7) The Secretary of State may give directions to the Authority as to the application of any sums received by it under sub-paragraph (1) or (3).
- (8) An appropriate authority may give directions to the Authority as to the application of any sums received by it from the authority under sub-paragraph (2) or (4).
- (9) The Authority must comply with any directions under sub-paragraph (7) or (8).
- (10) In this paragraph, “appropriate authority” means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

#### Accounts

- 15 (1) The Authority must keep accounts in such form as the Privy Council<sup>64</sup> may determine.
- (2) The Authority must prepare annual accounts in respect of each financial year in such form as the Privy Council<sup>65</sup> may determine.
- (3) The Authority must send copies of the annual accounts to<sup>66</sup> the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Privy Council<sup>67</sup> may determine.
- (4) Within that period the Authority must also send copies of the annual accounts to—
- (a) the Scottish Ministers,
  - (b) the National Assembly for Wales, and
  - (c) the Department of Health, Social Services and Public Safety in Northern Ireland.

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<sup>63</sup> Sub-paragraph (6) was repealed by Section 224(5) of the Health and Social Care Act 2012 which was commenced on 16 March 2015 by The Health and Social Care Act 2012 (Commencement No. 9) Order 2015 (S.I. 2015/409)

<sup>64</sup> “the Privy Council” was substituted for “the Secretary of State” by [Section 226\(6\)\(a\)](#) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(c)

<sup>65</sup> See previous footnote

<sup>66</sup> The words “the Secretary of State and” were repealed by Section 226(6)(b) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(c)

<sup>67</sup> “the Privy Council” was substituted for “the Secretary of State” by Section 226(6)(b) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617) subject to savings specified in Article 3(c)

- (5) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts and of his report before Parliament.
- (6) A copy of the accounts shall be laid before—
  - (a) the Scottish Parliament by the Scottish Ministers,
  - (b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety there, and the National Assembly for Wales shall publish the accounts.
- (7) In this paragraph and paragraph 16, “financial year” means—
  - (a) the period beginning with the date on which the Authority is established and ending with the next 31st March following that date, and
  - (b) each successive period of 12 months ending with 31st March.

#### Reports and other information

- 16 (1) The Authority must prepare a report on the exercise of its functions during each financial year.
- (1A) The report must state—
  - (a) how the Authority, in exercising its functions, has promoted the health, safety and well-being of users of health care, users of social care in England, users of social work services in England and other members of the public, and
  - (b) how far, in the opinion of the Authority, each regulatory body has complied with any duty imposed on it to promote the health, safety and well-being of such persons.
- (1B)<sup>68</sup>The Authority must, by such date in each year as the Privy Council determines, publish—
  - (a) a strategic plan for the Authority for the coming financial year, and
  - (b) a strategic plan for the Authority for such of the subsequent financial years as the Authority may determine.
- (2) As soon as possible after the end of each financial year, the Authority must lay a copy of its report for that year, and a copy of each of its strategic plans published in

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<sup>68</sup> Sub-paragraph (1B) was inserted by Section 226(7) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

that year<sup>69</sup> before Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

- (3) The Authority must comply with any request by Parliament to prepare, and lay before it, other reports or to provide Parliament with other information.
- (4) The Authority must also comply with any corresponding request by—
  - (a) the Scottish Parliament, in relation to matters which concern a subject for which any member of the Scottish Executive has general responsibility,
  - (b) the Northern Ireland Assembly, in relation to transferred matters concerning Northern Ireland (“transferred matters” having the meaning given by section 4(1) of the Northern Ireland Act 1998 (c. 47)).

#### Application of seal and evidence

- 17 The application of the seal of the Authority must be authenticated by the signature of—
- (a) any member of the Authority, or
  - (b) any other person who has been authorised by the Authority (whether generally or specially) for that purpose.

- 18 A document purporting to be duly executed under the seal of the Authority or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

#### Meetings of the Authority in Northern Ireland

- 19 (1) Sections 23 to 27 of the Local Government Act (Northern Ireland) 1972 (c.9) (which provides for public access to meetings of a district council and for the publication of information concerning such meetings) shall, with the modifications set out below, apply in relation to meetings of the Authority in Northern Ireland as they apply in relation to meetings of a district council.
- (2) The modifications are—
- (a) any reference to a district council shall be read as a reference to the Authority, and
  - (b) any reference to councillors or members of the council shall be read as references to members of the Authority.

#### ~~Miscellaneous amendments~~

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<sup>69</sup> Grey shaded text was inserted by Section 226(8) of the Health and Social Care Act 2012 which was commenced on 4 June 2018 by The Health and Social Care Act 2012 (Commencement No. 11 and Saving Provision) Order 2018 (S.I. 2018/617)

~~20 In the First Schedule to the Public Records Act 1958 (c. 51) (definition of public records), the following entry is inserted at the appropriate place in Part 2 of the Table at the end of paragraph 3—~~

~~“Council for the Regulation of Health Care Professionals.”~~

~~21 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (c. 67) (bodies to which the Act applies), after paragraph 1(bc) there is inserted—~~

~~“(bd) the Council for the Regulation of Health Care Professionals;”~~

~~22 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), the following entry is inserted at the appropriate place—~~

~~“The Council for the Regulation of Health Care Professionals.”~~

~~23 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), the following entry is inserted at the appropriate place—~~

~~“The Council for the Regulation of Health Care Professionals.”~~

~~24 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public bodies and offices: general), the following entry is inserted at the appropriate place—~~

~~“The Council for the Regulation of Health Care Professionals.”<sup>70</sup>~~

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<sup>70</sup> Paragraphs 20-24 were repealed by Schedule 15, Part 2 of the Health and Social Care Act 2008 which was commenced on 1 January 2009 by The Health and Social Care Act 2008 (Commencement No. 7) Order 2008 (S.I. 2008/3244)

# Health and Social Care Act 2012

## 2012 CHAPTER 7

...

### Schedule 15

#### PART 7: CONSEQUENTIAL AMENDMENTS AND SAVINGS

...

### PART 3

#### THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

##### *General*

- 59 (1) A reference in any instrument or document to the Council for Healthcare Regulatory Excellence is to be read, in relation to any time after the commencement of section 222(1)<sup>71</sup>, as a reference to the Professional Standards Authority for Health and Social Care.
- (2) A reference in this Act or any other enactment, or in any other instrument or document, to the Professional Standards Authority for Health and Social Care is to be read, in relation to any time before the commencement of section 222(1), as a reference to the Council for Healthcare Regulatory Excellence.
- (3) In sub-paragraph (2), “enactment” means an enactment contained in, or in an instrument made under—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) an Act or Measure of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.

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<sup>71</sup> Section 222(1) was brought into force on 1 December 2012 by The Health and Social Care Act 2012 (Commencement No. 3, Transitional, Savings and Transitory Provisions and Amendment) Order 2012 (S.I. 2012/2657)

STATUTORY INSTRUMENTS  
2008 No. 2927

HEALTH CARE AND ASSOCIATED PROFESSIONS

The Council for Healthcare Regulatory Excellence  
(Appointment, Procedure etc.) Regulations 2008

<i>Made</i>	<i>10th November 2008</i>
<i>Laid before Parliament</i>	<i>14th November 2008</i>
<i>Coming into force</i>	<i>1st January 2009</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by section 38(5) and (7) of, and paragraph 6 of Schedule 7 to, of the National Health Service Reform and Health Care Professions Act 2002.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008 and come into force on 1st January 2009.

(2) In these Regulations—

“the 2002 Act” means the National Health Service Reform and Health Care Professions Act 2002;

“the appointor” means –

- (a) in the case of the appointment of the chair, the Privy Council; and
- (b) in the case of the appointment of a non-executive member, the person who appoints that member under paragraph 4 of Schedule 7 to the 2002 Act;

“the chair” means the chair of the Council;

“the Council” means the Professional Standards Authority for Health and Social Care

“final outcome”, in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought;  
or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“licensing body” means any body anywhere in the world that licenses or regulates any profession;

“non-executive member” means a non-executive member of the Council;

“spent conviction” means—

- (a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974; or

- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

### **Conditions of appointment for chair and non-executive members of the Council**

2.—(1) It is a condition for the appointment as the chair or a non-executive member that that person—

- (a) lives or works wholly or mainly in the United Kingdom; and
  - (b) does not fall within paragraph (2).
- (2) A person falls within this paragraph if that person—
- (a) has at any time been convicted—
    - (i) of an offence involving dishonesty or deception in the United Kingdom, or
    - (ii) of an offence in the United Kingdom, and the final outcome of the proceedings was a sentence of imprisonment or detention (whether suspended or not) of over three months, andthe conviction is not a spent conviction;
  - (b) has at any time been convicted of an offence elsewhere than in the United Kingdom and the appointor is satisfied that the person's membership of the Council would be liable to undermine public confidence in the Council;
  - (c) has at any time —
    - (i) been adjudged bankrupt or had a sequestration of his estate awarded unless (in either case) that person has been discharged or the bankruptcy order has been annulled,
    - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A to the Insolvency (Northern Ireland) Order 1989, unless that order has ceased to have effect or has been annulled, or
    - (iii) made a composition or arrangement with, or granted a trust deed for, the person's creditors unless that person has been discharged in respect of it;
  - (d) has at any time been removed from office as a chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests, or conducive to the good management, of that body that the person should continue to hold that office;
  - (e) has at any time been, or is currently the subject of, any investigation or proceedings concerning the person's professional conduct by any licensing body and the appointor is satisfied that it would not be appropriate for the person to be a member of the Council given that investigation or those proceedings;
  - (f) is subject to—
    - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986,



- (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989,
  - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002,,
  - (iv) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of a county court administration order);
- (g) has at any time been removed —
- (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
    - (aa) for which the person was responsible or to which the person was privy, or
    - (bb) which the person by their conduct contributed to or facilitated, or
  - (ii) under —
    - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the court of Session to deal with management of charities), or
    - (bb) section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005 (powers of Court of Session),
- from being concerned with the management or control of any body;
- (h) has been included by—
- (i) the Disclosure and Barring Service in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, or
  - (ii) the Scottish Ministers in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007;
- (i) is a member of the Council of, or a Council that is, a regulatory body mentioned in section 25(3) of the 2002 Act; or
- (j) is or has been a member of a profession regulated by the—
- (i) Chiropractors Act 1994.
  - (ii) Dentists Act 1984,
  - (iii) Health and Social Work Professions Order 2001,
  - (iv) Nursing and Midwifery Order 2001,
  - (v) Medical Act 1983,
  - (vi) Osteopaths Act 1993),
  - (vii) Opticians Act 1989,

- (viii) Pharmacy Order 2010<sup>72</sup>,
- (ix) Pharmacy (Northern Ireland) Order 1976; and
- (x) Social Workers Regulations 2018.

### **Tenure of appointment of chair and non-executive members**

**3.**—(1) The appointment of the chair and a non-executive member shall be for a term of four years.

(2) Subject to paragraph (4), a non-executive member is, at the end of a term of office, eligible for reappointment.

(3) Subject to paragraph (4), a chair, at the end of a term of office, is eligible for reappointment to the chair but is not eligible for appointment as a non-executive member.

(4) No person shall serve as —

- (a) the chair,
- (b) a non-executive member, or
- (c) the chair and a non-executive member,

for more than eight years in total.

(5) For the purposes of paragraph (4), any time served as a member of the Council for the Regulation of Health Care Professionals shall be considered as time served on the Council.

(6) A person appointed as the chair or a non-executive member shall cease to hold that office if the person resigns from the office by giving notice in writing to the Council.

### **Deputising arrangements in respect of the chair**

**4.**—(1) Subject to paragraph (2), if, for any reason, the chair is absent from a meeting of the Council, the non-executive members who are present at that meeting shall nominate one of their number to serve as chair at that meeting.

(2) If, for any reason—

- (a) the Council is on notice that its chair is likely—
  - (i) to be absent for more than one meeting of the Council, or
  - (ii) to be unavailable to perform the duties of a chair for more than one month; or
- (b) the office of chair is vacant,

the Council may nominate a non-executive member (“deputy chair”) to serve as chair during the absence or unavailability of the chair or during the vacancy.

(3) A non-executive member serving as deputy chair shall cease to be deputy chair—

- (a) in the case of—
  - (i) the absence or unavailability of the chair, once the chair is able to resume their duties, or
  - (ii) the office of chair being vacant, once the vacancy is filled;

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<sup>72</sup> "Pharmacy and Pharmacy Technician Order 2007" was substituted by "Pharmacy Order 2010" by Schedule 4(2), paragraph 67 of the Pharmacy Order 2010, which came into force on 27 September 2010

- (b) on ceasing to be a non-executive member;
- (c) if the non-executive member resigns as deputy chair, which the member may do at any time by a notice in writing to the Council; or
- (d) if the non-executive member's membership of the Council is suspended by the Council.

**Circumstances in which the chair and non-executive members may be suspended**

5. The Council may suspend a person from the office of chair or as a non-executive member by a notice served on that person if —

- (a) the Council has reasonable grounds for suspecting that the person no longer lives or works wholly or mainly in the United Kingdom;
- (b) the Council has reasonable grounds for suspecting that the person has become a person who falls within the description of persons in regulation 2(2);
- (c) the person is, or the Council has reasonable grounds for suspecting that the person is, subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence and, in the Council's opinion it would not be appropriate for the person to continue to participate in proceedings of the Council while the investigation or proceedings is or are ongoing; or
- (d) the person is, or the Council has reasonable grounds for suspecting that the person is, subject to any investigation or proceedings concerning the person's professional conduct by any licensing body and, in the Council's opinion it would not be appropriate for the person to continue to participate in proceedings of the Council while the investigation or proceedings is or are ongoing.

**Circumstances in which the chair or non-executive member may be removed from office**

6. A person appointed as the chair or a non-executive member shall be removed from that office by the appointor if —

- (a) the person becomes a person who falls within regulation 2(2);
- (b) the person ceases to live or work wholly or mainly in the United Kingdom;
- (c) the person fails to attend any meeting of the Council for a period of three consecutive months without the consent of the Council unless the appointor is satisfied that—
  - (i) the absence was due to a reasonable cause; and
  - (ii) the person in question will be able to attend meetings of the Council within such period as the appointor considers reasonable;
- (d) the appointor is satisfied that the person is no longer able to perform the duties of the chair or a non-executive member because of adverse physical or mental health; or
- (e) the appointor is satisfied that the person's continued membership of the Council would be liable to undermine public confidence in the Council's ability to exercise its functions.

## **Committees**

7.—(1) The Council may appoint committees of the Council consisting wholly or partly of members of the Council or wholly of persons who are not members of the Council.

(2) A committee appointed under this regulation may appoint sub-committees wholly or partly of members of the committee (whether or not they are members of the Council) or wholly of persons who are not members of the Council or the committee.

(3) The condition applicable to the appointment of members mentioned in regulation 2(1) applies to the members of committees and sub-committees appointed under this regulation, except that in relation to paragraph (1)(b) of regulation 2, only to the extent that a person falls within paragraph (2)(a) to (h) of that regulation.

## **Transitional arrangement in respect of appointment of non-executive members**

8. In the case of the first appointments of non-executive members to the Council made immediately after these Regulations come into force, the term of appointment for three of the non-executive members may be for a period of less than four years but must not be for less than two years.

## **Revocation**

9. The Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002 are revoked.

Signed by authority of the Secretary of State for Health.

*Ben Bradshaw*  
Minister of State,  
Department of Health

10th November 2008