Draft Order laid before Parliament under section 77(2) of the Deregulation and Contracting Out Act 1994, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No.

CONTRACTING OUT, ENGLAND

The Contracting Out (Local Authorities Social Services Functions) (England) Order 2014

Made - - - -	*****
Coming into force - -	*1st April 2014*

The Secretary of State, in exercise of the powers conferred by sections 70(2) and (4) and 77(1) of the Deregulation and Contracting Out Act 1994(**a**), makes the following Order.

In accordance with section 70(3)(a) of the Deregulation and Contracting Out Act 1994, the Secretary of State for Health has consulted with such representatives of local government as the Secretary of State considers appropriate.

A draft of this Order was laid before Parliament in accordance with section 77(2) of the Deregulation and Contracting Out Act 1994 and approved by a resolution of each House.

Citation, commencement and application

1.—(1) This Order may be cited as the Contracting Out (Local Authorities Social Services Functions) (England) Order 2014 and shall come into force on 1st April 2014.

(2) This Order shall apply in relation to England only.

Interpretation

2. In this Order—

"registered social worker" means a person registered as a social worker—

(a) in Part 16(**b**) of the register established and maintained under article 5 of the Health and Social Work Professions Order 2001(**c**),

(b) in a register maintained by the Care Council for Wales under section 56 (the register) of the Care Standards Act 2000(**d**),

---

(**a**) 1994 c.40.

(**b**) The register is divided into parts specified in Schedule 1 to the Health Professions (Parts of and Entries in the Register) Order of Council 2003, S.I. 2003/1571. Part 16 was inserted by S.I. 2012/1479, article 3(3).

(**c**) S.I. 2002/254. Relevant amendments to the Order have been made by the Health and Social Care Act 2012 (c.7), section 213(1),(4); S.I. 2009/1182, article 3(2), Schedule 2, paragraph 2.

(**d**) 2000 c.14. Section 56 has been amended by S.I. 2007/3101 and the Health and Social Care Act 2012 (c.7), section 230, Schedule 15, Part 1, paragraph 1, 3.

(c) in a register maintained by the Scottish Social Services Council under section 44 (register of social workers and of other social service workers) of the Regulation of Care (Scotland) Act 2001(**a**), or

(d) in a register maintained by the Northern Ireland Social Care Council under section 3 (the register) of the Health and Personal Social Services Act (Northern Ireland) 2001(**b**); and

"social services function" means any of the functions conferred by or under any of the provisions listed in the Schedule to this Order.

Contracting Out

3.—(1) Subject to paragraph (2), a social services function may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by a local authority(**c**) whose function it is.

(2) An authorisation given to a person by virtue of paragraph (1) may authorise the exercise of a social services function, and a person (or the employees of a person) to whom such an authorisation is given may exercise such a function, only where—

(a) the function is to be exercised only in relation to persons who are aged 18 or over;

(b) the function is to be exercised by, or under the supervision of, a registered social worker;

(c) when the function is not exercised by a registered social worker, the function is to be exercised by a person who has the qualifications or competencies which the local authority considers to be requisite for the exercise of the function; and

(d) the function is to be exercised in accordance with relevant directions and guidance given to local authorities by the Secretary of State about the exercise of social services functions.

Modification to Schedule 1 to the Local Authority Social Services Act 1970

4. Schedule 1 to the Local Authority Social Services Act 1970 (Social Services Functions)(**d**) shall be read as if at the end (after the entry relating to the Legal Aid Sentencing and Punishment of Offenders Act 2012) there were added—

"The Contracting Out (Local Authorities Social Services Functions) (England) Order 2014 Article 3	Contracting Out".

Revocation of the Contracting Out (Local Authorities Social Services Functions) (England) Order 2011

5. The Contracting Out (Local Authorities Social Services Functions) (England) Order 2011(**e**) is hereby revoked.

Signed by the authority of the Secretary of State for Health.

Name
Minister of State,
Department of Health

Date

(**a**) 2001 asp 8. Section 44 has been amended by S.I.2007/3101.
(**b**) 2001 c.3 (N.I.). Section 3 has been amended by S.I. 2007/3101.
(**c**) "Local authority" is defined in relation to England by section 79A of the Deregulation and Contracting Out Act 1994. Section 79A was inserted by the Local Government and Public Involvement in Health Act 2007 (c.28), section 239(3) and amended by the Local Democracy, Economic Development and Construction Act 2009 (c.20), Schedule 6, paragraph 87 and the Police Reform and Social Responsibility Act 2011 (c.13), section 99 and Sch 16, Pt 3, paras 214 and 215.
(**d**) 1970 c.42.
(**e**) S.I. 2011/1568 as amended by S.I. 2012/3003.

SCHEDULE

Article 2

Social Services Functions

National Assistance Act 1948

1. Section 21 (duty of local authorities to provide accommodation)(**a**).

2. Section 22 (charges to be made for accommodation)(**b**).

3. Section 24 (authority liable for the provision of accommodation)(**c**).

4. Section 26(1) to (4A) (provision of accommodation in premises maintained by voluntary organisations)(**d**).

5. Section 29 (welfare arrangements for blind, deaf, dumb and crippled persons, etc.)(**e**).

Mental Health Act 1959

6. Section 8(2) (functions of welfare authorities)(**f**).

(**a**) 1948 c.29. Section 21 has been amended by the Local Government Act 1972 (c.70), sections 195 and 272, Schedule 23, paragraph 2 and Schedule 30; the National Health Service (Reorganisation) Act 1973 (c.32), Schedule 5; the Housing (Homeless Persons) Act 1977 (c.48), Schedule; the Children Act 1989 (c.41), Schedule 13, paragraph 11; the National Health Service and Community Care Act 1990 (c.19), section 42 (1), 66 and Schedule 9, paragraph 5 and Schedule 10; The Community Care (Residential Accommodation) Act 1998 (c.19), section 1;the Immigration and Asylum Act 1999 (c.33), section 116; the Health and Social Care Act 2001 (c.15), section 53; the Nationality, Immigration and Asylum Act 2002 (c.41), section 45(5); and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 5 and 6.

(**b**) 1948 c.29. Section 22 has been amended by the Housing (Homeless Persons) Act 1977 (c.48), section 20 and Schedule; the Social Security Act 1980 (c.30), sections 20 and 21 and Schedule 4, paragraph 2 and Schedule 5; the Health and Social Services and Social Security Act 1983 (c.41), section 20(1); the Social Security Act 1986 (c.50), section 86 and Schedule 10, paragraph 32; the National Health Service and Community Care Act 1990 (c.19), section 44, section 66 and Schedule 10; the Community Care (Delayed Discharges etc.) Act 2003 (c.5), section 17; and is prospectively amended by the Personal Care at Home Act 2010 (c.18), section 1.

(**c**) Section 24 has been amended by the National Assistance (Amendment) Act 1959 (c.30), section 1(1); the Local Government Act 1972 (c.70), section 195 and Schedule 23, paragraph 2; the Housing (Homeless Persons) Act 1977 (c.48), section 20 and Schedule; the National Health Service and Community Care Act 1990 (c.19), Schedule 9, paragraph 5; the Health and Social Care Act 2008 (c.14), section 148; and the Health Act 2009 (c.21), Schedule 1, paragraph 1; the Health and Social Care Act 2012 (c.7), section 55(2) and Schedule 5 paragraphs 2 and 3.

(**d**) Section 26 has been amended by the Health Services and Public Health Act 1968 (c.46), section 44 and Schedule 4; the Local Government Act 1972 (c.70), section 195 and Schedule 23, paragraph 2; the Housing (Homeless Persons) Act 1977 (c.48), section 20 and Schedule; the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 20; the National Health Service and Community Care Act 1990 (c.19), section 42 and section 66 and Schedules 9 and 10; the Community Care (Residential Accommodation) Act 1992 (c.49), section 1; the Care Standards Act 2000 (c.14), section 116 and 117 and Schedules 4 and 6 the Community Care (Delayed Discharges etc.) Act 2003 (c.5), section 17; and by S.I. 2007/961 and 2010/813; and has been prospectively amended by the Personal Care at Home Act 2010 (c.18), section 1; Health and Social Care Act 2012 (c.7), section 55 and Schedule 5, paragraphs 2 and 4.

(**e**) Section 29 has been amended by the National Assistance (Amendment) Act 1959 (c.30), section 1(2); the Mental Health (Scotland) Act 1960 (c.61), sections 113(1) and 114 and Schedule 4; the Social Work (Scotland) Act 1968 (c.49), section 95(2) and Schedule 9, Part 1; the Local Government Act 1972 (c.70), section 195 and section 272, Schedule 23, paragraph 2 and Schedule 30; the Employment and Training Act 1973 (c.50), section 14(1) and Schedule 3, paragraph 3, the National Health Service Act 1977 (c.46), section 129 and Schedule 15, paragraph 6, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 10, Part 1; the Children Act 1989 (c.41), section 108 and Schedule 13, paragraph 11(2) and Schedule 14, paragraph 1; the National Health Service and Community Care Act 1990 (c.19), section 44(7); the Registered Homes (Amendment) Act 1991 (c.20), section 2(5), the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 5 and 8; and the Health and Social Care Act 2008 (c.14), section 147(2).

(**f**) 1959 c.72. Section 8(2) has been amended by the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 22 and 23; and is prospectively amended by the National Health Services and Community Care Act 1990 (c.19), Schedule 10.

Health Services and Public Health Act 1968

7. Section 45 (promotion, by local authorities of the welfare of old people)(**a**).

Chronically Sick and Disabled Persons Act 1970

8. Section 1 (information as to need for and existence of welfare services)(**b**).

9. Section 2 (provision of welfare services)(**c**).

Mental Health Act 1983

10. Section 117 (after-care)(**d**).

Disabled Persons (Services, Consultation and Representation) Act 1986

11. Section 4 (services under s.2 of the Chronically Sick and Disabled Persons Act 1970; duty to consider needs of disabled persons)(**e**).

12. Section 8 (duty of local authority to take into account abilities of carer).

National Health Service and Community Care Act 1990

13. Section 47 (assessment of needs for community care services)(**f**).

Carers (Recognition and Services) Act 1995

14. Section 1 (assessment of ability of carers to provide care: England and Wales(**g**).

Carers and Disabled Children Act 2000

15. Section 1 (right of carers to assessment)(**h**).

16. Section 2 (services for carers).

17. Section 4 (assessments and services for both carer and person cared for).

(**a**) 1968 c.46. Section 45 has been amended by the Social Work (Scotland) Act 1968 (c.49), sections 14, 95(2)Schedule 9, Part 1; the Local Authority Social Services Act 1970 (c.42), section 14(2) and Schedule 3; the Local Government Act 1972 (c.70), Schedule 23, paragraph 15; the Statute Law (Repeals) Act 1978 (c.45); the Residential Homes Act 1980 (c.7), Schedule 2; the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 30 and Schedule 10, Part 1; the National Health Service and Community Care Act 1990 (c.19), section 42(7) and 66(2), Schedule 10; the Local Government (Wales) Act 1994 (c.19), section 22(4) and Schedule 10, paragraph 5(1); the Immigration and Asylum Act 1999 (c.33), section 117(1); and the National Health Service (Consequential Provisions) Act 2006 (c.43), section 2 and Schedule 1, paragraphs 33 and 34; and by S.I. 1968/1699; and is prospectively amended by the Nationality, Immigration and Asylum Act 2002 (c.41), section 45(6).

(**b**) 1970 c.44. Section 1 has been amended by the Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33), section 9.

(**c**) Section 2 has been amended by the Local Authority Social Services Act 1970 (c.42), Schedule 2, paragraph 12; the Local Government Act 1972 (c.70), section 272(1) and Schedule 30; the National Health Service and Community Care Act 1990 (c.19), Schedule 9, paragraph 12 and Schedule 10; and the Health and Social Care Act 2008 (c.14), section 148(3).

(**d**) 1983 c.20. Section 117 has been amended by the Health Authorities Act 1995 (c.17), section 2(1) and Schedule 1 paragraph 107; the Crime (Sentences) Act 1997 (c.43), section 55 and Schedule 4, paragraph 12(17); the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 2(5) and Schedule 2, Part 2, paragraphs 42 and 47; the Mental Health Act 2007 (c.12), sections 32(4) and 55, Schedule 3, paragraphs 1 and 24 and Schedule 11, Part 5; and the Health Act 2009 (c.21), section 13 and Schedule 1, paragraph 3; and by S.I. 2007/961; Mental Health (Patients in the Community) Act 1995, section 1(2) and Schedule 1, paragraph 15; Health and Social Care Act 2012 (c.7), section 40.

(**e**) 1986 c.33.

(**f**) 1990 c.19. Section 47 has been amended by the Health Authorities Act 1995 (c.17), Schedule 1, paragraph 81; the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 2(5) and Schedule 2, paragraphs 53 and 56; and the National Health Service (Consequential Provisions) Act 2006 (c.17), Schedule 1, paragraphs 128 and 130; Health and Social Care Act 2012 (c.7), section 55, Schedule 5, paragraphs 58, 59.

(**g**) 1995 c.12. Section 1 has been amended by the Carers and Disabled Children Act 2000 (c.16), section 4(1) and the Carers (Equal Opportunities) Act 2001 (c.15), sections 1(1) and 2(1).

(**h**) 2000 c.16. Section 1 has been amended by the Carers (Equal Opportunities) Act 2004 (c.15), section 2(2).

18. Section 6A (duty to inform carers of right to assessment)(**a**).

Community Care (Delayed Discharges etc.) Act 2003

19. Section 4 (duties of responsible authority following notice under section 2)(**b**).

Carers (Equal Opportunities) Act 2004

20. Section 3 (co-operation between authorities)(**c**).

The National Health Service Act 2006

21. Section 254 (local social services authorities) and Schedule 20 (further provision about local social services authorities)(**d**).

The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009(e)

22. Regulation 7 (direct payments under section 57(1) of the Health and Social Care Act 2001 or section 17A(1) of the Children Act 1989).

23. Regulation 8 (direct payments under section 57(1A) of the Health and Social Care Act 2001).

24. Regulation 9 (amount and payment under section 57(1) of the Health and Social Care Act 2001 or section 17A(1) of the Children Act 1989)(**f**).

25. Regulation 10 (amount and payment under section 57(1A) of the Health and Social Care Act 2001)(**g**).

26. Regulation 11 (conditions in respect of direct payments under section 57(1) of the Health and Social Care Act 2001 or section 17A of the Children Act 1989).

27. Regulation 12 (conditions in respect of direct payments under section 57(1A) of the Health and Social Care Act 2001).

28. Regulation 17 (termination of direct payments under section 57(1) of the Health and Social Care Act 2001 or section 17A of the Children Act 1989).

29. Regulation 18 (termination of direct payments under section 57(1A) of the Health and Social Care Act 2001).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision to enable a local authority in England to authorise another person, or that person's employees, to exercise social services functions (as listed in the Schedule).

The exercise of functions contracted out by virtue of this Order must be by, or under the supervision, of a registered social worker or by a person who has the requisite qualifications or competencies. Functions must also be exercised in accordance with relevant directions and

---

(**a**) Section 6A was inserted by the Carers (Equal Opportunities) Act 2004 (c.15), section 1(2).
(**b**) 2003 c.5.
(**c**) 2004 c.15. Section 3 has been amended by S.I. 2010/1158; Health and Social Care Act 2012 (c.7), section 55(2), Schedule 5, paragraph 125.
(**d**) 2006 c.41. Section 254 has been amended by S.I. 2010/1158.
(**e**) S.I. 2009/1887.
(**f**) Relevant amending instrument is S.I. 2010/2246.
(**g**) Relevant amending instrument is S.I. 2010/2246.

guidance given to local authorities by the Secretary of State about the exercise of social services functions (article 3(2)).

Article 4 amends Schedule 1 to the Local Authority Social Services Act 1970. This will enable the Secretary of State to give guidance or directions to local authorities about the exercise of their functions under this Order.

Article 5 revokes S.I. 2011/1568 because the pilot schemes referred to in the Order have come to an end.

An impact assessment has not been prepared for this instrument as there is no significant impact on the private and voluntary sectors.

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£5.75

UK201402106 02/2014 19585

http://www.legislation.gov.uk/id/ukdsi/2014/9780111109632

ISBN 978-0-11-110963-2

9 780111 109632