EXECUTIVE NOTE

THE REGULATION OF CARE (SOCIAL SERVICE WORKERS) (SCOTLAND) AMENDMENT ORDER 2010
SSI 2010/ 442

AND

THE REGULATION OF CARE (FITNESS OF EMPLOYEES IN RELATION TO CARE SERVICES) (SCOTLAND) (NO. 2) AMENDMENT REGULATIONS 2010
SSI 2010/443

The above Order was made in exercise of the powers conferred by section 44(1)(b) of the Regulation of Care (Scotland) Act 2001 ("the Act") and the above Regulations were made in exercise of the powers in section 29(1), (2), (4), (5) and (13) of the Act. Both these instruments are subject to negative resolution procedure.

Policy Objectives

Under section 44(1) of the Act, the Scottish Social Services Council ("the Council") is required to maintain a register of (i) social workers, (ii) social service workers of such description as have been prescribed by Scottish Ministers and (iii) persons participating in a course approved by the Council or employed in a position probationary to their becoming either a social worker or social service worker of a prescribed description.

In July 2000 Ministers announced the groups of workers who would be included in the first and second phases of registration. Based on this information, the Council published a timetable with the commencement dates of registration for the groups of workers included in both phases. Social Workers were the first group of workers to be registered.

Following registration of Social Workers, registration has commenced for seven groups of social service workers. The groups are Care Commission officers, residential child care workers, managers of adult day care services, managers of a care home service for adults, early education and child care workers and workers, other than managers, in the provision of a care home service for adults, and managers and workers in school care accommodation services covering school hostels and independent boarding schools. The relevant descriptions of social service workers that fall within those groups are prescribed in the Regulation of Care (Social Service Workers) (Scotland) Order 2005 (S.S.I. 2005/318) ("the 2005 Order").

The next group of workers to be registered, who constitute part of the final group in the second phase of registration, are managers employed in the provision of housing support and care at home services. The Order amends the 2005 Order to achieve that. The Council will be under an obligation to maintain a register of this group of workers from 21 January 2011.

By virtue of article 3 of the 2005 Order, persons registered with, or members of, certain bodies (for example the Nursing and Midwifery Council or the General Teaching Council for Scotland) are excluded from the description of a social service worker.

The Order also substitutes a reference to authorised persons (for inspection purposes) of Social Care and Social Work Improvement Scotland for the Care Commission equivalents which they will replace on 1st April 2011.

Policy documents made clear that registration would be required; i.e. a condition for employment, and continued employment in the sector. That intention remains. Given the slow pace of registration, the Regulation of Care (Fitness of Employees in Relation to Care Services) (No.2) (Scotland) Regulations 2009 ("the 2009 Regulations") were made in March 2009. Those Regulations provided that workers employed, in specified groups in the sector, for the first time will be required to apply for registration as soon as reasonably practical on commencement of employment, and be given a grace period of 6 months to achieve registration.

As the Council is about to commence registration of this new group of workers i.e. those managers employed in housing support and care at home services, these Regulations amend the 2009 Regulations to place the same conditions of required registration on this new group. In setting the dates for these groups of workers, the phased approach to registration has been maintained to allow employers to plan training etc. Recognition has also been taken of the numbers involved, the date the register opens for each group and the capacity of SSSC to process these new claims and maintain existing registrations.

Consultation

Section 44(4) of the Act requires the Scottish Ministers to consult the Council and other persons, or groups of persons, whom they consider appropriate before making an Order under section 44; similarly section 29(12) requires the Scottish Ministers to consult persons, or groups of persons, whom they consider appropriate for making regulations under section 29. The Scottish Ministers have therefore consulted the Council; the Care Commission; employers and providers of housing support and care at home.

Financial Effects

The financial impact of these instruments is not expected to be significant. The registration fee that individual applicants will have to pay annually to register with the Council is £30. As no significant increases in administrative costs to the Council are anticipated and the registration fee will be paid by the individual worker, it was not considered necessary to carry out a Business and Regulatory Impact Assessment.

Scottish Government
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