SCOTTISH STATUTORY INSTRUMENTS

2005 No. 318

SOCIAL CARE

The Regulation of Care (Social Service Workers) (Scotland) Order 2005

Made - - - -	*7th June 2005*
Laid before the Scottish Parliament - - - -	*9th June 2005*
Coming into force - -	*1st July 2005*

The Scottish Ministers in exercise of the powers conferred by section 44(1)(b) of the Regulation of Care (Scotland) Act 2001(**1**) and of all other powers enabling them in that behalf, and after consultation with the Scottish Social Services Council(**2**) and such other persons and groups of persons as they consider appropriate in accordance with section 44(4) of that Act, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Care (Social Service Workers) (Scotland) Order 2005 and shall come into force on 1st July 2005.

(2) In this Order–

"the Act" means the Regulation of Care (Scotland) Act 2001;

"child" means–

(a) for the purposes of paragraph (a) of the definition of "residential child care service", a person under the age of sixteen years;

(b) for the purposes of paragraph (b) of the definition of "residential child care service", a child within the meaning of section 135(1) (interpretation) of the Education (Scotland) Act 1980(**3**); and

(c) for the purposes of paragraph (c) of the definition of "residential child care service", a child within the meaning of section 93(2)(b) (interpretation) of the Children (Scotland) Act 1995(**4**);

(**1**) 2001 asp 8. Section 77(1) of the Act defines "prescribed" as meaning "prescribed by order made by the Scottish Ministers".
(**2**) Established by section 43 of the Act.
(**3**) 1980 c. 44.
(**4**) 1995 c. 36.

"residential child care service" means a service which consists in the provision of personal care or personal support–

(a) to any child as part of a care home service(**5**);

(b) to any child as part of a school care accommodation service(**6**) other than the provision of residential accommodation where it is–

(i) provided by or under arrangements made by the managers of an independent school and does not provide personal care or support;

(ii) provided by an education authority with respect to a special school within the meaning of the Education (Scotland) Act 1980; or

(iii) a hostel provided by the local authority for the use of children to enable them to attend school; or

(c) to any child as part of a secure accommodation service(**7**); and

"residential child care worker" means a person who, not being a social worker(**8**), is employed in the provision of (or in managing the provision of) a residential child care service.

(3) In this Order a reference to a numbered paragraph is a reference to the paragraph so numbered in the article in which that reference occurs.

Description of social service worker

2. For the purposes of section 44(1)(b) of the Act, the description of social service worker prescribed is, subject to article 3, a person who is–

(a) an employee of the Commission who is also an authorised person within the meaning of sections 25 and 27 of the Act;

(b) a residential child care worker who is the manager of a residential child care service;

(c) a residential child care worker who–

(i) does not fall within paragraph (b); and

(ii) supervises any other residential child care worker; or

(d) a residential child care worker who does not fall within either paragraph (b) or paragraph (c)(ii).

Excluded persons

3.—(1) A person who is registered with or (as the case may be) is a member of one or more of the following bodies is excluded from the description of social service worker in article 2–

(a) the General Social Care Council(**9**);

(b) the Northern Ireland Social Care Council(**10**);

(c) the Care Council for Wales(**11**);

(d) the General Medical Council(**12**);

(**5**) Section 2(3) of the Act defines "care home service".
(**6**) Section 2(4) of the Act defines "school care accommodation service". The provision of residential accommodation described in sub paragraphs (i) to (iii) was excepted from the definition of "school care accommodation service" by S.S.I. 2002/120 but this exception from the definition was revoked with effect from 1st April 2005 by S.S.I. 2005/96.
(**7**) Section 2(9) of the Act defines "secure accommodation service".
(**8**) Section 77(1) of the Act defines "social worker".
(**9**) The General Social Care Council was established by section 54(1)(a) of the Care Standards Act 2000 (c. 14).
(**10**) The Northern Ireland Social Care Council was established by section 1(1) of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3).
(**11**) The Care Council for Wales was established by section 54(1)(b) of the Care Standards Act 2000 (c. 14).
(**12**) The General Medical Council continues to be established by virtue of section 1(1) of the Medical Act 1983 (c. 54).