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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 306**

**ADULT SUPPORT  
SOCIAL CARE**

**The Adult Support and Protection  
(Scotland) Act 2007 (Restriction on the  
Authorisation of Council Officers) Order 2008**

*Made* - - - - *10th September 2008*  
*Laid before the Scottish*  
*Parliament* - - - - *11th September 2008*  
*Coming into force* - - *29th October 2008*

The Scottish Ministers make the following order in exercise of the powers conferred by sections 52(1) and 76(1) of the Adult Support and Protection (Scotland) Act 2007<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

**1.** This Order may be cited as the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008 and comes into force on 29th October 2008.

**Interpretation**

**2.—(1)** In this Order—

“equivalent registration” means registration in a register prescribed under section 52(2)(b) (use of title “social worker” etc.) of the 2001 Act and which appears to the Scottish Ministers to be equivalent to a registration in the SSSC register as a social worker;

“SSSC register” means the register maintained by the SSSC under section 44(1) (register of social workers and of other social service workers) of the 2001 Act;

“the 2001 Act” means the Regulation of Care (Scotland) Act 2001<sup>(2)</sup>; and

“the SSSC” means the Scottish Social Services Council<sup>(3)</sup>.

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<sup>(1)</sup> 2007 asp 10.

<sup>(2)</sup> 2001 asp 8.

<sup>(3)</sup> The SSSC is constituted under section 43 of the 2001 Act.

(2) A reference in this Order to a section is, unless otherwise stated, to a section of the Adult Support and Protection (Scotland) Act 2007.

**Restriction on the authorisation of council officers to perform functions under sections 7 to 10**

**3.—**(1) A council<sup>(4)</sup> shall not authorise a person to perform the functions of a council officer under sections 7 to 10 (investigative functions) unless that person meets the requirements set out in paragraph (2).

(2) Those requirements are—

(a) the person—

- (i) is registered in the part of the SSSC register maintained in respect of social workers or is the subject of an equivalent registration;
- (ii) is registered in the part of the SSSC register maintained in respect of social service workers;
- (iii) is registered as an occupational therapist in the register maintained under article 5(1) (establishment and maintenance of register) of the Health Professions Order 2001<sup>(5)</sup>; or
- (iv) is a nurse; and

(b) the person has at least 12 months' post qualifying experience of identifying, assessing and managing adults at risk.

**Restriction on the authorisation of council officers to perform functions under sections 11, 14, 16 and 18**

**4.** A council shall not authorise a person to perform the functions of a council officer under sections 11 (assessment orders), 14 (removal orders), 16 (right to move adult at risk) or 18 (protection of moved person's property) unless that person meets the requirements of article 3(2)(a)(i), (iii) or (iv) and (b).

**Withdrawal of authorisation**

**5.** A council shall withdraw the authority of a person to perform the functions of a council officer specified in article 3 or 4 if that person no longer meets the requirements relevant to performing those functions.

St Andrew's House,  
Edinburgh  
10th September 2008

*S ROBISON*  
Authorised to sign by the Scottish Ministers

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(4) "Council" is defined in section 53(1) of the [Adult Support and Protection \(Scotland\) Act 2007](#) (asp 10).

(5) S.I.2002/254.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order specifies the restrictions to be placed on persons before they may be authorised by a council to perform the functions of a council officer under the Adult Support and Protection (Scotland) Act 2007 (“the Act”).

A person requires to be registered as a social worker or social services worker in the relevant part of the SSSC register or as an occupational therapist in the register maintained under article 5(1) of the Health Professions Order 2001 or to be a nurse, and to have had at least 12 months relevant experience, to be authorised to perform the functions of a council officer under sections 7 to 10 of the Act (article 3).

Authorisation to perform the functions of a council officer under section 11, 14, 16 or 18 of the Act is restricted to registered social workers, occupational therapists and nurses who have at least 12 months relevant experience (article 4).

A council may withdraw the authority of a person to perform the functions of a council officer if the person no longer meets the relevant requirements (article 5).