
EXPLANATORY NOTE

(This note is not part of the Order)

This is the third Commencement Order made by the Welsh Ministers under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”). It commences (with limited exceptions) Parts 2 to 11 of the Act on 3 April 2017.

The Care Council for Wales (“the CCW”) was established by the Care Standards Act 2000 for the purposes of promoting high standards of conduct and practice among social care workers and promoting high standards in their training.

Parts 2 to 10 of the Act rename the CCW as Social Care Wales (“SCW”), restate and modify its existing functions and confer additional functions.

Article 2 commences Parts 2 to 10 of the Act (in so far as they are not already in force), except for sub-section (5) of section 160 (power to require information). It also commences Schedule 2 (which makes further provision about SCW) and section 185 of, and Schedule 3 to, the Act (minor and consequential amendments) insofar as they relate to Part 2 of Schedule 3 (Social Care Wales).

Article 3 introduces the Schedule, which has effect from 3 April 2017, and which makes savings and transitional provisions.

Paragraph 2 of the Schedule makes general provision so that anything done by or in relation to the statutory regulation of social care workers in Wales by CCW is, where appropriate, to be treated on or after 3 April 2017 as done by or in relation to SCW.

Paragraph 3 of the Schedule provides for the transfer on 3 April 2017 of the majority of entries on the register maintained by the CCW (in accordance with section 56 of the Care Standards Act 2000) to corresponding parts of the register maintained by SCW (under section 80 of the Act). Adult care home workers and domiciliary care workers could apply for voluntary registration in the added part of the register maintained by the CCW. No provision is made for voluntary registration in the register maintained by SCW and any such entries on the CCW register will lapse on 3 April 2017 as they are not transferred in accordance with paragraph 3.

Paragraph 3 also makes it possible for an allegation that an entry in the CCW register was fraudulently obtained or incorrectly made to continue to be investigated by SCW.

Paragraphs 4, 5, 6 and 7 make provision about special cases.

If a person’s registration in the CCW register was subject to conditions, paragraph 4 provides for those conditions to be carried over to the SCW register.

Paragraph 5 makes corresponding provision in relation to a person whose registration is subject to an admonishment issued by the CCW. In such cases their registration in the SCW register will record a warning as to future conduct and performance made in the same terms and for the same duration as the admonishment.

Paragraph 6 provides that a person who is suspended by the CCW will continue to be suspended on the same terms and for the same duration when registered with SCW.

Paragraph 7 makes provision about a person who is subject to a barring order preventing the person from applying for restoration to the register. The order is converted to SCW’s equivalent.

Paragraph 8 makes provision about proceedings pending before one of CCW’s disciplinary committees. Such proceedings will, on or after 3 April 2017, be dealt with by SCW in accordance with the Care Council for Wales (Fitness to Practise) Rules 2014, which are saved for that purpose.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Paragraphs 9 and 10 make similar provision in relation to applications for registration, renewal of registration and applications for restoration to the CCW register which are pending before one of the CCW's committees. Such applications will, on or after 3 April 2017, be dealt with by SCW in accordance with the relevant CCW Rules, which are saved for that purpose.

Paragraph 11 preserves the right of appeal against a pre-3 April 2017 decision of the CCW. The appeal is to the Tribunal.

Paragraph 12 provides that any question as to a person's conduct or practice before 3 April 2017 is to be judged on or after that day by the same standards of practice that applied at the relevant time.

Paragraph 13 treats standards of proficiency, qualifications, courses, training and continuing professional development approved by the CCW before 3 April 2017 as though they were approved by SCW. It also preserves the right of SCW on or after that day to exercise its own judgement about an approval affected by this provision.

Paragraph 14 provides that complaints made to the Public Services Ombudsman for Wales before 3 April 2017 about the CCW may continue to be investigated on or after that day. Any such complaint is to be treated as though it were made against SCW.