

Draft Regulations laid before Parliament under section 38(3) of the National Health Service Reform and Health Care Professions Act 2002, section 65(4B) of the Mental Capacity Act 2005, section 208(2), (4), (5)(f) and (8) of the Equality Act 2010, and section 68(2) and (3) of the Children and Social Work Act 2017, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

SOCIAL WORK, ENGLAND

**HEALTH CARE AND ASSOCIATED PROFESSIONS,
ENGLAND**

MENTAL CAPACITY, ENGLAND

MENTAL HEALTH, ENGLAND

PROFESSIONAL QUALIFICATIONS, ENGLAND

The Social Workers Regulations 2018

Made - - - - *****

Coming into force in accordance with regulation 1(2) and (3)

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The Secretary of State makes the following Regulations in exercise of the powers conferred by: section 29(2A) of the National Health Service Reform and Health Care Professions Act 2002^(a); paragraphs 129(3) and 130 of Schedule A1 to the Mental Capacity Act 2005^(b); sections 151(1) and 153(1) of the Equality Act 2010^(c); and sections 38, 39(3) and (4)(a) and (c) to (m), 40, 43(3) to (6), 44(3) to (5), 45, 48, 50(1)(a) and (c) and (4) to (7), 52(2), 53(1)(d), 55(2) and (3), 57(1) to (3), 66(1) and (2), and 67(2) of the Children and Social Work Act 2017^(d).

In accordance with section 58(1) of the Children and Social Work Act 2017, the Secretary of State has carried out a public consultation.

In accordance with sections 152(1) and 153(4) of the Equality Act 2010, the Secretary of State has consulted the Commission for Equality and Human Rights. In accordance with section 151(8) of that Act, the Secretary of State considers that the extension of the application of section 149 of that Act relates to persons by whom a public function is exercisable.

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- (a) 2002 c. 17. Subsection (2A) was inserted by paragraph 15(2) of Schedule 4 to the Children and Social Work Act 2017 (c. 16) (“the Act”).
(b) 2005 c. 9. Schedule A1 was inserted by section 50(5) of, and Schedule 7 to, the Mental Health Act 2007 (c. 12), and paragraph 130 was amended by section 49 of the Act.
(c) 2010 c. 15.
(d) 2017 c. 16.

In accordance with section 38(3) of the National Health Service Reform and Health Care Professions Act 2002(a), section 65(4B) of the Mental Capacity Act 2005(b), section 208(2), (4), (5)(f) and (8) of the Equality Act 2010, and section 68(2) of the Children and Social Work Act 2017, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Social Workers Regulations 2018.

(2) Subject to paragraph (3), these Regulations come into force on the date on which section 39(1) of the Act comes into force.

(3) Regulation 40 (amendment to the Equality Act 2010) comes into force on the day after the day on which these Regulations are made.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Children and Social Work Act 2017;

“the Authority” means the Professional Standards Authority for Health and Social Care established by section 25(1) of the National Health Service Reform and Health Care Professions Act 2002(c);

“adjudicator” means an individual appointed under regulation 15(12), 16(4), 19(3) or 25(7)(c);

“adviser” has the meaning given in regulation 4(2);

“AMHPs course” has the meaning given in regulation 20(1)(d);

“appointee” has the meaning given in regulation 37(3)(c);

“approved course of initial education or training” has the meaning given in regulation 20(2);

“approved qualification” has the meaning given in regulation 20(2);

“case examiner” means an individual appointed under regulation 25(7)(b);

“conditions of practice order” has the meaning given in paragraph 13(1)(c) of Schedule 2;

“custodial sentence” has the meaning given in section 76 of the Powers of Criminal Courts (Sentencing) Act 2000(d);

“education and training approval scheme” has the meaning given in regulation 20(1);

“fitness to practise proceedings” has the meaning given in regulation 25(1)(a);

“function”, in relation to the regulator, has the meaning given in regulation 8(3);

“inspector” has the meaning given in regulation 21(2);

“interim conditions of practice order” has the meaning given in paragraph 8(5)(b) of Schedule 2;

(a) Section 38(3) was amended by paragraph 1 of Schedule 4 to the National Health Service (Consequential Provisions) Act 2006 (c. 43) and by paragraph 16(3) of Schedule 4 to the Act. There are other amendments but none is relevant.

(b) Section 65(4B) was inserted by paragraph 11(2) of Schedule 9 to the Mental Health Act 2007.

(c) Section 25(1) was amended by section 222(2)(a) of the Health and Social Care Act 2012 (c. 7). By virtue of section 25(2) and (3) of the National Health Service Reform and Health Care Professions Act 2002, as amended by paragraph 2 of Schedule 4 to the Act, the functions of the Authority include the promotion of the interests of users of social work services in England in relation to the performance by the regulator of its functions.

(d) 2000 c. 6. Section 76 was amended by paragraph 108 of Schedule 32 to the Criminal Justice Act 2003 (c. 44). There are other amendments but none is relevant.

“interim suspension order” has the meaning given in paragraph 8(5)(a) of Schedule 2;

“investigator” means an individual appointed under regulation 25(7)(a);

“listed offence” has the meaning given in regulation 26(8);

“necessary knowledge of English” means a knowledge of the English language which is necessary for safe and effective practice as a social worker;

“professional standards” means professional standards determined and published by the regulator under section 41(1) of the Act^(a);

“register” means the register described in section 39(1)(b) of the Act;

“registrar” means any person appointed under regulation 8(1);

“regulatory body” means a body, other than the regulator, which authorises a person to practise a health or social care profession which is regulated under any enactment, whether in the United Kingdom or elsewhere;

“relevant European State” means an EEA State or Switzerland;

“relevant institutions” has the meaning given in regulation 20(5);

“remedial direction” has the meaning given in regulation 36(2)(b);

“removal order” has the meaning given in paragraph 13(1)(a) of Schedule 2;

“rules” means rules made in accordance with regulation 3;

“suspension order” has the meaning given in paragraph 13(1)(b) of Schedule 2; and

“warning order” has the meaning given in paragraph 13(1)(d) of Schedule 2.

(2) In these Regulations “exempt person” means—

- (a) a national of a relevant European State, other than the United Kingdom,
- (b) a national of the United Kingdom who is seeking access to, or is pursuing, the social work profession by virtue of an enforceable EU right, or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable EU right, entitled to be treated, for the purposes of access to and pursuit of the social work profession, no less favourably than a national of a relevant European State.

(3) For the purposes of paragraph (2) “national”, in relation to a relevant European State, means the same as it does for the purposes of the EU Treaties but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from EU provisions relating to the free movement of persons and services.

(4) For the purposes of these Regulations, whether a person has a recognised qualification is determined in accordance with Schedule 1.

(5) Subject to paragraph (6), “registered social worker” means a person whose name is entered in the register in accordance with Part 2, where their registration has not been removed, and “registered” is to be construed accordingly.

(6) A person who is—

- (a) registered as a social worker in the register maintained by the Health and Care Professions Council under article 5(1) of the Health and Social Work Professions Order 2001^(c) immediately before the coming into force of these Regulations, and
- (b) whose registration has not lapsed or been removed in accordance with the provisions of that Order,

is deemed to be a registered social worker for the purposes of these Regulations.

(a) Section 41(1) of the Act requires the regulator to determine and publish professional standards for social workers in England. By virtue of section 63(1) of the Act, “professional standards” includes standards relating to (a) proficiency, (b) performance, (c) conduct and ethics, and (d) continuing professional training and development

(b) That is, a register of social workers in England.

(c) S.I. 2002/254.

PART 2

The regulator

Procedure for making rules

3.—(1) Any rules which the regulator(**a**) is required, or empowered, to make and revise under these Regulations must be made and revised in accordance with this regulation.

(2) Before making rules the regulator must—

- (a) carry out a public consultation, unless the regulator considers that the content of the proposed rules is such that it would be inappropriate or disproportionate to do so,
- (b) consult representatives of any group of persons who the regulator considers are likely to be affected by the proposed rules, including representatives of—
 - (i) registered social workers,
 - (ii) employers of registered social workers,
 - (iii) users of the services of registered social workers, and
 - (iv) persons providing, assessing or funding education and training for registered social workers and prospective registered social workers, and
- (c) comply with paragraphs (3) and (4).

(3) Proposed rules must be submitted to the Secretary of State, and come into force—

- (a) on such date, not less than 28 days after the proposed rules are submitted to the Secretary of State, as the regulator determines provided that the Secretary of State has not within that period of 28 days objected to them coming into force, or
- (b) on such earlier date as the Secretary of State and the regulator may agree.

(4) The Secretary of State must consider any proposed rules(**b**) submitted pursuant to paragraph (3) and, if the Secretary of State objects to the rules coming into force—

- (a) the Secretary of State must notify the regulator accordingly giving reasons,
- (b) the regulator must modify the rules in light of the objection, but is not required to comply with paragraph (2) in respect of those modified rules if it considers that the modifications are minor, or not substantive, and
- (c) the modified rules come into force on such date as the regulator determines.

(5) The regulator must comply with paragraphs (2) to (4) before revising rules, unless it considers that the revision is minor, or not substantive.

(6) Rules made under this regulation must be—

- (a) in writing, and published together with an indication of the date on which they come into force,
- (b) kept under review by the regulator,

and any revised rules must be published as soon as reasonably practicable.

Appointment and functions of advisers to the regulator

4.—(1) The regulator may appoint one or more individuals to—

- (a) carry out the functions of adjudicators, case examiners, inspectors and investigators, and

(a) By virtue of section 36(1) and (2) of the Act a body corporate called “Social Work England” is established, and is referred to as “the regulator”.

(b) By virtue of section 26A(1A) of the National Health Service Reform and Health Care Professions Act 2002, the Secretary of State may seek the advice of the Professional Standards Authority for Health and Social Care in considering proposed rules.

- (b) advise it on matters relating to its functions(a), and in particular to provide the regulator with information, specialist or expert advice, or recommendations.
- (2) An individual appointed under paragraph (1) is referred to in these Regulations as an adviser.
- (3) The regulator may establish such panels of advisers as it considers appropriate, and must make rules which make provision about—
 - (a) the establishment, and size, of panels of advisers,
 - (b) the selection and appointment of the chair of any panel of advisers.
- (4) The regulator may make members of the regulator’s staff(b), facilities and other assistance available to advisers, in accordance with rules made under regulation 5(f).
- (5) The regulator may decide the terms on which advisers may be appointed, provided that the regulator must obtain the approval of the Secretary of State for any terms relating to remuneration or pension arrangements.
- (6) Any person appointed as an adviser—
 - (a) may not be a member of the regulator’s staff,
 - (b) must declare any conflict of interest to the regulator,
 - (c) holds office in accordance with rules made under regulation 5.

Rules relating to advisers

- 5. The regulator must make rules in relation to advisers which make provision about—
 - (a) the process for the appointment, suspension, and removal of advisers,
 - (b) the appraisal of the performance of advisers,
 - (c) continuing professional development for advisers,
 - (d) an appeals process against the suspension and removal of advisers,
 - (e) the resignation of advisers,
 - (f) the provision of the regulator’s staff, facilities and other assistance to advisers,
 - (g) any other matter the regulator considers appropriate.

Information and advice

- 6.—(1) The regulator must publish information, and give advice, in relation to the regulator and the exercise of the regulator’s functions, in accordance with this regulation.
- (2) The regulator must publish a document setting out how it will pursue its over-arching objective, and the objectives mentioned in section 37(2) of the Act(c) (the “strategic plan”).
- (3) The strategic plan must, in particular—
 - (a) set out the steps the regulator will take to implement the strategic plan,
 - (b) take account of the Authority’s investigation and reporting arrangements, and any recommendations in relation to the performance of the regulator’s functions(d),
 and must be published, and reviewed, at such intervals as the regulator considers appropriate.

(a) Paragraph 14 of Schedule 3 to the Act provides for the delegation of the regulator’s functions to any person (other than a person mentioned in paragraph 13 of that Schedule).

(b) See further Schedule 3 to the Act, and in particular paragraphs 2, and 8 to 10, regarding members of the regulator, and the regulator’s staff.

(c) Section 37(1) of the Act provides that the over-arching objective of the regulator in exercising its functions is the protection of the public. The objectives mentioned in section 37(2) are: (a) to protect, promote and maintain the health, safety and well-being of the public, (b) to promote and maintain public confidence in social workers in England, and (c) to promote and maintain proper professional standards for social workers in England.

(d) See section 26(2) of the National Health Service Reform and Health Care Professions Act 2002, which empowers the Authority to investigate, and report on, the performance by the regulator of its functions, and to recommend changes to the way in which it performs any of its functions.

(4) Any information or advice falling within paragraph (1), other than the strategic plan, must be—

- (a) appropriate to registered social workers, persons providing, assessing or funding education and training for registered social workers and prospective registered social workers, employers of registered social workers, and the public,
- (b) made available in such form, or forms, as the regulator considers appropriate,
- (c) reviewed, and revised as necessary, at such intervals as the regulator considers appropriate, and any revision published as soon as reasonably practicable.

Duty to co-operate

7.—(1) The persons specified for the purposes of section 53(1)(d)(a) of the Act are—

- (a) public bodies or other persons concerned with —
 - (i) the employment (whether or not under a contract of service) of social workers in England,
 - (ii) the education or training of social workers in England or health care professionals,
 - (iii) the regulation of, or the co-ordination of the regulation of, health care professionals,
 - (iv) the regulation of providers of health services,
 - (v) the provision, supervision or management of health or education services,
 - (vi) the inspection of education, social services or health care in England,
 - (vii) the regulation of social work in England, and
 - (viii) the provision, supervision or management of the services of persons engaged in social work in England,
- (b) the National Health Service Commissioning Board established under section 1H of the National Health Service Act 2006(b),
- (c) any clinical commissioning group established under section 14D of the National Health Service Act 2006(c),
- (d) any NHS trust established under section 25 of the National Health Service Act 2006,
- (e) any NHS foundation trust within the meaning given in section 30 of the National Health Service Act 2006(d),
- (f) the Care Quality Commission established under section 1(1) of the Health and Social Care Act 2008(e),
- (g) the Office for Standards in Education, Children’s Services and Skills established under section 112(1) of the Education and Inspections Act 2006(f),
- (h) any local policing body and any chief officer of police, for a police area in England, within the meanings given in section 101(1) of the Police Act 1996(g),
- (i) the Disclosure and Barring Service, within the meaning given in section 87(1) of the Protection of Freedoms Act 2012(h).

(a) Section 53(1) provides that the regulator must, where appropriate, co-operate with (a) Social Care Wales, (b) the Scottish Social Services Council, (c) the Northern Ireland Social Care Council, and (d) any other person specified in regulations made by the Secretary of State.

(b) 2006 c. 41. Section 1H(1) was inserted by section 9(1) of the Health and Social Care Act 2012.

(c) Section 14D was inserted by section 25(1) of the Health and Social Care Act 2012.

(d) Section 30 was amended by section 159(1) of the Health and Social Care Act 2012.

(e) 2008 c. 14.

(f) 2006 c. 40.

(g) 1996 c. 16. The definition of “local policing body” was inserted by section 96(2)(a) of the Police Reform and Social Responsibility Act 2011 (c. 13). There are other amendments to section 101(1) but none is relevant.

(h) 2012 c. 9.

(2) For the purposes of paragraph (1), “health care professionals” means persons regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 other than the regulator(a).

PART 3

Registration of social workers

Appointment of the registrar and keeping of the register

8.—(1) The regulator may appoint a member of the regulator’s staff as registrar.

(2) The registrar has the following functions—

(a) the functions of the regulator set out in this Part other than—

(i) under regulation 19 (registration appeals),

(ii) any power or duty to make rules, and

(b) any other functions that the regulator delegates to the registrar(b).

(3) In these Regulations “function”, in relation to the regulator, means a function of the regulator set out in Part 2 of the Act or in these Regulations.

(4) The regulator must ensure that the register enables—

(a) information to be recorded in accordance with this Part, and

(b) the regulator, the registrar, any advisers, and any other adjudicator, case examiner or investigator appointed under these Regulations, to access information held on it as necessary to enable them to carry out their functions under these Regulations.

(5) The regulator must amend information recorded in the register, where the regulator is satisfied that the information is incorrect, or that there has been a material change of circumstances since it was recorded.

(6) Any copy of, or extract from, the register relating to information recorded in accordance with this Part is evidence of the matters mentioned in it.

(7) A certificate purporting to be signed by the regulator certifying that a person—

(a) is, or is not, registered,

(b) was, or was not, registered at a specific date or during a specified period, or

(c) has never been registered,

is evidence of the matters certified.

(8) On application by a social worker who wishes to practise in a relevant European State other than the United Kingdom, the regulator must provide them with such documentary evidence as is required by the relevant provisions of Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005(c) on the recognition of professional qualifications, as those provisions are amended from time to time.

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- (a) The bodies mentioned (other than the regulator) are the General Medical Council, the General Dental Council, the General Optical Council, the General Osteopathic Council, the General Chiropractic Council, the General Pharmaceutical Council, the Pharmaceutical Society of Northern Ireland, the Nursing and Midwifery Council, the Health and Care Professions Council, and any other regulatory body (within the meaning of Schedule 3 to the Health Act 1999 (c. 8)) established by an Order in Council under section 60 of that Act.
- (b) Paragraph 13(1) of Schedule 3 to the Act provides that the regulator may delegate functions to a committee, sub-committee, member or member of staff; paragraph 13(2) provides that the functions that may be delegated include the power to delegate functions under sub-paragraph (1), but do not include any power or duty to make rules.
- (c) OJ No. L 255, 30.09.2005, p.22, as amended by Council Directive 2006/100/EC of 20 November 2006, OJ No. L 363, 20.12.2006, p.141; Commission Regulation (EC) No 1430/2007 of 5 December 2007, OJ No. L 320, 6.12.2007, p.3; Commission Regulation (EC) No 755/2008 of 31 July 2008, OJ No. L 205, 1.8.2008, p.10; Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008, OJ No. L 311, 21.11.2008, p.1; Commission Regulation (EC) No 279/2009 of 6 April 2009, OJ No. L 93, 7.4.2009, p.11; Commission Regulation (EU) No 213/2011 of 3 March 2011, OJ No. L 59, 4.3.2011, p.4; Commission Regulation (EU) No 623/2012 of 11 July 2012, OJ No. L 180, 12.7.2012,

(9) The regulator must publish the information recorded in the register in such manner and at such times as it considers appropriate, and make that information available for public inspection at all reasonable times, but it is not required to publish information which is—

- (a) evidence of spent convictions,
- (b) a warning given under paragraph 6(2)(a) or 12(1)(a) of Schedule 2 (warnings regarding future conduct or performance given in fitness to practise proceedings), where a period of at least five years has elapsed since the warning was given,
- (c) any information annotated on the register under regulation 12(1) which, in the opinion of the regulator, it is not in the public interest to publish,

where “spent conviction” means a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974(a).

Content of the register

9.—(1) The following information must be recorded in the register in relation to a registered social worker—

- (a) their name,
- (b) the reference number assigned to their entry,
- (c) whether regulation 18(3) applies (visiting social work professional from a relevant European State),
- (d) whether their registration is subject to a condition in accordance with regulation 11(3),
- (e) the date of registration, and
- (f) their social work qualification.

(2) Where a registered social worker is, or has been, subject to fitness to practise proceedings, details of the following must be recorded in their entry in the register—

- (a) any interim suspension order or interim conditions of practice order made by adjudicators under paragraph 8(2) or 11(1) of Schedule 2, including where the order is varied, revoked or replaced on a review under paragraph 14 of that Schedule or any action taken on appeal to the High Court under paragraph 16 of that Schedule,
- (b) any order imposed, or advice given, by case examiners on a disposal without hearing under paragraph 9(3) of Schedule 2,
- (c) any advice given by adjudicators under paragraph 12(3)(a) of Schedule 2 following a determination that the social worker’s fitness to practise is impaired,
- (d) any final order made by adjudicators under paragraph 12(3)(b) of Schedule 2, including where that order is varied, revoked or replaced on a review under paragraph 15 of that Schedule or any action taken on appeal to the High Court under paragraph 16 of that Schedule.

(3) The regulator may record any other information in the register it considers appropriate.

(4) An order mentioned in paragraph (2)(a), (b) or (d) may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

(5) Any information recorded in accordance with paragraph (2) must remain on the register—

- (a) in the case of an interim order, a conditions of practice order, or a suspension order, for the period during which the order remains in force or such longer period as the regulator determines in accordance with rules made under paragraph (6),

p.9; Council Directive 2013/25/EU of 13 May 2013, OJ No. L 158, 10.6.2013, p.368; Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013, OJ No. L 354, 28.12.2013, p.132; Commission Delegated Decision (EU) 2016/790 of 13 January 2016, OJ No. L 134, 24.5.2016, p.135; Commission Delegated Decision (EU) 2017/2113 of 11 September 2017, OJ No. L 317, 1.12.2017, p.119.

(a) 1974 c. 53.

- (b) in the case of a warning order, or advice given, for such period as the regulator specifies in rules made under paragraph (6).

(6) The regulator—

- (a) must make rules setting out—
 - (i) qualifications that are relevant for the purposes of paragraph (1)(f), and
 - (ii) the period for which information mentioned in paragraph (5)(b) must remain in the register, and
- (b) may make rules setting out further provision as to the content of the register including, in particular—
 - (i) qualifications, specialisms, accreditation and competences that are relevant for the purposes of regulation 12(1) (annotation of entries in the register), and
 - (ii) the longer period for which information mentioned in paragraph (5)(a) must remain in the register,

with the proviso that any period for which information mentioned in paragraph (5) must remain on the register under those rules must be proportionate in all the circumstances of each case.

Procedure for registration

10.—(1) A person who wishes to be registered as a social worker must apply to the regulator in accordance with this Part and rules made under paragraph (4).

(2) Where a person who is eligible to be registered in accordance with regulation 11—

- (a) applies to be registered following any procedure set by rules made under paragraph (4), and
- (b) pays any fee payable in accordance with rules made under regulation 17(3),

the regulator must register that person by recording the information set out in regulation 9(1) in the register, and must notify them accordingly.

(3) In any case where the regulator refuses to register a person, it must notify the person of that decision and the reasons for it, and of their right to appeal under regulation 19(1)(a).

(4) The regulator must make rules setting out the procedure for dealing with applications for registration which must, in particular—

- (a) include the time within which any step must be taken,
- (b) where they make provision for an application to be determined within a specified period which runs from the date on which the completed application is received, provide that an application is not to be regarded as incomplete only on the ground that information requested in accordance with regulation 11(4) (as to necessary knowledge of English) has not been provided.

(5) This regulation, and regulations 11 to 17, do not apply in relation to a person to whom regulation 18 applies (visiting social work professional from a relevant European State).

Determination of eligibility for registration

11.—(1) The regulator must consider any question as to the eligibility of a person to be registered, or to continue to be registered, in accordance with this regulation and rules made under paragraph (6).

(2) In the case of a registration under regulation 10, a person is eligible to be registered where the regulator is satisfied that they—

- (a) have a recognised qualification which was awarded—
 - (i) within such period, not exceeding five years ending with the date of the application for registration, as is set in rules made under paragraph (6)(a), or

- (ii) before the period mentioned in paragraph (i), and the person has met such requirements as to additional education, training and experience as are determined by the regulator to apply to them,
- (b) are capable of safe and effective practice in accordance with the professional standards relating to proficiency, performance, and conduct and ethics,
- (c) have the necessary knowledge of English, and
- (d) have not been convicted of a listed offence (other than a conviction that has been quashed).

(3) Where the regulator is satisfied that a person would be eligible to be registered (or to have their registration renewed, or their entry restored) if a condition were met the regulator may, with that person's consent, grant their application for registration, renewal or restoration (as the case may be) subject to that condition.

(4) In any case where the regulator is not satisfied, having considered any evidence, information or documents provided in support of their application for registration or renewal, that a person has the necessary knowledge of English to be eligible to be registered, or to continue to be registered, the regulator may, subject to paragraph (5)—

- (a) request the person to provide further evidence, information or documents, and
- (b) require the person to undergo an examination or other assessment, and provide information in respect of that examination or assessment, provided that it notifies the person of their right to appeal under regulation 19(1)(b),

within such period as is determined by the regulator in rules, and the regulator may draw such inferences as it deems appropriate if the person fails to undergo an examination or assessment, or fails to provide or disclose any evidence, under this paragraph.

(5) The regulator—

- (a) may only take the action in paragraph (4)(b) in the case of an exempt person, if it is not satisfied that they have the necessary knowledge of English having first made a request under paragraph (4)(a) and considered any further evidence, information or documents provided in response to such a request,
- (b) may not make a request under paragraph (4)(a) in relation to an exempt person falling within paragraph 1(b) or (c) of Schedule 1, unless it has first notified them that the regulator recognises that, by virtue of being an exempt person falling within paragraph 1(b) or (c) of Schedule 1, they are entitled to be registered, subject to meeting any other requirements for registration.

(6) The regulator must make rules in relation to determining eligibility, including in particular—

- (a) any period within which a recognised qualification must have been awarded,
- (b) setting out the process and criteria by which the regulator will determine—
 - (i) requirements as to additional education, training or experience that may be imposed for the purposes of an application for registration, and
 - (ii) any such requirements that are applicable in relation to any person applying for registration,
- (c) setting out the process and criteria by which the regulator will determine, for the purposes of paragraph (2)(b), whether a person is capable of safe and effective practice in accordance with the professional standards relating to proficiency, performance, and conduct and ethics, including any evidence of good health and good character that may be required,
- (d) setting out the process for determining whether a person has the necessary knowledge of English, including any evidence, information or documents which must be provided, and the criteria by which the regulator will determine for the purposes of an application for renewal or restoration whether a person must meet requirements as to necessary knowledge of English,
- (e) setting out the circumstances in which the regulator may—

- (i) grant registration subject to a condition,
 - (ii) review, vary or remove such a condition,
 - (iii) remove a person's entry from the register for failure to meet such a condition,
 - (f) requiring registered social workers to meet the professional standards relating to continuing professional training and development, and setting out the circumstances in which a registered social worker who fails to comply with any such requirement may be removed from the register.
- (7) Where rules made under paragraph (6)(e) or (f) provide for removal from the register, the rules must provide—
- (a) for the social worker to be notified of their right to appeal under regulation 19(1)(c) or (d) (as the case may be), and
 - (b) that an entry may not be removed from the register before the expiry of the period within which such an appeal may be made, or if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.
- (8) In any case where the regulator notifies a person, for the purposes of paragraph (5)(b), that it does not consider them to be an exempt person falling within paragraph 1(b) or (c) of Schedule 1, it must notify them of their right to appeal under regulation 19(1)(e).

Annotation of entries in the register

12.—(1) Where a registered social worker who is eligible to have any other relevant qualification, specialism, accreditation, or competence recorded in their entry in the register—

- (a) applies to the regulator in accordance with rules made under paragraph (2) and rules made under regulation 9(6)(b)(i), and
- (b) pays any fee payable in accordance with rules made under regulation 17(3),

the regulator must annotate their entry with that information, and must notify them accordingly.

(2) If the regulator makes rules under regulation 9(6)(b)(i), it must make rules setting out the procedure for dealing with annotation of the register with any information mentioned in paragraph (1) (including the period for which annotations must remain on the register and any evidence which must be provided by a registered social worker in support of such an application).

Renewal of registration

13.—(1) A registered social worker may renew their registration in accordance with rules made under paragraph (5).

(2) The regulator must remove a registered social worker's entry from the register where they fail to renew their registration in accordance with paragraph (1) unless—

- (a) regulation 26(1) (social worker convicted of a listed offence) applies,
- (b) they are subject to fitness to practise proceedings,
- (c) they are subject to—
 - (i) an interim suspension order,
 - (ii) an interim conditions of practice order,
 - (iii) a conditions of practice order, or
 - (iv) a suspension order,
- (d) they have made an appeal under regulation 19(1) or (8) and the appeal has not been withdrawn or otherwise finally disposed of, or
- (e) they are subject to a decision specified in regulation 34 (referral of cases by the Authority to the High Court) and the period within which the decision may be referred to the High

Court has not expired or, if a referral is made, the appeal^(a) has not been withdrawn or otherwise finally disposed of.

(3) Where a registered social worker—

- (a) is eligible to have their registration renewed,
- (b) applies for renewal in accordance with the rules made under paragraph (5), and
- (c) pays any fee payable in accordance with rules made under regulation 17(3),

the regulator must renew their registration.

(4) A person is eligible to have their registration renewed where the regulator is satisfied that they meet the requirements for initial registration referred to in regulation 11(2)(b) to (d) and—

- (a) meet the professional standards relating to continuing professional training and development, and
- (b) if they have not practised (or have practised less than the period determined by the regulator) since their initial registration or last renewal, meet any requirement as to additional education, training or experience as is determined by the regulator to apply to them.

(5) The regulator must make rules in relation to the renewal of registration including, in particular—

- (a) the period within which registered social workers' registration must be renewed,
- (b) the circumstances in which the regulator may extend that period in relation to a registered social worker,
- (c) the process for applying for renewal of registration including—
 - (i) the time within which any step must be taken, and
 - (ii) the evidence of eligibility to be provided to the regulator.

(6) In any case where the regulator removes a person's entry from the register where they fail to renew their registration in accordance with paragraph (1), it must notify them accordingly, and of their right to appeal under regulation 19(1)(f).

Removal from the register

14.—(1) A registered social worker's entry must be removed from the register where—

- (a) the regulator is satisfied that their registration was fraudulently procured or incorrectly made, and determines to remove their entry from the register,
- (b) a removal order is made in relation to them,
- (c) they request the removal, provided that the regulator may not remove their entry—
 - (i) while they are subject to fitness to practise proceedings,
 - (ii) if they have made an appeal under regulation 19(1) or (8) and the appeal has not been withdrawn or otherwise finally disposed of,
- (d) the regulator is satisfied that they have failed to comply with any condition attached to their registration under regulation 11(3),
- (e) the regulator is satisfied that regulation 13(2) applies (failure to renew registration),
- (f) regulation 26(5) applies (automatic removal from the register),
- (g) the regulator is satisfied that they have died.

(2) A registered social worker's entry may be removed from the register where they are in breach of any rules made under regulation 11(6)(f) (failure to meet requirements as to continuing professional development).

(a) By virtue of section 29(7) of the National Health Service Reform and Health Care Professions Act 2002, where the Authority refers a case to the High Court under section 29(2A), the case is treated by the court as an appeal by the Authority against the relevant decision.

(3) The regulator may require persons other than the registered social worker to attend and give evidence, or produce documents, in relation to the removal of an entry from the register under paragraph (1)(a).

(4) For the purposes of paragraph (1)(b), the entry of a registered social worker may not be removed from the register before—

- (a) the expiry of the period within which an appeal against the removal order may be made, or if an appeal is made, the appeal is withdrawn or otherwise finally disposed of, or
- (b) if the decision is referred to the High Court under regulation 34, the case is finally disposed of.

(5) In any case where the regulator removes a person's entry under paragraph (1)(a), it must notify them of that decision and the reasons for it, and of their right to appeal under regulation 19(1)(g).

(6) The regulator must make rules setting out the procedure for the removal of entries from the register under paragraph (1) (other than under paragraph (1)(b)), which must—

- (a) provide for the regulator to specify timescales within which any steps must be taken,
- (b) provide for the regulator to obtain such other information as it considers necessary to determine whether a registration was fraudulently procured or incorrectly made,
- (c) require that the registered social worker is notified of the proposed determination and the reasons for it, and given the opportunity to make representations to the regulator, and
- (d) provide for the regulator to determine whether to—
 - (i) amend the entry,
 - (ii) remove the entry, or
 - (iii) take no further action.

(7) When the regulator—

- (a) has reasonable grounds to believe that a registered social worker's registration was fraudulently procured or incorrectly made, and
- (b) has not yet made a determination in accordance with rules made under paragraph (6)(d),

it may make any interim order it considers is necessary for the protection of the public or in the best interests of the registered social worker, and paragraphs 8(2) to (6), 14 and 16 of Schedule 2 apply to such an order as they apply to an interim order made in fitness to practise proceedings.

(8) The regulator must maintain a list of all entries removed from the register under paragraph (1) which includes, in relation to each removed entry—

- (a) the information previously recorded in the register pursuant to regulation 9(1)(a), (b) and (e), and
- (b) the date of, and the reason for, the removal of the entry,

and must publish and make that list available for inspection in accordance with regulation 8(9).

Restoration to the register

15.—(1) A person whose entry in the register has been removed, and who wishes to have their entry restored to the register, may make an application for restoration to the regulator in accordance with this regulation and rules made under paragraph (11).

(2) Paragraph (1) does not apply in the case of a person whose entry was removed under regulation 26(5) (automatic removal from the register) where their conviction has not been quashed.

(3) An application for restoration must—

- (a) in the case of a person whose entry was removed from the register as the result of a removal order, be referred by the regulator to two or more adjudicators for determination,
- (b) in any other case, be determined by the regulator,

in accordance with rules made under paragraph (11).

(4) A person whose entry has been removed from the register as the result of a removal order may not apply to be restored to the register until after the end of a period of five years beginning with the date on which the removal order took effect (whether under paragraph 12, 15, or 16 of Schedule 2), and is eligible to be restored where—

- (a) the adjudicators are satisfied that the person meets the requirements for initial registration referred to in regulation 11(2),
- (b) the person has not, in the preceding 12 months, made an application for restoration to the register which was refused, and
- (c) the person meets any further requirements as to additional education, training or experience as are determined by the regulator to apply to them.

(5) On an application for restoration falling within paragraph (3)(a)—

- (a) the person making the application must be given the opportunity to make representations to the adjudicators, and
- (b) the adjudicators may require persons other than the person making the application to attend and give evidence, or produce documents, in relation to the application.

(6) Where the adjudicators grant an application for restoration and the person pays any fee payable in accordance with rules made under regulation 17(3)—

- (a) the regulator must restore the person's registration by recording the information set out in regulation 9(1) in relation to them in the register, and must notify them accordingly, and
- (b) the adjudicators may make a conditions of practice order in relation to the registered social worker, and paragraphs 12(4), 13, 15 and 16 of Schedule 2 apply to such an order as they apply to a conditions of practice order made in fitness to practise proceedings.

(7) A person whose entry was removed from the register other than as a result of a removal order is eligible to be restored to the register where the regulator is satisfied that they meet the requirements for initial registration referred to in regulation 11(2), and any requirements as to additional education, training or experience as are determined by the regulator to apply to them.

(8) A person whose entry was removed from the register under regulation 26(5) (automatic removal from the register), and whose conviction is subsequently quashed, is eligible to be restored to the register where the regulator is satisfied that—

- (a) their conviction has been quashed, and
- (b) they meet the requirements for initial registration referred to in regulation 11(2), and any requirements as to additional education, training or experience as are determined by the regulator to apply to them.

(9) Where a person falling within paragraph (7) or (8) is eligible to be restored to the register and—

- (a) applies to be restored to the register in accordance with rules made under paragraph (11), and
- (b) pays any fee payable in accordance with rules made under regulation 17(3),

the regulator must restore that person's registration by recording the information set out in regulation 9(1) in relation to them in the register, and must notify them accordingly.

(10) Where the regulator, or the adjudicators, are not satisfied that a person who was removed from the register is eligible to be restored to the register, the regulator or the adjudicators (as the case may be) must notify them of that decision and the reasons for it, and of their right to appeal under regulation 19(1)(h).

(11) The regulator must make rules in relation to restoration to the register, including in particular—

- (a) the process for applying for restoration,
- (b) the time within which any step in that process must be taken, and
- (c) the evidence of eligibility to be provided to the regulator or adjudicators.

(12) The regulator must appoint such advisers, or members of the regulator's staff, as the regulator thinks fit, as adjudicators for the purposes of this regulation.

Duty to provide information to the regulator

16.—(1) A registered social worker must inform the regulator as soon as practicable if they become aware that any of the information registered in relation to them ceases to be accurate.

(2) Any person who applies to be registered, and any registered social worker, must respond as soon as possible to any request from the regulator for information or evidence relevant to their registration or their continued registration.

(3) The regulator may request any information it considers necessary to enable it to carry out its functions under these Regulations, to meet its over-arching objective, or to meet the objectives mentioned in section 37(2) of the Act.

(4) Where a registered social worker has failed to provide information or evidence in accordance with paragraph (1), (2) or (3), the regulator may appoint two or more advisers, or members of the regulator's staff, as the regulator thinks fit, as adjudicators to determine whether it is necessary, for the protection of the public or in the best interests of the registered social worker, to suspend or remove their entry from the register.

(5) Where the adjudicators are satisfied that—

- (a) the registered social worker has failed, without good reason, to provide information or evidence in accordance with paragraph (1), (2) or (3), and
- (b) it is necessary, for the protection of the public or in the best interests of the registered social worker to do so,

they may make a suspension order or a removal order, and paragraphs 12(4), 13, 15 and 16 of Schedule 2 apply to such an order as they apply to a final order made in fitness to practise proceedings.

(6) The regulator must make rules setting out the procedure to be followed in taking any action under this regulation.

Fees for registration

17.—(1) The regulator may charge a fee in connection with—

- (a) an application for registration,
- (b) an application for annotation under regulation 12(1),
- (c) an application for renewal of registration,
- (d) an application for restoration to the register.

(2) Any fee charged by the regulator under paragraph (1)—

- (a) may be set at a level which exceeds the cost of dealing with the application in respect of which it is charged,
- (b) must be set with a view to ensuring that, so far as possible, the regulator's fee income in any year does not exceed the regulator's expenses in the same year.

(3) The regulator must make rules in relation to the charging of any fee under paragraph (1), setting out—

- (a) the amount of any fee payable,
- (b) the time within which any fee is to be paid,
- (c) the circumstances in which a fee—
 - (i) is not chargeable,
 - (ii) may be reduced,
 - (iii) may be refunded, in whole or in part, or
 - (iv) may be waived, and

- (d) the steps the regulator may take in the event that a fee charged under paragraph (1) is not paid within the time set, including—
 - (i) refusing to make, annotate, renew or restore an entry,
 - (ii) removing an entry, or part of an entry, after first warning the registered social worker, and
 - (iii) recovery of the fee as a civil debt,provided that the rules may only allow the regulator to take such a step where the regulator considers it is reasonable to do so.

(4) The regulator must pay any fee income received under this regulation to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

Visiting social work professionals from relevant European States

18.—(1) This regulation applies to an exempt person (“EP”) who is lawfully established, in a relevant European State other than the United Kingdom (“State A”), as a social worker.

(2) If paragraph (3) applies—

- (a) EP is eligible to be registered in the register, and
- (b) the regulator must register EP by recording the information set out in regulation 9(1)(c), and must notify them accordingly.

(3) This paragraph applies if EP has the benefit of regulation 12 of the European Union (Recognition of Professional Qualifications) Regulations 2015^(a) or, in the case of a person falling within regulation 78(3)(a) of those Regulations, has the benefit of regulation 8 of the European Communities (Recognition of Professional Qualifications) Regulations 2007^(b), in connection with the provision by EP of relevant services in the United Kingdom on a temporary and occasional basis (EP having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by EP of relevant services).

(4) If EP is entitled under paragraph (2) to be registered, but is not registered, EP is to be treated as being so registered.

(5) If EP ceases—

- (a) whether as a result of the operation of regulation 24 of the European Union (Recognition of Professional Qualifications) Regulations 2015, or otherwise, to have the benefit of regulation 12 of those Regulations, or
- (b) whether as a result of the operation of regulation 17 of the European Communities (Recognition of Professional Qualifications) Regulations 2007, or otherwise, to have the benefit of regulation 8 of those Regulations,

in connection with the provision by EP of relevant services in the United Kingdom on a temporary and occasional basis, then EP’s entitlement under paragraph (2) ceases and, if EP is registered, the regulator may remove EP’s entry from the register.

(6) Paragraph (7) applies if—

- (a) EP’s establishment in State A is subject to a condition (including a limitation) relating to EP’s practice as a social worker,
- (b) EP’s name is registered in the register, and
- (c) a question arises as to EP’s fitness to practise by reason of misconduct.

(7) The matters that may be counted as misconduct include (in particular) any act or omission by EP, during the course of the provision by EP of relevant services in the United Kingdom on a temporary and occasional basis, that is a breach of the condition referred to in paragraph (6)(a) or

(a) S.I. 2015/2059, as amended by S.I. 2016/1094.

(b) S.I. 2007/2781; these Regulations were revoked by S.I. 2015/2059 but with transitional and savings provisions in relation to persons whose home state is Switzerland.

would be such a breach if that condition applied in relation to practice of the social work profession outside State A.

(8) Paragraphs (1) to (5) are not to be taken to prejudice the application of any other provision of these Regulations under which a registered social worker's entry may be removed from the register, or under which a social worker's registration may be suspended.

(9) The regulator may make rules requiring persons falling within this regulation to meet the professional standards relating to continuing professional training and development, and setting out the circumstances in which a person who fails to comply with any such requirement may be removed from the register, provided that those rules—

- (a) do not impose requirements on EP in connection with EP's pursuit of the social work profession if EP is required to undertake continuing professional development in relation to social work in State A,
- (b) where they impose requirements on EP in connection with EP's pursuit of the social work profession—
 - (i) take account of the fact that EP is fully qualified to pursue the social work profession in State A, and
 - (ii) specify that any continuing professional development which EP is required to undertake under the rules may be undertaken outside the United Kingdom, and
- (c) provide that any sanction imposed in relation to EP by or under the rules is appropriate and proportionate in view of EP's continued lawful establishment as a member of the social work profession in State A.

(10) In any case where the regulator refuses to register a person in accordance with paragraph (2), the regulator must notify them accordingly, and of their right to appeal under regulation 19(1)(i).

(11) In this regulation "relevant services" means services provided as a social worker.

Registration appeals

19.—(1) A person may appeal, in accordance with rules made under paragraph (5), against—

- (a) a decision to refuse to register a person under regulation 10(3),
- (b) a decision to require a person to undergo an examination or other assessment under regulation 11(4)(b) on the ground that the regulator was not satisfied that the person had the necessary knowledge of English,
- (c) a decision to remove a person from the register for failure to meet a condition attached to their registration in accordance with rules made under regulation 11(6)(e),
- (d) a decision to remove a person from the register for failure to comply with a requirement to meet the professional standards relating to continuing professional training and development in accordance with rules made under regulation 11(6)(f),
- (e) a decision to refuse to recognise a person as an exempt person under regulation 11(8),
- (f) a decision to remove a person's entry from the register under regulation 13(6),
- (g) a decision to remove an entry from the register, where the regulator is satisfied that their registration was fraudulently procured or incorrectly made, under regulation 14(1)(a),
- (h) a decision to refuse to restore registration under regulation 15(10),
- (i) a decision to refuse to register a person under regulation 18(2),
- (j) failure by the regulator to issue a decision under this Part within any relevant time limit, and
- (k) any other decision the regulator specifies in rules.

(2) Paragraph (1) does not apply in relation to a case where the decision was made solely on the ground that the person—

- (a) failed to pay any fee payable in accordance with rules made under regulation 17(3), or

(b) failed to apply in accordance with any procedure set by relevant rules.

(3) The regulator must appoint two or more advisers, or members of the regulator's staff, as the regulator thinks fit as adjudicators to consider an appeal under this regulation in accordance with rules made under paragraph (5), provided that the adjudicators may not be individuals who were involved in the decision that is the subject of the appeal.

(4) The regulator, and the adjudicators, may require persons other than the person concerned to attend and give evidence, or produce documents, to the adjudicators.

(5) The regulator must make rules setting out the procedure for appeals which must, in particular—

- (a) specify the timescales within which any steps in an appeal are to be taken,
- (b) provide for the adjudicators to dispose of the appeal with or without a hearing, but with the proviso that they must hold a hearing if the person concerned requests it,
- (c) provide, in relation to any hearing, for the person concerned to—
 - (i) attend, and be represented,
 - (ii) make oral representations,
 - (iii) call witnesses,
- (d) require the regulator to notify the parties of the adjudicators' determination of the appeal,
- (e) require the regulator to publish the details of the adjudicators' determination and the reasons for it, provided that if the adjudicators' determination is favourable to the person concerned, the regulator is not required to publish it unless the person concerned so requests, but may do so with their consent.

(6) The adjudicators may—

- (a) dismiss the appeal,
- (b) quash the decision,
- (c) substitute for the decision being appealed any other decision that the decision maker could have made, or
- (d) remit the decision to the regulator to be disposed of in accordance with the adjudicators' directions.

(7) Where the adjudicators —

- (a) dismiss the appeal,
- (b) substitute for the decision being appealed any other decision that the decision maker could have made, or
- (c) remit the decision to the regulator to be disposed of in accordance with the adjudicators' directions,

the regulator must inform the appellant of their right to appeal to the County Court.

(8) Where paragraph (7) applies, a person may appeal to the County Court against the adjudicators' determination, and the County Court may—

- (a) dismiss the appeal,
- (b) quash the adjudicators' determination,
- (c) substitute for the adjudicators' determination any other determination that the adjudicators could have made, or
- (d) remit the matter to the adjudicators to be disposed of in accordance with the directions of the Court,

and may make any order as to costs as it thinks fit.

(9) A person may appeal to the County Court against a decision of the regulator under Part 3 of the European Union (Recognition of Professional Qualifications) Regulations 2015 or, in the case of a social worker falling within regulation 78(3)(a) of those Regulations, a decision of the regulator under Part 3 of the European Communities (Recognition of Professional Qualifications)

Regulations 2007, requiring an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to have access to, and to pursue, the social work profession in the United Kingdom.

(10) On an appeal under paragraph (9) the County Court may—

- (a) dismiss the appeal,
- (b) quash the regulator’s decision,
- (c) substitute for the regulator’s decision any other decision that the regulator could have made, or
- (d) remit the matter to the regulator to be disposed of in accordance with the directions of the Court,

and may make any order as to costs as it thinks fit.

PART 4

Education and training

Education and training approval scheme

20.—(1) The regulator must determine and operate a scheme (an “education and training approval scheme”) which complies with this regulation and regulations 21 to 23, for the approval, monitoring, and re-approval, of—

- (a) courses of education and training, operated and delivered in England, for persons who wish to become social workers in England (“initial education and training”),
- (b) qualifications granted following success in an examination, or other appropriate assessment, taken as part of an approved course of initial education or training,
- (c) such tests of knowledge of English, operated and delivered in England, as it may require, and
- (d) courses for persons who are, or wish to become, approved to act as approved mental health professionals by a local social services authority whose area is in England, referred to in section 114ZA(1) of the Mental Health Act 1983^(a) (“AMHPs courses”).

(2) In these Regulations “approved course of initial education or training” and “approved qualification” mean a course of initial education or training, or a qualification (as the case may be), approved under the education and training approval scheme.

(3) The regulator must keep the education and training approval scheme under review.

(4) The regulator must maintain and publish a list of the courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses—

- (a) which are for the time being approved under the education and training approval scheme, and
- (b) which were, but are no longer, approved under the education and training approval scheme, together with the periods in respect of which they were approved.

(5) Universities and other bodies concerned with the delivery of courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses falling within paragraph (1) (“relevant institutions”) must provide the regulator with such information or assistance as the regulator may reasonably require in connection with the exercise of the regulator’s functions under this Part, and within such period as may be specified in the request.

(6) The regulator must make rules setting out the education and training approval scheme which must, in particular—

^(a) 1983 c. 20. Section 114ZA was inserted by section 217(2) of the Health and Social Care Act 2012 (c. 7).

- (a) include criteria for the approval, monitoring, and re-approval, of courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses falling within paragraph (1),
- (b) ensure that approved courses of initial education and training meet the standards of education or training determined and published by the regulator under section 43(1) of the Act,
- (c) require the regulator, before approving or re-approving a course of initial education or training, to be satisfied that the course will enable a person who successfully completes it to meet the professional standards,
- (d) require the regulator, before approving or re-approving an AMHPs course, to be satisfied that the course will enable a person who successfully completes it to demonstrate all the Key Competence Areas set out in Schedule 2 to the Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008(a),
- (e) in relation to a course falling within paragraph (1)(a), require the regulator to consult the following in relation to any matters relevant to the approval of the course—
 - (i) any persons undertaking the course,
 - (ii) social work service users,
 - (iii) bodies, other than the relevant institution concerned, that provide any element of the education or training comprised in the course,
- (f) set out the information that will be provided to relevant institutions during the approval or re-approval process,
- (g) provide for the regulator to—
 - (i) consider the re-approval of approved courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses falling within paragraph (1), at specified intervals of not more than six years, and
 - (ii) monitor the continued approval of such courses,
- (h) set out the procedure for decision making in relation to approval, monitoring, and re-approval,
- (i) set out the regulator’s quality assurance process in relation to the approval, monitoring and re-approval of courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses falling within paragraph (1), and
- (j) include information about the publication of—
 - (i) reports (including reports of any inspection carried out under regulation 21),
 - (ii) decisions in relation to approval.

(7) The regulator may operate the education and training approval scheme so as to provide for the approval of courses of education and training for people who are registered social workers.

Inspections

21.—(1) The regulator may appoint an adviser, or a member of the regulator’s staff, to inspect any relevant institution in connection with the approval or re-approval of any course, qualification or test mentioned in regulation 20(1) conducted, provided or facilitated, or proposed to be conducted, provided or facilitated, by that institution.

(2) A person appointed under paragraph (1) is referred to in these Regulations as an inspector.

(3) The regulator must make rules relating to inspections which, in particular—

- (a) set out—
 - (i) the role of an inspector,

(a) S.I. 2008/1206. There are amendments to this instrument but none is relevant.

- (ii) the knowledge, skills or experience necessary to undertake the role of inspector,
- (iii) any persons who may not act as an inspector,
- (b) may require inspectors to declare to the regulator any conflict of interest in relation to any relevant institution,
- (c) set out the procedure for an inspector to report to the regulator following an inspection, including—
 - (i) the period within which the relevant institution may make observations on the report,
 - (ii) the information to be provided to the regulator in relation to the inspection,
 - (iii) the manner in which the information must be presented,
 - (iv) any relevant timescales.

(4) The regulator may make members of the regulator’s staff, facilities and other assistance available to inspectors.

Conditional approval

22.—(1) Subject to paragraphs (2) and (3), the regulator may attach conditions to the approval, and re-approval, of courses of initial education and training, tests of knowledge of English, and AMHPs courses where—

- (a) the relevant institution fails to respond to a request for information made under regulation 20(5) within the period specified in the request, or
- (b) the regulator is satisfied on the basis of evidence obtained under regulation 20, or following an inspection, that the course, or test, does not meet the criteria for approval.

(2) Before attaching a condition to an approval or re-approval under paragraph (1), the regulator must notify the institution concerned—

- (a) setting out its reasons and any evidence,
- (b) specifying the time within which the regulator will propose the condition must be met, and whether the condition must be met before approval, or re-approval, will be given,
- (c) specifying the period within which the institution may make observations on the matters raised, and

in the case of a course of initial education or training, must consider any impact of the proposed conditions on any person undertaking that course.

(3) The regulator must take no further steps to attach conditions to the approval or re-approval before—

- (a) the end of the period specified under paragraph (2)(c), or
- (b) where the institution notifies the regulator that it does not intend to make observations, the date on which that notification is given,

unless the regulator considers it is necessary to do so for the protection of the public.

(4) If, taking into account the matters referred to in paragraph (1), and any observations received from the institution concerned, the regulator determines that it is appropriate to attach a condition to the approval or re-approval, the regulator must notify the institution of that decision and the reasons for it, including the date from which the condition will apply and the date by which the condition must be complied with.

Refusal, and withdrawal, of approval

23.—(1) Subject to paragraph (2), the regulator may refuse to approve, or withdraw approval of a course of initial education or training, a qualification, a test of knowledge of English, or an AMHPs course falling within regulation 20(1), where—

- (a) the relevant institution in relation to that course, qualification, or test—

- (i) fails to respond to a request for information made under regulation 20(5) within the period specified in the request,
 - (ii) fails to comply with a condition imposed pursuant to regulation 22(4) by the time specified in the notification, or at all, or
 - (b) the regulator is satisfied on the basis of evidence obtained under regulations 20 or 22, or following an inspection, that the course, qualification, or test, does not meet the criteria for approval.
- (2) Before refusing or withdrawing approval under paragraph (1), the regulator must—
- (a) notify the institution concerned, setting out its reasons, and
 - (b) inform the institution of the period within which it may make observations on the matters raised,

and the regulator must take no further steps to refuse or withdraw approval before the end of the period specified under sub-paragraph (b).

(3) If, taking into account the matters referred to in paragraph (1), and any observations received from the institution concerned, the regulator determines that it is appropriate to refuse to approve, or to withdraw approval, the regulator must notify the institution of that decision and the reasons for it.

(4) The decision under paragraph (3) has effect from such date as is specified in the decision.

(5) The refusal to re-approve, or withdrawal of approval of, a course of initial education or training, a qualification, or a test of knowledge of English, does not affect the entitlement of any person to be registered on the basis of—

- (a) an award to them of that qualification,
- (b) an award to them of a qualification in connection with that course of education or training, or
- (c) a determination that they have the necessary knowledge of English following that test,

made before the date on which the decision under paragraph (3) has effect.

(6) Where—

- (a) rules made under regulation 9(6)(b) provide that the award of a qualification in connection with a course other than one mentioned in paragraph (5)(b) is relevant for the purposes of regulation 12(1) (annotation of entries in the register), and
- (b) that qualification has been approved under the education and training approval scheme,

the refusal to re-approve, or withdrawal of approval of, that course does not affect any entitlement of a registered social worker to have their entry in the register annotated with an award of that qualification made before the date on which the decision under paragraph (3) has effect.

Fees in relation to approval

24.—(1) The regulator may charge a fee in connection with approval, and re-approval, of courses of initial education and training, qualifications, tests of knowledge of English, and AMHPs courses falling within regulation 20(1).

(2) Any fee charged by the regulator under paragraph (1)—

- (a) may be set at a level which exceeds the cost of the approval in respect of which it is charged,
- (b) must be set with a view to ensuring that, so far as possible, the regulator's fee income in any year does not exceed the regulator's expenses in the same year.

(3) The regulator must make rules in relation to the charging of any fee under paragraph (1), setting out —

- (a) the time within which any fee is to be paid,
- (b) the circumstances in which a fee—

- (i) is not chargeable,
 - (ii) may be reduced,
 - (iii) may be refunded, in whole or in part, or
 - (iv) may be waived, and
- (c) the steps the regulator may take in the event that a fee charged under paragraph (1) is not paid within the time set, including—
- (i) refusing to approve, or re-approve, the course, qualification or test in question,
 - (ii) recovery of the fee as a civil debt.

(4) The regulator must pay any fee income received under this regulation to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

PART 5

Discipline and fitness to practise

Fitness to practise proceedings

25.—(1) Where a question arises as to a social worker’s fitness to practise by reason of any of the grounds in paragraph (2), and regulation 26(5) does not apply, the regulator must ensure that—

- (a) proceedings are carried out in accordance with this regulation and Schedule 2, and any rules made under paragraph (5) (“fitness to practise proceedings”),
- (b) any outcome of the fitness to practise proceedings which is mentioned in regulation 9(2) is recorded in the register in accordance with that regulation, and
- (c) the particulars of any orders and decisions made in fitness to practise proceedings, together with the reasons for them, and the particulars of any order made on review or appeal, are published as soon as reasonably practicable.

(2) The grounds referred to in paragraph (1) are—

- (a) misconduct,
- (b) lack of competence or capability,
- (c) a conviction or caution in the United Kingdom for a criminal offence,
- (d) a conviction not falling within sub-paragraph (c) for an offence which, if committed in England and Wales, would constitute a criminal offence,
- (e) adverse physical or mental health,
- (f) a determination by a regulatory body to the effect that the person’s fitness to practise is impaired,
- (g) being included—
 - (i) by the Disclosure and Barring Service in a barred list (within the meaning given in section 60(1) of the Safeguarding Vulnerable Groups Act 2006^(a) or article 2(2A) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007^(b)), or
 - (ii) by the Scottish Ministers in the children’s list or the adults’ list (within the meaning given in section 1(1) of the Protection of Vulnerable Groups (Scotland) Act 2007^(c)), or
- (h) not having the necessary knowledge of English,

(a) 2006 c. 47.

(b) 2007 No. 1351 (N.I. 11). Article 2 was amended by paragraph 76 of Schedule 9 to the Protection of Freedoms Act 2012 (c. 9).

(c) 2007 asp 14.

provided that an alleged matter which occurred outside the United Kingdom, or at a time when the person was not registered, may only be grounds for the purposes of paragraph (1) where the regulator considers that to be in the public interest.

(3) For the purposes of paragraph (2), references to a conviction include references to a conviction by a Court Martial.

(4) The standard of proof applicable to fitness to practise proceedings is that applicable to civil proceedings.

(5) The regulator must make rules setting out—

- (a) the criteria by which it will determine, pursuant to paragraph 1(1) of Schedule 2, whether there are reasonable grounds for investigating whether a registered social worker's fitness to practise is impaired,
- (b) the timescales within which any steps in fitness to practise proceedings are to be taken,
- (c) any requirements and restrictions in relation to who may be appointed as an adjudicator, case examiner or investigator in fitness to practise proceedings,

and may make rules setting out the detail of any other aspect of fitness to practise proceedings.

(6) In any case where investigators, case examiners, or adjudicators consider that a registered social worker's fitness to practise may be impaired by reason of not having the necessary knowledge of English, they may—

- (a) direct the social worker to undergo an examination, or other assessment, of their knowledge of English, and regulation 11(4) and (5) and any rules made under regulation 11(6)(d) apply in relation to that examination or other assessment, and
- (b) draw such inferences as they deem appropriate if the social worker fails to undergo an examination or assessment, or fails to provide or disclose any evidence, as directed.

(7) Subject to paragraph (8), the regulator must appoint such advisers, or members of the regulator's staff, as the regulator thinks fit, as—

- (a) investigators,
- (b) case examiners, and
- (c) adjudicators,

for the purposes of each fitness to practise proceedings.

(8) A person may not be appointed—

- (a) under more than one sub-paragraph of paragraph (7) in fitness to practise proceedings relating to the same registered social worker, or
- (b) as an adjudicator, if they have been appointed as an investigator or a case examiner in relation to any fitness to practise proceedings in the preceding two years.

Automatic removal from the register

26.—(1) This paragraph applies where the regulator becomes aware that a registered social worker has been convicted of a listed offence which was committed on or after the date on which these Regulations (other than regulation 40) come into force, other than a conviction that has been quashed.

(2) Where paragraph (1) applies, the regulator must notify the social worker—

- (a) that the regulator proposes to remove the social worker's entry from the register,
- (b) of the reason for the proposed removal,
- (c) that, if they consider that the proposed removal is based on an error of fact, the social worker may—
 - (i) make written submissions, within such time as the regulator may specify in the notice, and

- (ii) attend before the regulator with or without representation, in order to make oral submissions, and
 - (d) of the social worker's right of appeal under regulation 27.
- (3) The regulator must consider any written and oral representations made in accordance with paragraph (2)(c), and determine whether the proposed removal is based on an error of fact.
- (4) Where the regulator determines that the proposed removal is based on an error of fact, or becomes aware that the person's conviction has been quashed, the entry is to remain on the register and the regulator must notify the following accordingly —
- (a) the social worker, and
 - (b) any person who notified the regulator that the social worker had been convicted of a listed offence.
- (5) Where paragraph (4) does not apply the regulator must—
- (a) remove the entry relating to that person ("P") from the register, subject to paragraph (7),
 - (b) notify the following of the removal, and of the date of the removal—
 - (i) P,
 - (ii) any person by whom P is employed, or with whom P has an arrangement, to provide services as a social worker or in relation to social work (where known),
 - (iii) any other regulatory body with which P is registered (where known),
 - (iv) any person who notified the regulator that P had been convicted of a listed offence, and
 - (v) any other person where, in the opinion of the regulator, it is in the public interest to do so, and
 - (c) terminate any ongoing fitness to practise proceedings in relation to P.
- (6) The regulator must make rules setting out the procedure for removing an entry from the register under this regulation including, in particular, the time within which any step must be taken.
- (7) P's entry may not be removed from the register until the period within which an appeal may be made under regulation 27 has expired or, if an appeal is made, the appeal has been withdrawn or otherwise finally disposed of.
- (8) In these Regulations "listed offence" means—
- (a) an offence listed in any of paragraphs 1 to 7 of Schedule 3, or
 - (b) an offence listed in any of paragraphs 8 to 13 of Schedule 3 in respect of which a custodial sentence has been imposed.

Appeals against automatic removal from the register

27.—(1) A person may appeal to the High Court against a determination by the regulator to remove their entry from the register under regulation 26(5), on the ground that the determination was based on an error of fact or of law.

(2) An appeal under paragraph (1) must be made within 28 days of the day on which the person is notified that the regulator proposes to remove their entry from the register.

(3) On an appeal under paragraph (1) the High Court may—

- (a) dismiss the appeal,
- (b) set aside the determination, or
- (c) remit the case to the regulator to dispose of in accordance with the directions of the court, and may make any order as to costs as it thinks fit.

PART 6

Restrictions on practice, protected titles and offences

Carrying out social work in England and use of title

28.—(1) A person may not practise as a social worker in England unless they are a registered social worker.

(2) A person must not use the title of “social worker” unless they are a registered social worker.

(3) Paragraphs (1) and (2) do not apply to a person who is practising as a social worker in England on a temporary basis, and is registered as a social worker in a register kept by—

- (a) Social Care Wales,
- (b) the Scottish Social Services Council, or
- (c) the Northern Ireland Social Care Council.

Holding out of a person as qualified to carry out social work in England

29.—(1) A person must not falsely represent themselves to be a registered social worker, to have a qualification in relation to social work, or to be the subject of an entry in the register.

(2) A person (“A”) must not make a false representation about another person (“B”) which, if it was made by B, would be contrary to paragraph (1).

Offences in connection with registration

30. A person commits an offence if they fraudulently procure, or attempt to procure, the making, amendment, removal or restoration of an entry in the register.

Offences in connection with restrictions on practice and protected titles

31.—(1) A person commits an offence if, with intent to deceive (whether expressly or by implication), they—

- (a) use the title of “social worker” in breach of regulation 28(2),
- (b) falsely represent themselves, in breach of regulation 29(1)—
 - (i) to be registered, or to be the subject of an entry in the register, or
 - (ii) to possess a qualification in relation to social work.

(2) A person (“A”) commits an offence if—

- (a) with intent that any person is deceived (whether expressly or by implication) they cause or permit another person (“B”) to make any representation about A which, if made by A with intent to deceive, would be an offence under paragraph (1), or
- (b) with intent to deceive they make any representation with regard to another person (“B”) which—
 - (i) A knows to be false, and
 - (ii) if made by B with that intent would be an offence by B under paragraph (1).

Offences in connection with the provision of information

32.—(1) A person commits an offence if they fail, without reasonable excuse to—

- (a) attend and give evidence or produce documents when required to do so by the regulator in accordance with regulation 14(3) (in connection with the removal of an entry under regulation 14(1)(a) on the grounds it was fraudulently procured or incorrectly made),

- (b) attend and give evidence or produce documents when required to do so by adjudicators in accordance with regulation 15(5)(b) (in connection with an application for restoration by a person who was the subject of a removal order),
- (c) attend and give evidence or produce documents when required to do so by the regulator, or adjudicators, in accordance with regulation 19(4) (in connection with a registration appeal),
- (d) provide information when required to do so by the regulator under paragraph 1(3)(a), or by investigators under paragraph 4(1)(b), of Schedule 2 (in connection with fitness to practise proceedings), or
- (e) attend and give evidence or produce documents when required to do so by investigators in accordance with paragraph 5(1) of Schedule 2 (in connection with fitness to practise proceedings).

Offences under this Part

33. A person guilty of an offence under this Part is liable on summary conviction to a fine.

PART 7

Powers of intervention

Referral of cases by the Authority to the High Court

34. The following decisions are specified for the purposes of section 29(2A)(a) of the National Health Service Reform and Health Care Professions Act 2002—

- (a) a decision made under regulation 14(1)(a) (removal from the register where registration fraudulently procured or incorrectly made),
- (b) a decision made under regulation 15(6)(b) (to impose a conditions of practice order on an application for restoration),
- (c) a decision made under regulation 26(5) (automatic removal from the register),
- (d) a decision made under paragraph 12(1) of Schedule 2 (that fitness to practise is not impaired),
- (e) a decision made under paragraph 12(3)(a) or (c) of Schedule 2 (that fitness to practise is impaired, but imposing no order)
- (f) a decision made under paragraph 12(3)(b) of Schedule 2 (making a final order),
- (g) a decision under paragraph 15(2) of Schedule 2 (on a review of a final order).

Power of the Secretary of State to investigate

35.—(1) This paragraph applies where the Secretary of State has reason to believe that the regulator—

- (a) has defaulted in performing any function and has not remedied the default, or
- (b) is likely to default in performing any function.

(2) Where paragraph (1) applies, the Secretary of State must carry out an investigation in accordance with paragraphs (3) to (5).

(a) By virtue of section 29(2A) and (4) of the National Health Service Reform and Health Care Professions Act 2002, the Professional Standards Authority for Health and Social Care may refer decisions of the regulator, of a description specified in regulations, to the High Court.

(3) Unless the Secretary of State considers that it would not be in the public interest, the Secretary of State must inform the following of the investigation and the grounds for it, and invite them to make representations—

- (a) the regulator,
- (b) the Authority,
- (c) any person or body affected, or likely to be affected, by the default, and
- (d) any other person or body the Secretary of State considers appropriate.

(4) The Secretary of State must—

- (a) review the facts and evidence, or
- (b) appoint a person or body to review the facts and evidence and report to the Secretary of State, and

determine whether there has been, or is likely to be, a default by the regulator.

(5) Unless the Secretary of State considers that it would not be in the public interest, as soon as practicable after the determination referred to in paragraph (4) the Secretary of State—

- (a) must notify the regulator of—
 - (i) the determination and the reasons for it, and
 - (ii) in the case of a determination that there has been, or is likely to be, a default by the regulator, the time within which the regulator may make representations to the Secretary of State, and
- (b) may notify any other person who was informed of the investigation in accordance with paragraph (3), of the determination and the reasons for it.

The procedure for giving remedial directions

36.—(1) This paragraph applies where the Secretary of State has determined, in accordance with regulation 35(4) that the regulator—

- (a) has defaulted in performing any function and has not remedied the default, or
- (b) is likely to default in performing any function.

(2) Where paragraph (1) applies the Secretary of State—

- (a) must consider any representations made by the regulator under regulation 35(5)(a)(ii), and
- (b) having done so, may give a direction in writing (a “remedial direction”) to the regulator specifying—
 - (i) the nature of the default, or likely default,
 - (ii) the reasons for the Secretary of State’s determination,
 - (iii) the action (the “remedial action”) the regulator must take in order to remedy or avoid the default,
 - (iv) the date by which the remedial action must be taken, and
 - (v) the steps the Secretary of State may take if the regulator fails to take the remedial action by that date.

(3) A remedial direction may direct the regulator to require an adviser to support and assist it in taking any remedial action.

(4) The Secretary of State must publish a remedial direction in such manner as the Secretary of State thinks appropriate.

Failure to comply with a remedial direction

37.—(1) This paragraph applies where the regulator has failed to take remedial action by the date specified in a remedial direction.

(2) Where paragraph (1) applies, the Secretary of State must notify the regulator in writing that it has failed to comply with the remedial direction, and set out any steps the Secretary of State will take in order to give effect to the remedial direction.

(3) The steps the Secretary of State may take for the purposes of giving effect to the remedial direction are—

- (a) taking over the exercise of any of the regulator’s functions,
- (b) taking any other action which the regulator is empowered to take under these Regulations,
- (c) appointing an individual or body (an “appointee”) to take the steps in sub-paragraph (a) or (b), or both,

provided that the Secretary of State and any appointee must not take a decision about whether to make, amend, remove or restore an entry in the register in respect of an individual.

(4) The Secretary of State must consult the regulator in exercising any of the regulator’s functions under paragraph (3) where the Secretary of State considers that to be appropriate.

(5) The Secretary of State must ensure that any appointee—

- (a) is appointed as soon as practicable after the notification mentioned in paragraph (2) is given,
- (b) has the experience and expertise which the Secretary of State considers is necessary to exercise the relevant functions of the regulator, and
- (c) is able to exercise those functions in accordance with any timetable specified by the Secretary of State.

(6) Before their appointment, a prospective appointee must agree in writing with the Secretary of State—

- (a) the terms on which, and the period for which, they will exercise the relevant functions of the regulator,
- (b) whether the appointee must consult the regulator in exercising any of those functions,
- (c) the terms on which, and the manner in which, the exercise of those functions will be returned to the regulator, or transferred to another appointee, at the end of the period mentioned in sub-paragraph (a), and
- (d) the circumstances in which the appointment may be revoked before the end of that period.

(7) An appointee must exercise the relevant functions of the regulator in accordance with the agreement mentioned in paragraph (6).

(8) The regulator must co-operate with the Secretary of State and any appointee, and provide such information, advice, guidance or assistance as the Secretary of State, or appointee, considers appropriate.

Payment by the regulator of expenses incurred

38. Where the Secretary of State makes payment to an appointee, or incurs expenses as a result of taking any action under regulations 35 or 37, the Secretary of State may recover the amount of that payment, or that expense, from the regulator.

PART 8

Amendments to other legislation

Amendments to the Mental Health Act 1983

39.—(1) Section 114ZA of the Mental Health Act 1983 (approval of courses: England) is amended as follows.

(2) In subsection (1), for “The Health and Care Professions Council” substitute “Social Work England”.

(3) In subsection (2), for “The Council” substitute “Social Work England”.

(4) Omit subsection (4).

(5) At the end insert—

“(5) Social Work England may charge fees for approving courses under subsection (1).

(6) In this section “Social Work England” means the body corporate established by section 36(1) of the Children and Social Work Act 2017.”.

Amendment to the Equality Act 2010

40.—(1) Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general)(a) is amended as follows.

(2) Under the heading “Regulators”, after the entry for the Security Industry Authority insert—
“Social Work England.”.

Amendments to the Health and Social Work Professions Order 2001

41.—(1) The Health and Social Work Professions Order 2001 is amended as follows.

(2) In article 3(3) omit “(and see also section 114ZA of the Mental Health Act 1983 (approval of courses for approved mental health professionals))”.

(3) Omit article 14(b).

(4) Omit article 15A.

(5) Omit article 15B.

(6) In article 16(6) omit “; but that does not apply to AMHP courses”.

(7) Omit article 17(3A).

(8) In article 18—

(a) omit paragraph (1A),

(b) in paragraph (3) omit “or (1A)”,

(c) in paragraph (6) omit “or, as the case may be, (1A)” in both places where it appears.

Amendment to the European Communities (Recognition of Professional Qualifications) Regulations 2007

42.—(1) The European Communities (Recognition of Professional Qualifications) Regulations 2007 are amended as follows.

(2) In the table in Part 1 of Schedule 1 (professions regulated by law or public authority), in the entry for “Social Worker in England” for “Health and Care Professions Council”(b) substitute “Social Work England”.

Amendments to the Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008

43.—(1) The Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008(c) are amended as follows.

(2) In regulation 3—

(a) Part 1 of Schedule 19 was amended by paragraph 102 of Part 5 of Schedule 12 to the Energy Act 2013 (c. 32) and by S.I. 2011/1060 and 2017/353. There are other amendments but none is relevant.

(b) The words “Health and Care Professions Council” were substituted by S.I. 2012/1479.

(c) S.I. 2008/1206, as amended by S.I. 2012/1479 and 2017/52.

- (a) in paragraph (3) for “the Health and Care Professions Council” substitute “Social Work England”,
- (b) after paragraph (3) insert—
 - “(4) In this regulation “Social Work England” means the body corporate established by section 36(1) of the Children and Social Work Act 2017.”.

Amendments to the Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008

44.—(1) The Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008(a) are amended as follows.

(2) In regulation 5(2)(d), at the end insert “or a social worker registered in the register of social workers in England kept by Social Work England under section 39(1) of the Children and Social Work Act 2017”.

(3) In regulation 5(3)(c) for “that has been approved by the Secretary of State” substitute “, that has been specified by Social Work England, ”.

(4) After regulation 5(3) insert—

“(4) Social Work England may charge a fee for specifying training mentioned in paragraph (3)(c).

(5) Any fee charged by Social Work England under paragraph (4)—

- (a) may be set at a level which exceeds the cost of specifying training in respect of which it is charged,
- (b) must be set with a view to ensuring that, so far as possible, Social Work England’s fee income in any year does not exceed its expenses in the same year.

(6) Social Work England must determine—

- (a) the time within which any fee is to be paid,
- (b) the circumstances in which a fee—
 - (i) is not chargeable,
 - (ii) may be reduced,
 - (iii) may be refunded, in whole or in part, or
 - (iv) may be waived, and
- (c) the steps it may take in the event that a fee charged under paragraph (4) is not paid within the time set, including—
 - (i) refusing to specify the training in question, and
 - (ii) recovery of the fee as a civil debt.

(7) Social Work England must pay any fees received under this regulation to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

(8) In this regulation “Social Work England” means the body corporate established by section 36(1) of the Children and Social Work Act 2017.”.

Amendments to the European Union (Recognition of Professional Qualifications) Regulations 2015

45.—(1) The European Union (Recognition of Professional Qualifications) Regulations 2015(b) are amended as follows.

(a) S.I. 2008/1858, as amended by S.I. 2012/1479.
 (b) S.I. 2015/2059, as amended by S.I. 2016/1094.

(2) In the table in Part 1 of Schedule 1 (professions regulated by law or public authority)—

(a) omit “Social Worker in England”, and

(b) before the entry “Social Worker in Northern Ireland” insert—

“Social Worker in England	Social Work England”.
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Amendment to the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

46.—(1) The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017(a) are amended as follows.

(2) In Schedule 2, under the heading “Regulators”, after “The Security Industry Authority.” insert—

“Social Work England.”.

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department for Education

SCHEDULE 1

Regulation 2(4)

Recognised qualifications

1. A person has a recognised qualification if they—

(a) have an approved qualification,

(b) are an exempt person and have a right to practise as a social worker in the United Kingdom by virtue of Part 3 of the European Union (Recognition of Professional Qualifications) Regulations 2015(b) or, in the case of a person falling within regulation 78(3)(a) of those Regulations, by virtue of Part 3 of the European Communities (Recognition of Professional Qualifications) Regulations 2007 (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that they may be required to undertake pursuant to those Parts of those Regulations),

(c) have undergone training in the social work profession outside the United Kingdom, and either—

(i) hold a qualification which the regulator is satisfied attests to a standard comparable to that attested to by an approved qualification, or

(ii) do not hold such a qualification, but the person has undergone such additional training or experience, in the United Kingdom or elsewhere, as satisfies the regulator, following any test of competence as it may require them to take, that they meet the requisite standard for admission to the register, or

(d) have undergone training in the social work profession in Wales, Scotland or Northern Ireland, and—

(i) the training is recognised by the regulator as meeting the standard which it requires for admission to the register, or

(ii) the training is not so recognised but they have undergone, whether in England or elsewhere, such additional training or professional experience as satisfies the regulator that they have the requisite standard of proficiency for admission to the register.

(a) S.I. 2017/353.

(b) S.I. 2015/2059, as amended by S.I. 2016/1094.

2. In considering whether an exempt person to whom paragraph (1)(c) applies is to be regarded as having a recognised qualification, the regulator must take into account—

- (a) if the person holds a qualification in social work which—
 - (i) was granted otherwise than in a relevant European State, but
 - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying them to practise as a social worker in that State,the acceptance of that qualification, and
- (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of whether the person is to be regarded as having a recognised qualification.

3. The regulator must make rules setting out procedures to—

- (a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to an approved qualification,
- (b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard required for admission to the register, and
- (c) assess training or professional experience acquired in Wales, Scotland or Northern Ireland and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard required for admission to the register,

and it must, where it sees fit, keep a list of qualifications which are of a comparable standard which it must publish and keep under review.

SCHEDULE 2

Regulation 25(1)(a)

Fitness to practise proceedings

PART 1

Triage

Triage

1.—(1) Subject to sub-paragraph (2), where a question arises as to whether a social worker's fitness to practise is impaired, the regulator must determine in accordance with criteria set out in rules made under regulation 25(5)(a) whether there are reasonable grounds for investigating whether the social worker's fitness to practise is impaired.

(2) Where a question arises as to whether a social worker's fitness to practise is impaired—

- (a) as a result of them having been convicted of an offence in respect of which a custodial sentence has been imposed, other than a listed offence, or
- (b) where they have been convicted of a listed offence, but have not been removed from the register under regulation 26(5),

there are reasonable grounds for investigating whether the social worker's fitness to practise is impaired, and there is a realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired.

(3) Where sub-paragraph (2) applies, the regulator—

- (a) must notify the social worker accordingly, and require them to provide details of—
 - (i) any person by whom they are, or have been, employed to provide services as a social worker or in relation to social work,

- (ii) any person with whom they have, or had, an arrangement to provide services as a social worker or in relation to social work, and
- (iii) any regulatory body with which they are registered,
- (b) may invite the social worker to make written submissions,
- (c) may notify any complainant of the action taken under this sub-paragraph.

(4) In this Schedule—

“complainant”, where the fitness to practise proceedings were instigated following a complaint against the social worker, means the person who made the complaint,

“social worker” means the registered social worker who is the subject of the fitness to practise proceedings.

Determination by the regulator that there are no reasonable grounds

2. Where the regulator determines in accordance with paragraph 1(1) that there are no reasonable grounds for investigating whether the social worker’s fitness to practise is impaired, the regulator must inform any complainant of that determination and the reasons for it unless, in the opinion of the regulator, it is not in the public interest to do so.

PART 2

Investigation

Commencement of investigation

3.—(1) Where the regulator determines in accordance with paragraph 1(1) that there are reasonable grounds for investigating whether a social worker’s fitness to practise is impaired, the regulator must—

- (a) appoint two or more investigators to carry out an investigation, and
- (b) appoint two or more case examiners to determine whether there is a realistic prospect that adjudicators would determine that the social worker’s fitness to practise is impaired,

in accordance with this Part.

(2) Where paragraph 1(2) applies the regulator must appoint two or more case examiners to consider the case in accordance with paragraphs 8 and 9, and paragraphs 4 to 6 do not apply.

(3) Any step in the investigation under this Part must be taken within such period as is specified in rules made under regulation 25(5)(b).

Notifying the social worker and the complainant

4.—(1) The investigators must—

- (a) notify the social worker of the grounds for investigating whether their fitness to practise is impaired,
- (b) require the social worker to provide details of—
 - (i) any person by whom they are, or have been, employed to provide services as a social worker or in relation to social work,
 - (ii) any person with whom they have, or had, an arrangement to provide services as a social worker or in relation to social work, and
 - (iii) any regulatory body with which they are registered, and
- (c) invite the social worker to make written submissions.

(2) Where the fitness to practise proceedings were instigated following a complaint against the social worker, the investigators may—

- (a) provide the complainant with a copy of any written submissions made by the social worker, and
- (b) invite the complainant to make written submissions in response.

Obtaining further information and referral to case examiners

5.—(1) Subject to sub-paragraph (2), the investigators may require any person who, in their opinion, is able to supply information or produce any document which appears relevant to the discharge of their functions or to those of case examiners or adjudicators under this Schedule, to attend and give evidence, or produce documents, in the fitness to practise proceedings.

(2) Nothing in sub-paragraph (1)—

- (a) requires or permits any disclosure of information which is prohibited by or under any other enactment, or
- (b) requires the production of any document which a person could not be compelled to supply or produce in proceedings in the High Court on an appeal from a decision of case examiners or adjudicators under Part 5.

(3) Any information required, and any representations made, under this Part must be provided to the investigators within such period as is specified in rules made under regulation 25(5)(b), or such longer period as the investigators may determine.

(4) The investigators may take such steps as are reasonably practicable to obtain any further information relevant to the investigation, and must refer the case to the case examiners —

- (a) at any time during their investigation if they consider an interim order may be necessary for the protection of the public or in the best interests of the social worker, or
- (b) at the conclusion of their investigation.

Determination by case examiners

6.—(1) The case examiners must—

- (a) consider the information and any written submissions referred to them by the investigators, and
- (b) determine whether there is a realistic prospect that adjudicators would determine, under Part 3, that the social worker's fitness to practise is impaired.

(2) Where the case examiners determine that there is no realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, the case examiners may—

- (a) give a warning to the social worker regarding their future conduct or performance,
- (b) give advice to the social worker on any matter related to the investigation,
- (c) take no further action.

(3) Where sub-paragraph (2) applies, the case examiners must inform the following of their determination and the reasons for it—

- (a) the regulator,
- (b) the social worker, and
- (c) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.

7.—(1) Where the case examiners determine that there is a realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, the case examiners must notify the social worker of that determination and the reasons for it.

(2) The case examiners must refer a case falling within sub-paragraph (1), or a case to which paragraph 1(2) applies, to a fitness to practise hearing if, in their opinion, it would be in the public interest to do so.

(3) Where the case examiners do not refer the case to a fitness to practise hearing under paragraph (2) the case examiners may notify the social worker of the terms on which, and the time within which, the social worker may elect to have the case disposed of without a hearing in accordance with paragraph 9.

(4) At any time before the case examiners determine that a case is to proceed to a fitness to practise hearing they may require the investigators to obtain, and supply to them, further information or submissions relevant to the investigation, provided that paragraph 5(2) and (3) applies to the provision of information under this sub-paragraph.

Interim orders

8.—(1) Where the case examiners consider an interim order may be necessary for the protection of the public or in the best interests of the social worker—

- (a) they must notify the regulator accordingly,
- (b) the regulator must appoint two or more adjudicators to consider whether to make an interim order in accordance with this paragraph.

(2) Subject to sub-paragraph (3), the adjudicators may make any interim order they consider is necessary for the protection of the public, or in the best interests of the social worker.

(3) The adjudicators may not make an interim order unless they have first informed the social worker of the proposed order and given them the opportunity—

- (a) to make written submissions, or
- (b) to attend before the adjudicators and be represented, in order to make oral submissions.

(4) Where they make an interim order under sub-paragraph (2) the adjudicators must—

- (a) inform the following of the terms of the order—
 - (i) the regulator,
 - (ii) the social worker,
 - (iii) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
 - (iv) any regulatory body with which the social worker is registered (where known), and
 - (v) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant, and
- (b) notify the social worker of their right to appeal to the High Court under Part 5.

(5) An interim order may—

- (a) suspend the social worker from practising (an “interim suspension order”), or
- (b) impose a restriction or condition with which the social worker must comply (an “interim conditions of practice order”),

for such period, not exceeding eighteen months, as is specified in the order.

(6) An interim order made under sub-paragraph (2) ceases to have effect before the expiry of the period specified in the order, or such period as is substituted by the court pursuant to paragraph 14(3)(a) (as the case may be)—

- (a) if the case examiners determine that there is no realistic prospect that adjudicators would determine that the social worker’s fitness to practise is impaired,
- (b) following a fitness to practise hearing, if the adjudicators determine that the social worker’s fitness to practise is not impaired,
- (c) where a case is disposed of under paragraph 9(3) by either of the means mentioned in paragraph 9(2)(a) or (b),
- (d) where a final order is made in respect of the social worker—
 - (i) if there is no appeal against that order, when the period for appealing expires,

- (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of, or
- (e) where the social worker is removed from the register under regulation 26(5).

Disposal without hearing

9.—(1) This sub-paragraph applies where—

- (a) the case examiners give the notification referred to in paragraph 7(3), or paragraph 1(2)(a) applies (social worker convicted of an offence, other than a listed offence), and
- (b) the case examiners determine that it would not be in the public interest for the case to proceed to a fitness to practise hearing.

(2) Where sub-paragraph (1) applies the case examiners may notify the social worker that they propose to dispose of the case without further investigation by—

- (a) taking no further action,
- (b) giving advice to the social worker on any matter related to the case, or
- (c) making a final order.

(3) If the social worker notified under sub-paragraph (2) notifies the case examiners that the social worker consents to the proposed disposal of the case and does not wish to proceed to a fitness to practise hearing, the case examiners must, provided that they remain satisfied that it would not be in the public interest for the case to proceed to a fitness to practise hearing—

- (a) dispose of the case accordingly, and
- (b) inform the following of the manner in which the case was disposed of—
 - (i) the regulator,
 - (ii) the social worker,
 - (iii) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
 - (iv) any regulatory body with which the social worker is registered (where known), and
 - (v) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.

PART 3

Fitness to practise hearing

Commencement of hearing procedure

10.—(1) This sub-paragraph applies where a case has not been disposed of under paragraph 9(3) and the case examiners determine that—

- (a) there is a realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, and
- (b) it would be in the public interest for the case to proceed to a fitness to practise hearing.

(2) Where sub-paragraph (1) applies—

- (a) the case examiners must inform the regulator, and
- (b) the regulator must appoint two or more adjudicators (who may be the adjudicators appointed under paragraph 8(1)(b), if any) to conduct a fitness to practise hearing in accordance with this Part.

(3) Any step in the fitness to practise hearing must be taken within such period as is specified in rules made under regulation 25(5)(b), or such longer period as the adjudicators may determine.

(4) The adjudicators must—

- (a) notify the social worker, and where relevant the complainant, that they will conduct a fitness to practise hearing to determine whether the social worker's fitness to practise is impaired,
- (b) invite the social worker to make written submissions, and
- (c) inform the social worker that they may—
 - (i) attend the hearing, and be represented,
 - (ii) make oral submissions,
 - (iii) call witnesses.

(5) At any time before the adjudicators make a determination under paragraph 12(1) or (3) they may require the investigators to obtain, and supply to them, further information or submissions relevant to the fitness to practise hearing, provided that paragraph 5(2) and (3) applies to the provision of information under this sub-paragraph.

Interim orders

11.—(1) The adjudicators may make any interim order they consider is necessary for the protection of the public or in the best interests of the social worker, where they—

- (a) have not yet made a determination under paragraph 12(1) or (3), or
- (b) are making a final order under paragraph 12(3)(b).

(2) The adjudicators may not make an interim order under sub-paragraph (1)(a) unless they have first informed the social worker of the proposed order and given them the opportunity—

- (a) to make written submissions, or
- (b) to attend before the adjudicators and be represented, in order to make oral submissions.

(3) An interim order ceases to have effect before the expiry of the period specified in the order, or such period as is substituted by the court pursuant to paragraph 14(3)(a) (as the case may be)—

- (a) in the case of an interim order referred to in sub-paragraph (1)(a), when the adjudicators determine that the social worker's fitness to practise is not impaired,
- (b) in the case of an interim order referred to in sub-paragraph (1)(b)—
 - (i) where there is no appeal against the final order, when the period for appealing expires, or
 - (ii) where there is an appeal against the final order, when the appeal is withdrawn or otherwise finally disposed of.

(4) Where they make an interim order under sub-paragraph (1) the adjudicators must comply with paragraph 8(4).

Determination by adjudicators

12.—(1) Where, following a fitness to practise hearing, the adjudicators determine that the social worker's fitness to practise is not impaired the adjudicators may—

- (a) give a warning to the social worker regarding their future conduct or performance,
- (b) give advice to the social worker on any matter related to the fitness to practise proceedings, or
- (c) take no further action.

(2) Where sub-paragraph (1) applies, the adjudicators must inform the following of their determination and the reasons for it—

- (a) the regulator,
- (b) the social worker, and

- (c) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.
- (3) Where, following the fitness to practise hearing, the adjudicators determine that the social worker's fitness to practise is impaired, the adjudicators may—
- (a) give advice to the social worker on any matter related to the fitness to practise proceedings,
 - (b) make a final order,
 - (c) take no further action.
- (4) Where the adjudicators make a final order they must—
- (a) inform the following of the terms of the order and the reasons for it—
 - (i) the regulator,
 - (ii) the social worker,
 - (iii) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
 - (iv) any regulatory body with which the social worker is registered (where known), and
 - (v) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant,
 - (b) notify the social worker of their right—
 - (i) to request a review under paragraph 15, and
 - (ii) to appeal to the High Court under Part 5.

Final orders

- 13.**—(1) A final order may—
- (a) require the removal of the social worker's entry from the register (a "removal order"),
 - (b) suspend the social worker from practising for such period as is specified in the order (a "suspension order"),
 - (c) impose a restriction or condition with which the social worker must comply for such period as is specified in the order (a "conditions of practice order"),
 - (d) give a warning to the social worker regarding their future conduct or performance (a "warning order").
- (2) A removal order may only be made in a case where—
- (a) the adjudicators found the social worker unfit to practise on one of the grounds set out in regulation 25(2)(a), (c), (d), (f), or (g), or
 - (b) the adjudicators found the social worker unfit to practise on one of the grounds set out in regulation 25(2)(b), (e) or (h) and the social worker was suspended from practice, or subject to a conditions of practice order, for a continuous period of two years immediately preceding the making of the removal order.
- (3) A suspension order and a conditions of practice order have effect for such period, not exceeding three years, as is specified in the order.

PART 4

Review of orders

Review of interim orders

14.—(1) The regulator must review any interim order made under paragraphs 8(2) or 11(1)(a) (including any such order as has been extended or varied)—

- (a) within the period of six months beginning on the date on which the order was made,
- (b) thereafter, before the end of the period of three months, beginning on the date of the decision of the immediately preceding review, for so long as the order continues in force, and
- (c) where new evidence relevant to the order has become available after the making of the order, or the last review.

(2) The regulator may apply to the High Court to extend, or further extend, the period for which an interim order has effect.

(3) On an application under sub-paragraph (2) the High Court may—

- (a) substitute a different period for which the interim order has effect, or
- (b) confirm the order.

(4) Where the High Court substitutes a different period for which the interim order has effect the regulator must notify any person who was notified of the making of the interim order.

(5) Subject to sub-paragraph (6), on a review under sub-paragraph (1) the regulator may—

- (a) revoke the order,
- (b) revoke or vary any condition imposed by the order,
- (c) confirm the order,
- (d) replace an interim conditions of practice order with an interim suspension order (or vice versa) having effect for the same period, provided it is satisfied that to do so is necessary for the protection of the public or in the best interests of the social worker,

(6) The regulator may not take any of the steps in sub-paragraph (5) unless it has first informed the social worker of the proposed step and given them the opportunity—

- (a) to make written submissions, or
- (b) to attend before it and be represented, in order to make oral submissions.

(7) Where sub-paragraph (5) applies, the regulator must inform the following of the terms of the order and the reasons for it—

- (a) the social worker,
- (b) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
- (c) any other regulatory body with which the social worker is registered (where known), and
- (d) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.

Review of final orders

15.—(1) The regulator must review a suspension order, or a conditions of practice order, before its expiry, and may—

- (a) with effect from the date on which the order would have expired, extend or further extend the period for which the order has effect, provided that the extended period does not exceed three years,

- (b) with effect from the expiry of the order, make any order which the case examiners or the adjudicators (as the case may be) could have made at the time they made the order, provided that the period for which the orders have effect does not exceed three years in total,
- (c) in the case of a suspension order, with effect from its expiry make a conditions of practice order with which the social worker must comply if they resume practice as a social worker at the end of the period of suspension specified in the order.

(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker, and may—

- (a) confirm the order,
- (b) extend, or further extend, the period for which the order has effect, provided that the extended period does not exceed three years,
- (c) reduce the period for which the order has effect, but in the case of a warning order, not so that it has effect for less than one year beginning on the date when the order was made under paragraph 12(3)(b),
- (d) substitute any order which the adjudicators could have made at the time they made the order under paragraph 12(3)(b),
- (e) revoke the order, and in the case of a suspension order may make the revocation subject to the social worker satisfying such requirements as to additional education or training and experience as apply to them,
- (f) revoke or vary any condition imposed by the order.

(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.

(4) Sub-paragraphs (1) and (2) apply in relation to an order made on a review under those paragraphs, as they apply to an order made under paragraph 12(3)(b).

(5) The regulator may not take any action mentioned in sub-paragraphs (1) or (2) unless it has first informed the social worker of the proposed action and given them the opportunity—

- (a) to make written submissions, or
- (b) to attend before the regulator and be represented, in order to make oral submissions.

(6) Where the regulator takes any action mentioned in sub-paragraphs (1) or (2) it must inform the following accordingly—

- (a) the social worker,
- (b) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
- (c) any regulatory body with which the social worker is registered (where known), and
- (d) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.

PART 5

Appeals

16.—(1) A social worker may appeal to the High Court against—

- (a) the decision of adjudicators—
 - (i) to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - (ii) not to revoke or vary such an order,

- (iii) to make a final order,
 - (b) the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
- (2) An appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
- (3) On an appeal the High Court may—
- (a) dismiss the appeal,
 - (b) quash the decision,
 - (c) substitute for the decision appealed against any other decision that the adjudicators or the regulator (as the case may be) could have made,
 - (d) remit the case to the regulator to dispose of in accordance with the directions of the court, and may make any order as to costs as it thinks fit.

SCHEDULE 3

Regulation 26(8)

Listed offences

1. Murder.
2. An offence under any of the following provisions of the Sexual Offences Act 2003(a)—
 - (a) section 1 (rape),
 - (b) section 2 (assault by penetration),
 - (c) sections 5 to 8 (rape and other offences against children under 13),
 - (d) sections 9 to 12 (child sex offences),
 - (e) sections 30 to 33 (offences against persons with a mental disorder impeding choice), or
 - (f) sections 47 to 50 (abuse of children through prostitution and pornography).
3. An offence under any of sections 9 to 12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005(b) (sexual services of children and child pornography).
4. An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008(c)—
 - (a) article 5 (rape),
 - (b) article 6 (assault by penetration),
 - (c) articles 12 to 15 (rape and other offences against children under 13),
 - (d) articles 16 to 19 (offences against children under 16),
 - (e) articles 37 to 40 (abuse of children under 18 through prostitution and pornography), or
 - (f) articles 43 to 46 (offences against persons with a mental disorder impeding choice).
5. An offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009(d)—
 - (a) section 1 (rape),
 - (b) section 2 (assault by penetration),

(a) 2003 c. 42. Section 47 was amended by S.I. 2008/1779; sections 48, 49 and 50 were amended, respectively, by paragraphs (3), (4) and (5) of section 68 of the Serious Crime Act 2015 (c. 9), and sections 47 to 50 were amended by S.I. 2008/1769 (N.I. 2).

(b) 2005 asp 9. Sections 9, 10, 11 and 12 were amended, respectively, by subsections (a), (b), (c) and (d) of section 40(2) of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13.

(c) S.I. 2008/1769 (N.I. 2).

(d) 2009 asp 9. Section 26 was amended by section 43(4) of the Criminal Justice and Licensing (Scotland) Act 2010.

- (c) sections 3 to 6 (sexual assault and sexual coercion) committed against a person who is, by virtue of section 17 of that Act (capacity to consent: mentally disordered persons), treated as incapable of consenting,
 - (d) sections 18 to 26 (rape and other offences against children under 13), or
 - (e) sections 28 to 33 (offences against older children).
- 6.** An offence under either of the following provisions of the Modern Slavery Act 2015**(a)**—
- (a) section 1 (slavery, servitude and forced or compulsory labour), or
 - (b) section 2 (human trafficking).
- 7.** An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015**(b)**—
- (a) section 1 (offence of human trafficking), or
 - (b) section 4 (slavery, servitude and forced or compulsory labour).
- 8.** Extortion (in Scotland).
- 9.** An offence under section 21 of the Theft Act 1968**(c)** (blackmail).
- 10.** An offence under section 20 of the Theft Act (Northern Ireland) 1969**(d)** (blackmail).
- 11.** An offence under section 3 of the Sexual Offences Act 2003 (sexual assault).
- 12.** An offence under article 7 of the Sexual Offences (Northern Ireland) Order 2008 (sexual assault).
- 13.** An offence under section 3 of the Sexual Offences (Scotland) Act 2009 (sexual assault).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made pursuant to Part 2 of the Children and Social Work Act 2017 (“the Act”), which made changes to the way in which social workers in England are regulated. In particular the Act established a body corporate, Social Work England (“SWE”), as the regulator of social workers in England in place of the Health and Care Professions Council.

Part 2 of the Regulations makes provision about SWE: it enables SWE to appoint advisers who, in addition to advising SWE generally, have functions in relation to the conduct of fitness to practise proceedings; it prescribes the process by which SWE must make any rules under the Regulations; it requires SWE to publish information in relation to its functions as regulator, including a strategic plan setting out how it will meet its objectives; and it sets out the persons or bodies (in addition to Social Care Wales, the Scottish Social Services Council, and the Northern Ireland Social Care Council) with which SWE must co-operate in carrying out its functions under the Act and the Regulations.

Part 3 makes provision for the registration of social workers in England: it sets out requirements in relation to the register of social workers to be maintained by SWE, and the determination of eligibility of a person to be registered; it makes provision about the charging of fees in relation to registration; it sets out the processes for registration and renewal of registration, removal from the register, and restoration to the register; and it provides for a right of appeal to adjudicators, and a further right of appeal to the County Court, from certain registration decisions.

Part 4 makes provision about the approval, by SWE, of social work education and training courses and qualifications, tests of knowledge of English and courses for approved mental health

(a) 2015 c. 30.
 (b) 2015 asp 12.
 (c) 1968 c. 60.
 (d) 1969 c. 16.

professionals: it sets out the process for approval, including provision for inspections of relevant institutions; it provides for conditional approval and for the refusal and withdrawal of approval; and it makes provision about the charging of fees in relation to approval.

Part 5 makes provision about discipline and fitness to practise of social workers in England: it provides for certain offences committed by a social worker to result in that person's automatic removal from the register, subject to a right of appeal to the High Court; it sets out the grounds on which a social worker's fitness to practise may be found to be impaired, and provides for a fitness to practise procedure to be followed where any question arises as to whether a social worker's fitness to practise is impaired. The fitness to practise procedure set out in Schedule 2 provides a three stage procedure, culminating in a fitness to practise hearing before adjudicators, makes provision for the review of orders made, and a right of appeal to the High Court against certain decisions made in that process.

Part 6 imposes restrictions on carrying out social work in England: it provides that a person who is not a registered social worker (other than a person who is registered as a social worker on a register maintained by Social Care Wales, the Scottish Social Services Council, or the Northern Ireland Social Care Council) may not practise as a social worker, or use the title of social worker, or hold themselves out as a qualified social worker; and it provides that a person commits an offence and is liable on summary conviction to a fine, if they contravene those restrictions.

Part 7 contains powers of intervention: it provides that the Professional Standards Authority for Health and Social Care may refer certain registration decisions made by SWE to the High Court; and it gives power to the Secretary of State to investigate and issue remedial directions where SWE has defaulted, or is likely to default, in performing any of its functions under the Act or these Regulations; and it provides for the Secretary of State to appoint another body to take over some or all of SWE's functions for a specified period in the case of persistent default.

Part 8 makes consequential amendments to other legislation.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Education, Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT.

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