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## STATUTORY INSTRUMENTS

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# 2018 No. 893

## The Social Workers Regulations 2018

### 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 <sup>M1</sup>;
  - “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 <sup>M2</sup>[<sup>F1</sup>or section 222 of the Sentencing Code];
  - “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;
  - “interim suspension order” has the meaning given in paragraph 8(5)(a) of Schedule 2;

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- “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 <sup>M3</sup>;
- “register” means the register described in section 39(1) <sup>M4</sup> 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 <sup>M5</sup> 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.

### Textual Amendments

- F1** Words in [reg. 2\(1\)](#) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 440](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

### Marginal Citations

- M1** 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.
- M2** [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.
- M3** 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
- M4** That is, a register of social workers in England.
- M5** [S.I. 2002/254](#).

## PART 2

### The regulator

#### Procedure for making rules

3.—(1) Any rules which the regulator <sup>M6</sup> 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 <sup>M7</sup> submitted pursuant to paragraph (3) and, if the Secretary of State objects to the rules coming into force—

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- (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.

#### **Marginal Citations**

- M6** 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”.
- M7** 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.

#### **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
  - (b) advise it on matters relating to its functions<sup>M8</sup>, 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<sup>M9</sup>, 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.

#### **Marginal Citations**

- M8** 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).
- M9** 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.

#### **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<sup>M10</sup> (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<sup>M11</sup>,

and must be published, and reviewed, at such intervals as the regulator considers appropriate.

(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.

#### **Marginal Citations**

- M10** 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.

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**M11** 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.

### Duty to co-operate

- 7.—(1) The persons specified for the purposes of section 53(1)(d)<sup>M12</sup> 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<sup>M13</sup>,
  - (c) any clinical commissioning group established under section 14D of the National Health Service Act 2006<sup>M14</sup>,
  - (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<sup>M15</sup>,
  - (f) the Care Quality Commission established under section 1(1) of the Health and Social Care Act 2008<sup>M16</sup>,
  - (g) the Office for Standards in Education, Children's Services and Skills established under section 112(1) of the Education and Inspections Act 2006<sup>M17</sup>,
  - (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<sup>M18</sup>,
  - (i) the Disclosure and Barring Service, within the meaning given in section 87(1) of the Protection of Freedoms Act 2012<sup>M19</sup>.
- (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<sup>M20</sup>.

#### Marginal Citations

- M12** 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.
- M13** 2006 c. 41. Section 1H(1) was inserted by section 9(1) of the Health and Social Care Act 2012.
- M14** Section 14D was inserted by section 25(1) of the Health and Social Care Act 2012.
- M15** Section 30 was amended by section 159(1) of the Health and Social Care Act 2012.

**M16** 2008 c. 14.

**M17** 2006 c. 40.

**M18** 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.

**M19** 2012 c. 9.

**M20** 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.

## 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 <sup>M21</sup>.
- (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

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the Council of 7th September 2005 <sup>M22</sup> on the recognition of professional qualifications, as those provisions are amended from time to time.

(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 <sup>M23</sup>.

#### Marginal Citations

**M21** 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.

**M22** 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, 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.

**M23** 1974 c. 53.

#### 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,
- [<sup>F2</sup>(ba) in the case of a social worker registered under regulation 12A (emergency registration) the fact that the social worker has been registered under that regulation,]
- (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.



[<sup>F3</sup>(1A) The information referred to in paragraph (1)(a), (b) or (ba) is not required to be recorded in the register in relation to a social worker registered under regulation 12A as a member of a specified group.]

(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),
- (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.

#### Textual Amendments

- F2** Reg. 9(1)(ba) inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\), s. 87\(1\), Sch. 5 para. 1\(2\)\(a\)](#) (with [ss. 88-90](#)) (subject to expiry in accordance with [s. 89\(1\)\(2\)\(d\)](#) of the modifying Act)

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- F3** Reg. 9(1A) inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\), s. 87\(1\), Sch. 5 para. 1\(2\)\(b\)](#) (with [ss. 88-90](#)) (subject to expiry in accordance with [s. 89\(1\)\(2\)\(d\)](#) of the modifying Act)

**Modifications etc. (not altering text)**

- C1** Reg. 9(2) modified (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\), regs. 1, 3\(2\)\(a\)](#); [S.I. 2019/1436, reg. 2\(b\)](#)

**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).

**Modifications etc. (not altering text)**

- C2** Reg. 10 applied (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\), regs. 1, 4\(2\)\(a\)](#); [S.I. 2019/1436, reg. 2\(b\)](#)
- C3** Reg. 10(2)(b) excluded (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\), regs. 1, 4\(2\)\(b\)](#); [S.I. 2019/1436, reg. 2\(b\)](#)

**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,

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- (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).

**Modifications etc. (not altering text)**

- C4 Reg. 11(3) applied (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **3(2)(b)**; S.I. 2019/1436, reg. 2(b)

**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).

**Modifications etc. (not altering text)**

- C5** Reg. 12(1) excluded (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **3(2)(c)(iii)**; [S.I. 2019/1436](#), reg. 2(b)

**[F4] Temporary registration in emergencies involving loss of human life or human illness etc**

**12A.—(1)** The regulator may register a person as a social worker, or the persons comprising a specified group of persons as social workers, if—

- (a) the Secretary of State has advised the regulator that an emergency has occurred, is occurring or is about to occur and that the regulator should consider acting under this regulation, and
- (b) the regulator considers that the emergency registration requirement is met in relation to the person or group of persons.

**(2)** For the purposes of paragraph (1)(b) the emergency registration requirement is met—

- (a) in relation to a person, if the regulator considers that the person is a fit, proper and suitably experienced person to be registered as a social worker with regard to the emergency;
- (b) in relation to a group of persons, if the regulator considers that the group is comprised of persons who are of a type who may reasonably be considered fit, proper and suitably experienced persons to be registered as social workers with regard to the emergency.

**(3)** The regulator may register all of the persons comprising a specified group of persons without first identifying each person in the group.

**(4)** The registration of a person under this regulation has effect subject to any conditions imposed by the regulator; and the regulator may at any time vary or revoke such a condition or add new conditions.

**(5)** Where a person is registered under this regulation as a member of a specified group, the person's registration may (but need not) be subject to the same conditions as the registration of other members of the group.

**(6)** A person's registration under this regulation ceases to have effect if revoked by the regulator; and the regulator—

- (a) must revoke the registration if the Secretary of State advises the regulator that the circumstances that led the Secretary of State to give the advice referred to in paragraph (1) no longer exist;
- (b) may at any time revoke the registration for any other reason, including where the regulator suspects that the person's fitness to practise may be impaired.

**(7)** A person's registration as a member of a specified group may be revoked—

- (a) without the registration of the other members of the group being revoked, or
- (b) as a result of a decision to revoke the registration of all the members of the group.

**(8)** If a person's registration under this regulation is revoked under paragraph (6)(a), the registration ceases to have effect at the end of the period of 14 days beginning with the day on which it is revoked.

**(9)** If a person's registration under this section is revoked under paragraph (6)(b), the registration ceases to have effect immediately.

**(10)** The following provisions of these regulations do not apply to persons registered under this regulation—

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- (a) regulation 9 (content of the register), other than paragraph (1)(a), (b) and (ba) and paragraphs (1A) and (3);
- (b) regulations 10 to 12 and 13 to 15 (other provisions relating to registration);
- (c) regulation 16(4) and (5) (duty to provide information to regulator: sanctions);
- (d) regulation 17 (fees for registration);
- (e) Part 5 (discipline and fitness to practise).

(11) If a person breaches a condition to which the person's registration under this regulation is subject, anything done by the person in breach of the condition is to be treated as not done by a registered social worker.

(12) The regulator may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions under this regulation.

(13) This includes—

- (a) making rules, and
- (b) issuing guidance to persons registered under this regulation or to the public.

(14) Paragraphs (2) to (5) of regulation 3 do not apply to rules under paragraph (12)(a).

(15) In this regulation “emergency” means an emergency of the kind described in section 19(1) (a) of the Civil Contingencies Act 2004, read with subsection (2)(a) and (b) of that section.]

#### Textual Amendments

**F4** Reg. 12A inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 5 para. 1\(3\)](#) (with [ss. 88-90](#)) (subject to expiry in accordance with [s. 89\(1\)\(2\)\(d\)](#) of the modifying Act)

#### 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<sup>M24</sup> 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).

#### **Marginal Citations**

**M24** 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.

#### **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.

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(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).

(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).

**Modifications etc. (not altering text)**

- C6** Reg. 14 modified in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **19(2)(b)**; [S.I. 2019/1436](#), reg. 2(b)



**C7** Reg. 14 modified in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **3(2)(d)**; [S.I. 2019/1436](#), reg. 2(b)

### **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

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- (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.

**Modifications etc. (not altering text)**

- C8** Reg. 15 applied in part (with modifications) (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **8(3)**; [S.I. 2019/1436](#), reg. 2(b)
- C9** Reg. 15 applied (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **5(2)(a)**; [S.I. 2019/1436](#), reg. 2(b)
- C10** Reg. 15 applied (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **6(2)(b)**; [S.I. 2019/1436](#), reg. 2(b)
- C11** Reg. 15(9)(b) excluded (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **6(2)(c)**; [S.I. 2019/1436](#), reg. 2(b)
- C12** Reg. 15(9)(b) excluded (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **5(2)(b)**; [S.I. 2019/1436](#), reg. 2(b)

**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

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(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<sup>M25</sup> 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<sup>M26</sup>, 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 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.

#### **Marginal Citations**

**M25** [S.I. 2015/2059](#), as amended by [S.I. 2016/1094](#).

**M26** [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.

#### **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

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- (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.
- [<sup>F5</sup>(2A) Paragraph (1) does not apply to—
- (a) a decision by the regulator to refuse to register a person under regulation 12A, or
  - (b) a decision by the regulator to revoke a person's registration under that regulation.]
- (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.

#### **Textual Amendments**

**F5** Reg. 19(2A) inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 5 para. 1\(4\)](#) (with [ss. 88-90](#)) (subject to expiry in accordance with [s. 89\(1\)\(2\)\(d\)](#) of the modifying Act)

#### **Modifications etc. (not altering text)**

**C13** Reg. 19(1) modified (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, [10\(3\)](#); [S.I. 2019/1436](#), reg. 2(b)

## **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”),

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- (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 <sup>M27</sup> (“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) 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 <sup>M28</sup>,
  - (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.

**Modifications etc. (not altering text)**

- C14** Reg. 20(2) modified (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **12(3)(a)**; S.I. 2019/1436, reg. 2(b)
- C15** Reg. 20(4)(a)(b) modified (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **12(3)(b)(c)**; S.I. 2019/1436, reg. 2(b)

**Marginal Citations**

- M27** 1983 c. 20. Section 114ZA was inserted by section 217(2) of the [Health and Social Care Act 2012 \(c. 7\)](#).
- M28** S.I. 2008/1206. There are amendments to this instrument but none is relevant.

**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,
    - (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,

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- (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.

**Modifications etc. (not altering text)**

**C16** Regs. 21-24 excluded in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **12(3)(d)**; [S.I. 2019/1436](#), reg. 2(b)

**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.

**Modifications etc. (not altering text)**

**C16** Regs. 21-24 excluded in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\)](#) ([Social Workers](#)) Regulations 2019 (S.I. 2019/1140), regs. 1, **12(3)(d)**; S.I. 2019/1436, reg. 2(b)

**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.

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**Modifications etc. (not altering text)**

**C16** Regs. 21-24 excluded in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **12(3)(d)**; [S.I. 2019/1436](#), reg. 2(b)

**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.

**Modifications etc. (not altering text)**

**C16** Regs. 21-24 excluded in part (2.12.2019) by [The Children and Social Work Act 2017 \(Transitional and Savings Provisions\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1140\)](#), regs. 1, **12(3)(d)**; [S.I. 2019/1436](#), reg. 2(b)

## PART 5

### Discipline and fitness to practise

#### Modifications etc. (not altering text)

- C17** Pt. 5 applied (with modifications) (2.12.2019) by [The Children and Social Work Act 2017](#) (Transitional and Savings Provisions) (Social Workers) Regulations 2019 (S.I. 2019/1140), regs. 1, 16; S.I. 2019/1436, reg. 2(b)

#### 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<sup>M29</sup> or article 2(2A) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>M30</sup>), 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<sup>M31</sup>), or
  - (h) not having the necessary knowledge of English,

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—

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- (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.

#### **Marginal Citations**

**M29** 2006 c. 47.

**M30** 2007 No. 1351 (N.I. 11). Article 2 was amended by paragraph 76 of Schedule 9 to the [Protection of Freedoms Act 2012 \(c. 9\)](#).

**M31** 2007 asp 14.

#### **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

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(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)<sup>M32</sup> 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).

#### **Marginal Citations**

**M32** 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.

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### **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).

(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.

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Social Workers Regulations 2018. (See end of Document for details)*

### 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) <sup>M33</sup> is amended as follows.

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

#### Marginal Citations

**M33** 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.

#### 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”<sup>M34</sup> substitute “Social Work England”.

#### **Marginal Citations**

**M34** The words “Health and Care Professions Council” were substituted by [S.I. 2012/1479](#).

### **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<sup>M35</sup> are amended as follows.

(2) In regulation 3—

- (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.”.

#### **Marginal Citations**

**M35** [S.I. 2008/1206](#), as amended by [S.I. 2012/1479](#) and [2017/52](#).

### **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<sup>M36</sup> 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)—

*Status: Point in time view as at 01/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Social Workers Regulations 2018. (See end of Document for details)*

- (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.”.

#### Marginal Citations

**M36** [S.I. 2008/1858](#), as amended by [S.I. 2012/1479](#).

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

**45.**—(1) The European Union (Recognition of Professional Qualifications) Regulations 2015 <sup>M37</sup> are amended as follows.

- (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”.

#### Marginal Citations

**M37** [S.I. 2015/2059](#), as amended by [S.I. 2016/1094](#).

#### 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 <sup>M38</sup> are amended as follows.

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

“Social Work England.”.

**Marginal Citations**

**M38** [S.I. 2017/353](#).

Department for Education

*Nadhim Zahawi*  
Parliamentary Under Secretary of State

**Status:**

Point in time view as at 01/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Workers Regulations 2018.