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STATUTORY INSTRUMENTS

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**2022 No. 1216**

**The Social Workers (Amendment and Transitional Provision) Regulations 2022**

**Citation, commencement, extent, application and interpretation**

1.—(1) These Regulations may be cited as the Social Workers (Amendment and Transitional Provision) Regulations 2022.

(2) These Regulations come into force on 16th December 2022.

(3) These Regulations—

(a) extend to England and Wales;

(b) apply to England only.

(4) In these Regulations, “the 2018 Regulations” means the Social Workers Regulations 2018<sup>(1)</sup>.

**Amendment of the 2018 Regulations**

2.—(1) The 2018 Regulations are amended as follows.

(2) In regulation 7 (duty to co-operate), in paragraph (1)(a)(i), (ii) and (vii), after “in England” insert “or elsewhere”.

(3) After regulation 7 insert—

**“Disclosure of information relating to functions**

7A.—(1) Where the regulator receives a request from any person (P) to disclose information to P, the regulator must disclose that information to P where the regulator considers such disclosure—

(a) to relate to any of the regulator’s functions under the Act; and

(b) to be in the public interest.

(2) The regulator may disclose to any person any information relating to a registered social worker’s fitness to practise where the regulator considers the disclosure to relate to any of the regulator’s functions under the Act.

(3) Except as provided by paragraph (4), the disclosure of information under paragraph (1) or (2) does not breach—

(a) any obligation of confidence owed by the person making the disclosure; or

(b) any other restriction on the disclosure of information (however imposed).

(4) Paragraphs (1) and (2) do not authorise a disclosure of information if the disclosure would contravene the data protection legislation, where “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”.

- (4) In regulation 9 (content of the register), in paragraph (4) for “mentioned in paragraph (2)(a), (b) or (d)” substitute “under paragraph 12(3)(b) of Schedule 2”.
- (5) In regulation 14 (removal from the register)—
- (a) omit paragraph (1)(c)(i);
  - (b) after paragraph (1) insert—
    - “(1A) Where a registered social worker—
      - (a) requests the removal of their entry from the register, and
      - (b) at the time of that request, is subject to fitness to practise proceedings, the regulator may remove their entry from the register”;
  - (c) in paragraph (8), in the words before sub-paragraph (a), after “paragraph (1)” insert “or (1A)”;
  - (d) after paragraph (8) insert—
    - “(9) Where an entry relating to a registered social worker is removed from the register pursuant to paragraph (1A), the list referred to in paragraph (8)—
      - (a) may include the particulars of the removal;
      - (b) must not include any information relating to the registered social worker’s physical or mental health.”.
- (6) In regulation 26 (automatic removal from the register)—
- (a) in paragraph (5)(a), omit “subject to paragraph (7),”;
  - (b) omit paragraph (7);
  - (c) in paragraph (8)(b), for “13” substitute “14”.
- (7) In regulation 32 (offences in connection with the provision of information), in paragraph (1)—
- (a) in sub-paragraph (d), for “paragraph 1(3)(a)” substitute “paragraph 1(1A) or (3)(a)”;
  - (b) in sub-paragraph (e), before “investigators” insert “the regulator or”.
- (8) In regulation 34—
- (a) for paragraph (b) substitute—
    - “(b) a decision made under regulation 15(6) (to restore a person to the register after a previous removal order),”;
  - (b) in paragraph (g), for “paragraph 15(2)” substitute “paragraph 15(1) or (2)”.
- (9) Schedule 2 (fitness to practise proceedings) is amended in accordance with the Schedule.
- (10) At the end of Schedule 3 (listed offences) insert—
- “**14.** An offence under the following provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(2)—
    - (a) section 1 (slavery, servitude and forced or compulsory labour);
    - (b) section 2 (human trafficking).”.

### **Amendment of the Health and Social Work Professions Order 2001**

3. In the Health and Social Work Professions Order 2001(3), in article 14 (Education and Training Committee)—

(a) after paragraph (a) insert—

“(b) the establishing of standards and requirements in respect of education and training or continuing professional development, as the case may be, under articles 15(1) and 19(4) and (6);”;

(b) omit paragraph (ba).

### **Amendment of the Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008**

4. In the Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008(4), in regulation 5 (eligibility to carry out a best interests assessment), in paragraph (2)(d), omit “, or a social worker registered in Part 16,”.

### **Transitional provisions**

5.—(1) Paragraph (2) applies in relation to a review of a final order which—

- (a) is made under paragraph 13 of Schedule 2 to the 2018 Regulations; and
- (b) has effect immediately before these Regulations come into force,

where that review takes place after these Regulations come into force.

(2) Paragraph 15(2)(d) of Schedule 2 to the 2018 Regulations (as substituted by paragraph 11(4) (c) of the Schedule to these Regulations) has effect in relation to such a review as if for the words “could have made on the date on which they made the order” there were substituted the words “are able to make”.

(3) In paragraphs (4) and (5), “relevant interim order” means an interim suspension order or an interim conditions of practice order made by an adjudicator under paragraph 8(2) or 11(1) of Schedule 2 to the 2018 Regulations on or after 18th November 2022 but before 16th December 2022.

(4) A relevant interim order must be recorded in the register referred to in section 39(1) of the Children and Social Work Act 2017(5) immediately on the coming into force of these Regulations.

(5) In so far as paragraph 14(1)(b) of Schedule 2 to the 2018 Regulations (as amended by paragraph 10(2) of the Schedule to these Regulations) applies to a relevant interim order, the period of six months in that paragraph begins on the date on which the relevant interim order was made.

(6) For the purposes of regulation 34(g) of the 2018 Regulations (as amended by regulation 2(8) (b) of these Regulations), a decision under paragraph 15(1) of Schedule 2 to the 2018 Regulations is specified for the purposes of section 29(2A) of the National Health Service Reform and Health Care Professions Act 2002(6) only where that decision was taken on or after the date on which these Regulations come into force.

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(3) [S.I. 2002/254](#). Article 14(ba) was inserted by section 218(4) of the Health and Social Care Act 2012 (c. 7). Article 14(b) was inadvertently revoked by regulation 41(1) and (3) of [S.I. 2018/893](#) instead of article 14(ba) as intended. These Regulations correct this error by re-inserting article 14(b) and revoking article 14(ba).

(4) [S.I. 2008/1858](#). Relevant amending instruments are [S.I. 2012/1479](#) and [S.I. 2018/893](#).

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

(6) [2002 c. 17](#). Section 29(2A) is inserted by section 70(2) of, and paragraph 15(2) of Schedule 4 to, the Children and Social Work Act 2017.

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

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21st November 2022

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