

EXPLANATORY MEMORANDUM TO
THE RESTRICTION ON THE PREPARATION OF ADOPTION REPORTS
(AMENDMENT) REGULATIONS 2018

[2018] No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument will make consequential amendments to the Restriction on the Preparation of Adoption Reports Regulations 2005 (the 2005 Regulations) to amend the descriptions of persons prescribed for the purposes of section 94(1) of the Adoption and Children Act 2002 (the 2002 Act) and to update the references to the English and Welsh social work regulators to the Health and Care Professions Council (HCPC) and Social Care Wales respectively. The Health and Social Care Act 2012 requires all social workers in England to be registered with the HCPC and the Regulation and Inspection of Social Care (Wales) Act 2016 provides for the keeping of a register of social workers in Wales.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

Other matters of interest to the House of Commons

- 3.2 This entire instrument applies only to England and Wales.
- 3.3 The instrument applies only to England and Wales because it applies only to adoption policy and functions of local authorities in England and Wales. The instrument does not have minor or consequential effects outside England and Wales.
- 3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this instrument would be within the devolved legislative competence of any of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature.

4. Legislative Context

- 4.1 The instrument amends the Restriction on the Preparation of Adoption Reports Regulations 2005 (the 2005 Regulations). It amends the description of persons prescribed for the purposes of section 94(1) of the 2002 Act by amending the definition of “social worker” and the description of persons prescribed by virtue of participating in specified courses. The instrument also updates references to the English and Welsh social work regulators in light of the Health and Social Care Act 2012 which requires that all social workers in England are registered with the HCPC,

and section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016, which makes provision for a register of social workers in Wales.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales.
- 5.2 The territorial application of this instrument is set out in Section 3 under “Other matters of interest to the House of Commons”.

6. European Convention on Human Rights

- 6.1 The Parliamentary Under Secretary of State for Children and Families, Nadhim Zahawi, has made the following statement regarding Human Rights:

“In our view the provisions of The Restriction on the Preparation of Adoption Reports (Amendment) Regulations 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 This instrument is making consequential amendments to the 2005 Regulations to amend the description of persons prescribed for the purposes of section 94(1) of the 2002 Act and to update the references to the register of social workers in England and Wales. It will ensure that the references to the English social work regulator reflects the changes that were made in the Health and Social Care Act 2012, which required all social workers in England to be registered with the HCPC. These amendments will bring the 2005 Regulations up to date.
- 7.2 The instrument will also update the references to the Welsh regulator as a result of the changes made in the Regulation and Inspection of Social Care (Wales) Act 2016 which makes provision for a Welsh only register of social workers. The Welsh Government would not have been able to make the amendments relating to England using the powers in their 2016 Act, therefore it made sense for the Department to make all the necessary changes in one set of amending Regulations.

Consolidation

- 7.3 The Department has no plans to consolidate the legislation at this stage.

8. Consultation outcome

- 8.1 As this instrument is updating references in the 2005 Regulations no stakeholder consultation was carried out. In accordance with section 94(1) of the Adoption and Children Act 2002 Welsh Ministers were consulted.

9. Guidance

- 9.1 No further guidance is required as a result of this instrument.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 There are no plans to monitor or review this instrument as it makes consequential amendments only.

13. Contact

13.1 Kyri Papasavva at the Department for Education, telephone: 020 7783 8675 or email:kyri.papasavva@education.gov.uk can answer any queries regarding the instrument.