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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend three statutory instruments which contain provisions relating to the regulation of social workers, and include transitional provision with respect to orders made in the context of fitness to practise proceedings.

Regulation 2 amends the Social Workers Regulations 2018 (S.I. 2018/893) (“the 2018 Regulations”).

Paragraph (2) provides that the regulator can co-operate with persons concerned with the employment, education and regulation of social workers other than in England.

Paragraph (3) provides for the disclosure of information. The regulator may disclose such information where it relates to the fitness to practise of a social worker in England and the regulator considers that it relates to its functions. The regulator must disclose such information when a request is received, and the regulator considers it relates to its functions and it is in the public interest to do so. The regulator must comply with data protection legislation in considering disclosure.

Paragraph (4) provides that interim orders and orders made by the case examiners without a hearing may be recorded in the register before any appeal is concluded.

Paragraph (5) provides that the regulator has a discretion as to whether or not to remove a registered social worker from the register where it is requested by the social worker who is subject to fitness to practise proceedings. It also provides that where that social worker is removed from the register in those circumstances, the list of those removed may include the particulars of such removal but must not include information about the registered social worker’s physical or mental health.

Paragraph (6) allows a social worker to be removed from the register immediately where they are automatically removed on conviction for a listed offence (see regulation 26(8) of, and Schedule 3 to, the 2018 Regulations).

Paragraph (7) makes additions to the offences relating to a refusal to provide information in connection with fitness to practice proceedings in consequence of the amendments made to Schedule 2 to the 2018 Regulations.

Paragraph (8) allows certain review decisions to be referred to the High Court.

Paragraph (9) and the Schedule amend Schedule 2 to the 2018 Regulations. Schedule 2 sets out the procedure for fitness to practise proceedings for social workers and the amendments make various changes to the procedures relating to such proceedings. In particular, they provide that interim orders take effect immediately after they are made and make provision for the regulator to review certain decisions made by the case examiners.

Paragraph (10) adds offences under sections 1 and 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2) as listed offences.

Regulation 3 both inserts a provision into the Health and Social Work Professions Order 2001 (S.I. 2002/254) which was erroneously omitted by the 2018 Regulations and omits the provision which was incorrectly inserted.

Regulation 4 amends the Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008 (S.I. 2008/1858) to clarify the scope of an amendment to those Regulations made by the 2018 Regulations.

Regulation 5 makes transitional provision in connection with -

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Social Workers (Amendment and Transitional Provision) Regulations 2022 No. 1216*

- the review of final orders made under paragraph 13 of Schedule 2 to the 2018 Regulations which are in force immediately before these Regulations come into force;
- the publication and review of interim orders made in the 28 days before these Regulations come into force;
- decisions which may be referred to the High Court under the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.