
EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

Part 4 makes provision about the approval, by SWE, of social work education and training courses and qualifications, tests of knowledge of English and courses for approved mental health professionals: it sets out the process for approval, including provision for inspections of relevant institutions; it provides for conditional approval and for the refusal and withdrawal of approval; and it makes provision about the charging of fees in relation to approval.

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

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

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

Status: *This is the original version (as it was originally made).*

Part 8 makes consequential amendments to other legislation.

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