

EXPLANATORY MEMORANDUM TO
THE CHILDREN AND SOCIAL WORK ACT 2017 (CONSEQUENTIAL
AMENDMENTS) (SOCIAL WORKERS) REGULATIONS 2019

2019 No. 1094

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 Part 2 of the Children and Social Work Act 2017 (“the Act”) established Social Work England as the new regulator of social workers in England in place of the Health and Care Professions Council (“the HCPC”). This instrument makes minor technical amendments to a range of secondary legislation in consequence of provisions made by Part 2 of the Act. Amendments are made to reflect the renaming of the Health Professions Order 2001, and the transfer of regulatory functions to Social Work England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Part 2 of the Act established Social Work England as the new regulator of social workers in England in place of the HCPC. This instrument is made under section 66 of the Act, which contains a power to make provision that is consequential on any provision made by the Act.
6.2 The Social Workers Regulations 2018 (SI 2018/893) were made under Part 2 of the Act. They provide the detail as to the functions of Social Work England, and will come into force on the date when section 39(1) of the Act comes into force.

- 6.3 This instrument will also come into force when section 39(1) of the Act comes into force.
- 6.4 Paragraphs 45 and 46 of Schedule 5 to the Act (which will come into force at the same time as section 39(1) of the Act and this instrument) amend the title of the Health Professions Order 2001 (formerly the “Health and Social Work Professions Order 2001”) to reflect the fact that the order no longer applies to the regulation of social workers in England. Section 39(1) of the Act transfers, to Social Work England, the function of maintaining the register of social workers in England. Section 43 gives Social Work England the function of approving courses of education and training for social workers in England, and section 46 of the Act gives power to the Secretary of State to provide financial and other assistance in relation to social work training.
- 6.5 Schedule 1 of the instrument makes amendments to Orders of Council made under the Health Professions Order 2001, which make provision about the functioning of the HCPC. Schedule 2 of the instrument makes amendments consequential to the renaming of the Health Professions Order 2001. Schedule 3 of the instrument makes amendments to reflect the transfer of regulatory functions in relation to social workers in England from HCPC to Social Work England.

7. Policy background

What is being done and why?

- 7.1 Establishing Social Work England is part of Government’s wider social work reform agenda¹, which aims to promote a strong, consistently effective social work profession that is well trained, competent and properly supported to transform the lives of those who are most vulnerable.
- 7.2 Government is confident that moving to a single profession regulator is the best option for social workers, ensuring the development of an in-depth understanding of the profession, the capacity to set profession-specific standards and the opportunity to operate a fitness to practise system able to identify and support those social workers that are not meeting the standards. As with all health and care profession regulators, the impact of the work undertaken by the social work profession requires a regulatory framework established in legislation.
- 7.3 Government ambition in setting up Social Work England has been to establish a flexible and efficient model of professional regulation, which secures public protection, fosters professionalism and is able to adapt swiftly to future developments. The underpinning policy for the Social Workers Regulations 2018 utilises the latest thinking in the regulatory world² to create a modern, agile and proportionate framework, allowing the regulator greater autonomy in setting its own working procedures. This will maximise Social Work England’s capacity to innovate as practice changes.

¹ [Putting Children First](#)

[Department of Health strategic statement for social work with adults in England 2016-2020](#)

² Including the Professional Standards Authority’s [Right touch reform 2017](#) and the 2014 Law Commission’s review: [Regulation of health and social care professionals](#)

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Consolidation is not being undertaken at this time. This instrument makes only minor amendments to other instruments.

10. Consultation outcome

10.1 A consultation exercise was conducted when preparing the Social Workers Regulations 2018. The consultation received 198 responses from a wide range of interested stakeholders. Overall, respondents supported the majority of the proposals. The associated documents can be found here:
www.gov.uk/government/consultations/social-work-england-secondary-legislative-framework.

10.2 No separate consultation exercise has been carried out in relation to this instrument as it only makes minor consequential amendments to secondary legislation and does not change policy.

11. Guidance

11.1 The Department for Education does not intend to produce guidance as the instrument imposes no new obligations on external bodies.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it only makes minor consequential amendments to secondary legislation and does not change policy.

13. Regulating small business

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

14. Monitoring & review

14.1 The approach to monitoring and review of the Social Workers Regulations 2018 is set out in the Explanatory Memorandum to that instrument. No separate monitoring or review of this instrument is considered necessary.

15. Contact

15.1 Tom Sutton at the Department for Education Telephone: 0114 274 2072 or email: tom.sutton@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Sam Olsen, Deputy Director for Social Work Reform, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nadhim Zahawi, Parliamentary Under Secretary of State for Children and Families, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.