

Illustrative Regulations prepared by the Department for Education and the Department of Health to accompany passage of the Children and Social Work Bill through each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

20 No.**

SOCIAL WORK, ENGLAND

The Social Worker Regulations 20**

Made - - - - ***

Coming into force - - ***

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 20(1), 21(1), 22(1)(a), (2), and (3)(a) and (c) to (k), 23, 24(1) and (2), 25, 26, 27, 29, 30, 32(1), (3)(a), (4) and (5), 34, 35 and 43(2) of the Children and Social Work Act 20****(a)**.

In accordance with section 36(1) of that Act the Minister has undertaken a public consultation and has laid such consultation as the Minister considers appropriate.

In accordance with 36(2) of that Act a report by the Secretary of State about the public consultation, has been laid before Parliament.

In accordance with section 44(2) of that Act a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament**(b)**.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Social Worker Regulations 20** and come into force on [date] 20**.

Interpretation

2. In these Regulations—

“approved qualification” has the meaning given in regulation 20(1);

“conditions of practice order” has the meaning given in paragraph 4(c) of Part 3 of Schedule 2;

“determined by the Regulator” means determined by rules made by the Regulator under regulation 3(2);

“fitness to practise investigation” has the meaning given in regulation 25(3);

“interim order” has the meaning given in paragraph 8 of Part 2 of Schedule 2;

“interim suspension order” has the meaning given in paragraph 9(a) of Part 2 of Schedule 2;

“professional standards” has the meaning given in regulation 17(1);

“the register” has the meaning given in regulation 5(1);

“registered” has the meaning in regulation 10(4);

“registered person” has the meaning in regulation 10(4);

“registrar” means the person appointed under regulation 6(1);

“Regulator” has the meaning given in regulation 3(1);

“removal order” has the meaning given in paragraph 4(a) of Part 3 of Schedule 2;

“rules” means rules made by the Regulator under regulation 3(2);

“sufficient knowledge of English” means a knowledge of English which is necessary for safe an effective practise as a social worker in England;

“suspension order” has the meaning given in paragraph 4(b) of Part 3 of Schedule 2;

“warning order” has the meaning given in paragraph 4(d) of Part 3 of Schedule 2.

(a) 2017 c.*.

(b) These are affirmative procedure regulations by virtue of section 20(2) of the Children and Social Work Act ** (“the Act”).

The Regulator

3.—(1) The Regulator is the Secretary of State.

(2) The Regulator may make rules in relation to the Regulator's functions under these Regulations.

(3) The Regulator must co-operate, in so far as is appropriate and reasonably practicable, with public bodies, and other persons, concerned with—

- (a) the employment of social workers in England,
- (b) the education or training of social workers in England,
- (c) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
- (d) the regulation of health, education or social care services,
- (e) the provision, supervision or management of health, education or social care services,
- (f) the regulation of social care in England, and
- (g) the provision, supervision or management of the services of persons engaged in social work in England.

(4) For the purposes of paragraph (3), "public bodies" means—

- (a) the Care Council for Wales,
- (b) the Scottish Social Services Council,
- (c) the Northern Ireland Social Care Council.

Advisers

4.—(1) The Regulator may appoint one or more people, or panels of people, to advise the Regulator on matters relating to the Regulator's functions under these Regulations.

(2) The Regulator may make provision in rules as to—

- (a) the size and membership of any such panel,
- (b) the appointment, suspension and removal of any such person,
- (c) payments to be made to any such person,
- (d) staff, facilities, or other assistance to be provided to any such person or panel.

PART 2

Registration of Social Workers in England

CHAPTER 1

The Register

Register of social workers in England

5.—(1) The Regulator must establish and maintain a register of social workers in England, in accordance with this Part ("the register") which enables—

- (a) information to be recorded in accordance with this Part, and Part 1 of Schedule 1,
- (b) the Regulator, the registrar, any advisers appointed under regulation 4, and any person appointed under regulation 25(5) to access information held on it as necessary to enable them to carry out their functions under these Regulations, and
- (c) the Regulator to publish the information recorded in accordance with this Part, and Part 1 of Schedule 1 (save for any warning order issued following a fitness to practise investigation which is no longer current and was not issued in the preceding 5 years).

- (2) The Regulator must—
- (a) publish the information referred to in paragraph (1)(c) in such manner and at such times as it considers appropriate,
 - (b) make the register available for public inspection at all reasonable times,
 - (c) amend information recorded in the register, where the Regulator is satisfied that the information is incorrect, or that there has been a material change of circumstances since it was recorded.
- (3) Any copy of, or extract from, the register relating to matters falling within paragraph (1)(c) is evidence of the matters mentioned in it.
- (4) A certificate purporting to be signed by the Regulator certifying that a person—
- (a) is, or is not, registered,
 - (b) was, or was not, registered at a specific date or during a specified period,
 - (c) has never been registered,
- is evidence of the matters certified.

Appointment of registrar

- 6.—(1) The Regulator must appoint a registrar.
- (2) The Regulator may delegate any of the Regulator’s functions under this Part to the registrar.
- (3) The Regulator must provide the registrar with such staff, accommodation, services and other facilities as the Regulator thinks necessary or expedient for the proper performance of functions delegated to the registrar.
- (4) Any function delegated to the registrar under paragraph (2) may be carried out by a member of the registrar’s staff nominated by the registrar for that purpose.

CHAPTER 2

Registration

Eligibility for registration

- 7.—(1) In the case of an initial registration, a person is eligible to be registered on the register where the Regulator is satisfied that the person—
- (a) holds—
 - (i) an approved qualification which was awarded—
 - (aa) within such period, not exceeding 5 years, as is determined by the Regulator, or
 - (bb) before the period mentioned in (aa), and has met such requirements as to additional education, training and experience as are determined by the Regulator under regulation 18, or
 - (ii) a qualification from an institution outside the United Kingdom which is not approved under regulation 20 but the Regulator is satisfied following any test of competence which it may require to be taken, that the person has the requisite standard of proficiency as a result of additional training or experience,
 - (b) meets the professional standards, and
 - (c) has a sufficient knowledge of English.
- (2) In the case of a renewal of registration under regulation 11(2), a person is eligible to be registered on the register where the Regulator is satisfied that the person—
- (a) meets the professional standards,

- (b) is capable of safe and effective practise, and
- (c) at the time of the application, or within such period determined by the Regulator, meets any relevant requirements—
 - (i) for continuing professional development, and
 - (ii) if the person has not practised (or has practised less than the period determined by the Regulator since their initial registration or last renewal), meets any requirement as to additional education, training or experience as is determined by the Regulator.

(3) In the case of a person whose registration has lapsed in accordance with regulation 11(1) (other than a person in respect of whom a determination has been made that they are not fit to practise), the person is eligible to be registered on the register where the Regulator is satisfied that the person—

- (a) meets the professional standards, and
- (b) meets requirements as to additional education, training or experience as are determined by the Regulator.

(4) In the case of a person who has been removed from the register in accordance with regulation 13(1), the person is eligible to be restored to the register where the Regulator is satisfied that the person—

- (a) was removed from the register at least five years previously, and no application for restoration to the register has been made by them in the preceding 12 months,
- (b) meets the requirements in paragraph (1)(a),
- (c) meets any requirements as to additional education, training or experience as are determined by the Regulator,
- (d) is a fit and proper person to be registered—
 - (i) having regard to the circumstances which led to them being removed from the register, or
 - (ii) following a review under paragraph 15 of Part 3 of Schedule 2.

Determination of eligibility

8.—(1) The Regulator must consider any question as to the eligibility of a person to be registered, or to continue to be registered, in accordance with this regulation and Part 2 of Schedule 1.

(2) The Regulator must determine and publish information about any evidence, information and documents which are required to demonstrate that a person has a sufficient knowledge of English.

(3) In any case where the Regulator is not satisfied, having considered any evidence, information or documents provided by them, that a person has a sufficient knowledge of English to be eligible to be registered, or to continue to be registered, the Regulator may—

- (a) require the person to undergo an examination or other assessment, and provide information in respect of that examination or assessment, within such period as is determined by the Regulator, or
- (b) require the person to provide further evidence, information or documents within such period as is determined by the Regulator.

(4) In any case where the Regulator is not satisfied that a person is eligible to be registered, the Regulator must notify the person accordingly, and inform them of their right to request a review under regulation 15.

Fees for registration

9.—(1) The Regulator may—

- (a) charge a fee in connection with registration (including renewal of registration and restoration to the register), subject to paragraphs (2) and (3),

- (b) specify circumstances in which a fee for registration is not to be charged, or may be reduced or waived.
- (2) Before setting a fee mentioned in paragraph (1), the Regulator must consult such persons as the Regulator considers appropriate.
- (3) Any fee charged by the Regulator under paragraph (1)—
 - (a) may be set at a level which exceeds the cost of the registration in respect of which it is charged,
 - (b) must be set with a view to ensuring that, so far as possible, the Regulator’s total fee income in any year does not exceed the Regulator’s total expenses in the same year.

Procedure for registration and annotation of entries

- 10.**—(1) The procedure for dealing with—
- (a) applications for registration (including applications for renewal and restoration),
 - (b) suspension of registration under regulation 12(1)(b),
 - (c) removal from the register, and
 - (d) reviews under regulation 15(1),
- must be determined by the Regulator.
- (2) Where a person who is eligible to be registered—
- (a) applies to be registered following any procedure set by rules made under paragraph (1),
 - (b) pays any fee charged in accordance with regulation 9,
- the Regulator must record the information set out in paragraph 1 of Schedule 1 in relation to that person in the register and notify the person accordingly.
- (3) The Regulator must annotate an entry in the register for a registered person, as appropriate, to record the information in paragraphs 2 to 4 of Schedule 1.
- (4) In these Regulations “registered person” means a person who is registered on the register, where their registration has not lapsed or been removed, and “registered” is to be construed accordingly.

Lapse and renewal of entries

- 11.**—(1) A registered person’s registration lapses when their registration has not been renewed within the period for renewal determined by the Regulator, with the proviso that the registration of a registered person does not lapse while they are subject to a fitness to practise investigation.
- (2) A registered person is eligible to have their registration renewed where the Regulator is satisfied that the person has complied with the requirements of regulation 7(2).
- (3) Where a registered person who is eligible to have their registration renewed—
- (a) applies to have their registration renewed,
 - (b) pays any fee charged in accordance with regulation 9,
- the Regulator must record on the register that the person’s registration is renewed.
- (4) In any case where a registered person’s registration lapses, the information required by paragraph 4 of Schedule 1 must be recorded against their entry in the register.

Suspension of registration

- 12.**—(1) Where a registered person’s registration is suspended—
- (a) by virtue of an interim suspension order or a suspension order, or
 - (b) at the Regulator’s discretion in accordance with rules made under regulation 10(1), in relation to a breach of professional standards,

the Regulator must record the relevant information required by paragraph 3 of Schedule 1 against their entry in the register.

(2) A person's registration may only be suspended under paragraph (1)(b)—

- (a) where that person has not met relevant requirements as to continuing professional development,
- (b) for such period as the Regulator specifies, to enable them to meet those requirements.

(3) While the registration of a social worker is suspended under paragraph (1), the social worker must be treated as not being registered but this does not prevent action being taken in respect of such a person as appropriate under Part 4.

Removal from the register

13.—(1) A registered person must be removed from the register where—

- (a) the Regulator is satisfied that their registration was fraudulently procured or incorrectly made,
- (b) following a fitness to practise investigation, the Regulator is satisfied that their fitness to practise is impaired,
- (c) the Regulator is satisfied that they do not have a sufficient knowledge of English,
- (d) the registered person requests the removal, with the proviso that the Regulator may not remove the person while they are subject to a fitness to practise investigation,
- (e) the Regulator is satisfied that the registered person has died.

(2) For the purposes of paragraph (1)(b), a registered person may not be removed from the register before—

- (i) the expiry of the period within which an appeal against the decision may be made, or
- (ii) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

(3) In any case where the Regulator considers that an entry in the register may have been fraudulently procured or incorrectly made, the Regulator must investigate the question in accordance with the procedure in Schedule 3.

Duties to provide information to the Regulator

14.—(1) A person who provides information to the Regulator in support of their application for registration must ensure that the information is accurate.

(2) A registered person must inform the Regulator as soon as practicable if any of the information registered in relation to them ceases to be accurate.

(3) Any person who applies to be registered, and any registered person, must respond as soon as possible to any request from the Regulator for information or evidence relevant to their registration or their continued registration.

Review of decisions in relation to registration and appeals

15.—(1) Where a person applies within the period determined by the Regulator, the Regulator must review—

- (a) subject to paragraph (2), a refusal of an application for registration, restoration or renewal,
- (b) a decision by the Regulator to impose additional conditions which must be satisfied before the person may be registered,
and notify the person of the outcome of that review.

(2) The Regulator may not review a decision under paragraph (1)(a) where the person's application has been refused solely because the person—

- (a) failed to pay the fee for registration, or

- (b) failed to apply in accordance with any procedure set by rules made under regulation 10(1).
- (3) A review under paragraph (1)—
 - (a) must be conducted in accordance with rules made under regulation 10(1), and
 - (b) must afford the person the opportunity of appearing and making representations.
- (4) Where, following a review under paragraph (1), the Regulator upholds the decision being reviewed, the Regulator must inform the person of their right to appeal to the High Court.
- (5) Where paragraph (4) applies, a person may appeal to the High Court against the Regulator’s decision, and the High Court may—
 - (a) dismiss the appeal,
 - (b) allow the appeal and quash the Regulator’s decision,
 - (c) substitute its decision for the Regulator’s decision,
 - (d) remit the matter to the Regulator to be decided in accordance with any directions of the Court,
 - (e) make any order as to costs as it thinks fit.
- (6) No decision removing a social worker from the register against which an appeal to the High Court may be made under paragraph (1) has effect before—
 - (a) the expiry of the period within which such an appeal may be made, or
 - (b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

CHAPTER 3

Restrictions on practice

Restrictions on practice and protected titles

- 16.**—(1) A person may not practise as a social worker in England, unless they are—
- (a) a registered person, or
 - (b) registered as a social worker on a register kept by any of the Care Council for Wales, the Scottish Social Services Council, and the Northern Ireland Social Care Council.
- (2) A person may not use the title of “social worker”, unless they are—
- (a) a registered person, or
 - (b) registered as a social worker on a register kept by any of the Care Council for Wales, the Scottish Social Services Council, and the Northern Ireland Social Care Council.
- (3) A person may not make a false representation as to—
- (a) being a registered person,
 - (b) being registered as a social worker on a register kept by any of the Care Council for Wales, the Scottish Social Services Council, and the Northern Ireland Social Care Council,
 - (c) anything included, or not included, in an entry in the register relating to them,
 - (d) having an approved qualification,
 - (e) having undertaken or completed a course of education or training relevant to social work,
 - (f) having any qualification training or experience which would, if disclosed to the Regulator, be taken into account by the Regulator in considering—
 - (i) an application by that person for registration in the register, or
 - (ii) what information to include in an entry in the register relating to that person, whether before initial registration or before amending an existing entry.

(4) A person may not make a false representation about another person which, if that other person made it, would be contrary to paragraph (3).

PART 3

Professional standards, education and training

CHAPTER 1

Professional standards

Professional standards

17.—(1) The Regulator must determine and publish professional standards^(a) for social workers in England (“professional standards”).

(2) The Regulator must review and update the professional standards as necessary.

(3) Before—

(a) determining the professional standards, or

(b) making a substantial change to the professional standards as a result of a review referred to in paragraph (2),

the Regulator must consult such persons as the Regulator considers appropriate.

CHAPTER 2

Education and training

Standards of education and training

18.—(1) The Regulator must determine and publish standards of education and training in England for persons who are, or who wish to become, social workers.

(2) The Regulator must review and update the standards referred to in paragraph (1) as necessary.

(3) Before—

(a) determining the standards referred to in paragraph (1), or

(b) making a substantial change to those standards as a result of a review referred to in paragraph (2),

the Regulator must consult such persons as the Regulator considers appropriate.

Accreditation scheme

19.—(1) The Regulator must determine and operate a scheme for the accreditation of—

(a) courses of education and training, and

(b) qualifications,

for persons who are, or who wish to become, social workers in England.

(2) The Regulator must make rules in relation to the operation of the scheme, and must publish—

(a) the rules,

(b) the scheme, and

(a) By virtue of section 24(4) of the Act, “professional standards” include standards relating to proficiency, performance, conduct and ethics, and continuing professional training and development.

(c) a list of qualifications which are for the time being approved under the scheme.

(3) The Regulator may charge fees in connection with the operation of the scheme, subject to paragraphs (4) to (6).

(4) Before setting a fee mentioned in paragraph (3), the Regulator must consult such persons as the Regulator considers appropriate.

(5) Any fee charged by the Regulator under paragraph (3)—

(a) may be set at a level which exceeds the cost of the accreditation in respect of which it is charged,

(b) must be set with a view to ensuring that, so far as possible, the Regulator's total fee income in any year does not exceed the Regulator's total expenses in the same year.

(6) Any fee charged by the Regulator under paragraph (3) must be paid within the time determined by the Regulator.

(7) Any fee remaining unpaid may be recovered by the Regulator as a civil debt.

(8) The Regulator may delegate Regulator's assessment functions under this regulation.

Approved qualifications

20.—(1) An approved qualification is a qualification which is—

(a) on a list published by the Regulator under regulation 19(2)(c), or

(b) a qualification from an institution outside the United Kingdom which—

(i) is not on that list, and

(ii) the Regulator is satisfied attests to a standard of proficiency comparable to that attested by a qualification under sub-paragraph (a).

(2) The Regulator must maintain and publish a list of qualifications which—

(a) are for the time being approved under this regulation, or

(b) have been approved under this regulation but which are no longer so approved, together with a record of the periods in respect of which they were approved.

(3) The Regulator must maintain and publish a list of qualifications which the Regulator is satisfied under paragraph (1)(b) are of a comparable standard to qualifications under paragraph (1)(a).

Process for approving qualifications

21.—(1) The Regulator may approve (or authorise another person to approve) a qualification from an institution anywhere in the world, which the Regulator is satisfied confers or would confer the professional standards required under regulation 17.

(2) The Regulator must —

(a) ensure that bodies in the United Kingdom concerned with the education and training of prospective social workers are notified of the standards established under regulation 18 and the requirements established under regulation 19, and

(b) take appropriate steps to satisfy itself that those standards and requirements are met.

(3) The Regulator may request institutions providing an approved qualification to furnish the Regulator with information or assistance in connection with the exercise of its functions under this Chapter within such period as may be specified in the request.

Withdrawal of approval of qualifications

22.—(1) The Regulator may withdraw approval of a qualification where—

(a) an institution fails to respond to a request under regulation 21(3) within the period specified in the request, or

- (b) the Regulator is satisfied on the basis of evidence obtained under regulation 21(3) that—
 - (i) the courses of education and training, or the qualifications, provided would not enable social workers, or persons wishing to become social workers, to meet the standards required under regulation 18, or
 - (ii) an institution is not observing or meeting the requirements determined under regulation 19(1) or in rules made under regulation 19(2).
- (2) Before withdrawing approval under paragraph (1), the Regulator must—
 - (a) notify the institution concerned, setting out its reasons, and
 - (b) inform the institution of the period within which it may make observations on the matters raised.
- (3) The Regulator must take no further steps to withdraw approval of a qualification under paragraph (1) before the end of the period specified under subparagraph (2)(b).
- (4) The Regulator must notify the institution of a decision to withdraw approval under paragraph (1) and its reasons.
- (5) The decision under paragraph (4) has effect from—
 - (a) the date of the decision, or
 - (b) such later date as may be specified in the decision.
- (6) The withdrawal of approval of a qualification does not affect the entitlement of any person to be registered on the basis of an award of that qualification before the date on which the decision withdrawing approval had effect.

Review of decisions in relation to accreditation and appeals

- 23.**—(1) Where an institution applies within the period determined by the Regulator, the Regulator must review—
- (a) a refusal by the Regulator to approve a qualification,
 - (b) a decision by the Regulator to withdraw approval of a qualification under regulation 22(1)
- in accordance with rules made under regulation 19(2), and notify the institution of the outcome of that review.
- (2) Where, following a review under paragraph (1), the Regulator upholds the decision being reviewed, the Regulator must inform the institution of its decision.

PART 4

Discipline and fitness to practise

Discipline and fitness to practise

- 24.**—(1) A person is not fit to practise where their fitness to practise is impaired by reason of—
- (a) misconduct,
 - (b) lack of competence,
 - (c) deficient professional performance,
 - (d) a conviction or caution in the United Kingdom for a criminal offence,
 - (e) a conviction not falling within sub-paragraph (d) for an offence which, if committed in England and Wales, would constitute a criminal offence,
 - (f) adverse physical or mental health,
 - (g) a determination, by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession, to the effect that the person's fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect,

- (h) being included—
 - (i) by the Disclosure and Barring Service in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or
 - (ii) by the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007),
- (i) not having a sufficient knowledge of English.

(2) For the purposes of paragraph (1)(a), it is irrelevant where the misconduct is alleged to have taken place, and whether it is alleged to have occurred before the social worker was registered.

(3) For the purposes of paragraph (1)(d) and (e), references to a conviction include references to a Court Martial.

Fitness to practise investigation

25.—(1) The Regulator must instigate and conduct a fitness to practise investigation in any case where a question arises as to a person's fitness to practise.

(2) The Regulator must make rules setting out the procedure relating to fitness to practise investigations.

(3) A "fitness to practise investigation" means the investigation set out in Schedule 2, and any such investigation must be carried out in accordance with that Schedule and any rules made under paragraph (2).

(4) The standard of proof applicable to fitness to practise investigations is that applicable to civil proceedings.

(5) The Regulator must appoint—

- (a) B, and where applicable, C and D, in relation to a fitness to practise investigation,
- (b) where applicable, E, in relation to an investigation under regulation 13(3),

and any person, or panel of people, so appointed must carry out the Regulator's functions in relation to the fitness to practice investigation, or the investigation under regulation 13(3), as set out in Schedule 2, or Schedule 3 (as the case may be).

(6) For the purposes of a fitness to practise investigation, the Regulator may require any person (other than the social worker in question) to supply information or produce any document—

- (a) where it appears to the Regulator that—
 - (i) the person is able to supply that information or produce the document, and
 - (ii) the information or document is relevant to the determination of the social worker's fitness to practise, and
- (b) which a person could be compelled to supply or produce in civil proceedings in the High Court of Justice.

(7) As soon as is reasonably practicable after a question arises as to whether a social worker's fitness to practise is impaired, the Regulator must notify the social worker in writing that the social worker must provide the Regulator with details of—

- (a) any person—
 - (i) by whom the social worker is employed as a social worker, or
 - (ii) in relation to whom the social worker has acted in the capacity of social worker, and
- (b) any body by which the social worker is authorised to practise, anywhere in the world, a health or social care profession which is regulated under any enactment.

(8) The information required under paragraphs (6) and (7) must be provided to the Regulator as soon as reasonably practicable, but nothing in those paragraphs requires or permits any disclosure of information which is prohibited by or under any other enactment (but where information is held in a form in which this prohibition operates because the information is capable of identifying an

individual, the Regulator may require that the information be put into a form which is not capable of identifying that individual).

PART 5

Offences

Offences in connection with registration, restrictions on practice and protected titles

26. A person (“X”) commits an offence if they use the title of “social worker” in breach of regulation 16(2), with intent to deceive (whether expressly or by implication).

27. A person (“X”) commits an offence if, with intent to deceive (whether expressly or by implication), and in breach of regulation 16(3), X—

- (a) falsely claims to be registered,
- (b) makes a false representation as to—
 - (i) anything included, or not included, in an entry in the register relating to them,
 - (ii) having an approved qualification,
 - (iii) having undertaken or completed a course of education or training relevant to social work.

28. A person (“X”) commits an offence if—

- (a) with intent that any person is deceived (whether expressly or by implication), X causes or permits another person to make any representation about X which, if made by X with intent to deceive, would be an offence under regulation 27, or
- (b) with intent to deceive (whether expressly or by implication), X makes with regard to another person any representation which—
 - (i) X knows to be false, and
 - (ii) if made by the other person with that intent would be an offence by X under regulation 27.

Offences in connection with provision of evidence

29. A person (“X”) commits an offence if, without reasonable excuse—

- (a) where X is not the social worker concerned, X fails to comply with any requirement to produce evidence imposed by the Regulator carrying out a review under regulation 15(1)(a) in relation to an application for registration, restoration or renewal,
- (b) X fails to comply with any requirement imposed by the Regulator under regulation 25(6) or (7), or
- (c) where X is not the social worker concerned, X fails to comply with a requirement in rules made under regulation 25(2) to attend and give evidence at, or to produce documents to, a fitness to practise investigation.

Offences in connection with providing false or misleading information

30.—(1) It is an offence for an individual to fraudulently procure, or to try to fraudulently procure, the making, amendment, removal or restoration of an entry in the register by providing information, or by failing to provide information, in breach of any requirement of regulation 14.

(2) For the purposes of paragraph (1), an entry which has been restored to the register is treated as having been fraudulently procured if any previous entry from which it is derived was fraudulently procured.

Penalties

31. A person who is guilty of an offence under this Part is liable on summary conviction to a fine.

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department of Health

SCHEDULE 1 Regulations 8(1), and 10(2) and (3) Registration

PART 1

Information to be registered

1. The following information must be recorded in the register in relation to all registered persons—

- (a) the person's name,
- (b) the reference number assigned to the person's entry by the Registrar,
- (c) the date of registration,
- (d) the approved qualification held by them,
- (e) any other qualification held by them, or any competence in a particular field or at a particular level of practise set by the Regulator.

2. The following information may be recorded in relation to a registered person—

- (a) any qualification,
 - (b) accreditation,
 - (c) specialism, or
 - (d) competence,
- held by the registered person.

3. The following additional information must be recorded in the register in relation to a registered person—

- (a) where the registered person has been the subject of an interim order—
 - (i) a statement to that effect,
 - (ii) detail of the interim order made, and
 - (iii) any conditions imposed,
- (b) where the registered person has been the subject of a determination that their fitness to practise is impaired—
 - (i) a statement to that effect,
 - (ii) detail of any removal order, suspension order, conditions of practice order or warning order made,
 - (iii) detail of any advice issued,

- (c) where the registered person has been the subject of a fitness to practise inquiry which determined that their fitness to practise is not impaired—
 - (i) a statement to that effect, and
 - (ii) detail of any conditions of practice order or warning order made, or any advice issued as a result of that inquiry,
 - (d) where the registered person is the subject of an order referred to in any of paragraphs (a) to (c), whether that order has been varied, replaced or revoked in relation to the person,
 - (e) where the person's registration is restored after a fitness to practise investigation, that fact.
4. The following additional information must be recorded in the register where the registration of a person lapses or has been removed—
- (a) the date of the lapse, or the removal (as the case may be),
 - (b) the reason for the lapse, or the removal (as the case may be).

PART 2

Assessment as to sufficient knowledge of English

1. The Regulator must make rules authorising the giving of directions by any person specified in the rules requiring a social worker to undertake an examination or other assessment of that person's knowledge of English.

2. Any such examination or other assessment must be made in accordance with rules.

3. The rules must, in particular, provide for—

- (a) the procedures to be followed by such persons when directing the person concerned to undertake such an examination or other assessment,
- (b) the person who is required to undertake such an examination or other assessment, to provide information in respect of that examination or assessment to such persons as may be required by the rules,
- (c) the information provided by virtue of paragraph (b) to be disclosed to such persons as may be required by the rules

and may make provision for the Regulator to draw such inferences as the Regulator considers appropriate if a person fails to undergo an examination or other assessment, or fails to provide the information required.

SCHEDULE 2

Regulation 25(3)

Fitness to practise investigations

PART 1

Preliminary consideration

Preliminary consideration

1. Where a question arises as to whether a social worker's fitness to practise is impaired, B must determine whether there are reasonable grounds for investigating whether the social worker's fitness to practise is impaired by reason of any of the matters referred to in regulation 24(1)(a) to (i).

2. Where—

- (a) B determines that there are no reasonable grounds for investigating the social worker's fitness to practise, and
- (b) the fitness to practise investigation was instigated following an allegation against the social worker,

the Regulator must inform the person who made the allegation and give reasons.

3. Where B determines that there are reasonable grounds for investigating whether the social worker's fitness to practise is impaired, B must inform the Regulator.

PART 2

Investigation

Investigation

1. Where a determination is made under paragraph 3 of Part 1, C must—

- (a) notify the social worker of the grounds for investigating their fitness to practise,
- (b) invite the social worker to submit written representations within such period as C determines.

2. Where C sees fit, C must—

- (a) notify any person who has made an allegation against the social worker of any written representations submitted by the social worker, and
- (b) invite that person to respond within a specified period with any points raised by C in respect of those representations.

3. C must take such other steps as are reasonably practicable to obtain as much information as possible about the case.

4. C must determine whether there is a case to answer, and give reasons for that decision.

5. Where—

- (a) C determines that there is no case to answer, and
- (b) the fitness to practise investigation was instigated following an allegation against the social worker,

the Regulator must inform the person who made the allegation and give reasons.

6. Where C determines that there is a case to answer, C must inform the Regulator.

Interim Orders

7. C may make an order under paragraph 9 where—

- (a) B made a determination under paragraph 3 of Part 1,
- (b) a determination has not yet been made by C under paragraph 4 and
- (c) C is satisfied that an order under paragraph 9 is necessary—
 - (i) for the protection of members of the public,
 - (ii) is otherwise in the public interest, or
 - (iii) is in the interests of the person concerned.

8. Where, at any point during C's investigation, C is minded to make an interim suspension order or an interim conditions of practice order (an "interim order"), C must inform the social worker and afford them the opportunity of—

- (a) appearing before C, and

(b) making representations on the question whether such an order should be made, and at any such hearing, the social worker is entitled to be represented whether by a legally qualified person or otherwise

9. Subject to paragraph 8, C may make an interim order to—

- (a) suspend the social worker’s registration (an “interim suspension order”), or
- (b) impose conditions with which the social worker must comply (an “interim conditions of practice order”),

for such period, not exceeding eighteen months, as is specified in the order.

10. C must notify the social worker giving its reasons where it makes an interim suspension order or a conditions of practice order and must notify the social worker of the right to appeal to the High Court under paragraph 19.

11. C must when—

- (a) making, varying, replacing or revoking an order under paragraph 9, or
- (b) when an order C has made ceases to have effect,

give such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

12. C may apply to the High Court for an interim order to be extended and, on such an application, the High Court may extend (or further extend) the period for which the order has effect for up to 12 months.

Review of interim order by C

13. C must review an interim order, including an extended or varied interim order—

- (a) within the period of six months beginning on the date on which the order was made,
- (b) thereafter, before the end of the period of three months, beginning on the date of the decision of the immediately preceding review, for so long as the order continues in force, and
- (c) where new evidence relevant to the order has become available after the making of the order.

14. On a review C may, subject to paragraph 16—

- (a) revoke the order,
- (b) revoke or vary any condition imposed by the order,
- (c) confirm the order,
- (d) replace an interim conditions of practice order with an interim suspension order (or vice versa) having effect for the same period, if satisfied that to do so is necessary or appropriate—
 - (i) for the protection of members of the public,
 - (ii) otherwise in the public interest, or
 - (iii) is in the interests of the person concerned.

15. C must notify the social worker giving its reasons where it varies or confirms an order under paragraph 14 and must notify the social worker of the right to appeal to the High Court under paragraph 19.

16. No action under paragraph 14 may be made by C in respect of a social worker unless the social worker has been afforded an opportunity of—

- (a) appearing before C, and
- (b) making representations on the question of whether such an order should be made.

17. At any such hearing, the social worker is entitled to be represented, whether by a legally qualified person or otherwise.

18. C must when—

- (a) it varies, replaces or revokes an order under paragraph 14, or
- (b) when an order it has made ceases to have effect,

give such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

Appeal against interim order

19. Where an interim order has effect, the High Court may, on an application being made by the social worker—

- (a) in the case of an interim suspension order, terminate the suspension,
- (b) in the case of an interim conditions of practice order, revoke or vary any condition imposed by the order,
- (c) in the case of any interim order, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it).

PART 3

Fitness to practise hearing

Hearing following determination by C

1. Where C determines, under paragraph 4 of Part 2, that there is a case to answer, D must—

- (a) notify the social worker of that determination,
- (b) hold a hearing in order to decide whether the social worker's fitness to practise is impaired, and
- (c) give reasons for the decision.

2. At any such hearing, the social worker is entitled to be represented whether by a legally qualified person or otherwise.

3. Where D is not satisfied that the social worker's fitness to practise is impaired—

- (a) D must inform the social worker, and give reasons, and
- (b) where the fitness to practise investigation was instigated following an allegation against the social worker, D must inform the person who made the allegation, and give reasons.

4. Where D determines that the social worker's fitness to practise is impaired, D may—

- (a) order that person's name be removed from the register (a "removal order"),
- (b) order the registration of the person be suspended for a specified period (a "suspension order"),
- (c) order that the person must comply with conditions for a specified period which must not exceed three years (a "conditions of practice order"), or
- (d) issue a warning to the person concerned (a "warning order"),
- (e) give advice to the person concerned,
- (f) take no action.

5. D must inform the social worker of the action taken under paragraph 4 and, where the fitness to practise investigation was instigated following an allegation against the social worker, D must inform the person who made the allegation.

6. No order under paragraph 4 may be made by D in respect of a social worker unless that person has been afforded an opportunity of—

- (a) appearing before D, and
- (b) making representations on the question whether such an order should be made.

7. A warning order must specify the period during which detail of the order is to be recorded on the register, which must be not less than one year, and not more than 5 years.

8. D may not make a removal order on the ground that a person is unfit to practise by reason of—

- (a) lack of competence,
- (b) deficient professional performance,
- (c) adverse physical or mental health, or
- (d) not having a sufficient knowledge of English,

unless the person has been continuously suspended by virtue of an interim suspension order, or subject to conditions by virtue of an interim conditions order, for a period of not less than two years immediately preceding the date of the decision to make such an order.

9. D must specify in an order under paragraph 4 a period within which an application to review, vary, replace or revoke the order may not be made.

10. No order mentioned in paragraph 4 has effect—

- (a) before the expiry of the period within which an appeal against the order may be made, or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

Review of order by the Regulator

11. Subject to paragraph 9, where an application is made to review, vary, replace or revoke an order under paragraph 4, the Regulator must review—

- (a) a suspension order,
- (b) a warning order, or
- (c) a conditions of practice order.

12. On a review under paragraph 11, subject to paragraphs 13, 14 and 17, the Regulator may—

- (a) confirm the order,
- (b) revoke or vary the order,
- (c) extend, or further extend, the period for which the order has effect,
- (d) reduce the period for which the order has effect,
- (e) make any order which D could have made under paragraph 4,
- (f) make a conditions of practice order with effect from the expiry of a suspension order.

13. The Regulator may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

14. The Regulator may revoke a suspension order subject to the social worker satisfying such requirements as to additional education, training or experience as the Regulator may determine.

15. Where new evidence relevant to a removal order becomes available after the making of the order, or by virtue of a decision made on appeal under paragraph 18, the Regulator may review it

and determine whether the social worker is restored to the register in accordance with regulation 7(4).

16. A conditions of practice order, a suspension order or a warning order which is in force by virtue of a decision made on appeal under paragraph 18 may be reviewed in accordance with paragraph 11.

17. Before the Regulator exercises its powers under paragraphs 11 to 16 the social worker must be afforded an opportunity to—

- (a) make representations to the Regulator, and
- (b) be represented whether by a legally qualified person or otherwise.

Appeal

18. The social worker may appeal to the High Court, against—

- (a) a removal order, a suspension order, a conditions of practice order, or a warning order, or
- (b) a decision by the Regulator not to revoke or vary such an order.

19. Any such appeal must be brought before the end of the period of 28 days beginning with the date on which the order, or the decision appealed against, is made.

20. On the hearing of such an appeal, the court may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the decision appealed against,
- (c) substitute for the decision appealed against any other decision D or the Regulator (as the case may be) could have made,
- (d) remit the case to D or the Regulator (as the case may be), to be disposed of in accordance with the directions of the court,
- (e) make such order as to costs as it thinks fit.

SCHEDULE 3

Regulation 13(3)

Procedure for determining whether entries in the register have been fraudulently procured or incorrectly made

Investigation

1. Where a question arises as to whether an entry in the register relating to a registered person has been fraudulently procured or incorrectly made, E must,

- (a) notify the registered person of the grounds for investigating whether an entry in the register relating to that person has been fraudulently procured or incorrectly made,
- (b) invite the registered person to submit written representations within such period as E determines,
- (c) where E sees fit—
 - (i) notify any person who has made an allegation against the registered person of the representations mentioned in paragraph (b), and
 - (ii) invite that person to deal within a specified period with any points raised by E in respect of those representations,
 - (iii) take such other steps as are reasonably practicable to obtain as much information as possible about the case.

Decision

2. Where on an investigation under paragraph 1 —

- (a) E decides that the entry in question has not been fraudulently procured or incorrectly made, and
- (b) the investigation under this Schedule arose following an allegation against the registered person,

E must inform the person who made the allegation the allegation and give reasons for the decision.

3. Where E determines that an entry in the register has been fraudulently procured or incorrectly made, E —

- (a) may make an order that the person's name be removed from the register, or the entry in the register is amended, and
- (b) must notify the person of E's decision, and of the right to request a review under paragraph 4.

Review and appeals

4. Where—

- (a) the registered person applies within the period determined by the Regulator, or
- (b) E decides of its own initiative to hold a review,

E must review the decision to make an order that the person's name be removed or the entry amended, and notify the person of the outcome of that review.

5. Where, following a review under paragraph 4, E upholds the decision being reviewed, E must inform the person of their right to appeal to the High Court.

6. Where paragraph 5 applies, a person may appeal to the High Court against E's decision, and the High Court may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash E's decision,
- (c) substitute its decision for E's decision,
- (d) remit the matter to E to be decided in accordance with any directions of the Court, and
- (e) may make any order as to costs as it thinks fit.

7. No order under paragraph 3(a) against which an appeal to the High Court may be made under paragraph 6 has effect before—

- (a) the expiry of the period within which such an appeal may be made, or
- (b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

EXPLANATORY NOTE

(This note is not part of the Regulations)