
WELSH STATUTORY INSTRUMENTS

2020 No. 1626 (W. 341)

**EXITING THE EUROPEAN UNION, WALES
SOCIAL CARE, WALES
PROFESSIONAL QUALIFICATIONS, WALES**

The Regulation and Inspection of Social Care (Qualifications)
(Wales) (Amendment) (EU Exit) Regulations 2020

Made - - - - 21 December 2020

Coming into force in accordance with regulation 1(2)

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018⁽¹⁾ (“the 2018 Act”) and sections 12 and 14 of, and paragraph 12 of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020⁽²⁾ (“the 2020 Act”).

In accordance with paragraph 1(9) of Schedule 7 to the 2018 Act and paragraph 3(5) of Schedule 4 to the 2020 Act, a draft of this instrument has been laid before and approved by a resolution of Senedd Cymru.

As required by paragraph 4(a) of Schedule 2 to the 2018 Act, the Secretary of State has been consulted during the preparation of these Regulations.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2020.

(2) These Regulations come into force immediately before IP completion day⁽³⁾.

(3) These Regulations apply in relation to Wales.

(1) 2018 c. 16 (“the 2018 Act”). See section 20(1) of the 2018 Act for the definition of “devolved authority”. Paragraph 21 of Schedule 7 to the 2018 Act was amended by section 41(4) of, and paragraph 53(1) and (2) of Schedule 5 to, the European Union (Withdrawal Agreement) Act 2020.

(2) 2020 c. 1 (“the 2020 Act”). See sections 12(8) and 14(6) of the 2020 Act for the definition of “appropriate authority” and section 39(1) of that Act for the definition of “devolved authority”.

(3) “IP completion day” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020, see section 39(1) to (5) of that Act.

(4) In these Regulations, “the 2019 Regulations” means the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019(4).

Amendment of the 2019 Regulations

2. The 2019 Regulations are amended as follows.
3. In regulation 1 (title, commencement, application and interpretation)—
 - (a) in paragraph (2) omit “Subject to paragraph (3),”;
 - (b) omit paragraph (3).
4. In Part 1 (amendments to legislation), for regulation 14 substitute—

“14. In Schedule 1 (regulated services: definitions), in paragraph 7(4) (advocacy services), for paragraph (b) substitute—

“(b) a person for whom one of the following provisions has effect so as to allow that person to continue to practise as a lawyer in England and Wales and Northern Ireland, or Scotland, on or after IP completion day—

 - (i) regulation 5 (transitional provision: the 1978 Order and Switzerland) of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020(5) (“the 2020 Regulations”);
 - (ii) regulation 5 (transitional provision: the European Communities (Services of Lawyers) Order 1978 and Switzerland) of the Services of Lawyers and Lawyer’s Practice (EU Exit) (Scotland) (Amendment etc.) Regulations 2019(6) (“the 2019 Regulations”);
 - (iii) regulation 6 (transitional provision: the 2000 Regulations and Swiss lawyers) of the 2020 Regulations;
 - (iv) regulation 7 (transitional provision: the European Communities (Lawyer’s Practice) (Scotland) Regulations 2000 and Swiss lawyers) of the 2019 Regulations.””

Insertion of interpretation provision

5. In Part 2 (savings and transitional provision) of the 2019 Regulations, before regulation 16 insert—

“Interpretation of Part 2

15A. In this Part—

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the European Communities (Recognition of Professional Qualifications) Regulations 2007(7) as—

- (a) before IP completion day they continued to apply by virtue of—
 - (i) regulation 78 of the European Union (Recognition of Professional Qualifications) Regulations 2015;

(4) [S.I. 2019/761 \(W. 144\)](#) (“the 2019 Regulations”). The reference to “exit day” in regulation 1(2) of the 2019 Regulations is to be read as a reference to “IP completion day” by virtue of paragraph 1 of Schedule 5 to the 2020 Act.

(5) [S.I. 2020/1342](#)

(6) [S.S.I. 2019/127](#).

(7) [S.I. 2007/2781](#). [S.I. 2007/2781](#) was revoked by [S.I. 2015/2059](#) but continued to apply in relation to Swiss nationals before IP completion day by virtue of regulation 78 of [S.I. 2015/2059](#) and regulation 155 of [S.I. 2016/1030](#).

- (ii) regulation 155 of the European Qualifications (Health and Social Care Professions) Regulations 2016⁽⁸⁾; and
- (b) after IP completion day, they continue to apply under Part 3 of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019⁽⁹⁾ ;
“the 2015 Regulations” (“*Rheoliadau 2015*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015⁽¹⁰⁾;
“Directive 2005/36” (“*Cyfarwydddeb 2005/36*”) means [Directive 2005/36/EC](#) of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as it had effect immediately before IP completion day;
“enforceable EU right” (“*hawl EU orfodadwy*”) means a right recognised and available in domestic law immediately before IP completion day, by virtue of section 2(1) of the European Communities Act 1972⁽¹¹⁾;
“existing contract” (“*contract presennol*”) means a written contract which was concluded, and the performance of which started, before IP completion day;
“relevant applicant” (“*ymgeisydd perthnasol*”) means a person—
 - (a) who provides services as a social worker or social care manager in the United Kingdom on a temporary and occasional basis on the basis of an existing contract,
 - (b) who began providing, or begins to provide a service mentioned in paragraph (a), either—
 - (i) before IP completion day, as an employee or in a self-employed capacity, or
 - (ii) on or after IP completion day, as an employee posted for the purpose of carrying on social work or work as a social care manager in the United Kingdom by their employer who is established in the United Kingdom or Switzerland,
 - (c) who is—
 - (i) a national of the United Kingdom,
 - (ii) a national of Switzerland, or
 - (iii) a third country national, who was, immediately before IP completion day, by virtue of any enforceable EU right entitled to be treated no less favourably than a national of either the United Kingdom or Switzerland for the purposes of access to and the pursuit of social work or work as a social care manager,
 - (d) who is lawfully established in Switzerland for the purpose of access to and the pursuit of social work or work as a social care manager there,

⁽⁸⁾ [S.I. 2016/1030](#).

⁽⁹⁾ [S.I. 2019/312](#), amended by [S.I. 2020/1038](#); Schedule 1 to [S.I. 2019/312](#) amends the European Communities (Recognition of Professional Qualifications) Regulations 2007 ([S.I. 2007/2781](#)) and the European Union (Recognition of Professional Qualifications) Regulations 2015 ([S.I. 2015/2059](#)) and contains saving and transitional provisions relating to each of those instruments. [S.I. 2007/2781](#) was revoked with savings by [S.I. 2015/2059](#) and by [S.I. 2019/312](#). [S.I. 2015/2059](#) is amended by paragraph 389 of Schedule 19 to the Data Protection Act 2018 (c. 12), and by [S.I. 2016/696](#), [1094](#) and [1030](#), [2018/838](#) and [1101](#) and [2019/89](#) and [312](#). As a result of the application of paragraph 1 of Schedule 5 to the 2020 Act, provisions in [S.I. 2019/312](#) expressed to come into force on exit day are to be read instead as coming into force on IP completion day.

⁽¹⁰⁾ [S.I. 2015/2059](#).

⁽¹¹⁾ [1972 c. 68](#). Section 2 was repealed, subject to savings, by the European Union (Withdrawal) Act 2019 (c. 16), section 1.

- (e) who, if neither the profession of social worker or social care manager that the person wishes to access and pursue in the United Kingdom nor the education and training leading to it is regulated in Switzerland, has pursued that profession in Switzerland for at least 2 years during the 10 years preceding the provision of services;

“relevant European State” (*“Gwladwriaeth Ewropeaidd berthnasol”*) means an EEA State or Switzerland;

“relevant qualification” (*“cymhwyster perthnasol”*) means—

- (a) a professional qualification obtained in an EEA State or Switzerland before IP completion day;
- (b) a professional qualification started in an EEA State or Switzerland but not completed before IP completion day;
- (c) a third country professional qualification recognised by a competent authority in Switzerland pursuant to Article 2(2) of Directive 2005/36 before IP completion day;
- (d) a third country professional qualification for which an application for recognition pursuant to Article 2(2) of Directive 2005/36 has been submitted to a competent authority in Switzerland before IP completion day, where that application is successful,

and for the purposes of this definition, “professional qualification” means a qualification relevant to the pursuit of social work or work as a social care manager;

“Swiss citizens’ rights agreement” (*“cytundeb ar hawliau dinasyddion Swisaidd”*) means (as modified from time to time in accordance with any provision of it) the Agreement signed at Bern on 25 February 2019 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens’ rights following the withdrawal of the United Kingdom from—

- (a) the European Union, and
- (b) the free movement of persons agreement,

so far as the Agreement operates for the purposes of the case where “specified date” for the purposes of that Agreement has the meaning given in Article 2(b)(ii) of that Agreement;

“Swiss recognition period” (*“cyfnod cydnabod Swisaidd”*) means the period of four years beginning with the day immediately after IP completion day;

“third country” (*“trydedd wlad”*) has the same meaning as in regulation 2(1) of the 2007 Regulations;

“visiting practitioner transitional period” (*“cyfnod trosiannol ymarferwyr sydd ar ymweliad”*) means—

- (a) the period of five years beginning with IP completion day (see Article 23(1) of the Swiss citizens’ rights agreement), or
- (b) if the period in paragraph (a) is extended in accordance with Article 23(2) of that Agreement, that period as extended.”

Insertion of general saving in connection with actions taken etc. before IP completion day

6. After regulation 15A (interpretation of Part 2) of the 2019 Regulations (as inserted by regulation 5), insert—

“Actions taken, decisions made etc. before IP completion day

15B. The amendments made by Part 1 to the 2016 Act do not affect the validity of any action or decision taken, or right or liability accrued, before IP completion day under that Act, except as provided by any saving or transitional provision made by this Part.”

Insertion of provision concerning administrative co-operation

7. After regulation 15B (actions taken, decisions made etc. before IP completion day: general saving) of the 2019 Regulations (as inserted by regulation 6), insert—

“Administrative cooperation under the EEA EFTA citizens’ rights agreement

15C.—(1) Where a person, before IP completion day, made an application under Article 26 of the EEA EFTA citizens’ rights agreement to a competent authority in Iceland, Norway or Liechtenstein for recognition of a professional qualification awarded or recognised by Social Care Wales, Social Care Wales must—

- (a) cooperate with the competent authority in Iceland, Norway or Liechtenstein, or with the person (as the case may be), in accordance with the general cooperation provision, and
- (b) provide information to the competent authority in Iceland, Norway or Liechtenstein regarding disciplinary action taken or criminal sanctions imposed, or any other serious, specific circumstances which are likely to have consequences for the pursuit of professional activities by that individual.

(2) Social Care Wales must process information for the purposes of paragraph (1) in accordance with “the data protection legislation” within the meaning of section 3(9) of the Data Protection Act 2018⁽¹²⁾.

(3) In this regulation—

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the 2015 Regulations⁽¹³⁾ as they had effect immediately before IP completion day subject to the modification that any reference to “the Care Council for Wales” is to be read as if there were substituted “Social Care Wales”;

“competent authority” (“*awdurdod cymwys*”), in relation to Iceland, Norway and Liechtenstein, means a body in Iceland, Norway or, Liechtenstein (as the case may be), which is a competent authority for the purposes of the 2015 Regulations (see paragraph (b) of the definition of “competent authority” in regulation 2(1) of those Regulations);

“EEA EFTA citizens’ rights agreement” (“*cytundeb hawliau dinasyddion EFTA yr AEE*”) means the Agreement signed in London on 2 April 2019 between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland on arrangements regarding citizens’ rights following the withdrawal of the United Kingdom from the European Union and the EEA Agreement;

“the general cooperation provision” (“*y ddarpariaeth cydweithredu cyffredinol*”) means—

⁽¹²⁾ 2018 c. 12.

⁽¹³⁾ S.I. 2015/2059.

- (a) regulation 5(2), (4) and (5) of the 2015 Regulations, as modified by paragraph 44(4)(b) of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019(14),
- (b) regulation 5(3) of the 2015 Regulations,
to the extent they apply in relation to Social Care Wales.”

8. In regulation 16(1) (pending applications) of the 2019 Regulations, for “exit day” in both places it occurs, substitute “IP completion day”.

Insertion of regulation 16A

9. After regulation 16 (pending applications) of the 2019 Regulations, insert—

**“Swiss social workers and Swiss social care managers qualifying outside Wales:
saving of old law**

16A.—(1) This regulation applies to a person (“a qualifying applicant”)—

- (a) who is—
 - (i) a national of the United Kingdom,
 - (ii) a national of Switzerland, or
 - (iii) a third country national who was, immediately before IP completion day, by virtue of any enforceable EU right entitled to be treated no less favourably than a national of either the United Kingdom or Switzerland for the purposes of access to and the pursuit of social work or work as a social care manager;
- (b) who wishes to access and pursue social work or work as a social care manager in Wales on a permanent basis whether as an employee or in a self-employed capacity;
- (c) who has a relevant qualification;
- (d) who, if that relevant qualification was obtained in a third country, has three years’ professional experience in social work or work as a social care manager in Switzerland and certified by a Swiss competent authority;
- (e) who, if that relevant qualification is a professional qualification obtained in an EEA state, is lawfully established in Switzerland, unless the person is a Swiss national.

(2) Despite the amendments made by Part 1, the provisions of the 2016 Act referred to in paragraph (4) continue to apply to a registration application submitted by a qualifying applicant on or after IP completion day as they applied immediately before that day but as modified by paragraph (5).

(3) Paragraph (2) has effect until the end of the Swiss recognition period.

(4) The provisions referred to in paragraph (2) are—

- (a) in section 66(1), the definition of “the General Systems Regulations”;
- (b) section 85(1) (qualifications gained outside Wales – social workers);
- (c) section 85A (qualifications gained outside Wales – social care managers);
- (d) section 90(8) (definitions for the purposes of Parts 3 to 8 of the 2016 Act);

(14) S.I. 2019/312. Paragraph 44(4) is substituted by the [Professional Qualifications and Services \(Miscellaneous Provisions\) \(EU Exit\) Regulations 2020/1038](#).

(e) section 105 (other appeals: decisions made under the General Systems Regulations).

(5) Insofar as the following provisions of the 2016 Act continue to apply by virtue of paragraph (2), they apply with the following modifications—

(a) in section 85(1) (qualifications gained outside Wales – social workers), for “an exempt person” there were substituted “a Swiss social worker”;

(b) in section 85A (qualifications gained outside Wales – social care managers), for “an exempt person” there were substituted “a Swiss social care manager”;

(c) in section 90(8) (definitions for the purposes of Parts 3 to 8 of the 2016 Act)—

(i) the definitions of “exempt person”, “national” and “relevant European State” were omitted;

(ii) for the definition of “General Systems Regulations”, there were substituted—

““the General Systems Regulations” (“*y Rheoliadau Systemau Cyffredinol*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)—

(a) in relation to anything done before IP completion day, as they had effect at that time but subject to the modification that any reference to “the Care Council for Wales” is to be read as if there were substituted “Social Care Wales”;

(b) as (and only to the extent that) they have effect, after IP completion day, in relation to an entitlement which arises in relation to a relevant qualification (within the meaning given in regulation 15A of the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019);”;

(iii) there were inserted, at the appropriate place—

““Swiss social care manager” has the meaning given in regulation 16A(6) of the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019;

“Swiss social worker” has the meaning given in regulation 16A(6) of the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019;”;

(d) in section 105 (other appeals: decisions made under the General Systems Regulations)—

(i) in subsection (1), paragraphs (a), (c) and the “or” immediately preceding paragraph (c) were omitted;

(ii) in subsection (5)(b), the words from “or, in the case” to the end were omitted.

(6) In this regulation—

“registration application” (“*cais cofrestru*”) means an application for admission to a register maintained in accordance with section 80 of the 2016 Act;

Swiss social care manager” (“*rheolwr gofal Cymdeithasol Swisaidd*”) means a qualifying applicant who had not, before IP completion day, made a registration application (other than an application under section 90A of the 2016 Act);

“Swiss social worker” (“*gweithiwr Cymdeithasol Swisaidd*”) means a qualifying applicant who had not, before IP completion day, made a registration application (other than an application under section 90 of the 2016 Act).”

Substitution of regulation 17 (visiting social workers and visiting social care managers: saving of old law)

10. For regulation 17 of the 2019 Regulations substitute—

“Visiting social workers and visiting social care managers: saving of old law

17.—(1) This regulation applies where—

(a) immediately before IP completion day—

(i) a person had the benefit of regulation 12 of the 2015 Regulations⁽¹⁵⁾ in respect of the provision by that person of services as a social worker or a social care manager, and

(ii) section 90(3) or 90A(3) of the 2016 Act applied to the person;

(b) by virtue of this regulation, the person continues to have that benefit on or after IP completion day; and

(c) the person is not a relevant applicant.

(2) Despite the amendments made by Part 1, the provisions of the 2016 Act specified in paragraph (4) continue to apply in relation to the provision of those services by a person to whom paragraph (1) applies on or after IP completion day, as they applied before that day, but subject to the modifications specified in paragraph (5).

(3) Paragraph (2) has effect until—

(a) in the case of a person who is registered in accordance with section 90(3) or 90A(3) of the 2016 Act, the day on which the person’s name is removed from the register under section 90(6) or 90A(6) of that Act as the case may be;

(b) in the case of a person who is treated as being registered under section 90(4) or 90A(4) of the 2016 Act, the day on which the person’s entitlement to be registered under section 90(3) or 90A(3) of the 2016 Act ceases by virtue of section 90(5) or 90A(5) of that Act as the case may be.

(4) The provisions of the 2016 Act referred to in paragraph (2) are—

(a) in section 66(1) (interpretation of Parts 3 to 8), the definitions of “exempt person”, “the General Systems Regulations”, “national”, “relevant European State”, “visiting European social care manager part” and “visiting European social worker part”;

(b) section 74(3) (rules: fees);

(c) in section 80, subsections (1)(c) and (d), (2)(c) and (d) and (3)(c) and (d) (the register);

(d) section 90 (visiting social workers from relevant European States);

(e) section 90A (visiting social care managers from relevant European States);

(f) section 105 (other appeals: decisions made under the General Systems Regulations);

(g) section 113(3) to (5) (continuing professional development).

(5) Insofar as the following provisions of the 2016 Act continue to apply by virtue of paragraph (2), they apply with the following modifications—

(a) in section 90 (visiting social workers from relevant European States)—

(i) subsection (1) is to be read as if “other than the United Kingdom” was omitted;

(ii) subsection (8) is to be read as if—

(aa) for the definitions of “exempt person” and “the General Systems Regulations” there were substituted—

““exempt person” (*person esempt*)” means—

(a) a person who, immediately before IP completion day, was a national of a relevant European State,

(b) a person who, immediately before IP completion day, was a national of the United Kingdom and, at that time was seeking access to, or pursuing, by virtue of an enforceable EU right, social work or work as a social care manager, or

(c) a person who, immediately before IP completion day, was not a national of a relevant European State, but at that time was, by virtue of an enforceable EU right, entitled to be treated, for the purposes of access to and pursuit of social work or work as a social care manager, no less favourably than a national of a relevant European State, and for the purposes of this definition “enforceable EU right” (*“hawl UE orfodadwy”*) means a right recognised and available in domestic law, immediately before IP completion day, by virtue of section 2(1) of the European Communities Act 1972 (c. 68);”

““the General Systems Regulations” (*“y Rheoliadau Systemau Cyffredinol”*) means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)—

(a) in relation to anything done before IP completion day, as they had effect at that time but subject to the modification that any reference to “the Care Council for Wales” is to be read as if there were substituted “Social Care Wales”,

(b) otherwise (and only to the extent that) they have effect, on or after IP completion day, in relation to an entitlement which arose before IP completion day or arises as a result of something done before IP completion day;”;

(bb) in the definition of “national” for “is not” there were substituted “was not immediately before IP completion day”;

(b) in section 90A (visiting social care managers from relevant European States), subsection (1) is to be read as if “other than the United Kingdom” was omitted.

(6) For the purposes of this regulation, the 2015 Regulations have effect as if for any reference to “the Care Council for Wales” there were substituted “Social Care Wales”. ”

Substitution of regulation 18 (interpretation of provisions saved by regulation 17(2))

11. For regulation 18 (interpretation of provisions saved by regulation 17(2)) of the 2019 Regulations substitute—

“Visiting Swiss social workers and visiting Swiss social care managers: saving of old law

18.—(1) This regulation applies to a relevant applicant.

(2) Despite the amendments made by Part 1, the provisions of the 2016 Act specified in paragraph (5) continue to apply in relation to the provision of those services by a relevant applicant on or after IP completion day as they applied immediately before that day subject to the restriction in paragraph (3) and the modifications specified in paragraph (6).

(3) A relevant applicant may only provide services as a social worker or a social care manager for a period not exceeding 90 days in any calendar year.

(4) Paragraph (2) has effect until the end of the visiting practitioner transitional period.

(5) The provisions of the 2016 Act referred to in paragraph (2) are—

- (a) in section 66(1) (interpretation of Parts 3 to 8), the definitions of “the General Systems Regulations”, “national”, “relevant European State”, “visiting European social care manager part” and “visiting European social worker part”;
- (b) section 74(3) (rules: fees);
- (c) in section 80, subsections (1)(c) and (d), (2)(c) and (d) and (3)(c) and (d) (the register);
- (d) section 90 (visiting social workers from relevant European States);
- (e) section 90A (visiting social care managers from relevant European States);
- (f) section 105 (other appeals: decisions made under the General Systems Regulations);
- (g) section 113(3) to (5) (continuing professional development).

(6) Insofar as the following provisions of the 2016 Act continue to apply by virtue of paragraph (2), they apply with the following modifications—

(a) in section 90 (visiting social workers from relevant European States)—

(i) subsection (1) is to be read as if there were substituted—

“(1) This section applies to a relevant applicant (within the meaning given in regulation 15A of the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations) 2019 (“V”) who is lawfully established in Switzerland, as a social worker.”;

(ii) subsection (8) is to be read as if—

(aa) for the definition of “the General Systems Regulations”, there were substituted—

““the General Systems Regulations” (“*y Rheoliadau Systemau Cyffredinol*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)—

(a) in relation to anything done before IP completion day, as they had effect at that time but subject to the modification that any reference to “the Care Council for

Wales” is to be read as if there were substituted “Social Care Wales”,

- (b) otherwise (and only to the extent that) they have effect, on or after IP completion day, in relation to an entitlement which arose before IP completion day or arises as a result of something done before IP completion day;”;

(bb) in the definition of “national” for “is not” there were substituted “was not immediately before IP completion day”;

- (b) section 90A (visiting social care managers from relevant European States) is to be read as if for subsection (1) there were substituted—

“(1) This section applies to a relevant applicant (within the meaning given in regulation 15A of the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations) 2019 (“X”) who is lawfully established in Switzerland, as a social care manager.”;

- (c) section 113 (continuing professional development) is to be read as if in subsection (5) for “the relevant” to the end there were substituted “Switzerland”.

Insertion of provision concerning equal treatment and administrative co-operation under the Swiss citizens’ rights agreement

12. After regulation 18 (visiting Swiss social workers and visiting Swiss social care managers: saving of old law) of the 2019 Regulations (as substituted by regulation 11), insert—

“Equal treatment and administrative co-operation under the Swiss citizen’s rights agreement

18A.—(1) This regulation applies to a relevant applicant.

(2) In dealing with a relevant applicant who pursues social work or work as a social care manager in Wales pursuant to regulation 18 (visiting Swiss social workers and visiting Swiss social care managers: saving of old law) in relation to any matter, Social Care Wales must treat that person no less favourably than it would treat a native applicant (within the meaning of regulation 2 of the 2007 Regulations) who lawfully provides services as a social worker or as a social care manager in Wales in relation to that matter.

(3) Where a person is providing services that if provided in Wales would constitute social work or work as a social care manager on a temporary and occasional basis in Switzerland pursuant to Article 23 of the Swiss citizens’ rights agreement, Social Care Wales must cooperate with the appropriate competent authority in Switzerland and provide it with any information relevant to the legality of the individual’s establishment and good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature, in accordance with section 159 of the 2016 Act (disclosure of information about fitness to practise).

(4) Where a person has made or makes an application falling within Article 31(1) or 32(1) or (5) of the Swiss citizens’ rights agreement to a competent authority in Switzerland for recognition of a professional qualification awarded or recognised by Social Care Wales, Social Care Wales must—

- (a) cooperate with the competent authority in Switzerland or the person (as the case may be), in accordance with the general cooperation provision, and
- (b) provide information to the competent authority in Switzerland regarding disciplinary action taken or criminal sanctions imposed, or any serious, specific

circumstances which are likely to have consequences for the pursuit of professional activities by that individual.

(5) Social Care Wales must process information for the purposes of paragraphs (3) and (4) in accordance with “the data protection legislation within the meaning of section 3(9) of the Data Protection Act 2018⁽¹⁶⁾”.

(6) In this regulation—

“competent authority” (“*awdurdod cymwys*”) has the meaning given by regulation 4(1) to (3) of the 2007 Regulations, and in relation to Switzerland means a body in Switzerland which is a competent authority for the purposes of regulation 4(4) of the 2007 Regulations;

“the general cooperation provision” (“*y ddarpariaeth cydweithredu cyffredinol*”) means regulation 5(2) to (7) of the 2007 Regulations (functions of competent authorities in the United Kingdom), to the extent it applies in relation to Social Care Wales.

(7) For the purposes of this regulation, the 2007 Regulations have effect subject to the following modifications—

- (a) any reference to “social worker in Wales” has effect as if there were substituted “social worker or social care manager in Wales”,
- (b) any reference to “the Care Council for Wales” has effect as if there were substituted “Social Care Wales”.

Amendment of regulation 19 (internal market information system (IMI) alerts)

13. In regulation 19 (internal market and information system (IMI) alerts) of the 2019 Regulations, for “exit day” in each place it occurs substitute “IP completion day”.

21 December 2020

Julie Morgan
Deputy Minister for Health and Social Services,
under authority of the Minister for Health and
Social Services, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/761 (W. 144)) (“the 2019 Regulations”) to correct minor drafting errors and to substitute references to “IP completion day” for “exit day”.

They are also made in exercise of the powers conferred in sections 12 and 14 of, and paragraph 12 of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020 (c. 1) to implement and make additional transitional provision in the 2019 Regulations relating to—

- the EEA EFTA citizens’ rights agreement signed at London on 2 April 2019 between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland on arrangements regarding citizens’ rights following the withdrawal of the United Kingdom from the European Union and the EEA Agreement, and
- the Swiss citizens’ rights agreement signed at Bern on 25 February 2019 between the United Kingdom and the Swiss Confederation on citizens’ rights following the withdrawal of the United Kingdom from the European Union and the free movement of persons agreement,

so far as those agreements relate to the mutual recognition of professional qualifications and the temporary and occasional provision of professional services.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.