

WELSH STATUTORY INSTRUMENTS

**2019 No. 761 (W. 144)**

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

**The Regulation and Inspection of Social Care (Qualifications)  
(Wales) (Amendment) (EU Exit) Regulations 2019**

*Made - - - - 29 March 2019  
Coming into force in accordance with regulation 1(2)  
and (3)*

The Welsh Ministers 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 <sup>M1</sup> make the following Regulations.

In accordance with paragraph 1(9) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales.

**Marginal Citations**

**M1** 2018 c. 16.

**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 2019.

**(2)** <sup>F1</sup>... These Regulations come into force on exit day.

<sup>F2</sup>**(3)** .....

**(4)** These Regulations apply in relation to Wales.

**(5)** In these Regulations, “the 2016 Act” means the Regulation and Inspection of Social Care (Wales) Act 2016 <sup>M2</sup>.

#### Textual Amendments

- F1** Words in reg. 1(2) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), **3(a)**
- F2** Reg. 1(3) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), **3(b)**

#### Commencement Information

- I1** Reg. 1 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M2** 2016 anaw 2.

## PART 1

### Amendments to legislation

#### Amendments to the Regulation and Inspection of Social Care (Wales) Act 2016

2. The 2016 Act is amended as follows.

#### Commencement Information

- I2** Reg. 2 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

3. In section 66(1) (interpretation of Parts 3 to 8), omit 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”<sup>M3</sup>.

#### Commencement Information

- I3** Reg. 3 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M3** The definitions “visiting European social care manager part” and “visiting European social worker part” were inserted by [S.I. 2016/1030, regulation 120\(2\)](#).

4. In section 74 (rules: fees)<sup>M4</sup>, omit subsection (3).

#### Commencement Information

- I4** Reg. 4 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Marginal Citations**

- M4** “European social worker part or visiting European social care manager part” was substituted by [S.I. 2016/1030, regulation 122](#).

5. In section 80 (the register) <sup>M5</sup>, omit subsections (1)(c) and (d), (2)(c) and (d), and (3)(c) and (d).

**Commencement Information**

- I5** Reg. 5 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Marginal Citations**

- M5** Relevant amendments were made by [S.I. 2016/1030, regulation 126\(2\)](#), (3) and (4).

6. In section 84 (“appropriately qualified”) <sup>M6</sup>, omit paragraph (aa)(ii).

**Commencement Information**

- I6** Reg. 6 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Marginal Citations**

- M6** Relevant amendments were made by [S.I. 2016/1030, regulation 128\(2\)](#) and (3).

7. In section 85 (qualifications gained outside Wales – social workers) <sup>M7</sup>, omit subsection (1).

**Commencement Information**

- I7** Reg. 7 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Marginal Citations**

- M7** “- social workers” was inserted into the section heading by [S.I. 2016/1030, regulation 130\(2\)](#).

8. Omit section 85A (qualifications gained outside Wales – social care managers) <sup>M8</sup>.

**Commencement Information**

- I8** Reg. 8 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Marginal Citations**

- M8** Inserted by [S.I. 2016/1030, regulation 132](#).

9. Omit section 90 (visiting social workers from relevant European States) <sup>M9</sup>.

#### Commencement Information

**I9** Reg. 9 in force on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M9** Relevant amendments were made by [S.I. 2016/1030](#), [regulation 134](#).

**10.** Omit section 90A (visiting social care managers from relevant European States) <sup>M10</sup>.

#### Commencement Information

**I10** Reg. 10 in force on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M10** Inserted by [S.I. 2016/1030](#), [regulation 136](#).

**11.** Omit section 105 (other appeals: decisions made under the General Systems Regulations) <sup>M11</sup>.

#### Commencement Information

**I11** Reg. 11 in force on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M11** Relevant amendments made by [S.I. 2016/1030](#), [regulation 138](#).

**12.** In section 113 (continuing professional development), omit subsections (3) to (5) <sup>M12</sup>.

#### Commencement Information

**I12** Reg. 12 in force on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M12** Relevant amendments made by [S.I. 2016/1030](#), [regulation 140](#).

**13.** In section 164 (meaning of “registered person” in Part 6) <sup>M13</sup>—

- (a) for “the social worker part, an added part” substitute “ the social worker part or an added part ”;
- (b) omit “or the visiting European social worker part or visiting European social care manager part”.

#### Commencement Information

**I13** Reg. 13 in force on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M13** “European social worker part or visiting European social care manager part” was substituted by [S.I. 2016/1030, regulation 142\(2\)](#).

[<sup>F3</sup>**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 (“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 (“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.”]

#### Textual Amendments

- F3** Reg. 14 substituted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), 4

#### Commencement Information

- I14** Reg. 14 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#) (as amended by [S.I. 2020/1626](#), regs. 1(2), 3)

### Consequential amendment to the Mental Health Act 1983

**15.** In section 130H(7)(b) (independent mental health advocates for Wales: supplementary powers and duties) of the Mental Health Act 1983 <sup>M14</sup>, omit “or the visiting European part”.

#### Commencement Information

- I15** Reg. 15 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M14** [1983 c. 20](#); section 130H was inserted by the Mental Health (Wales) Measure 2010 (nawm 7), section 34. Subsection (7)(b) of section 130H was amended by the 2016 Act, Schedule 3, paragraph 39.

## PART 2

### Savings and transitional provision

#### [<sup>F4</sup>Interpretation of Part 2

##### 15A. In this Part—

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the European Communities (Recognition of Professional Qualifications) Regulations 2007 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;
  - (ii) regulation 155 of the European Qualifications (Health and Social Care Professions) Regulations 2016; 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;

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015;

“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;

“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,
- (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.]

#### Textual Amendments

- F4** Reg. 15A inserted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), 5

#### Commencement Information

- I16** Reg. 15A in force on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**[<sup>F5</sup>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.]

**Textual Amendments**

**F5** Reg. 15B inserted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), 6

**Commencement Information**

**I17** Reg. 15B in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(2)

**Administrative cooperation under the EEA EFTA citizens' rights agreement**

**<sup>F6</sup>15C.** .....

**Textual Amendments**

**F6** [Reg. 15C](#) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Wales\) \(Amendment etc.\) Regulations 2023 \(S.I. 2023/1294\)](#), reg. 1, [Sch. 4 para. 3\(2\)](#)

**Pending applications**

**16.—**(1) Where a relevant application is received before [<sup>F7</sup>IP completion day], the 2016 Act continues to apply in relation to the application (including in relation to any appeal arising from it) on and after [<sup>F7</sup>IP completion day] as if the amendments made by Part 1 had not been made.

(2) In paragraph (1), “relevant application” means an application for—

- (a) admission to the visiting European social worker part or the visiting European social care manager part of the register kept under section 80 of the 2016 Act,
- (b) renewal of registration in those parts of the register under section 86(2) of the 2016 Act,
- (c) readmission to those parts of the register under section 80 of the 2016 Act following lapse of registration, or
- (d) restoration to those parts of the register under section 96(2) or 97(2) of the 2016 Act.

**Textual Amendments**

**F7** Words in reg. 16(1) substituted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), 8

**Commencement Information**

**I18** Reg. 16 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(2)



**[<sup>F8</sup>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);
- (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).]

#### Textual Amendments

- F8** Reg. 16A inserted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), 9

#### Commencement Information

- I19** Reg. 16A in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

### [<sup>F9</sup>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 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”.]

#### Textual Amendments

**F9** Reg. 17 substituted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), **10**

#### Commencement Information

**I20** Reg. 17 in force on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

### [<sup>F10</sup>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”.]

#### Textual Amendments

- F10** Reg. 18 substituted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), **11**

#### Commencement Information

- I21** Reg. 18 in force on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**[<sup>F11</sup>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.

(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".]

**Textual Amendments**

- F11** Reg. 18A inserted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), regs. 1(2), **12**

#### Commencement Information

- I22** Reg. 18A in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

### Internal Market Information System (IMI) Alerts

**19.—**(1) This regulation applies where—

- (a) before [<sup>F12</sup>IP completion day], a person is given notice of a decision made under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 to send an alert about the person, and
- (b) either—
  - (i) the time limit for appeal against the decision under section 105(1)(c) of the 2016 Act expires on or after [<sup>F12</sup>IP completion day], or
  - (ii) an appeal against the decision under that section is made, but not finally determined, before [<sup>F12</sup>IP completion day].

(2) Despite the amendments made by Part 1, the following provisions of the 2016 Act continue to apply in relation to the decision on and after [<sup>F12</sup>IP completion day] as they applied before [<sup>F12</sup>IP completion day]—

- (a) in section 66(1), the definition of “the General Systems Regulations”;
- (b) in section 90(8), the definition of “the General Systems Regulations”;
- (c) section 105(1) (but not paragraphs (a) and (b) of that subsection and subject to the modification specified in paragraph (3) of this regulation).

(3) For the purposes of paragraph (2)(c), section 105(1)(c) of the 2016 Act is to be read as if for “those Regulations” there were substituted “the General Systems Regulations (as they had effect at the time SCW's <sup>M15</sup> decision was made)”.

(4) In disposing of an appeal against the decision on or after [<sup>F12</sup>IP completion day], the tribunal has (instead of the powers specified in section 105(5) of the 2016 Act) the power—

- (a) to confirm the decision, or
- (b) if the tribunal considers that the alert should be withdrawn or amended, to direct that Social Care Wales take such steps as the tribunal thinks fit to notify the European Commission of the tribunal's decision.

#### Textual Amendments

- F12** Words in reg. 19 substituted (31.12.2020 immediately before IP completion day) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1626\)](#), [regs. 1\(2\), 13](#)

#### Commencement Information

- I23** Reg. 19 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M15** See section 67(3) of the 2016 Act for the definition of Social Care Wales (“SCW”).

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**Changes to legislation:** There are currently no known outstanding effects for the The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019. (See end of Document for details)

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*Julie Morgan*  
Deputy 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 (Wales) Act 2016 (anaw 2) (“the 2016 Act”) relating to the regulation of social workers and social care managers in Wales and make savings and transitional provision in connection with those amendments.

Regulation 14 amends the reference to “European lawyer” in paragraph 7 of Schedule 1 to the 2016 Act in line with the transitional arrangements made for lawyers from EEA states and Switzerland by the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2019.

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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019.