
WELSH STATUTORY INSTRUMENTS

2020 No. 1626

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

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(1) 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(2); 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(3);

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015(4);

“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(5);

“existing contract” (“*contract presenno*”) means a written contract which was concluded, and the performance of which started, before IP completion day;

“relevant applicant” (“*ymgeisydd perthnasol*”) means a person—

-
- (1) 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 S.I. 2007/2781 was revoked by S.I. 2015/2059 but continued to apply in relation to Swiss nationals before IP completion day by virtue of regulation 78 of S.I. 2015/2059 and regulation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.
- (2) S.I. 2016/1030.
- (3) 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 S.I. 2007/2781 was revoked with savings by S.I. 2015/2059 and by S.I. 2019/312.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.
- (4) S.I. 2015/2059.
- (5) 1972 c. 68. Section 2 was repealed, subject to savings, by the European Union (Withdrawal) Act 2019 (c. 16), section 1.

- (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.”